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Attorney for Plaintiff,
SANTOS MARTINEZ

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES, CENTRAL DISTRICT

SANTOS MARTINEZ an individual,

Plaintiff,

v.

CM SECURITY, INC, a California corporation;
CM SECURITY, a business entity of unknown
format; CA MAINTENANCE COMPANY,
INC., a California corporation; HK LA L.P., a
California limited partnership; HK
GLENDALE, LLC, a California limited liability
company; YOUNG JUN KIM, an individual; IK
WHAN OH, an individual; and DOES 1
through 20, inclusive,

Defendants.

Case No. **23STCV15390**

COMPLAINT FOR DAMAGES FOR:

- 1. FAILURE TO PAY WAGES (CAL. LABOR CODE §§201, 1194);**
- 2. FAILURE TO PAY MINIMUM WAGES (CAL. LABOR CODE §§1182.12, 1194, 1194.2, 1197);**
- 3. FAILURE TO PAY OVERTIME COMPENSATION (CAL. LABOR CODE §§510, 1194);**
- 4. FAILURE TO PROVIDE MEAL AND REST PERIODS (CAL. LABOR CODE §§226.7, 512);**
- 5. FAILURE TO PROVIDE ITEMIZED WAGE AND HOUR STATEMENTS (CAL. LABOR CODE §§226, ET SEQ.);**
- 6. WAITING TIME PENALTIES (CAL. LABOR CODE §§201-203);**
- 7. PRIVATE ATTORNEY GENERAL ACT (CAL. LABOR CODE §2699, ET SEQ);**
- 8. FAILURE TO PERMIT INSPECTION OF PERSONNEL AND PAYROLL RECORDS (CAL. LABOR CODE §1198.5); AND**
- 9. UNFAIR COMPETITION (BUS. & PROF. CODE §17200 ET SEQ.).**

DEMAND OVER \$25,000
DEMAND FOR JURY TRIAL

1 COMES NOW PLAINTIFF, SANTOS MARTINEZ, and for causes of action against the
2 Defendants and each of them, alleges as follows:

3
4 **JURISDICTION**

5 1. This Court is the proper court, and this action is properly filed in Los Angeles County,
6 because Defendants' obligations and liability arise therein, because Defendants maintain offices and
7 transact business within Los Angeles County, and because the work that is the subject of this action was
8 performed by Plaintiff in Los Angeles County.

9
10 **THE PARTIES**

11 2. Plaintiff, SANTOS MARTINEZ, is and at all times relevant hereto was a resident of the
12 County of Los Angeles, State of California.

13 3. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant
14 hereto, Defendant CM SECURITY INC. (hereinafter referred to as "CM SECURITY INC.") was and is
15 a California corporation doing business at 4510 S. Alameda, Vernon, in the County of Los Angeles, State
16 of California.

17 4. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant
18 hereto, Defendant CM SECURITY (hereinafter referred to as "CM SECURITY") was and is a business
19 entity of unknown format doing business at 4510 S. Alameda, Vernon, in the County of Los Angeles,
20 State of California.

21 5. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant
22 hereto, Defendant CA MAINTENANCE COMPANY, INC. (hereinafter referred to as "CA
23 MAINTENANCE") was and is a California corporation doing business at 4510 S. Alameda, Vernon, in
24 the County of Los Angeles, State of California.

25 6. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant
26 hereto, Defendant HK LA LP (hereinafter referred to as "HK LA") was and is a California limited
27 partnership doing business at 4510 S. Alameda, Vernon, in the County of Los Angeles, State of
28 California.

1 7. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant
2 hereto, Defendant HK GLENDALE, LLC (hereinafter referred to as "HK GLENDALE") was and is a
3 California limited liability company doing business at 4510 S. Alameda, Vernon, in the County of Los
4 Angeles, State of California.

5 8. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant
6 hereto, Defendants YOUNG JUN KIM, and IK WHAN OH, were and are individual residents of the
7 County of Los Angeles, State of California, and are hereinafter individually referred to by last name. KIM
8 and OH were managers, corporate agents, franchisees, supervisors, and/or employees of Defendants CM
9 SECURITY, INC., CM SECURITY, CA MAINTENANCE, HK LA, and HK GLENDALE.

10 9. CM SECURITY, INC., CM SECURITY, CA MAINTENANCE, HK LA, HK
11 GLENDALE, KIM and OH are hereinafter collectively referred to as "Employers."

12 10. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant
13 hereto, Employers owned and operated a private security agency.

14 11. At all times relevant herein, Employers and DOES 1-20 were Plaintiff's employers, joint
15 employers and/or special employers within the meaning of the Labor Code and Industrial Welfare
16 Commission Order No. 4-2001 and are each any "employer or other person acting on behalf of an
17 employer" as such term is used in Labor Code sections 558 and 558.1, and liable to Plaintiff on that basis.

18 12. The true names and capacities, whether individual, corporate, associate, or otherwise, of
19 the Defendants named herein as DOES 1-20, inclusive, are unknown to Plaintiff at this time and therefore
20 said Defendants are sued by such fictitious names. Plaintiff will seek leave to amend this complaint to
21 insert the true names and capacities of said Defendants when the same become known to Plaintiff.
22 Plaintiff is informed and believes, and based thereupon alleges, that each of the fictitiously named
23 Defendants is responsible for the wrongful acts alleged herein and is therefore liable to Plaintiff as alleged
24 hereinafter.

25 13. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant
26 hereto, Defendants, and each of them, were the agents, employees, managing agents, supervisors,
27 coconspirators, parent corporation, joint employers, alter egos, successors, and/or joint ventures of the
28 other Defendants, and each of them, and in doing the things alleged herein, were acting at least in part

1 within the course and scope of said agency, employment, conspiracy, joint employer, alter ego status,
2 successor status and/or joint venture and with the permission and consent of each of the other Defendants.

3 14. Plaintiff is informed and believes, and based thereupon alleges, that Defendants, and each
4 of them, including those defendants named as DOES 1-20, acted in concert with one another to commit
5 the wrongful acts alleged herein, and aided, abetted, incited, compelled and/or coerced one another in the
6 wrongful acts alleged herein, and/or attempted to do so, including pursuant to Government Code
7 §12940(i). Plaintiff is further informed and believes, and based thereupon alleges, that Defendants, and
8 each of them, including those defendants named as DOES 1-20 and each of them, formed and executed
9 a conspiracy or common plan pursuant to which they would commit the unlawful acts alleged herein,
10 with all such acts alleged herein done as part of and pursuant to said conspiracy, intended to cause and
11 actually causing Plaintiff harm.

12 15. Whenever and wherever reference is made in this complaint to any act or failure to act by
13 a Defendant or co-Defendant, such allegations and references shall also be deemed to mean the acts
14 and/or failures to act by each Defendant acting individually, jointly and severally.

15
16 **ALTER EGO, AGENCY, SUCCESSOR AND JOINT EMPLOYER**

17 16. Plaintiff is informed and believes, and based thereon alleges, that there exists such a unity
18 of interest and ownership between Employer and DOES 1-20 that the individuality and separateness of
19 defendants have ceased to exist.

20 17. Plaintiff is informed and believes, and based thereon alleges, that despite the formation of
21 purported corporate existence, Employer and DOES 1-20 are, in reality, one and the same, including, but
22 not limited to because:

23 a. Employer is completely dominated and controlled by one another and DOES 1-20,
24 who personally committed the frauds and violated the laws as set forth in this complaint, and who have
25 hidden and currently hide behind Defendants to perpetrate frauds, circumvent statutes, or accomplish
26 some other wrongful or inequitable purpose.

1 b. Employer and DOES 1-20 derive actual and significant monetary benefits by and
2 through one another's unlawful conduct, and by using one another as the funding source for their own
3 personal expenditures.

4 c. Employer and DOES 1-20, while really one and the same, were segregated to
5 appear as though separate and distinct for purposes of perpetrating a fraud, circumventing a statute, or
6 accomplishing some other wrongful or inequitable purpose.

7 d. Employer does not comply with all requisite corporate formalities to maintain a
8 legal and separate corporate existence.

9 e. The business affairs of Employer and DOES 1-20 are, and at all times relevant
10 were, so mixed and intermingled that the same cannot reasonably be segregated, and the same are in
11 inextricable confusion. Employer is, and at all times relevant hereto were, used by one another and DOES
12 1-20 as a mere shell and conduit for the conduct of certain of Defendants' affairs, and are, and were, the
13 alter ego of one another and DOES 1-20. The recognition of the separate existence of Defendants would
14 not promote justice, in that it would permit Defendants to insulate themselves from liability to Plaintiff
15 for violations of the Government Code and other statutory violations. The corporate existence of
16 Employers and DOES 1-20 should be disregarded in equity and for the ends of justice because such
17 disregard is necessary to avoid fraud and injustice to Plaintiff herein.

18 18. Accordingly, Employer constitutes the alter ego of one another and DOES 1-20, and the
19 fiction of their separate corporate existence must be disregarded.

20 19. As a result of the aforementioned facts, Plaintiff is informed and believes, and based
21 thereon alleges that Employer and DOES 1-20 are Plaintiff's joint employers by virtue of a joint
22 enterprise, and that Plaintiff was an employee of Employer and DOES 1-20. Plaintiff performed services
23 for each and every one of Defendants, and to the mutual benefit of all Defendants, and all Defendants
24 shared control of Plaintiff as an employee, either directly or indirectly, and the manner in which
25 Defendants' business was and is conducted.

26 20. Alternatively, Plaintiff is informed and believes and, based thereupon alleges, that as and
27 between DOES 1-20, Employer, or any of them, (1) there is an express or implied agreement of
28 assumption pursuant to which Employer and/or DOES 1-20 agreed to be liable for the debts of the other

1 Defendants, (2) the transaction between Employer and/or DOES 1-20 and the other Defendants amounts
2 to a consolidation or merger of the two corporations, (3) Employer and/or DOES 1-20 are a mere
3 continuation of the other Defendants, or (4) the transfer of assets to Employer and/or DOES 1-20 is for
4 the fraudulent purpose of escaping liability for Defendants' debts. Accordingly, Employer and/or DOES
5 1-20 are the successors of one or more of the other Defendants and are liable on that basis.

7 **FACTUAL ALLEGATIONS**

8 21. On or about September 15, 2017, Defendants hired Plaintiff to work as a security guard.
9 Plaintiff was a full-time, non-exempt employee, and performed all of Plaintiff's job duties satisfactorily
10 before Plaintiff was wrongfully terminated on or about April 29, 2022.

11 22. At the time of Plaintiff's termination, Plaintiff was 51 years old.

12 23. Between September 15, 2017 and August 31, 2019, Plaintiff's hourly wage rate was
13 \$14.00 per hour. During this time period, Plaintiff's fixed schedule was five days per week, for
14 approximately 12 hours per day.

15 24. Between September 1, 2019 and May 31, 2020, Plaintiff's hourly wage rate was \$14.50
16 per hour. During this time period, Plaintiff's fixed schedule was five days per week, for approximately
17 12 hours per day.

18 25. Between June 1, 2020 and April 29, 2022, Plaintiff's hourly wage rate was \$15.00 per
19 hour. During this time period, Plaintiff's fixed schedule was five days per week, for approximately 12
20 hours per day.

21 26. Plaintiff worked approximately 701 hours, for which Plaintiff received no wages at all,
22 not Plaintiff's hourly wage rate, or even the requisite minimum wage.

23 27. Plaintiff worked approximately 20 overtime hours each week but received only Plaintiff's
24 regular hourly wage rate for these hours, with no overtime premium.

25 28. Throughout Plaintiff's employment, Plaintiff was not permitted to, and not advised of
26 Plaintiff's right to take statutory 10-minute rest breaks for every four hours worked or substantial portion
27 thereof.

1 29. Throughout Plaintiff's employment, Plaintiff did not receive uninterrupted statutory 30-
2 minute meal periods for days on which Plaintiff worked at least 5 hours, which was each day Plaintiff
3 worked. Throughout Plaintiff's employment, Plaintiff did not receive a second uninterrupted statutory
4 30-minute meal periods for days on which Plaintiff worked at least 10 hours, which was 5 days each
5 week. One or more of Plaintiff's 30-minute meal periods were not provided approximately 5 times per
6 week.

7 **FIRST CAUSE OF ACTION**
8 **FOR FAILURE TO PAY WAGES DUE**
9 **LABOR CODE §§201, 1182.12, 1194, 1194.2**
10 **AGAINST ALL DEFENDANTS**

11 30. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as
12 though set forth in full herein.

13 31. At all relevant times, Defendants failed and refused to pay Plaintiff wages earned and
14 required by 8 Code of Regulations §11040, as set forth hereinabove. As alleged herein, Defendants
15 routinely failed to pay Plaintiff for hours worked beyond eight in a day or 40 per week.

16 32. As alleged herein, Plaintiff was not exempt from the requirements of Labor Code §510, 8
17 Code of Regulations §11040, and Industrial Welfare Commission Order No. 4-2001.

18 33. Plaintiff has been deprived of Plaintiff's rightfully earned compensation as a direct and
19 proximate result of Defendants' failure and refusal to pay said compensation. Plaintiff is entitled to
20 recover such amounts, plus interest thereon, attorneys' fees and costs.

21
22 **SECOND CAUSE OF ACTION**
23 **FOR FAILURE TO PAY MINIMUM WAGES**
24 **LABOR CODE §§1182.12, 1194, 1194.2, 1197**
25 **AGAINST ALL DEFENDANTS**

26 34. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as
27 though set forth in full herein.
28

35. Pursuant to Labor Code §1197, payment of less than the minimum wage fixed by law is unlawful. An employer violates the minimum wage statute even if the average rate for paid and unpaid hours exceeded the minimum wage. Under California law, Plaintiff is entitled to at least the minimum wage for every hour worked.

36. The historical minimum wage requirements in California are as follows:

Schedule for California Minimum Wage rate 2017-2023.

Date	Minimum Wage for Employers with 25 Employees or Less	Minimum Wage for Employers with 26 Employees or More
January 1, 2017	\$10.00/hour	\$10.50/hour
January 1, 2018	\$10.50/hour	\$11.00/hour
January 1, 2019	\$11.00/hour	\$12.00/hour
January 1, 2020	\$12.00/hour	\$13.00/hour
January 1, 2021	\$13.00/hour	\$14.00/hour
January 1, 2022	\$14.00/hour	\$15.00/hour
January 1, 2023	\$15.00/hour	

37. In the four years immediately preceding the filing of this complaint, Employers failed and refused to pay Plaintiff the legal minimum wage in the State of California, as set forth in Labor Code §1182.12, in each of the following ways:

a. From January 1, 2022 to April 29, 2022, Plaintiff worked approximately 701 hours, without getting paid anything. Therefore Plaintiff is owed \$9,814.00 calculated at 701 unpaid hours, at 14.00 per hour.

38. Thus, for the entirety of the time periods set forth above, Plaintiff is owed unpaid minimum wages in the amount of \$9,814.00.

39. Defendants' failure to pay the legal minimum wage to Plaintiff as alleged herein is unlawful and creates entitlement, pursuant to Labor Code §1197, to recovery by Plaintiff in a civil action for the unpaid balance of the full amount of the unpaid wages owed, calculated as the difference between the straight time compensation paid and applicable minimum wage, including interest thereon.

40. Pursuant to Labor Code §1194, Plaintiff requests that the court award reasonable attorneys' fees and costs incurred by Plaintiff in this action.

1 41. In addition, pursuant to Labor Code §1194.2, Plaintiff is entitled to recover liquidated
2 damages in an amount equal to the minimum wages unlawfully unpaid as previously alleged, an
3 additional \$9,814.00, plus interest thereon.

4
5 **THIRD CAUSE OF ACTION**
6 **FOR FAILURE TO PAY OVERTIME COMPENSATION**
7 **LABOR CODE §§510, 1194**
8 **AGAINST ALL DEFENDANTS**

9 42. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as
10 though set forth in full herein.

11 43. Labor Code §510 requires employers to pay their non-exempt employees one and one-half
12 times their regular hourly rate (overtime) for time worked in excess of eight hours in a single day, or 40
13 hours per week, and double their regular hourly rate (double-time) for all hours worked in excess of 12
14 hours in a single day. It also requires employers to pay their non-exempt employees overtime
15 compensation for the first eight hours of work done on the seventh consecutive day of work done in any
16 work week, and double-time compensation for any work done beyond the first eight hours on the seventh
17 consecutive day of work.

18 44. At all relevant times, Defendants required Plaintiff to work more than eight hours per day
19 and/or more than 40 hours per workweek.

20 45. At all relevant times, Defendants failed and refused to pay Plaintiff all the overtime
21 compensation required by Labor Code §510, 8 Code of Regulations §11040, and Industrial Welfare
22 Commission Order No. 4-2001.

23 46. In the four years last past, Plaintiff worked 20 hours of overtime each week, all of which
24 should have been paid at 1.5 times Plaintiff's regularly hour wage rate at that time. Defendants failed to
25 pay Plaintiff the requisite overtime wages in each of the following ways in the four years immediately
26 preceding the filing of this complaint:

27 b. From approximately June 16, 2019 to August 31, 2019, Plaintiff's hourly overtime
28 rate was \$21.00. During this time period, Plaintiff worked an average of 20 hours of overtime each week,

1 for 11 weeks, or 220 hours, but received only Plaintiff's regular hourly wage rate, no premium. Therefore,
2 Plaintiff is owed \$7.00 for each of those hours, totaling \$1,540.00.

3 c. From September 1, 2019 to May 31, 2020, Plaintiff's hourly overtime rate was
4 \$21.75. During this time period, Plaintiff worked an average of 20 hours of overtime each week, for 39
5 weeks, or 780 hours, but received only Plaintiff's regular hourly wage rate, no premium. Therefore,
6 Plaintiff is owed \$7.25 for each of those hours, totaling \$5,655.00.

7 d. From June 1, 2020 to April 29, 2022, Plaintiff's hourly overtime rate was \$22.50.
8 During this time period, Plaintiff worked an average of 20 hours of overtime each week, for 100 weeks,
9 or 2,000 hours, but received only Plaintiff's regular hourly wage rate, no premium. Therefore, Plaintiff
10 is owed \$7.50 for each of those hours, totaling \$15,000.

11 47. As alleged herein, Plaintiff is not exempt from the overtime pay requirements of Labor
12 Code §510, 8 Code Regulations §11040, and Industrial Welfare Commission Order No. 4-2001.

13 48. Thus, for the entirety of the time periods set forth above, Plaintiff is owed overtime wages
14 of \$22,195.00.

15 49. Plaintiff has been deprived of Plaintiff's rightfully earned overtime compensation as a
16 direct and proximate result of Defendants' failure and refusal to pay said compensation. Plaintiff is
17 entitled to recover such amounts, plus interest thereon, attorneys' fees, and costs.

18
19 **FOURTH CAUSE OF ACTION**
20 **FOR FAILURE TO PROVIDE MEAL AND REST BREAKS**
21 **LABOR CODE §§226.7, 512**
22 **AGAINST ALL DEFENDANTS**

23 50. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as
24 though set forth in full herein.

25 51. Labor Code §512 requires employers to provide every employee with an uninterrupted
26 meal period of not less than 30 consecutive minutes, for every period of work exceeding five hours.

1 52. Labor Code §226.7 requires an employer to provide every employee with an uninterrupted
2 rest period of not less than 10 minutes, for every period worked of four hours, or substantial portion
3 thereof.

4 53. In the four years last past, Plaintiff regularly worked in excess of 10 hours per day and
5 was thereby entitled to take uninterrupted two 30-minute meal periods and two 10-minute rest periods on
6 each day of work.

7 54. Defendants failed and refused to provide Plaintiff with meal and rest periods, and failed
8 to compensate Plaintiff for missed meal and rest periods, as required by Labor Code §§226.7 and the
9 applicable sections of 8 Code of Regulations §11040 and Industrial Welfare Commission Order No. 4-
10 2001, as follows:

11 a. From approximately June 16, 2019 to August 31, 2019, Plaintiff's statutory 30-
12 minute meal periods were interrupted and cut short approximately 5 times per week for 11 weeks, or on
13 approximately 55 days. During this same time period, Plaintiff was deprived of one or more of Plaintiff's
14 statutory 10-minute rest periods on approximately 55 days (5 days per week for 11 weeks).

15 b. From approximately September 1, 2019 to May 31, 2020, Plaintiff's statutory 30-
16 minute meal periods were interrupted and cut short approximately 5 times per week for 39 weeks, or on
17 approximately 195 days. During this same time period, Plaintiff was deprived of one or more of
18 Plaintiff's statutory 10-minute rest periods on approximately 195 days (5 days per week for 39 weeks).

19 c. From approximately June 1, 2020 to April 29, 2022, Plaintiff's statutory 30-minute
20 meal periods were interrupted and cut short approximately 5 times per week for 100 weeks, or on
21 approximately 500 days. During this same time period, Plaintiff was deprived of one or more of
22 Plaintiff's statutory 10-minute rest periods on approximately 500 days (5 days per week for 100 weeks).

23 55. As alleged herein, Plaintiff is not exempt from the meal and rest break requirements of 8
24 Code of Regulations §11040 and Industrial Welfare Commission Order No. 4-2001. Consequently,
25 Plaintiff is owed one hour of pay at Plaintiff's then regular hourly rate, or the requisite minimum wage,
26 whichever is greater, for each day that Plaintiff was denied such meal periods, and is owed one hour of
27 pay at Plaintiff's regular hourly rate, or the requisite minimum wage, whichever is greater, for each day
28 that Plaintiff was denied such rest periods, calculated as follows:

1 a. From approximately June 16, 2019 and August 31, 2019, Defendants failed to
2 provide Plaintiff with an uninterrupted statutory meal period on approximately 55 separate days.
3 Consequently, Plaintiff is owed one hour of pay at \$14.00 for each day, or \$770.00, plus interest thereon,
4 for unpaid interrupted meal periods. During this same time period, Defendants failed to provide Plaintiff
5 with the statutory rest period on approximately 55 separate days. Consequently, Plaintiff is owed one
6 hour of pay at \$14.00 for each day, or \$770.00, plus interest thereon, for unpaid rest periods. Thus,
7 Plaintiff is owed a total of \$1,540.00, plus interest thereon, for unpaid meal and rest periods for this time
8 period.

9 b. From approximately September 1, 2019 to May 31, 2020, Defendants failed to
10 provide Plaintiff with an uninterrupted statutory meal period on approximately 195 separate days.
11 Consequently, Plaintiff is owed one hour of pay at \$14.50 for each day, or \$2,827.50, plus interest
12 thereon, for unpaid interrupted meal periods. During this same time period, Defendants failed to provide
13 Plaintiff with the statutory rest period on approximately 195 separate days. Consequently, Plaintiff is
14 owed one hour of pay at \$14.50 for each day, or \$2,827.50, plus interest thereon, for unpaid rest periods.
15 Thus, Plaintiff is owed a total of \$5,655.00, plus interest thereon, for unpaid meal and rest periods for
16 this time period.

17 c. From approximately June 1, 2020 to April 29, 2022, Defendants failed to provide
18 Plaintiff with an uninterrupted statutory meal period on approximately 500 separate days. Consequently,
19 Plaintiff is owed one hour of pay at \$15.00 for each day, or \$7,500.00, plus interest thereon, for unpaid
20 interrupted meal periods. During this same time period, Defendants failed to provide Plaintiff with the
21 statutory rest period on approximately 500 separate days. Consequently, Plaintiff is owed one hour of
22 pay at \$15.00 for each day, or \$7,500.00, plus interest thereon, for unpaid rest periods. Thus, Plaintiff is
23 owed a total of \$15,000.00, plus interest thereon, for unpaid meal and rest periods for this time period.

24 56. Thus, the total missed meal and rest period compensation owing Plaintiff for this time
25 period is \$22,195.00.

26 57. Plaintiff has been deprived of Plaintiff's rightfully earned compensation for meal and rest
27 breaks as a direct and proximate result of Defendants' failure and refusal to pay said compensation.
28

1 58. Thus, for the entirety of the time periods set forth above, Plaintiff is entitled to recover
2 such amounts in the combined amount of \$22,195.00, pursuant to Labor Code §226.7(b), plus interest
3 thereon and costs of suit.

4
5 **FIFTH CAUSE OF ACTION**
6 **FOR FAILURE TO PROVIDE ITEMIZED WAGE AND HOUR STATEMENTS**
7 **LABOR CODE §§226 ET SEQ.**
8 **AGAINST ALL DEFENDANTS**

9 59. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as
10 though set forth in full herein.

11 60. Pursuant to Labor Code §§226 and 1174, employers have a duty to provide their non-
12 exempt employees with itemized statements showing total hours worked, hourly wages, gross wages,
13 total deductions and net wages earned. An employer who violates these code sections is liable to its
14 employees for the greater of actual damages suffered by the employee, or, for those violations occurring
15 within the one year immediately preceding the filing of a complaint pursuant to this section, \$50.00 in
16 civil penalties for the initial pay period in which a violation occurred, and \$100.00 per employee for each
17 subsequent pay period, up to a statutory maximum of \$4,000.00. Pursuant to Labor Code §226(e)(2), an
18 employee is deemed to suffer injury for purposes of this subdivision if the employer fails to provide a
19 wage statement at all.

20 61. At all relevant times, Defendants failed to provide the Plaintiff with timely and accurate
21 wage and hour statements showing gross wages earned, total hours worked, all deductions made, net
22 wages earned, the name and address of the legal entity employing Plaintiff, and all applicable hours and
23 rates in effect during each pay period and the corresponding number of hours worked at each hourly rate
24 by Plaintiff. Not one of the paystubs that Plaintiff received complied with Labor Code §226, and
25 contained almost none of the required information, including hours actually worked.

26 62. As alleged herein, Plaintiff is not exempt from the requirements of Labor Code §226.

27 63. This failure has injured Plaintiff, by misrepresenting and depriving Plaintiff of hour, wage,
28 and earnings information to which Plaintiff is entitled, causing Plaintiff difficulty and expense in

1 attempting to reconstruct time and pay records, causing Plaintiff not to be paid wages Plaintiff is entitled
2 to, causing Plaintiff to be unable to rely on earnings statements in dealings with third parties, eviscerating
3 Plaintiff's right under Labor Code §226(b) to review itemized wage statement information by inspecting
4 the employer's underlying records, and deceiving Plaintiff regarding Plaintiff's entitlement to overtime,
5 meal period, and rest period wages.

6 64. Plaintiff was paid on a bi-weekly basis. Consequently, Defendants are liable to Plaintiff
7 for Plaintiff's actual damages, or penalties up to the statutory maximum amount of \$4,000.00, whichever
8 is greater.

9 65. Based on Defendants' conduct as alleged herein, Defendants are liable for damages and
10 statutory penalties pursuant to Labor Code §226, and other applicable provisions, as well as attorneys'
11 fees and costs.

12
13 **SIXTH CAUSE OF ACTION**
14 **FOR WAITING TIME PENALTIES**
15 **LABOR CODE §§201-203**
16 **AGAINST ALL DEFENDANTS**

17 66. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as
18 though set forth in full herein.

19 67. At all relevant times, Defendants failed to pay all of the Plaintiff's accrued wages and
20 other compensation due immediately upon termination or within 72 hours of resignation, as required.
21 These wages refer to, at a minimum, unpaid minimum wages, overtime compensation, and meal and rest
22 period compensation that Defendants should have paid, but did not pay to Plaintiff during the term of
23 Plaintiff's employment and which were, at the latest, due within the time restraints of Labor Code §§201-
24 203.

25 68. As alleged herein, Plaintiff is not exempt from the requirements of Labor Code §§201-
26 203.

27 69. As a direct and proximate result of Defendants' willful failure to pay these wages, Plaintiff
28 is entitled to payment of Plaintiff's overtime, meal and rest periods as previously pleaded herein, and

1 more than \$6,300.00 in wait time penalties, calculated based on 30 days of Plaintiff's daily wage rate of
2 \$210.00, inclusive of overtime.

3 70. Based on Defendants' conduct as alleged herein, Defendants are liable for \$4,620.00 in
4 statutory penalties pursuant to Labor Code §203 and other applicable provisions, as well as attorneys'
5 fees and costs.

6
7 **SEVENTH CAUSE OF ACTION**
8 **FOR PRIVATE ATTORNEY GENERAL ACT**
9 **LABOR CODE §2699**
10 **AGAINST ALL DEFENDANTS**

11 71. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as
12 though set forth in full herein.

13 72. Under Labor Code §2699, Plaintiff, as an aggrieved employee, may bring an action against
14 Defendants, on behalf of himself and other current or former employees, seeking statutory civil penalties
15 for Defendants' violations of the California Labor Code.

16 73. Plaintiff was an aggrieved employee within the meaning of Labor Code §§2699(c) and
17 2699.3(a), as Defendants have committed multiple California Labor Code violations against Plaintiff, as
18 previously pleaded in this Complaint.

19 74. On January 27, 2023, more than 63 calendar days before filing this Complaint, Plaintiff
20 provided electronic notice to the Labor and Workforce Development Agency and notice by certified mail
21 to Defendants of the specific provisions of the California Labor Code that Defendants violated, thereby
22 satisfying the requirements of Labor Code §2699.3(a). These violations included Labor Code §§ 201,
23 202, 203, 226.7, 510, 512, 1174, 1182.12, 1194, 1194.2, and 1197, each of which is enumerated among
24 the serious violations set forth in Labor Code §2699.5.

25 75. As of the filing of this Complaint, Plaintiff has not received any response from the Labor
26 and Workforce Development Agency on its intent to pursue an action against Defendants. Consequently,
27 Plaintiff may now commence a civil action, pursuant to Labor Code §2699.3.

28

1 76. As a direct and proximate result of Defendants' California Labor Code violations as set
2 forth in this Complaint, Plaintiff is entitled to civil penalties of \$100.00 for each aggrieved employee per
3 pay period for the initial violation, and \$200.00 for each aggrieved employee per pay period for each
4 subsequent violation, pursuant to Labor Code §2699(f), for those Labor Code sections not expressly
5 providing for a penalty, and civil penalties provided by the specific Labor Code sections that do expressly
6 provide for a penalty, §§226.3, 226.7, 510, 512, and 558.

7 77. Plaintiff may also seek these penalties on behalf of himself/herself and these same
8 penalties on behalf of all other aggrieved employees.

9 78. Plaintiff is also entitled to reasonable attorneys' fees and costs, and 25% of the recovered
10 civil penalties, pursuant to Labor Code §§2699(g)(1)-(i).

11
12 **EIGHTH CAUSE OF ACTION**

13 **FAILURE TO PERMIT INSPECTION OF PERSONNEL AND PAYROLL RECORDS**

14 **LABOR CODE §1198.5**

15 **AGAINST ALL DEFENDANTS**

16 79. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as
17 though set forth in full herein.

18 80. Labor Code §1198.5 requires an employer, within thirty (30) days of a written request
19 thereof, to inspect or receive a copy of an employee's personnel and payroll records. An employer's
20 failure to do so subjects the employer to a \$750.00 penalty, payable to the employee.

21 81. On February 1, 2023, Plaintiff made a written request to inspect or receive a copy of
22 Plaintiff's personnel and payroll records from Defendants, which Defendants received.

23 82. Defendants failed and refused to permit Plaintiff's inspection of Plaintiff's personnel and
24 payroll records, and failed to provide a copy of Plaintiff's personnel and payroll records to Plaintiff within
25 the time required by Labor Code §1198.5, or ever.

26 83. As a result of Defendants' failure and refusal to comply with Labor Code §1198.5,
27 Plaintiff is entitled to recover from Defendants a civil penalty of \$750.00.
28

1 **NINTH CAUSE OF ACTION**
2 **FOR UNFAIR COMPETITION**
3 **BUSINESS & PROFESSIONS CODE §§17200, ET SEQ.**
4 **AGAINST ALL DEFENDANTS**

5 84. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as
6 though set forth in full herein.

7 85. Defendants' violations of 8 Code of Regulations §11040, Industrial Welfare Commission
8 Order No. 4-2001, Labor Code §§201-203, 226.7, 510, 512, 1182.12, 1194, 1194.2, 1197, 1198.5, 2699,
9 and other applicable provisions, as alleged herein, including Defendants' failure and refusal to pay
10 minimum wages, overtime wages, Defendants' failure to provide meal and rest breaks, Defendants'
11 failure to provide timely and accurate wage and hour statements, Defendants' failure to pay compensation
12 due in a timely manner upon termination or resignation, and Defendants' failure to maintain complete
13 and accurate payroll records for the Plaintiff, constitute unfair business practices in violation of Business
14 & Professions Code §§17200, et seq.

15 86. As a result of Defendants' unfair business practices, Defendants have reaped unfair
16 benefits and illegal profits at the expense of Plaintiff and members of the public. Defendants should be
17 made to disgorge their ill-gotten gains and restore such monies to Plaintiff.

18 87. Defendants' unfair business practices entitle Plaintiff to seek preliminary and permanent
19 injunctive relief, including but not limited to orders that the Defendants account for, disgorge, and restore
20 to the Plaintiff the overtime compensation and other monies and benefits unlawfully withheld from
21 Plaintiff.

22
23 **PRAYER FOR RELIEF**

24 **WHEREFORE**, Plaintiff seeks judgment against Defendants and each of them, in an amount
25 according to proof as follows:

26 1. For payment of unpaid minimum wage compensation pursuant to Labor Code §§1182.12,
27 1194, 1194.2, 1197, and Industrial Welfare Commission Order No. 4-2001, in the amount of no less than
28 \$9,814.00;

2. For liquidated damages pursuant to Labor Code §1194.2 in the amount of \$9,814.00, interest;
3. For payment of unpaid overtime compensation pursuant to Labor Code §§201, 510, 1194, Industrial Welfare Commission Order No. 4-2001, and 8 Code of Regulations §11040, in the amount of no less than \$22,195.00;
4. For payment of meal and rest period compensation pursuant to Labor Code §226.7, 512, in the amount of no less than \$22,195.00;
5. For damages pursuant to Labor Code §226 in the amount of no less than \$*226*;
6. For waiting time penalties pursuant to Labor Code §§201-203 in the amount of no less than \$6,300.00;
7. For statutory penalties pursuant to Labor Code §2699(f) on Plaintiff's own behalf, and similar amounts on behalf of all of Defendants' aggrieved employees, in an amount according to proof;
8. For statutory penalties pursuant to Labor Code §1198.5 in the amount of no less than \$750.00;
9. For prejudgment interest on each of the foregoing at the legal rate from the date the obligation became due through the date of judgment in this matter.

WHEREFORE, Plaintiff further seeks judgment against Defendants, and each of them, in an amount according to proof, as follows:

10. For injunctive relief compelling Defendants to report to federal and state authorities wages earned by Plaintiff, and other employees, and pay all state and federal taxes owing, employer matching funds, unemployment premiums, social security, Medicare, and workers' compensation premiums, all this in an amount according to the proof;
11. For restitutionary disgorgement of profits garnered as a result of Defendants' unlawful conduct, and failure to pay wages and other compensation in accordance with the law;
12. For costs of suit, attorneys' fees, and expert witness fees pursuant to the Labor Code and/or any other basis;
13. For post-judgment interest; and

1 14. For any other relief that is just and proper.

2
3 DATED: June 30, 2023

**LAW OFFICES OF RAMIN R. YOUNESSI
A PROFESSIONAL LAW CORPORATION**

4
5
6 By: _____

Ramin R. Younessi, Esq.
Attorney for Plaintiff
SANTOS MARTINEZ

7
8 **JURY TRIAL DEMANDED**

9 Plaintiff demands trial of all issues by jury.

10
11 DATED: June 30, 2023

**LAW OFFICES OF RAMIN R. YOUNESSI
A PROFESSIONAL LAW CORPORATION**

12
13
14 By: _____

Ramin R. Younessi, Esq.
Attorney for Plaintiff
SANTOS MARTINEZ