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County of Santa Barbara
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NO SUMMONS FILED

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SANTA BARBARA**

PEDRO PAEZ NAVARRO, individually, and
on behalf of other members of the general
public similarly situated,

Plaintiff,

vs.

RANCHO DEL MAR, INC., a California
corporation; and DOES 1 through 100,
inclusive,

Defendants.

Case No. 23CV00741

[Assigned for all purposes to the Honorable Jed
Beebe, Dept. SM4]

**FIRST AMENDED CLASS ACTION
COMPLAINT AND ENFORCEMENT
UNDER THE PRIVATE ATTORNEYS
GENERAL ACT, CALIFORNIA LABOR
CODE §§ *ET SEQ.***

- (1) Violation of California Labor Code §§ 510, 1194, and 1198 (Failure to Pay Regular and Overtime Wages);
- (2) Violation of California Labor Code §§ 226.7 and 512(a) (Failure to Provide Compliant Meal Periods or Pay Premium Compensation in Lieu Thereof);
- (3) Violation of California Labor Code § 226.7 (Failure to Provide Compliant Rest Periods or Pay Premium Compensation in Lieu Thereof);
- (4) Violation of California Labor Code §§ 201 – 203 (Failure to Pay Wages Timely Upon Termination);
- (5) Violation of California Labor Code § 226(a) (Failure to Provide Accurate

Itemized Wage Statements);

- (6) Violation of California Business & Professions Code §§ 17200, *et seq.*; and
- (7) Penalties pursuant to California Labor Code § 2698, *et seq.* (Private Attorneys General Act) and California Labor Code § 558

JURY TRIAL DEMANDED

Plaintiff PEDRO PAEZ NAVARRO, individually and on behalf of all other members of the public similarly situated, alleges as follows:

THE PARTIES

1. Plaintiff PEDRO PAEZ NAVARRO (“Plaintiff”) is at least 18 years of age and is a resident of the County of Santa Barbara in the State of California.

2. Defendant RANCHO DEL MAR, INC., was and is, upon information and belief, a California corporation, and at all times hereinafter mentioned, an employer whose employees are engaged throughout this county and in the State of California.

3. Plaintiff is unaware of the true names or capacities of defendants sued herein under the fictitious names DOES 1 through 100, but prays for leave to amend and serve such fictitiously named defendants pursuant to California Code of Civil Procedure § 474 once their names and capacities become known.

4. Plaintiff is informed and believes, and thereon alleges, that DOES 1 through 100 are the partners, agents, owners, shareholders, managers or employees of RANCHO DEL MAR, INC. and were acting on behalf of RANCHO DEL MAR, INC. at all relevant times.

5. Plaintiff is informed and believes, and thereon alleges, that each and all of the acts and omissions alleged herein were performed by, or are attributable to RANCHO DEL MAR, INC., and DOES 1 through 100 (collectively “Defendants”), each acting as the agent for the other, with legal authority to act on the other’s behalf. The acts of any and all Defendants were in accordance with, and represent the official policy of Defendants.

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

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

JURISDICTION AND VENUE

8. This class action is brought pursuant to California Code of Civil Procedure § 382. The monetary damages and restitution sought by Plaintiff exceeds the minimal jurisdiction limits of the Superior Court and will be established according to proof at trial. The amount in controversy for each class representative, including claims for compensatory damages and pro rata share of attorneys' fees, is less than \$75,000.

9. This Court has jurisdiction over this action pursuant to the California Constitution, Article VI, Section 10, which grants the Superior Court "original jurisdiction in all causes except those given by statute to other courts." The statutes under which this action is brought do not specify any other basis for jurisdiction.

10. This Court has jurisdiction over all Defendants because, upon information and belief, each party is either a citizen of California, has sufficient minimum contacts in California, or otherwise intentionally avails itself of the California market so as to render the exercise of jurisdiction over it by the California courts consistent with traditional notions of fair play and substantial justice.

11. Venue is proper in this Court because, upon information and belief, one or more of the named Defendants reside, transact business, or have offices in this county and the acts and omissions alleged herein took place in this county.

12. Plaintiff has timely provided notice to the California Labor and Workforce Development Agency ("LWDA") and to Defendants, pursuant to California Labor Code § 2699.3.

CLASS ACTION ALLEGATIONS

13. Plaintiff brings this action on his own behalf, as well as on behalf of each and all other persons similarly situated, and thus, seeks class certification under California Code of Civil Procedure § 382.

14. All claims alleged herein arise under California law for which Plaintiff seeks relief authorized by California law.

15. Plaintiff's proposed class consists of and is defined as:

All non-exempt employees who have worked for Defendants in the State of California at any time between February 14, 2019 and the date of final judgment in this action.

16. Plaintiff's proposed PAGA subclass consists of and is defined as:

All non-exempt employees who have worked for Defendants in the State of California at any time between February 3, 2022 and the date of certification of the class in this lawsuit.

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

18. There is a well-defined community of interest in the litigation and the class is readily ascertainable:

(a) Numerosity: The members of the class (and each subclass, if any) are so numerous that joinder of all members would be unfeasible and impractical. The membership of the entire class is unknown to Plaintiff at this time, however, the class is estimated to be greater than fifty (50) individuals and the identity of such membership is readily ascertainable by inspection of Defendants' employment records.

(b) Typicality: Plaintiff is qualified to, and will, fairly and adequately protect the interests of each class member with whom he has a well-defined community of interest, and Plaintiff's claims (or defenses, if any) are typical of all class members' as demonstrated herein.

(c) Adequacy: Plaintiff is qualified to, and 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 acknowledges that he has an obligation to make known to the Court any relationship, conflicts or differences with any class member. Plaintiff's attorneys, the proposed class counsel, are well-versed in the rules governing class action discovery, certification, and settlement. Plaintiff and his counsel have incurred, and throughout the duration 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: The nature of this action makes the use of class action adjudication superior to other methods. A class action will achieve economies of time, effort and expense as compared with separate lawsuits, and will avoid inconsistent outcomes because the same issues can be adjudicated in the same manner and at the same time for the entire class.
- (e) Public Policy Considerations: Employers in the State of California violate employment and labor laws every day. Current employees are often afraid to assert their rights out of fear of direct or indirect retaliation. Former employees are fearful of bringing actions because they believe their former employers might damage their future endeavors through negative references and/or other means. Class actions provide the class members who are not named in the complaint with a type of anonymity that allows for the vindication of their rights at the same time as their privacy is protected.

19. There are common questions of law and fact as to the class (and each subclass, if any) that predominate over questions affecting only individual members, including but not limited to:

- (a) Whether Defendants paid Plaintiff and similarly situated employees less

1 than the applicable minimum wage for all hours worked, as required by
2 California law;

3 (b) Whether Defendants paid Plaintiff and similarly situated employees for all
4 of their overtime hours at the correct hourly rate, as required by California
5 law;

6 (c) Whether Defendants have provided Plaintiff and class members with
7 compliant 30-minute uninterrupted duty-free meal periods within the first
8 five hours of work, and/or provided a second 30-minute, duty-free meal
9 period on shifts longer than 10 hours, and whether Defendants have paid
10 the required premiums when such meal periods were not provided, as
11 required by California law;

12 (d) Whether Defendants have provided Plaintiff and class members with
13 compliant 10-minute rest periods for every four hours worked or major
14 fraction thereof, and whether Defendants have paid the required premiums
15 when such rest periods were not provided, as required by California law;

16 (e) Whether Defendants paid Plaintiff and class members all wages owed
17 upon the separation of their employment within the time periods required
18 by California law;

19 (f) Whether Defendants provided accurate, itemized wage statements to
20 Plaintiff and class members, as required by California law;

21 (g) Whether Defendants' conduct, as described above, was willful or reckless;

22 (h) Whether Defendants engaged in unfair business practices in violation of
23 California Business & Professions Code §§ 17200, *et seq.*; and

24 (i) The appropriate amount of damages, restitution, or monetary penalties
25 resulting from Defendants' violations of California law.

26
27 **GENERAL ALLEGATIONS**

28 20. At all relevant times set forth herein, Defendants employed Plaintiff and other

1 persons as non-exempt employees who belong to the class as set forth above.

2 21. Defendants employed Plaintiff PEDRO PAEZ NAVARRO as a non-exempt,
3 hourly-paid employee from approximately February 2019 to approximately June 15, 2022.
4 Plaintiff worked as a driver, and his job duties consisted of picking up Defendants' employees and
5 driving them to their respective job sites, among other tasks.

6 22. At all relevant times set forth herein, Defendants systematically failed to pay
7 minimum and overtime wages to Plaintiff and other similarly situated non-exempt employees
8 (sometimes collectively "employees" or "class members").

9 23. Plaintiff and class members regularly worked more than 8 hours per day and/or
10 more than 40 hours per week and were not paid for all overtime hours.

11 24. Plaintiff and class members regularly worked more than 12 hours per day and/or
12 more than 8 hours on the seventh consecutive day of work and were not paid at a rate of two-times
13 the regular rate of pay.

14 25. At all relevant times set forth herein, Defendants have failed to provide compliant
15 meal periods to Plaintiff and other similarly situated employees, as required by California law.
16 Plaintiff and class members were deprived of the opportunity to take a timely, duty-free meal
17 period of at least 30 minutes for every 5 hours of work due to the working conditions imposed by
18 Defendants.

19 26. Defendants did not pay meal period premiums to Plaintiff and other similarly
20 situated employees when compliant meal periods were not provided.

21 27. At all relevant times set forth herein, Defendants have failed to provide compliant
22 meal periods to Plaintiff and other similarly situated employees, as required by California law.
23 Plaintiff and class members were deprived of the opportunity to take rest periods of at least 10
24 minutes for each 4 hours worked or major fraction thereof due to the working conditions imposed
25 by Defendants.

26 28. Defendants did not pay rest period premiums to Plaintiff and other similarly
27 situated employees when compliant rest periods were not provided.

28 29. At all relevant times set forth herein, Defendants failed to pay Plaintiff and other

1 similarly situated employees all wages owed upon the separation of their employment, including
2 the unpaid overtime wages described herein.

3 30. At all relevant times set forth herein, Defendants have failed to provide Plaintiff
4 and other similarly situated employees with accurate itemized wage statements, as required by
5 California Labor Code § 226(a). The number of hours worked and/or the corresponding hourly
6 rates are inaccurate as a consequence of Defendants' failure to pay overtime wages, as set forth
7 herein.

8 31. Plaintiff is informed and believes, and thereon alleges, that at all times herein
9 mentioned, Defendants were advised by skilled lawyers and other professionals, employees and
10 advisors knowledgeable about California labor and wage law, employment and personnel
11 practices, and about the requirements of California law.

12 32. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
13 should have known that Plaintiff and similarly situated employees were entitled to receive
14 minimum wage for all hours worked as well as overtime pay at one-and-a-half times the regular
15 rate of pay or two-times the regular rate of pay, but that Plaintiff and similarly situated employees
16 were not paid all their hours worked and/or were not paid at the correct hourly rate.

17 33. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
18 should have known that Plaintiff and other similarly situated employees were entitled to receive all
19 meal periods as required by California law, or payment of one additional hour of pay at the regular
20 rate of pay when a compliant meal period was not provided.

21 34. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
22 should have known that Plaintiff and other similarly situated employees were entitled to receive all
23 rest periods as required by California law, or payment of one additional hour of pay at the regular
24 rate of pay when a compliant rest period was not provided.

25 35. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
26 should have known that Plaintiff and other similarly situated employees were entitled to timely
27 payment of all wages—including, without limitation, regular and overtime wages—due upon
28 termination or discharge in accordance with California law, and that they were not timely paid

1 such wages.

2 36. Plaintiff is informed and believes, and thereon alleges, that Defendant knew or
3 should have known that Plaintiff and similarly situated employees were entitled to receive
4 reimbursement for all necessary business-related expenses incurred by them, and that Plaintiff and
5 other similarly situated employees did incur such expenses and were not reimbursed.

6 37. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
7 should have known that Plaintiff and other similarly situated employees were entitled to receive
8 complete and accurate wage statements in accordance with California law, and that such wage
9 statements were not provided.

10 38. Plaintiff is informed and believes, and thereon alleges, that at all times herein
11 mentioned, Defendants knew or should have known that they had a duty to compensate Plaintiff
12 and other similarly situated employees, and that Defendants had the financial ability to pay such
13 compensation, but willfully, knowingly and intentionally failed to do so, and falsely represented to
14 Plaintiff and other similarly situated employees that they were properly denied wages, all in order
15 to increase Defendants' profits.

16 39. California Labor Code § 218 states that nothing in Article 1 of the Labor Code shall
17 limit the right of any wage claimant to "sue directly . . . for any wages or penalty due to him [or
18 her] under this article.

19 40. At all relevant times set forth herein, the California Private Attorneys General Act,
20 Labor Code § 2698, *et seq.* ("PAGA") was applicable to Plaintiff's employment by Defendants.

21 41. At all times herein set forth, PAGA provides that any provision of law under the
22 California Labor Code that provides for a civil penalty to be assessed and collected by the LWDA
23 for violations of the California Labor Code may, as an alternative, be recovered through a civil
24 action brought by an aggrieved employee on behalf of himself or herself and other current or
25 former employees pursuant to procedures outlined in California Labor Code § 2699.3.

26 42. Pursuant to PAGA, a civil action under PAGA may be brought by an "aggrieved
27 employee," who is any person that was employed by the alleged violator and against whom one or
28 more of the alleged violations was committed.

1 43. Plaintiff was employed by Defendants and the alleged violations were committed
2 against him during his employment and he is, therefore, an aggrieved employee. Plaintiff and
3 other employees are “aggrieved employees” as defined by California Labor Code § 2699(c) in that
4 they are all current or former employees of Defendants, and one or more of the alleged violations
5 were committed against them.

6 44. Pursuant to California Labor Code §§ 2699.3 and 2699.5, an aggrieved employee,
7 including Plaintiff, may pursue a civil action arising under PAGA after the following requirements
8 have been met:

- 9 a. The aggrieved employee shall give written notice by certified mail
10 (hereinafter “Employee’s Notice”) to the LWDA and the employer of the
11 specific provisions of the California Labor Code alleged to have been
12 violated, including the facts and theories to support the alleged violations.
- 13 b. The LWDA shall provide notice (hereinafter “LWDA Notice”) to the
14 employer and the aggrieved employee by certified mail that it does not
15 intend to investigate the alleged violation within sixty (60) calendar days of
16 the postmark date of the Employee’s Notice. Upon receipt of the LWDA
17 Notice, or if the LWDA Notice is not provided within sixty-five (65)
18 calendar days of the postmark date of the Employee’s Notice, the aggrieved
19 employee may commence a civil action pursuant to California Labor Code
20 § 2699 to recover civil penalties in addition to any other penalties to which
21 the employee may be entitled.
- 22 c. On February 3, 2023, Plaintiff provided the requisite written notice by
23 online submission to the LWDA and certified mail to Defendant RANCHO
24 DEL MAR, INC. informing them of the specific provisions of the
25 California Labor Code alleged to have been violated, including the facts and
26 theories to support the alleged violations.

- 27 d. To date, the LWDA has not responded to Plaintiff’s written notice.

28 45. Plaintiff has satisfied the administrative prerequisites under California Labor Code

§ 2699.3 to recover civil penalties against Defendants, in addition to other remedies, for violations of California Labor Code §§ 201, 202, 226(a), 226.7, 510, 512, 1194, 1198, 2800, and 2802. Plaintiff has also satisfied the administrative prerequisites to recover civil penalties against Defendants for violations of California Labor Code § 558.

FIRST CAUSE OF ACTION

Violation of California Labor Code §§ 510, 1194, and 1198

(Against All Defendants)

46. Plaintiff incorporates by reference and re-alleges as if fully stated herein the material allegations set out in paragraphs 1 through 45.

47. California Labor Code § 510 codifies the right to overtime compensation at one-and-one-half times the regular hourly rate for hours worked in excess of 8 hours in a day or 40 hours in a week or for the first 8 hours worked on the seventh day of work, and to overtime compensation at twice the regular hourly rate for hours worked in excess of 12 hours in a day or in excess of 8 hours in a day on the seventh day of work.

48. During the relevant time period, Plaintiff and class members consistently worked in excess of 8 hours in a day, in excess of 12 hours in a day, and/or in excess of 40 hours in a week. Plaintiff and class members regularly worked more than 12 hours per day and/or more than 8 hours on the seventh consecutive day of work.

49. California Labor Code § 1198 and the applicable Industrial Welfare Commission (“IWC”) Wage Order provide that it is unlawful to employ persons without compensating them at a rate of pay either time-and-one-half or two-times that person’s regular rate of pay, depending on the number of hours worked by the person on a daily or weekly basis.

50. Specifically, the applicable IWC Wage Order provides that Defendants are and were required to pay Plaintiff and class members employed by Defendants, and working more than 8 hours in a day or more than 40 hours in a workweek, at the rate of time-and-one-half for all hours worked in excess of 8 hours in a day or more than 40 hours in a workweek.

51. The applicable IWC Wage Order further provides that Defendants are and were

1 required to pay Plaintiff and class members employed by Defendants, and working more than 12
2 hours in a day, overtime compensation at a rate of two times their regular rate of pay.

3 52. During the relevant time period, Defendants willfully failed to pay all wages,
4 including overtime wages, owed to Plaintiff and class members.

5 53. Defendants' failure to pay Plaintiff's and class members' overtime wages violates
6 the provisions of California Labor Code §§ 510, 1194 and 1198, and is therefore unlawful.

7 54. Plaintiff and class members are entitled to recover unpaid wages and such general
8 and special damages as may be appropriate and interest thereon.

9 55. Pursuant to California Labor Code § 1194, Plaintiff and class members are entitled
10 to recover their unpaid overtime wages, as well as interest, costs, and attorneys' fees.

11
12 **SECOND CAUSE OF ACTION**

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

14 **(Against All Defendants)**

15 56. Plaintiff incorporates by reference and re-alleges as if fully stated herein the
16 material allegations set out in paragraphs 1 through 55.

17 57. At all relevant times, the applicable IWC Wage Order and California Labor Code
18 §§ 226.7 and 512(a) were applicable to Plaintiff's and class members' employment by Defendants.

19 58. At all relevant times, California Labor Code § 226.7 provides that no employer
20 shall require an employee to work during any meal period mandated by an applicable order of the
21 California IWC.

22 59. At all relevant times, the applicable IWC Wage Order and California Labor Code
23 § 512(a) provide that an employer may not require, cause or permit an employee to work for a
24 period of more than 5 hours per day without providing the employee with an uninterrupted meal
25 period of not less than 30 minutes, except that if the total work period per day of the employee is
26 not more than 6 hours, the meal period may be waived by mutual consent of both the employer
27 and the employee.

28 60. At all relevant times, the applicable IWC Wage Order and California Labor Code

1 section 512(a) further provide that an employer may not require, cause or permit an employee to
2 work for a period of more than 10 hours per day without providing the employee with a second
3 uninterrupted meal period of not less than 30 minutes, except that if the total hours worked is not
4 more than 12 hours, the second meal period may be waived by mutual consent of the employer
5 and the employee only if the first meal period was not waived.

6 61. During the relevant time period, Plaintiff and class members who were scheduled
7 to work for a period of time no longer than 6 hours, and who did not waive their legally-mandated
8 meal periods by mutual consent, were required to work for periods longer than 5 hours without an
9 uninterrupted meal period of not less than 30 minutes.

10 62. During the relevant time period, Plaintiff and class members who were scheduled
11 to work for a period of time in excess of 6 hours were required to work for periods longer than 5
12 hours without an uninterrupted meal period of not less than 30 minutes.

13 63. During the relevant time period, Defendants willfully required Plaintiff and class
14 members to work during meal periods and failed to compensate Plaintiff and class members for
15 work performed during meal periods.

16 64. At all relevant times set forth herein, Defendants failed to provide compliant meal
17 periods to Plaintiff and other similarly situated employees, as required by California law. Plaintiff
18 and class members were deprived of the opportunity to take a timely, duty-free meal period of at
19 least 30 minutes for every 5 hours of work due to the working conditions imposed by Defendants.

20 65. During the relevant time period, Defendants failed to pay Plaintiff and class
21 members the full meal period premium due for non-compliant meal periods pursuant to California
22 Labor Code § 226.7.

23 66. Defendants' conduct violates the applicable IWC Wage Orders and California
24 Labor Code §§ 226.7 and 512(a).

25 67. Pursuant to the applicable IWC Wage Order and California Labor Code § 226.7(b),
26 Plaintiff and class members are entitled to recover from Defendants one additional hour of pay at
27 the employees' regular hourly rate of compensation for each work day that a compliant meal
28 period was not provided.

THIRD CAUSE OF ACTION

Violation of California Labor Code § 226.7

(Against All Defendants)

68. Plaintiff incorporates by reference and re-alleges as if fully stated herein the material allegations set out in paragraphs 1 through 67.

69. At all relevant times herein set forth, the applicable IWC Wage Order and California Labor Code § 226.7 were applicable to Plaintiff's and class members' employment by Defendants.

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

71. At all relevant times, the applicable IWC Wage Order provides that "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period" and that the "rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof" unless the total daily work time is less than three and one-half (3½) hours.

72. During the relevant time period, Defendants required Plaintiff and class members to work 4 or more hours without authorizing or permitting a 10-minute rest period per each 4 hour period worked or major fraction thereof.

73. At all relevant times set forth herein, Defendants failed to provide compliant rest periods to Plaintiff and other similarly situated employees, as required by California law. Plaintiff and class members were deprived of the opportunity to rest periods of at least 10 minutes for each 4 hours worked or major fraction thereof.

74. Defendants did not pay rest period premiums to Plaintiff and other similarly situated employees when compliant rest periods were not provided.

75. Defendants' conduct violates the applicable IWC Wage Orders and California Labor Code § 226.7.

FOURTH CAUSE OF ACTION

Violation of California Labor Code §§ 201, 202 and 203

(Against All Defendants)

9 77. Plaintiff incorporates by reference and re-alleges as if fully stated herein the
10 material allegations set out in paragraphs 1 through 76.

11 78. At all times herein set forth, California Labor Code §§ 201 and 202 provide that if
12 an employer discharges an employee, the wages earned and unpaid at the time of discharge are
13 due and payable immediately, and that if an employee voluntarily leaves his or her employment,
14 his or her wages shall become due and payable not later than 72 hours thereafter, unless the
15 employee has given 72 hours previous notice of his or her intention to quit, in which case the
16 employee is entitled to his or her wages at the time of quitting.

79. At all relevant times set forth herein, Defendants failed to pay Plaintiff and other similarly situated employees all wages owed upon the separation of their employment, including the unpaid overtime wages described herein.

80. Defendants' failure to pay Plaintiff and those class members who are no longer employed by Defendants their wages earned and unpaid at the time of discharge, or within 72 hours of their leaving Defendants' employ, is in violation of California Labor Code §§ 201, 202 and 203.

24 81. All California employers know or should know that employees must be paid for all
25 hours worked, and must be paid overtime at a rate of one-and-a-half times the regular rate of pay
26 for overtime hours and two-times the regular rate of pay for double-time hours as defined by
27 California law. Defendant's failure to abide by this well-established law is willful and not in good
28 faith.

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

83. Plaintiff and class members are entitled to recover from Defendants the statutory penalty wages for each day they were not paid, up to a thirty (30) day maximum pursuant to California Labor Code § 203.

FIFTH CAUSE OF ACTION

Violation of California Labor Code § 226(a)

(Against All Defendants)

84. Plaintiff incorporates by reference and re-alleges as if fully stated herein the material allegations set out in paragraphs 1 through 83.

85. At all material times set forth herein, California Labor Code § 226(a) provides that every employer shall furnish each of his or her employees an accurate itemized wage statement in writing showing the following information: (1) gross wages earned; (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission; (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item; (5) net wages earned; (6) the inclusive dates of the period for which the employee is paid; (7) the name of the employee and his or her social security number, except that by January 1, 2008, only the last four digits of his or her social security number or an employee identification number other than a social security number may be shown on the itemized statement; (8) the name and address of the legal entity that is the employer; and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee

86. Defendants have intentionally and willfully failed to provide employees with

1 complete and accurate wage statements. The number of hours worked and/or the corresponding
2 hourly rates are inaccurate as a consequence of Defendants' failure to pay overtime wages, as set
3 forth herein.

4 87. As a result of Defendants' violation of California Labor Code § 226(a), Plaintiff
5 and class members have suffered injury and damage to their statutorily-protected rights.

6 88. Specifically, Plaintiff and other class members have been injured by Defendants'
7 intentional violation of California Labor Code § 226(a) because they were denied both their legal
8 right to receive, and their protected interest in receiving, accurate, itemized wage statements under
9 California Labor Code § 226(a). Plaintiff and other class members have been injured by
10 Defendants' intentional violation of California Labor Code § 226(a) in that it has caused confusion
11 over whether they had received all of the wages owed them, in addition to their difficulty and
12 expense in reconstructing pay records and making mathematical computations to analyze whether
13 the wages paid them did in fact compensate them for all hours worked

14 89. Furthermore, Labor Code § 226(e)(2)(B) provides that an employee is deemed to
15 suffer injury if the wage statement fails to accurately and completely provide certain pieces of
16 information and the employee cannot promptly and easily determine such information from the
17 wage statement alone. In relevant part, Labor Code § 226(e)(2)(B) provides that an employee is
18 deemed to suffer injury if the wage statement does not accurately and completely state the total
19 number of hours worked by the employee, and all applicable hourly rates in effect during the pay
20 period and the corresponding number of hours worked at each hourly rate.

21 90. Plaintiff and class members are deemed to have suffered injury because their wage
22 statements did not provide complete and accurate information regarding the total number of hours
23 they worked in a given pay period, the applicable hourly rates in effect during the pay period,
24 and/or the corresponding number of hours worked at each hourly rate.

25 91. Plaintiff and class members are entitled to recover from Defendants the greater of
26 their actual damages caused by Defendants' failure to comply with California Labor Code §
27 226(a), or an aggregate penalty not exceeding \$4,000 per employee.

28 ///

SIXTH CAUSE OF ACTION

Violation of California Business & Professions Code §§ 17200, *et seq.*

(Against All Defendants)

92. Plaintiff incorporates by reference and re-alleges as if fully stated herein the material allegations set out in paragraphs 1 through 91.

93. Defendants' conduct, as alleged herein, has been, and continues to be, unfair, unlawful, and harmful to Plaintiff, other class members, and to the general public. Plaintiff seeks to enforce important rights affecting the public interest within the meaning of Code of Civil Procedure § 1021.5.

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

95. A violation of California Business & Professions Code §§ 17200, *et seq.* may be predicated on the violation of any state or federal law. In this case, Defendants' policy and practice of failing to pay Plaintiff and class members the proper hourly rates for all overtime hours worked violates California Labor Code §§ 510, 1194, and 1198; Defendants' policy and practice of requiring Plaintiff and class members to work through their meal and rest periods without paying them proper compensation violates California Labor Code §§ 226.7 and 512(a); Defendants' policy and practice of not timely paying all wages owed to Plaintiff and other similarly situated employees upon resignation or termination violates California Labor Code §§ 201, 202, and 203; and Defendants' policy and practice of failing to provide accurate itemized wage statements violate California Labor Code § 226.

96. Plaintiff and putative class members have been personally injured by Defendants' unlawful business acts and practices as alleged herein, including but not necessarily limited to the loss of money and/or property.

97. Pursuant to California Business & Professions Code §§ 17200, *et seq.*, Plaintiff and putative class members are entitled to restitution of the wages withheld and retained by Defendants during a period that commences four years prior to the filing of this complaint; a

1 permanent injunction requiring Defendants to pay all outstanding wages due to Plaintiff and class
2 members; an award of attorneys' fees pursuant to California Code of Civil Procedure § 1021.5 and
3 other applicable laws; and an award of costs.

4
5 **SEVENTH CAUSE OF ACTION**

6 **Penalties Pursuant to California Labor Code § 2698, *et seq.***

7 **(Private Attorneys General Act)**

8 **(Against all Defendants)**

9 98. Plaintiff incorporates by reference and re-alleges as if fully stated herein the
10 material allegations set out in paragraph 1 through 97.

11 99. At all relevant times set forth herein, the California Private Attorneys General Act,
12 Labor Code § 2698, *et seq.* ("PAGA") was applicable to Plaintiff's employment by Defendants.

13 100. At all times herein set forth, PAGA provides that any provision of law under the
14 California Labor Code that provides for a civil penalty to be assessed and collected by the LWDA
15 for violations of the California Labor Code may, as an alternative, be recovered through a civil
16 action brought by an aggrieved employee on behalf of himself or herself and other current or
17 former employees pursuant to procedures outlined in California Labor Code § 2699.3.

18 101. Pursuant to PAGA, a civil action under PAGA may be brought by an "aggrieved
19 employee," who is any person that was employed by the alleged violator and against whom one or
20 more of the alleged violations was committed.

21 102. Plaintiff was employed by Defendants and the alleged violations were committed
22 against him during his employment and he is, therefore, an aggrieved employee. Plaintiff and
23 other employees are "aggrieved employees" as defined by California Labor Code § 2699(c) in that
24 they are all current or former employees of Defendants, and one or more of the alleged violations
25 were committed against them.

26 103. Pursuant to California Labor Code §§ 2699.3 and 2699.5, an aggrieved employee,
27 including Plaintiff, may pursue a civil action arising under PAGA after the following requirements
28 have been met:

- a. The aggrieved employee shall give written notice by certified mail (hereinafter “Employee’s Notice”) to the LWDA and the employer of the specific provisions of the California Labor Code alleged to have been violated, including the facts and theories to support the alleged violations.
- b. The LWDA shall provide notice (hereinafter “LWDA Notice”) to the employer and the aggrieved employee by certified mail that it does not intend to investigate the alleged violation within sixty (60) calendar days of the postmark date of the Employee’s Notice. Upon receipt of the LWDA Notice, or if the LWDA Notice is not provided within sixty-five (65) calendar days of the postmark date of the Employee’s Notice, the aggrieved employee may commence a civil action pursuant to California Labor Code § 2699 to recover civil penalties in addition to any other penalties to which the employee may be entitled.
- c. On February 3, 2023, Plaintiff provided the requisite written notice by online submission to the LWDA and certified mail to Defendant RANCHO DEL MAR, INC. informing them of the specific provisions of the California Labor Code alleged to have been violated, including the facts and theories to support the alleged violations.
- d. To date, the LWDA has not responded to Plaintiff’s written notice.

104. At all material times set forth herein, California Labor Code § 558 provides that an employer or person acting on behalf of an employer who violates (or causes to be violated) any provision of Labor Code §§ 500 through 558 or any provision of the IWC Wage Orders regulating hours and days of work shall be subject to civil penalties of \$50 to \$100 per pay period to each underpaid employee in addition to an amount sufficient to recover underpaid wages, plus other civil penalties provided for by law.

105. Plaintiff has satisfied the administrative prerequisites under California Labor Code § 2699.3 to recover civil penalties against Defendants, in addition to other remedies, for violations of California Labor Code §§ 201, 202, 226(a), 226.7, 510, 512, 1194, 1198, 2800, and 2802.

1 Plaintiff has also satisfied the administrative prerequisites to recover civil penalties against
2 Defendants for violations of California Labor Code § 558.

3
4 **REQUEST FOR JURY TRIAL**

5 Plaintiff requests a trial by jury.

6
7 **PRAYER FOR RELIEF**

8 Plaintiff, and on behalf of all others similarly situated, prays for relief and judgment
9 against Defendants, jointly and severally, as follows:

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

- 11 1. That the Court declare, adjudge and decree that Defendants violated California
12 Labor Code §§ 510, 1194 and 1198 and applicable IWC Wage Orders by willfully failing to pay
13 all wages, including overtime wages, due to Plaintiff and class members;
14 2. For general unpaid wages at the applicable wage rates and such general and special
15 damages as may be appropriate;
16 3. For pre-judgment interest on any unpaid wages commencing from the date such
17 amounts were due;
18 4. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to
19 California Labor Code § 1194(a); and
20 5. For such other and further relief as the Court may deem equitable and appropriate.

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

- 22 6. That the Court declare, adjudge and decree that Defendants violated California
23 Labor Code §§ 226.7 and 512 and applicable IWC Wage Orders by willfully failing to provide all
24 meal periods to Plaintiff and class members;
25 7. That the Court make an award to the Plaintiff and class members of one (1) hour of
26 pay at each employee's regular rate of compensation for each workday that a compliant meal
27 period was not provided;
28 8. For all actual, consequential, and incidental losses and damages, according to

1 proof;

2 9. For premiums pursuant to California Labor Code § 226.7(b);

3 10. For pre-judgment interest on any unpaid wages from the date such amounts were
4 due; and

5 11. For such other and further relief as the Court may deem equitable and appropriate.

6 As to the Third Cause of Action

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

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

13 14. For all actual, consequential, and incidental losses and damages, according to
14 proof;

15 15. For premiums pursuant to California Labor Code § 226.7(b);

16 16. For pre-judgment interest on any unpaid wages from the date such amounts were
17 due; and

18 17. For such other and further relief as the Court may deem equitable and appropriate.

19 As to the Fourth Cause of Action

20 18. That the Court declare, adjudge and decree that Defendants violated California
21 Labor Code §§ 201, 202, and 203 by willfully failing to pay Plaintiff and class members all
22 compensation owed to them at the time of their termination of the employment;

23 19. For all actual, consequential and incidental losses and damages, according to
24 proof;

25 20. For statutory penalties pursuant to California Labor Code § 203; and

26 21. For such other and further relief as the Court may deem equitable and appropriate.

27 As to the Fifth Cause of Action

28 22. That the Court declare, adjudge and decree that Defendants violated the record

1 keeping provisions of California Labor Code § 226(a) and applicable IWC Wage Orders as to
2 Plaintiff and class members, and willfully failed to provide accurate itemized wage statements
3 thereto;

4 23. For all actual, consequential and incidental losses and damages, according to proof;

5 24. For statutory penalties pursuant to California Labor Code § 226(e); and

6 25. For such other and further relief as the Court may deem equitable and appropriate.

7 As to the Sixth Cause of Action

8 26. That the Court declare, adjudge and decree that Defendants violated California
9 Business and Professions Code §§ 17200, *et seq.* by failing to pay Plaintiff and class members all
10 wages due to them, including overtime wages; failing to provide compliant meal and rest periods
11 to Plaintiff and class members and failing to pay premium wages when compliant meal and rest
12 periods were not provided; failing to timely pay all wages due upon employees' resignation or
13 termination under California Labor Code § 201 – 203; and failing to provide Plaintiff and class
14 members with compliant wage statements under California Labor Code § 226.

15 27. For restitution of unpaid wages to Plaintiff and all class members and prejudgment
16 interest from the day such amounts were due and payable;

17 28. For the appointment of a receiver to receive, manage and distribute any and all
18 funds disgorged from Defendants and determined to have been wrongfully acquired by Defendants
19 as a result of violations of California Business & Professions Code §§ 17200 *et seq.*;

20 29. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
21 California Code of Civil Procedure § 1021.5; and

22 30. For such other and further relief as the Court may deem equitable and appropriate.

23 As to the Seventh Cause of Action

24 31. For civil penalties pursuant to California Labor Code § 2699(f) and (g) in the
25 amount of \$100 dollars for each violation per pay period for the initial violation and \$200 for each
26 aggrieved employee per pay period for each subsequent violation, plus attorneys' fees and costs;

27 32. For civil penalties pursuant to California Labor Code § 558 in the amount of \$50
28 per underpaid employee for each initial pay period in which the employee was underpaid and \$100

1 per underpaid employee for each subsequent pay period in which the employee was underpaid, in
2 addition to an amount sufficient to recover underpaid wages; and

3 33. For such other and further relief as the Court may deem equitable and appropriate.
4

5 Dated: November 7, 2023

AEQUITAS LEGAL GROUP

6
7 By: 

RONALD H. BAE

OLIVIA D. SCHARRER

CARSON M. TURNER

Attorneys for Plaintiff PEDRO PAEZ NAVARRO
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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the county of Los Angeles, State of California. I am over the age of 18, and my business address is 1156 E. Green Street, Suite 200, Pasadena, California 91106.

On November 7, 2023, I served the document described as **FIRST AMENDED CLASS ACTION COMPLAINT AND ENFORCEMENT UNDER THE PRIVATE ATTORNEYS GENERAL ACT, CALIFORNIA LABOR CODE §§ ET SEQ.** on the following interested parties and/or their counsel in this action by the method(s) noted below:

Vincent T. Martinez vmartinez@twitchellandrice.com llimone@twitchellandrice.com TWITCHELL AND RICE, LLP 215 North Lincoln Street Santa Maria, California 93458 Telephone: (805) 925-2611 Attorneys for Defendant RANCHO DEL MAR, INC.	Todd C. Hunt todd@toddhuntlaw.com LAW OFFICE OF TODD C. HUNT, APC 30721 Russell Ranch Road, Suite 140 Westlake Village, California 91362 Telephone: (310) 994-0157 Attorneys for Defendant RANCHO DEL MAR, INC.
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- ☐ **(BY FIRST CLASS MAIL):** I caused an envelope containing the above-described document to be deposited in the United States mail at Pasadena, California. The envelope was mailed with postage thereon fully prepaid.
- ☐ **(BY EXPRESS MAIL):** I placed the above-described document in an envelope for collection and delivery on this date in accordance with the standard express mail procedures of the United States Postal Service.
- ☐ **(BY FACSIMILE):** I sent the above-described document via facsimile to the office of the above addressee(s) at the above-noted fax number(s).
- ☒ **(BY EMAIL):** The above-described document was emailed to the above addressee's email address(es) as full and complete service pursuant to California Code of Civil Procedure § 1010.6(a).
- ☒ **(STATE):** I declare under penalty of perjury under the laws of the State of California that the above is true and correct.
- ☐ **(FEDERAL):** I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on November 7, 2023 at Pasadena, California.



MICHAELA MURPHY