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 JOSE OCHOA

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

JOSE OCHOA, an individual, on his own
 behalf and on behalf of all others
 similarly situated,

Plaintiffs,

vs.

EUNINA, INC. DBA EUNINA JEANS
 U.S.A., a California corporation; KNG
 BRANDS, INC., a California
 corporation; and DOES 1 through 100,
 inclusive,

Defendants.

CASE NO.: 25STCV22540

**FIRST AMENDED CLASS ACTION
 COMPLAINT FOR:**

- 1. FAILURE TO PAY OVERTIME (Cal. Labor Code §§ 510, 511, 558, 1194, 1194.3, 1198; Wage Order No. 7);**
- 2. FAILURE TO PAY MINIMUM WAGES (Cal. Labor Code §§1194, 1194.2, 1997, 1197.1, 1198; IWC Wage Order No. 7);**
- 3. FAILURE TO PROVIDE REST PERIODS (Cal. Labor Code § 226.7; IWC Wage Order No. 7);**
- 4. FAILURE TO PROVIDE TIMELY OFF-DUTY MEAL PERIODS (Cal. Labor Code § 226.7; IWC Wage Order No. 7);**
- 5. FAILURE TO MAINTAIN RECORDS AND PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS (Cal. Labor Code §226; Wage Order No. 7);**
- 6. FAILURE TO PAY WAGES DUE UPON TERMINATION (Cal. Labor Code §§201-203; Wage Order No. 7);**
- 7. FAILURE TO REIMBURSE BUSINESS EXPENSES (Cal. Labor Code §2802);**
- 8. FAILURE TO PAY VESTED VACATION PAY ON SEPARATION OF EMPLOYMENT (Cal. Labor Code §227.3);**
- 9. FAILURE TO ADOPT STANDARDS THAT MINIMIZE EXCESSIVE INDOOR**

FILED
 Superior Court of California
 County of Los Angeles
10/15/2025

David W. Slayton, Executive Officer / Clerk of Court

By: M. Arellanes Deputy

1 3. Plaintiff, like his co-workers whom Defendants also employed during the
2 applicable limitations period, spend their workdays as Receiving Coordinators and other
3 employees, under illegal and highly regimented circumstances. That regimen results from
4 Defendants' insistence to strictly monitor and curtail labor costs, which Defendants accomplish
5 by not paying for all labor costs, failing to pay overtime time wages, failing to pay minimum
6 wages, failing to provide meal/rest breaks (or pay the statutory compensation due), failing to
7 issue accurate wage statements, failing to pay all wages on termination, failing to reimburse
8 business expenses, failing to pay vested vacation pay, failing to minimize excessive indoor
9 heat, failing to produce personnel records and by using other unlawful stratagems to ensure that
10 labor costs remain artificially low.

11 4. Plaintiff brings this class action to recover, among other things, wages and
12 penalties from unpaid wages earned and due, including but not limited to, overtime wages,
13 premium pay for failure to afford proper rest breaks, wages due to discharged or quitting
14 employees, penalties for failure to provide accurate itemized wage statements, damages for
15 failure to reimburse business expenses, vacation pay for failure to pay vested vacation pay,
16 penalties for failure to minimize excessive indoor heat and interest, attorneys' fees, costs, and
17 expenses.

18 5. Plaintiff seeks compensatory, statutory, declaratory, and injunctive relief for
19 himself and all members of the Class, to compensate these workers for the unpaid wages and to
20 protect current and future workers of Defendants from being subjected to similar wage theft
21 and otherwise unlawful working conditions.

22 6. Plaintiff also brings an action seeking relief for Defendants' violations of
23 California *Business & Professions Code* §§ 17200 *et seq.*, including full restitution and
24 disgorgement of all compensation retained by Defendants as a result of their unlawful and
25 unfair business practices, as well as injunctive relief.

26 **JURISDICTION AND VENUE**

27 7. This Court has jurisdiction over this First Amended Complaint under Code of
28 Civil Procedure §410.10. This action is brought under *Code of Civil Procedure* § 382, and

1 *Business & Professions Code* §§ 17200 *et seq.* Plaintiff Jose Ochoa brings this First Amended
2 Complaint on his own behalf and on behalf of all persons in the Class as defined in paragraph
3 18 below.

4 8. Venue is proper in this Court pursuant to *Code of Civil Procedure* §§ 395 and
5 395.5, because the claims made, and the *Labor Code* violations as against the persons identified
6 herein, occurred in the County of Los Angeles and because Defendants owned and operated
7 their businesses in the County of Los Angeles.

8 THE PARTIES

9 PLAINTIFF

10 9. At all times relevant hereto, Plaintiff was:

- 11 (a) An individual over age 18 and a resident of Bell, California;
- 12 (b) Employed as an hourly employee for Defendants in Vernon, California;
- 13 (c) Did not receive overtime wages in violation of *Labor Code* §§510, 511,
14 558, 1194, 1194.3, 1198 and IWC Wage Order No. 7;
- 15 (d) Did not receive minimum wages as required by *Labor Code* §§1194,
16 1194.2, 1997, 1197.1, 1198 and IWC Wage Order No. 7;
- 17 (e) Did not receive the rest periods required by *Labor Code* §266.7 and IWC
18 Wage Order No. 7;
- 19 (f) Did not receive the meal periods required by *Labor Code* §266.7 and
20 IWC Wage Order No. 7;
- 21 (g) Did not receive accurate wage statements as mandated by *Labor Code*
22 §226;
- 23 (h) When terminated from his employment, did not receive his final
24 paycheck within the time limits prescribed by *Labor Code* §201;
- 25 (i) Was not reimbursed his necessary business expenses as required by
26 *Labor Code* §2802;
- 27 (j) Was not paid vested vacation wages when due in violation of Cal. *Labor*
28 *Code* §227.3

- 1 (k) Was exposed to excessive indoor heat in violation of Cal. *Labor Code* §
2 6720 and Wage Order No. 7; and
3 (l) Was not provided his personnel records. Each of these was a violation of
4 the *Labor Code*.

5 **DEFENDANTS**

6 10. Plaintiff is informed and believes, and based on that information and belief,
7 alleges, Defendant EJ is, and at all times mentioned herein was:

- 8 (a) A California corporation, with a principal place of business at 2209 E.
9 27th Street, Vernon, CA 90058. Defendant EJ has been authorized to do
10 business and has been doing business in the County of Los Angeles;
11 (b) The former employer of Plaintiff and the current and former employer of
12 the putative Class members;
13 (c) Paid Plaintiff and all Class members on an hourly basis;
14 (d) Failed to pay Plaintiff and all putative Class members overtime wages;
15 (e) Failed to pay Plaintiff and all putative Class members minimum wages;
16 (f) Failed to provide Plaintiff and all putative Class members with meal/rest
17 periods, failed to provide Plaintiff and all putative Class Members with
18 accurate itemized wage statements;
19 (g) Failed to issue final paychecks timely to Plaintiff and all putative Class
20 members;
21 (h) Failed to reimburse Plaintiff and all putative Class members' necessary
22 business expenses;
23 (i) Failed to pay Plaintiff and all putative Class members vested vacation
24 pay on termination of employment;
25 (j) Failed to provide Plaintiff and Class members with a cool indoor
26 temperature; and
27 (k) Failed to provide Plaintiff with his requested personnel records. Each of
28 these was a violation of the *Labor Code*.

1 11. Plaintiff is informed and believes, and based on that information and belief,
2 alleges, Defendant KNG is, and at all times mentioned herein was:

- 3 (a) An entity of unknown form, with a principal place of business at 2211 E.
4 27th Street, Vernon, CA 90058. Defendant KNG has been authorized to
5 do business and has been doing business in the County of Los Angeles;
6 (b) The former employer of Plaintiff and the current and former employer of
7 the putative Class members;
8 (c) Paid Plaintiff and all Class members on an hourly basis;
9 (d) Failed to pay Plaintiff and all putative Class members overtime wages;
10 (e) Failed to pay Plaintiff and all putative Class members minimum wages;
11 (f) Failed to provide Plaintiff and all putative Class members with meal/rest
12 periods, failed to provide Plaintiff and all putative Class Members with
13 accurate itemized wage statements;
14 (g) Failed to issue final paychecks timely to Plaintiff and all putative Class
15 members;
16 (h) Failed to reimburse Plaintiff and all putative Class members' necessary
17 business expenses;
18 (i) Failed to pay Plaintiff and all putative Class members vested vacation
19 pay on termination of employment;
20 (j) Failed to provide Plaintiff and Class members with a cool indoor
21 temperature; and
22 (k) Failed to provide Plaintiff with his requested personnel records. Each of
23 these was a violation of the *Labor Code*.

24 12. The true names and capacities, whether individual, corporate, subsidiary,
25 partnership, associate or otherwise of Defendants DOES 1 through 100, inclusive, are unknown
26 to Plaintiff, who therefore sues these Defendants by such fictitious names pursuant to *Code of*
27 *Civil Procedure* § 474. Plaintiff will seek leave to amend his First Amended Complaint to
28

1 allege the true names and capacities of DOES 1 through 100, inclusive, when they are
2 ascertained.

3 13. Plaintiff is informed and believes, and based on that information and belief
4 alleges, that Defendant DOES 1 through 100 are persons, corporations or other entities which
5 reside in or are authorized to do, or are otherwise doing, business in the State of California.
6 Specifically, DOES 1 through 100 maintain offices, operate businesses, employ persons, and
7 conduct business in the County of Los Angeles. Each of the Defendants DOES 1 through 100
8 was the managerial agent, employee, predecessor, successor, joint-venturers, co-conspirator,
9 alter ego and/or representative of one or more of the other Defendants named herein, and acting
10 with permission, authorization, and/or ratification and consent of the other Defendants.

11 14. Plaintiff is informed and believes, and based on that information and belief
12 alleges, that the Defendants named in this First Amended Complaint, including DOES 1
13 through 100, inclusive, are responsible in some manner for one or more of the events and
14 happenings that proximately caused the injuries and damages hereinafter alleged.

15 15. Plaintiff is informed and believes, and based on that information and belief
16 alleges, that Defendants named in this First Amended Complaint, including DOES 1 through
17 100, inclusive, are, and at all times mentioned herein were, the agents, servants, and/or
18 employees of each of the other Defendants and that each Defendant was acting within the
19 course and scope of her, hers or its authority as the agent, servant and/or employee of each of
20 the other Defendants. Consequently, all of the Defendants are jointly and severally liable to the
21 Plaintiff, and the Class, for the damages sustained as a proximate result of their conduct.

22 16. Plaintiff is informed and believes, and based on that information and belief
23 alleges, that the Defendants named in this First Amended Complaint, including DOES 1
24 through 100, inclusive, knowingly and willfully acted in concert, conspired and agreed together
25 among themselves and entered into a combination and systemized campaign of activity to *inter*
26 *alia* damage Plaintiff, and the Class, and to otherwise consciously and/or recklessly act in
27 derogation of the rights of Plaintiff and the Class, and the trust reposed by Plaintiff, and the
28 Class, in each of the Defendants, the acts being negligently and/or intentionally inflicted. Their

1 conspiracy, and Defendants' concerted actions, were such that, to Plaintiff's information and
2 belief, and to all appearances, Defendants, and each of them, represented a unified body so that
3 the actions of one Defendant were accomplished in concert with, and with the knowledge,
4 ratification, authorization and approval of each of the other Defendants.

5 **CLASS ALLEGATIONS**

6 **A. The Definition of the Class**

7 17. The Class ("the Class") is defined as follows:

8 (a) "All current and former employees who were hourly paid employees of
9 Defendants and worked for Defendants in California at any time during the
10 period commencing on the date that is four (4) years prior to the filing of this
11 First Amended Complaint and continuing through the present date (the "Class
12 Period")."

13 (b) "All persons who were hourly paid employees of Defendants and worked for
14 Defendants in California and left the employ of Defendants at any time during
15 the period commencing on the date that is within one (1) year prior to the filing
16 of this First Amended Complaint and continuing through the present date (the
17 "Class Period")."

18 18. Plaintiff reserves his right under Rule 3.765 of the California Rules of Court to
19 amend or modify the Class description with greater specificity or further division into
20 subclasses or limitation to particular issues.

21 **B. Maintenance of the Action**

22 19. Plaintiff brings this action individually and on behalf of himself and as
23 representative of all similarly situated persons under *Business & Professions Code* §§ 17203
24 and 17204 and *Code of Civil Procedure* § 382.

25 **C. The Class Requisites**

26 20. At all material times, Plaintiff was a member of the Class.

27 21. The Class action meets the statutory prerequisites for maintaining a class action
28 under Code of Civil Procedure § 382 in that:

- 1 (a) The persons who comprise the Class are so numerous that the joinder of all
2 those persons is impracticable and the disposition of their claims as a Class
3 will benefit the parties and the Court;
- 4 (b) Nearly all factual, legal, statutory, declaratory and injunctive relief issues
5 that are raised in this First Amended Complaint are common to the Class
6 and will apply uniformly to every Class member;
- 7 (c) The claims of the representative Plaintiff are typical of the claims of each
8 Class member. Plaintiff, like all Class members, has sustained damages
9 arising from Defendant's violations of the laws of the State of California.
10 Plaintiff, and the Class members, were and are similarly or identically
11 harmed by the same unlawful, deceptive, unfair, systematic and pervasive
12 pattern of misconduct engaged in by the Defendant;
- 13 (d) The representative Plaintiff has, and will continue to, fairly and adequately
14 represent and protect the interests of the Class and has retained counsel
15 who are competent and experienced in class action litigation. There are no
16 material conflicts between the claims of the representative Plaintiff and the
17 Class members that would make class certification inappropriate. Counsel
18 for the Class will vigorously assert the claims of all Class members.

19 22. The persons who comprise the Class are so numerous that joining all of them is
20 impracticable, and jointly adjudicating their claims will benefit the parties and the Court.
21 Plaintiff's claims are typical of the claims of the Class that Plaintiff seeks to represent. Plaintiff
22 will fairly and adequately protect the interests of the Class he seeks to represent. Plaintiff does
23 not have any interests that are antagonistic to the Class he seeks to represent. Counsel for
24 Plaintiff are experienced, qualified and generally able to conduct complex class action
25 litigation.

26 23. The Court should permit the action to be maintained as a class action under
27 *Code of Civil Procedure* § 382 because:
28

- 1 (a) The questions of law and fact common to the Class predominate over any
2 question affecting only individual members:
3 (b) A class action is superior to any other available method for fairly and
4 efficiently adjudicating the claims of the Class;
5 (c) The Class members are so numerous that it is impractical to bring all of
6 them before the Court;
7 (d) Plaintiff and other Class members will not be able to obtain effective and
8 economic legal redress unless the action is maintained as a class action;
9 (e) There is a community of interest in obtaining appropriate legal and
10 equitable relief for the statutory violations, and in obtaining adequate
11 compensation for the damages and injuries for which Defendants are
12 responsible in an amount sufficient to adequately compensate the Class
13 members;
14 (f) Without Class certification, the prosecution of separate actions by
15 individual Class members would create a risk of:
16 i. Inconsistent or varying adjudications for individual Class members
17 that would establish incompatible standards of conduct for
18 Defendant; and/or,
19 ii. Adjudication for individual Class members that would, as a
20 practical matter, dispose of other non-party members' interests, or
21 that would substantially impair or impede the non-parties' ability
22 to protect their interests, by, for example, potentially exhausting
23 the funds available from Defendant, and
24 (g) Defendants have acted or refused to act on grounds generally applicable
25 to the Classes, making final injunctive relief appropriate for the Class, as
26 a whole.

27 24. Plaintiff contemplates eventually issuing notice to the proposed Class Members
28 that would set forth the subject and nature of the action. The Defendants' own business records

1 may be utilized for assisting to prepare and issue the contemplated notice. To the extent that
2 any further notices may be required, Plaintiff would contemplate using additional media and/or
3 mailing.

4 **GENERAL ALLEGATIONS**

5 25. At all times material hereto, Defendant EJ has been and is, a jeans wholesaler.

6 26. At all times material hereto, Defendant KNG has been and is a company
7 specializing in the production and distribution of various consumer goods such as chef wear,
8 particularly in the food service industry.

9 27. Plaintiff and members of the Class were employed as Receiving Coordinators
10 and other non-exempt employees in California at various times during the Class Period.
11 Plaintiff earned \$18.00 per hour.

12 28. The employment by Defendants of Plaintiff and Class members is governed by
13 Industrial Welfare Commission Wage Order No. 7, which covers those persons employed in
14 the mercantile industry.

15 **THE CONDUCT**

16 29. Plaintiff seeks relief from Defendants' uniform policies and practices of denying
17 Plaintiff and members of the Class wages and compensation owed under California law.

18 30. Starting on or about August 6, 2018 and continuing to July 31, 2024, Defendants
19 employed Plaintiff on an hourly basis. From 2022 to 2024, Plaintiff was employed as a
20 Receiving Coordinator in Vernon, California. While employed by Defendants as a Receiving
21 Coordinator, Plaintiff was paid \$18.00 per hour. From 2020 until 2022, Plaintiff was employed
22 as a Lead Supervisor/Safety Coordinator and from 2018 to 2020, Plaintiff was employed in
23 Stocking and Merchandise.

24 **OFF-THE-CLOCK WORK**

25 31. Employers must compensate non-exempt employees for "off-the-clock" work
26 (before punching in or after punching out on a time clock) if the employers knew or should
27 have known that the employees were working those hours. *Morillion v. Royal Packing Co.*
28 (2000) 22 Cal. 4th 575, 585.

1 32. Defendants required Plaintiff and the Class to regularly perform compensable
2 tasks off-the-clock for which they did not receive any compensation. Specifically, beginning in
3 March 2020, Plaintiff and Class members were required to undergo Covid -related screenings
4 consisting of temperature checks, while off the clock, for 5 minute each day. Plaintiff and Class
5 members were required to go through the same screening process when returning from their
6 meal breaks.

7 33. Further, Plaintiff and the Class engaged in pre- and post-shift activities off the
8 clock. Approximately, 3 times per week, Plaintiff performed pre-shift activities off the clock
9 such as checking the work for the day for about 5 minutes before clocking in for his shifts.
10 Additionally, once per week, Plaintiff helped move or load pallets for between 10-15 minutes
11 before clocking in. Also, once per week Plaintiff engaged in off the clock activities post-shift
12 such as helping to move or load pallets for 15-20 minutes after clocking out for his shift.

13 34. As a result, and because they improperly treated such off the clock work as non-
14 compensable, Defendants failed to compensate Plaintiff and the Class for such time.

15 **FAILURE TO PAY OVERTIME WAGES**

16 35. Under California law, non-exempt employees as defined by Wage Order No. 7,
17 are entitled to premium wages for overtime worked. Under California law, an hourly paid
18 employee is entitled to overtime pay when they exceed eight hours of work in a single day,
19 exceed 40 hours of work in a week or work seven days in a row.

20 36. At all times during the relevant time period, Plaintiff and the Class routinely
21 worked schedules such that they were due overtime pay due to off the clock work. Further,
22 management changed Plaintiff's and Class members' time clock records after employees
23 entered them, shaving down overtime hours. During this period, it was the practice and policy
24 of Defendants to not pay employees overtime wages. Monies for unpaid overtime remain due
25 and owing.

26 **EXCLUSION OF BENEFITS AND BONUSES FROM REGULAR RATE OF PAY**

27 37. California law uses the terms "compensation" and "pay" interchangeably and
28 requires that all applicable remuneration, including but not limited to, commissions, and/or

1 non-discretionary bonuses and/or benefits based on sales numbers, etc., be included when
2 calculating an employee's regular rate of pay.

3 38. Defendants failed to properly pay and calculate wages due to excluding benefits
4 and bonuses from regular rate of pay calculations. Plaintiff received extra benefits such as
5 discounts on company products. Such benefits are required under California law to be
6 included in an employee's regular rate of pay for wage calculation. Defendants failed to do so,
7 thereby failing to pay employees their full wages as required under the Labor Code.

8 39. Plaintiff's paystubs dated 10/23/2023, 11/7/2023, 5/7/2024, 5/22/2024 and
9 6/7/2024, show that Plaintiff was paid "Overtime" at exactly base rate. Thus, the extra benefits
10 were not incorporated into the overtime rate. As a result, there may be regular rate issues.

11 40. Plaintiff and members of the Class also received bonuses that must be included
12 when calculating their regular rates of pay for purposes of wages. However, Defendants failed
13 to correctly calculate Plaintiff and members of the Class's regular rate of pay to include all
14 applicable remuneration, including, but not limited to, bonuses.

15 41. Plaintiff received bonuses of \$500.00, \$700.00, \$1,000.00, exactly once per year
16 for holidays. However, Plaintiff's paystubs do not show any bonuses paid to Plaintiff. As a
17 result, there may be regular rate issues.

18 **FAILURE TO PAY MINIMUM WAGES**

19 42. Under California law, non-exempt employees as defined by IWC Wage Order
20 No. 7 are entitled to minimum wages. Labor Code Section 1197 states the California
21 requirement that employees must be paid at least the minimum wage fixed by the Commission
22 or by any applicable state or local law, and any payment of less than the minimum wage is
23 unlawful. Similarly, Labor Code Section 1194 entitles "any employee receiving less than the
24 legal minimum wage...is entitled to recover in a civil action the unpaid balance of the full
25 amount of this minimum wage." IWC Wage Order No. 7, obligates employers to pay each
26 employee minimum wages for all hours worked.

27 43. These minimum wage standards apply to each hour employees worked or were
28 subject to control by the employer for which they were not paid. Therefore, an employer's

1 failure to pay for any particular hour of time worked by an employee or subject to the
2 employer's control is unlawful, even if averaging an employee's total pay over all hours
3 worked, paid or not, results in an average hourly wage above minimum wage. *Armenta v.*
4 *Osmose, Inc.*, 135 Cal. App. 4th 314, 324 (2005).

5 44. Plaintiff and the Class were not paid minimum wages due to Defendants' failure
6 to afford compliant meal/rest breaks. Further, Defendants shaved down to the quarter hour
7 Plaintiff and Class members' hours.

8 45. At all times during the relevant time period, Plaintiff and the Class routinely
9 worked schedules such that they were due pay at minimum wage rates. During this period, it
10 was the practice and policy of Defendants to not pay employees' minimum wages. Monies for
11 unpaid minimum wages remain due and owing.

12 **REST BREAKS NOT AFFORDED**

13 46. Plaintiff and the Class members were routinely not afforded rest breaks and or
14 they were required to work during their rest breaks.

15 **MEAL BREAKS AFFORDED LATE AND/OR NOT AFFORDED**

16 47. Plaintiff and Class members' meal breaks were afforded late and or not
17 afforded.

18 **FAILURE TO ISSUE ACCURATE WAGE STATEMENTS**

19 48. As a result of Defendants' failure to pay employees required overtime wages,
20 minimum wages and failure to afford meal/rest breaks, the wage statements issued to the
21 employees did not comply with *Labor Code* §226 and California Industrial Welfare
22 Commission ("IWC") Wage Order No. 7 in that they did not accurately reflect all wages earned
23 and due and owing.

24 **FAILURE TO PAY WAGES DUE UPON TERMINATION AND/OR RESIGNATION**

25 49. As a further result of Defendants' failure to pay employees at required overtime
26 wage rates due to off the clock work, minimum wages and for meal/rest breaks not properly
27 afforded, when the employees left their employ, they were not timely paid all wages due them,
28 as required by *Labor Code* §§ 201, 202 and Wage Order No. 7.

FAILURE TO REIMBURSE BUSINESS EXPENSES

50. Defendants failed to reimburse Plaintiff and Class members for their necessary cell phone use.

FAILURE TO PAY VESTED VACATION PAY

51. Defendants failed to provide Plaintiff and Class members with their vested vacation pay on separation of employment.

FAILURE TO MAINTAIN STANDARDS THAT MINIMIZE EXCESSIVE INDOOR HEAT

52. Labor Code section 1198 requires an employer to comply with the standard conditions of labor for California employees as set forth by the IWC, Section 15 of Wage Order No. 7, states:

The temperature maintained in each work area shall provide reasonable comfort consistent with industry-wide standards for the nature of the process and the work performed.

If excessive heat or humidity is created by the work process, the employer shall take all feasible means to reduce such excessive heat or humidity to a degree providing reasonable comfort.

53. In violation of Labor Code section 6720 and section 15 of IWC Wage Order No. 7, Defendants failed to provide Plaintiff and other current and former hourly non-exempt employees employed by Defendants who worked at Defendants' warehouse in California, with reasonable comfort by maintaining the indoor temperature within the range of industry standards by, *inter alia*, providing adequate air conditioning or ventilation. Defendants' warehouse did not have proper ventilation and/or air conditioning. The temperature inside the warehouse was extremely hot for the workers.

54. Defendants' violations of Wage Order No. 7 constituted violations of Labor Code section 1198, which prohibits employment under conditions of labor that violate the Wage Orders.

1 **FAILURE TO ALLOW INSPECTION OF PERSONNEL RECORDS**

2 55. Defendants failed to allow Plaintiff to timely inspect his personnel and payroll
3 records and payroll file.

4 **FIRST CAUSE OF ACTION**

5 **FAILURE TO PAY OVERTIME WAGES**

6 **(Labor Code §§ 510, 558, 1194, 1194.3, 1198, IWC Wage Order No. 7 By Plaintiff Against**
7 **Defendants and Does 1 through 100)**

8 56. Plaintiff and the Class reallege and incorporate by reference all of the allegations
9 set forth in this First Amended Complaint.

10 57. During Plaintiff's entire employment with Defendants, pursuant to Cal. Lab.
11 Code §§510, 1194, and 1198, and IWC Wage Order No. 7, Defendants were required to
12 compensate Plaintiff with premium pay for all overtime work performed, for hours worked in
13 excess of eight (8) hours per day and/or forty (40) hours per week and for the first eight (8)
14 hours on the seventh (7th) consecutive day of any work week.

15 58. At all times relevant herein, Cal. Lab. Code §1194(a) provided that an employee
16 who had not been paid overtime compensation could recover the unpaid balance of the full
17 amount of overtime wages due, including interest thereon, together with reasonable attorneys'
18 fees and costs of suit.

19 59. California Labor Code section 510, subdivision (a), states in relevant part:
20 Any work in excess of 12 hours in one day shall be compensated at the rate of
21 no less than twice the regular rate of pay for an employee. In addition, any work
22 in excess of eight hours on any seventh day of a workweek shall be compensated
23 at the rate of no less than twice the regular rate of pay of an employee.

24 60. Further, California Labor Code section 1198 provides,
25 The maximum hours of work and the standard conditions of labor fixed by the
26 commission shall be the maximum hours of work and the standard conditions
27 of labor for employees. The employment of any employee for longer hours than
28

1 those fixed by the order or under conditions of labor prohibited by the order is
2 unlawful.

3 61. Pursuant to IWC Wage Order No. 7-2001, § 3, “Employment beyond eight (8)
4 hours in any workday is permissible provided the employee is compensated for such overtime
5 at not less than: (a) One and one-half (1 1/2) times the employee’s regular rate of pay for all
6 hours worked in excess of eight (8) hours up to and including twelve (12) hours in any workday
7 and for all hours worked in excess of eight (8) hours on the seventh (7th) consecutive day of
8 work in a workweek.”

9 62. California Labor Code section 558 provides in pertinent part:

10 (a) Any employer or other person acting on behalf of an employer who
11 violates, or causes to be violated, a section of this chapter or any
12 provision regulating hours and days of work in any order of the
13 Industrial Welfare Commission shall be subject to a civil penalty as
follows:

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

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

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

21 (c) The civil penalties provided for in this section are in addition to any
22 other civil or criminal penalty provided by law.

23 63. As alleged above, Defendants required Plaintiff and the Class to regularly
24 perform compensable tasks off-the-clock due to Covid-related screenings for which they did
25 not receive any compensation. Further, Plaintiff and the Class engaged in pre- and post-shift off
26 the clock activities for which they were not compensated. Additionally, management shaved
27 down Plaintiff and Class members’ overtime hours.
28

1 64. The regular rate of pay under California law includes all remuneration for
2 employment paid, on behalf of the employer, to the employee. Employers must properly factor
3 all economic items into the regular rate of pay for purposes of calculating the overtime wages
4 due to its employees. *See Alvarado v. Dart Container Corp. of California* (2018) 4 Cal. 5th 542,
5 554, 568 (the regular rate of pay must include the “value of any nonhourly compensation,”
6 including bonuses).

7 65. Specifically, Defendants had a company-wide policy of paying Plaintiff and
8 members of the Class extra benefits and bonuses as detailed above. Defendants failed to
9 incorporate extra benefits and bonuses etc. into Plaintiff and Class members’ regular rate of pay,
10 and as a result, paid them at incorrect and lower rates of pay for overtime hours worked.
11 Defendants’ failure to properly calculate the overtime rates of pay based on all remuneration paid
12 has resulted in an underpayment of overtime wages to Plaintiff and Class members on a
13 company-wide basis.

14 66. Plaintiff and Class members were required to work in excess of 8 hours, but were
15 not accurately paid for overtime since extra benefits and bonuses were not included in the regular
16 rate of pay.

17 67. Defendants violated the rights of Plaintiff and the members of the Class by not
18 correctly calculating their regular rate of pay to include all applicable remuneration, including,
19 but not limited to, extra benefits and bonuses.

20 68. Throughout Plaintiff’s employment, Defendants failed and refused to pay and
21 properly calculate overtime compensation to Plaintiff and Class members as required by law.

22 69. The foregoing overtime compensation is owed and unpaid. As a direct and
23 proximate result of Defendants’ failure and refusal to pay overtime, Plaintiff and Class
24 members suffered damages in an amount to be proven at trial.

25 70. Pursuant to Cal. Lab. Code §1194(a), Plaintiff, who retained the services of legal
26 counsel in order to enforce Plaintiff’s rights to overtime pay, is entitled to recover Plaintiff’s
27 attorneys’ fees, costs and interest.

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SECOND CAUSE OF ACTION

FAILURE TO PAY MINIMUM WAGES

**(IWC Wage Order No. 7; Labor Code §§ 1194, 1194.2, 1997, 1197.1, 1198 By Plaintiffs
Against Defendants and Does 1 through 100)**

71. Plaintiff and the Class reallege and incorporate by reference all of the allegations set forth in this First Amended Complaint.

72. Labor Code §§ 1194(a) states: “Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees, and costs of suit.”

73. *Labor Code* § 1197 states the California requirement that employees must be paid at least the minimum wage fixed by the Commission, and any payment of less than the minimum wage is unlawful. Similarly, *Labor Code* § 1194 entitles “any employee receiving less than the legal minimum wage...entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage.” IWC Wage Order No. 7-2001 also obligates employers to pay each employee minimum wages for all hours worked. These minimum wage standards apply to each hour employees worked for which they were not paid. Therefore, an employer’s failure to pay for any particular hour of time worked by an employee is unlawful, even if averaging an employee’s total pay over all hours worked, paid or not, results in an average hourly wage above minimum wage. *Armenta v. Osmose, Inc.*, 135 Cal. App. 4th 314, 324 (2005).

74. Pursuant to IWC Wage Order No. 7, Defendants are required to pay the members of the Class for all hours worked, meaning the time during which an employee is subject to the control of an employer, including all the time the employee is suffered or permitted to work, whether or not required to do so.

75. Furthermore, pursuant to *Labor Code* § 1198, “[t]he maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of

1 work and the standard conditions of labor for employees. The employment of any employee for
2 longer hours than those fixed by the order or under conditions of labor prohibited by the order
3 is unlawful.”

4 76. Defendants failed to satisfy minimum wage requirements because they
5 improperly failed to afford Plaintiff and Class members compliant meal/ rest breaks in violation
6 of *Labor Code* §§ 226.7, 1197, 1198 and IWC Wage Order No. 7.

7 77. Further, management rounded down Plaintiff and Class members’ hours to the
8 quarter hour. Management changed employees’ time records to shave time to avoid meal
9 premiums.

10 78. Defendants’ pattern, practice and uniform administration of corporate policy
11 regarding illegal employee compensation as described herein is unlawful and creates an
12 entitlement, pursuant to Labor Code § 218, to recovery by Plaintiff and the members of the
13 Class, in a civil action, of the unpaid balance of the full amount of wages owing, calculated at
14 the appropriate rate.

15 79. *Labor Code* § 1194.2 allows an employee to recover liquidated damages in an
16 amount equal to the wages unlawfully unpaid and interest thereon for any action under *Labor*
17 *Code* § 1194. Where an employee, such as Plaintiff and the other Class members, are not paid
18 for all hours worked under *Labor Code* § 1194, the employee may recover minimum wages for
19 the time associated with the overtime for which they received no compensation. *See Sillah v.*
20 *Command Int’l Sec. Servs.*, 154 F. Supp. 3d 891 (N.D. Cal. 2015) (holding that employees
21 suing for failure to pay overtime could recover liquidated damages under § 1194.2 if they also
22 showed they were paid less than minimum wage); *accord Andrade v. Arby’s Rest. Grp., Inc.*,
23 225 F. Supp. 3d 1115, 1132-33 (N.D. Cal. 2016).

24 80. Plaintiff and the other Class members suffered and continue to suffer losses
25 related to the use and enjoyment of compensation due and owing to them as a direct result of
26 Defendants’ unlawful acts and Labor Code violations in an amount to be shown according to
27 proof at trial and within the jurisdictional limitations of this Court.

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1 81. Therefore, pursuant to Labor Code §§200, 218.5, 558 and 1194, Plaintiff and the
2 Class are entitled to recover the unpaid balances of the minimum wages Defendants owe them,
3 plus interest, penalties, attorneys' fees, expenses and costs of suit, in amounts according to
4 proof.

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6 **THIRD CAUSE OF ACTION**
7 **FOR FAILURE TO PROVIDE REST PERIODS**
8 **(Labor Code § 226.7 and IWC Wage Order No. 7 By Plaintiff Against Defendants and**
9 **Does 1 through 100)**

10 82. Plaintiff and the Class reallege and incorporate by reference all of the allegations
11 set forth in this First Amended Complaint.

12 83. Labor Code § 226.7 and IWC Wage Order No. 7 provide that employers shall
13 authorize and permit all employees to take rest periods at the rate of ten minutes net rest time
14 per four hours of work, or major fraction thereof.

15 84. Labor Code § 226.7 and IWC Wage Order No. 7 provide that if an employer
16 fails to provide an employee with rest periods in accordance with those provisions, the
17 employer shall pay the employee one hour of pay at the employee's regular rate of
18 compensation for each workday that the rest periods were not so provided.

19 85. Defendants have intentionally and improperly denied rest periods to Plaintiff
20 and the Class in violation of Labor Code § 226.7 and IWC Wage Order No. 7.

21 86. Plaintiff and members of the Class's rest periods were at times not afforded.
22 Plaintiff and Class members were required to work during their rest breaks. On shifts in excess
23 of 10 hours, Plaintiff and Class members were not afforded third rest breaks.

24 87. At all times relevant hereto, Defendants failed to provide rest periods as required
25 by Labor Code § 226.7 and Wage Order No. 7.

26 88. By virtue of Defendants' unlawful failure to provide rest periods to Plaintiff and
27 the Class, Plaintiff and the Class have suffered, and will continue to suffer, damages in amounts
28 which are presently unknown to Plaintiff and the Class, but which exceed the jurisdictional
limits of the Court and which will be ascertained according to proof at trial.

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FOURTH CAUSE OF ACTION
FOR FAILURE TO PROVIDE TIMELY OFF-DUTY MEAL PERIODS
(Labor Code § 226.7 and IWC Wage Order No. 7 By Plaintiff Against Defendants and Does 1 through 100)

89. Plaintiff and the Class reallege and incorporate by reference all of the allegations set forth in this First Amended Complaint.

90. California Labor Code §226.7(a) prohibits an employer from requiring an employee to work during any meal period mandated by an applicable Industrial Wage Order. Section 226.7(b) of the California Labor Code provides that "[a]n employer shall not require an employee to work during a meal or rest break or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission..."

91. California Labor Code §1198 makes the employment of an employee unlawful under conditions the IWC prohibits.

92. IWC Order No. 7-2001(11)(A) provides, in relevant part: "No employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30-minutes, except that when a work period of not more than six (6) hours will complete the day's work the meal period may be waived by mutual consent of the employer and the employee."

93. IWC Order No. 7-2001 (11)(c) further provides, in relevant part: "Unless the employee is relieved of all duty during a 30-minute meal period, the meal period shall be considered an 'on duty' meal period and counted as time worked."

94. Section 512(a) of the California Labor Code provides, in relevant part, that:

An employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30-minutes, except that if the total work period per day of the employee is no more than six hours, the meal period may be waived by mutual consent of both the employer and employee. An employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30-minutes, except that if the total hours worked is no more than 12 hours, the second meal period may

1 be waived by mutual consent of the employer and the employee only if the first
2 meal period was not waived.

3 95. The Labor Code and Wage Order provisions cited above require California
4 employers to provide employees with off-duty 30-minute meal periods on or before the fifth hour
5 of their shifts.

6 96. To satisfy this obligation, California employers must: (1) make employees aware
7 of their right to off-duty 30-minute meal periods before the fifth hour of their shifts, and (2)
8 ensure that employees are actually free of job duties for thirty minutes per day on or before the
9 fifth hour of their shifts.

10 97. Plaintiff and the members of the Class's meal periods were routinely afforded late
11 and/or not afforded. Further, when Plaintiff and Class members worked 10 or more hours per
12 day, they were not afforded second meal breaks.

13 98. Under California law, employers must also record their employees' meal periods:
14 "Every employer shall keep accurate information with respect to each employee, including the
15 following: ... Meal periods ... shall also be recorded. Meal periods during which operations cease
16 ... need not be recorded." IWC Order No. 7, § (7)(A)(3). Where the employer has failed to keep
17 records required by statute, the consequences of such failure should fall on the employer, not the
18 employee. In such a situation, imprecise evidence by the employee can provide a sufficient basis
19 for liability." *Hernandez v. Mendoza*, 199 Cal. App. 3d 721, 727 (1988). Inasmuch as Defendant
20 had an obligation under the record-keeping requirements of the Wage Order to track meal periods
21 unless "all work ceases", Defendant knew or should have known its employees were regularly
22 missing meal periods during the Class Period.

23 99. Defendants have a policy or practice of failing to ensure that Plaintiff and
24 members of the class take the meal periods required by California Labor Code §226.7 and IWC
25 Wage Order No. 7-2001 §11.

26 100. By their actions in not affording Plaintiff and Class members compliant meal
27 periods, Defendants violated Cal. Lab. Code §226.7(b) and section 11 of Wage Order No. 7 in
28 the amount of one additional hour of pay at the employee's regular rate of compensation for each

1 work period during each day in which Defendants failed to provide employees with statutory off-
2 duty meal periods.

3 101. Defendants also have a policy or practice of failing to pay each of their employees
4 who was not provided with a meal period as required an additional one hour of compensation at
5 each employee's regular rate of pay.

6 102. Cal. Labor Code § 218 authorizes Plaintiff and the members of the Class to bring
7 a private right of action to recover wages due based on the deprivation of timely meal periods
8 under Cal. Labor Code § 226.7(b).

9 103. As a direct and proximate result of Defendants' unlawful conduct as alleged
10 herein, Plaintiffs and members of the Class have sustained economic damages, including but not
11 limited to unpaid wages and lost interest, in an amount to be established at trial, and are entitled
12 to recover economic and statutory damages, attorneys' fees and penalties and other appropriate
13 relief due to Defendant's violations of the California Labor Code and IWC Wage Order No. 7.

14 **FIFTH CAUSE OF ACTION**

15 **FOR FAILURE TO MAINTAIN RECORDS AND PROVIDE ACCURATE WAGE**

16 **ITEMIZED STATEMENTS**

17 **(Labor Code §226 By Plaintiffs Against Defendants and Does 1 through 100)**

18 104. Plaintiff and the Class reallege and incorporate by reference all of the allegations
19 set forth in this First Amended Complaint.

20 105. Pursuant to IWC Wage Order No. 7, Defendants were the employers of Plaintiff
21 and the Class.

22 106. Pursuant to California Labor Code sections 226, and Wage Order No. 7-2001
23 section 7, Defendants are required to maintain and provide accurate records relating to
24 employee compensation including all formulas and production records used to calculate wages
25 due.

26 107. Defendants are further required to provide, *inter alia*, semimonthly or at the time
27 of each payment of wages, an accurate itemized statement showing: (1) gross wages earned; (2)
28 all deductions from wages; (3) net wages earned; (4) the inclusive dates of the period for which

1 the employee is being paid; (5) the name of the employee; and (6) the name and address of the
2 legal entity that is the employee's actual employer. Cal. Labor Code §226(a).

3 108. Here, the company address for EJ on Plaintiff's paystubs is 2211 E. 27th Steet,
4 Vernon, CA 90058. However, the address for EJ listed on the Secretary of State website is
5 2209 E. 27th Street, Vernon, CA 90058.

6 109. Section 226(e) provides that an employee is entitled to recover \$50 for the
7 initial pay period in which a violation of Section 226 occurs and \$100 for each subsequent pay
8 period, not to exceed \$4,000, plus an award of costs and reasonable attorneys' fees, for all pay
9 periods in which the employer knowingly and intentionally failed to provide accurate itemized
10 statements to the employee causing the employee to suffer injury.

11 110. Notwithstanding these provisions, Defendants have engaged in a uniform
12 practice of refusing to maintain and provide the accurate records and wage statements required
13 by California law.

14 111. Throughout the Class Period, Defendants intentionally and knowingly provided
15 Plaintiff and other members of the Class with weekly itemized wage statements containing
16 inaccurate information regarding the wages earned by Plaintiff and members of the Class in
17 that the payments owed to Plaintiff and the members of the Class for overtime wages due to off
18 the clock work, minimum wages, premium pay for meal/rest breaks, expense reimbursement
19 and vacation pay, were not included in gross wages earned by Plaintiff and members of the
20 Class. Further, Defendants failed to furnish Plaintiff and the Class, upon payment of wages,
21 itemized statements accurately showing the number of hours worked and the rates paid.

22 112. As a result, Plaintiff and members of the Class have been injured by having been
23 deprived of the true facts pertaining to their compensation and employment.

24 113. Plaintiff and members of the Class were damaged by these failures because,
25 among other things, the failures led them to believe that they were not entitled to overtime
26 wages, minimum wages, premium pay for meal/rest breaks not properly afforded, expense
27 reimbursement and vacation pay, even though they were so entitled and these failures hindered
28 them from determining the amounts of wages owed to them.

1 114. Plaintiff and members of the Class are entitled to the amounts provided in Labor
2 Code §226(e), plus attorneys' fees and costs.

3 115. As result, Plaintiff seeks recovery of the penalties authorized by Labor Code
4 sections 226(e) and 558, and such other penalties and legal and equitable remedies as are
5 provided by law for Defendants' improper conduct.

6 **SIXTH CAUSE OF ACTION**

7 **FOR FAILURE TO PAY WAGES UPON TERMINATION**

8 **(Labor Code §§201-203 By Plaintiffs Against Defendants and Does 1 through 100)**

9 116. Plaintiff and the Class reallege and incorporate by reference all of the allegations
10 set forth in this First Amended Complaint.

11 117. Labor Code § 201(a) provides that a discharged employee's unpaid wages are
12 due and payable immediately. Labor Code § 202(a) provides that when an employee resigns
13 from employment, unpaid wages are due and payable within 72 hours of resignation.

14 118. Labor Code § 203(a) provides that if an employer willfully fails to pay wages as
15 mandated by Labor Code §§ 201 and 202, the employee's wages shall continue to accrue until
16 paid, not to exceed thirty days.

17 119. Plaintiff and the Class were discharged and/or resigned from Defendants'
18 employ and Defendants willfully failed to pay Plaintiff and the Class wages due them for
19 overtime, minimum wages, rest breaks, expense reimbursement and uniform maintenance
20 expenses not properly paid.

21 120. Plaintiff was terminated by Defendants on July 31, 2024. However, Plaintiff did
22 not receive his last pay at that time, His last available paystub is dated July 22, 2024, was paid
23 on his regular pay date, 11 days late, and did not include waiting time penalties. Plaintiff and
24 Class members were not paid all wages that they were due.

25 121. Under Labor Code § 203(a), Plaintiff and the Class are entitled to one day's
26 wages for each day he or she was not timely paid, not to exceed 30 days' wages.

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1 must pay out all accrued but unused paid time off upon termination. Once a proportionate right
2 to paid vacation vests as labor is rendered, an employer may not adopt policies that require
3 forfeiture of vested paid time off without compensation. (*Suastez v. Plastic Dress-Up Co.*
4 (1982) 31 Cal.3d 774, 784 [“The right to a paid vacation, when offered in an employer's policy
5 or contract of employment, constitute deferred wages for services rendered”]; *Rhea v. General*
6 *Atomics* (2014) 227 Cal. App. 4th 1560, 1571 [“California law prohibits an employer from
7 requiring the forfeiture of vacation time”].)

8 129. As a matter of policy, Defendants did not provide vested vacation pay on
9 termination of employment.

10 130. Defendants’ vested vacation policy, which applies to all of its employees in
11 California, violates California law because it fails to pay out all of the employees’ vested and
12 unused vacation pay on termination.

13 131. Plaintiff and Class members did not receive the proper protections and benefits
14 of the laws governing payment of vested vacation pay upon separation of employment.

15 132. Pursuant to Labor Code § 227.3, an employer that has implemented paid
16 vacation pay policy must, upon an employee's separation from employment, pay to the
17 employee all vested, but unused vacation off at his final rate of pay.

18 133. Here, Plaintiff did not use all his vested vacation pay prior to his termination.
19 Plaintiff’s paystub dated July 22, 2024, shows a balance of 16.00 hours of vacation.

20 134. As a result, Defendants failed to pay Plaintiff and Class members all vested, but
21 unused vacation pay upon separation from employment, thereby receiving an economic benefit.

22 135. Plaintiff is informed and believes and based thereon alleges Defendants’ willful
23 failure to pay all vacation wages due and owing to Plaintiff and Class members upon
24 separation from employment results in a continued payment of wages up to thirty (30) days
25 from the time the wages were due. Therefore, Plaintiff and Class members are also entitled to
26 compensation pursuant to Labor Code sections 201-203.

27 136. Plaintiff and members of the Class have been damaged by Defendants’ vacation
28 policy because they have been forced to forfeit earned vacation wages.

137. As a direct and proximate result of Defendants' unlawful conduct, Plaintiff and members of the Class have sustained damages, including loss of earnings in an amount to be established at trial, in addition to prejudgment interest, costs, and attorneys' fees pursuant to applicable law.

NINTH CAUSE OF ACTION

FAILURE TO ADOPT STANDARDS THAT MINIMIZE EXCESSIVE INDOOR

HEAT

(Labor Code § 6720, Wage Order No. 7 By Plaintiff against Defendants and Does 1 through 100)

138. Plaintiff and the Class reallege and incorporate by reference all of the allegations set forth in this First Amended Complaint.

139. California *Labor Code* § 6720 sets forth requirements for adapting a standard that minimizes heat-related illness and injury among workers working in indoor places. The provision states the following: “[t]he standard shall be based on environmental temperatures, work activity levels, and other factors.”

140. Wage Order No. 7 section 15(A) provides the following: “The temperature maintained in each work area shall provide reasonable comfort consistent with industry-wide standards for the nature of the process and the work performed.” Section 15(B) states “[i]f excessive heat or humidity is created by the work process, the employer shall take all feasible means to reduce such excessive heat or humidity to a degree providing reasonable comfort.”

141. Defendants failed to comply with *California Labor Code* § 6720 and Wage Order No. 7, by maintaining an excessively hot working environment. Defendants' warehouse did not have proper ventilation and/or air conditioning and the temperature inside the warehouse was excessively hot.

142. Defendants failed to adopt standards to reduce heat-related illnesses, and as a result, Defendants have failed to maintain a safe indoor working environment.

143. Plaintiff and Class members request recovery of wages and penalties according to proof, as well as interest, attorneys' fees and costs pursuant to the California Labor Code.

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TENTH CAUSE OF ACTION

FAILURE TO ALLOW TIMELY INSPECTION OF EMPLOYMENT RECORDS

(Labor Code §1198.5, 432, 226(b) By Plaintiffs against Defendants and Does 1 through 100)

144. Plaintiff and the Class reallege and incorporate by reference all of the allegations set forth in this First Amended Complaint.

145. California Labor Code Section 1198.5 provides:

- (a) Every current and former employee, or his or her representative, has the right to inspect and receive a copy of the personnel records that the employer maintains relating to the employee's performance or to any grievance concerning the employee.
- (b) The employer shall make the contents of those personnel records available for inspection to the current or former employee, or his or her representative, at reasonable intervals and at reasonable times, but not later than 30 calendar days from the date the employer receives a written request, unless the current or former employee, or his or her representative, and the employer agree in writing to a date beyond 30 calendar days to inspect the records, and the agreed-upon date does not exceed 35 calendar days from the employer's receipt of the written request to inspect the records. Upon a written request from a current or former employee, or his or her representative, the employer shall also provide a copy of the personnel records,..... later than 30 calendar days from the date the employer receives the request...
- (k) If an employer fails to permit a current or former employee, or his or her representative, to inspect or copy personnel records within the times specified in this section... the current or former employee may recover a penalty of seven hundred fifty dollars (\$750) from the employer.
- (l) A current or former employee may also bring an action for injunctive relief to obtain compliance with this section, and may recover costs and reasonable attorney's fees in such an action.

146. Additionally, pursuant to IWC Wage Order No. 7, at section 7 re: Records, employers are required to keep accurate payroll records on each employee, and such records must be made readily available for inspection by the employee upon reasonable request. The employer must also maintain accurate production records.

1 147. On or about July 29, 2025, Plaintiff's counsel issued a written request to
2 Defendants for copies of his payroll and personnel records. However, Defendants have failed
3 to send Plaintiff's payroll file despite multiple requests.

4 148. Under California Labor Code Sections 226, 432 and 1198.5, such records were
5 to include all records relating to Plaintiff's hours worked, wage statements and compensation.
6 Plaintiff's counsel and Defendants did not enter into an agreement to enlarge the time for
7 Defendants' compliance, and Defendants have failed and refused to permit Plaintiff copies of
8 his records.

9 149. As a direct result and consequence of Defendants' failure and refusal to permit
10 Plaintiff full access to his records, Plaintiff seeks injunctive relief in the form of an order or
11 decree mandating Defendants' compliance. Plaintiff has suffered and will suffer harm as a
12 result of Defendants' ongoing refusal to comply. Plaintiff also seeks recovery of the statutory
13 penalty of \$750 based upon Defendants' violation of §1198.

14 **ELEVENTH CAUSE OF ACTION**

15 **UNFAIR COMPETITION**

16 **(Violation of Business & Professions Code §§ 17200 *et seq.* By Plaintiffs Against**
17 **Defendants and Does 1 through 100)**

18 150. Plaintiff and the Class reallege and incorporate by reference all of the allegations
19 set forth in this First Amended Complaint.

20 151. Pursuant to IWC Wage Order No. 7, Defendants were the employers of Plaintiff
21 and the Class. Defendants are also "person(s)" as that term is defined in Business & Professions
22 Code §17021.

23 152. The Business & Professions Code defines unfair competition as any unlawful,
24 unfair, or fraudulent business practice. At all times relevant herein, by and through the conduct
25 described herein, Defendants have engaged in unfair and unlawful practices by failing to (1)
26 pay overtime wages; (2) pay minimum wages; (3) pay premium pay for meal/rest breaks not
27 properly afforded; (4) furnish Plaintiff and the Class with accurate itemized wage statements,
28 (5) pay Plaintiff and the Class wages due when leaving their employ, (6) failing to reimburse

1 business expenses, (7) failing to pay vested vacation pay, (8) failing to minimize excessive
2 indoor heat, and (9) timely provide and allow inspection of personnel records, all in violation of
3 Business & Professions Code §§ 17200 *et seq.*

4 153. By and through the unfair and unlawful business practices described herein,
5 Defendants have obtained valuable property, money and services from the Plaintiff and the
6 Class and have deprived them of valuable rights and benefits guaranteed by law all to the
7 detriment of Plaintiff and the Class.

8 154. All the acts described herein are violations of, among other things, the Labor
9 Code and IWC Wage Order No. 7, are unlawful and in violation of public policy; and in
10 addition are immoral, unethical, oppressive, and unscrupulous, and thereby constitute unfair
11 and unlawful business practices in violation of Business & Professions Code §§ 17200 *et seq.*

12 155. Plaintiff and the Class are entitled to, and do, seek such relief as may be
13 necessary to restore to them the money and property which Defendants have acquired, or of
14 which Plaintiff and the Class have been deprived by means of the above-described unfair and
15 unlawful business practices.

16 156. Plaintiff and the Class are further entitled to, and do, seek a declaration that the
17 above-described business practices are unfair and unlawful and that injunctive relief should be
18 issued restraining Defendants from engaging in any of the above described unfair and unlawful
19 business practices in the future.

20 157. Plaintiff and the Class have no plain, speedy, and/or adequate remedy at law to
21 redress the injuries which they have suffered as a consequence of the unfair and unlawful
22 business practices of Defendants. As a result of the unfair and unlawful business practices
23 described above, Plaintiff and the Class have suffered and will continue to suffer irreparable
24 harm unless Defendants are restrained from continuing to engage in these unfair and unlawful
25 business practices. In addition, Defendants should be required to disgorge the unpaid moneys
26 to Plaintiff and the Class.

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1 **TWELFTH CAUSE OF ACTION**

2 **(Damages Pursuant to Private Attorney General Act Against All Defendants and Does 1**
3 **through 100)**

4 158. Plaintiff and the Class reallege and incorporate by reference all of the allegations
5 set forth in this First Amended Complaint.

6 159. Plaintiff brings this action on his own behalf and on behalf of all current and
7 former employees of Defendants who were employed in California for the previous four years
8 seeking to recover wages from Defendants' systematic failure to pay overtime, minimum
9 wages, provide meal/rest breaks (or pay the statutory compensation due), to issue accurate
10 wage statements, pay wages on termination, to reimburse business expenses, to pay vested
11 vacation pay, to adopt standards that minimize excessive indoor heat, to allow inspection of
12 employment records and unfair competition as set forth in this pleading.

13 160. On July 29, 2025, Plaintiff, pursuant to California Labor Code §§2699, et seq.,
14 by and through Plaintiff's attorneys, uploaded a Private Attorney General Act ("PAGA") claim
15 to the State of California Labor and Workforce Development Agency ("LWDA") and sent a
16 letter via Certified Mail Return Receipt Requested to the defendant.

17 161. More than 65 days have passed since the above letter, and Plaintiff's counsel has
18 not received any notice from the LWDA stating an intention to prosecute Plaintiff's PAGA
19 claims.

20 162. Plaintiff has, therefore complied with the administrative exhaustion
21 requirements of PAGA.

22 163. Plaintiff seeks Labor Code penalties, attorney's fees, and costs, in an amount
23 according to proof at trial, as provided by the Labor Code Private Attorney General Act.
24

25 **PRAYER FOR RELIEF**

26 WHEREFORE, Plaintiff respectfully prays that this Court enter judgment in his favor
27 and against Defendants, and each of them, as follows:
28

- 1 1. For compensatory damages in the amount of overtime wages due to Plaintiff and
2 Class members, according to proof;
- 3 2. For compensatory damages in the amount of minimum wages due to Plaintiff
4 and Class members, according to proof;
- 5 3. For one (1) hour of pay at the regular rate of compensation for Plaintiff and
6 Class members for each workday that a meal/rest period was not provided;
- 7 4. For an award of consequential damages in Plaintiff and Class members' favor
8 and against Defendants, in an amount to be proven at trial;
- 9 5. For compensatory damages in the amount of Plaintiff and Class members' cell
10 phone, vehicle, tool and equipment expenses for business purposes, costs and attorneys' fees
11 pursuant to Cal. Code Civ. Proc. §2802(c);
- 12 6. For all vacation wages owed;
- 13 7. A declaratory judgment that Defendant has knowingly and intentionally violated
14 the following provision of law: Labor Code section 6720, for failing to adopt standards that
15 minimize excessive indoor heat;
- 16 8. For statutory damages pursuant to *Cal. Lab. Code* §226, according to proof;
- 17 9. For payment to Plaintiff and Class members of waiting time penalties pursuant
18 to *Cal. Lab. Code* §203, in an amount equal to his and Class members' respective daily rates of
19 pay at the time of termination or layoff, multiplied by the total amount of days elapsed between
20 the date of the involuntary termination, and/or 72 hours after notice of the voluntary
21 termination, up to a maximum of 30 days' pay, according to proof;
- 22 10. For specific relief enforcing waiting time penalties of 30 days of per diem wages
23 pursuant to *Cal. Bus. & Prof. Code* §17200 and *Cal. Lab. Code* §203, according to proof;
- 24 11. For prejudgment interest accrued on all due and unpaid overtime and minimum
25 wages from the date that wages were due and payable, pursuant to *Cal. Lab. Code* §§218.6 and
26 1194(a), according to proof;
- 27 12. For civil penalties pursuant to *Cal. Labor Code* §1198 and Wage Order No. 7-
28 2001(14);

1 13. For statutory penalties pursuant to *Cal. Lab. Code* §§ 558, 226.7, 1198.5,
2 according to proof;

3 14. For penalties provided by the Labor Code Private Attorney General Act;

4 15. For reasonable costs, including attorneys' fees, in an amount according to proof
5 pursuant to, *inter alia*, *Cal. Labor Code* §§1194, 218.5, 1198.5, 2802 and/or *Cal. Code of Civ.*
6 *Proc.* §1021.5;

7 16. For an award of restitution of wages to Plaintiff and Class members in an
8 amount equal to the amount of wages owed and unpaid, according to proof;

9 17. For injunctive relief ordering the continuing unfair business acts and practices to
10 cease, as the Court deems just and proper;

11 18. For other injunctive relief ordering Defendants to notify Plaintiff and Class
12 members that they have not been paid the proper amounts in accordance with California law;

13 19. For punitive and exemplary damages in a sum to be determined at trial; and

14 20. For such other and further relief as the Court deems just and proper.
15

16 **DEMAND FOR JURY TRIAL**

17 Plaintiff Jose Ochoa hereby respectfully requests a trial by jury for all claims and issues
18 raised in his First Amended Complaint that may be entitled to a jury trial.
19

20 LIPELES LAW GROUP, APC

21 Date: October 15, 2025

22 By: 
23 _____

24 Kevin A. Lipeles
25 Attorneys for Plaintiff
26 Jose Ochoa
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