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Clerk of the Superior Court
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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN DIEGO

Douglas Buckley, individually and on behalf of all similarly situated individuals,

Plaintiff,

vs.

Univision Radio Stations Group, Inc. d/b/a TelevisaUnivision, a Delaware corporation; **Timothy Natividad**, an individual; and **Does 1-50,** inclusive,

Defendants.

CASE NO. 25CU036607C

CLASS ACTION COMPLAINT FOR:

1) **Failure to Pay Minimum Wage for All Hours Worked;**
2) **Unlawful Forfeiture of Wages (Commission Chargebacks)**
3) **Failure to Pay Overtime Wages;**
4) **Failure to Provide Meal Periods or Compensation in Lieu Thereof;**
5) **Failure to Provide Rest Periods or Compensation in Lieu Thereof;**
6) **Failure to Provide and Maintain Accurate Payroll Records;**
7) **Failure to Timely Pay Wages Due; and**
8) **Violations of The Unfair Competition Law**

Jury Trial Requested

Plaintiff Douglas Buckley hereby brings this action on behalf of himself and all other similarly situated current and former employees, by and through his counsel of record, alleges against Univision Radio Stations Group, Inc. d/b/a TelevisaUnivision as follows:

INTRODUCTION

1. Univision Radio Stations Group, Inc. d/b/a TelevisaUnivision ("Univision")—the world's leading Spanish-language media company, and the United States' most profitable and largest provider of Spanish-language content—systematically misclassifies its Account Executive employees as outside salespersons to wring out additional profits at its employees' expense.

2. Univision's hard-working Account Executives work more than 40 hours per week trying to keep up with Univision's ever-expanding demands. Yet instead of compensating them fairly, Univision exploits their misclassified status to evade basic wage and hour obligations—including minimum wage, overtime, compliant meal and rest breaks, and associated premium payments, among other items. In doing so, Univision reaps the benefits of its employees' labor while deliberately withholding the protections guaranteed to them under California law.

3. Univision's misclassification of its employees is not only systemic—it is willful and well-documented. The company requires Account Executives to maintain detailed logs of their daily activities, which makes clear that they spend more than 50% of their time in non-exemption-qualifying activities.

4. This action seeks to hold Univision accountable for its willful misclassification and blatant violations of the California Labor Code with respect to its Account Executives.

PARTIES

5. Plaintiff Douglas Buckley is a resident of the County of San Diego in the State of California. From approximately 2000 to 2006, November 2010 to December 2019, and September 2023 through the present, Mr. Buckley was and is employed as an Account Executive by Defendants. At all times relevant to this Complaint, Mr. Buckley is and was misclassified as an exempt outside salesperson and is and has been paid commission wages.

Plaintiff was subject to the policies and practices described in this complaint at all times during his employment at Defendants.

6. Defendant Univision Radio Stations Group, Inc. d/b/a TelevisaUnivsion. ("Univision") is a Delaware corporation with a registered business address at 330 N. Brand Blvd, Glendale, CA. Univision is the ultimate parent entity of a host of affiliated corporate entities operating under the Univision Radio Stations brand, including Univision Inc. and Univision LLC.

7. Defendant Timothy Natividad (collectively with the Univision Defendants, "Defendants") is a resident of California and is the President of U.S. Advertising Sales and Marketing. As a managing agent of each of the Defendants, he is liable for the Labor Code violations described in the complaint under Labor Code § 558.1.

8. Except as otherwise noted, Defendants personally participated in the acts alleged in this complaint or were the agents, servants, employees, or representatives of the other Defendants. At all relevant times, Defendants were acting within the course, scope, and authority of their agency and employment such that the acts of one defendant are legally attributable to the other Defendants. In all respects, Defendants acted as Plaintiff's joint employers and exercised control over his wages, hours, and/or working conditions.

9. Plaintiff does not know the true names and capacities of Does 1 through 50 at this time and brings suit against them under California Code of Civil Procedure section 474. Plaintiff believes that each of the Doe defendants is a California resident and/or does substantial business in the State of California. Plaintiff will amend this complaint to reflect Does 1 through 50's true names and capacities when they have been determined.

VENUE AND JURISDICTION

10. This Court has subject matter jurisdiction over the causes of action asserted in this complaint under Article VI, section 4 of the California Constitution and California Code of Civil Procedure sections 88 and 410.10. This is a civil action in which the matter in controversy, not including attorneys' fees, interests, and costs, exceeds $25,000, and because each cause of action asserted arises under the laws of the State of California or is

subject to adjudication in the courts of the State of California.

11. Venue as to each defendant is proper in this Superior Court pursuant to California Code of Civil Procedure section 395 because Defendants regularly do business in San Diego County and because Plaintiff was employed by and earned the wages claimed by this action in San Diego County. No federal question is at issue; Plaintiff relies solely on California statutes and law, including the Labor Code, IWC Wage Orders, Code of Civil Procedure, and Business & Professions Code.

CLASS ACTION ALLEGATIONS

Defendants Improperly Misclassifies its Salespeople as Outside Salesperson Exempt Employees

12. At all relevant times to this Complaint, Defendants employed Plaintiff Doug Buckley ("Plaintiff") and Class Members as Account Executives. In this role, they are responsible for selling radio advertising spots to both existing and prospective customers. Their compensation consists entirely of commission-based pay.

13. Defendants misclassified Plaintiff and Class Members as exempt outside sales representative to avoid complying with overtime, minimum wage, meal and rest periods, and other wage and hour laws. However, Plaintiff and Class Members are *not* properly classified as exempt because they do not spend more than 50% of their working time outside Univision's offices.[1] *See* Code Regs. tit. 8, § 11010 ("'Outside salesperson' means any person . . . who customarily and regularly works more than half the working time away from the employer's place of business selling tangible or intangible items or obtaining orders or contracts for products, services or use of facilities.").

14. Despite the sales-oriented job title, Defendants require Plaintiff and Class Members to work on-site at Univision's office full-time, five days per week, thereby

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[1] Outside sales activities must be *directly* related to sales to constitute "selling or obtaining" contracts or orders for purposes of classification. *Ramirez v. Yosemite Water Co.*, 20 Cal. 4th 785, 797 (1999) ("The language of the state exemption only encompasses work directly involved in 'selling ... items or obtaining orders or contracts.'").

preventing them from spending more than 50% of their working time away from the employer's place of business.

15. Plaintiff typically works more than 40 hours per week. Of that time, more than fifty percent is consistently spent performing duties that are not sales-related, including administrative responsibilities, traffic and continuity operations, collections and invoicing follow-up, internal reporting, and the coordination of promotional events (collectively, "Non-Sales Tasks"). Upon information and belief, Class Members also spend more than half of their working time performing Non-Sales Tasks.

Plaintiff and Class Members Routinely Perform Non-Sales Duties At Defendants' Direction

<u>Research Duties</u>

16. Upon information and belief, Class Members spend multiple hours per week on Non-Sales Tasks, such as research duties. For instance, Plaintiff spends approximately two hours per week submitting research requests to internal teams in preparation for potential future sales pitches. These requests seek information such as examples of prior advertising campaigns in comparable markets and data on audience demographics, including indicators of the prospective client's likely advertising needs or business challenges.

17. This task involves only internal communications and consists of ongoing email exchanges with the research team. Plaintiff explains the context of the request, reviews the materials provided, and frequently requests additional clarification or more targeted data. These assignments are purely preparatory and administrative in nature, similar to internal market research.

<u>Traffic and Copywriting Tasks</u>

18. Upon information and belief, Class Members spend several hours per week on traffic and copywriting tasks. For instance, a significant portion of Plaintiff's workweek—approximately 2 hours per day, totaling at least 10 hours per week—is devoted to traffic and copywriting. These tasks are administrative and operational, and are performed entirely

King & Siegel LLP

after a sale has already been completed.

19. Plaintiff and Class Members are responsible for entering advertiser orders into WideOrbit, Defendants' internal order management system. This includes manually inputting detailed data such as the cost of the advertisement, who booked it, the advertiser's credit process, and other related fields. Once entered and confirmed, Plaintiff and Class Members submit the order to the "Traffic" department, which handles the delivery of the advertisement on air.

20. Plaintiff and Class Members also perform advertising copywriting duties, which include drafting and revising 30-second scripts for clients—particularly for smaller, local businesses that often lack agency support. This process requires obtaining client approvals, making requested revisions, and ensuring that scripts are accurately translated for Spanish-speaking audiences. Plaintiff and Class Members are also responsible for regularly refreshing scripts to reflect monthly promotions or updated offers.

21. Once a script is finalized, Plaintiff and Class Members are responsible for sending materials to the production and traffic departments, coordinating internal approvals, and confirming that advertisements are properly scheduled to air.

22. Plaintiff and Class Members must also communicate directly with clients regarding their airtimes and any changes. This includes reviewing daily reports from Traffic identifying "bumped" ads—spots that did not run as originally scheduled. When an ad is bumped, Traffic notifies Plaintiff and Class Members by email. Plaintiff and Class Members then follow up with Traffic to determine availability, coordinates with the client to propose an alternate time, and, once approved, relay that revised schedule back to Traffic.

Proposal Coordination

23. Upon information and belief, Class Members spend several hours a month on proposal coordination work. Plaintiff and Class Members are responsible for handling requests for proposals ("RFPs"). These RFPs may originate directly from clients, through advertising agencies representing multiple entities, or from cultivated accounts that require detailed and customized proposals.

24. When an RFP is submitted or a client requests a proposal, Plaintiff and Class Members must coordinate internally across multiple departments to prepare a response. This includes working with the Promotions Department to determine what promotional elements can be offered—such as giveaway items or ticket packages—and to obtain key logistical details, including the locations of proposed events or promotional activations. Plaintiff and Class Members are also required to reach out to the Social Media Department to explore whether social media coverage or support can be included in the campaign.

25. Gathering all of this information and coordinating between departments can take several days, and can at times occupy the majority of Plaintiff's or, upon information and belief, Class Members' work week. Because of the time and effort involved in managing RFP responses, Plaintiff or, upon information and belief, Class Members are frequently unable to engage in direct sales activities like prospecting or direct client outreach—the activities that their commission is based on.

26. Once all the necessary elements are assembled, Plaintiff and Class Members prepare and submit a comprehensive proposal to the client or agency. After submission, Plaintiff and, upon information and belief, Class Members often fields follow-up questions, provide clarifications, and make revisions based on client feedback.

27. If the client accepts the proposal and moves forward with the campaign, Plaintiff and Class Members are further responsible for producing a recap report following the conclusion of the promotional event. This report is intended to demonstrate the value and effectiveness of the client's advertising campaign with Univision. Plaintiff and Classs Members must compile event documentation, gather photographs, include audio recordings if there was a live call-in or on-air promotion, and incorporate interviews, if there were any. The recap must be formatted into a polished PowerPoint presentation and typically takes Plaintiff approximately three full working days to complete. Similarly, upon information and belief, Class Members spend similar amounts of time preparing their recaps.

<u>Collections and Invoice Follow-Up</u>

28. Upon information and belief, Class Members spend several hours per week on

collections and invoice follow-up. For instance, Plaintiff spends approximately one hour per day, or at least five hours per week, on collections and invoicing tasks, all of which are administrative in nature and take place after a sale has already been completed and the advertisement has aired.

29. Once an advertisement has run, Plaintiff and Class Members are responsible for securing payment from clients. This includes repeatedly following up on outstanding balances and overdue accounts, often requiring multiple emails and phone calls to clients.

30. In cases involving co-op advertising reimbursements, Plaintiff and Class Members must also submit notarized scripts and supporting documentation to prove that the ads aired as required—another administrative burden unrelated to sales.

31. Despite the importance of timely payment for commission eligibility (discussed further below), Defendants do not provide Plaintiff or Class Members with any dedicated accounting or billing support. Instead, Plaintiff and Class Members must personally request invoice and payment details through Microsoft Teams and wait for the internal team to generate and send them a commission report.

32. Plaintiff and Class Members are then required to review the commission report—which is difficult to interpret—to identify unpaid accounts and track the number of days remaining before commissions become ineligible under the company's policy.

33. When payments are delayed, misallocated, or unclear, Plaintiff and Class Members must engage in prolonged back-and-forth with both clients and internal personnel in an effort to protect their commission. Yet Plaintiff and Class Members have no authority to compel payment, leaving them burdened with a low-leverage, time-consuming role focused on post-sale administrative recovery. Plaintiff and, upon information and belief, Class Members are frequently forced to choose between chasing down payments from past clients or trying to generate new business—only to risk facing the same payment issues again.

Promotions Management

34. Upon information and belief, Class Members spend several hours per week on

promotion management tasks. For instance, Plaintiff spends approximately three hours per week managing and executing promotional requests.

35. As an example, when a client expresses interest in giving away tickets on air, it is Plaintiff's and Class Members' responsibility to coordinate the operational logistics of the promotion. This includes retrieving the tickets from the client, notifying the promotions department, and initiating the internal process to schedule the giveaway.

36. Plaintiff and Class Members must then complete and submit an internal form to the promotions department and await approval.

37. Plaintiff and Class Members are also required to attend promotional events—typically about once per month—which can last between 2 to 6 hours. Their role at these events is to ensure that the promotions run smoothly.

38. At these events, Plaintiff and, upon information and belief, Class Members function as promotions staff members, performing duties such as renewing vouchers, coordinating logistics, and assisting the promotions team as needed.

Meetings and Trainings

39. Upon information and belief, Class Members spend several hours per week in meetings and trainings. For instance, for about three hours each week, Plaintiff is required to attend a variety of recurring internal meetings and trainings, which are held virtually or in the office.

40. Every Monday, Plaintiff and Class Members attend a 30-minute company-wide meeting to receive updates on corporate developments, such as upcoming programming. These meetings are generally television-focused and are often irrelevant to Plaintiff's and Class Members' role in radio advertising.

41. Every week, Plaintiff and, upon information and belief, Class Members attend a local sales team meeting, which lasts approximately one hour. Although labeled a "sales meeting," the content is primarily internal discussion, status updates, and logistical coordination, rather than direct sales efforts or client interaction.

42. Plaintiff and, upon information and belief, Class Members also attend a

mandatory weekly one-hour training session. These sessions are generic and often provide limited practical value.

43. On a weekly basis, Plaintiff and, upon information and belief, Class Members also attend a 30- to 45-minute one-on-one meeting with their direct supervisor to report on their current workload, provide updates, and respond to managerial questions.

44. Plaintiff and Class Members are further required to attend monthly regional meetings, where employees from different markets participate in presentations and discussions.

Logging Activities

45. Plaintiff and Class Members are required to report their activities, such as sales calls, meetings, emails sent to clients and for prospective business development, whether they accepted a request for a proposal, and advertisements sold.

46. Plaintiff and Class Members are required to engage in this daily reporting using Matrix, Univision's internal system for tracking employee activity—a task that takes several hours each week. For instance, Plaintiff spends approximately 30 minutes daily, or about 2.5 hours weekly on logging activities.

Impact of Misclassification

47. Plaintiff and Class Members spend more than 25 hours per week in the office or at home performing the aforementioned activities (in addition to making sales calls and sending sales emails from *inside* Univision's offices)—far in excess of the time they spend out of the office engaged in direct sales or sales-related tasks.

48. As such, Plaintiff and Class Members are not properly qualified as exempt outside sales representative and are subject to the IWC Wage Orders and other applicable labor statutes and regulations that govern wages and working conditions for non-exempt employees.

49. Defendants know or should know that Plaintiff and Class Members were and are misclassified because as a matter of uniform and systemic policy and/or practice, Defendants require them to work full-time from the office five days a week and actively

monitor their work activities. Defendants track Plaintiff's and Class Members' time and responsibilities through the Matrix database, as well as through regular meetings and weekly status updates, all of which reflect that Plaintiff and Class Members spend a substantial portion of their time on non-sales, administrative tasks.

50. As a result of the misclassification, Defendants failed pay Plaintiff and Class Members at least the minimum wage or overtime wages for all hours worked and did not authorize Plaintiff and Class Members to take 30-minute meal periods or 10-minute rest periods as required by law.

51. In failing to authorize and/or permit meal and rest periods, Defendants have also implemented a uniform policy of denying compensation in lieu of meal and rest periods to its non-exempt employees, notwithstanding their actual knowledge that such employees were uniformly denied compliant meal and rest periods.

Unlawful Commission Forfeiture

52. Defendants' commission policy further compounds Plaintiff's and Class Members' burdens by tying their commission eligibility to strict post-sale payment timelines. According to Defendants' compensation plan, commissions are not considered earned unless full payment is received from the client.

53. If a client fails to pay within 97 days of the invoice date, Defendants issue a "chargeback," reclaiming the commission advance previously paid to Plaintiff and Class Members. If payment is received between 97 and 270 days, the commission is reinstated. However, if the client fails to pay within 270 days, Plaintiff and Class Members permanently forfeit their commission—even though the sale was successfully completed and the advertisement aired as contracted.

54. This structure unlawfully shifts the risk of client non-payment onto Plaintiff and Class Members, despite their lack of control over the billing or collection process. Defendants' policy places the burden of business losses on the employee, not the employer—an arrangement that amounts to the recapture of earned wages in violation of California Labor Code section 221.

55. Plaintiff and, upon information and belief, Class Members routinely lose earned compensation under this forfeiture policy, even in situations where they performed all job duties, finalized the sale, and ensured the ad ran on schedule. Defendants' refusal to provide meaningful support in handling late payments makes this structure particularly onerous.

56. Plaintiff therefore brings this action on behalf of himself and as a class action on behalf of the following defined Class:

Employee Class:

All persons who worked as Account Executives, or an exempt position with similar job duties, for Univision in the State of California from the period four years prior to the filing of the Action and the date of trial ("Class").

57. Common methods of proof exist for determining these issues on a class-wide basis, including but not limited to, Defendants' employment records, payroll records, timesheets, policies, and disciplinary records.

58. **Numerosity.** Plaintiff is informed and believes that, during the class period, at least 50 Class Members have been employed as non-exempt employees by Defendants within the state of California. The number of Class Members is sufficiently numerous such that joinder of all members is impossible or impracticable.

59. **Typicality.** Plaintiff's claims are typical of all Class Members. Plaintiff, like all other Class Members, was subjected to the policies and practices set forth above. Plaintiff's job duties were typical of Class Members in all relevant respects.

60. **Adequacy.** There are no material conflicts between the claims of the representative Plaintiff and Class Members that would make class certification inappropriate. Plaintiff understands his obligation to inform the Court of any relationship, conflicts, or differences with any Class Member. Plaintiff will fairly and adequately protect the interests of the Class Members. Plaintiff is invested in redressing Defendants' illegal practices on behalf of all Class Members. Moreover, Plaintiff has retained competent counsel experienced in both class action and employment litigation. Plaintiff's attorneys, the

proposed class counsel, are versed in the rules governing class action discovery, certification, and settlement, and will vigorously assert the claims of all Class Members. Plaintiff have incurred, and will continue to incur, costs and attorneys' fees that have been, are, and will be necessarily expended for the prosecution of this action for the substantial benefit of each Class Member.

61. **Existence and Predominance of Common Issues.** Common questions of law and fact exist as to all Class Members and predominate over issues affecting individual Class Members, including, but not limited to:

a. Whether Defendants had a common policy and/or practice of depriving Plaintiff and Class Members of required minimum wages;

b. Whether Defendants unlawfully and/or willfully failed to compensate Plaintiff and Class Members required minimum wages;

c. Whether Defendants had a common policy and/or practice of depriving Plaintiff and Class Members of required overtime wages;

d. Whether Defendants unlawfully and/or willfully failed to compensate Plaintiff and Class Members required overtime wages;

e. Whether Defendants had a common policy and/or practice of requiring Plaintiff and Class Members to forfeit earned wages through commission chargebacks;

f. Whether Defendants unlawfully and/or willfully required Plaintiff and Class Members to forfeit earned wages through commission chargebacks;

g. Whether Defendants had a common policy and/or practice of depriving Plaintiff and Class Members of compliant, off-duty meal and/or rest periods;

h. Whether Defendants unlawfully and/or willfully deprived Plaintiff and Class Members of compliant, off-duty meal and/or rest periods;

i. Whether Defendants have a common policy and/or practice of failing to maintain accurate payroll records in the State of California;

j. Whether Defendants unlawfully and/or willfully failed to maintain accurate payroll records in the State of California;

k. Whether Defendants have a common policy and/or practice of failing to provide accurate wage statements reflecting hours worked and wages earned to Plaintiff and Class Members;

l. Whether Defendants unlawfully and/or willfully failed to provide accurate wage statements reflecting hours worked and wages earned to Plaintiff and Class Members;

m. Whether Defendants has a policy and/or practice of failing to pay Plaintiff and Class Members final wages owed upon separation of employment;

n. Whether Defendants unlawfully and/or willfully failed to promptly pay compensation due to Plaintiff and Class Members upon separation of employment in violation of Labor Code §§ 201, 202, and 203;

o. Whether Defendants unlawfully and/or willfully failed to promptly pay compensation due to Plaintiff and Class Members upon regularly scheduled paydays;

p. Whether Plaintiff and Class Members sustained damages as a result of any of the aforementioned violations, and, if so, the proper measure of those damages, including interest, penalties, costs, attorneys' fees, and equitable relief; and

q. Whether Defendants violated the Unfair Competition Law, Cal. Bus. & Prof. Code § 17200, et seq., by violating the above provisions of law.

62. **Superiority.** A class action is superior to other available means for the fair and efficient adjudication of this dispute. The damages suffered by individual Class Members, while substantial, are small compared to the burden and expense of individual prosecution of the complex and expensive litigation necessary to address Defendants' conduct. Even if Class Members themselves could afford individual litigation, the court system would be overwhelmed by individual lawsuits if all Class Members sought redress. In addition, individualized litigation increases the delay and expense to all parties and to the

court system resulting from the complex legal and factual issues of this case. Individualized litigation also presents a potential for inconsistent or contradictory judgments. By contrast, the class action device presents far fewer management difficulties; it allows the hearing of claims which might otherwise go unaddressed because of the relative expense of bringing individual lawsuits, and it provides the benefits of single adjudication, economies of scale, and comprehensive supervision by a single court. Plaintiff contemplates providing individual notice to members of the Class defined above as identified through Defendants' records.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

Failure to Pay Wages For All Hours Worked
Lab. Code §§ 1182.12, 1194, 1194.2, 1771, 1774, 1197, 1197.1, and 1198
(Plaintiff and Class Against Defendants)

63. Plaintiff repeats and incorporates by reference all allegations in this complaint as though fully set forth herein.

64. California Labor Code sections 1182.12, 1775, 1194, 1197, 1197.1, and 1198 prohibit paying wages below the minimum wage set by statute, commission, or local ordinance.

65. Moreover, California law requires employers to compensate employees for *all* time that an employee is "suffered or permitted to work," which includes all time "when any employer 'directs, commands or restrains' an employee." *See, e.g.*, *Morillion v. Royal Packing Co.*, 22 Cal. 4th 575, 583 (2000), *as modified* (May 10, 2000); *see also* Code Regs. tit. 8, § 11070 ("'Hours worked' means the time during which an employee is subject to the control of an employer and includes all the time the employee is suffered or permitted to work, whether or not required to do so."); *Ghazaryan v. Diva Limousine, Ltd.*, 169 Cal. App. 4th 1524 (2008).

66. Plaintiff and Class Members are improperly classified under the outside salesperson exemption as they are required by Defendants to (a) spend more than 50% of their time performing a variety of non-sales-related tasks, (b) spend more than 50% of their time in Defendants' offices, or (c) a combination thereof.

67. As such, Plaintiff and Class Members are properly classified as non-exempt *inside* commissioned sales employees. Under California law, non-exempt commissioned employees must be paid *separately and hourly* for all "non-productive" time. This includes, for example, time spent performing administrative tasks, collecting payments, attending meetings, and producing advertisement scripts. Such time must be compensated at the greater of Plaintiff's average rate of pay or minimum wage. *Vaquero v. Stoneledge Furniture LLC*, 9 Cal. App. 5th 98, 110–11 (2017), *as modified* (Mar. 20, 2017), *review denied* (June 21, 2017); *Balasanyan v. Nordstrom, Inc.*, 913 F. Supp. 2d 1001, 1007 (2012).

68. Plaintiff and Class Members routinely spend several hours per week on non-productive tasks. Defendants did not compensate Plaintiff and Class Members for their time spent on non-productive tasks despite Defendants' knowledge that they are engaged in performing numerous non-productive tasks.

69. Defendants know or should know that Plaintiff and Class Members are not being fully compensated for all non-productive time as required by law.

70. This conduct blatantly and willfully violates California Labor Code sections 1182.12, 1771, 1774, 1194, 1197, 1197.1, and 1198. Plaintiff and Class Members are entitled to recover the amount of unpaid wages, interest, statutory penalties, and liquidated damages equal to the unlawfully withheld wages, interest thereon, and attorneys' fees and costs.

SECOND CAUSE OF ACTION

Unlawful Forfeiture of Wages (Commission Chargebacks)
Labor Code § 221
(Plaintiff and Class Against Defendants)

71. Plaintiff repeats and incorporates by reference all allegations in this complaint as though fully set forth herein.

72. Cal. Lab. Code § 221 provides: "It shall be unlawful for any employer to collect or receive from an employee any part of wages theretofore paid by said employer to said employee."

73. Plaintiff and Class Members worked as Account Executives, responsible for selling advertising space on Defendants' radio platforms. Plaintiff Class Members

successfully closed sales, and the corresponding advertisements aired as contracted.

74. Under Defendants' written compensation plan, Defendants had the policy and/or practice to pay Plaintiff and Class Members a "draw" or commission advance. However, Defendants' policy provided that if a client failed to pay the advertising invoice within 97 days, Defendants would claw back the previously paid commission. If the client paid between 97 and 270 days after invoicing, the commission would be reinstated. If no payment was received within 270 days, Plaintiff and Class Members permanently forfeited the commission—even though the advertisement had already aired.

75. This commission chargeback structure violates Labor Code § 221. Once Plaintiff and Class Members completed the sale and Defendants delivered the contracted advertising, the commission was earned and constituted a wage. Defendants' policy unlawfully shifted the risk of customer non-payment onto Plaintiff and Class Members, requiring them to forfeit earned wages for reasons beyond their control. Such forfeiture provisions are contrary to public policy and the statutory protections governing wages under California law.

76. Defendants know or should know that they are unlawfully requiring Plaintiff and Class Members to forfeit earned wages.

77. As a direct and proximate result of Defendant's actions, Plaintiff and Class Members have suffered harm in an amount to be proven at trial.

78. This conduct blatantly and willfully violates California Labor Code section 221. As a further, direct and proximate result of Defendant's violation of Plaintiff's and Class Members' rights, Plaintiff has been compelled to retain the services of counsel in an effort to enforce the terms and conditions of their employment relationship with Defendant, and has thereby incurred, and will continue to incur, legal fees and costs, the full nature and extent of which are presently unknown to him.

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THIRD CAUSE OF ACTION

Failure to Pay Overtime Wages
Lab. Code §§ 510 and 1198
(Plaintiff and Class Against Defendants)

79. Plaintiff repeats and incorporates by reference all allegations in this complaint as though fully set forth herein.

80. California Labor Code sections 510 and 1198 requires that employees be paid at a rate of either 1.5 or two times the worker's regular rate of pay (which cannot be less than the applicable minimum wage) for work in excess of eight hours per day and/or 40 hours per week.

81. Defendants are required to pay Plaintiff and Class Members who work more than eight hours in a day or 40 hours in a workweek at the rate of 1.5 times their regular rate of pay for all hours worked in excess of eight hours in a day or more than 40 hours in a workweek.[2]

82. This mandate applies to commission employees in pay periods in which the commission employee fails to earn at least 1.5 times minimum wage and earns at least half their wages from commission sales. *Peabody v. Time Warner Cable, Inc.*, 59 Cal.4th 662 (2014).

83. Defendants are aware or should be aware that their sales requirements and other obligations imposed upon Plaintiff and Class Members required them to work more than 8 hours per day or 40 hours per week.

84. Nonetheless, Defendants failed to pay overtime compensation as required by law on pay periods in which Plaintiff and Class Members failed to earn at least 1.5 times minimum wage and earned at least half their wages from commission sales.

85. Pursuant to Labor Code § 1194, Plaintiff and Class Members are entitled to

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[2] An employee's regular rate of pay includes all remuneration for employment paid to, or on behalf of, the employee, including commissions, non-discretionary bonuses, and incentive pay. *Alvarado v. Dart Container Corp. of California*, 4 Cal. 5th 542, 573 (2018), *as modified* (Apr. 25, 2018).

recover their unpaid overtime compensation and interest thereon, statutory penalties, and attorneys' fees and costs.

FOURTH CAUSE OF ACTION

Failure to Provide Meal Periods or Compensation in Lieu Thereof
Lab. Code, §§ 226.7, 512(a), and 1198
(Plaintiff and Class Against Defendants)

86. Plaintiff repeats and incorporates by reference all allegations in this complaint as though fully set forth herein.

87. Labor Code section 512(a) provides that an employer may not require, cause, or permit an employee to work for a period of more than five hours per day without providing the employee with a meal period of at least 30 minutes. Under California law, first meal periods must start no later than the fifth hour of work. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-104 (2012).

88. Labor Code sections 226.7, 512(a), and 1198 provide that no employer shall require an employee to work during any meal period mandated by an applicable order of the IWC, including Wage Order No. 11. "An off-duty meal period, therefore, is one in which the employee is relieved of all duty during the 30-minute meal period . . . an employer's obligation is to provide an off-duty meal period: an uninterrupted 30–minute period during which the employee is relieved of all duty." *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1035 (2012).

89. Defendants violated Labor Code sections 226.7 and 512, and Wage Orders 4 and 11, by failing to affirmatively authorize and permit meal periods as required by law. Due to Plaintiff's and Class Members' misclassification as exempt employees, none of Defendant's meal period policies applied to them.

90. Defendants' policies and/or practices further served to deprive the Class of a full 30-minute break period free of employer control or relieved of all duties. In addition to not being authorized or permitted in the first instance to take compliant meal periods, even when Plaintiff and Class Members tried to take a "meal period", they were required by Defendants to miss them, have them interrupted by work, remain subject to Defendants'

control, or were forced to take their meal periods after the fifth hour or work. By failing to consistently provide uninterrupted, off-duty 30-minute meal periods, Defendants violated the Labor Code as to Plaintiff and Class Members.

91. In failing to authorize and/or permit meal periods, Defendants have also implemented a uniform policy of denying compensation in lieu of meal periods to its non-exempt employees, notwithstanding its actual knowledge that such employees were uniformly denied compliant meal periods. Defendants did not pay Plaintiffs and Class Members all meal period premium wages when meal periods were missed, interrupted by work, and taken late, in violation of Wage Order No. 4 and Labor Code sections 226.7 and 512(a).

92. Plaintiff and Class Members are entitled to recover their unpaid meal period premiums, in an amount of one hour's wages at their regular rate, interest thereon, and statutory penalties.

FIFTH CAUSE OF ACTION

Failure to Provide Rest Periods or Compensation in Lieu Thereof
Lab. Code, §§ 226.7, 512(a), and 1198
(Plaintiff and Class Against Defendants)

93. Plaintiff repeat and incorporate by reference all allegations in this complaint as though fully set forth herein.

94. Labor Code section 226.7 provides that employers shall not require employees to work during any rest period mandated by an applicable wage order. The applicable IWC Wage Order provides that "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period" and that the "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" unless the total daily work time is less than 3.5 hours.

95. By virtue of their misclassification, Defendants failed to authorize or permit Plaintiff and Class Members to take paid legally compliant rest periods.

96. Plaintiff and Class Members worked shifts in excess of 3.5 hours and in excess

of 6 hours without receiving all uninterrupted ten (10) minute rest periods to which he was entitled. Plaintiff and Class Members also worked shifts in excess of 3.5 hours or 6 hours without receiving all uninterrupted ten (10) minute rest periods to which they were entitled.

97. Even if Defendants had authorized and permitted rest periods (which they did not), such rest periods were non-compliant since Defendants did not pay Plaintiff and Class Members separately and hourly for rest periods. *See, e.g.*, *Vaquero v. Stoneledge Furniture, LLC*, 9 Cal. App. 5th 98, 110 (2017).

98. Upon information and belief, in addition to not being authorized or permitted in the first instance to take compliant meal periods, even when Plaintiff and Class Members were able to take a "meal period", they were required by Defendants to miss, interrupt by work, remain subject to control, or take their meal periods late.

99. Moreover, Defendants did not pay Plaintiff and Class Members for all rest period premium wages when they were missed, interrupted by work, and taken late. Moreover, upon information and belief, Defendants engaged in a systematic company-wide policy to not pay rest period premiums for Plaintiff and Class Members, regardless of whether they were able to take a compliant rest period, in violation of Wage Order No. 4 and Labor Code sections 226.7, 516, and 558.

100. Plaintiff and Class Members are entitled to recover their unpaid rest period premiums, in an amount of one hour's wages at their regular rate, interest thereon, and statutory penalties.

SIXTH CAUSE OF ACTION

Failure to Provide and Maintain Accurate Payroll Records
Lab. Code §§ 226(a), 1174(d), and 1198
(Plaintiff and Class Against Defendants)

101. Plaintiff repeats and incorporates by reference all allegations in this complaint as though fully set forth herein.

102. Labor Code section 226(a) requires employers to provide employees with accurate and complete itemized wage statements in writing. Wage statements must include the name and address of the legal entity that is the employer, the inclusive dates of the pay

period, total hours worked, and all applicable rates of pay, among other things.

103. At all times relevant to this complaint, Defendants failed to provide Plaintiff and Class Members with wage statements reflecting the correct number of hours worked, gross and net wages, and premium pay, among other things.

104. Defendants knowingly and intentionally failed to comply with Labor Code § 226, causing injury and damages to Plaintiff and Class Members.

105. Plaintiff and Class Members are entitled to recover from Defendants the actual damages caused by Defendants' failure to comply with Labor Code section 226(a) or a civil penalty of up to $4,000 per Class Member.

SEVENTH CAUSE OF ACTION

Failure to Timely Pay Wages Due
Lab. Code §§ 201, 203, 204
(Plaintiff and Class Against Defendants)

106. Plaintiff incorporates by reference all allegations contained in the preceding paragraphs as if fully set forth herein.

107. Labor Code § 201 provides, in relevant part, that:

> If an employee not having a written contract for a definite period quits his or her employment, his or her wages[3] shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting. Notwithstanding any other provision of law, an employee who quits without providing a 72-hour notice shall be entitled to receive

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[3] Labor Code § 200 defines "wages" as "all amounts for labor performed by employees of every description, whether the amount is fixed or ascertained by the standard of time, task, piece, commission basis, or other method of calculation." "Labor" is defined as "labor, work, or service . . . if the labor to be paid for is performed personally by the person demanding payment." Additionally, in *Naranjo v. Spectrum Security Services, Inc.*, 13 Cal. 5th 93 (2022), the California Supreme Court held that failure to pay premiums for violating the California Labor Code's meal and rest break provisions constitutes "wages" for purposes of waiting time penalties.

> payment by mail if he or she so requests and designates a mailing address. The date of the mailing shall constitute the date of payment for purposes of the requirement to provide payment within 72 hours of quitting.

108. Defendants do not include definite periods of service in their contracts of employment for Class Members employed at their California office(s). Plaintiff's contract of employment did not include a definite term.

109. Labor Code § 203 provides:

> If an employer willfully fails to pay, without abatement or reduction, in accordance with § 201, 201.5, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days.

110. Labor Code § 204 provides that all wages, other than those mentioned in Section 201 and 202, are due and payable twice during each calendar month, on days designated in advance by the employer as regular paydays.

111. <u>Failure to Timely Pay Wages Due.</u> As set forth above, Defendants failed to timely pay the minimum wages, overtime wages, and meal and rest period premiums resulting from its deficient timekeeping and meal and rest period policies on its regularly scheduled pay days.

112. <u>Relief.</u> Defendants' failure to pay Plaintiff and those Class Members wages on their regularly scheduled pay dates subjects Defendants to civil penalties in the amount of $100 per employee per initial violation and $200 per employee for every subsequent violation of Labor Code § 204 pursuant to Labor Code § 210.

113. <u>Failure to Pay Upon Termination or Separation.</u> Class Members have left Defendants' employment during the Class Period. As discussed above, Defendants knowingly failed to pay Plaintiff and Class Members all earned wages upon the statutorily

required deadlines, including upon termination or separation. Instead, Defendants willfully and intentionally refused to pay the earned rest and/or meal period premiums and earned minimum wages as alleged herein to Plaintiff and Class Members in violation of Labor Code §§ 201 and 202.

114. Relief. Defendants' failure to pay Plaintiff and those Class Members who are no longer employed by Defendants their wages earned and unpaid at the time of discharge, or within seventy-two (72) hours of their leaving Defendants' employment, violates Labor Code §§ 201 and 202. Plaintiff and Class Members are therefore entitled to recover from Defendants the statutory penalty wages for each day they were not paid, at their regular rate of pay, up to a 30-day maximum penalty under Labor Code § 203.

EIGHTH CAUSE OF ACTION

Violation of California Business & Professions Code §§ 17200, et seq.
Unlawful Business Practices
(Plaintiff and Class Against Defendants)

115. Plaintiff repeats and incorporates by reference all allegations in this complaint as though fully set forth herein.

116. Defendants are each a "person" as defined by California Business & Professions Code sections 17201, as they are either natural persons, corporations, firms, partnerships, joint stock companies, associations, or other organizations of persons.

117. Defendants' conduct, as alleged herein, has been, and continues to be, unfair, unlawful and harmful to Plaintiff and Class Members and to the general public. Plaintiff and Class Members have suffered injury in fact and have lost money as a result of Defendants' unlawful business practices. Plaintiff and Class Members seek to enforce important rights affecting the public interest within the meaning of Code of Civil Procedure section 1021.5.

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

119. A violation of California Business & Professions Code sections 17200, *et seq*. may be predicated on the violation of any state or federal law. In the instant case,

Defendants' policies and practices have violated state law as described above.

120. As a result of the violations of California law herein described, Defendants unlawfully gained an unfair advantage over other businesses. Plaintiff and Class Members have suffered pecuniary loss by Defendants' unlawful business acts and practices alleged herein.

121. Pursuant to California Business & Professions Code sections 17200, *et seq*., Plaintiff and Class Members are entitled to restitution of the wages withheld and retained by Defendants during a period that commences four years prior to the filing of this complaint; a permanent injunction requiring Defendants to pay all outstanding wages and meal and rest period premiums and unreimbursed business expenses due to Plaintiff and Class Members; and an award of attorneys' fees pursuant to California Code of Civil Procedure section 1021.5 and other applicable laws; and an award of costs.

DEMAND FOR JURY TRIAL

Pursuant to California Code of Civil Procedure section 631, Plaintiff demands a trial by jury on all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays judgment as follows:

A. For an Order:

   a. Certifying the Class;

   b. Appointing Plaintiff as representative of the Class;

   c. Appointing Plaintiff's counsel as Class Counsel;

B. For actual and liquidated damages according to proof at trial;

C. For statutory and civil penalties and special damages, according to proof at trial;

D. For pre- and post-judgment interest on monetary damages;

E. Preliminary and permanent injunctive relief;

F. For reasonable attorney's fees and costs and expert fees and costs as allowed by law; and

G. For such other relief as this Court deems just and proper.

Dated: July 11, 2025

Respectfully submitted,
KING & SIEGEL LLP

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Priscilla Hernandez
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