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Superior Court of California,
County of Alameda

10/31/2024 at 11:57:41 AM

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ALAMEDA

DAVID JARAMILLO, individually, and on
behalf of all others similarly situated,

Plaintiff,

v.

ATKINS SHEEP RANCH, INC, a
California corporation; and DOES 1 through
50, inclusive,

Defendants.

CASE NUMBER: **24CV097774**

CLASS ACTION COMPLAINT

1. Failure to Provide Required Meal Periods
2. Failure to Provide Required Rest Breaks
3. Failure to Pay Overtime Wages
4. Failure to Pay Minimum Wages
5. Failure to Pay Timely Wages
6. Failure to Pay All Wages Due to Discharged and Quitting Employees
7. Failure to Furnish Accurate Itemized Statements
8. Failure to Maintain Required Records
9. Failure to Indemnify Employees for Necessary Expenditures Incurred in Discharge of Duties
10. Failure to Pay and Include COVID-19 Supplemental Sick Pay on Wage Statements
11. Unfair and Unlawful Business Practices

DEMAND FOR JURY TRIAL

1 This is a Class and Action brought by David Jaramillo, individually and on behalf of all
2 other non-exempt, hourly employees (“Plaintiff”), relating to systemic violations of California
3 wage and hour laws by their employer, Atkins Sheep Ranch, Inc. (“Atkins” or “Defendant”).
4 Plaintiff makes the following allegations on information and belief, except as to allegations
5 pertaining to Plaintiff individually, which are based on his personal knowledge.

6 **INTRODUCTION**

7 1. As private, for-profit businesses, Defendant has jointly implemented common
8 policies and practices that have resulted in systemic violations of California’s wage and hour laws.

9 2. Defendant maximized profits by cutting labor costs, grossly understaffing its
10 butchering, manufacturing, distribution and retail facilities, including but not limited to,
11 laboratories, warehouses, etc., denying legally mandated and compliant meal and rest breaks,
12 systematically requiring off-the-clock work, and cheating non-exempt, hourly employees out of
13 minimum and overtime wages and premium payments.

14 3. Defendant has implemented unlawful written policies with respect to meal and
15 rest breaks. Defendant also requires its non-exempt employees, who are informed that the needs
16 of the business takes top priority, to work through meal and rest breaks, to take untimely meal
17 periods and to remain on call during such breaks. As a result, Plaintiff and the other non-exempt,
18 hourly employees have been denied the ability to take the meal and rest breaks that they were
19 and are legally entitled to take.

20 4. Plaintiff seeks declaratory, compensatory and other statutorily available relief for
21 themselves and a Class of all current and former non-exempt employees of Defendant during the
22 applicable limitations period to compensate these workers for the wages Defendant have stolen
23 from them and to protect current and future workers from being subjected to similar unlawful
24 working conditions perpetrated by Defendant.

25 **JURISDICTION AND VENUE**

26 5. The Superior Court of the State of California has jurisdiction in this matter
27 because Plaintiffs are residents of the State of California, and Defendant is licensed to do
28 business under the laws of the State of California.

6. Venue is proper in this judicial district and the County of Alameda because Defendant maintains its headquarters and facilities in the City of Fremont, a city located in the County of Alameda, and Plaintiff worked at Defendant's butchery which is located in the City of Fremont, a city located in the County of Alameda, California. Many other Class Members also worked for Defendant in the County of Alameda.

7. Defendant employed Plaintiff and other non-exempt, hourly employees within the State of California and the unlawful acts alleged herein have a direct effect on Plaintiff and other aggrieved employees.

THE PARTIES

8. Plaintiff Atkins is a citizen of the State of California. During the relevant time period, Plaintiff was employed by Defendant working at Defendant's butchery located in Fremont, California, a city located within the County of Alameda.

9. Plaintiff is informed and believes, and thereon alleges, that Defendant, and at all times relevant hereto, is a corporation organized and existing under the laws of the State of California. Defendant is authorized to conduct business and does conduct business in the State of California.

10. Plaintiff is informed and believes, and based thereon alleges, that each Defendant acted in all respects pertinent to this action as the agent of the other Defendants, carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendant are legally attributable to the other Defendants. Furthermore, Defendants in all respects acted as the employer and/or joint employer of Plaintiff and the other non-exempt, hourly employees.

11. Plaintiff is informed and believes, and based thereon alleges, that each Defendant acted in all respects as the agent, servant, partner, joint venture, alter-ego, employee, proxy, Managing agent, and/or principal of the co-Defendants, and in performing the acts mentioned below was acting, at least in part, within the course and scope of that authority as such agent, proxy, servant, partner, joint venture, employee, alter-ego, managing agent, and/or principal with the permission and consent of the co-Defendants. Plaintiff also alleges that the acts of each Defendant are legally attributable to the other Defendants.

12. Plaintiff is informed and believes, and based thereon alleges, that each of the Defendants sued herein was, at all relevant times, the employer, owner, shareholder, principal, joint venture, alter-ego, employee, proxy, managing agent, and/or principal of the remaining Defendants, and was acting, at least in part, within the course and scope of such employment and agency, with the express and implied permission, consent and knowledge, approval and/or ratification of the other Defendants. The above co-Defendant, managing agents, and supervisors, aided, abetted, condoned, permitted, approved, authorized, and/or ratified the unlawful acts described herein.

CLASS ACTION ALLEGATIONS

13. Plaintiff brings this action on behalf of himself and the following similarly situated Class of individuals (“Class members”):

All non-exempt employees who have performed work for Defendant in the state of California at any time during the relevant statute of limitations period.

14. Plaintiff reserves the right to name additional Class representatives as may be necessary and appropriate. Plaintiff also reserves the right to modify or amend the definition of the proposed Class and/or add subclasses before the Court determines whether certification is appropriate.

16. This action is appropriately suited for a class action because:

A. The proposed Class is a significant number. Plaintiff is informed and believes that the proposed Class consists of at least fifty (50) current and former non-exempt employees, rendering joinder impractical, and the most efficient way to litigate the claims.

B. This action involves common questions of law and fact to the proposed Class because the action focuses on Defendant's systematic course of illegal payroll practices and policies, which was applied to all non-exempt employees in uniform violation of the California Labor Code, IWC Wage Orders, and the California Business and Professions Code, which prohibits unfair business practices arising from such violations. Here are a few common questions of law and fact that will drive resolution of this action:

1. Whether Defendant failed to provide non-exempt employees with legally compliant meal periods and rest breaks, and whether Defendant properly paid premium pay at the appropriate regular rate as a result of missed and non-compliant meal periods and rest breaks;
2. Whether Defendant failed to timely pay wages to non-exempt employees in compliance with California law;
3. Whether Defendant failed to pay overtime and minimum wages to non-exempt employees in compliance with California law;
4. Whether Defendant failed to maintain required records and accurate wage statements for non-exempt employees;
5. Whether Defendant failed to pay non-exempt employees all wages due, for all hours worked, including for off-the-clock work, travel time, pre and post-shift work, donning and doffing, and COVID screening;
6. Whether Defendant failed to pay COVID-19 supplemental sick pay and include it on wage statements;
7. Whether Defendant engaged in unfair and/or unlawful business practices.

C. Plaintiff's claims are typical of the proposed Class because Defendant subjected all of its non-exempt employees to the similar and overlapping violations of the California Labor Code, the applicable IWC wage order, and the California Business and Professions Code.

D. Plaintiff is able to fairly and adequately protect the interests of all members of the proposed Class because it is in their best interests to prosecute the claims alleged herein to obtain full compensation due to the proposed Class for all services rendered and hours worked. Plaintiff has also retained counsel who are experienced in wage and hour class action litigation.

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FIRST CAUSE OF ACTION
Failure to Provide Required Meal Periods
[Cal. Lab. Code §§ 226.7, 510, 512, 1194, 1197; and All Applicable IWC
Wage Orders and Applicable Sections]
(On Behalf of Plaintiffs and the Class Against all Defendants)

17. Plaintiffs incorporate herein by specific reference, as though fully set forth, the allegations in paragraphs 1 through 16 (A) – (D).

18. During the statute of limitations period, as part of Defendant's unlawful policies and practices to deprive their non-exempt employees of all wages earned and due, Defendant required, permitted or otherwise suffered Plaintiffs and Class members to perform work during their meal periods, to completely skip their meal periods, to take late and short meal periods, auto-deducting meal periods, and Defendant has otherwise failed to provide the required meal periods to Plaintiffs and Class members as required under California Labor Code §§ 226.7, 512, and § 11 of the applicable IWC Order.

19. Moreover, Defendant interfered with and restricted the ability of Plaintiffs and Class members to take meal periods by requiring them to carry cell phones and walkie-talkies during meal periods, and not permitting Plaintiffs and the other Class members to leave their work areas when taking meal periods.

20. Defendant has implemented several common policies and practices that have caused Plaintiffs and Class members to systematically miss and otherwise take non-compliant meal periods.

21. Defendant has grossly understaff their butchery and distribution and warehouse facilities, etc., such that non-exempt employees are given so much work to complete that they regularly miss or take non-compliant meal periods. As a direct consequence of this understaffing, Plaintiffs and Class members have so much work to complete within their scheduled shifts that they are forced to skip their meal periods altogether, to take them after working longer than five (5) hours, to perform work during their meal periods, or return to work after taking less than a thirty (30) minute meal period. Further, Defendant has failed to implement a meal period policy for work shifts longer than ten (10) hours or more.

1 22. Moreover, Defendant failed to implement adequate policies or procedures to
2 provide meal periods to their non-exempt employees. Among other things, Defendant
3 overworked Plaintiffs and Class members and did not adequately advise them of their rights to
4 take meal periods, and systematically denied them the opportunity to take meal periods,
5 including second meal periods during shifts of ten (10) hours or longer.

6 23. Defendant has also violated California Labor Code §§ 226.7, all applicable wage
7 orders and applicable sections, and the California Unfair Competition Law, Cal. Bus. & Prof.
8 Code §§ 17200 *et. seq.*, by failing to compensate Plaintiffs and Class members who were not
9 authorized and permitted to take a complete, timely, uninterrupted meal period, in accordance
10 with the applicable wage order, one additional hour of compensation at the proper regular rate of
11 pay for each workday that such a meal period was not authorized or permitted.

12 24. Defendant further violated California Labor Code sections 226.7, 510, 1194,
13 1197, IWC Wage Order No. 1-2001, and all applicable IWC Wage Orders, by failing to
14 compensate Plaintiffs and Class members for all hours worked during their meal periods.

15 25. As a proximate result of the aforementioned violations, Plaintiffs and Class
16 members have been damaged in an amount according to proof at trial, and seek all wages earned
17 and due, interest, penalties, expenses, and costs of suit.

18 **SECOND CAUSE OF ACTION**
19 **Failure to Provide Required Rest Breaks**
20 **[Cal. Lab. Code §§ 226.7, 512; and All Applicable IWC Wage Orders**
21 **and Applicable Sections]**
22 **(On Behalf of Plaintiffs and the Class Against all Defendants)**

23 26. Plaintiffs incorporate herein by specific reference, as though fully set forth, the
24 allegations in paragraphs 1 through 25.

25 27. At all times relevant herein, as part of Defendant's illegal policies and practices to
26 deprive its non-exempt employees of all wages earned and due, Defendant failed to permit
27 Plaintiffs and Class members to take rest breaks as required under California Labor Code §§
28 226.7 and 512, and § 12 of the applicable IWC Wage Order.

1 28. As with meal periods, Defendant's policies and practices caused Plaintiffs and
2 Class members to miss or otherwise take non-compliant rest periods by, among other things,
3 giving them unreasonable amounts of work that had to be completed within their shift such that
4 rest periods simply could not be taken. This is the result of systematic understaffing in butchery
5 and manufacturing, distribution and retail facilities. Further, as set forth above, Defendant
6 implemented skeletal staffing policies, which resulted in the inability of Plaintiffs and Class
7 members to take compliant rest periods. In addition, Defendant did not adequately notify
8 Plaintiffs and Class members of their rights to take rest periods, and systematically denied them
9 the opportunity to take rest periods, including all rest periods required during long shifts, which
10 at times exceeded twelve (12) consecutive hours.

11 29. Defendant further violated California Labor Code § 226.7, IWC Wage Order No.
12 1-2001, § 12, and all other applicable IWC Wage Orders and the California Unfair Competition
13 Law, Cal. Bus. & Prof. Code §§ 17200 *et. seq.*, by failing to pay Plaintiffs and Class members
14 who were not provided with a rest break, in accordance with the applicable wage order, one
15 additional hour of compensation at the proper regular rate of pay for each workday that a rest
16 break was not provided.

17 30. As a proximate result of the aforementioned violations, Plaintiffs and Class
18 members have been damaged in an amount according to proof at trial, and seek all wages earned
19 and due, interest, penalties, expenses, and costs of suit.

20 **THIRD CAUSE OF ACTION**
21 **Failure to Pay Overtime Wages**
22 **[Cal. Lab. Code §§ 510, 1194, 1198; and All Applicable IWC Wage Orders**
23 **and Applicable Sections]**
24 **(On Behalf of Plaintiffs and the Class against all Defendants)**

25 31. Plaintiffs incorporate herein by specific reference, as though fully set forth, the
26 allegations in paragraphs 1 through 30.

27 32. Pursuant to California Labor Code §§ 510, 1194, and all applicable wage orders
28 and applicable sections, Defendant is required to compensate Plaintiffs and Class members for
all overtime, which is calculated at one and one-half (1 ½) times the regular rate of pay for all

1 hours worked in excess of eight (8) hours per day and/or forty (40) hours per week, and for the
2 first eight (8) hours on the seventh consecutive workday, with double time for all hours worked
3 in excess of twelve (12) hours in any workday and for all hours worked in excess of eight (8)
4 hours on the seventh consecutive day of work in any workweek.

5 33. Plaintiffs and Class members are current and former direct and temporary hourly
6 paid employees entitled to the protections of California Labor Code §§ 510, 1194, and all
7 applicable IWC Wage Orders. During the statute of limitations period, Defendant failed to
8 compensate Plaintiffs and Class members for all overtime hours worked as required under the
9 foregoing provisions of the California Labor Code and IWC Wage Order by, among other
10 methods: failing to pay any overtime compensation; failing to properly calculate the regular rate
11 of pay for the purposes of calculating overtime pay owed and due; requiring, permitting or
12 suffering Plaintiffs and Class members to work off-the-clock; requiring, suffering, or permitting
13 Plaintiff and Class members to work through meal and rest periods but not compensating them
14 for this time, failing to include this time in all hours worked; failing to pay for travel time; failing
15 to pay the highest regular rate of pay based upon nondiscretionary bonus/commission payments;
16 failing to pay for training time; editing or otherwise manipulating the overtime hours worked,
17 failing to pay for pre-and post-shift work (including COVID screenings and donning and doffing
18 uniforms and safety equipment and other protective and/or sanitary uniforms); and other methods
19 to be discovered.

20 34. In a short-sighted attempt to maximize profits, Defendant has understaffed its
21 facilities. Not only has this practice resulted in widespread missed meal and rest breaks, but it
22 has also caused Plaintiffs and Class members to perform significant amounts of work while off-
23 the-clock. Defendant is aware that Plaintiffs and Class members perform this work off-the-clock
24 work because managers see them doing this work well before the beginning the start of their
25 scheduled shifts.

26 35. In violation of California law, Defendant has knowingly and willfully refused to
27 perform its obligation to compensate Plaintiffs and Class members for all wages earned and all
28 hours worked at the legally required rates of pay. As a proximate result, Plaintiffs and Class

1 members have suffered, and continue to suffer, substantial losses related to the use and
2 enjoyment of such wages, lost interest on such wages, and expenses and attorneys' fees in
3 seeking to compel Defendant to fully perform its obligations under state law, all to their
4 respective damages in amounts according to proof at time of trial, and within the jurisdiction of
5 this Court.

6 36. Defendant's conduct described herein violates California Labor Code §§ 510,
7 1194, 1198 and all applicable IWC Wage Orders and applicable sections. Therefore, pursuant to
8 California Labor Code §§ 200, 203, 226, 558, 1194, 1197.1, and other applicable provisions
9 under the California Labor Code and IWC Wage Orders, Plaintiffs and Class members are
10 entitled to recover the unpaid balance of wages owed to them by Defendant, plus interest,
11 penalties, attorneys' fees, expenses, and costs of suit.

12 **FOURTH CAUSE OF ACTION**
13 **Failure to Pay Minimum Wages**
14 **[Cal. Lab. Code §§ 1194, 1197; All Applicable IWC Wage Orders and Applicable Sections]**
15 **(On Behalf of Plaintiffs and the Class against all Defendants)**

16 37. Plaintiffs incorporate herein by specific reference, as though fully set forth, the
17 allegations in paragraphs 1 through 36.

18 38. Pursuant to Cal. Lab. Code §§ 1194, 1197, and all applicable IWC Wage Orders
19 and applicable sections, payment to an employee of less than the applicable minimum wage for
20 all hours worked in a payroll period is unlawful.

21 39. During the statute of limitations period, the hourly rates for Plaintiffs and Class
22 members were precisely at minimum wage. Based on this common practice, Defendant failed to
23 actually pay Plaintiffs and Class members minimum wages for all hours worked by requiring,
24 permitting or suffering them to work off-the-clock, such as requiring them to work through meal,
25 rest breaks, but not compensating them for this time, and failing to include this time in all hours
26 worked, failing to pay for travel time, failing to pay for pre-and post-shift work (including
27 COVID screenings and donning and doffing uniforms and safety equipment); and other methods
28 to be discovered.

40. Defendant's conduct described herein violates Cal. Lab. Code §§ 1194, 1197, and all applicable IWC Wage Orders and applicable sections. As a proximate result of the aforementioned violations, Plaintiffs and other Class Members have been damaged in an amount according to proof at trial. Therefore, pursuant to California Labor Code §§ 200, 203, 226, 558, 1194, 1197.1, and any other applicable law, Plaintiffs and other Class Members are entitled to recover the unpaid balance of wages owed to them by Defendant, plus interest, penalties, attorneys' fees, expenses, and costs of suit.

FIFTH CAUSE OF ACTION
Failure to Pay Timely Wages
[Cal. Lab. Code §§ 204, 210]
(On Behalf of Plaintiffs and the Class against all Defendants)

41. Plaintiffs incorporate herein by specific reference, as though fully set forth, the allegations in paragraphs 1 through 42.

42. California Labor Code § 204 provides that all wages earned by any person in any employment between the 1st and 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and 26th day of the month during which the labor was performed. California Labor Code § 204 further provides that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code § 204 further provides that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period.

43. During the statute of limitations period, Defendant, among other things, willfully failed to pay Plaintiffs and Class members all wages earned and due to them, including but not limited to, meal and rest break premiums, and payment for work performed off-the-clock, within any time period permissible under Labor Code § 204.

44. As a proximate result of Defendant's unlawful actions and omissions, Plaintiffs and Class members are entitled to all available statutory penalties, including but not limited to, civil penalties pursuant to California Labor Code §§ 200, 210, 558, 1194, 1197.1, 2699(a), and

1 other applicable provisions under the California Labor Code and IWC Wage Orders, and an
2 award of costs, expenses, and reasonable attorneys' fees.

3 **SIXTH CAUSE OF ACTION**
4 **Failure to Pay All Wages Due to Discharged and Quitting Employees**
5 **[Cal. Lab. Code §§ 201, 202, 203]**
6 **(On Behalf of Plaintiffs and the Class against all Defendants)**

7 45. Plaintiffs incorporate herein by specific reference, as though fully set forth, the
8 allegations in paragraphs 1 through 44.

9 46. Pursuant to California Labor Code §§ 200, 201, 202, and 203, Defendant is
10 required to pay all earned and unpaid wages to an employee who is discharged. California Labor
11 Code § 201 mandates that if an employer discharges an employee, the employee's wages accrued
12 and unpaid at the time of discharge are due and payable immediately.

13 47. Furthermore, pursuant to California Labor Code § 202, Defendant is required to
14 pay all accrued wages due to an employee no later than seventy-two (72) hours after the
15 employee quits his or her employment, unless the employee provided seventy-two (72) hours
16 previous notice of his or her intention to quit, in which case the employee is entitled to his or her
17 wages at the time of quitting.

18 48. California Labor Code § 203 provides that if an employer willfully fails to pay, in
19 accordance with California Labor Code §§ 201 and 202, any wages of an employee who is
20 discharged or who quits, the employer is liable for waiting time penalties in the form of
21 continued compensation to the employee at the same rate for up to thirty (30) workdays.

22 49. During the statute of limitations period, Defendant has willfully failed to pay
23 accrued wages and other compensation to Plaintiffs and Class members in accordance with
24 California Labor Code §§ 201 and 202. Defendant does not have a sufficient policy to provide
25 Plaintiffs and Class members with their final paychecks within the timeframes required under
26 California law. In addition, because Defendant has failed and continue to fail to properly
27 compensate Plaintiffs and Class members for all hours worked when due, overtime wages, and
28 compensation for non-compliant meal and rest breaks, Defendant has also willfully failed and

1 continues to fail to pay accrued wages and other compensation to Plaintiffs and Class members
2 in accordance with California Labor Code §§ 201 and 202.

3 50. As a result, Plaintiffs and Class members are entitled to all available statutory
4 penalties, including the waiting time penalties provided in California Labor Code § 203, together
5 with interest thereon, as well as other available remedies.

6 51. As a proximate result of Defendant's unlawful actions and omissions, Plaintiffs
7 and Class members have been deprived of compensation in an amount according to proof at the
8 time of trial, but in excess of the jurisdiction of this Court, and are entitled to recovery of such
9 amounts, plus interest thereon, and attorneys' fees and costs, pursuant to California Labor Code
10 § 1194.

11 **SEVENTH CAUSE OF ACTION**

12 **Failure to Furnish Accurate Itemized Wage Statements**
13 **[Cal. Lab. Code §§ 226, 246, 248.1, 248.2 and 248.6; and All Applicable**
14 **IWC Wage Orders and Applicable Sections]**
15 **(On Behalf of Plaintiffs and the Class against all Defendants)**

16 52. Plaintiffs incorporate herein by specific reference, as though fully set forth, the
17 allegations in paragraphs 1 through 51.

18 53. During the statute of limitations period, Defendant routinely failed to provide
19 Plaintiffs and Class members with timely, accurate, and itemized wage statements in writing
20 showing each employee's gross wages earned, total hours worked, all deductions made, net
21 wages earned, and all applicable hourly rates in effect during each pay period and the
22 corresponding number of hours worked at each hourly rate, in violation of California Labor Code
23 § 226 and all applicable IWC Wage Orders and applicable sections.

24 54. Defendant's pay stubs violate Labor Code § 226 on their face by, failing to list the
25 applicable rates of pay for regular and overtime hours worked by Plaintiffs and Class members,
26 and in violation of Labor Code §§246, 248.1, 248.2 and 248.6 based upon Defendant's failure to
27 include information related to COVID-19 supplemental sick pay. Further, Defendant was and is
28 not providing Plaintiffs and other Class members with proper meal periods and rest breaks but
intentionally fails to include in their wage statements one (1) additional hour of compensation at

1 their regular rates of pay for each non-compliant meal period or rest break which include but not
2 limited to, shift differentials, nondiscretionary bonuses, etc., and failing to pay all wages due as
3 alleged herein in violation of Labor Code §226.

4 55. Defendant knowingly and intentionally failed to provide Plaintiffs and Class
5 members with timely, accurate, and itemized wage statements in accordance with California
6 Labor Code § 226(a) so as to prevent Plaintiffs and Class members from being able to determine
7 whether they were being paid for, among other things, all of the hours they worked and at the
8 proper rates of pay.

9 56. As a proximate result of Defendant's unlawful actions and omissions, Plaintiffs
10 and Class members have been damaged in an amount according to proof at trial, and seek all
11 wages earned and due, plus interest thereon. Additionally, Plaintiffs and Class members are
12 entitled to all available penalties, including but not limited to penalties pursuant to California
13 Labor Code §§ 226(e), 226.3, and 1174.5, and an award of costs, expenses, and reasonable
14 attorneys' fees, including but not limited to those provided in California Labor Code § 226(e), as
15 well as other available remedies.

16 **EIGHTH CAUSE OF ACTION**
17 **Failure to Maintain Required Records**
18 **[Cal. Lab. Code §§ 226, 1174; and All Applicable IWC Wage Orders**
19 **and Applicable Sections]**
20 **(On Behalf of Plaintiffs and the Class against all Defendants)**

21 57. Plaintiffs incorporate herein by specific reference, as though fully set forth, the
22 allegations in paragraphs 1 through 56.

23 58. During the statute of limitations period, as part of Defendant's illegal payroll
24 policies and practices to deprive Plaintiffs and Class members of all wages earned and due,
25 Defendants knowingly and intentionally failed to maintain records as required under California
26 Labor Code §§ 226, 1174, and all applicable IWC Wage Orders and applicable sections,
27 including but not limited to, the following records: total daily hours worked by each non-exempt
28 employee; applicable rates of pay; all deductions; meal periods; time records showing when each
non-exempt employee begins and ends each workday; and accurate itemized wage statements.

59. As a proximate result of Defendant's unlawful actions and omissions, Plaintiffs and Class members have been damaged in an amount according to proof at trial, and are entitled to all wages earned and due, plus interest thereon. Additionally, Plaintiffs and Class members are entitled to all available statutory penalties, including but not limited to civil penalties pursuant to California Labor Code §§ 226(e), 226.3, and 1174.5, and an award of costs, expenses, and reasonable attorneys' fees, including but not limited to those provided in California Labor Code § 226(e), as well as other available remedies.

NINTH CAUSE OF ACTION
Failure to Indemnify for Necessary Expenditures Incurred in Discharge of Duties
[Cal. Lab. Code § 2802]
(On Behalf of Plaintiffs and the Class against Defendants)

60. Plaintiffs incorporate herein by specific reference, as though fully set forth, the allegations in paragraphs 1 through 59.

61. California Labor Code § 2802(a) requires an employer to indemnify an employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of her his or her duties, or of his or her obedience to the directions of the employer.

62. During the Class period, Defendant knowingly and willfully failed to indemnify Plaintiffs and Class members for all business expenses and/or losses incurred in direct consequence of the discharge of their duties while working under the direction of Defendant, including but not limited to, the costs and expenses related to their uniforms and uniform maintenance, in violation of California Labor Code § 2802.

63. As a proximate result of Defendant 's unlawful actions and omissions, Plaintiffs and Class members have been damaged in an amount according to proof at trial, and seek reimbursement of all necessary expenditures, plus interest thereon pursuant to California Labor Code § 2802(b). Additionally, Plaintiffs and Class members are entitled to all available statutory penalties and an award of costs, expenses, and reasonable attorneys' fees, including those provided in California Labor Code § 2802(c), as well as other available remedies.

TENTH CAUSE OF ACTION
Failure to Provide Supplemental COVID-19 Sick Leave
[Cal. Lab. Code §§246, 248.1, 248.2 and 248.6]
(On Behalf of Plaintiffs and the Class against Defendants)

64. Plaintiffs incorporate herein by specific reference, as though fully set forth, the allegations in paragraphs 1 through 63.

65. Plaintiffs are informed and believes Defendant knowingly and intentionally failed in their affirmative obligation provide and pay paid COVID-19 Supplemental Sick Leave to Plaintiff and Class Members in violation of Labor Code section 246. 81. Labor Code section 246(b)(1) requires that employees accrue sick leave at the commencement of employment at a rate of 1 hour for every thirty hours worked. Section 246(c) entitles employees to use any accrued sick leave beginning on their 90th day of employment.

66. Defendant failed to pay Plaintiffs and Class Members paid sick leave at one of the lawful, regular rates of pay set forth since Defendant failed to include in their calculation the commissions and additional remuneration received by Plaintiffs and the Class Members.

67. Furthermore, Defendant knowingly and intentionally failed in its affirmative obligation to provide and pay COVID-19 Supplemental Sick Leave to Class Members and maintain records relating thereto, in violation of Labor Code sections 246, 247.5, 248.1, 248.2, and 248.6.

68. Labor Code section 248.1 requires employers to provide up to 80 hours of COVID19 Supplemental Paid Sick Leave to employees for the period of April 16, 2020 to December 31, 2020. Labor Code 248.2 requires employers to provide up to 80 hours of COVID-19 Supplemental Paid Sick Leave for the period of January 1, 2021 through September 30, 2021. Labor Code section 248.6 extended COVID sick leave protections and requires employers to provide up to 80 hours of COVID-19 Supplemental Paid Sick Leave for the period of January 1, 2022 to September 30, 2022, and may be extended thereafter. 85. Under Labor Code section 248.1, employees must be paid for COVID-19 Supplemental Paid Sick Leave at the highest of the following: (1) the regular rate of pay for the last pay period, (2) state minimum wage, (3) local minimum wage.

69. Under Labor Code section 248.2, Plaintiffs and the other Class members should have been paid COVID-19 supplemental paid sick leave according to the highest of the following four methods: (1) the regular rate of pay for the workweek in which the employee uses COVID-19 supplemental paid sick leave, (2) the employee's total wages in a 90-day period divided by total hours worked, (3) the state minimum wage, or (4) the local minimum wage.

70. Labor Code section 248.6 requires employers to pay COVID-19 supplemental sick leave under either one of the following methods: (1) regular rate of pay or (2) the employee's total wages in a 90-day period divided by total hours worked.

71. Defendant failed to provide and pay COVID-19 supplemental paid sick leave in the manner described above because Defendant failed to pay Plaintiffs and the Class Members such sick leave at one of the rates authorized by statute.

72. As a result, Defendant violated the Labor Code and are liable to Plaintiffs and the Class for underpaid sick leave earnings, in addition to interest, attorneys' fees, and costs.

ELEVENTH CAUSE OF ACTION
Unfair and Unlawful Business Practices
[Cal. Bus. & Prof. Code § 17200 *et. seq.*]
(On Behalf of Plaintiffs and the Class against all Defendants)

73. Plaintiffs incorporate herein by specific reference, as though fully set forth, the allegations in paragraphs 1 through 72.

74. Each and every one of Defendant's acts and omissions in violation of the California Labor Code and/or the applicable IWC Wage Orders as alleged herein, including but not limited to, Defendant's failure to provide required meal and rest breaks, failure to pay proper overtime compensation, failure to pay for off-the-clock work and donning and doffing, failure to pay all wages due to discharged or quitting employees or to pay timely wages, failure to furnish accurate itemized wage statements or to maintain required records, failure to provide for and maintain records relating to supplemental COVID-19 sick leave pursuant to Labor Code sections 246, 247.5, 248.1, 248.2, and 248.6; which all constitute an unfair and unlawful business practice under California Business and Professions Code § 17200 *et seq.*

75. Defendant's violations of California wage and hour laws constitute a business practice because the aforementioned acts and omissions were done repeatedly over a significant period of time, and in a systematic manner, to the detriment of Plaintiffs and Class members.

76. Among other practices, Defendant has avoided payment of wages, overtime wages, the provision of meal and rest breaks, and other benefits as required by the California Labor Code, the California Code of Regulations, and the applicable IWC Wage Orders. Further, Defendant has also failed to record, report, and pay the correct sums of assessment to the state authorities under the California Labor Code and other applicable regulations.

77. As a result of these unfair and unlawful business practices, Defendant has reaped unfair and illegal profits during the Class period at the expense of Plaintiffs and Class members, and members of the public. Defendant should be made to disgorge its ill-gotten gains and to restore them to Plaintiffs and Class members.

78. Defendant's unfair and unlawful business practices entitle Plaintiffs and Class members to seek preliminary and permanent injunctive relief, including but not limited to orders that Defendant account for, disgorge, and restore to Plaintiffs and Class members the wages and other compensation unlawfully withheld from them. Plaintiffs and Class members are entitled to restitution of all monies to be disgorged from Defendant in an amount according to proof at the time of trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually and on behalf of all other persons similarly situated, respectfully pray for relief against Defendant and DOES 1 through 50, inclusive, and each of them, as follows:

1. For compensatory damages in an amount to be ascertained at trial;
2. For restitution of all monies due to Plaintiff and Class members, as well as disgorged profits from the unfair and unlawful business practices of Defendant;
3. For meal and rest break compensation pursuant to California Labor Code § 226.7 and IWC Wage Order No. 1-2001 and all applicable IWC Wage Orders and pertinent sections;
4. For liquidated damages pursuant to California Labor Code § 1194.2;

1 5. For preliminary and permanent injunctive relief enjoining Defendant from
2 violating the relevant provisions of the California Labor Code and the IWC Wager Orders, and
3 from engaging in the unlawful business practices complained of herein;

4 6. For waiting time penalties pursuant to California Labor Code § 203;

5 7. For statutory penalties according to proof, including but not limited to all
6 penalties authorized by the California Labor Code §§ 210, 225.5, 226(e), 226.3, 558, 1174.5,
7 1775, and 1197.1;

8 8. An award of actual, statutory, and/or punitive damages to Plaintiffs and the Class
9 pursuant to California Civil Code §§ 1785.31 and 1786.50, in an amount subject to proof at trial;

10 9. For interest on the unpaid wages at 10 percent per annum pursuant to California
11 Labor Code §§ 218.6, 1194, 2802 and California Civil Code §§ 3287, 3288, and/or any other
12 applicable provision providing for pre-judgment interest;

13 10. For reasonable attorneys' fees and costs pursuant to California Labor Code §§
14 218.5, 226, 1194, 2802, et seq. and California Code of Civil Procedure § 1021.5, California Civil
15 Code § 1786.50(a)(2), California Civil Code § 1785.31(a), and/or any other applicable provisions
16 providing for attorneys' fees and costs;

17 11. For declaratory relief;

18 12. For an order requiring and certifying the First through Eleventh Causes of Action
19 as a class action;

20 13. For an order appointing Plaintiff as Class representative and Plaintiff's counsel as
21 Class counsel; and

22 14. For such further relief that the Court may deem just and proper.

23 **DEMAND FOR JURY TRIAL**

24 Plaintiffs on behalf of himself and all others similarly situated, hereby demands a jury

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1 trial with respect to all issues triable of right by jury.

2 DATED: October 31, 2024

THE WHEELER LAW FIRM, APC

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By: _____



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SCOTT ERNEST WHEELER
JUSTIN A. WHEELER

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*Attorney for Plaintiff and all others similarly
situated*

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