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10 Attorneys for Plaintiff RYAN MIURA,
11 individually and on behalf of others similarly situated

Assigned for all purposes:
Judge William D. Cluster
Dept. CX104

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA

13 COUNTY OF ORANGE

14 RYAN MIURA, individually and on behalf of
15 all others similarly situated,

16 PLAINTIFF,

17 v.

18 ECONOLITE CONTROL PRODUCTS,
19 INC., a California corporation; and DOES 1
20 through 50, inclusive,

21 DEFENDANTS.

CASE NO.: 30-2023-01310043-CU-OE-CXC

CLASS ACTION COMPLAINT FOR:

- 1) FAILURE TO PAY MINIMUM WAGES (LABOR CODE §§ 1194, 1197, 1197.1)
- 2) FAILURE TO PROVIDE MEAL PERIODS AND/OR PAY MEAL PERIOD PREMIUMS (LABOR CODE § 226.7, 512)
- 3) FAILURE TO AUTHORIZE AND PERMIT REST BREAKS AND/OR PAY REST BREAK PREMIUMS (LABOR CODE § 226.7)
- 4) FAILURE TO TIMELY PAY FINAL WAGES (LABOR CODE §§ 201-203)
- 5) FAILURE TO PROVIDE COMPLETE AND ACCURATE WAGE STATEMENTS (LABOR CODE § 226)
- 6) FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENSES (LABOR CODE § 2802)
- 7) UCL VIOLATIONS (BUS. & PROF. CODE §§ 17200-17204)

DEMAND FOR JURY TRIAL

1 Plaintiff RYAN MIURA (“Plaintiff”), individually, and on behalf of others similarly situated
2 (hereinafter “Class Members”), based upon facts that either have evidentiary support or are likely to
3 have evidentiary support after a reasonable opportunity for further investigation and discovery,
4 complains and hereby alleges as follows:

5 **JURISDICTION AND VENUE**

6 1. Plaintiff brings this action against Defendants ECONOLITE CONTROL PRODUCTS,
7 INC., and DOES 1 through 50, inclusive (hereinafter collectively referred to as “Defendants”) for
8 California Labor Code violations, and unfair business practices stemming from Defendants’ failure to
9 pay minimum wages, failure to provide compliant meal periods, failure to authorize and permit
10 compliant rest periods, failure to timely pay final wages, failure to provide accurate wage statements,
11 failure to maintain accurate time and payroll records, and failure to reimburse necessary business-
12 related expenses.

13 2. Plaintiff’s First through Seventh Causes of Action are brought as a class action on behalf
14 of himself and similarly situated current and former employees of Defendants (hereinafter collectively
15 referred to as the “Class” or “Class Members,” as defined more fully in paragraph 16, below) pursuant
16 to California Code of Civil Procedure section 382. The monetary damages and restitution sought by
17 Plaintiff exceeds the minimal jurisdiction limits of the Superior Court and will be established according
18 to proof at trial.

19 3. The Court has jurisdiction over this action pursuant to the California Constitution,
20 Article VI, Section 10, which grants the superior court “original jurisdiction in all other causes” except
21 those given by statute to other courts. The statutes under which this action is brought do not specify
22 any other basis for jurisdiction.

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

27 5. Venue is proper in this Court because, upon information and belief, Defendants maintain
28 offices, have agents, and/or transact business in the State of California, County of Orange.

PARTIES

6. Plaintiff is a resident of the State of California. At all times relevant to this action, Plaintiff was employed by Defendants in the County of Orange, State of California as an hourly, non-exempt employee.

7. Defendant ECONOLITE CONTROL PRODUCTS, INC. is, and at all times herein mentioned was, a corporation organized and existing under the laws of the State of California, and registered to do business in the State of California.

8. Plaintiff is informed and believes that Defendant ECONOLITE CONTROL PRODUCTS, INC. is a traffic system manufacturer.

9. Plaintiff is ignorant of the identities of defendants Does 1 through 50, inclusive, and therefore sues these defendants by such fictitious names. The Doe defendants may be individuals, partnerships, or corporations. Plaintiff is informed and believes, and thereon alleges, that, at all times mentioned herein, each of the Doe defendants was the parent, subsidiary, agent, servant, employee, co-venturer, and/or co-conspirator of each of the other defendants, and was at all times mentioned acting within the scope, purpose, consent, knowledge, ratification and authorization of such agency, employment, joint venture and conspiracy. Plaintiff will amend this Complaint to allege their true names and capacities when ascertained. Plaintiff is informed and believes and thereon alleges that each of the fictitiously named Doe defendants is responsible in some manner for the occurrences herein alleged, and that Plaintiff's damages as herein alleged were proximately caused by its conduct. Defendants ECONOLITE CONTROL PRODUCTS, INC. and DOES 1 thorough 50 are collectively referred to herein as "Defendants."

10. Defendants are and at all times herein mentioned were, (a) conducting business in the County of Orange, State of California, and (b) the employer of Plaintiff consistent with the California Labor Code and applicable Industrial Welfare Commission Wage Order(s).

11. Plaintiff further alleges that Defendants, directly or indirectly controlled or affected the working conditions, wages, working hours, and terms of employment of Plaintiff, and the Class, so as to make each of said Defendants employers and employers jointly liable under the statutory provisions set forth herein.

12. Plaintiff is informed and believes, and thereon alleges, that at all times relevant to this action, Defendants were the alter egos, predecessors, divisions, affiliates, integrated enterprises, joint employers, subsidiaries, parents, principals, related entities, co-conspirators, authorized agents, partners, joint venturers, and/or guarantors, actual or ostensible, of each other. Each defendant was dominated by his, her, or its codefendants, and each was the alter ego of the other.

13. Plaintiff is informed and believes, and based thereon alleges, that in perpetrating the acts and omissions alleged herein, Defendants, and each of them, acted pursuant to, and in furtherance of, their policies and practices of not paying Plaintiff, and the Class all wages earned and due, through methods and schemes which include, but are not limited to: failing to pay minimum wages; failing to provide meal periods and rest breaks; failing to properly maintain records; failing to provide accurate itemized statements for each pay period; failing to timely pay final wages; and requiring, permitting, or suffering the employees to work off the clock, in violation of the California Labor Code (“Labor Code”) and applicable Industrial Welfare Commission (“IWC”) Wage Order(s).

14. Plaintiff is informed and believes, and based thereon alleges, that in accordance with Labor Code section 558.1, Defendants and any person acting on behalf of Defendants are liable for violating, or causing to violate, any provision regulating minimum wages or hours and days of work in any order of the Industrial Welfare Commission, or Labor Code Sections 203, 226, 226.7, 1193.6, 1194, or 2802.

CLASS ACTION ALLEGATIONS

15. Plaintiff brings the First through Seventh Causes of Action as a class action on his own behalf and on behalf of all other members of the general public similarly situated, and, thus, seeks class certification under Code of Civil Procedure section 382.

16. The proposed class is defined as follows: All current and former non-exempt employees of any of the Defendants within the State of California at any time commencing four (4) years preceding the filing of Plaintiff's original complaint up until the time that notice of the certified class action is provided to the class (hereinafter referred to as the "Class" or "Class Members").

17. Plaintiff reserves the right to establish other subclasses as appropriate.

18. The Class is ascertainable and there is a well-defined community of interest in the

litigation:

- a. Numerosity: The Class Members are so numerous that joinder of all Class Members is impracticable. The membership of the entire Class is unknown to Plaintiff at this time; however, the Class is estimated to be approximately (50) individuals, or more, and the identity of such membership is readily ascertainable by inspection of Defendants' employment records.
 - b. Typicality: Plaintiff's claims are typical of all other Class Members as demonstrated herein. Plaintiff and the Class members worked as hourly, non-exempt employees for Defendants in California, including in Defendants' warehouse facility in Anaheim, California. Plaintiff and the other similarly situated Class Members were employed by Defendants, were subjected to the same policies and practices, and endured similar alleged violations at the hands of Defendants.
 - c. Adequacy: Plaintiff will fairly and adequately protect the interests of each Class Member, with whom he has a well-defined community of interest and typicality of claims, as demonstrated herein. Plaintiff has no interest that is antagonistic to the other Class Members. Plaintiff's attorneys, the proposed class counsel, are versed in the rules governing class action discovery, certification, and settlement. Plaintiff has incurred, and during the pendency of this action will continue to incur, costs and attorneys' fees, that have been, are, and will be necessarily expended for the prosecution of this action for the substantial benefit of each Class Member.
 - d. Superiority: A class action is superior to other available methods for the fair and efficient adjudication of this litigation because individual joinder of all Class Members is impractical.
 - e. Public Policy Considerations: Certification of this lawsuit as a class action will advance public policy objectives. Current employees are often afraid to assert their rights out of fear of direct or indirect retaliation. However, class actions provide Class Members who are not named in the complaint anonymity that allows for the vindication of their rights.
19. There are common questions of law and fact as to the Class that predominate over

1 questions affecting only individual members. The following common questions of law or fact, among
2 others, exist as to the members of the Class:

- 3 a. Whether Defendants failed to pay minimum wages to Plaintiff and the other Class
4 Members for all hours worked;
- 5 b. Whether Defendants deprived Plaintiff and the other Class Members of meal and/or rest
6 periods or required Plaintiff and the other Class Members to work during meal and/or
7 rest periods without compensation;
- 8 c. Whether Defendants failed to pay meal period premium wages to Class Members when
9 they were not provided legally compliant meal periods;
- 10 d. Whether Defendants failed to pay rest period premium wages to Class Members when
11 they were not authorized and permitted to take legally compliant rest periods;
- 12 e. Whether Defendants had a corporate policy and practice of failing to pay Plaintiff and
13 the other Class Members for all hours worked, and for missed, short, late or interrupted
14 meal periods and rest breaks in violation of California law;
- 15 f. Whether Defendants failed to pay all wages due to Plaintiff and the other Class Members
16 within the time required upon their discharge or resignation from employment;
- 17 g. Whether Defendants' failure to pay wages, without abatement, or reduction, in
18 accordance with the California Labor Code was willful;
- 19 h. Whether Defendants failed to reimburse Plaintiff and the other Class Members for all
20 necessary business-related expenses in violation of Labor Code section 2802;
- 21 i. Whether Defendants complied with wage statement reporting as required by the Labor
22 Code, including Section 226;
- 23 j. Whether Defendants engaged in unfair business practices in violation of Business &
24 Professions Code Section 17200, *et seq.* based on their improper withholding of
25 compensation and deduction of wages;
- 26 k. The appropriate amount of damages, restitution, and/or monetary penalties resulting
27 from Defendants' violation of California law; and
- 28 l. Whether Plaintiff and the other Class Members are entitled to compensatory damages

pursuant to the California Labor Code.

GENERAL ALLEGATIONS

20. Plaintiff is informed and believes that Defendants are manufacturers and distributors of traffic control systems and equipment.

21. Defendants employed Plaintiff to work as a full-time, hourly-paid laborer from approximately May 2022 to February 2023.

22. At all relevant times relevant herein, Defendants employed Plaintiff and the Class as hourly-paid or non-exempt employees.

23. During the relevant time period involved in this case, Defendants had the authority to hire and terminate Plaintiff and the Class, and to directly or indirectly control work rules, working conditions, wages, working hours, and conditions of employment of Plaintiff and the Class.

24. At all times relevant herein, Defendants were subject to the Labor Code of the State of California and the applicable Industrial Welfare Commission Orders.

25. Plaintiff is informed and believes, and thereon alleges that Defendants engaged in an ongoing and systematic wage violations against their hourly-paid or non-exempt employees. As set forth in more detail below, these violations include, *inter alia*, regularly requiring Plaintiff and the Class to work off the clock without compensation, thereby failing to pay them for all hours worked, including minimum wages. Specifically, Defendants required Plaintiff and the Class to undergo temperature checks on Defendants' premises before the start of their shifts, and before they "clocked-in." Plaintiff and the Class were also required to complete a written form following the temperature check, while off the clock, before being allowed to clock-in for their shifts. Although Defendants maintained a common policy and practice of requiring Plaintiff and the Class to stand/wait in line for pre-shift for temperature checks, Defendants failed to compensate Plaintiff and the Class for such time.

26. Employees must be paid for all "hours worked." Hours worked is considered "the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so...." *See* Wage Order 1-2001, § 2(G); *Mendiola v. CPS Security Solutions, Inc.*, 60 Cal.4th 833 (2015). "[I]t is only necessary that the worker be subject to the control of the employer in order to be entitled to compensation."

1 *Morillion v. Royal Packing Co.*, 22 Cal.4th 575, 584 (2000) (internal citations omitted). An employee
2 is under the employer’s control and entitled to compensation when the employer ‘directs, commands
3 or restrains an employee.’ *Id.* at 583 (internal citation omitted).

4 27. As the California Supreme Court made clear in *Morillion*, when determining whether
5 an employee’s activity is under the employer’s control entitling him or her to compensation, the
6 touchstone is not whether the employer requires the activity and thus whether employees can avoid it,
7 but the level of control employers exert over employees during the activity: “The level of the
8 employer’s control over its employees, rather than the mere fact that the employer requires the
9 employees’ activity, is determinative.” *Morillion*, 22 Cal.4th at 587 (emphasis added).

10 28. In *Frlekin v. Apple Inc.*, 8 Cal.5th 1038, 1056 (2020), the California Supreme Court
11 reaffirmed its holding in *Morillion* that “[t]he level of the employer’s control over its employees, rather
12 than the mere fact that the employer requires the employees’ activity, is determinative” concerning
13 whether an activity is compensable under the “hours worked” control clause. In *Frlekin*, the California
14 Supreme Court found that time employees spent undergoing bag searches at the end of their shifts was
15 compensable.

16 29. To be free of the employer’s control for purposes of “hours worked,” the employee must
17 be free to use his or her time “effectively for his or her own purposes.” *Morillion*, 22 Cal.4th at 583.

18 30. Here, as in *Frlekin*, Plaintiff and the Class could not avoid Defendants’ temperature
19 checks (which took place on Defendants’ premises and before employees could clock-in) and could not
20 then use their time effectively for their own purposes. As such, Defendants exercised compensable
21 control over Plaintiff and the Class who underwent temperature checks, and stood in line to do so, and
22 completed forms, and owe wages to Plaintiff and the Class for this time.

23 31. The California Department of Industrial Relations (“DIR”) issued guidance regarding
24 pre-shift worksite temperature checks and/or questionnaires. *See* Cal. Dept. of Industrial Relations,
25 Safe Reopening FAQs for Workers and Employers, available at
26 https://www.dir.ca.gov/covid19/FAQs_COVID-19_Safe_Reopening.htm. The DIR provides the
27 following in FAQ #10 titled “Medical Checks, Testing, and Vaccinations”:

28 Q: Must my employer pay me for time spent at my employer’s worksite

1 completing certain medical checks (including temperature checks) before
2 beginning a shift?

3 A: Yes. Employers must pay workers for all hours worked, including time
4 that a worker is under the control of the employer. Employers that require
5 their workers to complete a medical check in order to begin a shift, even if
6 it is recommended under public health orders, must compensate workers for
7 that time worked.

8 The term “hours worked” means the time during which a worker is subject
9 to the control of an employer and includes all the time the worker is suffered
10 or permitted work, whether or not required to do so. Under this definition,
11 one way to determine whether time a worker spends performing a task is
12 compensable—that is, whether it is time “worked”—is whether the
13 employer exercised control over the worker by requiring the worker to
14 perform that task.

15 If an employer requires that all workers perform a medical check (such as a
16 temperature check) onsite before beginning a shift, the time completing the
17 medical check, including any time waiting in line, would constitute time
18 worked. This requirement applies even if such tasks were performed
19 pursuant to a state or local public health guideline, because the check is done
20 at the request and thus under the control of the employer.

21 32. Notably, there is no *de minimis* defense for such time. *See, Troester v. Starbucks Corp.*,
22 5 Cal.5th 829 (2018) (given new technologies allowing time-tracking with specificity, the *de minimis*
23 principle not applicable in the context of an alleged policy requiring employees to work minutes off the
24 clock routinely).

25 33. On information and belief, Defendants also implemented policies that prohibited
26 Plaintiff and the Class from accurately recording the actual time worked, resulting in a failure to pay
27 Plaintiff and the Class all wages owed.

28 34. In addition, on information and belief, Defendants routinely failed to permit Plaintiff

1 and the Class to take timely, uninterrupted, and duty-free meal periods and rest periods in violation of
2 California law, and failed to pay associated meal and rest period premium wages for non-compliant
3 meal periods and rest breaks. Defendants also failed to reimburse Plaintiff and the Class for all
4 necessary business-related expenses, failed to provide accurate itemized wage statements for each pay
5 period, and failed to timely pay all wages owed during and upon termination of employment.

6 35. During the time period involved in this case, Defendants implemented policies and
7 practices which failed to provide Plaintiff and the Class with timely and duty-free meal periods.
8 Defendants routinely failed to relieve Plaintiff and the Class of all duties during their meal periods,
9 regularly failed to relinquish control over Plaintiff and the Class during their meal periods, regularly
10 failed to permit Plaintiff and the Class a reasonable opportunity to take timely meal periods, and
11 regularly impeded or discouraged Plaintiff and the Class from taking all statutory thirty (30) minute
12 uninterrupted meal breaks. Defendants also failed to maintain accurate records of meal periods taken
13 by Plaintiff and the Class.

14 36. During the time period involved in this case, Defendants did not adequately inform
15 Plaintiff and the Class of their right to take meal periods under California law. Moreover, Defendants
16 systematically disregarded their own written policies regarding the provision and timing of meal
17 periods for Plaintiff and the Class.

18 37. During the time period involved in this case, Defendants failed to pay Plaintiff and the
19 Class premium wages for meal periods that were missed, late, interrupted, or shortened in violation of
20 California law. Defendants knew or should have known that Plaintiff and the Class were entitled to
21 receive all meal periods or payment of one additional hour of pay at their regular rate of pay when a
22 meal period was missed, short, late, and/or interrupted. Notwithstanding this knowledge, Defendants
23 routinely failed to provide legally compliant meal periods to Plaintiff and the Class, and routinely failed
24 to pay one additional hour of pay to Plaintiff and the Class at their regular rate of pay when a meal
25 period was missed, short, late, and/or interrupted.

26 38. During the time period involved in this case, Defendants implemented policies and
27 practices which prohibited Plaintiff and the Class from taking all timely and duty-free rest periods.
28 Defendants regularly failed to provide, authorize, and permit Plaintiff and the Class to take full,

1 uninterrupted, off-duty rest periods for every shift lasting three and one-half (3.5) to six (6) hours and/or
2 two full, uninterrupted, off-duty rest periods for every shift lasting six (6) to ten (10) hours, and failed
3 to make a good faith effort to authorize, permit, and provide such rest breaks in the middle of each
4 work period.

5 39. During the time period involved in this case, Defendants did not adequately inform
6 Plaintiff and the Class of their right to take rest periods under California law. Moreover, Defendants
7 systematically disregarded their own written policies regarding the provision and timing of rest periods
8 for Plaintiff and the Class.

9 40. During the time period involved in this case, Defendants failed to pay Plaintiff and the
10 Class premium wages for rest periods that were missed, late, interrupted, or shortened in violation of
11 California law. Defendants knew or should have known that Plaintiff and the Class were entitled to
12 receive all rest periods or payment of one additional hour of pay at their regular rate of pay when a rest
13 period was missed, short, late, and/or interrupted. Notwithstanding this knowledge, Defendants
14 routinely failed to authorize and permit Plaintiff and the Class to take duty-free rest periods, and failed
15 to pay one additional hour of pay to Plaintiff and the Class at their regular rate of pay when a rest period
16 was missed, short, late and/or interrupted.

17 41. During the time period involved in this case, Defendants regularly required Plaintiff and
18 the Class to perform work off-the-clock. Plaintiff and the Class were regularly required to perform
19 uncompensated work off the clock for which they were not compensated.

20 42. During the time period involved in this case, Defendants implemented policies that
21 prohibited Plaintiff and the Class from accurately recording the actual time worked, resulting in a
22 failure to pay Plaintiff and the Class all wages owed. In addition, Plaintiff is informed and believes
23 that Defendants employed a rounding policy that was not neutral and designed to consistently round
24 time in Defendants' favor, ensuring that Plaintiff and the Class were not paid for all time worked.

25 43. During the time period involved in this case, Defendants regularly failed to pay Plaintiff
26 and the Class at least minimum wages for all hours worked. Defendants knew or should have known
27 that Plaintiff and the Class were entitled to receive at least minimum wages for all hours worked and
28 that they were not receiving at least minimum wages for all hours worked. Defendants' failure to pay

1 minimum wages included, *inter alia*, failing to pay Plaintiff and the Class at the required minimum
2 wage pursuant to California law, requiring Plaintiff and the Class to perform work off the clock, and
3 failing to accurately record all time worked by Plaintiff and the Class which resulted in the systematic
4 underpayment of wages to Plaintiff and the Class.

5 44. During the time period involved in this case, Defendants regularly failed to pay Plaintiff
6 and the Class all wages owed to them upon discharge or resignation. Defendants knew or should have
7 known that Plaintiff and the Class were entitled to receive all wages owed to them upon termination
8 within the time permissible under California Labor Code section 202. Plaintiff and the Class did not
9 receive payment of all final wages owed to them upon discharge or resignation, including minimum
10 wages and premium wages within any time permissible under California Labor Code section 202.

11 45. During the time period involved in this case, Defendants regularly failed to provide
12 complete or accurate wage statements to Plaintiff and the Class. Defendants knew or should have
13 known that Plaintiff and the Class were entitled to receive complete and accurate wage statements in
14 accordance with California law, but, in fact, they did not receive complete and accurate wage statements
15 from Defendants. The deficiencies included, *inter alia*, the failure to include the total number of hours
16 worked, the actual gross wages earned, and the correct rates of pay.

17 46. During the time period involved in this case, Defendants regularly failed to keep
18 complete or accurate payroll records for Plaintiff and the Class. Defendants knew or should have known
19 that Defendants were required to keep complete and accurate time payroll records for Plaintiff and the
20 Class in accordance with California law, but, in fact, did not keep complete and accurate time and
21 payroll records. On information and belief, during the time period involved in this case, Defendants
22 regularly failed to maintain accurate records relating to Plaintiff's and the Class's work periods, meal
23 periods, total daily hours, hours per pay period, and applicable pay rates.

24 47. On information and belief, during the time period involved in this case, Defendants
25 failed to reimburse Plaintiff and the Class for all necessary business-related expenses, including but not
26 limited to personal cellular phone usage. Defendants required Plaintiff and, on information and belief,
27 other Class Members to use their personal cellular phones in the course of performing their required
28 job duties without reimbursement. Among other things, Defendants required Plaintiff and, on

1 information and belief, other Class Members to use their personal cellular phones to respond to and
2 communicate with Defendants' supervisors regarding work matters, including to take and send
3 photographs depicting damage to incoming products at the warehouse. Defendants knew or should
4 have known that Defendants were required to reimburse Plaintiff and the Class for all necessary
5 business-related expenses and costs, but, on information and belief, failed to do so in violation of
6 California law.

7 48. During the time period involved in this case, Defendants knew or should have known
8 that they had a duty to compensate Plaintiff and the Class pursuant to California law. Defendants had
9 the financial ability to pay such compensation, but willfully, knowingly, and intentionally failed to do
10 so, and falsely represented to Plaintiff and the Class that they paid all wages owed to them, all in order
11 to increase Defendants' profits.

12 49. California Labor Code section 218 states that nothing in Article 1 of the Labor Code
13 shall limit the right of any wage claimant to "sue directly ... for any wages or penalty due to him [or
14 her] under this article."

15 **FIRST CAUSE OF ACTION**

16 **(Violation of California Labor Code §§ 1194, 1197, and 1197.1)**

17 **(Against All Defendants)**

18 50. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every
19 allegation set forth above.

20 51. At all relevant times, California Labor Code sections 1194, 1197, and 1197.1 provide
21 that the minimum wage to be paid to employees and the payment of a lesser wage than the minimum
22 so fixed is unlawful.

23 52. During the relevant time period, Defendants regularly failed to pay minimum wage to
24 Plaintiff and the other Class Members as required pursuant to California Labor Code sections 1194,
25 1197, and 1197.1. Specifically, Defendants required Plaintiff and the Class to undergo temperature
26 checks on Defendants' premises before the start of their shift, and before they "clocked-in." Plaintiff
27 and the Class were further required to complete a written form following the temperature check, while
28 off the clock, before being allowed to clock in for their shifts.

53. Defendants' failure to pay Plaintiff and the other Class Members the minimum wage as required violates California Labor Code sections 1194, 1197, and 1197.1. Pursuant to those sections, Plaintiff and the other Class Members are entitled to recover the unpaid balance of their minimum wage compensation as well as interest, costs, and attorneys' fees, and liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

54. Pursuant to California Labor Code section 1194.2, Plaintiff and the other Class Members are entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

SECOND CAUSE OF ACTION

(Violation of California Labor Code §§ 226.7 and 512(a))

(Against All Defendants)

55. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every allegation set forth above.

56. At all relevant times, the relevant IWC Order and California Labor Code sections 226.7 and 512(a) were applicable to Plaintiff and the other Class Members' employment by Defendants.

57. At all relevant times, California Labor Code section 226.7 provides that no employer shall require an employee to work during any meal or rest period mandated by an applicable order of the California IWC.

58. At all relevant times, the applicable IWC Wage Order and California Labor Code section 512(a) provide that an employer may not require, cause or permit an employee to work for a work period of more than five (5) hours per day without providing the employee with a meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is no more than six (6) hours, the meal period may be waived by mutual consent of both the employer and employee.

59. At all relevant times, California Labor Code section 512(a) further provides that an employer may not require, cause or permit an employee to work for a work period of more than ten (10) hours per day without providing the employee with a second uninterrupted meal period of not less than thirty (30) minutes, except that if the total hours worked is no more than twelve (12) hours, the

1 second meal period may be waived by mutual consent of the employer and the employee only if the
2 first meal period was not waived.

3 60. During the relevant time period, Plaintiff and the other Class Members who were
4 scheduled to work for a period of time longer than six (6) hours, and who did not waive their legally-
5 mandated meal periods by mutual consent, were required to work for periods longer than five (5) hours
6 without an uninterrupted meal period of not less than thirty (30) minutes.

7 61. During the relevant time period, Defendants intentionally and willfully required Plaintiff
8 and the other Class Members to miss their meal periods and to take meal periods that were late,
9 shortened, or interrupted, and failed to compensate Plaintiff and the other Class Members the full meal
10 period premium for missed, shortened, late, or interrupted meal periods.

11 62. During the relevant time period, Defendants failed to pay Plaintiff and the other Class
12 Members the full meal period premiums due pursuant to California Labor Code section 226.7.

13 63. Defendants' conduct violates the applicable IWC Wage Order and California Labor
14 Code sections 226.7 and 512(a).

15 64. Pursuant to the applicable IWC Wage Order and California Labor Code Section
16 226.7(b), Plaintiff and the other Class Members are entitled to recover from Defendants one (1)
17 additional hour of pay at the employee's regular rate of compensation for each work day that the meal
18 period was not provided.

19 **THIRD CAUSE OF ACTION**

20 **(Violation of California Labor Code § 226.7)**

21 **(Against All Defendants)**

22 65. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every
23 allegation set forth above.

24 66. At all times herein set forth, the applicable IWC Wage Order and California Labor Code
25 section 226.7 were applicable to Plaintiff and the other Class Members' employment by Defendants.

26 67. At all relevant times, California Labor Code section 226.7 provides that no employer
27 shall require an employee to work during any rest period mandated by an applicable order of the
28 California IWC.

1 68. At all relevant times, the applicable IWC Wage Order provides that “[e]very employer
2 shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in
3 the middle of each work period” and that the “rest period time shall be based on the total hours worked
4 daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof unless the
5 total daily work time is less than three and one-half (3.5) hours.”

6 69. During the relevant time period, Defendants required Plaintiff and other Class Members
7 to work four (4) or more hours without authorizing or permitting a ten (10) minute rest period per each
8 four (4) hour period worked.

9 70. During the relevant time period, Defendants willfully required Plaintiff and the other
10 Class Members to work during rest periods, failed to allow Plaintiff and the other Class Member to
11 take any rest period and/or failed to authorize and permit Plaintiff and the other Class Members to take
12 uninterrupted, duty-free rest breaks.

13 71. During the relevant time period, Defendants failed to pay Plaintiff and the other Class
14 Members the full rest period premium due pursuant to California Labor Code section 226.7 for work
15 performed during rest periods, and/or for failure to authorize and permit Plaintiff and other Class
16 Members from taking uninterrupted rest periods.

17 72. Defendants’ conduct violates applicable IWC Wage Orders and California Labor Code
18 section 226.7.

19 73. Pursuant to the applicable IWC Wage Orders and California Labor Code section
20 226.7(b), Plaintiff and the other Class Members are entitled to recover from Defendants one (1)
21 additional hour of pay at the employees’ regular hourly rate of compensation for each work day that
22 the rest period was not provided.

23 **FOURTH CAUSE OF ACTION**

24 **(Violation of California Labor Code §§ 201, 202, 203)**

25 **(Against All Defendants)**

26 74. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every
27 allegation set forth above.

28 75. At all relevant times herein set forth, California Labor Code sections 201 and 202

1 provide that if an employer discharges an employee, the wages earned and unpaid at the time of
2 discharge are due and payable immediately, and if an employee quits his or her employment, his or her
3 wages shall become due and payable not later seventy-two (72) hours thereafter, unless the employee
4 has given seventy-two (72) hours' notice of his or her intention to quit, in which case the employee is
5 entitled to his or her wages at the time of quitting.

6 76. During the relevant time period, the employment of Plaintiff and other Class Members
7 with Defendants ended, *i.e.*, was terminated by quitting or discharge. Defendants intentionally and
8 willfully failed to pay Plaintiff and other Class Members who are no longer employed by Defendants
9 all of their wages, earned and unpaid, including but not limited to minimum wages, straight time wages,
10 premium wages, within seventy-two (72) hours of their leaving Defendants' employ.

11 77. Defendants' failure to pay Plaintiff and other Class Members who are no longer
12 employed by Defendants their wages, earned and unpaid, within seventy-two (72) hours of their leaving
13 Defendants' employ, is in violation of California Labor Code sections 201 and 202.

14 78. California Labor Code section 203 provides that if an employer willfully fails to pay
15 wages owed, in accordance with sections 201 and 202, then the wages of the employee shall continue
16 as a penalty from the due date thereof at the same rate until paid or until an action is commenced; but
17 the wages shall not continue for more than thirty (30) days.

18 79. Plaintiff and other Class Members who are no longer employed by Defendants are
19 entitled to recover from Defendants the statutory penalty wages for each day they were not paid, up to
20 a thirty (30) day maximum pursuant to California Labor Code section 203.

21 **FIFTH CAUSE OF ACTION**

22 **(Violation of California Labor Code § 226(a))**

23 **(Against All Defendants)**

24 80. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every
25 allegation set forth above.

26 81. At all material times set forth herein, California Labor Code section 226(a) provides that
27 every employer shall furnish each of its employees an accurate itemized statement in writing showing
28 (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units

1 earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions,
2 provided that all deductions made on written orders of the employee may be aggregated and shown as
3 one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7)
4 the name of the employee and his or her social security number, (8) the name and address of the legal
5 entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the
6 corresponding number of hours worked at each hourly rate by the employee. The deductions made from
7 payments of wages shall be recorded in ink or other indelible form, properly dated, showing the month,
8 day, and year, and a copy of the statement or a record of the deductions shall be kept on file by the
9 employer for at least three years at the place of employment or at a central location within the State of
10 California.

11 82. Defendants have intentionally and willfully failed to provide Plaintiff and the Class with
12 complete and accurate wage statements. The deficiencies include, but are not limited to, the failure list
13 the total number of hours worked, the actual gross wages earned, and the correct rates of pay.

14 83. Because of Defendants' violation of California Labor Code section 226(a), Plaintiff and
15 the Class have suffered injury and damage to their statutorily-protected rights.

16 84. More specifically, Plaintiff and the Class have been injured by Defendants' intentional
17 and willful violation of California Labor Code section 226(a) because they were denied both their legal
18 right to receive, and their protected interest in receiving, accurate and itemized wage statements
19 pursuant to California Labor Code Section 226(a).

20 85. Plaintiff and the Class are entitled to recover from Defendants the greater of their actual
21 damages caused by Defendants' failure to comply with California Labor Code section 226(a), or an
22 aggregate penalty not exceeding four thousand dollars per employee.

23 86. Plaintiff and the Class are also entitled to injunctive relief to ensure compliance with
24 this section, pursuant to California Labor Code section 226(g).

25 **SIXTH CAUSE OF ACTION**

26 **(Violation of California Labor Code §§ 2800 and 2802)**

27 **(Against All Defendants)**

28 87. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every

1 allegation set forth above.

2 88. Pursuant to California Labor Code sections 2800 and 2802, an employer must reimburse
3 its employee for all necessary expenditures incurred by the employee in direct consequence of the
4 discharge of his or her job duties or in direct consequence of his or her job duties or in direct
5 consequence of his or her obedience to the directions of the employer.

6 89. Plaintiff and the Class incurred necessary business-related expenses and costs that were
7 not fully reimbursed by Defendants. Defendants' failure to reimburse for all necessary business-related
8 expenses and costs included their failure to reimburse Plaintiff and the Class for costs incurred as a
9 result of, including but not limited to, simple negligence.

10 90. On information and belief, Defendants have intentionally and willfully failed to
11 reimburse Plaintiff and the Class for all necessary business-related expenses and costs. Plaintiff and the
12 Class are entitled to recover from Defendants their business-related expenses and costs incurred during
13 the course and scope of their employment, plus interest accrued from the date on which the employee
14 incurred the necessary expenditures at the same rate as judgments in civil actions in the State of
15 California.

16 **SEVENTH CAUSE OF ACTION**

17 **(Violation of Cal. Business & Professions Code §§ 17200, et seq.)**

18 **(Against All Defendants)**

19 91. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every
20 allegation set forth above.

21 92. Defendants' conduct, as alleged herein, has been, and continues to be, unfair, unlawful
22 and harmful to Plaintiff and the Class, to the general public, and Defendants' competitors. Accordingly,
23 Plaintiff seeks to enforce important rights affecting the public interest within the meaning of Code of
24 Civil Procedure section 1021.5.

25 93. Defendants' activities as alleged herein are violations of California law, and constitute
26 unlawful business acts and practices in violation of Business & Professions Code section 17200, *et seq.*

27 94. Plaintiff is a "person" within the meaning of Business & Professions Code section
28 17204, has suffered injury, and therefore has standing to bring this cause of action for injunctive relief,

1 restitution, and other appropriate equitable relief.

2 95. A violation of California Business & Professions Code section 17200, *et seq.* may be
3 predicated on the violation of any state or federal law. In this instant case, Defendants' policies and
4 practices of requiring employees, including Plaintiff and the Class, to work off-the-clock violate
5 California Labor Code provisions governing minimum wages. Additionally, Defendants' systematic
6 policies and practices of requiring employees, including Plaintiff and the Class, to work without legally
7 compliant meal periods and rest breaks violate California Labor Code sections 226.7 and 512(a).
8 Moreover, Defendants' policies and practices of failing to timely pay wages to Plaintiff and the Class
9 violate California Labor Code sections 201, 202, and 203.

10 96. Wage-and-hour laws express fundamental public policies. Paying employees their
11 wages and overtime, providing them with meal periods and rest breaks, etc., are fundamental public
12 policies of California. Labor Code section 90.5(a) sets forth the public policies of this State vigorously
13 to enforce minimum labor standards, to ensure that employees are not required or permitted to work
14 under unlawful conditions, and to protect law-abiding employers and their employees from competitors
15 who lower costs to themselves by failing to comply with fair labor standards. Through the conduct
16 alleged in this Complaint Defendants have acted contrary to these public policies, have violated specific
17 provisions of the California Labor Code, and have engaged in other unlawful and unfair business
18 practices in violation of Business & Professions Code § 17200 *et seq.*

19 97. As a result of the herein described violations of California law, Defendants unlawfully
20 gained an unfair advantage over other businesses.

21 98. Plaintiff and the Class have been personally injured by Defendants' unlawful business
22 acts and practices as alleged herein, including but not necessarily limited to the loss of money and/or
23 property.

24 99. Pursuant to California Business & Professions Code sections 17200, *et seq.*, Plaintiff
25 and the Class are entitled to restitution of the wages withheld and retained by Defendants during a
26 period that commences four years prior to the filing of this Complaint; an award of attorneys' fees
27 pursuant to California Code of Civil Procedure section 1021.5 and other applicable laws; and an award
28 of costs.

1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff, individually and on behalf of all other members of the general public
3 similarly situated, prays for relief and judgment against Defendants, jointly and severally, as follows:

4 **Class Certification**

- 5 1. That this action be certified as a class action;
6 2. That Plaintiff be appointed as the representative of the Class;
7 3. That counsel for Plaintiff be appointed as Class Counsel; and
8 4. That Defendants provide to Class Counsel immediately the names and most current/last
9 known contact information (address, e-mail and telephone numbers) of all class members.

10 **As to the First Cause of Action**

- 11 5. That the Court declare, adjudge and decree that Defendants violated California Labor
12 Code sections 1194, 1197, and 1197.1 by willfully failing to pay minimum wages to Plaintiff and the
13 Class;
14 6. For general unpaid wages and such general and special damages as may be appropriate;
15 7. For statutory wage penalties pursuant to California Labor Code Section 1197.1 for
16 Plaintiff and the Class in the amount as may be established according to proof at trial;
17 8. For pre-judgment interest on any unpaid compensation from the date such amounts were
18 due;
19 9. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California
20 Labor Code section 1194(a);
21 10. For liquidated damages pursuant to California Labor Code Section 1194.2; and
22 11. For such other and further relief as the Court may deem just and proper.

23 **As to the Second Cause of Action**

- 24 12. That the Court declare, adjudge and decree that Defendants violated California Labor
25 Code sections 226.7 and 512 and applicable IWC Wage Orders by willfully failing to provide all meal
26 periods to Plaintiff and the Class;
27 13. That the Court make an award to Plaintiff and the Class of one (1) hour of pay at each
28 employee's regular rate of compensation for each workday that a meal period was not provided;

- 1 14. For all actual, consequential, and incidental losses and damages, according to proof;
2 15. For premium wages pursuant to California Labor Code section 226.7;
3 16. For pre-judgment interest on any unpaid wages from the date such amounts were due;
4 17. For reasonable attorneys' fees and costs of suit incurred herein; and
5 18. For such other and further relief as the Court may deem just and proper.

6 **As to the Third Cause of Action**

7 19. That the Court declare, adjudge and decree that Defendants violated California Labor
8 Code section 226.7 and applicable IWC Wage Orders by willfully failing to provide all rest periods to
9 Plaintiff and the Class;

10 20. That the Court make an award to Plaintiff and the Class of one (1) hour of pay at each
11 employee's regular rate of compensation for each workday that a rest period was not provided;

12 21. For all actual, consequential, and incidental losses and damages, according to proof;

13 22. For premium wages pursuant to California Labor Code section 226.7;

14 23. For pre-judgment interest on any unpaid wages from the date such amounts were due;

15 and

16 24. For such other and further relief as the Court may deem just and proper.

17 **As to the Fourth Cause of Action**

18 25. That the Court declare, adjudge and decree that Defendants violated California Labor
19 Code sections 201, 202, and 203 by willfully failing to pay all compensation owed at the time of
20 termination of the employment of Plaintiff and other Class Members no longer employed by
21 Defendants;

22 26. For all actual, consequential, and incidental losses and damages, according to proof;

23 27. For statutory wage penalties pursuant to California Labor Code section 203 for Plaintiff
24 and other Class Members who have left Defendants' employ;

25 28. For pre-judgment interest on any unpaid compensation from the date such amounts were
26 due; and

27 29. For such other and further relief as the Court may deem just and proper.
28

As to the Fifth Cause of Action

30. That the Court declare, adjudge and decree that Defendants violated the record keeping provisions of California Labor Code section 226(a) and applicable IWC Wage Orders as to Plaintiff and the Class, and willfully failed to provide accurate itemized wage statements thereto;

31. For actual, consequential and incidental losses and damages, according to proof;

32. For statutory penalties pursuant to California Labor Code section 226(e); and

33. For such other and further relief as the Court may deem just and proper.

As to the Sixth Cause of Action

34. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 2800 and 2802 by willfully failing to reimburse Plaintiff and the Class for all necessary business-related expenses as required by California Labor Code sections 2800 and 2802;

35. For actual, consequential and incidental losses and damages, according to proof;

36. For the imposition of civil penalties and/or statutory penalties;

37. For reasonable attorneys' fees and costs of suit incurred herein; and

38. For such other and further relief as the Court may deem just and proper.

As to the Seventh Cause of Action

39. That the Court declare, adjudge and decree that Defendants violated California Business and Professions Code Sections 17200, *et seq.* by failing to provide Plaintiff and the Class all overtime compensation due to them, failing to provide all meal and rest periods to Plaintiff and the Class, failing to pay at least minimum wages to Plaintiff and the Class, failing to pay Plaintiff's and other Class Members' wages timely as required by California Labor Code sections 201, 202 and 204 and by violating California Labor Code sections 226(a), 1174(d), 2800, and 2802;

40. For restitution of unpaid wages to Plaintiff and the Class and all pre-judgment interest from the day such amounts were due and payable;

41. For the appointment of a receiver to receive, manage and distribute any and all funds disgorged from Defendants and determined to have been wrongfully acquired by Defendants as a result of violation of California Business and Professions Code sections 17200, *et seq.*;

42. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California

1 Code of Civil Procedure Section 1021.5;

2 43. For injunctive relief to ensure compliance with this section, pursuant to California
3 Business and Professions Code sections 17200, *et seq.*; and

4 44. For such other and further relief as the Court may deem just and proper.

5
6 DATED: March 1, 2023

7 Respectfully submitted,

8 **PROXY LAW FIRM LLP**

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11 _____
12 Hengameh S. Safaei
13 Attorneys for Plaintiff RYAN MIURA,
14 individually and on behalf of others
15 similarly situated
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DATED: March 1, 2023

PROXY LAW FIRM LLP

Rafael

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individually and on behalf of others
similarly situated