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13 **SUPERIOR COURT OF CALIFORNIA**

14 **COUNTY OF LOS ANGELES**

15 ROBERT BECK, individually and on
16 behalf of all individuals similarly
17 situated,

18 Plaintiff,

19 vs.

20 VENTURA INVESTMENT CO., a
21 California corporation; BARTON D
22 STERN, an individual; and DOES 1
23 through 50, inclusive,

24 Defendants.

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Superior Court of California,
County of Los Angeles
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David W. Slayton,
Executive Officer/Clerk of Court,
By D. Jackson Aubry, Deputy Clerk

CASE NO. 23STCV10458

CLASS ACTION COMPLAINT

1. **FAILURE TO COMPENSATE ALL HOURS WORKED IN VIOLATION OF INDUSTRIAL WELFARE COMMISSION ORDER NO. 4 AND CAL. LABOR CODE §§ 200, 226, 500, 510, 1194, 1197, AND 1198;**
2. **FAILURE TO PAY MINIMUM WAGES IN VIOLATION OF LABOR CODE §§ 1182.12, 1194, 1194.2, 1197;**
3. **FAILURE TO PAY DOUBLE TIME COMPENSATION IN VIOLATION OF CAL. LABOR CODE § 1194, ET SEQ.;**
4. **MISSED MEAL AND REST BREAKS IN VIOLATION OF LABOR CODE §§ 200, 226.7, 512, AND 12 CALIFORNIA CODE OF CIVIL REGULATIONS § 11050;**
5. **FAILURE TO PROVIDE PROPER WAGE STATEMENT IN VIOLATION OF CAL. LABOR CODE § 226;**
6. **FAILURE TO PAY COMPENSATION UPON TERMINATION OF EMPLOYMENT IN VIOLATION OF CAL. LABOR CODE § 201-203;**

1 7. VIOLATION OF LABOR CODE §§ 2698,
2 ET SEQ. ("PAGA"); AND
3 8. VIOLATIONS OF CAL. B&P CODE §§
4 17200, *ET SEQ.*;
5 9. FAILURE TO PERMIT INSPECTION
6 OF PERSONNEL AND PAYROLL
7 RECORDS IN VIOLATION OF CAL.
8 LABOR CODE § 1198.5

9 **DEMAND FOR JURY TRIAL**

10 Plaintiff ROBERT BECK, an individual and on behalf of all individuals similarly
11 situated ("Plaintiff"), hereby brings this Class Action Complaint for Damages against
12 Defendants VENTURA INVESTMENT CO. ("VENTURA"), a California corporation;
13 BARTON D STERN ("STERN") an individual; and DOES 1 through 50, inclusive,
14 (collectively, "Defendants") and states and alleges as follows:

15 **JURISDICTION**

16 1. This action is properly filed in the County of Los Angeles because the acts
17 and omissions that give rise to Plaintiff's claims took place in the County of Los Angeles,
18 California, as Plaintiff was employed by Defendants in County of Los Angeles, California,
19 and Defendants transact business in this County.

20 2. This Court has jurisdiction over Defendants because, upon information and
21 belief, Defendants have sufficient minimum contacts in California, or otherwise
22 intentionally avail themselves to the California market so as to render the exercise of
23 jurisdiction over them by the California courts consistent with the traditional notions of
24 fair play and substantial justice.

25 3. Venue is proper in this Court pursuant to California Code of Civil Procedure
26 §§ 395(a) and 395.5, because Defendants regularly conduct business in Los Angeles
27 County and because the conduct alleged herein which gives rise to the claims asserted
28 occurred within Los Angeles County.

THE PARTIES

4. Plaintiff was, at all times relevant to this Complaint, an adult individual

1 working in Los Angeles and Ventura County, California.

2 5. At all times relevant to this Complaint, Defendant VENTURA
3 INVESTMENT CO., a California corporation is and was a California corporation
4 operating a business within the State of California, specifically in the County of Los
5 Angeles and County of Ventura.

6 6. Plaintiff is unaware of the true names or capacities of Defendants sued
7 herein under the fictitious names DOES 1–50 but prays for leave to amend and serve
8 such fictitiously named Defendants pursuant to California Code of Civil Procedure
9 section 474 once their names and capacities become known.

10 7. Plaintiff is informed and believes, and thereon alleges, that DOES 1–50 are
11 the partners, agents, owners, shareholders, managers, principals or employees of
12 Defendants and/or were acting on behalf of Defendants.

13 8. Plaintiff is informed and believes, and thereon alleges, that each and all of
14 the acts and omissions alleged herein was performed by or is attributable to Defendants
15 and/or DOES 1–50, each acting as the agent for the other, with legal authority to act on
16 the other's behalf. The acts of any and all Defendants were in accordance with, and
17 represent the policy of, all Defendants.

18 9. At all times herein mentioned, Defendants, and each of them, ratified each
19 and every act or omission complained of herein. At all times herein mentioned,
20 Defendants, and each of them, aided and abetted the acts and omissions of each and all
21 of the other Defendants in proximately causing the damages herein alleged.

22 10. Plaintiff is informed and believes, and thereon alleges, that each of said
23 Defendants is in some manner intentionally, negligently or otherwise responsible for the
24 acts, omissions, occurrences and transactions alleged herein.

25 **ALTER EGO, AGENCY AND JOINT EMPLOYER**

26 11. STERN owned and/or controlled the businesses operated by VENTURA, and
27 furthermore, STERN exercised control over the labor practices of each and every one of
28

1 the employees (inclusive of Plaintiff) of each and every one of their said interests, and
2 caused the violations at issue in this Complaint.

3 12. Based on the foregoing allegations, STERN, in fact, caused violations at-
4 issue in this Complaint, thereby creating individual liability under *Labor Code* § 558.1.

5 13. Pursuant to the provisions of *Labor Code* § 558, the liability of STERN
6 would include any and all amounts sufficient to recover any and all missed meal and rest
7 break premiums and unpaid wages to Plaintiff and the Class Members.

8 14. As further referenced hereinbelow, the viability of obtaining liability of
9 individuals by this method was discussed by the California Supreme Court in *Reynolds*
10 *v. Bement* (2005) 36 Cal.4th 1075, 1089 where the court noted that individual liability
11 against non-employers could be obtained through the use of § 558.

12 15. PLAINTIFF is informed and believes, and based thereon alleges, that there
13 exists such a unity of interest and ownership between VENTURA, STERN, and DOES 1-
14 50 that the individuality and separateness of defendants have ceased to exist.

15 16. PLAINTIFF is informed and believes, and based thereon alleges, that
16 despite the formation of purported corporate existence, VENTURA, STERN, and DOES
17 1-50 are, in reality, one and the same, including, but not limited to because:

18 a. VENTURA is or was completely dominated and controlled by STERN and
19 DOES 1-50, who personally committed the frauds and violated the laws as set forth
20 in this complaint, and who have hidden and currently hide behind VENTURA to
21 perpetrate frauds, circumvent statutes, or accomplish some other wrongful or
22 inequitable purpose.

23 b. STERN and DOES 1-50 have acted on behalf of VENTURA, who violate, or
24 cause to be violated, the provisions regulating minimum wages or hours and days
25 of work in any order of the Industrial Welfare Commission, or violate, or cause to
26 be violated, California Labor Code Sections 203, 226, 226.7, 1194, or 2802.

27 c. STERN and DOES 1-50 have acted on behalf of VENTURA, who violate, or
28 cause to be violated, the provisions regulating meal and rest breaks in any order

1 of the Industrial Welfare Commission, or violate, or cause to be violated, California
2 Labor Code Sections 226.7, and 512.

3 d. STERN and DOES 1-50 derive actual and significant monetary benefits by
4 and through VENTURA as the funding source for their own personal expenditures.

5 e. Plaintiff is informed and believes that STERN, VENTURA, and DOES 1-
6 50, while really one and the same, were segregated to appear as though separate
7 and distinct for purposes of perpetrating a fraud, circumventing a statute, or
8 accomplishing some other wrongful or inequitable purpose.

9 f. Plaintiff is informed and believes that VENTURA does not or did not comply
10 with all requisite corporate formalities to maintain a legal and separate corporate
11 existence.

12 g. Plaintiff is informed and believes, and based thereon alleges, that the
13 business affairs of STERN, VENTURA, and DOES 1-50 are, and at all times
14 relevant were, so mixed and intermingled that the same cannot reasonably be
15 segregated, and the same are in inextricable confusion.

16 h. VENTURA is, and at all times relevant hereto was, used by STERN and
17 DOES 1-50 as a mere shell and conduit for the conduct of certain of Defendants'
18 affairs, and is, and was, the alter ego of STERN and DOES 1-50. The recognition
19 of the separate existence of VENTURA, and/or STERN would not promote justice,
20 in that it would permit Defendants to insulate themselves from liability to
21 Plaintiffs for violations of the Labor Code. The corporate existence of STERN,
22 VENTURA, and DOES 1-50 should be disregarded in equity and for the ends of
23 justice because such disregard is necessary to avoid fraud and injustice to Plaintiff
24 herein.

25 17. Accordingly, VENTURA constitutes the alter egos of STERN and DOES 1-
26 50, and the fiction of their separate corporate existence must be disregarded.

27 18. As a result of the aforementioned facts, Plaintiff is informed and believes,
28 and based thereon alleges that VENTURA, STERN, and DOES 1-50 are Plaintiff's joint

1 employers by virtue of a joint enterprise, and that Plaintiff was an employee of
2 VENTURA, STERN, and DOES 1-50. Plaintiff performed services for each and every one
3 of Defendants, and to the mutual benefit of all Defendants, and all Defendants shared
4 control of Plaintiff as an employee, either directly or indirectly, and the manner in which
5 Defendants' business was and is conducted.

6 **FACTUAL ALLEGATIONS**

7 19. Plaintiff worked for Defendants as an hourly, non-exempt employee as a
8 Maintenance Worker since on or around July 8, 2019, until on or around December 21,
9 2022. Plaintiff worked on many of Defendants' properties and would be dispatched to
10 various locations including those in Los Angeles and Ventura County.

11 20. Plaintiff and the Class Members' regular work schedule with Defendants
12 was from 8:00 A.M. to 4:30 P.M. or longer.

13 21. However, other than their normally scheduled shifts, Defendants required
14 Plaintiff and the Class Members to remain "on-call" for certain weeks. Defendants would
15 distribute a yearly schedule which stated which weeks Plaintiff and the Class Members
16 would be on-call. On such weeks Plaintiff and Class Members would remain on-call after
17 their normal shifts and if they received a call from the dispatcher, they would have to
18 travel to the location and complete the order. These "on-call" orders would often take
19 more than four (4) hours to complete and resulted in Plaintiff and the Class Members
20 working more than twelve (12) hours a day.

21 22. Despite the fact that these events would push Plaintiff and the Class
22 Members to work more than twelve (12) hours a day, Defendants only compensated
23 Plaintiff and the Class Members with their regular overtime rate of pay and not at their
24 proper double time rates.

25 23. Moreover, throughout their employment with Defendants, Plaintiff and the
26 Class Members routinely worked for Defendants without being provided with a timely,
27 off-duty ten-minute paid rest period for every four (4) hours worked or major fraction
28 thereof. Despite the aforementioned, during their employment with Defendants, Plaintiff

1 and the Class Members were not paid one (1) hour of pay at their regular rate of
2 compensation for each work day where a legally compliant rest period was not provided.

3 24. Also, throughout Plaintiff's employment with Defendants, Plaintiff was not
4 given a proper second thirty (30) minute meal break as required by law on days where
5 Plaintiff worked more than ten (10) hours a day. Thus, even on days where Plaintiff
6 properly received his first meal period, Defendants failed to provide Plaintiff with his
7 second meal period and never paid Plaintiff the one (1) hour of pay at his regular rate of
8 compensation for each work day where a legally compliant second meal period was not
9 provided.

10 25. As a result of Defendants' failure to pay for double time wages and meal and
11 rest break premiums, Defendants maintained inaccurate payroll records, and issued
12 inaccurate wage statements to Plaintiff and the Class Members.

13 26. Defendants have engaged in, and continue to engage in, unfair business
14 practices in California by practicing, employing, and utilizing the employment practices
15 and policies outlined above. Defendants' utilization of such unfair business practices
16 constitutes unfair competition and provides an unfair advantage over Defendants'
17 competitors. Defendants' utilization of such unfair business practices deprives Plaintiff
18 of the general minimum working standards and entitlements due to him under California
19 law and the Industrial Welfare Commission wage orders as described herein.

20 27. As a direct result of the wage and hour violations herein alleged, Plaintiff
21 has suffered, and continues to suffer, substantial losses related to the use and enjoyment
22 of wages, lost interest on such wages, and expenses and attorney's fees in seeking to
23 compel Defendants to fully perform their obligations under state law, all to their
24 respective damage in amounts according to proof at the time of trial.

25 **CLASS ACTION ALLEGATIONS**

26 28. Plaintiff brings this action as a class action on behalves of the following
27 defined Class:
28

1 The Class: All individuals who have been, or currently are, employed by
2 Defendants as “non-exempt employees” during the Class Period.

3 29. “Class Period” is defined as the time from May 9, 2019, through the date
4 that judgment is entered, based upon information and belief that the violations, as
5 described more fully hereinafter, began long before May 9, 2019, and are continuing.
6 Plaintiff and members of Class herein reserve the right to amend this Complaint to reflect
7 a different Class Period as discovery in this matter proceeds.

8 30. Numerosity: Plaintiff is informed and believes, and on that basis alleges,
9 that during the Class Period, dozens of Class members have been employed by
10 Defendants as non-exempt employees in the State of California. Because so many
11 persons have been employed by Defendants in this capacity, the members of the
12 Plaintiffs’ Class are so numerous that joinder of all members is impossible and/or
13 impracticable.

14 31. Commonality: Common questions of law, in fact, exist as to all members of
15 the Plaintiffs’ Class *and predominate over any questions affecting solely individual*
16 *members of the Plaintiffs’ Class. Among the questions of law and fact, that are relevant*
17 *to the adjudication of Class members claims are as follows:*

18 (a) Whether Defendants unlawfully failed to properly calculate and pay double
19 time compensation due and owing to the Plaintiff and members of the Class in
20 violation of Labor Code § 1194;

21 (b) Whether Defendants’ policy and/or practice of failing to accurately pay
22 overtime to Plaintiff and members of the Class violates applicable provisions of
23 California Law, including Labor Code sections, applicable Industrial Welfare
24 Commission Orders, and applicable State Regulations;

25 (c) Whether Defendants unlawfully and/or willfully failed to furnish Plaintiff
26 and Class members with accurate, itemized wage statements upon payment of
27 wages in violation of Labor Code § 226;
28

1 (d) Whether Defendants unlawfully and/or willfully deprived Plaintiff and
2 Class Members of meal and rest breaks and pay for missed breaks pursuant to
3 Labor Code §§ 200, 226.7, 512, and 12 CCR § 11040;

4 (e) Whether Defendants unlawfully and/or willfully failed to promptly pay
5 compensation owing to Plaintiff and Class members upon termination or their
6 employment in violation of Labor Code §§ 201-203;

7 (f) Whether Plaintiff and Class members sustained damages, and if so, the
8 proper measure of such damages, as well as interest, penalties, costs, attorneys'
9 fees, and equitable relief; and,

10 (g) Whether Defendant violated the Unfair Competition Law of California,
11 §17200, *et seq.*, by violating the above-cited provisions, and treating Plaintiff and
12 Class members unfairly by failing to pay all wages due and for all hours worked,
13 failing to provide meal and rest breaks, failing to furnish an accurate, itemized
14 wage statement upon payment of wages, and failing to pay wages upon termination
15 of employment.

16 32. Typicality: Plaintiff's claims are typical of the members of the Plaintiff's
17 Class. Plaintiff, like other members of the Class working for Defendants in California,
18 was subjected to Defendants' policies and/or practices set forth above. Plaintiff's job
19 duties were, and are, typical of those of other Class members.

20 33. Adequacy of Representation: Plaintiff will fairly and adequately protect the
21 interests of the members of the Class and have retained counsel competent and
22 experienced in both class action and employment litigation.

23 34. Questions of law or fact common to Class members predominate over any
24 questions solely affecting individual Class members and class action is superior to other
25 available methods for the fair and efficient adjudication of this controversy.

26 35. Class action treatment will allow a large number of similarly situated Class
27 members to simultaneously and efficiently prosecute his common claims in a single forum
28

1 without the needless duplication of effort and expense that numerous individual actions
2 would entail.

3 36. In addition, a class action will serve the important public interest of
4 permitting Class members harmed by Defendants' unlawful policies and/or practices to
5 effectively pursue recovery of the sums owed to them.

6 37. Plaintiff knows of no difficulty which will be encountered in the
7 management of this litigation which would preclude its maintenance as a class action.

8 **FIRST CAUSE OF ACTION**

9 **FAILURE TO COMPENSATE ALL HOURS WORKED IN VIOLATION OF**
10 **INDUSTRIAL WELFARE COMMISSION ORDER NO. 4 AND LABOR CODE**
11 **§§200, 226, 500, 510, 1194, 1197, AND 1198**

12 **(BY PLAINTIFF AGAINST ALL DEFENDANTS)**

13 38. Plaintiff hereby re-alleges, and incorporates by reference as though set forth
14 fully herein, the allegations contained in all preceding paragraphs.

15 39. At all times relevant herein, Defendants were required to compensate its
16 non-exempt employees for all hours worked, pursuant to Industrial Welfare Commission
17 Order 4, and Labor Code §§ 200, 226, 500, 510, 1197, 1194 and 1198.

18 40. As alleged above, Plaintiff and the Class were not paid the correct minimum
19 wage, overtime wage or double time rate for all hours worked.

20 41. Under the aforementioned wage orders and regulations, Plaintiff and the
21 Class are entitled to recover compensation for all hours worked, but not paid, during the
22 Class Period, plus reasonable attorneys' fees and costs of suit pursuant to Labor Code §§
23 218.5, 1194, and penalties pursuant to Labor Code §§ 203 and 226.

24 42. In violation of state law, Defendants have knowingly and willfully refused
25 to perform their obligations to compensate Plaintiff and the Class for all wages earned
26 and all hours worked. As a direct result, Plaintiff and the Class have suffered, and
27 continue to suffer, substantial losses related to the use and enjoyment of such wages, lost
28 interest on such wages, and expenses and attorneys' fees in seeking to compel Defendants

1 to fully perform their obligations under state law, all to their respective damage in
2 amounts according to proof at time of trial.

3 43. Plaintiff and the Class are thus entitled to recover nominal, actual and
4 compensatory damages in amount according to proof at time of trial, but in amounts in
5 excess of the jurisdiction of this Court.

6 44. As a proximate result of the aforementioned violations, Plaintiff and the
7 Class have been damaged in an amount according to proof at time of trial.

8 45. Defendants' conduct described herein violates Industrial Welfare
9 Commission Order 4, and Labor Code §§ 200, 203, 218.5, 226, 558, 1194, and 1198.
10 Therefore, pursuant to 12 CCR § 11040 and Labor Code §§ 203, 218.5, 226, 558, 1194 and
11 1198, Plaintiff and the Class are entitled to recover damages for the nonpayment of wages
12 of all hours worked that were improperly deducted and/or not counted as a result of
13 Defendants' policies, liquidated damages for underpayment of minimum wages,
14 penalties, reasonable attorneys' fees, expenses, and costs of suit.

15 WHEREFORE, Plaintiff requests relief as hereinafter provided.

16 **SECOND CAUSE OF ACTION**

17 **FAILURE TO PAY MINIMUM WAGES IN VIOLATION OF**

18 **LABOR CODE §§ 1182.12, 1194, 1194.2, 1197**

19 **(By PLAINTIFF AGAINST ALL DEFENDANTS)**

20 46. Plaintiff re-alleges and incorporates by reference all preceding paragraphs
21 as though set forth fully herein.

22 47. Pursuant to Labor Code § 1197, payment of less than the minimum wage
23 fixed by law is unlawful. An employer violates the minimum wage statute even if the
24 average rate for paid and unpaid hours exceeded the minimum wage.

25 48. At all relevant times, Defendants failed and refused to pay Plaintiff and the
26 Class the legal minimum wage in the State of California, as set forth in Labor Code
27 §1182.12. Under California law, Plaintiff and the Class are entitled to at least the
28 minimum wage for every hour worked.

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

50. As a direct result, Plaintiff and the Class have suffered, and continue to suffer, substantial losses related to the use and enjoyment of such wages, lost interest on such wages, and expenses and attorneys' fees in seeking to compel Defendants to fully perform their obligations under state law, all to his damage in amounts according to proof at time of trial, but in amounts in excess of the minimum jurisdiction of this Court.

51. Defendants have committed the acts alleged herein knowingly and willfully, with the wrongful and deliberate intention of injuring Plaintiff and the Class, from improper motives amounting to malice, and in conscious disregard of Plaintiff and the Class' rights. Plaintiff and the Class are thus entitled to recover nominal, actual and compensatory damages in amounts according to proof at time of trial, but in amounts in excess of the minimum jurisdiction of this Court.

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

53. In addition, pursuant to Labor Code §1194.2, Plaintiff and the Class are entitled to recover liquidated damages in an amount equal to the minimum wages unlawfully unpaid and interest thereon.

WHEREFORE, Plaintiff requests relief as hereinafter provided.

THIRD CAUSE OF ACTION

FAILURE TO PAY DOUBLE TIME COMPENSATION IN VIOLATION OF

CAL. LABOR CODE SECTION 1194, *et seq.*

(BY PLAINTIFF AGAINST ALL DEFENDANTS)

54. Plaintiff hereby re-alleges, and incorporates by reference as though set fully forth herein, all preceding paragraphs.

1 55. Pursuant to the applicable Industrial Welfare Commission Order and Labor
2 Code §§ 200, 226, 500, 510, 1194, and 1198, Defendants were required to compensate
3 Plaintiff and the Class for all overtime work performed for the benefit of Defendants,
4 which is calculated at one and one-half (1-1/2) times the regular rate of pay for hours
5 worked in excess of eight (8) hours per day and/or forty (40) hours per week, and for the
6 first eight (8) hours on the seventh consecutive work day; with double time after eight (8)
7 hours on the seventh day of any work week, or after 12 hours in any work day.

8 56. Plaintiff and the Class were non-exempt employees entitled to the
9 protections of the Industrial Welfare Commission and Labor Code §§ 200, 226, 500, 510,
10 1194, and 1198. During the course of Plaintiff's and the Class' employment, Defendants
11 failed to compensate Plaintiff and the Class for all double time hours worked as required
12 under the aforementioned labor codes and regulations.

13 57. In violation of state law, Defendants have knowingly and willfully refused
14 to perform their obligations to compensate Plaintiff and the Class for all overtime and
15 double time wages earned and all hours worked.

16 58. As a direct result, Plaintiff and the Class have suffered, and continues to
17 suffer, substantial losses related to the use and enjoyment of such wages, lost interest on
18 such wages, and expenses and attorneys' fees in seeking to compel Defendants to fully
19 perform their obligations under state law, all to his damage in amounts according to proof
20 at time of trial, but in amounts in excess of the minimum jurisdiction of this Court.

21 59. Defendants have committed the acts alleged herein knowingly and willfully,
22 with the wrongful and deliberate intention of injuring Plaintiff, from improper motives
23 amounting to malice, and in conscious disregard of Plaintiff's and the Class' rights.
24 Plaintiff and the Class are thus entitled to recover nominal, actual and compensatory
25 damages in amounts according to proof at time of trial, but in amounts in excess of the
26 minimum jurisdiction of this Court.

27 60. Defendants' conduct described herein violates the Industrial Welfare
28 Commission Orders and Labor Code §§ 200, 226, 500, 510, and 1198. Therefore, pursuant

1 to Labor Code §§ 200, 203, 226, 226.7, 558 and 1194, Plaintiff and the Class are entitled
2 to recover the unpaid balance of overtime compensation Defendants owe Plaintiff and the
3 Class plus interest, penalties, attorneys' fees, expenses, and costs of suit.

4 WHEREFORE, Plaintiff requests relief as hereinafter provided.

5 **FOURTH CAUSE OF ACTION**

6 **MISSED MEAL AND REST BREAKS IN VIOLATION OF CAL. LABOR CODE §§**
7 **200, 226.7, 512 AND 12 CALIFORNIA CODE OF REGULATIONS § 11050**
8 **(By PLAINTIFF AGAINST ALL DEFENDANTS)**

9 61. Plaintiff repeats and re-alleges the allegations set forth above and
10 incorporates the same by reference as though fully set forth herein.

11 62. Throughout the employment of Plaintiff and the Class, Defendants failed to
12 provide meal and rest breaks as required by law.

13 63. In addition, Defendants failed to pay Plaintiff and the Class the full
14 statutory penalty for all missed meal and rest periods.

15 64. Plaintiff and the Class are entitled to recover additional compensation for
16 all meal and rest periods that were missed, but not paid for during his employment, plus
17 penalties pursuant to Labor Code §§ 226.7, and 558.

18 65. Defendants' conduct described herein violated the applicable Industrial
19 Welfare Commission Order and Labor Code §§ 200, 226, 226.7, 512, 558, and 1198, and
20 California Code of Regulations § 11040.

21 66. As a proximate result of the aforementioned violations, Plaintiff and the
22 Class have been damaged in an amount according to proof at time of trial and has
23 suffered, and continue to suffer, substantial losses related to the use and enjoyment of
24 such monies, and lost interest on such monies in seeking to compel Defendants to fully
25 perform their obligation under state law. Plaintiff and the Class are thus entitled to
26 recover nominal, actual, and compensatory damages in an amount according to proof at
27 time of trial.

28 WHEREFORE, Plaintiff requests relief as hereinafter provided.

FIFTH CAUSE OF ACTION
FAILURE TO PROVIDE PROPER WAGE STATEMENTS
IN VIOLATION OF CAL. LABOR CODE §226
(BY PLAINTIFF AGAINST ALL DEFENDANTS)

67. Plaintiff re-alleges and incorporates herein by reference all preceding paragraphs as though each such Paragraph were fully set forth herein.

68. Labor Code §226(a) sets forth reporting requirements for employers when they pay wages, as follows:

"Every employer shall . . . at the time of each payment of wages, furnish his or her employees . . . an itemized statement in writing showing (1) gross wages earned; (2) total hours worked by the employee . . . (8) the name and address of the legal entity that is the employer..."

Section (e) provides: "An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) shall be entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4000), and shall be entitled to an award of costs and reasonable attorneys' fees."

69. Defendants failed to accurately record the regular and overtime hours worked by Plaintiff and the Class, meal and rest break premiums, and total wages due.

70. Plaintiff and the Class were damaged by this failure to provide accurate wage statements because, among other things, Plaintiff was unable to determine the proper amount of wages actually owed to him, and whether he had received full compensation therefore.

71. Plaintiff requests recovery of Labor Code § 226(e) penalties according to proof, as well as interest, attorneys' fees and costs pursuant to Labor Code §226(e), and all other damages, attorneys' fees, costs, expenses and interest permitted by statute.

WHEREFORE, Plaintiff requests relief as hereinafter provided.

1 **SIXTH CAUSE OF ACTION**

2 **FAILURE TO PAY COMPENSATION UPON TERMINATION OF**
3 **EMPLOYMENT IN VIOLATION OF CAL. LABOR CODE § 201-203**

4 **(By PLAINTIFF AGAINST ALL DEFENDANTS)**

5 72. Plaintiff repeats and re-alleges the allegations set forth above and
6 incorporates the same by reference as though fully set forth herein.

7 73. Labor Code § 201 provides, in relevant part, “[i]f an employer discharges an
8 employee, the wages earned and unpaid at the time of discharge are due and payable
9 immediately.”

10 74. Labor Code § 202 provides, in relevant part, “[i]f an employee not having a
11 written contract for a definite period quits his or her employment, his or her wages shall
12 become due and payable not later than 72 hours thereafter, unless the employee has given
13 72 hours previous notice of his or her intention to quit, in which case the employee is
14 entitled to his or her wages at the time of quitting.”

15 75. Pursuant to Labor Code § 201, upon Plaintiff’s and Class members’
16 terminations, Defendants were required to pay all earned wages.

17 76. Defendants failed to compensate Plaintiff and Class members their entitled
18 wages by failing to compensate them for all hours worked including double time and
19 failing to provide wage statements reflecting the accurate number of hours worked per
20 pay period. Plaintiff and the Class members’ wages remained unpaid even after their
21 separation from employment.

22 Wherefore, PLAINTIFF prays for judgment as set forth below.

23 **SEVENTH CAUSE OF ACTION**

24 **VIOLATION OF LABOR CODE §§ 2698, ET SEQ. (“PAGA”)**

25 **(By PLAINTIFF AGAINST ALL DEFENDANTS)**

26 77. Plaintiff repeats and re-alleges the allegations set forth above and
27 incorporates the same by reference as though fully set forth herein.

28 78. On February 27, 2023, Plaintiff filed a notice with the Labor Workforce and

1 Development Agency (“LWDA”) at their website pursuant to the Private Attorney
2 General Act, California Labor Code §§ 2698, et seq. (“PAGA”) regarding Defendants. This
3 notice was also sent to the Defendants that same day via certified mail. Now that sixty-
4 five days have passed from the date Plaintiff notified Defendants and the LWDA of these
5 violations, Plaintiff has exhausted his administrative requirements for bringing a claim
6 under the Private Attorneys General Act with respect to these violations.

7 79. PAGA provides as follows: “[n]otwithstanding any other provision of law, a
8 Plaintiff may as a matter of right amend an existing complaint to add a cause of action
9 arising under this part at any time within 60 days of the time periods specified in this
10 part.”

11 80. Pursuant to PAGA, a civil action under PAGA may be brought by an
12 “aggrieved employee,” who is any person that was employed by the alleged violator and
13 against whom one or more the alleged violations was committed.

14 81. PAGA permits Plaintiff to recover civil penalties for the violation(s) of the
15 Labor Code sections enumerated in Labor Code section 2699.5.

16 82. Plaintiff is an “aggrieved employee” within the meaning of Labor Code §
17 2698 et seq., and acting on behalf of himself and other aggrieved employees, brings this
18 action against Defendants to recover the civil penalties due to Plaintiff, other aggrieved
19 employees, and the State of California according to proof pursuant to Labor Code §
20 2699(a).

21 83. Defendants’ conduct, as alleged herein, violates numerous sections of the
22 California Labor Code including, but not limited to, the following:

23 a. Defendants violated Labor Code §§ 510, 558, 1194, 1194.2, 1197, 1198 by
24 failing to pay minimum wages and double time hours to Plaintiff and other
25 similarly aggrieved employees;

26 b. Defendants violated Labor Code § 226 by failing to provide Plaintiff and
27 similarly aggrieved employees with accurate and compliant itemized wage
28 statements; and

1 c. Defendants violated Industrial Welfare Commission Order No. 4 and Labor
2 Code §§ 226.7 and 512, 516, 558 and 1198 by failing to provide all legally required
3 meal and rest period premiums to Plaintiff and similarly aggrieved employees;

4 d. Defendants violated Labor Code §§ 201-203 by failing to timely pay all final
5 wages due, including, but not limited to double time wages due for times that
6 Plaintiff and similarly aggrieved employees worked in excess of twelve (12) hours
7 in a day a, upon their separation of employment.

8 84. Pursuant to PAGA, and in particular California Labor Code sections
9 2699(a), 2699.3, 2699.5, Plaintiff, acting in the public interest as a private attorney
10 general, seeks assessment and collection of unpaid wages and civil penalties for Plaintiff,
11 all other aggrieved employees, and the State of California against Defendant, in addition
12 to other remedies, for violations of California Labor Code sections 200, 201, 202, 203, 210,
13 226(a), 226.7, 510, 558, 1194, 1194.2, 1197, 1197.1, and 1198.

14 Wherefore, PLAINTIFF prays for judgment as set forth below.

15 **EIGHTH CAUSE OF ACTION**

16 **VIOLATIONS OF CAL. B&P CODE §§ 17200, *et seq.***

17 **(By PLAINTIFF AGAINST ALL DEFENDANTS)**

18 85. Plaintiff repeats and re-alleges the allegations set forth above and
19 incorporates the same by reference as though fully set forth herein.

20 86. Section 17200 of the California Business and Professions Code prohibits any
21 unlawful, unfair or fraudulent business act or practice.

22 87. Plaintiff and the Class have suffered and continues to suffer injury in fact
23 and monetary damages as a result of Defendants' actions. The actions by Defendants as
24 herein alleged amount to conduct which is unlawful and a violation of law. As such, said
25 conduct amounts to unfair business practices in violation of Business and Professions
26 Code § 17200, *et seq.*

27 88. Defendants' conduct as herein alleged has damaged Plaintiff and the Class
28 by denying their wages due and payable, by failing to provide meal and/or rest periods,

1 by failing to provide proper wage statements, and by failing to pay all wages due upon
2 termination. Defendants' actions are thus substantially injurious to Plaintiff and the
3 Class causing them injury in fact and loss of money.

4 89. As a result of such conduct, Defendants have unlawfully and unfairly
5 obtained monies due to Plaintiff and the Class.

6 90. The amount of wages due Plaintiff and the Class can be readily determined
7 from Defendants' records. Plaintiff and the Class are entitled to restitution of monies
8 due and obtained by Defendants during the period of last 4 years as a result of
9 Defendants' unlawful and unfair conduct.

10 91. Defendants course of conduct, acts, and practices in violation of the
11 California law as mentioned in each paragraph above constitutes a separate and
12 independent violation of §17200 etc. of the Business and Professions Code.

13 92. The harm to Plaintiff and the Class of being wrongfully denied lawfully
14 earned and unpaid wages outweighs the utility, if any, of Defendants' policies and
15 practices and, therefore, Defendants' actions described herein constitute an unfair
16 business practice or act within the meaning of Business and Professions Code § 17200.

17 93. Defendants' conduct described herein threatens an incipient violation of
18 California's wage and hour laws, and/or violates the policy or spirit of such laws, or
19 otherwise significantly threatens or harms competition.

20 94. Defendants' course of conduct described herein further violates Business
21 and Professions Code 17200 in that it is fraudulent, improper, and unfair.

22 95. The unlawful, unfair, and fraudulent business practices and acts of
23 Defendants as described herein above have injured Plaintiff and the Class in that they
24 were wrongfully denied the timely and full payment of wages due to them.

25 WHEREFORE, Plaintiff requests relief as hereinafter provided.

26 **NINTH CAUSE OF ACTION**

27 **FAILURE TO PERMIT INSPECTION OF PERSONNEL AND PAYROLL**
28 **RECORDS IN VIOLATION OF CAL. LABOR CODE § 1198.5**

1 **(BY PLAINTIFF AGAINST ALL DEFENDANTS)**

2 96. Plaintiff re-alleges and incorporates herein by reference all preceding
3 paragraphs as though each such Paragraph were fully set forth herein.

4 97. California Labor Code section 432 requires employers to give an employee,
5 upon request, a copy of any instrument that the employee or applicant has signed relating
6 to the obtaining or holding of employment.

7 98. California Labor Code section 1198.5 requires employers to allow current
8 and former employees' access to their personnel files and record that relate to the
9 employee's performance or to any grievance concerning the employee.

10 99. An employer who receives a written or oral request to inspect or copy records
11 pertaining to a current or former employee's wage information shall comply with the
12 request as soon as practicable, but no later than 21 calendar days from the date of the
13 request pursuant to Labor Code §226.

14 100. Defendants demonstrated a consistent policy of discouraging and ultimately
15 preventing Plaintiff from accessing his employment records and reviewing their
16 personnel files. Plaintiff sent a letter demanding his wage records via USPS certified mail
17 on February 16, 2023. To date, Plaintiff has not received his payroll records or personnel
18 file. Defendants thereby violated Labor Code §§ 226, 432 and 1198.5.

19 101. Failure to properly comply with a request for inspection of employment
20 records is a criminal infraction which subjects the employer to monetary penalties of
21 \$750. Therefore, Plaintiff seeks an order to compel compliance and is entitled to costs
22 and attorneys' fees.

23 WHEREFORE, PLAINTIFF prays for judgment as set forth below.

24 **PRAYER FOR RELIEF**

25 **WHEREFORE**, Plaintiff prays for judgment as follows:

- 26 1. For nominal damages;
- 27 2. For compensatory damages;
- 28 3. For equitable relief in the nature of declaratory relief, restitution of all

monies due to Plaintiffs, and disgorgement of profits from the unlawful business practices of Defendants, and accounting;

4. For penalties permitted by Labor Code §§ 200, 201, 202, 203, 210, 226, 226.7, 510, 512, 558, 1194, 1197, 1197.1, 1198, and 2698 et seq., and all other applicable sections;

5. For interest accrued to date;

6. For costs of suit and expenses incurred herein pursuant to Labor Code §§ 226 and 1194, and 2698;

7. For reasonable attorneys' fees pursuant to Labor Code §§ 218.6, 226, 226.7, 1194, and 2698; and

8. For all such other and further relief that the Court may deem just and proper.

DATED: May 9, 2023

LOYR, APC

By: _____



Young W. Ryu, Esq.
Joshua Park, Esq.
Kee Seok Mah, Esq.
Attorneys for Plaintiff
ROBERT BECK

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DATED: May 9, 2023

By: 

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CLASS ACTION COMPLAINT