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on behalf of himself and all others similarly situated

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO**

JAMIE MIGUEL MOEN, an individual, on
behalf of himself and others similarly situated,

Plaintiff,

vs.

AUTOMATED ENGINEERING SERVICES,
INC., a California stock corporation; and DOES
1 through 50, inclusive,

Defendants.

Case No.:

CLASS ACTION

Assigned for All Purposes To:

Hon.

Dept.:

CLASS ACTION COMPLAINT FOR:

1. Failure to Pay Minimum Wages and for All Hours Worked;
2. Failure to Pay Wages and Overtime Under Labor Code § 510;
3. Meal Period Liability Labor Code § 226.7;
4. Rest Period Liability Labor Code § 226.7;
5. Violation of Labor Code § 226(a);
6. Failure to Maintain Records Required under Labor Code §§ 1174, 1174.5;
7. Violation of Labor Code § 204;
8. Violation of Labor Code § 203;
9. Violation of Labor Code § 221;
10. Failure to Reimburse Necessary Business Expenses Under Labor Code § 2802;
11. Violation of Business & Professions Code § 17200 *et seq.*

DEMAND FOR JURY TRIAL

1 Plaintiff JAMIE MIGUEL MOEN (hereinafter “Plaintiff”), on behalf of himself and all other
2 similarly situated non-exempt, hourly employees employed by Defendants in California during the
3 relevant period (collectively, “Employees”; individually, “Employee”), complains of Defendants as
4 follows:

5 **INTRODUCTION**

6 1. Plaintiff brings this action on behalf of himself and all current and former Employees
7 within the State of California who, at any time during the four years prior to the filing of this lawsuit,
8 are or were employed as non-exempt, hourly employees by Defendants AUTOMATED
9 ENGINEERING SERVICES, INC., a California stock corporation; and DOES 1 through 50 (all
10 defendants being collectively referred to herein as “Defendants”). Plaintiff alleges that Defendants
11 violated various provisions of the California Labor Code, relevant orders of the Industrial Welfare
12 Commission (IWC), and California Business & Professions Code, and seeks redress for these
13 violations.

14 2. Plaintiff worked as a lead orbital welder, fabricator, and field service engineer at
15 Defendants’ facilities and worksites in California. Defendants employed other similarly situated Class
16 members as welders, fabricators, engineers, and in similar and related positions in connection with
17 various biotech industry engineering and manufacturing services they provided to Defendants’
18 customers throughout California. Plaintiff and the other similarly situated Class members worked at
19 Defendants’ behest without being paid all wages due and without being provided all required breaks.
20 More specifically, Plaintiff and the other similarly situated Class members were employed by
21 Defendants and shared similar job duties and responsibilities, were subjected to the same policies and
22 practices, and endured similar violations at the hands of Defendants as the other Employees who
23 served in similar and related positions.

24 3. Defendants required Plaintiff and the Employees in the Class to work off the clock and
25 failed to record accurate time worked by these Employees, failed to pay them at the appropriate rates
26 for all hours worked, failed to pay all wages due and owing at termination or resignation, and provided
27 Plaintiff and the Class members with inaccurate wage statements that prevented them from learning
28 of these unlawful pay practices. Defendants also failed to provide Plaintiff and the Class with lawful

1 meal and rest periods, as Employees were required to remain under Defendants' control and were not
2 provided with the opportunity to take full uninterrupted, timely, and duty-free rest periods and meal
3 breaks, as required by the Labor Code and the applicable paragraphs of the IWC Wage Orders.

4 4. Defendant AUTOMATED ENGINEERING SERVICES, INC. ("AESI") is a
5 California stock corporation which lists its principal address with the California Secretary of State in
6 Oceanside, California located in San Diego County. It lists its type of business as Engineering
7 Services. "AUTOMATED ENGINEERING SERVICES INC" is listed as the employer on the wage
8 statements issued to Plaintiff by Defendants with an address in Oceanside, CA. Upon information and
9 belief, AESI maintains and operates offices and facilities throughout California, including in San
10 Diego County where Plaintiff predominantly worked. On information and belief, Defendants
11 maintain operations and locations throughout San Diego County and California conducting business
12 wherever their customers are located. AESI's website explains that: "Our commitment is to support
13 our clients at every stage of their journey, from research and development to commercial
14 manufacturing. Our comprehensive support enables clients to develop and produce cutting-edge, life-
15 saving pharmaceuticals and treatments. With our strategically placed elite engineers, we ensure
16 seamless support for diverse projects globally. At AES, we believe in solutions for better biotech, and
17 we are dedicated to being the trusted partner for biopharmaceutical companies, providing innovative
18 solutions that propel operations forward and enhance global health outcomes."

19 5. This Court has jurisdiction over this Action pursuant to California Code of Civil
20 Procedure § 410.10 and California Business & Professions Code § 17203. This Action is brought as
21 a Class Action on behalf of similarly situated Employees of Defendants pursuant to California Code
22 of Civil Procedure § 382. Venue as to Defendants is also proper in this judicial district pursuant to
23 California Code of Civil Procedure § 395 *et seq.* Upon information and belief, the obligations and
24 liabilities giving rise to this lawsuit occurred, at least in part, in San Diego County, where Defendants
25 maintain offices and facilities and where Plaintiff was employed.

26 6. The true names and capacities, whether individual, corporate, associate, or whatever
27 else, of the Defendants sued herein as Does 1 through 50, inclusive, are currently unknown to
28 Plaintiff, who therefore sues these Defendants by such fictitious names under Code of Civil Procedure

1 § 474. Plaintiff is informed and believes and thereon alleges that Defendants designated herein as
2 Does 1 through 50, inclusive, and each of them, is legally responsible in some manner for the unlawful
3 acts referred to herein. Plaintiff will seek leave of court to amend this Complaint to reflect the true
4 names and capacities of the Defendants designated herein as Does 1 through 50 when their identities
5 become known.

6 7. Plaintiff is informed and believes and thereon alleges that each Defendant acted in all
7 respects pertinent to this action as the agent of the other Defendants, that Defendants carried out a
8 joint scheme, business plan, or policy in all respects pertinent hereto, and that the acts of each
9 Defendant are legally attributable to the other Defendants. Furthermore, Defendants acted in all
10 respects as the employers or joint employers of Employees. Defendants, and each of them, exercised
11 control over the wages, hours or working conditions of Employees, created and implemented the
12 policies and practices that governed the employment of Plaintiff and the Class members and dictated
13 their job duties and responsibilities, or otherwise suffered or permitted Plaintiff and the other
14 Employee Class members to work, or engaged, thereby creating a common law employment
15 relationship, with the Employee Class members. Therefore, Defendants, and each of them, employed
16 or jointly employed the Employee Class members.

17 **FACTUAL BACKGROUND**

18 8. The Employees who comprise the Class, including Plaintiff, are non-exempt
19 employees of Defendants pursuant to the applicable Wage Order of the Industrial Welfare
20 Commission (“IWC”). During the period of four years prior to the filing of this action through its
21 resolution, Plaintiff and the Class members were employed by Defendants and either were not paid
22 by Defendants for all hours worked or were not paid at the appropriate minimum, regular and overtime
23 rates, including for meal period and rest break premium payments. Plaintiff also contends that
24 Defendants failed to pay him and the Class members all wages due and owing, including by
25 miscalculating wages owed and by requiring off the clock work, failed to provide meal and rest
26 breaks, and failed to furnish accurate wage statements and timely pay all wages owed, all in violation
27 of various provisions of the California Labor Code and applicable paragraphs of the IWC Wage
28 Orders.

1 9. During the course of Plaintiff's and the Class members' employment with Defendants,
2 they were not paid all wages they were owed, including for all work performed (resulting in "off the
3 clock" work) and for all their overtime hours worked, or were not paid at the correct rates. This has
4 resulted in systematic and ongoing violations of the California Labor Code and relevant IWC Wage
5 Orders. Upon information and belief, Defendants employ other non-exempt, hourly employees as
6 welders, fabricators, engineers and related positions based out of Defendants' facilities in California.

7 10. Plaintiff was employed by Defendant as a Lead Orbital Welder and Fabricator, with
8 duties that included welding and building skids and piping related to biotech equipment production,
9 maintenance, and service. Plaintiff generally worked about 40 hours per week, five shifts per week.
10 Plaintiff's scheduled hours generally ran from 6:00 a.m. through 2:30 p.m.

11 11. Despite their obligation to maintain accurate timekeeping records for hours worked by
12 the Class members, Defendants maintained a uniformly applied policy and practice across their
13 California facilities and work sites of improperly recording timekeeping entries for Class member
14 shift and meal start and end times, including by failing to maintain them. Upon information and belief,
15 the wage statements Defendants issued to Employees and the corresponding timekeeping records they
16 maintained and off the clock work they endured evidence systematic underpayment of regular hours
17 and overtime hours. Timekeeping records instead reflected, when they were recorded, rounded entries
18 that represented Class members' scheduled shift times rather than their actual hours worked. In
19 addition to being underpaid as detailed above, Plaintiff and upon information and belief the Class
20 members were paid late under Labor Code § 204 and failed to receive all wages owed at termination
21 under Labor Code § 203.

22 12. Defendants required Plaintiff to maintain his personal cell phone on him at all times
23 in order to promptly respond to work-related communications, such as responding to calls and texts
24 from management regarding scheduling and project updates. When combined with the additional off
25 the clock work addressed below, Plaintiff and the Class members were compelled to perform required
26 job duties without compensation for a significant portion of their daily work shifts.

27 13. Defendants followed a similar unlawful practice, upon information and belief, in
28 connection with other Employees in a concerted effort to limit and restrict regular and overtime hours

1 earned by and owing to Plaintiff and the other Class members. Time worked off the clock also caused
2 Plaintiff and other Class members to work beyond eight hours in a shift. As a result of the above-
3 described off the clock work, Defendants failed to pay Plaintiff and Class members overtime for
4 several minutes to hours before and at the end of work shifts which Defendants did not record in any
5 timekeeping or payroll records.

6 14. Plaintiff was therefore not paid for all his hours worked at the required minimum,
7 overtime and double time wage rates due to Defendants' policy and practice of requiring them to
8 work off the clock and without pay. With work shifts generally scheduled for eight hours or more,
9 this unpaid off the clock work resulted in Plaintiff and the Class members working past eight hours
10 on a shift, which required that they be paid at the correct overtime rate of 1.5 times their regular rate.
11 Defendants thus systematically underpaid Plaintiff and the Class members by failing to pay them at
12 the required overtime rates for all hours over eight in a work shift or over forty in a work week, and
13 all hours over twelve in a day at the required double time rate. Upon information and belief, the Class
14 members were bound by similar scheduling and work policies Defendants required them to follow
15 and endured similar violations as Plaintiff.

16 15. Defendants have either failed to maintain timekeeping records for Plaintiff that would
17 permit Plaintiff to discover the nature and extent of the off the clock work Defendants required and
18 the actual hours Plaintiff worked. By failing to pay for all hours worked, Defendants have committed
19 knowing and intentional ongoing violations of the record keeping requirements under the Labor Code
20 §§ 226 and 1174.

21 16. As a result of the above-described unlawful requirements to work off the clock, the
22 failure to accurately record all hours worked, and the other wage violations they endured at
23 Defendants' hands, Plaintiff and the Class members were not properly paid all wages earned and all
24 wages owed to them by Defendants, including when working more than eight hours in any given day
25 and/or more than forty hours in any given week. As a result of Defendants' unlawful policies and
26 practices, Plaintiff and Class members incurred overtime hours worked for which they were not
27 adequately and completely compensated, in addition to the hours they were required to work off the
28 clock at their regular rates.

1 17. The failure to pay for all hours worked and underpayment of wages to Plaintiff and
2 the Class members is and has been a direct consequence of Defendants' unlawful compensation
3 policies and practices, which upon information and belief applied uniformly to the Class members
4 working based out of Defendants' locations and facilities. As a result of the above-described unlawful
5 requirements to work off the clock, the failure to accurately record all hours worked and pay wages
6 at the correct rates, and the other wage violations they endured at Defendants' hands, Plaintiff and the
7 Class members were not properly paid all wages earned and all wages owed to them by Defendants,
8 including when working more than eight hours in any given day and/or more than forty hours in any
9 given week.

10 18. Therefore, from at least four years prior to the filing of this lawsuit and continuing to
11 the present, Defendants had a consistent policy or practice of failing to pay Employees for all hours
12 worked and failing to pay minimum wages for all time worked, as required by California law. Also,
13 from at least four years prior to the filing of this lawsuit and continuing to the present, Defendants
14 had a consistent policy or practice of failing to pay Employees overtime compensation at premium
15 overtime rates for all hours worked in excess of eight hours a day and/or forty hours a week, and
16 double-time rates for all hours worked in excess of twelve hours a day, in violation of Labor Code §
17 510 and the corresponding sections of IWC Wage Orders.

18 19. Defendants also failed to provide Plaintiff and the Class members with their required
19 meal periods, and the at least two ten-minute rest breaks required for scheduled shifts of eight hours.
20 Demanding workloads contributed to Defendants' common policy of failing to provide lawful meal
21 periods to Plaintiff and the Class members, as required under the Labor Code and Paragraph 11 of the
22 IWC Wage Order(s). Defendants similarly systematically failed to authorize and permit Plaintiff and
23 the employee Class Members to take all required 10-minute rest breaks, as required under the Labor
24 Code and Paragraph 12 of the IWC Wage Order(s).

25 20. More specifically, Plaintiff worked shifts that entitled him to at least one meal period,
26 but Defendants' required Plaintiff and the Class members to prioritize work over taking proper meal
27 periods. In fact, Defendants made no effort to even schedule or otherwise account for time for Plaintiff
28 and the Class members to use for duty-free, net thirty minute meal periods. To the extent Defendants

1 required Plaintiff to work over ten hours on a work shift, Defendants also failed to provide second
2 meal periods and Defendants have produced no evidence of premium payments for meal period
3 violations under Labor Code 226.7.

4 21. Defendants thus failed to provide all the legally required unpaid, off-duty meal periods
5 and all the legally required paid, off-duty rest periods to Plaintiff and the other Class members, as
6 required by the applicable Wage Order and Labor Code. Plaintiff and other Class members were
7 required to perform work as ordered by Defendants for more than five hours during a shift without
8 receiving compliant meal periods. Additionally, as addressed above, Defendants followed a practice
9 of requiring off the clock work that would impact when Employees were to receive meal periods and
10 failed to accurately and contemporaneously record meal start and end times, thus leading to further
11 systematic violations arising from uniformly applied and unlawful policies and practices.

12 22. Upon information and belief, Defendants' systems did not automatically generate a
13 meal period premium under Labor Code § 226.7 for meal periods that commenced after five hours
14 into a work shift or in the event the time punch records reflected a meal period of less than thirty
15 minutes. Defendants did not remedy this troublesome practice and upon information and belief failed
16 to pay required premiums or failed to pay them based on an accurate regular rate.

17 23. As a result, Defendants' failure to provide Plaintiff and the Class members with all
18 legally required off-duty, unpaid meal periods and all the legally required off-duty, paid rest periods
19 is and will be evidenced by Defendants' business records, or lack thereof. Therefore, for at least four
20 years prior to the filing of this action and through to the present, Plaintiff and the Class members were
21 unable to take off-duty breaks or were otherwise not provided with the opportunity to take required
22 breaks as required under the Labor Code and Wage Orders due to Defendants' policies and practices.
23 On the occasions when Plaintiff and the Class members were provided with a meal period, it was
24 often untimely or interrupted, or was impermissibly shortened, and Employees were not provided
25 with one hour's wages in lieu thereof. Meal period violations thus occurred in one or more of the
26 following manners:

- 27 (a) Class members were not provided full thirty-minute duty free meal periods for
28 work days in excess of five hours and were not compensated one hour's wages

1 in lieu thereof, all in violation of, among others, Labor Code §§ 226.7, 512,
2 and the applicable Industrial Welfare Commission Wage Order(s);

3 (b) Class members were required to work through at least part of their daily meal
4 period(s);

5 (c) Meal periods were provided after five hours of continuous work during a shift;

6 (d) Class members were restricted in their ability to take a full thirty-minute meal
7 period and/or were otherwise required to remain under Defendants' control
8 during meal periods; and

9 (e) Class members were not provided second full thirty-minute duty free meal
10 periods for work days in excess of ten hours.

11 24. Similar violations resulted from Defendants' failure to authorize and permit Plaintiff
12 and the Class members to take duty-free, net ten minute rest breaks for every four hours of shift work,
13 or major fraction thereof. Plaintiff and the other similarly situated Class members were either not
14 authorized permitted the opportunity to take a rest break, or were required to remain under
15 Defendants' control and respond to instructions from management and job demands if and when they
16 even attempted to take one. Upon information and belief, Defendants also failed to authorize and
17 permit employees to leave the worksite during rest breaks, evidencing Defendants' policy and practice
18 of requiring Plaintiff and the Class members to remain under their control during required off-duty
19 rest break times.

20 25. Defendants thus failed to authorize and permit duty-free ten minute rest breaks as
21 required under the Labor Code and IWC Wage Orders. In fact, Defendants made no effort to even
22 schedule or otherwise account for time for Plaintiff and the Class members to use for duty-free, net
23 ten minute rest breaks. This common and unlawful policy uniformly applied to the Employees during
24 the relevant period, meaning Defendants' rest break policy was not to schedule or otherwise authorize
25 and permit them. Plaintiff and the Class members worked eight to twelve hours on an average shift,
26 and were required to receive at least two rest breaks or three rest breaks on shifts over ten hours.
27 Defendants have produced no evidence of any payments for rest break violations under Labor Code
28 § 226.7. Defendants' uniformly applied policies and practices thus resulted in untimely and shortened

1 or on-duty rest breaks when they were authorized and permitted. Plaintiff and the Class members
2 worked shifts of at least eight hours, which required at least two rest breaks, and often worked shifts
3 over ten hours, which required at least three rest breaks.

4 26. During rest periods, employers must relieve employees of all duties and relinquish
5 control over how employees spend their time. Plaintiff and the Class members were and are under
6 Defendants' control when they are working through rest breaks and remaining under Defendants'
7 control. Defendants have also provided either impermissibly shortened or untimely rest breaks to
8 Plaintiff and the Class members. Plaintiff and the Employees in the Class were thus not authorized
9 and permitted to take lawful rest periods, were systematically required by Defendants to work through
10 or during breaks, and were not provided with one hour's wages in lieu thereof. They were required to
11 remain on-duty during breaks or portions of their breaks, thus making them either untimely or
12 shortened and on-duty, and they were also prevented from leaving the worksite and otherwise remain
13 under Defendants' control during rest breaks under Defendants' uniformly applied policies and
14 practices. Rest period violations therefore arose in one or more of the following manners:

- 15 (a) Class members were required to work without being provided a minimum ten
16 minute rest period for every four hours or major fraction thereof worked and
17 were not compensated one hour of pay at their regular rate of compensation for
18 each workday that a rest period was not provided;
- 19 (b) Class members were not authorized and permitted to take timely rest periods
20 for every four hours worked, or major fraction thereof;
- 21 (c) Class members were required to remain on duty and under Defendants' control
22 during rest periods or otherwise had their rest periods interrupted by work
23 demands.

24 27. Defendants have also consistently failed to provide Class members with timely,
25 accurate, and itemized wage statements, in writing, as required by California wage-and-hour laws,
26 including by the above-described requirement of off the clock work, failure to pay all overtime and
27 double time wages owed and failure to pay them at the appropriate premium rates, and failure to pay
28 premium wages for unprovided or otherwise unlawful meal and rest breaks, or by miscalculating any

1 overtime or meal period or rest break premium wages and by the systematic and unlawful deductions
2 Defendants took from Employee wages. Defendants have also made it difficult to account with
3 precision for the unlawfully withheld wages and meal and rest period compensation owed to Plaintiff
4 and the Class, during the liability period, including because they did not calculate the regular rate of
5 pay correctly when paying overtime or meal period premiums and because they did not implement
6 and preserve a record-keeping method as required for non-exempt employees by California Labor
7 Code §§ 226, 1174(d), and paragraph 7 of the applicable California Wage Orders. Upon information
8 and belief, time clock punches were not maintained or were not accurately maintained for work shifts
9 and meal periods. Defendants also failed to accurately record and pay for all regular and overtime
10 hours worked and submitted by Plaintiff and the Class members, including by failing to pay all
11 overtime hours at the correctly calculated overtime premium rate.

12 28. Defendants also provided Plaintiff and the Class members with wage statements that
13 failed to accurately report all hours worked and applicable hourly rates for all hours worked. For the
14 same reasons as explained above, Plaintiff and the Class members were provided with unlawful wage
15 statements that failed to reflect all hours worked and failed to pay for all overtime hours or failed to
16 pay overtime wages at the correct overtime premium rate, and Defendants miscalculated meal and
17 rest break premiums, and sick time if and when they did pay them. Defendants followed this unlawful
18 policy and practice even though both Plaintiff and Defendants were aware that Plaintiff and the Class
19 members worked more total hours than were reflected on the wage statements, including overtime
20 hours, and were underpaid by regular rate miscalculation. Plaintiff and the Employees in the Class
21 were unable to discern from their wage statements alone the actual hours they worked in total during
22 a pay period and the rates they were paid for those hours worked.

23 29. Defendants have thus willfully failed to comply with Labor Code § 226(a) by
24 inaccurately reporting total hours worked and total wages earned by Plaintiff and the Class members,
25 along with the appropriate applicable rates, among others requirements. Plaintiff and Class members
26 are therefore entitled to penalties not to exceed \$4,000.00 for each employee pursuant to Labor Code
27 § 226(b). Moreover, pursuant to paragraph 7 of the applicable California IWC Wage Orders,
28 Defendants failed to show when the employee begins and ends each work period, meal periods, and

1 wages earned pursuant to Labor Code § 226.7, and total daily hours worked by itemizing in wage
2 statements all deductions from payment of wages and accurately reporting total hours worked.

3 30. Defendants also required Plaintiff and the Class members to work hours off the clock
4 for which they were not compensated. They were required to endure off the clock work addressed
5 above, including during interrupted or otherwise on-duty meal and rest periods. Defendants also failed
6 to pay all overtime premium wages owed for work conducted on a work shift and a workday or failed
7 to pay it at the correct rate, as addressed above. Therefore, Defendants have followed a uniform and
8 consistent policy of failing to timely pay all wages owed to Plaintiff and other similarly situated
9 Employees as required by California wage-and-hour laws, including Labor Code § 204. Defendants
10 have also followed a uniform and consistent policy of failing to pay all wages owed to Plaintiff and
11 other similarly situated Employees at the time of their termination or within seventy-two hours of
12 their resignation, as required by California wage-and-hour laws, including Labor Code § 201-203.

13 31. From at least four years prior to the filing of this lawsuit and continuing to the present,
14 Defendants have also consistently violated Labor Code § 221 by unlawfully collecting or deducting
15 the Employees' earned wages, including by requiring off the clock work during breaks and before
16 and after work shifts and by miscalculating the regular rate and accordingly underpaying overtime
17 wages and meal and rest break premiums. By not compensating Employees for all hours worked at
18 the correct rates, Defendants unlawfully deducted wages earned by and owed to Plaintiff and the Class
19 members, in violation of Labor Code § 221.

20 32. As a result of these illegal policies and practices, Defendants also engaged in and
21 enforced the following additional unlawful practices and policies against Plaintiff and the Class
22 members he seeks to represent:

- 23 (a) failing to maintain accurate records of Class members' hours worked and
24 earned wages and meal periods in violation of Labor Code §§ 226 and 1174(d)
25 and section 7 of the applicable IWC Wage Orders;
- 26 (b) failing to pay all wages owed to the Class members twice monthly in
27 accordance with the requirements of Labor Code § 204;
- 28

1 (c) failing to pay all wages owed to Class members who either were discharged,
2 laid off, or resigned in accordance with the requirements of Labor Code §§ 201
3 – 203; and

4 (d) failing to pay Class members all wages owed, including all meal and rest period
5 premium wages, and failing to pay them at the regular rate of compensation.

6 33. Additionally, from at least four years prior to the filing of this lawsuit and continuing
7 to the present, Defendants have regularly required Plaintiff and the Class members to incur necessary
8 business expenses in the course of performing their required job duties without reimbursement. These
9 included personal cellphones, power tools, such as drills and saws, and carts to move the power tools.
10 Class members must be reimbursed for these necessary business expenses under Labor Code § 2802,
11 and Defendants systematically failed to do so.

12 34. In light of the foregoing, Plaintiff and the Employees in the Class bring this action
13 pursuant to, *inter alia*, Labor Code §§ 201, 202, 203, 204, 218, 218.5, 218.6, 221, 226, 226.4, 226.7,
14 510, 511, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2 1197, 1198, 1199, 2802, and
15 California Code of Regulations, Title 8, section 11000 *et seq.*

16 35. Furthermore, pursuant to Business and Professions Code §§ 17200-17208, Plaintiff
17 and the Class members seek injunctive relief, restitution, and disgorgement of all benefits Defendants
18 have enjoyed from their violations of Labor Code and the other unfair, unlawful, or fraudulent
19 practices alleged in this Complaint.

20 **CLASS ALLEGATIONS**

21 36. Plaintiff brings this class action on behalf of himself, and all others similarly situated
22 pursuant to Code of Civil Procedure § 382. Plaintiff seeks to represent a Class (or “the Class” or
23 “Class members”) defined as follows: “All individuals employed by Defendants at any time during
24 the period of four (4) years prior to the filing of this lawsuit and ending on a date as determined by
25 the Court (“the Class Period”), and who have been employed as non-exempt, hourly employees within
26 the State of California.” This includes welders, fabricators, engineers, and those employed in similar
27 and related positions in connection to various biotech industry engineering and manufacturing
28 services provided to Defendants’ customers throughout California. Further, Plaintiff seeks to

1 represent the Subclasses composed of and defined as follows:

2 a. Subclass 1. Minimum Wages Subclass. All Class members who were not
3 compensated for all hours worked for Defendants at the applicable minimum wage.

4 b. Subclass 2. Wages and Overtime Subclass. All Class members who were
5 not compensated for all hours worked for Defendants at the required rates of pay, including for all
6 hours worked in excess of eight in a day and/or forty in a week.

7 c. Subclass 3. Meal Period Subclass. All Class members who were subject to
8 Defendants' policy and/or practice of failing to provide unpaid 30-minute uninterrupted and duty-free
9 meal periods or one hour of pay at the Employee's regular rate of pay in lieu thereof.

10 d. Subclass 4. Rest Break Subclass. All Class members who were subject to
11 Defendants' policy and/or practice of failing to authorize and permit Employees to take uninterrupted,
12 duty-free, 10-minute rest periods for every four hours worked, or major fraction thereof, and failing
13 to pay one hour of pay at the Employee's regular rate of pay in lieu thereof.

14 e. Subclass 5. Wage Statement Subclass. All Class members who, within the
15 applicable limitations period, were not provided with accurate itemized wage statements.

16 f. Subclass 6. Failure to Timely Pay Wages Twice Monthly Subclass. All
17 Class members who were subject to Defendants' policy and practice of not timely paying all wages
18 earned when they were due and payable at least twice monthly.

19 g. Subclass 7. Termination Pay Subclass. All Class members who, within the
20 applicable limitations period, either voluntarily or involuntarily separated from their employment and
21 were subject to Defendants' policy and/or practice of failing to timely pay wages upon termination.

22 h. Subclass 8. Payroll Records Subclass. All Class members who were subject
23 to Defendants' policy and/or practice of failing to keep accurate time and wage records as required
24 by California wage-and-hour laws.

25 i. Subclass 9. Unauthorized Deductions from Wages Subclass. All Class
26 members who were subject to Defendants' policy and/or practice of deducting wages earned from
27 their pay, including by requiring off the clock work.

28

1 j. Subclass 10. Expense Reimbursement Subclass. All Class members who
2 incurred necessary and reasonable expenses in connection with performing their job duties for
3 Defendants and who were subject to a policy and/or practice under which such expenses were not
4 reimbursed.

5 k. Subclass 11. UCL Subclass. All Class members who are owed restitution as a
6 result of Defendants' business acts and practices, to the extent such acts and practices are found to be
7 unlawful, deceptive, and/or unfair.

8 37. Plaintiff reserves the right under California Rule of Court 3.765 to amend or modify
9 the class description with greater particularity or to provide further division into subclasses or
10 limitation to particular issues. To the extent equitable tolling operates to toll claims by the Class
11 against Defendants, the Class Period should be adjusted accordingly.

12 38. Defendants, as a matter of company policy, practice and procedure, and in violation
13 of the applicable Labor Code, Industrial Welfare Commission ("IWC") Wage Order requirements,
14 and the applicable provisions of California law, intentionally, knowingly, and willfully, engaged in a
15 practice whereby Defendants failed to correctly calculate and pay compensation for the time worked
16 by Plaintiff and the other members of the Class, even though Defendants enjoyed the benefit of this
17 work, required Employees to perform this work and permitted or suffered to permit this work.
18 Defendants have uniformly denied these Class members wages to which these employees are entitled,
19 and failed to provide meal periods or authorize and permit rest periods, in order to unfairly cheat the
20 competition and unlawfully profit.

21 39. This action has been brought and may properly be maintained as a class action under
22 the provisions of Code of Civil Procedure § 382 because there is a well-defined community of interest
23 in this litigation and the proposed Class is easily ascertainable from the employment records for
24 Plaintiff and the Class members that Defendants are required to maintain under California law.

25 **A. Numerosity**

26 40. The potential members of the Class as defined are so numerous that joinder of all the
27 Class members is impracticable. While the precise number of Class member has not been determined
28 at this time, Plaintiff is informed and believes that Defendants employ or, during the time period

relevant to this lawsuit employed, hundreds of Employees who satisfy the Class definition within the State of California. Plaintiff alleges that Defendants' employment records will provide information as to the number and location of all Class members.

B. Commonality

41. There are questions of law and fact common to the Class that predominate over any questions affecting only individual Class members. The common questions are numerous and substantial and flow from Defendants' uniform policies and/or practices of violating the California Labor Code addressed above. As such, these common questions predominate over individual questions concerning each individual Class Member's showing as to his or her eligibility for recovery or as to the amount of damages. These common questions of law and fact include:

- a. Whether Defendants failed to pay Employees minimum wages;
- b. Whether Defendants failed to pay Employees wages for all hours worked;
- c. Whether Defendants failed to pay Employees overtime as required under Labor Code § 510;
- d. Whether Defendants violated Labor Code § 1194 by failing to compensate all Employees during the relevant time period for all hours worked, whether regular or overtime;
- e. Whether Defendants violated Labor Code §§ 226.7 and 512, and the applicable IWC Wage Orders, by failing to provide Employees with requisite meal periods or premium pay in lieu thereof;
- f. Whether Defendants violated Labor Code §§ 226.7, and the applicable IWC Wage Orders, by failing to authorize and permit Employees to take requisite rest breaks, or provide premium pay in lieu thereof;
- g. Whether Defendants' conduct was willful;
- h. Whether Defendants violated Labor Code § 226(a) by providing Employees with inaccurate wage statements and wage statements that omitted many of the Section 226(a) requirements;

- i. Whether Defendants violated Labor Code § 226 and § 1174 and §1198 and the IWC Wage Orders by failing to maintain accurate records of Class members' earned wages and work periods;
- j. Whether Defendants violated Labor Code §§ 1174 and 1174.5;
- k. Whether Defendants violated Labor Code § 204 by failing to pay Employees all wages earned at least twice monthly;
- l. Whether Defendants violated Labor Code §§ 201, 202, and 203 by failing to pay wages and compensation due and owing at the time of termination of employment;
- m. Whether Defendants violated Labor Code § 221;
- n. Whether Defendants violated Labor Code § 2802 by failing to reimburse necessary business expenses incurred by Employees;
- o. Whether Defendants violated Business and Professions Code § 17200 *et seq.*; and
- p. Whether Employees are entitled to equitable relief pursuant to Business and Professions Code § 17200 *et seq.*

C. Typicality

42. The claims of the named Plaintiff are typical of those of the other Employees. The Employee Class members all sustained injuries and damages arising out of and caused by Defendants' common course of conduct and uniformly applied policies in violation of statutes, as well as regulations, that have the force and effect of law, as alleged herein. Plaintiff's claims for the off the clock work and meal and rest violations he was required to endure are typical of those of the other Class members.

D. Adequacy of Representation

43. Plaintiff will fairly and adequately represent and protect the interest of the Employee Class members. Counsel who represents Plaintiff and the Employees in the Class are experienced and competent in litigating employment class actions.

E. Superiority of Class Action

44. A class action is superior to other available means for the fair and efficient adjudication of this controversy. Individual joinder of all Employees is not practicable, and questions of law and

fact common to all Employees predominate over any questions affecting only individual Employees. Each Employee in the Class has been damaged and is entitled to recovery by reason of Defendants' illegal policies or practices of failing to compensate Employees properly.

45. As to the issues raised in this case, a class action is superior to all other methods for the fair and efficient adjudication of this controversy, as joinder of all Class members is impracticable and many legal and factual questions to be adjudicated apply uniformly to all Class members. Further, as the economic or other loss suffered by vast numbers of Class members may be relatively small, the expense and burden of individual actions makes it difficult for the Class members to individually redress the wrongs they have suffered. Moreover, in the event disgorgement is ordered, a class action is the only mechanism that will permit the employment of a fluid fund recovery to ensure that equity is achieved. There will be relatively little difficulty in managing this case as a class action, and proceeding on a class-wide basis will permit Employees to vindicate their rights for violations they endured which they would otherwise be foreclosed from receiving in a multiplicity of individual lawsuits that would be cost prohibitive to them.

46. Class action treatment will allow those persons similarly situated to litigate their claims in the manner that is most efficient and economical for the parties and the judicial system. Plaintiff is unaware of any difficulties in managing this case that should preclude class treatment. Plaintiff contemplates the eventual issuance of notice to the proposed Class members that would set forth the subject and nature of the instant action. The Defendants' own business records can be utilized for assistance in the preparation and issuance of the contemplated notices. To the extent that any further notice is required additional media and/or mailings can be used.

47. Defendants, as prospective and actual employers of the Employees in the Class, had a special fiduciary duty to disclose to prospective Class members the true facts surrounding Defendants' pay practices, policies and working conditions imposed upon the similarly situated Employees as well as the effect of any alleged arbitration agreements that may have been forced upon them. In addition, Defendants knew they possessed special knowledge about pay practices and policies, most notably intentionally refusing to pay for all hours actually worked which should have been recorded in Defendants' pay records and the consequence of the alleged arbitration agreements

1 and policies and practices on the Employees and Class as a whole.

2 48. Plaintiff and the Employees in the Class did not discover the fact that they were entitled
3 to all pay under the Labor Code until shortly before the filing of this lawsuit nor was there any
4 discussion about Plaintiff's and the Class members' waiver of their Constitutional rights of trial by
5 jury, to collectively organize and oppose unlawful pay practices under California law as well as obtain
6 injunctive relief preventing such practices from continuing. As a result, the applicable statutes of
7 limitation tolled until such time as Plaintiff and the Class members discovered their claims.

8 **FIRST CAUSE OF ACTION**

9 **FAILURE TO PAY MINIMUM WAGES**

10 **(Against All Defendants)**

11 49. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
12 full herein.

13 50. Defendants failed to pay Employees minimum wages for all hours worked. Defendants
14 had a consistent policy of failing to pay Employees for all hours worked. Employees would work
15 hours and not receive wages, including as alleged above in connection with off the clock work,
16 including all the time required to remain on duty and under Defendants' control during breaks and
17 due to the work demands placed upon them by Defendants' management and by paying what should
18 have been overtime hours as regular hours. Defendants' uniformly applied policies required
19 systematic off the clock work and underpayment of all wages owed to Employees over a period of
20 time, while benefiting Defendants.

21 51. During the relevant time period, Defendants thus regularly failed to pay minimum
22 wages to Plaintiff and the Class members, including by requiring systematic off the clock work. To
23 the extent any local wage ordinances were also applicable to paying the employees an hourly rate
24 above the minimum wage rate, Defendants failed to comply with the local wage ordinances.
25 Defendants' uniform pattern of unlawful wage and hour practices manifested, without limitation,
26 applicable to the Class as a whole, as a result of implementing a uniform policy and practice that
27 denied accurate compensation to Plaintiff and the other members of the Class as to minimum wage
28 pay.

1 52. In California, employees must be paid at least the applicable state minimum wage for
2 all hours worked, including under Labor Code § 1197, IWC Wage Order MW-2014, and paragraphs
3 2(K), 2(S), and 4(A)-4(C) of the applicable IWC Wage Orders. Also, pursuant to California Labor
4 Code § 204, other applicable laws and regulations, and public policy, an employer must timely pay
5 its employees for all hours worked. Defendants failed to do so.

6 53. California Labor Code § 1197, entitled “Pay of Less Than Minimum Wage” states:
7 “The minimum wage for employees fixed by the commission is the minimum wage to be paid to
8 employees, and the payment of a less wage than the minimum so fixed is unlawful.” The applicable
9 minimum wage rate fixed by the commission for work during the relevant period is found in the Wage
10 Orders.

11 54. The minimum wage provisions of California Labor Code are enforceable by private
12 civil action pursuant to Labor Code § 1194(a) which states: “Notwithstanding any agreement to work
13 for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime
14 compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of
15 the full amount of this minimum wage or overtime compensation, including interest thereon,
16 reasonable attorney’s fees and costs of suit.”

17 55. As described in California Labor Code §§ 1185 and 1194.2, any action for wages
18 incorporates the applicable Wage Order of the California Industrial Welfare Commission. Also,
19 California Labor Code §§ 1194, 1197, 1197.1 and those Industrial Welfare Commission Wage Orders
20 entitle non-exempt employees to an amount equal to or greater than the minimum wage for all hours
21 worked. All hours must be paid at the statutory or agreed rate, or at the minimum rate in the absence
22 of a contractually agreed upon one.

23 56. In committing these violations of the California Labor Code, Defendants inaccurately
24 recorded, or required Plaintiff and the Class members to input times that did not reflect their actual
25 hours worked, or miscalculated hours or rates or otherwise underpaid the actual time worked by
26 Plaintiff and other members of the Class, including by requiring off the clock work as addressed in
27 detail above. Defendants acted in an illegal attempt to avoid the payment of all earned wages in
28 violation of the California Labor Code, the Industrial Welfare Commission requirements and other

1 applicable laws and regulations. As a result of these violations, Defendants also failed to timely pay
2 all wages earned in accordance with California Labor Code § 1194.

3 57. California Labor Code § 1194.2 also provides for the following remedies: “In any
4 action under Section 1194 . . . to recover wages because of the payment of a wage less than the
5 minimum wages fixed by an order of the commission, an employee shall be entitled to recover
6 liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.”

7 58. In addition to restitution for all unpaid wages, pursuant to California Labor Code §
8 1197.1, Plaintiff and Class members are entitled to recover a penalty of \$100.00 for the initial failure
9 to timely pay each employee minimum wages, and \$250.00 for each subsequent failure to pay each
10 employee minimum wages.

11 59. Pursuant to California Labor Code § 1194.2, Plaintiff and Class members are further
12 entitled to recover liquidated damages in an amount equal to wages unlawfully unpaid and interest
13 thereon.

14 60. Defendants have the ability to pay minimum wages for all time worked and have
15 willfully refused to pay such wages with the intent to secure for Defendants a discount upon this
16 indebtedness with the intent to annoy, harass, oppress, hinder, delay, or defraud Employees.

17 61. Plaintiff and the Class members are entitled to recover the unpaid minimum wages
18 (including double minimum wages) and local wage ordinance wages and liquidated damages in an
19 amount equal to the minimum wages unlawfully unpaid, interest thereon and reasonable attorney’s
20 fees and costs of suit pursuant to California Labor Code § 1194(a). Plaintiff and the other members
21 of the Class further request recovery of all unpaid wages, according to proof, interest, statutory costs,
22 as well as the assessment of any statutory penalties against Defendants, in a sum as provided by the
23 California Labor Code and/or other applicable statutes. To the extent minimum wage compensation
24 is determined to be owed to the Class members who have terminated their employment, Defendants’
25 conduct also violates Labor Code §§ 201 and/or 202, and therefore these individuals are also be
26 entitled to waiting time penalties under California Labor Code § 203, which penalties are sought
27 herein on behalf of these Class members. Defendants’ failure to timely pay all wages owed also
28 violated Labor Code § 204 and resulted in violations of Labor Code § 226 because they resulted in

1 the issuance of inaccurate wage statements. Defendants' conduct as alleged herein was willful,
2 intentional, and not in good faith. Further, Plaintiff and other Class members are entitled to seek and
3 recover statutory costs.

4 **SECOND CAUSE OF ACTION**

5 **FAILURE TO PAY WAGES AND OVERTIME UNDER LABOR CODE § 510**

6 **(Against All Defendants)**

7 62. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
8 full herein.

9 63. California Labor Code § 1194 provides that "any employee receiving less than the
10 legal minimum wage or the legal overtime compensation applicable to the employee is entitled to
11 recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime
12 compensation, including interest thereon, reasonable attorney's fees, and costs of suit." The action
13 may be maintained directly against the employer in an employee's name without first filing a claim
14 with the Division of Labor Standards and Enforcement.

15 64. By their conduct, as set forth herein, Defendants violated Labor Code § 1194 and
16 Labor Code § 510 (and paragraphs 2(K), 2(S), 3(A) and 4(A)-4(B) of the relevant orders of the
17 Industrial Welfare Commission) by failing to pay Employees: (a) time and one-half their regular
18 hourly rates for hours worked in excess of eight (8) hours in a workday or in excess of forty (40)
19 hours in any workweek or for the first eight (8) hours worked on the seventh day of work in any one
20 workweek; or (b) twice their regular rate of pay for hours worked in excess of twelve (12) hours in
21 any one (1) day or for hours worked in excess of eight (8) hours on any seventh day of work in a
22 workweek.

23 65. Defendants had a consistent policy of not paying Employees wages for all hours
24 worked, including by requiring off the clock work as addressed above, by unlawful deductions, by
25 under-reporting actual hours worked, and by requiring Employees to do so as well. Defendants have
26 also failed to include all forms of remuneration in the regular rate of pay used to calculate and pay
27 overtime, and failed to begin paying overtime when it was incurred due to the off the clock work, as
28 detailed above.

1 66. Defendants thus had a consistent policy of not paying Employees wages for all hours
2 worked, including hours at their required regular, overtime, and double-time rates. Defendants, and
3 each of them, have intentionally and improperly caused Employees to work off the clock to avoid
4 paying Plaintiff and the Class members all earned and owed straight time and overtime wages and
5 other benefits, in violation of the California Labor Code, the California Code of Regulations and the
6 IWC Wage Orders and guidelines set forth by the Division of Labor Standards and Enforcement.
7 Defendants have also violated these provisions by requiring Plaintiff and other similarly situated non-
8 exempt employees to work through meal periods or remain under Defendants' control when they
9 were required to be clocked out or to otherwise work off the clock to complete their daily job duties
10 and respond to demands from customers and managers.

11 67. Therefore, Employees were not properly compensated, nor were they paid overtime
12 rates for hours worked in excess of eight hours in a given day, and/or forty hours in a given week.
13 Based on information and belief, Defendants did not make available to Employees a reasonable
14 protocol for correcting time records when Employees worked overtime hours or to fix incorrect time
15 entries or those that Defendants unlawfully under-recorded to the Employee's detriment. Defendants
16 have also violated these provisions by requiring Plaintiff and other similarly situated Class members
17 to work through meal periods when they were required to be clocked out or to otherwise work off the
18 clock to complete their daily job duties.

19 68. Defendants' failure to pay Plaintiff and the Class members the unpaid balance of
20 regular wages owed and overtime compensation for all hours worked, as required by California law,
21 violates the provisions of Labor Code §§ 510 and 1198 and paragraph 3(A) of the applicable IWC
22 Wage Order, and is therefore unlawful. Defendants also failed to correctly calculate the regular rate
23 used to calculate and pay overtime, and meal and rest premiums, as addressed above.

24 69. Additionally, Labor Code § 558(a) provides "any employer or other person acting on
25 behalf of an employer who violates, or causes to be violated, a section of this chapter or any provisions
26 regulating hours and days of work in any order of the IWC shall be subject to a civil penalty as
27 follows: (1) For any violation, fifty dollars (\$50) for each underpaid employee for each pay period
28 for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages.

1 (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each
2 pay period for which the employee was underpaid in addition to an amount sufficient to recover
3 underpaid wages. (3) Wages recovered pursuant to this section shall be paid to the affected
4 employee.” Labor Code § 558(c) states, “the civil penalties provided for in this section are in addition
5 to any other civil or criminal penalty provided by law.” Defendants have violated provisions of the
6 Labor Code regulating hours and days of work as well as the IWC Wage Orders. Accordingly,
7 Plaintiff and the Class members seek the remedies set forth in Labor Code § 558.

8 70. Defendants’ failure to pay compensation in a timely fashion also constituted a
9 violation of California Labor Code § 204, which requires that all wages shall be paid semimonthly.
10 From four (4) years prior to the filing of this lawsuit to the present, in direct violation of that provision
11 of the California Labor Code, Defendants have failed to pay all wages and overtime compensation
12 earned by Employees. Each such failure to make a timely payment of compensation to Employees
13 constitutes a separate violation of California Labor Code § 204.

14 71. Employees have been damaged by these violations of California Labor Code §§ 204
15 and 510 (and the relevant orders of the Industrial Welfare Commission). Additionally, under Labor
16 Code § 1199(a)-(c), it is a misdemeanor and Defendants are subject to a fine of not less than \$100 for
17 causing Employees “to work for longer hours than those fixed, or under conditions of labor prohibited
18 by an order of the commission” or if the employer pays “a wage less than the minimum fixed by an
19 order of the commission” or “violates...any provision of this chapter or any order or ruling of the
20 commission.”

21 72. Consequently, pursuant to the California Labor Code, including Labor Code §§ 204,
22 510, 558, 1194, 1198, 1199, and the relevant paragraphs of the IWC Wage Orders, including
23 paragraphs 2(K), 2(S), 3(A), 4, and 20, Defendants are liable to Employees for the full amount of all
24 their unpaid wages and overtime compensation for all their hours worked, with interest, plus their
25 reasonable attorneys’ fees and costs, as well as the assessment of any statutory penalties against
26 Defendants, and each of them, and any additional sums as provided by the Labor Code and/or other
27 statutes.

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1 **THIRD CAUSE OF ACTION**

2 **MEAL-PERIOD LIABILITY UNDER LABOR CODE § 226.7**

3 **(Against All Defendants)**

4 73. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
5 full herein.

6 74. Employees regularly worked shifts greater than five (5) hours and in some instances,
7 greater than ten (10) hours. Pursuant to Labor Code § 512, and paragraph 11 of the applicable IWC
8 Wage Order, an employer may not employ someone for a shift of more than five (5) hours without
9 providing him or her with a meal period of not less than thirty (30) minutes or for a shift of more than
10 ten (10) hours without providing him or her with a second meal period of not less than thirty (30)
11 minutes.

12 75. Defendants failed to provide Employees with meal periods as required under the Labor
13 Code and paragraph 11 of the applicable IWC Wage Order. Employees were often required to work
14 or to otherwise remain under Defendants' control during meal periods, or Defendants provided them
15 after Employees worked beyond the fifth hour of their shifts or Employees otherwise had them
16 shortened and interrupted by work demands and requirements to perform off the clock work and
17 remain under Defendants' control. Furthermore, upon information and belief, on the occasions when
18 Employees worked more than ten hours in a given shift, they did so without receiving a second
19 uninterrupted thirty-minute meal period as required by law.

20 76. Defendants thus failed to provide Plaintiff and the Class members with meal periods
21 as required by the Labor Code and paragraph 11 of the applicable IWC Wage Order, including by not
22 providing them with the opportunity to take meal breaks, by providing them late or for less than thirty
23 minutes, or by requiring them to perform work during breaks.

24 77. Moreover, Defendants failed to compensate Employees for each meal period not
25 provided or inadequately provided, as required under Labor Code § 226.7 and paragraphs 11 and 20
26 of the applicable IWC Wage Orders, which provide that, if an employer fails to provide an employee
27 a meal period in accordance with this section, the employer shall pay the employee one (1) hour of
28 pay at the employee's regular rate of compensation for each workday that the meal period is not

1 provided. As detailed above, on the occasions when Defendants did pay any meal period premiums,
2 they upon information and belief underpaid them by miscalculating the regular rate of compensation
3 by not including all forms of remuneration in it. Defendants thus failed to compensate the Employees
4 in the Class for each meal period not provided or inadequately provided, as required under Labor
5 Code § 226.7 and paragraphs 11 and 20 of the applicable IWC Wage Order.

6 78. Therefore, pursuant to Labor Code § 226.7 and paragraphs 11 and 20 of the applicable
7 IWC Wage Order, Employees in the Class are entitled to damages in an amount equal to one (1) hour
8 of wages at their effective hourly rates of pay for each meal period not provided or deficiently
9 provided, a sum to be proven at trial, as well as the assessment of any statutory penalties against the
10 Defendants, and each of them, in a sum as provided by the Labor Code and other statutes and
11 applicable IWC Wage Order paragraphs.

12 **FOURTH CAUSE OF ACTION**

13 **REST-BREAK PERIOD LIABILITY UNDER LABOR CODE § 226.7**

14 **(Against All Defendants)**

15 79. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
16 full herein.

17 80. Labor Code §§ 226.7 and paragraph 12 of the applicable IWC Wage Orders provide
18 that employers must authorize and permit all employees to take rest periods at the rate of ten minutes
19 net rest time per four (4) work hours.

20 81. Employees consistently worked consecutive four hour shifts and were generally
21 scheduled for shifts of greater than 3.5 hours total, thus requiring Defendants to authorize and permit
22 them to take rest periods. Pursuant to the Labor Code and paragraph 12 of the applicable IWC Wage
23 Order, Employees were entitled to paid rest breaks of not less than ten minutes for each consecutive
24 four hour shift, and Defendants failed to provide Employees with timely rest breaks of not less than
25 ten minutes for each consecutive four hour shifts. Defendants made no effort to authorize and permit
26 Plaintiff and the Class members to take lawful rest breaks. Employees were often required to work or
27 to otherwise remain under Defendants' control during rest periods, including by responding to work
28 requirements, being prohibited from leaving the worksites, and had breaks provided untimely as a

1 result of the above described off the clock work.

2 82. Labor Code §§ 226.7 and paragraphs 12 and 20 of the applicable IWC Wage Orders
3 provide that if an employer fails to provide an employee rest period in accordance with this section,
4 the employer shall pay the employee one hour of pay at the employee's regular rate of compensation
5 for each workday that the rest period is not provided. Defendants failed to do so.

6 83. Defendants, and each of them, have therefore intentionally and improperly denied rest
7 periods to Plaintiff and the Class members in violation of Labor Code §§ 226.7 and 512 and paragraph
8 12 of the applicable IWC Wage Orders.

9 84. Defendants failed to authorize and permit Plaintiff and the Class members to take rest
10 periods, as required by the Labor Code. Moreover, Defendants did not compensate Employees with
11 an additional hour of pay at each Employee's hourly rate for each day that Defendants failed to
12 provide them with adequate rest breaks, as required under Labor Code § 226.7 and paragraphs 12 and
13 20 of the applicable IWC Wage Orders. To the extent Defendants paid any rest break premiums, they
14 upon information and belief, underpaid them by miscalculating the regular rate of compensation by
15 not including all forms of remuneration in it. Defendants thus failed to compensate the Employees in
16 the Class for each rest period not provided or inadequately provided, as required under Labor Code §
17 226.7 and paragraphs 11 and 20 of the applicable IWC Wage Order.

18 85. Therefore, pursuant to Labor Code § 226.7 and paragraphs 12 and 20 of the applicable
19 IWC Wage Orders, Employees are entitled to damages in an amount equal to one hour of wages at
20 their effective hourly rates of pay for each day worked without the required rest breaks, a sum to be
21 proven at trial, as well as the assessment of any statutory penalties against Defendants, and each of
22 them, in a sum as provided by the Labor Code and/or other statutes.

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FIFTH CAUSE OF ACTION
VIOLATION OF LABOR CODE § 226
(Against All Defendants)

86. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

87. California Labor Code § 226(a) requires an employer to furnish each of his or her employees with an accurate, itemized statement in writing showing the gross and net earnings, total hours worked, and the corresponding number of hours worked at each hourly rate; these statements must be appended to the detachable part of the check, draft, voucher, or whatever else serves to pay the employee's wages; or, if wages are paid by cash or personal check, these statements may be given to the employee separately from the payment of wages; in either case the employer must give the employee these statements twice a month or each time wages are paid.

88. Defendants failed to provide Plaintiff and the similarly situated Employee Class members with accurate itemized wage statements in writing, as required by the Labor Code and paragraph 7 of the applicable IWC Wage Orders. Specifically, the wage statements issued to Employees by Defendants failed to accurately account for wages, overtime, and premium pay, including for all overtime and double time hours worked and for deficient meal periods and rest breaks, all of which Defendants knew or reasonably should have known were owed to the Employees, as alleged above.

89. Throughout the liability period, Defendants intentionally failed to furnish to Plaintiff and the Class members, upon each payment of wages, itemized statements accurately showing: (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate paid on a piece-rate basis, (4) all deductions, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee pursuant to Labor Code § 226 and paragraph 7 of

1 the applicable IWC Wage Orders, amongst other statutory requirements. Defendants knowingly and
2 intentionally failed to provide Plaintiff and the Class members with such timely and accurate wage
3 and hour statements.

4 90. Plaintiff and the Class members suffered injury as a result of Defendants' knowing
5 and intentional failure to provide them with the wage and hour statements as required by law and are
6 presumed to have suffered injury and entitled to penalties under Labor Code § 226(e), as the
7 Defendants have failed to provide an accurate wage statement, failed to provide accurate and complete
8 information as required by any one or more of items Labor Code § 226 (a)(1) to (9), inclusive, and
9 the Plaintiff and Class members cannot promptly and easily determine from the wage statement alone
10 one or more of the following: (i) The amount of the gross wages or net wages paid to the employee
11 during the pay period or any of the other information required to be provided on the itemized wage
12 statement pursuant to items (2) to (4), inclusive, (6), and (9) of subdivision (a), (ii) Which deductions
13 the employer made from gross wages to determine the net wages paid to the employee during the pay
14 period, (iii) The name and address of the employer and, (iv) The name of the employee and only the
15 last four digits of his or her social security number or an employee identification number other than
16 a social security number. For purposes of Labor Code § 226(e) "promptly and easily determine"
17 means a reasonable person [i.e. an objective standard] would be able to readily ascertain the
18 information without reference to other documents or information.

19 91. Additionally, under paragraph 4(B) of the applicable IWC Wage Orders, employers
20 are required "to pay each employee, on the established payday for the period involved, not less than
21 the applicable minimum wage for all hours worked in the payroll period, ..." Under Labor Code §
22 1198, "[t]he employment of any employee for longer hours than those fixed by the order or under
23 conditions of labor prohibited by the order is unlawful." Plaintiff and the Class members may
24 therefore pursue damages and penalties for violations of Labor Code § 204 and paragraph 4(B) of the
25 applicable IWC Wage Orders, including penalties under paragraph 20 of the applicable IWC Wage
26 Orders.

27 92. Therefore, as a direct and proximate cause of Defendants' violation of Labor Code §
28 226(a) and paragraphs 4(b), 7, and 20 of the applicable IWC Wage Orders, the Employees in the

1 Class suffered injuries, including among other things confusion over whether they received all wages
2 owed them, the difficulty and expense involved in reconstructing pay records, and forcing them to
3 make mathematical computations to analyze whether the wages paid in fact compensated them
4 correctly for all hours worked.

5 93. Pursuant to Labor Code §§ 226(a) and 226(e), and paragraph 20 of the applicable IWC
6 Wage Order, Plaintiff and the Employee Class members are entitled to recover the greater of all actual
7 damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred
8 dollars (\$100) for each violation in a subsequent pay period, not exceeding an aggregate penalty of
9 four thousand dollars (\$4,000) under Section 226(e). They are also entitled to an award of costs and
10 reasonable attorneys' fees.

11 **SIXTH CAUSE OF ACTION**

12 **FAILURE TO KEEP REQUIRED PAYROLL RECORDS, LABOR CODE §§ 1174, 1174.5**

13 **(Against All Defendants)**

14 93. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth
15 in full herein.

16 94. California Labor Code § 1174 requires that all employers shall keep accurate time
17 and wage records for all employees. California Labor Code § 1174.5 further requires that any
18 employee suffering injury due to a willful violation of the aforementioned obligations may seek
19 damages, including civil penalties, from the employer.

20 95. During the course of Plaintiff's and Employees' employment, Defendants
21 consistently failed to maintain accurate time and wage records for Plaintiff and Class Members as
22 required by California Labor Code § 1174 by failing to pay them proper wages, overtime, and
23 premium pay as discussed above and failing to document and pay for actual hours worked.

24 96. Defendants are also required by the California Labor Code § 1198 and the
25 applicable Wage Order to maintain a tracking system that accurately records the times during which
26 Employees work.

27 97. Defendants have maintained a common unlawful policy and practice of failing to
28 accurately record all hours worked and all meal period start and end times.

98. Defendants' failure to pay wages, as alleged above, was willful in that Defendants knew wages to be due but failed to pay them.

99. Accordingly, Defendants are liable for civil penalties pursuant to the California Labor Code including § 1174.5, for the three years prior to the filing of this Complaint.

SEVENTH CAUSE OF ACTION
VIOLATION OF LABOR CODE § 204
(Against All Defendants)

100. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

101. Labor Code § 204 instructs that: “All wages, ...earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays. Labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month.” Additionally, the requirements of this section shall be deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven calendar days following the close of the payroll period.” As detailed above, Defendants maintained a consistently applied policy and practice of not paying all wages earned between the 1st and 15th days of a month between the 16th and 26th day and failed to pay all wages earned between the 16th and the last day of the month between the 1st and 10th day of the following month. Defendants similarly failed to pay all wages earned by not more than seven calendar days following the close of the payroll period.

102. All wages due and owing to Plaintiff and the Class members, including as required under Labor Code § 510, were therefore not timely paid by Defendants. Additionally, wages required by Labor Code § 1194 and other sections became due and payable to each employee in each pay period that he or she was not provided with a meal period or rest period or paid straight or overtime wages to which he or she was entitled.

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103. Defendants violated Labor Code § 204 by systematically refusing to timely pay wages due under the Labor Code, as addressed above. Additionally, under paragraph 4(B) of the applicable IWC Wage Orders, employers are required “to pay each employee, on the established payday for the period involved, not less than the applicable minimum wage for all hours worked in the payroll period, ...” Under Labor Code § 1198, “[t]he employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.” Plaintiff and the Class members may therefore pursue damages and penalties for violations of Labor Code § 204 and paragraph 4(B) of the applicable IWC Wage Orders, including penalties under paragraph 20 of the applicable IWC Wage Orders.

104. As a result of the unlawful acts of Defendants, Plaintiff and the Class he seeks to represent have been deprived of wages in amounts to be determined at trial, and they are entitled to recovery of such amounts, plus interest and penalties thereon, attorneys' fees, and costs, pursuant to Labor Code § 204, 210, 218.5, 1194 and 1198, and paragraphs 4(B) and 20 of the applicable IWC Wage Orders.

EIGHTH CAUSE OF ACTION
VIOLATION OF LABOR CODE § 203
(Against All Defendants)

105. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

106. Plaintiff and numerous Class members are no longer employed by Defendants; they either quit Defendants' employ or were fired therefrom.

107. Defendants failed to pay these Employees all wages due and certain at the time of termination or within seventy-two hours of resignation.

108. The wages withheld from these Employees by Defendants remained due and owing for more than thirty days from the date of separation from employment.

109. Defendants thus failed to pay Plaintiff and the Class members without abatement, all wages as defined by applicable California law. Among other things, these Employees were not paid all regular and overtime wages, including by Defendants failing to pay for all hours worked or

1 requiring off the clock work or by unlawfully under-recording time entries to the detriment of
2 Employees, and Defendants failed to pay premium wages owed for unprovided meal periods and rest
3 periods, as further detailed in this Complaint. Defendants' failure to pay said wages within the
4 required time was willful within the meaning of Labor Code § 203.

5 110. Additionally, under paragraph 4(B) of the applicable IWC Wage Orders,
6 employers are required "to pay each employee, on the established payday for the period involved, not
7 less than the applicable minimum wage for all hours worked in the payroll period, ..." Under Labor
8 Code § 1198, "[t]he employment of any employee for longer hours than those fixed by the order or
9 under conditions of labor prohibited by the order is unlawful." Plaintiff and the Class members may
10 therefore pursue damages and penalties for violations of Labor Code § 203 and paragraph 4(B) of the
11 applicable IWC Wage Orders, including penalties under paragraph 20 of the applicable IWC Wage
12 Orders. Additionally, under Labor Code § 1199(a)-(c), it is a misdemeanor and Defendants are subject
13 to a fine of not less than \$100 for causing Employees "to work for longer hours than those fixed, or
14 under conditions of labor prohibited by an order of the commission" or if the employer pays "a wage
15 less than the minimum fixed by an order of the commission" or "violates...any provision of this
16 chapter or any order or ruling of the commission."

17 116. Defendants' failure to pay wages, as alleged, entitles Plaintiff and these former
18 Employee Class members to penalties under Labor Code § 203 and the applicable paragraphs of the
19 IWC Wage Orders as addressed above, including the requirement that an employee's wages shall
20 continue until paid for up to thirty (30) days from the date they were due.

21 **NINTH CAUSE OF ACTION**

22 **VIOLATION OF LABOR CODE § 221**

23 **(Against All Defendants)**

24 117. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth
25 in full herein.

26 118. Labor Code § 221 provides, "It shall be unlawful for any employer to collect or
27 receive from an employee any part of wages theretofore paid by said employer to said employee."
28 Additionally, pursuant to California Labor Code § 204, other applicable laws and regulations, and

1 public policy, an employer must timely pay its employees for all hours worked. Defendants failed to
2 do so.

3 119. Defendants unlawfully received and/or collected wages from the Employees in the
4 Class by requiring off the clock work, by miscalculating overtime, and by not paying one hour of pay
5 at the regular rate of compensation for every meal and rest period violation endured by Plaintiff and
6 the other Class members, as alleged above. By not compensating Employees for all hours worked and
7 meal and rest period premiums, Defendants unlawfully deducted wages earned in violation of Labor
8 Code § 221.

9 120. As a direct and proximate cause of the unauthorized deductions, Employees have
10 been damaged, in an amount to be determined at trial.

11 **TENTH CAUSE OF ACTION**

12 **FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENSES LABOR CODE § 2802**

13 **(Against All Defendants)**

14 121. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth
15 in full herein.

16 122. Plaintiff is informed and believes and based thereon alleges that throughout the
17 period applicable, Defendants required Plaintiff and the Class members to pay for necessary work
18 related expenses they incurred. These included a required work helmet which cost approximately
19 \$500 and steel toed boots at a cost of \$200. Plaintiff and the Class members must be reimbursed for
20 these necessary business expenses under Labor Code § 2802 and Defendants systematically failed to
21 do so.

22 123. Defendants thus followed a uniform policy and practice of failing to reimburse
23 Employees for these necessary work related expenses or losses incurred in direct discharge of their
24 job duties during employment with Defendants and at the direction of the Defendants pursuant to
25 Labor Code § 2802(a) and the applicable IWC Wage Orders, paragraph 9.

26 124. Defendants' knowing and willful failure to reimburse lawful necessary work
27 related expenses and losses to Plaintiff and the Class members resulted in damages because, among
28 other things, Defendants did not inform employees of their right to be reimbursed for those work

1 related expenses. As Defendants failed to inform and misled Plaintiff and the Class members with
2 regard to their rights, Plaintiff and the Class members were led to believe that incurring those lawful
3 and necessary expenses was an expected and essential function of their employment with Defendants
4 and that failure to incur those expenses would have adverse consequences on their employment.

5 125. Therefore, Plaintiff and the Class members are entitled to reimbursement for any
6 and all necessary work related expenses, as provided for in Labor Code § 2802(b) and paragraph 9 of
7 the applicable IWC Wage Orders, incurred during the direct discharge of their duties while employed
8 by Defendants, as well as accrued interest on those expenses that were not reimbursed from the date
9 Plaintiff and the Class members incurred those expenses. Further, Plaintiff and the Class members
10 are entitled to costs and attorney's fees pursuant to Labor Code § 2802(c).

11 **ELEVENTH CAUSE OF ACTION**

12 **VIOLATION OF BUSINESS & PROFESSIONS CODE § 17200 *ET SEQ.***

13 **(Against All Defendants)**

14 126. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth
15 in full herein.

16 127. Plaintiff, on behalf of himself, the Employees in the Class, and the general public,
17 brings this claim pursuant to Business & Professions Code § 17200 *et seq.* The conduct of Defendants
18 as alleged in this Complaint has been and continues to be unfair, unlawful, and harmful to Employees
19 and the general public. Plaintiff seeks to enforce important rights affecting the public interest within
20 the meaning of Code of Civil Procedure § 1021.5.

21 128. Plaintiff is a "person" within the meaning of Business & Professions Code
22 § 17204, have suffered injury, and therefore have standing to bring this cause of action for injunctive
23 relief, restitution, and other appropriate equitable relief.

24 129. Business & Professions Code § 17200 *et seq.* prohibits unlawful and unfair
25 business practices. By the conduct alleged herein, Defendants' practices were deceptive and
26 fraudulent in that Defendants' policy and practice failed to provide the required amount of
27 compensation for missed meal and rest breaks, and failed to adequately compensate Plaintiff and
28 Class members for all hours worked, due to systematic business practices as alleged herein that cannot

1 be justified, pursuant to the applicable California Labor Code and Industrial Welfare Commission
2 requirements in violation of California Business and Professions Code §§ 17200, *et seq.*, and for
3 which this Court should issue injunctive and equitable relief, pursuant to California Business &
4 Professions Code § 17203, including restitution of wages wrongfully withheld.

5 130. Wage-and-hour laws express fundamental public policies. Paying employees their
6 wages and overtime, providing them with meal periods and rest breaks, etc., are fundamental public
7 policies of California. Labor Code § 90.5(a) articulates the public policies of this State vigorously to
8 enforce minimum labor standards, to ensure that employees are not required or permitted to work
9 under substandard and unlawful conditions, and to protect law-abiding employers and their
10 employees from competitors who lower costs to themselves by failing to comply with minimum labor
11 standards.

12 131. Defendants have violated statutes and public policies. Through the conduct alleged
13 in this Complaint Defendants have acted contrary to these public policies, have violated specific
14 provisions of the Labor Code, and have engaged in other unlawful and unfair business practices in
15 violation of Business & Professions Code § 17200 *et seq.*; which conduct has deprived Plaintiff, and
16 all persons similarly situated, and all interested persons, of the rights, benefits, and privileges
17 guaranteed to all employees under the law.

18 132. Defendants' conduct, as alleged above, constitutes unfair competition in violation
19 of the Business & Professions Code § 17200 *et seq.*

20 133. Defendants, by engaging in the conduct herein alleged, by failing to pay wages and
21 overtime, failing to provide meal periods and rest breaks, etc., either knew or in the exercise of
22 reasonable care should have known that their conduct was unlawful; therefore, their conduct violates
23 the Business & Professions Code § 17200 *et seq.*

24 134. By the conduct alleged herein, Defendants have engaged and continue to engage
25 in a business practice which violates California and federal law, including but not limited to, the
26 applicable Industrial Wage Order(s), the California Code of Regulations, and the California Labor
27 Code including Sections 204, 226, 226.7, 510, 512, 1194, 1197, and 1198 for which this Court should
28 issue declaratory and other equitable relief pursuant to California Business & Professions Code §

1 17203 as may be necessary to prevent and remedy the conduct held to constitute unfair competition,
2 including restitution of wages wrongfully withheld.

3 135. As a proximate result of the above-mentioned acts of Defendants, Employees have
4 been damaged, in a sum to be proven at trial.

5 136. Unless restrained by this Court Defendants will continue to engage in such
6 unlawful conduct as alleged above. Pursuant to the Business & Professions Code, this Court should
7 make such orders or judgments, including the appointment of a receiver, as may be necessary to
8 prevent the use by Defendants or their agents or employees of any unlawful or deceptive practice
9 prohibited by the Business & Professions Code, including but not limited to the disgorgement of such
10 profits as may be necessary to restore Employees' money Defendants have unlawfully failed to pay.

11 **RELIEF REQUESTED**

12 WHEREFORE, Plaintiff prays for the following relief:

- 13 1. For an order certifying this action as a class action;
- 14 2. For compensatory damages in the amount of the unpaid minimum wages for work
15 performed by Employees and unpaid overtime compensation from at least four (4) years prior to the
16 filing of this action, as may be proven;
- 17 3. For liquidated damages in the amount equal to the unpaid minimum wage and
18 interest thereon, from at least four (4) years prior to the filing of this action, according to proof;
- 19 4. For compensatory damages in the amount of all unpaid wages, including overtime
20 and double-time pay, as may be proven;
- 21 5. For compensatory damages in the amount of the hourly wage made by Employees
22 for each missed or deficient meal period where no premium pay was paid therefor from four (4)
23 years prior to the filing of this action, as may be proven;
- 24 6. For compensatory damages in the amount of the hourly wage made by Employees
25 for each day requisite rest breaks were not provided or were deficiently provided where no premium
26 pay was paid therefor from at least four (4) years prior to the filing of this action, as may be proven;
- 27 7. For penalties pursuant to Labor Code § 226(e) for Employees, as may be proven;
- 28 8. For penalties pursuant to Labor Code § 1174.5, as may be proven;

1 9. For restitution and/or damages and penalties for Defendants' failure to pay all wages
2 due twice monthly under Labor Code § 204, as may be proven;

3 10. For penalties pursuant to Labor Code § 203 for all Employees who quit or were fired
4 in an amount equal to their daily wage times thirty (30) days, as may be proven;

5 11. For restitution and/or damages for all amounts unlawfully withheld from the wages
6 for all class members in violation of Labor Code § 221, as may be proven;

7 12. For damages and restitution for failure to reimburse all reasonable and necessary
8 business expenses incurred by Employees as required by Labor Code § 2802, as may be proven;

9 13. For restitution for unfair competition pursuant to Business & Professions Code
10 § 17200 *et seq.*, including disgorgement or profits, as may be proven;

11 14. For an order enjoining Defendants and their agents, servants, and employees, and all
12 persons acting under, in concert with, or for them, from acting in derogation of any rights or duties
13 adumbrated in this Complaint;

14 15. For other wages and penalties under the Labor Code as may be proven;

15 16. For all general, special, and incidental damages as may be proven;

16 17. For an award of pre-judgment and post-judgment interest;

17 18. For an award providing for the payment of the costs of this suit;

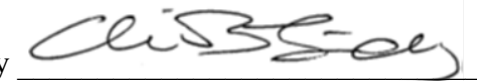
18 19. For an award of attorneys' fees; and

19 20. For such other and further relief as this Court may deem proper and just.
20

21 DATED: August 12, 2025

D.LAW, INC.

22
23 By



David Yeremian

Alvin B. Lindsay

William Tran

Attorneys for Plaintiff Jaime Miguel Moen
and the putative class
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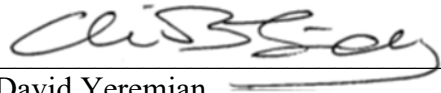
DEMAND FOR JURY TRIAL

Plaintiff hereby demands trial of his claims by jury to the extent authorized by law.

DATED: August 12, 2025

D.LAW, INC.

By



David Yeremian

Alvin B. Lindsay

William Tran

Attorneys for Plaintiff Jaime Miguel Moen
and the putative class