

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Alexander Campbell, SBN 307703; Kimberlette, SBN 326562; George A. Warner, SBN 320241 Legal Aid at Work 180 Montgomery St, 600, San Francisco, CA 94104		FOR COURT USE ONLY	
TELEPHONE NO. (415) 864-8848 FAX NO. (Optional): (415) 593-0098 E-MAIL ADDRESS: acampbell@legalaidatwork.org; kouillette@legalaidatwork.org; gwarner@legalaidatwork.org ATTORNEY FOR (Name): Mina Suarez, et al. v. Seventh Tree Farm, inc., et al.		VENTURA SUPERIOR COURT FILED 04/17/2023 Brenda L. McCormick Executive Officer and Clerk <i>Erica Martinez</i> Erica Martinez	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Ventura STREET ADDRESS: 800 South Victoria Avenue MAILING ADDRESS: CITY AND ZIP CODE: Ventura, CA 93009 BRANCH NAME: Hall of Justice			
CASE NAME: MINA SUAREZ, et al. v. SEVENTH TREE FARM, INC., et al.			
CIVIL CASE COVER SHEET ☒ Unlimited (Amount demanded exceeds \$25,000)		☐ Limited (Amount demanded is \$25,000 or less)	
☐ Counter		☐ Joinder	
Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)		CASE NUMBER: 2023CUOE007871	
JUDGE:		DEPT.:	

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:		
Auto Tort ☐ Auto (22) ☐ Uninsured motorist (46) Other P/DP/W/D (Personal Injury/Property Damage/Wrongful Death) Tort ☐ Asbestos (04) ☐ Product liability (24) ☐ Medical malpractice (45) ☐ Other P/DP/W/D (23) Non-P/DP/W/D (Other) Tort ☐ Business tort/unfair business practice (07) ☐ Civil rights (08) ☐ Defamation (13) ☐ Fraud (16) ☐ Intellectual property (19) ☐ Professional negligence (25) ☐ Other non-P/DP/W/D tort (35) Employment ☐ Wrongful termination (36) ☒ Other employment (15)	Contract ☐ Breach of contract/warranty (06) ☐ Rule 3.740 collections (09) ☐ Other collections (09) ☐ Insurance coverage (18) ☐ Other contract (37) Real Property ☐ Eminent domain/Inverse condemnation (14) ☐ Wrongful eviction (33) ☐ Other real property (26) Unlawful Detainer ☐ Commercial (31) ☐ Residential (32) ☐ Drugs (38) Judicial Review ☐ Asset forfeiture (05) ☐ Petition re: arbitration award (11) ☐ Writ of mandate (02) ☐ Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) ☐ Antitrust/Trade regulation (03) ☐ Construction defect (10) ☐ Mass tort (40) ☐ Securities litigation (28) ☐ Environmental/Toxic tort (30) ☐ Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment ☐ Enforcement of judgment (20) Miscellaneous Civil Complaint ☐ RICO (27) ☐ Other complaint (not specified above) (42) Miscellaneous Civil Petition ☐ Partnership and corporate governance (21) ☐ Other petition (not specified above) (43)

2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. ☐ Large number of separately represented parties | d. ☐ Large number of witnesses |
| b. ☐ Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. ☐ Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. ☐ Substantial amount of documentary evidence | f. ☐ Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. ☒ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☐ punitive
4. Number of causes of action (specify): 11
5. This case ☐ is ☒ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: April 17, 2023
 Alexander Campbell

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

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APR 17 2023

FILED

04/17/2023

Brenda L. McCormick
Executive Officer and Clerk
Brenda L. McCormick
Erica Martinez

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9 (Additional counsel on subsequent page)

10 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **COUNTY OF VENTURA**
12 **(UNLIMITED JURISDICTION)**

13 CARMEN MINA SUAREZ, CECILIA DOLORES
14 MARTINEZ, ALFONSO MALDONADO
15 SANTIAGO, MARGARITA LOPEZ HERNANDEZ,
16 LORENZO ROMERO RODRIGUEZ, MAXIMINO
17 GONZALEZ MATIAS, NIEVES GUEVARA
18 SOLANO, MARCELINA DIEGO GONZALEZ,
19 FIDEL GALVEZ BARRERA, CANDIDO LOPEZ
20 VASQUEZ, FILIBERTO LOPEZ VASQUEZ,
21 MAYDELI GUZMAN SIERRA, MARIA SOLEDAD
22 MONTOYA, SAMUEL SALAZAR AGUILAR,
23 LEONARDO SALAZAR TOMAS, JOSE
24 FERNANDO ORTIZ, ISIDRO SANCHEZ, on behalf
25 of themselves and other aggrieved employees,

26 Plaintiffs,

27 v.

28 SEVENTH TREE FARM, INC., DURANGO
HARVEST, INC., OMAR HERMOCILLO, an
individual, CINDY BALDERAS, an individual,
PATRICIA MEDINA, an individual, REYES
BALDERAS, an individual, DRISCOLL'S, INC., and
DOES 1-10, INCLUSIVE,

Defendants.

CASE NO.: 2023CUOE007871

COMPLAINT FOR DAMAGES,
PENALTIES AND INJUNCTIVE
RELIEF

Ben F...

DEMAND FOR JURY TRIAL

COMPLAINT FOR DAMAGES, PENALTIES AND INJUNCTIVE RELIEF

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1 Plaintiffs CARMEN MINA SUAREZ, CECILIA DOLORES MARTINEZ, ALFONSO
2 MALDONADO SANTIAGO, MARGARITA LOPEZ HERNANDEZ, LORENZO ROMERO
3 RODRIGUEZ, MAXIMINO GONZALEZ MATIAS, NIEVES GUEVARA SOLANO,
4 MARCELINA DIEGO GONZALEZ, FIDEL GALVEZ BARRERA, CANDIDO LOPEZ
5 VASQUEZ, FILIBERTO LOPEZ VASQUEZ, MAYDELI GUZMAN SIERRA, MARIA
6 SOLEDAD MONTOYA, SAMUEL SALAZAR AGUILAR, LEONARDO SALAZAR TOMAS,
7 JOSE FERNANDO ORTIZ, and ISIDRO SANCHEZ (collectively, "Plaintiffs") allege their
8 Complaint against Defendants SEVENTH TREE FARM, INC. ("SEVENTH TREE"), DURANGO
9 HARVEST, INC. ("DURANGO HARVEST"), OMAR HERMOCILLO, an individual, CINDY
10 BALDERAS, an individual, PATRICIA MEDINA, an individual, REYES BALDERAS, an
11 individual, DRISCOLL'S, INC. ("DRISCOLL'S") (collectively, "Defendants"), and DOES 1-10
12 ("Doe Defendants") as follows:

13 **NATURE OF THE CASE**

14 1. Plaintiffs are former employees of Defendants SEVENTH TREE, DURANGO
15 HARVEST, and DRISCOLL'S. Plaintiffs bring this action to recover amounts due to them based
16 on Defendants' violations of Plaintiffs' and other aggrieved employees' rights under California
17 law, and civil penalties resulting from these violations. Plaintiffs were employed by Defendants
18 SEVENTH TREE, DURANGO HARVEST, and DRISCOLL'S as seasonal agricultural laborers
19 engaged in the production of DRISCOLL'S strawberries from approximately January 2022
20 through May 2022. Plaintiffs complain that Defendants violated California law by failing to pay
21 Plaintiffs and other aggrieved employees for contractual wages, required minimum wages, and
22 premium overtime pay; failing to compensate for rest periods at the required rate; failing to
23 furnish accurate wage statements; failing to pay waiting time penalties; and failing to timely
24 permit inspection of personnel, payroll, and compensation statement records.

25 2. Plaintiffs seek unpaid wages, damages, statutory penalties, restitution, an order
26 requiring Defendants to pay lawful wages and compensate employees for all hours worked and
27 other injunctive relief, attorney's fees, costs of suit, and other appropriate and just relief against
28 Defendants.

PARTIES

3. Plaintiffs are individuals who were employed by Defendants SEVENTH TREE, DURANGO HARVEST, and DRISCOLL'S as seasonal agricultural laborers engaged in the production of Driscoll's strawberries from approximately January 2022 through May 2022. Specifically, Plaintiffs cultivated and/or harvested strawberries in field locations in and around Oxnard, California.

4. Defendant SEVENTH TREE is a California Corporation with its principal offices located at 922 Ontario Street, Oxnard, CA 93035. On information and belief, at all times relevant to this action, Defendant SEVENTH TREE had 26 or more employees.

5. Defendant SEVENTH TREE is a California registered farm labor contractor that provides agricultural workers to perform labor for other business entities.

6. On information and belief, at all times relevant to this action, Defendant SEVENTH TREE was a "labor contractor" as defined by Cal. Lab. Code § 2810.3(a)(3).

7. Defendant DURANGO HARVEST is a California Corporation with its principal offices located at 922 Ontario Street, Oxnard, CA 93035.

8. On information and belief, Defendant SEVENTH TREE and Defendant DURANGO HARVEST, directly or indirectly, or through an agent or any other person, employed and/or exercised control over the wages, hours, and/or working conditions of Plaintiffs, and each was a joint employer of Plaintiffs and alter egos of each other, acting as a single enterprise.

9. Defendant DRISCOLL'S is a California corporation with its principal offices located at 345 Westridge Drive, Watsonville, CA 95076. Joseph Miles Reiter is the Chief Executive Officer. On information and belief, DRISCOLL'S regularly does business in Ventura County. DRISCOLL'S is engaged in the business of growing and selling strawberries and other berries.

10. Defendant DRISCOLL'S operated as a joint employer of Plaintiffs and a client employer within the meaning of Cal. Labor Code § 2810.3.

11. Defendant OMAR HERMOCILLO is a Director of Defendant DURANGO HARVEST and Chief Executive Officer of Defendant SEVENTH TREE.

12. Defendant PATRICIA MEDINA is the Chief Executive Officer of DURANGO HARVEST and one of the owners and operators of Defendant SEVENTH TREE.

13. Defendant CINDY BALDERAS is the Secretary, Chief Financial Officer, and a Director of Defendant SEVENTH TREE. She is also a Secretary, Chief Financial Officer, and a Director of Defendant DURANGO HARVEST.

14. On information and belief, Defendant REYES BALDERAS is an owner and operator of SEVENTH TREE.

15. Plaintiffs are unaware of the true names and capacities of the Defendants sued herein under the fictitious names DOES 1 through 10, inclusive. Plaintiffs will seek leave to amend this complaint to allege the true names and capacities of said DOES when ascertained. Plaintiffs are informed and believe and thereon allege that each of the DOE Defendants was responsible in some manner for the occurrences and injuries alleged in this Complaint.

VENUE

16. Venue is proper in this judicial district pursuant to Cal. Code of Civil Procedure § 395(a). The unlawful acts occurred in Ventura County or were directed by Defendants located in Ventura County. On information and belief, Defendants also employ other people in Ventura County and are otherwise within this Court's jurisdiction for purposes of service of process.

FACTUAL ALLEGATIONS

17. Defendant SEVENTH TREE hired Plaintiffs and other aggrieved employees to cultivate and harvest Driscoll's strawberries on varying dates falling between approximately January 2022 and May 2022.

18. Defendant SEVENTH TREE promised to pay Plaintiffs \$2.10 per box of strawberries Plaintiffs picked for piece rate work and \$15.00 per hour for non-piece rate work.

19. Throughout Plaintiffs' employment, Plaintiffs were non-exempt employees, were entitled to protections under the California Labor Code, and should have been paid at least the applicable California minimum wage for all hours worked.

20. Plaintiffs and other aggrieved employees who performed piece rate work did not receive all of the piece rate compensation they earned because Defendant SEVENTH TREE

1 consistently and systematically undercounted the number of boxes of strawberries Plaintiffs
2 picked each day. As a result, the total number of boxes picked and the amount earned for each
3 pay period were not accurately reflected in the wages Plaintiffs and other aggrieved employees
4 received, nor were the correct amounts reflected in Plaintiffs' and other aggrieved employees'
5 paystubs. Many Plaintiffs complained to supervisors about the failure to pay accurately, but
6 supervisors refused to address the issues.

7 21. SEVENTH TREE paid Plaintiffs and other aggrieved employees for their rest
8 periods using an hourly rate of pay that changed from pay period to pay period, based in part on
9 the amount of piece rate wages SEVENTH TREE credited Plaintiffs and other aggrieved
10 employees as having earned during the pay period. Because SEVENTH TREE undercounted the
11 number of boxes of strawberries Plaintiffs produced, SEVENTH TREE did not take into account
12 the full amount of piece rate wages earned. As a result, Plaintiffs CARMEN MINA SUAREZ,
13 CECILIA DOLORES MARTINEZ, MARGARITA LOPEZ HERNANDEZ, LORENZO
14 ROMERO RODRIGUEZ, MAXIMINO GONZALEZ MATIAS, NIEVES GUEVARA
15 SOLANO, MARCELINA DIEGO GONZALEZ, FIDEL GALVEZ BARRERA, CANDIDO
16 LOPEZ VASQUEZ, FILIBERTO LOPEZ VASQUEZ, MARIA SOLEDAD MONTOYA,
17 SAMUEL SALAZAR AGUILAR, LEONARDO SALAZAR TOMAS, JOSE FERNANDO
18 ORTIZ, ISIDRO SANCHEZ, and other aggrieved employees were underpaid for their rest
19 periods.

20 22. Plaintiffs CANDIDO LOPEZ VASQUEZ, CARMEN MINA SUAREZ, FIDEL
21 GALVEZ BARRERA, ISIDRO SANCHEZ ORTIZ, JOSE FERNANDO ORTIZ, LORENZO
22 ROMERO RAMIREZ, MARGARITA LOPEZ HERNANDEZ, MAXIMINO GONZALEZ
23 MATIAS, MAYDELI GUZMAN SIERRA, and other aggrieved employees worked for seven
24 consecutive days, or worked more than 40 hours in a workweek, and were not paid at the
25 applicable overtime rate of compensation for hours worked on the seventh consecutive day in the
26 workweek or past 40 hours in the workweek. On information and belief, Defendant SEVENTH
27 TREE paid these Plaintiffs and other aggrieved employees in cash or personal checks at a regular
28 rate of pay for many of these hours worked on weekends. The total number of hours worked and

1 wages earned were not accurately reflected in paystubs for these Plaintiffs and other aggrieved
2 employees.

3 23. Defendants' failure to compensate Plaintiffs and other aggrieved workers for all
4 hours worked lowered Defendants' labor costs and provided Defendants a significant competitive
5 advantage.

6 24. Upon Plaintiffs' separation from their employment with Defendants, Defendants
7 failed to pay them accrued compensation owed, including piece rate wages and overtime
8 premiums. Plaintiffs have never been paid in full.

9 25. On August 10, 2022, Plaintiffs MARIA SOLEDAD MONTOYA, SAMUEL
10 SALAZAR AGUILAR, and LEONARDO SALAZAR TOMAS sent Defendant SEVENTH
11 TREE a written request for payroll and personnel records pursuant to Labor Code §§ 226, 432 and
12 1198.5 and a compensation statement pursuant to Labor Code § 1695(a)(5). On September 7,
13 2022, Defendant SEVENTH TREE produced incomplete and untimely payroll records. To date,
14 Defendant SEVENTH TREE has not provided a copy of any compensation statement pursuant to
15 Labor Code § 1695(a)(5).

16 26. On November 9, 2022, counsel for Plaintiffs CARMEN MINA SUAREZ,
17 CECILIA DOLORES MARTINEZ, ALFONSO MALDONADO SANTIAGO, MARGARITA
18 LOPEZ HERNANDEZ, LORENZO ROMERO RODRIGUEZ, MAXIMINO GONZALEZ
19 MATIAS, NIEVES GUEVARA SOLANO, MARCELINA DIEGO GONZALEZ, FIDEL
20 GALVEZ BARRERA, and ISIDRO SANCHEZ sent Defendant SEVENTH TREE a written
21 request for payroll and personnel records pursuant to Labor Code § 226, 247.5, 432 and 1198.5
22 and a compensation statement pursuant to Labor Code § 1695(a)(5). On December 12, 2022,
23 Defendant SEVENTH TREE produced incomplete and untimely payroll records. To date,
24 Defendant SEVENTH TREE has not provided personnel records or a copy of the compensation
25 statement.

26 27. On November 22, 2022, counsel for Plaintiffs CANDIDO LOPEZ VASQUEZ,
27 FILIBERTO LOPEZ VASQUEZ, MAYDELI GUZMAN, and JOSE FERNANDO ORTIZ sent
28 Defendant SEVENTH TREE a written request for payroll and personnel records pursuant to

1 Labor Code § 226, 247.5, 432 and 1198.5 and a compensation statement pursuant to Labor Code
2 § 1695(a)(5). On December 12, 2022, Defendant SEVENTH TREE produced incomplete payroll
3 records. To date, Defendant SEVENTH TREE has not provided any compensation statement.

4 **DRISCOLL’S JOINT EMPLOYER LIABILITY**

5 28. Defendant DRISCOLL’S is a California corporation engaged in the business of
6 growing and selling strawberries and other berries.

7 29. Defendant DRISCOLL’S represents itself as the “global market leader for fresh
8 strawberries, blueberries, raspberries, and blackberries.” On its website, Defendant
9 DRISCOLL’S states: “Driscoll’s is committed to growing only the Finest Berries.” It also states
10 that its strawberries are “hand-picked at peak ripeness to meet [its] strict quality standards.”

11 30. Defendant DRISCOLL’S President Soren Bjorn has stated publicly that Defendant
12 DRISCOLL’S has various requirements spelled out in its contracts with businesses that grow
13 Driscoll’s berries, including “lots of requirements about how the workers are treated and paid.”

14 31. Defendant DRISCOLL’S has stated publicly that, in its contracts with businesses
15 that grow its berries, DRISCOLL’S typically specifies that the berry varieties are owned by
16 DRISCOLL’S and that the growers only have the right to grow the varieties for the purpose of
17 having DRISCOLL’S sell the fruit under the DRISCOLL’S brand.

18 32. On information and belief, Defendant DRISCOLL’S regularly sent quality control
19 inspectors to the fields where Plaintiffs were picking to monitor the production of strawberries by
20 Plaintiffs and SEVENTH TREE. If a pallet of strawberries picked by Plaintiffs did not meet
21 DRISCOLL’S standards, DRISCOLL’S could reject it.

22 33. On at least one occasion in 2022, a representative of Defendant DRISCOLL’S told
23 supervisors at Defendant SEVENTH TREE, including Defendant REYES BALDERAS, that a
24 certain field or section of a field should not be picked because the rain had damaged the
25 strawberries. This action directly affected the working conditions and pay of Plaintiffs and other
26 aggrieved employees.

27 34. On information and belief, Defendant DRISCOLL’S provided Defendant
28 SEVENTH TREE with the boxes in which the strawberries Plaintiffs harvested were to be

1 packed. These boxes were labeled with the DRISCOLL'S logo.

2 35. On at least one occasion in 2022, a representative from Defendant DRISCOLL'S
3 informed certain employees of SEVENTH TREE that it was changing the size of the boxes in
4 which the strawberries would be packed, and that the boxes should be filled differently based on
5 this change. The size of the boxes and the way the boxes are filled directly affected the working
6 conditions and pay of Plaintiffs and other aggrieved employees.

7 36. Through its relationships with Defendants SEVENTH TREE, DURANGO
8 HARVEST, and other DOE Defendants engaged in the growing and harvesting of DRISCOLL'S
9 strawberries during the relevant time period, Defendant DRISCOLL'S had the power to control,
10 either directly or indirectly, the work of Plaintiffs and other aggrieved employees.

11 37. The work performed for Defendant DRISCOLL'S by Plaintiffs and other
12 aggrieved employees, namely picking and packing strawberries, is an integral part of Defendant
13 DRISCOLL'S overall business operation of growing, packaging, and selling strawberries.
14 Plaintiffs picked DRISCOLL'S' proprietary varieties of strawberries and packed them directly
15 into boxes provided by DRISCOLL'S that displayed DRISCOLL'S name and logo—work which
16 falls squarely within Defendant DRISCOLL'S usual course of business.

17 38. Plaintiffs were not engaged in an independently established business within the
18 agricultural industry during the time period that they performed work for Defendants.

19 **DRISCOLL'S CLIENT EMPLOYER LIABILITY**

20 39. Plaintiffs re-allege and incorporate by reference each preceding paragraph of the
21 complaint as if fully alleged herein.

22 40. Defendant SEVENTH TREE functioned as a labor contractor with respect to
23 DRISCOLL'S in that they employed workers to render personal services—specifically,
24 agricultural labor—in connection with the production of strawberries for DRISCOLL'S.
25 SEVENTH TREE supervised those workers and paid those workers' wages.

26 41. On information and belief, DRISCOLL'S, through its business arrangements with
27 Defendant SEVENTH TREE, DURANGO HARVEST, and other DOE Defendants, exercised
28 control over the fields where Plaintiffs and other aggrieved employees picked Driscoll's

1 strawberries.

2 42. The work performed by Plaintiffs and other aggrieved employees was within
3 DRISCOLL'S usual course of business of growing and selling berries.

4 43. At all times relevant to Plaintiffs' claims, DRISCOLL'S had a workforce of at
5 least 25 workers.

6 44. Based on the arrangements between Defendant DRISCOLL'S and Defendant
7 SEVENTH TREE, DRISCOLL'S was Plaintiffs' and other aggrieved employees' client employer
8 under California Labor Code § 2810.3 with respect to all hours worked in connection with
9 production of strawberries for DRISCOLL'S.

10 **LIABILITY OF DURANGO HARVEST**

11 45. Defendant DURANGO HARVEST, through the actions of Chief Executive
12 Officer Patricia Medina, Chief Financial Officer Cindy Balderas, and Director Omar Hermocillo,
13 exercised control over the wages, hours, and/or working conditions of Plaintiffs during the
14 relevant time period, and therefore are liable as joint employers.

15 46. Defendants DURANGO HARVEST and SEVENTH TREE share the same
16 corporate office located at 922 Ontario Street, Oxnard, CA 93035, and share the same corporate
17 officers. Statements of Information filed with the California Secretary of State for both entities
18 indicate that they are businesses engaged in agricultural services. Defendants DURANGO AND
19 SEVENTH TREE have such a unity of interest and ownership that the separate corporate
20 personalities are merged, and they must be treated as a single enterprise, jointly and severally
21 liable for the violations alleged.

22 **LIABILITY OF INDIVIDUAL DEFENDANTS UNDER LABOR CODE § 558.1**

23 47. Defendants OMAR HERMOCILLO, PATRICIA MEDINA, CINDY
24 BALDERAS, and REYES BALDERAS are owners, directors, officers, and/or managing agents
25 of Defendants SEVENTH TREE and DURANGO HARVEST.

26 48. On information and belief, OMAR HERMOCILLO manages and oversees
27 SEVENTH TREE's and DURANGO HARVEST's labor force, organization of work crews, and
28 day to day operations of the worksites. OMAR HERMOCILLO enforced SEVENTH TREE's and

1 DURANGO HARVEST's wage and hour policies and practices described herein, including
2 Plaintiffs' piece rate compensation, wage rates, and hours worked. OMAR HERMOCILLO
3 violated or caused to be violated provisions regulating minimum wages and hours and days of
4 work in Industrial Welfare Commission Wage Order 14-2001 ("Wage Order 14") described
5 herein and is therefore liable under Cal. Lab. Code § 558.1.

6 49. On information and belief, PATRICIA MEDINA manages and oversees
7 SEVENTH TREE's and DURANGO HARVEST's wage and hour policies and practices
8 described herein, including Plaintiffs' piece rate compensation, wage rates, and hours worked.
9 PATRICIA MEDINA violated or caused to be violated provisions regulating minimum wages
10 and hours and days of work in IWC Wage Order 14 described herein and is therefore liable under
11 Cal. Lab. Code § 558.1.

12 50. On information and belief, CINDY BALDERAS manages SEVENTH TREE's and
13 DURANGO HARVEST's finances and was responsible for issuing payment of wages owed to
14 workers. CINDY BALDERAS is also listed as a supervisor on some of Plaintiffs' hiring
15 documents. CINDY BALDERAS violated or caused to be violated by the provisions of Wage Order
16 14 and the Labor Code sections described herein and is therefore liable under Cal. Lab. Code §
17 558.1.

18 51. REYES BALDERAS oversaw and managed SEVENTH TREE FARM's
19 workforce, organization of work crews, and day to day operations of the worksites. On
20 information and belief, REYES BALDERAS enforced SEVENTH TREE's and DURANGO
21 HARVEST's wage and hour policies and practices described herein, including Plaintiffs' piece
22 rate compensation, wage rates, and hours worked. REYES BALDERAS violated or caused to be
23 violated provisions regulating minimum wages and hours and days of work in IWC Wage Order
24 14 described herein and is therefore liable under Cal. Lab. Code § 558.1.

25 **FIRST CAUSE OF ACTION**
26 **BREACH OF CONTRACT**
PLAINTIFFS AGAINST ALL DEFENDANTS

27 52. Plaintiffs re-allege and incorporate by reference each preceding paragraph of the
28 complaint as fully set forth herein and further allege that:

53. Plaintiffs bring this count against Defendants for breaching the employment contract between them.

54. During the season that Plaintiffs performed work for Defendants, Plaintiffs were promised \$2.10 per box of strawberries they picked, and \$15.00 per hour for non-piece rate work.

55. Plaintiffs performed their contractual obligations by performing work for Defendants from January to May 2022.

56. Defendants breached the employment contract with Plaintiffs by failing to compensate Plaintiffs for all piece rate, hourly and compensable non-productive time at the contractually promised rates. This occurred, in part, because Defendants failed to accurately record the number of boxes Plaintiffs harvested and packed, and the number of hours Plaintiffs worked.

57. As a direct and proximate result of these failures, Plaintiffs have been deprived of contractual wages due and are entitled to recover the amounts due.

58. Plaintiffs are entitled to and request restitution and damages arising out of Defendants' breach of contract in amount or the unpaid contractual wages due to them.

SECOND CAUSE OF ACTION
FAILURE TO PAY MINIMUM WAGES IN VIOLATION OF
CALIFORNIA LABOR CODE §§ 1182.12, 1194, 1194.2, 1197 AND WAGE ORDER 14
MINIMUM WAGE PLAINTIFFS AGAINST ALL DEFENDANTS

59. Plaintiffs re-allege and incorporate by reference each preceding paragraph of the complaint as fully set forth herein and further allege that:

60. Plaintiffs ALFONSO MALDONADO SANTIAGO, CARMEN MINA SUAREZ, CECILIA DOLORES MARTINEZ, FIDEL GALVEZ BARRERA, LEONARDO SALAZAR TOMAS, MARIA SOLEDAD MONTOYA, SAMUEL SALAZAR AGUILAR, MARCELINA DIEGO GONZALEZ, and MAYDELI GUZMAN SIERRA (collectively, "Minimum Wage Plaintiffs") bring this count against Defendants for their failure to pay minimum wage for all compensable hours.

61. Between January 2022 and May 2022, Defendants failed to pay Minimum Wage Plaintiffs and, on information and belief, other aggrieved employees, the minimum wage for each hour worked in violation of Labor Code §§ 1182.12, 1197, California Industrial Welfare

Commission Wage Order No. 14-2001 (hereinafter Wage Order 14), and 8 Cal. Code Regulations (C.C.R.) § 11140.

62. As a direct and proximate result of Defendants' acts and/or omissions, Minimum Wage Plaintiffs, and, on information and belief, other aggrieved employees, were deprived of minimum wages due in amounts to be determined at trial.

63. Minimum Wage Plaintiffs are entitled to recover and request the unpaid balance of the full amount of such wages, interest thereon, attorneys' fees and the costs of suit.

64. Minimum Wage Plaintiffs are also entitled to recover liquidated damages in an amount equal to the minimum wages unlawfully unpaid and interest thereon pursuant to Lab. Code § 1194.2. The exact amount of liquidated damages owed will be determined at trial.

THIRD CAUSE OF ACTION
FAILURE TO PAY OVERTIME WAGES
IN VIOLATION OF CALIFORNIA LABOR CODE § 1194 AND WAGE ORDER 14
OVERTIME PLAINTIFFS AGAINST ALL DEFENDANTS

65. Plaintiffs re-allege and incorporate by reference each preceding paragraph of the complaint as fully set forth herein and further allege that:

66. Plaintiffs CANDIDO LOPEZ VASQUEZ, CARMEN MINA SUAREZ, FIDEL GALVEZ BARRERA, ISIDRO SANCHEZ ORTIZ, JOSE FERNANDO ORTIZ, LORENZO ROMERO RAMIREZ, MARGARITA LOPEZ HERNANDEZ, MAXIMINO GONZALEZ MATIAS, and MAYDELI GUZMAN SIERRA (collectively, "Overtime Plaintiffs") assert this count against Defendants for violation of California Labor Code § 1194.

67. Overtime Plaintiffs seek unpaid overtime premium wages against Defendants for all uncompensated overtime hours worked.

68. Between January 2022 and May 2022, Defendants failed to pay Overtime Plaintiffs and, on information and belief, other aggrieved employees, overtime wages in the amount of one and a half times the regular rate for all hours worked in each workday in excess of eight (8) hours and all hours worked in each workweek in excess of forty (40) hours, and for hours worked on a seventh consecutive day of work in a workweek, as required by Labor Code § 1194 and Wage Order 14, 8 C.C.R. § 11140(3).

69. Overtime Plaintiffs and, on information and belief, other aggrieved employees, worked over forty (40) hours in a week, over eight (8) hours in a day, and/or over seven consecutive days in a workweek. Overtime Plaintiffs and, on information and belief, other aggrieved employees, did not receive overtime premium pay for all overtime hours worked.

70. As a direct and proximate result of the acts and/or omissions of Defendants, Overtime Plaintiffs and, on information and belief, other aggrieved employees, have been deprived of overtime wages due and are entitled to recover those amounts.

71. Overtime Plaintiffs are entitled to and request relief in the amount equal to unpaid overtime hours (at the premium rate) as well as pre- and post-judgment interest, in addition to other relief requested below.

FOURTH CAUSE OF ACTION
FAILURE TO ADEQUATELY COMPENSATE REST PERIODS IN VIOLATION OF
CALIFORNIA LABOR CODE 226.2 AND WAGE ORDER 14
REST PERIOD COMPENSATION PLAINTIFFS AGAINST ALL DEFENDANTS

72. Plaintiffs re-allege and incorporate by reference each preceding paragraph of the complaint as fully set forth herein and further allege that:

73. Plaintiffs CARMEN MINA SUAREZ, CECILIA DOLORES MARTINEZ, MARGARITA LOPEZ HERNANDEZ, LORENZO ROMERO RODRIGUEZ, MAXIMINO GONZALEZ MATIAS, NIEVES GUEVARA SOLANO, MARCELINA DIEGO GONZALEZ, FIDEL GALVEZ BARRERA, CANDIDO LOPEZ VASQUEZ, FILIBERTO LOPEZ VASQUEZ, MARIA SOLEDAD MONTOYA, SAMUEL SALAZAR AGUILAR, LEONARDO SALAZAR TOMAS, JOSE FERNANDO ORTIZ, and ISIDRO SANCHEZ (collectively, "Rest Period Compensation Plaintiffs") assert this count against Defendants for violation of California Labor Code § 226.2.

74. Rest Period Compensation Plaintiffs seek correct rest period wages from Defendants for all rest periods.

75. Labor Code 226.2 (a)(3)(A) provides that employees who are compensated on a piece-rate basis must be compensated for rest periods at a regularly hourly rate that is no less than the higher of (a) the average hourly rate determined by dividing the total compensation for the

1 workweek, exclusive of compensation for rest periods and any premium compensation for
2 overtime, by the total hours worked during the workweek, exclusive of rest periods; or (b) the
3 applicable minimum wage.

4 76. At all times relevant Defendants failed to pay Rest Period Compensation Plaintiffs
5 and, on information and belief, other aggrieved employees, their correct hourly rate for rest
6 periods, as required by Labor Code § 226.2 and Wage Order 14, 8 C.C.R. § 11140 *et seq.*

7 77. Rest Period Compensation Plaintiffs were regularly paid less piece rate wages than
8 they earned. Defendants used this inaccurate, reduced amount of piece rate wages to calculate the
9 total compensation Plaintiffs earned in the workweek. As a result, Defendants used an inaccurate
10 regular hourly rate to compensate Rest Period Compensation Plaintiffs for rest periods, and the
11 compensation Plaintiffs received was unlawfully low.

12 78. As a direct and proximate result of the acts and/or omissions of Defendants, Rest
13 Period Compensation Plaintiffs and, on information and belief, other aggrieved employees, have
14 been deprived of their rest period compensation due and are entitled to recover those amounts.

15 79. Rest Period Compensation Plaintiffs are entitled to and request relief in the amount
16 equal to unpaid rest period compensation as well as pre- and post-judgment interest, in addition to
17 other relief requested below.

18 **FIFTH CAUSE OF ACTION**
19 **FAILURE TO FURNISH ACCURATE WAGE STATEMENTS**
20 **IN VIOLATION OF CALIFORNIA LABOR CODE § 226**
PLAINTIFFS AGAINST ALL DEFENDANTS

21 80. Plaintiffs re-allege and incorporate by reference each preceding paragraph of the
22 complaint as fully set forth herein and further allege that:

23 81. Plaintiffs bring this count against Defendants for their failure to provide Plaintiffs
24 with accurate wage statements that correctly recorded the hours Plaintiffs worked and correctly
25 recorded the correct number of boxes harvested and packed.

26 82. Labor Code § 226(a) requires employers to provide itemized wage statements
27 which accurately show the total hours worked by the employee as well as the number of piece-
28 rate units earned.

1 83. Labor Code § 226(e)(1) provides that if an employer knowingly and intentionally
2 fails to provide such an itemized statement, then the employee is entitled to recover the greater of
3 all actual damages or fifty dollars (\$50) for the initial violation and one hundred dollars (\$100) for
4 each subsequent violation, up to four thousand dollars (\$4,000).

5 84. Defendants knowingly and intentionally failed to furnish Plaintiffs and, on
6 information and belief, other aggrieved employees with accurate statements as required by Labor
7 Code § 226(a) in that each wage statement failed to accurately report wages earned, all hours
8 worked, and/or the number of piece rate units earned. Plaintiffs and other aggrieved employees
9 have suffered injury as a result. Accordingly, Defendants are liable to Plaintiffs for the amounts
10 provided by Labor Code § 226(e).

11 85. Plaintiffs are entitled to and request the applicable penalties in an amount to be
12 determined at trial but not to exceed \$4,000 each and injunctive relief available pursuant to Cal.
13 Labor Code § 226(h), in addition to other relief requested below.

14 **SIXTH CAUSE OF ACTION**
15 **WAITING TIME PENALTIES UNDER CALIFORNIA LABOR CODE §§ 201-203**
 PLAINTIFFS AGAINST ALL DEFENDANTS

16 86. Plaintiffs re-allege and incorporate by reference each preceding paragraph of the
17 complaint as fully set forth herein and further allege that:

18 87. Plaintiffs assert this count against Defendants for their failure to pay Plaintiffs all
19 wages owing at separation from employment.

20 88. Under California Labor Code §§ 201-203, an employer is required to promptly pay
21 all compensation owing to an employee upon their separation from employment and the employer
22 is liable for waiting time penalties in the form of a daily penalty up to a maximum of thirty (30)
23 days.

24 89. Defendants willfully failed to timely pay compensation and wages owing,
25 including contract wages, minimum wages, overtime wages and rest period compensation, to
26 Plaintiffs and, on information and belief, other aggrieved employees who separated from their
27 employment with Defendants. As a result, Defendants are liable to Plaintiffs and, on information
28 and belief, other aggrieved employees for waiting time penalties, under Labor Code § 203.

1 90. Plaintiffs request thirty (30) days' penalties, using the higher of their average
2 hourly piece rate earnings or the contractually mandated hourly wage under Labor Code § 203.

3 **SEVENTH CAUSE OF ACTION**
4 **FAILURE TO TIMELY PERMIT INSPECTION OF RECORDS**
5 **CALIFORNIA LABOR CODE § 226(F)**
6 **PLAINTIFFS AGAINST DEFENDANT SEVENTH TREE**

7 91. Plaintiffs re-allege and incorporate by reference each preceding paragraph of the
8 complaint as fully set forth herein and further allege that:

9 92. Section 226(a) details the information that employers must include on employee
10 wage statements and further instructs that “a copy of the statement and the record of the
11 deductions shall be kept on file by the employer for at least three years at the place of
12 employment or at a central location within the State of California.”

13 93. Under California Labor Code § 226(c), “[a]n employer who receives a written or
14 oral request to inspect or copy records pursuant to subdivision (b) pertaining to a current or
15 former employee shall comply with the request as soon as practicable, but no later than 21
16 calendar days from the date of the request.”

17 94. California Labor Code § 226(f) states that “[a] failure by an employer to permit a
18 current or former employee to inspect or copy records within the time set forth in subdivision (c)
19 entitles the current or former employee or the Labor Commissioner to recover a seven-hundred-
20 fifty-dollar (\$750) penalty from the employer.”

21 95. On August 10, 2022, Plaintiffs MARIA SOLEDAD MONTOYA, SAMUEL
22 SALAZAR AGUILAR, and LEONARDO SALAZAR TOMAS sent Defendant SEVENTH
23 TREE a request for records pursuant to § 226(c). On September 7, 2022, in response to that
24 records request, Defendant SEVENTH TREE produced incomplete payroll records, inconsistent
25 with the record maintenance requirements under Section 226(a).

26 96. In November 2022, counsel for Plaintiffs CARMEN MINA SUAREZ, CECILIA
27 DOLORES MARTINEZ, ALFONSO MALDONADO SANTIAGO, MARGARITA LOPEZ
28 HERNANDEZ, LORENZO ROMERO RODRIGUEZ, MAXIMINO GONZALEZ MATIAS,
NIEVES GUEVARA SOLANO, MARCELINA DIEGO GONZALEZ, FIDEL GALVEZ

1 BARRERA, ISIDRO SANCHEZ, CANDIDO LOPEZ VASQUEZ, FILIBERTO LOPEZ
2 VASQUEZ, MAYDELI GUZMAN, and JOSE FERNANDO ORTIZ sent Defendant SEVENTH
3 TREE written requests for records pursuant to § 226(c). In response to these records requests,
4 Defendant SEVENTH TREE produced incomplete and/or late payroll records, inconsistent with
5 the record maintenance requirements under Section 226(a).

6 97. Pursuant to § 226(f), Plaintiffs request the \$750 penalty for Defendant SEVENTH
7 TREE's violations of § 226(c), in addition to other relief requested below.

8 **EIGHTH CAUSE OF ACTION**
9 **FAILURE TO TIMELY PERMIT INSPECTION OF PERSONNEL RECORDS**
10 **CALIFORNIA LABOR CODE § 1198.5**
11 **SPECIFIED PLAINTIFFS AGAINST DEFENDANT SEVENTH TREE**

12 98. Plaintiffs re-allege and incorporate by reference each preceding paragraph of the
13 complaint as fully set forth herein and further alleges that:

14 99. Under Labor Code § 1198.5(a), "every current and former employee, or his or her
15 representative, has the right to inspect and receive a copy of the personnel records that the
16 employer maintains relating to the employee's performance or to any grievance concerning the
17 employee."

18 100. Under California Labor Code § 1198.5(k), if an employer fails to permit a current
19 or former employee to inspect or copy personnel records within 30 calendar days of receiving a
20 written request, the employee may recover a penalty of \$750 from the employer.

21 101. On November 9, 2022, counsel for Plaintiffs CARMEN MINA SUAREZ,
22 CECILIA DOLORES MARTINEZ, ALFONSO MALDONADO SANTIAGO, MARGARITA
23 LOPEZ HERNANDEZ, LORENZO ROMERO RODRIGUEZ, MAXIMINO GONZALEZ
24 MATIAS, NIEVES GUEVARA SOLANO, MARCELINA DIEGO GONZALEZ, FIDEL
25 GALVEZ BARRERA, and ISIDRO SANCHEZ sent Defendant SEVENTH TREE a written
26 request for personnel records pursuant to § 1198.5.

27 102. To date, Defendant SEVENTH TREE has not provided personnel records for
28 Specified Plaintiffs.

103. Pursuant to § 1198.5(k), Specified Plaintiffs request the \$750 penalty for

1 Defendant SEVENTH TREE's violation of § 1198.5, in addition to other relief requested below.

2 **NINTH CAUSE OF ACTION**
3 **FAILURE TO TIMELY PERMIT INSPECTION OF COMPENSATION STATEMENT**
4 **CALIFORNIA LABOR CODE § 1695**
5 **PLAINTIFFS AGAINST DEFENDANT SEVENTH TREE**

6 104. Plaintiffs re-allege and incorporate by reference each preceding paragraph of the
7 complaint as fully set forth herein and further alleges that:

8 105. Under California Labor Code § 1695(a)(5), all farm labor contractors must have
9 available for inspection by his or her employees "a written statement in English and Spanish
10 showing the rate of compensation he or she receives from the grower and the rate of
11 compensation he or she is paying to his or her employees for services rendered to, for, or under
12 the control of the grower. Upon written request, shall be provided to a current or former
13 employee or the grower within 21 days." A farm labor contractor who fails to comply with these
14 provisions is subject to a civil penalty of \$750 recoverable by the employee.

15 106. On August 10, 2022, Plaintiffs MARIA SOLEDAD MONTOYA, SAMUEL
16 SALAZAR AGUILAR, and LEONARDO SALAZAR TOMAS sent Defendant SEVENTH
17 TREE a written request for a compensation statement pursuant to § 1695.

18 107. On November 9, 2022, counsel for Plaintiffs CARMEN MINA SUAREZ,
19 CECILIA DOLORES MARTINEZ, ALFONSO MALDONADO SANTIAGO, MARGARITA
20 LOPEZ HERNANDEZ, LORENZO ROMERO RODRIGUEZ, MAXIMINO GONZALEZ
21 MATIAS, NIEVES GUEVARA SOLANO, MARCELINA DIEGO GONZALEZ, FIDEL
22 GALVEZ BARRERA, and ISIDRO SANCHEZ sent Defendant SEVENTH TREE a written
23 request for a compensation statement pursuant to § 1695.

24 108. On November 22, 2022, counsel for Plaintiffs CANDIDO LOPEZ VASQUEZ,
25 FILIBERTO LOPEZ VASQUEZ, MAYDELI GUZMAN, and JOSE FERNANDO ORTIZ sent
26 Defendant SEVENTH TREE a written request for records pursuant to § 1695.

27 109. To date, Defendant SEVENTH TREE has not provided any compensation
28 statement for any Plaintiff.

110. Pursuant to § 1695(a)(5), Plaintiffs request the \$750 penalty for Defendant

1 SEVENTH TREE's violations of § 1695(a)(5), in addition to other relief requested below.

2 ///

3 **TENTH CAUSE OF ACTION**
4 **UNLAWFUL AND/OR UNFAIR BUSINESS PRACTICES**
5 **CALIFORNIA BUS. & PROF. CODE §§ 17200-17208**
6 **PLAINTIFFS AGAINST ALL DEFENDANTS**

7 111. Plaintiffs re-allege and incorporate by reference each preceding paragraph of the
8 complaint as fully set forth herein and further allege that:

9 112. Plaintiffs are suing Defendants on their own behalf and as individuals pursuant to
10 Business and Professions Code §§ 17200, *et seq.*

11 113. Defendants' conduct as alleged in this complaint has been and continues to be
12 unfair, unlawful, and harmful to Plaintiffs. Plaintiffs seek to enforce important rights affecting
13 the public interest within the meaning of California Code of Civil Procedure § 1021.5.

14 114. Plaintiffs are "person[s]" within the meaning of Business and Professions Code §
15 17204 who have suffered injury in fact as a result of Defendants' unfair competition, and
16 therefore have standing to bring this claim for injunctive relief, restitution, and other appropriate
17 equitable relief.

18 115. Business and Professions Code §§ 17200, *et seq.* prohibits unlawful, unfair, and
19 fraudulent business practices. Through the conduct alleged in this complaint, Defendants have
20 acted contrary to California public policy, have violated specific provisions of the California
21 Labor Code, and have engaged in other unlawful and unfair business practices in violation of
22 Business and Professions Code §§ 17200, *et seq.*, depriving Plaintiffs of rights, benefits, and
23 privileges guaranteed under law.

24 116. Defendants have committed unfair and unlawful business practices within the
25 meaning of Business and Professions Code §§ 17200, *et seq.* by engaging in conduct that
26 includes, but is not limited to the following:

- 27 a. Failing to compensate employees for all contract wages;
- 28 b. Failing to compensate employees for all their hours worked or pieces earned, in
violation of Labor Code §§ 1182.12, 1194, 1197, and the applicable provisions
of Wage Order 14-2001 (8 Cal. Code of Regs. § 11140);

- c. Failing to pay overtime premiums for work performed in excess of forty (40) hours per work week, or for the seventh (7th) consecutive day of work in a workweek, contrary to the applicable provisions of Labor Code § 1198 and Wage Order 14-2001 (8 Cal. Code of Regs. § 11140);
- d. Failing to comply with the record keeping requirements of Labor Code § 1174(d), which require employers to maintain “payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees...”;
- e. Failing to provide accurate itemized wage statements as required by Labor Code § 226(a);
- f. Failing to pay workers all wages owed upon separation from employment in violation of Labor Code § 203; and
- g. Failing to pay workers owed wages timely in violation of Labor Code § 210.

117. As a direct result of the unfair, unlawful, and anti-competitive conduct alleged in this complaint, Defendants have acted contrary to law and contrary to public policy and have thus engaged in unlawful and unfair business practices in violation of Business and Professions Code §§ 17200, *et seq.* Defendants have engaged in such conduct for their own economic self-interest, to increase their profits, and to the detriment of business competitors whose conduct complies with California law and public policy.

118. Through their unfair business practices alleged herein, Defendants have received and retained and continue to receive and retain funds that rightfully belong to Plaintiffs and have produced further profits with those funds. As a result, Defendants have been unjustly enriched and have achieved an unfair competitive advantage over their legitimate business competitors at the expense of their employees and the public at large.

119. Plaintiffs are entitled to and seek all relief as may be necessary to restore to Plaintiffs all money and property which Defendants have acquired, or of which Plaintiffs have been deprived, by means of the Defendants’ unfair and unlawful business practices, and to restore to Plaintiffs the ill-gotten gains obtained by Defendants through those practices.

1 120. Plaintiffs are informed and believe and thereon allege that during their
2 employment with Defendants, Defendants' conduct injured the interests of the Plaintiffs, resulting
3 in economic loss to Plaintiffs.

4 121. Injunctive relief pursuant to Business and Professions Code § 17203 is necessary
5 to prevent Defendants from continuing to engage in unfair business practices as alleged in this
6 Complaint. Plaintiffs request a permanent injunction prohibiting further violations of the type
7 alleged herein.

8 122. Business and Professions Code § 17203 provides that the Court may restore to an
9 aggrieved party any money or property acquired by means of unlawful and unfair business
10 practices. Plaintiffs seek restitution of all unpaid and owed amounts, as well as the declaratory
11 and injunctive relief described herein.

12 123. Plaintiffs request that the Court issue an Order requiring Defendants to comply
13 with all applicable law to prevent this anti-competitive behavior in the future, and that they pay
14 restitution.

15 **ELEVENTH CAUSE OF ACTION**
16 **PRIVATE ATTORNEYS GENERAL ACT**
17 **CALIFORNIA LABOR CODE § 2699 ET. SEQ**
18 **PLAINTIFFS CARMEN MINA SUAREZ AND CECILIA DOLORES MARTINEZ**
19 **AGAINST PAGA DEFENDANTS**

20 124. Plaintiffs CARMEN MINA SUAREZ and CECILIA DOLORES MARTINEZ re-
21 allege and incorporate by reference each preceding paragraph of the complaint as fully set forth
22 herein and further alleges that:

23 125. Plaintiffs CARMEN MINA SUAREZ and CECILIA DOLORES MARTINEZ
24 bring this claim on behalf of themselves and all aggrieved employees as well as the general public
25 of the State of California against Defendants SEVENTH TREE, DURANGO HARVEST,
26 DRISCOLL'S, PATRICIA MEDINA, CINDY BALDERAS, and OMAR HERMOCILLO
27 ("PAGA Defendants").

28 126. Pursuant to Cal. Labor Code § 2699(a), any provision of the Labor Code which
provides for a civil penalty to be assessed and collected by the Labor Workforce Development
Agency for violations of the Labor Code may, as an alternative, be recovered through a civil

1 action brought by an aggrieved employee on behalf of himself or herself and other current or
2 former employees pursuant to the procedures outlined in Labor Code § 2699.3. These civil
3 penalties are in addition to any other relief available under the Labor Code.

4 127. Plaintiffs CARMEN MINA SUAREZ and CECILIA DOLORES MARTINEZ
5 allege that PAGA Defendants violated the following provisions of the California Labor Code and
6 IWC Wage Order 14:

- 7 a. Failure to pay minimum wages in violation of IWC Wage Order 14
8 and Cal. Lab. Code §§ 1194, 1197;
- 9 b. Failure to pay overtime wages in violation of IWC Wage Order 14
10 and Cal. Lab. Code §§ 510, 1194, 218;
- 11 c. Failure to adequately compensate rest periods in violation of IWC
12 Wage Order 14 and Cal. Lab. Code § 226.2;
- 13 d. Failure to pay wages when due in violation of Cal. Lab. Code §§ 215,
14 205.5, 210;
- 15 e. Failure to pay all wages due upon termination of quit in violation of Cal. Lab.
16 Code §§ 201, 202; and
- 17 f. Failure to provide correct itemized wage statements in violation of IWC Wage
18 Order 14 and Cal. Lab. Code § 226.

19 128. On January 19, 2023, Plaintiffs CARMEN MINA SUAREZ and CECILIA
20 DOLORES MARTINEZ filed a PAGA notice to the Labor and Workforce Development Agency
21 (“LWDA”) via the LWDA’s online filing system and via certified mail to Defendants SEVENTH
22 TREE, DURANGO HARVEST, PATRICIA MEDINA, CINDY BALDERAS, and OMAR
23 HERMOCILLO regarding the specific provisions of the Labor Code alleged to have been violated
24 by Defendants, including the facts and theories to support the alleged violations. On February 8,
25 2023, Plaintiffs CARMEN MINA SUAREZ and CECILIA DOLORES MARTINEZ filed an
26 amended PAGA notice to include Defendant DRISCOLL’S. As of the date of the filing of this
27 action, which is more than 65 days after notice was provided to the LWDA and to all PAGA
28 Defendants, the LWDA has not provided written notice that it intends to investigate Plaintiffs’

1 allegations. Accordingly, Plaintiffs have satisfied the administrative prerequisites of Labor Code
2 § 2699.3 to bring an action to recover penalties against PAGA Defendants.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Plaintiffs pray for judgment as follows:

- 5 A. That the Court order an award for owed wages; in an amount to be proven at trial;
- 6 B. That the Court find that Defendants violated or caused to be violated the terms of the
7 employment contract between themselves and Plaintiffs by failing to pay for all boxes
8 picked and all hours worked under said agreement, that all Defendants are jointly and
9 severally liable, and award Plaintiffs restitution in the amount of the wages owed
10 therein;
- 11 C. That the Court find that Defendants have violated the minimum wage provisions of
12 Labor Code §§ 1182.11-1182.12, 1194, 1197 and Wage Order 14, that all Defendants
13 are jointly and severally liable, and award an amount equal to unpaid minimum wages
14 due, plus liquidated damages;
- 15 D. That the Court find that Defendants have violated overtime wage provisions of the
16 Labor Code including §§ 1198, 1194 and Wage Order 14, that all Defendants are
17 jointly and severally liable, and award an amount equal to unpaid overtime wages
18 due;
- 19 E. That the Court find that Defendants have violated Labor Code §§ 226.2 and Wage
20 Order 14, 8 C.C.R. § 11140, by failing to provide Plaintiffs with accurate
21 compensation for rest periods, that all Defendants are jointly and severally liable, and
22 award an amount equal to owed rest period wages.
- 23 F. That the Court find that Defendant SEVENTH TREE failed to timely provide for
24 inspection or copying of Plaintiffs' personnel records, payroll records, and/or
25 compensation statements, and award penalties pursuant to Labor Code §§ 1198.5,
26 226(c), and 1695;
- 27 G. That the Court find that Defendants violated Labor Code § 226(a) by knowingly and
28 intentionally failing to provide Plaintiffs with accurate itemized wage statements, that

all Defendants are jointly and severally liable, and award penalties due pursuant to Labor Code § 226(b);

H. That the Court find that Defendants have violated Labor Code §§ 201 and/or 202 for willful failure to pay all compensation owed at the time of termination of employment to Plaintiffs, that all Defendants are jointly and severally liable, and award waiting time penalties due pursuant to Labor Code § 203;

I. That all Defendants be ordered and enjoined to cease their unlawful and/or unfair activities as alleged herein and pay restitution to Plaintiffs due to Defendants' unlawful and/or unfair activities, pursuant to Cal. Business and Professions Code §§ 17200-08;

J. That the Court find that PAGA Defendants violated the PAGA, that all PAGA Defendants are jointly and severally liable, and award the civil penalties for the violations alleged above on behalf of Plaintiffs as well as other aggrieved employees;

K. For an award of pre-judgment interest as authorized under the law;

L. For an award of post-judgment interest as authorized under the law;

M. That Plaintiffs be awarded reasonable attorney's fees and costs pursuant to Labor Code §§ 203, 226, 1194, 2699 and/or any other applicable law; and

N. That the Court award such other and further relief as this Court may deem appropriate.

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a jury trial on all causes of action and claims with respect to which they have a right to a jury trial.

Dated: April 14, 2023

CALIFORNIA RURAL LEGAL ASSISTANCE, INC.



Angelica A. Preciado
Attorney for Plaintiffs

Dated: April 14, 2023

LEGAL AID AT WORK



Alexxander Campbell
Attorney for Plaintiffs