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

FRANCO RANGEL, an individual
 Plaintiff

v.

TERACOM SERVICES, LLC, an Arizona
 limited liability company, and DOES 1
 through 100, inclusive
 Defendants

Case No.

CIV SB 2318112

CLASS ACTION BY FAX

CLASS ACTION COMPLAINT FOR:

1. FAILURE TO PAY OVERTIME WAGES;
2. FAILURE TO PAY MINIMUM WAGES;
3. FAILURE TO PROVIDE MEAL PERIODS OR COMPENSATION IN LIEU OF;
4. FAILURE TO PROVIDE PAID REST PERIODS OR COMPENSATION IN LIEU OF;
5. FAILURE TO TIMELY FURNISH ACCURATE ITEMIZED WAGE STATEMENTS;
6. VIOLATION OF LABOR CODE §203;
7. VIOLATION OF LABOR CODE §2802;
8. UNFAIR BUSINESS PRACTICES; AND
9. CIVIL PENALTIES PURSUANT TO PRIVATE ATTORNEYS' GENERAL ACT OF 2004

DEMAND FOR JURY TRIAL

COMPLAINT FOR DAMAGES

BY FAX

FILED
 SUPERIOR COURT OF CALIFORNIA
 COUNTY OF SAN BERNARDINO

JUL 28 2023

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- 9. CIVIL PENALTIES PURSUANT TO PRIVATE ATTORNEYS' GENERAL ACT OF 2004**

DEMAND FOR JURY TRIAL

1 Plaintiff FRANCO RANGEL (“Plaintiff”), an individual on behalf of himself and all
2 others similarly situated (hereinafter collectively referred to as “Plaintiffs”), hereby files this
3 Class Action Complaint against Defendant TERACOM SERVICES, LLC, an Arizona limited
4 liability company; and DOES 1 through 100, Inclusive (hereinafter collectively referred to as
5 “Defendants”). Plaintiffs are informed and believe, and on the basis of that information and
6 belief, allege as follows:

7 **INTRODUCTION**

8 1. This is Class Action, pursuant to California Code of Civil Procedure §382 on
9 behalf of Plaintiff and other non-exempt current and former employees employed by
10 TERACOM SERVICES, LLC, and DOES 1 through 100, Inclusive, in California at any time
11 from January 30, 2019 to the present.¹ Defendant and DOES are collectively hereinafter
12 referred to as “Defendants”. Defendant TERACOM SERVICES, LLC, and DOES 1 through
13 100 who were joint employers of Plaintiffs in that they were operating as a joint enterprise and
14 both suffered and permitted Plaintiffs to work for each and both of them; controlled Plaintiffs
15 hours and working conditions; controlled Plaintiffs’ wages; both made the decision to hire
16 Plaintiffs and had control of Plaintiffs’ employment and therefore jointly employed Plaintiffs.
17 These Defendants and DOES are collectively hereinafter referred to as “Defendants”.

18 2. This is a civil action seeking recovery for Defendants’ violations of California
19 Labor Code (“Labor Code”) §1194, et seq.. §1197, §200 et seq.. Labor Code §500 et seq.,
20 Labor Code §2800 et seq., California Business and Professions Code (“B& PC”) §17000 et
21 seq. and §17200, et seq., the applicable Wage Order(s) issued by the California Industrial
22 Welfare Commission (hereinafter, the “IWC Wage Order(s)”) and related common law
23 principles.

24 3. Plaintiffs’ action seeks monetary damages, including full restitution from
25 Defendants as a result of Defendants’ unlawful, fraudulent and/or unfair business practices.

26
27 ¹ The statutory period here is four years and one hundred and seventy-eight days due to
28 California Emergency Rule of Court 9(a), which tolled the applicable statute of limitations for
178 days from April 6, 2020 to October 1, 2020.

1 4. The acts complained of herein occurred, occur and will occur, at least in part,
2 within the time period from four (4) years preceding the filing of this complaint, up to and
3 through the time of trial for this matter.

4 **RELEVANT EMPLOYEES**

5 5. The relevant employees are Defendants' non-exempt and hourly current and
6 former Field Technicians, employed during the relevant time period of January 30, 2019 to the
7 present ("Class Period") and who worked in California ("Field Technicians" or "Putative Class
8 Members").

9 6. Putative Class Members are paid by Defendants on an hourly pay basis.

10 7. The obligations and responsibilities of Defendants' current and former non-
11 exempt, hourly paid employees employed in California by Defendants are virtually identical
12 from employee to employee. Any differences in job activities between the different individuals
13 in these positions were and are legally insignificant to the issues presented by this action.

14 **SUMMARY OF CLAIMS**

15 8. With regard to Defendants' California based Field Technicians that worked for
16 Defendant TERACOM SERVICES, LLC, Defendants have established a rounding policy
17 which does not compensate said employees for the time they actually worked and as a result
18 Defendants have failed to pay all wages due including overtime wages for all hours worked
19 and failed to pay the required minimum wage for all hours worked. Further, Defendants
20 would require Field Technicians to work off the clock when working two shifts in one day and
21 would not compensate these Field Technicians for this time resulting in failure to pay for all
22 hours worked, including overtime, and split shift premiums. Additionally, Plaintiff and other
23 similarly situated Field Technicians would not be compensated overtime hours for extensive
24 travel time they were compelled to drive due to job site locations being in different counties
25 nor were they reimbursed for mileage incurred in traveling to the various job sites with their
26 own personal vehicles. Moreover, Defendants have failed to provide timely uninterrupted
27 thirty (30) minute meal periods; failed to provide paid rest periods; failed to timely furnish
28 accurate itemized wage statements; violated Labor Code §203; and conducted unfair business

1 practices.

2 9. Minimum and Overtime Claims. Plaintiff and Defendants' non-exempt, hourly
3 employees did not contemporaneously and accurately record their hours worked for
4 compensation. Instead, non-exempt, hourly paid current and former employees, including
5 Plaintiff, were trained and required to record at the conclusion of each work day, work week or
6 pay period their supposed work hours in whole, round numbers. Such a practice or
7 mechanism that is used in lieu of real-time recording such as a time clock, does not accurately
8 account for all hours worked. See Morillion v. Royal Packing Co., 22 Cal.4th 575 (2000); See
9 also Troester v. Starbucks Corp., 421 P.3d 1114 (2018) (recent California Supreme Court
10 decision affirming that relevant statutes and wage order do not allow employers to require
11 employees to routinely work for minutes off-the-clock without compensation.)

12 10. Defendants utilized a timekeeping system, which failed to compensate Plaintiff
13 and Defendants' non-exempt, hourly paid current and former employees for all hours worked,
14 whether by rounding, time-shaving, or otherwise. Defendants' rounding of time was not even-
15 handed and has resulted in Plaintiff and Defendants' non-exempt, hourly paid current and
16 former Field Technicians not being compensated for all hours worked, including all minimum
17 and overtime wages earned. Defendants have the ability to compensate Plaintiff and Field
18 Technicians to the minute as it appears Defendants' records show their ability to record and
19 capture Plaintiff's and the Putative Class Members' accrued Paid Time Off and Sick Time
20 balances to the exact minute.

21 11. Plaintiff and similarly situated Field Technicians would also be required to work
22 two shifts in one day, but they would not be compensated for all their time. In particular,
23 Plaintiff and similarly situated Field Technicians would work a shift from 6:00 a.m. to 3:30
24 p.m. Then they would be asked to come back to the job site later that same day at 10:30 p.m.,
25 but they were told not to punch into the clock until midnight because it would cause time
26 keeping problems. However, Plaintiff and other similarly situated Field Technicians would not
27 be compensated for the one and one-half hours they worked off the clock.

28 12. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or

1 should have known that Plaintiff and/or Field Technicians were entitled to be paid split shift
2 premiums when they returned to work for an additional shift in the same day, after having
3 been clocked out for more than an hour. In violation of the California Labor Code and
4 applicable IWC Wage Order, Defendants did not pay Plaintiff and/or Field Technicians an
5 additional hour at minimum wage when they worked split-shifts.

6 13. Meal and Rest Periods. Additionally, due to the press of work, Plaintiff and
7 Defendants' non-exempt, hourly paid current and former Field Technicians were not provided
8 with statutorily-compliant and timely meal and rest periods. Field Technicians, including
9 Plaintiff, would also not contemporaneously record or clock in and out on Defendants'
10 timekeeping system for meal periods. Upon information and belief, Defendants' timekeeping
11 system would automatically carve out a purported thirty-minute meal period to give the false
12 impression that Field Technicians including Plaintiff were provided with their statutory breaks.
13 At a minimum, "an employer must inform employees in a meaningful or consistent way that
14 they could take rest breaks, [and] the definition of any such rest breaks." Godfrey v. Oakland
15 Port Services Corp., 230 Cal.App.4th 1267, 1286 (2014).

16 14. Accordingly, Plaintiff and Defendants' non-exempt, hourly paid current and
17 former employees regularly work more than five (5) hours per day without receiving an
18 adequate and timely off-duty meal period of at least thirty (30) minutes during which they
19 were relieved of all duties. Through the practice and policy of recording an idealized meal
20 break after the fact, and that time entry for that purported break is in exact duration time and
21 time again without the slightest deviation, appear to be illusory in nature. In Brinker
22 Restaurant Corp. v. Superior Court, 53 Cal. 4th 1004, 1040 (2012) the California Supreme
23 Court cited with approval California case law requiring an employer to affirmatively act to
24 make a meal period available where the employees are relieved of all duty. See Cicairos v.
25 Summit Logistics, Inc., 133 Cal.App.4th 949, 962-963 (2006) ("[T]he defendant's obligation
26 to provide the Plaintiffs with an adequate meal period is not satisfied by assuming that the
27 meal periods were taken, because employers have 'an affirmative obligation to ensure that
28 workers are actually relieved of all duty.'"; Brown v. Fed. Express Corp., 249 F.R.D. 580, 585

(C.D. Cal.2008) (“It is an employer's obligation to ensure that its employees are free from its control for thirty minutes.”); accord Dilts v. Penske Logistics, LLC, 267 F.R.D. 625, 638 (S.D.Cal. 2010). An illusory meal period, where the employer effectively prevents an employee from having an uninterrupted meal period, does not satisfy this requirement. Cicairos, 133 Cal.App.4th at 962-963; Brown, 249 F.R.D. at 585; Dilts, 267 F.R.D. at 638. Thus, purported meal breaks all uniform in nature without any deviation is illusory in nature and violative of California law.

15. Defendants likewise do not provide rest breaks in accordance with California law. Plaintiff and Defendants’ non-exempt, hourly paid current and former employees are not provided any training about statutory rest breaks under California law, are not scheduled to take rest breaks, and in fact, rest breaks are not made available to them. Defendants did not provide Plaintiff and other non-exempt, hourly paid current and former employees with one (1) additional hour of pay for each workday that a meal and/or rest period was not provided.

16. Off-the-Clock Overtime. Defendants implemented a blanket directive that overtime work, even when it happens, is simply not tolerated or has grudgingly allowed overtime work. Even then, the authorized amount of overtime does not fully compensate non-exempt, hourly employees, including Plaintiff, for all hours worked. Defendants equally direct non-exempt, hourly employees to complete all work in a timely manner. That directive is frustrated when Defendants’ managers overload employees, including Plaintiff, with time-sensitive deadlines and setting unrealistic deadlines. As a result, Field Technicians including Plaintiff are discouraged and pressured to work off-the-clock instead of requesting overtime pay.

17. Failure to Reimburse Necessary Business Expenditures. Defendants likewise failed to reimburse Plaintiff and similarly-situated Field Technicians for mileage incurred in the use of their personal vehicles to travel to various sites to service Defendants’ customers. Plaintiff used his own personal vehicles for various assignments in or around the greater Southern California region with no reimbursement whatsoever from Defendants. Plaintiff also utilized his personal cell phone with no reimbursement in corresponding with Defendants’ personnel

1 and Defendants' customers in the course of discharging his duties for Defendants.

2 **II. PARTIES**

3 **PLAINTIFF FRANCO RANGEL**

4 18. Plaintiff FRANCO RANGEL (hereinafter "Plaintiff") is an individual over the
5 age of eighteen (18) and is now and/or at all times mentioned in this Complaint was a resident
6 of California, county of Los Angeles.

7 19. Plaintiff worked for Defendants as a non-exempt hourly employee. Plaintiff's
8 position with Defendants was that of Field Technician. Plaintiff is a former employee of
9 Defendants.

10 20. Plaintiff seeks unpaid wages, penalties and other compensation from Defendants
11 for the relevant time period because Defendants have (Plaintiff was harmed by):

- 12 a. Failed to pay all wages due including overtime wages for all hours worked;
- 13 b. Failed to pay the required minimum wage for all hours worked;
- 14 c. failed to provide meal periods
- 15 d. failed to provide paid rest periods;
- 16 e. failed to timely accurate itemized wage statements;
- 17 f. violated Labor Code §203; and
- 18 g. Conducted unfair business practices.

19 **DEFENDANTS**

20 21. Defendant TERACOM SERVICES, LLC provides high capacity backhaul
21 transport services for mobile services providers, services companies, and government entities.
22 Defendant TERACOM SERVICES, LLC utilizes licensed microwave frequencies to augment
23 and extend seamlessly existing fiber backbones and rings in locations where the economics of
24 deploying fixed-wire media for last-mile broadband connections are unfavorable. Defendant
25 TERACOM SERVICES, LLC also offers a full range of services from site surveys to
26 complete turnkey solutions, allowing operators to extend their reach and expand the services
27 of their core network with high capacity reliability.

28 22. Plaintiff is informed and believes, and thereon alleges, that, at all times herein

mentioned, Defendant TERACOM SERVICES, LLC was and is an Arizona Limited Liability Company duly organized, authorized, and licensed to do business in the State of California with its primary place of business in Los Angeles County. Defendants TERACOM SERVICES, LLC, and DOES 1 through 100 were joint employers of Plaintiffs in that they were operating as a joint enterprises and both suffered and permitted Plaintiffs to work for each and both of them; controlled Plaintiffs hours and working conditions; Controlled Plaintiffs wages; Defendants TERACOM SERVICES, LLC, and DOES 1 through 100 made the decision to hire Plaintiff and had control of Plaintiff s employment and therefore jointly employed Plaintiffs. These Defendants and DOES are collectively hereinafter referred to as “Defendants”.

DOES 1 TO 100, INCLUSIVE

23. DOES 1 to 100, inclusive are not, and/or at all times mentioned in this Complaint were doing business in the State of California.

24. Plaintiffs do not know the true names or capacities, whether individual, partner or corporate, of DOES 1 to 100, inclusive and for that reason, DOES 1 to 100 are sued under such fictitious names pursuant to California Code of Civil Procedure (“CCP”) §474.

25. Plaintiffs will seek leave of court to amend this Complaint to allege such names and capacities as soon as they are ascertained.

ALL DEFENDANTS

26. Defendants, and each of them, are now and/or at all times mentioned in this Complaint were in some manner legally responsible for the events, happenings and circumstances alleged in this Complaint.

27. Defendants, and each of them, proximately subjected Plaintiffs to the unlawful practices, wrongs, complaint, injuries and/or damages alleged in the Complaint.

28. Defendants, and each of them, are now and/or at all times mentioned in this Complaint were the agents, servants and/or employees of some or all other Defendants, and vice versa, and in doing the things alleged in this Complaint, Defendants are now and/or at all times mentioned in this Complaint were acting within the course and scope of that agency,

1 servitude and/or employment.

2 29. Defendants, and each of them, are now and/or at all times mentioned in this
3 Complaint were members of and/or engaged in a joint venture, partnership and common
4 enterprise, and were acting within the course and scope of, and in pursuance of said joint
5 venture, partnership and common enterprise.

6 30. Defendants, and each of them, at all times mentioned in this Complaint
7 concurred and contributed to the various acts and omissions of each and every one of the other
8 Defendants in proximately causing complaint, injuries and/or damages alleged in this
9 Complaint.

10 31. Defendants, and each of them, at all times mentioned in this Complaint approved
11 of, condoned and/or otherwise ratified each and every one of the acts and/or omissions alleged
12 in this Complaint.

13 32. Defendants, and each of them, at all times mentioned in this Complaint aided
14 and abetted the acts and omissions of each and every one of the other Defendants thereby
15 proximately causing the damages alleged in this Complaint.

16 **II. JURISDICTION AND VENUE**

17 33. The California Superior Court has jurisdiction in this matter due to Defendants'
18 violations of Labor Code §201 et seq, Labor Code §500 et seq., Labor Code §1194, Business
19 & Professions Code §17200 et seq., the IWC Wage Order(s) and related common law
20 principles.

21 34. The California Superior Court also has jurisdiction in this matter because both
22 the individual and aggregate monetary damages and restitution sought herein exceed the
23 minimal jurisdictional limits of the Superior court and will be established at trial according to
24 proof.

25 35. The California Superior Court also has jurisdiction in this matter because the
26 individual claims of the members of the Classes herein are under the seventy-five thousand
27 (\$75,000) jurisdictional threshold for Federal Court and the aggregate claim is under five
28 million dollars (\$5,000,000) threshold of the Class Action Fairness Act of 2005 ("CAFA").

Further, there is no federal question at issue, as the issues herein are based solely on California statutes and law, including the Labor Code, IWC Wage Order(s), CCP, and Business & Profession Code.

36. Venue is proper in San Bernardino County pursuant to CCP §395(a) and CCP §395.5 in that liability arose there because at least some of the transactions that are the subject matter of this Complaint occurred therein and/or each Defendant either is found, maintains offices, transacts business, and/or has an agent therein.

IV. CLASS ALLEGATIONS

37. CCP §382 provides in pertinent part: "... [W]hen the question is one of a common or general interest, of many persons, or when the parties are numerous, and it is impracticable to bring them all before the court, one or more may sue or defend for the benefit of all.

38. Plaintiffs bring this suit as a class action pursuant to CCP § 382, on behalf of individuals who are entitled to the monies unlawfully withheld by Defendants.

39. The punitive classes Plaintiffs will seek to certify are currently composed of and defined as follows:

a. All of Defendants' California-based non-exempt, hourly paid current and former employees, employed during the relevant time period (as defined, supra) to whom Defendants failed to pay overtime wages (hereinafter, the "Overtime Class");

b. All of Defendants' California-based non-exempt, hourly-paid current and former employees, employed during the relevant time period to whom Defendants failed to pay the required minimum wage (hereinafter, the "Minimum Wage Class");

c. All of Defendants' California-based non-exempt, hourly paid current and former employees, employed during the relevant time period (as defined, supra) to whom Defendants failed to provide the legally requisite meal periods (hereinafter, the "Meal Period Class");

d. All of Defendants' California-based non-exempt, hourly paid current and former employees, employed during the relevant time period (as defined, supra) to whom

Defendants' failed to provide the legally requisite rest periods (hereinafter, the "Rest Period Class");

e. All of Defendants' California-based non-exempt, hourly paid current and former employees, employed during the relevant time period (as defined, supra) to whom Defendants failed to provide accurate itemized wage statements (hereinafter, the "Wage Statement Class");

f. All of Defendants' California-based non-exempt, hourly paid current and former employees, employed during the relevant time period (as defined, supra) to whom Defendants willfully failed to pay and all wages (hereinafter, the "LC 203 Class").

g. All of Defendants' California-based non-exempt, hourly paid current and former employees, employed during the relevant time period (as defined supra) to whom Defendants failed to reimburse for necessary business expenditures incurred during the course and scope of their employment (hereinafter, the "LC 2802 Class").

g. All of Defendants' California-based non-exempt, hourly paid current and former employees, employed during the relevant time period (as defined supra) to whom Defendants have engaged in unlawful, unfair and/or fraudulent business acts or practices prohibited by B & PC Section 17200 (hereinafter, the "17200 Class").

40. The Overtime Class, Minimum Wage Class, Meal Period Class, Rest Period Class, Wage Statement Class, LC 203 Class, LC 2802 Class and 17200 Class are hereinafter collectively referred to as the "Classes."

41. The relevant time period for the Classes is from January 30, 2019 to the present.

42. Throughout discovery in this litigation, Plaintiffs may find it appropriate and/or necessary to amend the definition of the Classes. In any event, Plaintiffs will formally define and designate a class definition at such time when Plaintiffs seek to certify the Classes alleged herein.

43. Numerosity (CCP §382):

a. The potential quantity of members of the Classes as defined is so numerous that joinder of all members is unfeasible and impractical.

1 b. The disposition of the claims of the members of the Classes through this class
2 action will benefit both the parties and this Court.

3 c. The quantity of members of the Classes is unknown to Plaintiffs at this time;
4 however, it is estimated that the membership of the Classes numbers greater than 100
5 individuals.

6 d. The quantity and identity of such members is readily ascertainable via inspection
7 of Defendants' records.

8 44. Superiority (CCP §382): The nature of this action and the nature of the laws
9 available to Plaintiffs makes the use of the class action format particularly efficient and the
10 appropriate procedure to afford relief to Plaintiffs for the wrongs alleged herein, as follows:

11 a. California has a public policy which encourages the use of the class action
12 device;

13 b. By establishing a technique whereby the claims of many individuals can be
14 resolved at the same time, the class suit both eliminate the possibility of repetitious
15 litigation and provides small claimants with a method of obtaining redress for claims
16 which would otherwise may be too small to warrant individual litigation;

17 c. This case involves large corporate Defendants and a large number of individual
18 Class Members with many relatively small claims and common issues of law and fact;

19 d. If each individual member of the Classes was required to file an individual
20 lawsuit, the large corporate Defendants would necessarily gain an advantage because
21 Defendants would be able to exploit and overwhelm the limited resources of each
22 individual member of the Classes with Defendants superior financial and legal
23 resources;

24 e. Requiring each individual member of the Classes to pursue an individual remedy
25 would also discourage the assertion of lawful claims by the members of the Classes who
26 would be disinclined to pursue an action against Defendants because of an applicable
27 and justifiable fear of retaliation and permanent damage to their lives, careers and
28 wellbeing;

1 f. Proof of a common business practice or factual pattern, of which the members of
2 the Classes experienced, is representative of the Classes herein and will establish the
3 rights of each of the members of the Classes to recover on the causes of action alleged
4 herein;

5 g. Absent class treatment, the prosecution of separate actions by the individual
6 members of the Classes, even if possible, would likely create:

- 7 i) a substantial risk of each individual plaintiff presenting in separate,
8 duplicative proceedings the same or essentially similar arguments and
9 evidence, including expert testimony;
- 10 ii) a multiplicity of trial conducted at enormous expense to both the judicial
11 system and the litigants;
- 12 iii) inconsistent or varying verdicts or adjudications with respect to the
13 individual members of the Classes against Defendants; and
- 14 iv) potentially incompatible standards of conduct for Defendants;
- 15 v) potentially incompatible legal determinations with respect to individual
16 members of the Classes which would, as a practical matter, be dispositive
17 of the interest of the other members of the Classes who are not parties to
18 the adjudications or which would substantially impair or impede the
19 ability of the members of the Classes to protect their interests.

20 h. The claims of the individual members of the Classes are not sufficiently large to
21 warrant vigorous individual prosecution considering all of the concomitant costs
22 and expenses attendant thereto;

23 i. Courts seeking to preserve efficiency and other benefits of class actions
24 routinely fashion methods to manage any individual questions; and

25 j. The Supreme Court of California urges trial courts, which have an obligation to
26 consider the use of innovative procedural tools to certify a manageable class, to
27 be procedurally innovative in managing class actions.

28 45. Well-defined Community of Interest: Plaintiffs also meet the established

standards for class certification (see, e.g. Lockheed Martin Corp. V. Superior Court (2003) 29 Cal. 4th 1096), as follows:

a. Typicality: The claims of Plaintiff FRANCO RANGEL are typical of the claims of all members of the Classes Plaintiffs seek to represent because all members of the Classes sustained injuries and damages arising out of Defendants' common course of conduct in violation of law and the injuries and damages of all members of the Classes were caused by Defendants' wrongful conduct in violation of law, as alleged herein.

b. Adequacy: Plaintiff FRANCO RANGEL:

- i) is an adequate representative of the Classes Plaintiff seeks to represent;
- ii) will fairly protect the interests of the members of the Classes;
- iii) has no interests antagonistic to the members of the Classes; and
- iv) will vigorously pursue this suit via attorneys who are competent, skilled and experienced in litigating matters of this type.

c. Predominate Common Questions of Law or Fact: There are common questions of law and/or fact as to the members of the Classes which predominate over questions affecting only individual members of the Classes, including with limitation:

i) whether Defendants failed to pay the legal and appropriate overtime compensation to the members of the Overtime Class in violation of the Labor Code and the IWC Wage Order(s):

ii) whether Defendants failed to pay the legal and appropriate minimum wage to the members of the Minimum Wage Class in violation of the Labor Code and the IWC Wage Order(s);

iii) whether Defendants failed and continue to failed to provide meal periods to the members of the Meal Period Class in violation of the Labor Code and the IWC Wage Orders;

iv) whether Defendants failed and continue to fail to authorize and permit paid rest periods to the members of the Rest Period Class in violation of the Labor Code and section 12 of the IWC Wage Orders;

1 v) whether Defendants failed to timely furnish accurate itemized statements to
2 the members of the Wage Statement Class;

3 vi) whether Defendants are liable pursuant to Labor Code §203;

4 vii) whether Defendants conduct conducts unfair competition within the
5 meaning of B & PC §17200 et seq.

6 viii) whether Defendants" conduct constitutes unfair business practices within
7 the meaning of B & PC §17200 et seq.;

8 ix) whether the members of the Classes are entitled to compensatory damages,
9 and if so, the means of measuring such damages;

10 x) whether the members of the Classes are entitled to injunctive relief;

11 xi) whether the members of the Classes are entitled to restitution; and

12 xii) whether Defendants are liable for attorneys' fees and costs.

13 46. Whether each member of the Classes might be required to ultimately justify an
14 individual claim does not preclude maintenance of a class action (see, e.g. Collins v. Rocha
15 (1972) 7 Cal. 3d 232, 238).

16 **V. CAUSES OF ACTION**

17 **FIRST CAUSE OF ACTION**

18 **FAILURE TO PAY OVERTIME WAGES**

19 (On Behalf of the Overtime Class)

20 (Against All Defendants)

21 47. Plaintiffs incorporate by reference and reallege each and every one of the
22 allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully
23 set forth herein.

24 48. Labor Code §204 establishes the fundamental right of all employees in the State
25 of California to be paid wages, including straight time and overtime, in a timely fashion for
26 their work.

27 49. Labor Code §510(a) states in pertinent part: "Any work in excess of eight hours
28 in one workday and any work in excess of 40 hours in any one workweek and the first eight

1 hours worked on the seventh day of work in any one workweek shall be compensated at the
2 rate of no less than one and one-half times the regular rate of pay for an employee.”

3 50. Labor Code §510 (a) further provides that “Any work in excess of 12 hours in
4 one day shall be compensated at the rate of no less than twice the regular rate of pay for an
5 employee.”

6 51. Pursuant to Labor Code §1198, it is unlawful to employ person for longer than
7 the hours set by the Industrial Welfare Commission or under conditions prohibited by the IWC
8 Wage Order(s).

9 52. Defendants, as a matter of established company policy and procedure, at each
10 and every one of the individual facilities owned and/or operated by Defendants, consistently;

11 a. Administered a uniform company policy and practice regarding the payment of wage
12 to the member of the Overtime Class;

13 b. Scheduled to work and in fact required the members of the Overtime Class to work
14 in excess of eight (8) hours per workday and/or in excess of forty (40) hours per workweek
15 without paying overtime compensation for all such excess hours worked by requiring the
16 Overtime Class to remain under Defendant’s control without paying them therefore which
17 resulted in;

18 c. Failure to pay members of the Overtime Class overtime compensation for work in
19 excess of eight (8) hours per day and/or forty (40) hours per week;

20 d. Failure to pay members of the Overtime Class overtime compensation for work in
21 excess of 12 hours per day;

22 e. Failure to pay members of the Overtime Class overtime compensation for the first
23 eight hours worked on the seventh day of work in any one workweek;

24 f. Did not employ the members of the Overtime Class using: i) an alternative workweek
25 schedule pursuant to Labor Code §511; and did not employ the members of the Overtime
26 Class using ii) an alternative workweek schedule adopted pursuant to a collective bargaining
27 agreement.

28 g. Required that the members of the Overtime Class to spend more than fifty percent

1 (50%) of their work performing non-exempt tasks; and

2 h. Disseminated incorrect information amongst Defendants' employees reciting that,
3 under Defendants' labor policies and practices and under California law, the members of the
4 Overtime Class were not entitled to overtime compensation.

5 53. Defendants' pattern, practice and uniform administration of corporate policy
6 regarding illegal employee compensation as described herein is unlawful and creates as
7 entitlement, pursuant to Labor Code §218 and §1194(a), to recovery by the members of the
8 Overtime Classes, in a civil action, for the unpaid balance of the full amount of the overtime
9 wages owing, including interest thereon, reasonable attorneys' fees, and costs of suit.

10 54. That calculation of individual damages for the members of the Wage Class may
11 at some point be required does not foreclose the possibility of taking common evidence on
12 questions regarding their entitlement to overtime compensation (see, e.g. Collins v. Rocha
13 (1972) 7 Cal. 3d 232; Hypolite v. Carleson (1975) 52 Cal. App. 3d 566; Employment
14 Development Dept. v. Superior Court (1981) 30 Cal. 3d 256.

15 55. Pursuant to Labor Code §1194(a) and Civil Code §3287, the members of the
16 Overtime Class seek recovery of pre-judgment interest on all amounts recovered herein.

17 56. Pursuant to Labor Code §1194, the members of the Overtime Class request that
18 the Court award reasonable attorneys fees and costs incurred by them in this action.

19 **SECOND CAUSE OF ACTION**

20 **FAILURE TO PAY MINIMUM WAGES**

21 (On Behalf of the Minimum Wage Class)

22 (Against All Defendants)

23 57. Plaintiffs incorporate by reference and reallege each and every one of the
24 allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully
25 set forth herein.

26 58. Plaintiff incorporates by reference and reallege each and every one of the
27 allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully
28 set forth herein.

1 59. Pursuant to Labor Code §1197, payment of less than the minimum wage fixed
2 by the Labor Commission is unlawful.

3 60. California Code of Regulations Title 8, §11000(s) and the IWC Wage Orders
4 §4(A) state: “Every employer shall pay to each employee... wages not less than eight dollars
5 (\$8.00) per hour for all hours worked, effective January 1, 2008... and not less than nine
6 dollars (\$9.00) per hours for all hours worked, effective July 1, 2014... and not less than ten
7 dollars (\$10.00) per hour for all hours worked, effective January 2016.

8 61. Defendants, as a matter of established company policy and procedure, resulted in
9 the members of the Minimum Wage Class to earn less than the legal minimum wage in the
10 State of California.

11 62. Defendants’ pattern and practice in uniform administration of corporate policy
12 regarding Defendants’ failure to pay the legal minimum wage to the members of the Minimum
13 Wage Class as described herein is unlawful and creates entitlement, pursuant to Labor Code
14 §1194(a), to recovery by the members of the Minimum Wage Class, in a civil action, for the
15 unpaid balance of the full amount of the unpaid minimum wages owed, calculated as the
16 difference between the straight time compensation paid and the applicable minimum wage,
17 including interest thereon.

18 63. Pursuant to Labor Code §1194.2(a) (which provides that in any action under
19 Labor Code §1194, an employee shall be entitled to recover liquidated damages, the members
20 of the Minimum Wage Class seek recovery of liquidated damages on the straight-time portion
21 of uncompensated hours of work (not including the overtime portion thereof) in an amount
22 equal to the wages unlawfully unpaid and interest thereon.

23 64. Pursuant to Labor Code §218.6, Labor Code §1194(a) and CC §3287, the
24 members of the Minimum Wage Class seek recover of pre-judgment interest on all amount
25 recovered herein.

26 65. Pursuant to Labor Code §1194(a), the members of the Minimum Wage Class
27 request that the Court award reasonable attorneys’ fees and costs incurred by them in this
28 action.

1 **THIRD CAUSE OF ACTION**

2 **FAILURE TO PROVIDE MEAL PERIODS**

3 (On Behalf of the Meal Period Class)

4 (Against All Defendants)

5 66. Plaintiffs incorporate by reference and reallege each and every one of the
6 allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully
7 set forth herein.

8 67. Labor Code §226.7(a) provides that “No employer shall require any employee to
9 work during any meal or rest period mandated by an applicable order of the Industrial Welfare
10 Commission.”

11 68. Labor Code §512 provides that “An employer may not employ an employee for
12 a work period of more than five hours per day without providing the employee with a meal
13 period of not less than 30 minutes, except that if the total work period per day of the employee
14 is no more than six hours, the meal period may be waived by mutual consent of both the
15 employer and employee”.

16 69. Labor Code §512 further provides that “An employer may not employ an
17 employee for a work period of more than 10 hours per day without providing the employee
18 with a second meal period of not less than 30 minutes, except that if the total hours worked is
19 no more than 12 hours, the second meal period may be waived by mutual consent of the
20 employer and the employer only if the first meal period was not waived.”

21 70. Labor Code §516 provides that the Industrial Welfare Commission may adopt or
22 amend working condition orders with respect to meal periods for any workers in California
23 consistent with the heal and welfare of those workers.

24 71. Section 11(A) of the IWC Wage Order(s) provides that “Unless the employee is
25 relieved of all duty during a 30 minutes meal period, the meal period shall be considered an
26 “on duty” meal period and counted as time worked. An “on duty” meal period shall be
27 permitted only when the nature of the work prevents an employee from being relieved of all
28 duty and when by written agreement between the parties an on-the-job paid meal period is

1 agreed to. The written agreement shall state that the employee may, in writing, revoke the
2 agreement at any time.”

3 72. Section 11(B) of the IWC Wage Orders(s) provides that “if an employer fails to
4 provide an employee a meal period in accordance with the applicable provision of this order,
5 the employer shall pay the employee one (1) hour of pay at the employee’s regular rate of
6 compensation for each workday that the meal period is not provided.”

7 73. The members of the Meal Period Class consistently worker over five (5) hours
8 per shift and therefore were entitled to a meal period of not less than thirty (30) minutes prior
9 to exceeding five (5) hours of employment.

10 74. Further, some members of the Meal Period Class consistently worked over ten
11 (10) hours per shift and therefore were entitled to a second meal period of not less than 30
12 minutes.

13 75. The members of the Meal Period Class did not validly or legally wavier their
14 meal periods, by mutual consent with Defendants or otherwise.

15 76. The members of the Meal Period Class did not enter into any written agreement
16 with Defendants agreeing to an on-the-job paid meal period.

17 77. As a matter of Defendants’ established company policy, Defendant failed to
18 comply with the meal period requirements established by Labor Code §226.7, Labor Code
19 §512, Labor Code §516 and Section 11 of the IWC Wage Order(s).

20 78. Pursuant to Section 11(B) of the IWC Wages Order(s) and Labor Code
21 §226.7(b) which states “if an employer fails to provide an employee a meal or rest period in
22 accordance with an applicable order of the industrial Welfare Commission, the employer shall
23 pay the employee one additional hour of pay at the employee’s regular rate of compensation
24 for each work day that the meal or rest period was not provided,” the member of the Meal
25 Period Class are entitled to damages in an amount equal to one(1) additional hours of pay at
26 each employee’s regular rate of compensation for each work day that the meal period was not
27 provided.

28 79. Pursuant to Civil Code §3287, the members of the Meal Period Class seek

1 recovery of pre-judgment interest on all amounts recovered herein.

2 **FOURTH CAUSE OF ACTION**

3 **FAILURE TO AUTHORIZE AND PERMIT PAID REST PERIODS**

4 (On Behalf of the Rest Period Class)

5 (Against All Defendants)

6 80. Plaintiffs incorporate by reference and reallege each and every one of the
7 allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully
8 set forth herein.

9 81. Labor Code §226.7(a) states: “No employer shall require any employee to work
10 during any meal or rest period mandated by an applicable order of the Industrial Welfare
11 Commission.”

12 82. Labor Code §516 provides that the Industrial Welfare commission may adopt or
13 amend working conditions orders with respect to break periods for any workers in California
14 consistent with the health and welfare of those workers.

15 83. Section 12(A) of the IWC Wage Order(s) states: “Every employer shall
16 authorize and permit all employee to take rest periods, which insofar as practicable shall be in
17 the middle of each work period. The authorized rest period time shall be based on the total
18 hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major
19 fraction thereof. However, a rest period need not be authorized for employees whose total
20 daily work time is less than three and one-half (3-1/2) hours. Authorized rest period time shall
21 be counted as hours worked for which there shall be no deduction from wages.”

22 84. Section 12(B) of the IWC Wage Order(s) states: “If an employer fails to provide
23 an employee a rest period in accordance with the applicable provisions of this order, the
24 employer shall pay the employee one (1) hour of pay at the employee’s regular rate of
25 compensation for each workday that the rest period is not provided.”

26 85. The members of the Rest Period Class consistently worked over four (4) hours
27 per shift and therefore were entitled to a rest period of not less than ten (10) minutes prior to
28 exceeding four (4) hours of employment.

86. As a matter of Defendants' established company policy, Defendants failed to authorize and permit the required rest periods established by Labor Code § 226.7 and Labor Code § 516 and Section 12 of the IWC Wage Order(s).

87. Pursuant to Section 12 of the IWC Wage Orders(s) and Labor Code § 226.7(b) which states “if an employer fails to provide an employee a meal or rest period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one additional hour of pay at the employee’s regular rate of compensation for each work day that the meal or rest period is not provided,” the members of the Rest Period Class are entitled to damages in an amount equal to one (1) additional hour of pay at each employee’s regular rate of compensation for each work day that the rest period was not so provided.

88. Pursuant to Labor Code § 218.6 and CC § 3287, the members of the Rest Period Class seek recovery of pre-judgment interest on all amounts recovered herein.

89. Pursuant to Labor Code the members of the Rest Period Class request that the Court award reasonable attorneys' fees and costs incurred by them in this action.

FIFTH CAUSE OF ACTION

FAILURE TO TIMELY FURNISH ACCURATE ITEMIZED WAGE STATEMENTS

(On Behalf of the Wage Statement Class)

(Against All Defendants)

90. Plaintiffs incorporate by reference and reallege each and every one of the allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set forth herein.

91. Labor Code § 226(a) states in pertinent part: “Every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees, either as a detachable part of the check, draft, or voucher paying the employee’s wages, or separately when wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee...(4) all deductions...(5) net wages earned, (6) the inclusive dates of the period for which the employee

1 is paid...(8) the name and address of the legal entity that is the employer, and (9) all applicable
2 hourly rates in effect during each the pay period and the corresponding number of hours
3 worked at each hourly rate by the employee...”.

4 92. Further, the IWC Wage Orders § 7(A) states in pertinent part: “(A) Every
5 employer shall keep accurate information with respect to each employee including the
6 following: (3) Time records showing when the employee begins and ends each work period.
7 Meal periods, split shift intervals, and total daily hours worked shall also be recorded...(5)
8 Total hours worked in the payroll period and applicable rates of pay...”

9 93. Therefore, pursuant to Labor Code § 226(a) and the IWC Wage Orders § 7(A),
10 California employers are required to maintain accurate records pertaining to the total hours
11 worked for Defendants by the members of the Wage Statement Class, including but not
12 limited to, beginning and ending of each work period, meal period and split shift interval, the
13 total daily hours worked, total wages paid, and the total hours worked per pay period and
14 applicable rates of pay.

15 94. As a pattern and practice, in violation of Labor Code § 226(a) and the IWC
16 Wage Orders § 7(A), Defendants did not and still do not furnish each of the members of the
17 Wage Statement Class with an accurate itemized statement in writing showing (1) gross wages
18 earned, (2) total hours worked by the employee, (3) all deductions, (4) net wages earned and/or
19 (5) all applicable hourly rates in effect during each respective pay period and the
20 corresponding number of hours worked at each hourly rate by each respective individual.

21 95. As a pattern and practice, in violation of Labor Code § 226(a) and the IWC
22 Wage Orders § 7(A), Defendants did not and do not maintain accurate records pertaining to
23 the total hours worked for Defendants by the members of the Wage Statement Class, including
24 but not limited to, beginning and ending of each work period, meal period and split shift
25 interval, the total daily hours worked, and the total hours worked per pay period and applicable
26 rates of pay.

27 96. Plaintiffs and the members of the Wage Statement Class have suffered injury as
28 a result of Defendants’ failure to maintain accurate records for the member of the Wage

1 Statement Class have suffered injury as a result of Defendants' failure to maintain accurate
2 records for the members of the Wage Statement Class in that the members of the Wage
3 Statement Class were not timely provided written accurate itemized statements showing all
4 requisite information, including but not limited to total hours worked by the employee, gross
5 wages earned, net wages earned, all deductions, and all applicable hourly rates in effect during
6 the pay period and the corresponding numbers of hours worked at each hourly at each hourly
7 rate, in violation of Labor Code § 226 and the IWC Wage Orders § 7(A), such that the
8 members of the Wage Statement Class were misled by Defendants as to the correct
9 information regarding various items, including but not limited to total hours worked by the
10 employee, gross wages earned, net wages earned, all deductions, and all applicable hourly
11 rates in effect during the pay period and the corresponding number of hours worked at each
12 hourly rate.

13 97. Pursuant to Labor Code § 226(e), the members of the Wage Statement Class are
14 entitled to fifty dollars (\$50.00) per employer for the initial pay period in which a violation
15 hereunder occurs and one hundred dollars (\$100.00) per employer for each violation in a
16 subsequent pay period, not exceeding an aggregate penalty of four thousand dollars
17 (\$4,000.00).

18 98. Pursuant to Labor Code § 226(g), the currently-employed members of the Wage
19 Statement Class are entitled to injunctive relief to ensure Defendants' compliance with Labor
20 Code § 226.

21 99. Pursuant to Labor Code § 226(e) and/or § 226(g), the members of the Wage
22 Statement Class are also entitled to an award of costs and reasonable attorneys' fees.

23 **SIXTH CAUSE OF ACTION**

24 **VIOLATIONS OF LABOR CODE § 203**

25 (On Behalf of the LC 203 Class Members)

26 (Against All Defendants)

27 100. Plaintiffs incorporate by reference and reallege each and every one of the
28 allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully

1 set forth herein.

2 101. Labor Code § 203 provides that if an employer willfully fails to pay, without
3 abatement or reduction, in accordance with Labor Code §§ 201 and 202 any wages of an
4 employee who is discharged or who quits, the wages of the employee shall continue at the
5 same rate, for up to thirty (30) days from the due date thereof, until paid or until action
6 therefore is commenced.

7 102. The members of the LC 203 Class are no longer employed by Defendants as
8 they were either discharged from or quit Defendants' employ.

9 103. Defendants had a consistent and uniform policy, practice and procedure of
10 willfully failing to pay the earned wages of Defendants' former employees, according to
11 amendment or proof.

12 104. Defendants willfully failed to pay the members of the LC 203 Class their entire
13 wages due and owing at the time of their termination or within seventy-two (72) hours of their
14 resignation, and failed to pay those sums for thirty (30) days thereafter.

15 105. Defendants' willful failure to pay wages to the members of the LC 203 Class
16 violates Labor Code § 203 because Defendants knew or should have known wages were due to
17 the members of the LC 203 Class, but Defendants failed to pay them.

18 106. Thus, the members of the LC 203 Class are entitled to recovery pursuant to
19 Labor Code § 203, in the amount of each LC 203 Class members' daily wage multiplied by
20 thirty (30) days.⁵

21 107. Pursuant to CC § 3287, the members of the LC 203 Class seek recovery of
22 prejudgment interest on all amounts recovered herein.

23 **SEVENTH CAUSE OF ACTION**

24 **VIOLATION OF LABOR CODE §2802**

25 (On Behalf of the LC 2802 Class)

26 (Against All Defendants)

27 108. Plaintiffs incorporate by reference and reallege each and every one of the
28 allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully

1 set forth herein.

2 109. Pursuant to Labor Code § 2802(a), an employer shall indemnify its employees
3 for all necessary expenditures or losses incurred by the employees in direct consequence of the
4 discharge of their duties, or of their obedience to the directions of the employer, even though
5 unlawful, unless the employee, at the time of obeying the directions, believed them to be
6 unlawful.

7 110. During the Class Period, the Class Members, including Plaintiff, incurred
8 necessary business-related expenses and costs that were not fully reimbursed by Defendant,
9 including and without limitations, personal cellular phone usage and data usage and vehicle
10 procurement, upkeep, maintenance, and mileage reimbursement.

11 111. During the Class Period, Defendant failed to reimburse the Class Members,
12 including Plaintiff, for necessary business-related expenses and costs.

13 112. The Class Members, including Plaintiff, are entitled to recover from Defendant
14 their business-related expenses and costs incurred during the course and scope of their
15 employment, plus attorneys' fees, costs and interest accrued from the date on which the
16 employee incurred the necessary expenditures.

17 **EIGHTH CAUSE OF ACTION**

18 **UNFAIR BUSINESS PRACTICES**

19 (On Behalf of the B&P 17200 Class)

20 (Against All Defendants)

21 113. Plaintiffs incorporate by reference and reallege each and every one of the
22 allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully
23 set forth herein.

24 114. B&PC § 17200 provides in pertinent part "...[U]nfair competition shall mean and
25 include any unlawful, unfair or fraudulent business act...."

26 115. B&PC § 17205 provides that unless otherwise expressly provided, the remedies
27 or penalties provided for unfair competition "are cumulative to each other and to the remedies
28 or penalties available under all other laws of this state."

1 116. B&PC § 17204 provides that an action for any relief from unfair competition
2 may be prosecuted by any person who has suffered injury in fact and has lost money or
3 property as a result of such unfair competition.

4 117. Defendants have engaged in unlawful, unfair and fraudulent business acts or
5 practices prohibited by B&PC § 17200, including those set for the in the preceding and
6 foregoing paragraphs of the complaint, thereby depriving Plaintiffs and all others similarly
7 situated of the minimum working standards and conditions due to them under the Labor Code
8 and/or the IWC Wage Orders, as specifically described herein.

9 118. Defendants have engaged in unfair business practices in California by practicing,
10 employing and utilizing the employment practices outlined in the preceding paragraphs,
11 specifically, by requiring employees to perform the labor services complained of herein
12 without the requisite compensation.

13 119. Defendants' use of such practices constitutes an unfair business practice, unfair
14 competition and provides an unfair advantage over Defendants' competitors.

15 120. Plaintiffs have suffered injury in fact and have lost money or property as a result
16 of such unfair competition.

17 121. Plaintiffs seek full restitution from Defendants, as necessary and according to
18 proof, restore any and all monies withheld, acquired and/or converted by Defendants by means
19 of the unfair practices complained of herein.

20 122. Further, if Defendants are not enjoined set forth, above, Defendants will
21 continue to practice, employ and utilize the employment practices outlined in the preceding
22 paragraphs.

23 123. Therefore, Plaintiffs request that the Court issue a preliminary and permanent
24 injunction prohibiting Defendants from engaging in the foregoing conduct.

25 124. Plaintiffs seek the appointment of a receiver, as necessary, to establish the total
26 monetary relief sought from Defendants.

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1 **NINTH CAUSE OF ACTION**

2 **CIVIL PENALTIES PURSUANT TO LABOR CODE § 2698, ET SEQ.**

3 (On Behalf of Aggrieved Employees)

4 (Against All Defendants)

5 125. Plaintiffs incorporate by reference and reallege each and every one of the
6 allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully
7 set forth herein.

8 126. California Labor Code §§ 2698, et seq. (“PAGA”) permits Plaintiffs to recover
9 civil penalties for the violation(s) of the Labor Code sections enumerated in Labor Code
10 section 2699.5. Section 2699.5 enumerates Labor Code sections 201, 202, 203, 204, 222.5,
11 226(a), 510, 512(a), 558, 1174(d), 1194, 1197, 1197.1, 1198, and 1199. Labor Code section
12 2699.3(c) permits aggrieved employees, including Plaintiff, to recover civil penalties for
13 violations of those Labor Code sections not found in section 2699.5, including sections 516
14 and 1182.12.

15 127. Defendants’ conduct, as alleged herein, violates numerous sections of the
16 California Labor Code, including, but not limited to, the following:

17 (a) Violation of Labor Code sections 510 and 1198, and the applicable IWC Wage
18 Order for Defendants' failure to compensate Plaintiff and/or other aggrieved employees with
19 all required overtime pay, as alleged herein and set forth below;

20 (b) Violation of Labor Code sections 226.7, 510, and 1198, and the applicable IWC
21 Wage Order for Defendants' failure to include all forms of remuneration in the “regular rate”
22 of pay as required by law for purposes of paying overtime wages and/or meal and rest period
23 premiums to other aggrieved employees, as set forth below;

24 (c) Violation of Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198, and the
25 applicable IWC Wage Order for Defendants’ failure to compensate Plaintiff and/or other
26 aggrieved employees with at least minimum wages for all hours worked, as alleged herein and
27 set forth below;

28 ///

1 (d) Violation of Labor Code sections 226.7, 512(a), 516, and 1198, and the applicable
2 IWC Wage Order for Defendants' failure to provide Plaintiff and/or other aggrieved
3 employees with meal periods, as alleged herein and set forth below;

4 (e) Violation of Labor Code sections 226.7, 516, and 1198, and the applicable IWC
5 Wage Order for Defendants' failure to authorize and permit Plaintiff and other aggrieved
6 employees to take rest periods, as alleged herein;

7 (f) Violation of Labor Code sections 226(a) and 1198, and the applicable IWC Wage
8 Order for failure to provide accurate and complete wage statements to Plaintiff and other
9 aggrieved employees, as set forth below;

10 (g) Violation of Labor Code sections 1174(d) and 1198, and the applicable IWC Wage
11 Order for failure to maintain payroll records, as set forth below;

12 (h) Violation of Labor Code sections 201 and 202 for failure to pay all earned wages
13 upon termination, as alleged herein;

14 (i) Violation of Labor Code section 204 for failure to pay all earned wages during
15 employment, as alleged herein;

16 (j) Violation of Labor Code section 1198 and the applicable IWC Wage Order for
17 failure to pay split-shift premiums when other aggrieved employees returned to work for an
18 additional shift in the same day, after having been clocked out for more than an hour, as set
19 forth below; and

20 128. As stated, Defendants had a company-wide practice and/or policy of requiring
21 Plaintiff and/or other aggrieved employees to continue to perform work-related tasks while
22 off-the-clock. For example, Plaintiffs and other aggrieved employees were required to
23 continuously work during purported meal breaks for which they were not paid and were
24 separately told to work off-the-clock due to trouble with Defendants' timekeeping system.

25 129. As stated, Defendants knew or should have known that as a result of these
26 company-wide practices and/or policies, Plaintiff and/or other aggrieved employees were
27 performing their assigned duties off-the-clock before and after their shifts and during meal and
28 rest periods, and were suffered or permitted to perform work for which they were not paid.

1 Because Plaintiff and/or other aggrieved employees worked shifts of eight (8) hours a day or
2 more or forty (40) hours a week or more, some of this off-the-clock work qualified for
3 overtime premium pay.

4 130. Defendants' failure to compensate Plaintiff and/or other aggrieved employees
5 with all required overtime pay and failure to properly calculate the overtime rates paid to other
6 aggrieved employees, is in violation of California Labor Code sections 510 and 1198, and the
7 applicable IWC Wage Order. Additionally, Defendants' failure to compensate Plaintiff and/or
8 other aggrieved employees with at least minimum wages for all hours worked is in violation of
9 California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198, and the applicable
10 IWC Wage Order.

11 131. As stated, because Defendants frowned upon employees accruing meal period
12 penalties, Defendants' management edited, falsified and/or manipulated the time entries of
13 aggrieved employees to reflect compliant meal periods, regardless of whether they had
14 received a compliant meal period or not, in order to strictly limit meal penalties that would
15 need to be paid by Defendants. Also, Defendants did not provide other aggrieved employees
16 with second 30-minute meal periods on days that they worked in excess of ten (10) hours in
17 one day. Furthermore, as stated, Defendants engaged in a company-wide practice and/or
18 policy of not paying all meal period premiums owed when compliant meal periods are not
19 provided. Because of this practice and/or policy, Plaintiff and/or other aggrieved employees
20 have not received premium pay for missed, late, and interrupted meal periods. Alternatively, to
21 the extent that Defendants did pay other aggrieved employees for missed, late, and interrupted
22 meal periods, Defendants did not pay other aggrieved employees at the correct rate of pay for
23 premiums because Defendants systematically failed to include all forms of compensation, such
24 as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular
25 rate of pay.

26 132. Defendants' failure to provide meal periods to Plaintiff and/or other aggrieved
27 employees and failure to properly calculate the rates of pay for meal period premiums based
28 on all remuneration paid is in violation of California Labor Code sections 226.7, 512(a), 516,

1 and 1198, and the applicable IWC Wage Order.

2 133. As stated, as with meal periods, Defendants also have engaged in a company-
3 wide practice and/or policy of not paying all rest period premiums owed when compliant rest
4 periods are not authorized or permitted. Because of this practice and/or policy, Plaintiff and/or
5 other aggrieved employees have not received premium pay for all missed rest periods.

6 Alternatively, to the extent that Defendants did pay other aggrieved employees one (1)
7 additional hour of premium pay for missed rest periods, Defendants did not pay other
8 aggrieved employees at the correct rate of pay for premiums because Defendants failed to
9 include all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or
10 other forms of remuneration, in the regular rate of pay.

11 134. Defendants' failure to properly calculate the rates of pay for rest period
12 premiums based on all remuneration paid is in violation of California Labor Code sections
13 226.7, 516, and 1198, and the applicable IWC Wage Order.

14 135. At all relevant times herein, California Labor Code section 226(a) provides that
15 every employer shall furnish each of his or her employees an accurate and complete itemized
16 wage statement in writing, including, but not limited to, the name and address of the legal
17 entity that is the employer, the inclusive dates of the pay period, total hours worked, and all
18 applicable rates of pay.

19 136. During the relevant time period, Defendants have knowingly and intentionally
20 provided Plaintiff and other aggrieved employees with uniform, incomplete, and inaccurate
21 wage statements. For example, Defendants issued uniform wage statements to Plaintiff and
22 other aggrieved employees that fail to correctly list: gross wages earned; total hours worked;
23 net wages earned; and all applicable hourly rates in effect during the pay period, including
24 rates of pay for overtime wages and/or meal and rest period premiums, and the corresponding
25 number of hours worked at each hourly rate. Specifically, Defendants violated sections
26 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

27 137. Because Defendants did not record the time Plaintiff and other aggrieved
28 employees spent working off-the-clock and/or deducted time from their records for meal

1 periods that were interrupted and/or missed (and therefore time for which they should have
2 been paid), Defendants did not list the correct amount of gross wages and net wages earned by
3 other aggrieved employees in compliance with section 226(a)(1) and section 226(a)(5),
4 respectively. For the same reason, Defendants failed to accurately list the total number of
5 hours worked by Plaintiff and other aggrieved employees, in violation of section 226(a)(2),
6 and failed to list the applicable hourly rates of pay in effect during the pay period and the
7 corresponding accurate number of hours worked at each hourly rate, in violation of section
8 226(a)(9).

9 138. Further, because Defendants did not calculate other aggrieved employees'
10 regular rate of pay correctly for purposes of paying overtime wages and/or meal and rest
11 period premiums, Defendants did not list the correct amount of gross wages earned by other
12 aggrieved employees in compliance with section 226(a)(1) and did not list the correct amount
13 of net wages earned by other aggrieved employees in violation of section 226(a)(5).
14 Defendants also failed to correctly list all applicable hourly rates in effect during the pay
15 period, namely, correct rates of pay for overtime wages, meal and rest period premiums,
16 and/or paid sick leave, in violation of section 226(a)(9).

17 139. The wage statement deficiencies also include, among other things, failing to list
18 the inclusive dates of the period for which employees were paid; and/or failing to state all
19 hours worked as a result of not recording or stating the hours they worked off-the-clock.

20 140. California Labor Code section 1174(d) provides that “[e]very person employing
21 labor in this state shall ... [k]eep a record showing the names and addresses of all employees
22 employed” and “[k]eep, at a central location in the state or at the plants or establishments at
23 which employees are employed, payroll records showing the hours worked daily by and the
24 wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid
25 to, employees employed at the respective plants or establishments ... ” Labor Code section
26 1174.5 provides that employers are subject to a \$500 civil penalty if they fail to maintain
27 accurate and complete records as required by section 1174(d). During the relevant time period,
28 and in violation of Labor Code section 1174(d), Defendants willfully failed to maintain

1 accurate payroll records for Plaintiff and other aggrieved employees showing the daily hours
2 they worked and the wages paid thereto as a result of failing to record the off-the-clock hours
3 that they worked.

4 141. California Labor Code section 1198 provides that the maximum hours of work
5 and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set
6 forth in the applicable IWC Wage Order. Section 1198 further provides that “[t]he
7 employment of any employees for longer hours than those fixed by the order or under
8 conditions of labor prohibited by the order is unlawful.” Pursuant to the applicable IWC Wage
9 Order, employers are required to keep accurate time records showing when the employee
10 begins and ends each work period and meal period. During the relevant time period,
11 Defendants failed, on a company-wide basis, to keep accurate records of work period and meal
12 period start and stop times for Plaintiff and other aggrieved employees, in violation of section
13 1198. Furthermore, in light of Defendants' failure to provide other aggrieved employees with
14 second 30-minute meal periods to which they were entitled, Defendants kept no records of
15 meal start and end times for second meal periods. Defendants' conduct violates California
16 Labor Code 226(a), 1174(d), and 1198.

17 142. At all relevant times herein, California Labor Code section 1198 makes it illegal
18 to employ an employee under conditions of labor that are prohibited by the applicable wage
19 order. California Labor Code section 1198 requires that “... the standard conditions of labor
20 fixed by the commission shall be the ... standard conditions of labor for employees. The
21 employment of any employee ... under conditions of labor prohibited by the order is
22 unlawful.”

23 143. California Code of Regulations, Title 8, section 11070(4)(C) provides that,
24 “When an employee works a split shift, one (1) hour's pay at the minimum wage shall be paid
25 in addition to the minimum wage for that workday, except when the employee resides at the
26 place of employment.” California Code of Regulations, Title 8, defines a split shift as “a work
27 schedule, which is interrupted by non-paid non-working periods established by the employer,
28 other than bona fide rest or meal periods.”

144. Defendants violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11070(4)(C), because Defendants failed to pay other aggrieved employees a split-shift premium when they returned to work for an additional shift in the same day, after having been clocked out for several hours. For example, Defendants would required aggrieved employee to work a shift from 6:00 a.m. to 3:30 p.m. Defendants would then direct aggrieved employees to come back to the job site later that same day at 10:30 p.m., but aggrieved employees were told not to punch into the clock until midnight because it would cause time keeping problems. When this occurred, Defendants did not always pay other aggrieved employees an additional hour at minimum wage. Accordingly, Defendants required other aggrieved employees to work split shifts but failed to pay them an additional hour at minimum wage, in violation of California Labor Code section 1198. Defendants' failure to provide other aggrieved employees with split-shift pay when they returned to work for an additional shift in the same day, after having been clocked out for several hours, violates California Labor Code section 1198 and California Code of Regulations Title 8, Section 11070(4)(C).

145. Therefore, Plaintiff and/or other aggrieved employees are entitled to recover civil penalties pursuant to Labor Code section 2699(a), (f), and (g).

VI. PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray:

a. That the Court issue an Order certifying the Classes herein, appointing all named Plaintiffs as representative of all others similarly situated, and the law firms representing all named Plaintiffs as counsel for the members of the Classes;

As to the First Cause of Action for Failure to Pay Overtime wages:

a. For recovery of the unpaid balance of the full amount of overtime compensation due and owing, calculated at the appropriate rate and according to proof;

b. For pre-judgment interest as allowed by Labor Code § 218.6, Labor Code § 1194(a) and CC § 3287;

c. For an award of reasonable attorneys' fees and costs pursuant to Labor Code §

1 1194(a);

2 As to the Second Cause of Action for Failure to Pay Minimum Wages

3 d. For recovery of liquidated damages, on the straight-time portion of
4 uncompensated hours of work (not including the overtime portion thereof) in an amount equal
5 to the wages unlawfully unpaid and interest thereon.

6 e. Pursuant to Labor Code §218.6, Labor Code §1194(a) and CC §3287, the
7 members of the Minimum Wage Class seek recover of pre-judgment interest on all amount
8 recovered herein.

9 f. Pursuant to Labor Code §1194(a), the members of the Minimum Wage Class
10 request that the Court award reasonable attorneys' fees and costs incurred by them in this
11 action;

12 As to the Third Cause of Action for Failure to Provide Meal Periods;

13 g. For one (1) hour of pay at the regular rate of compensation for each member of
14 the Meal Period Class for each workday that a meal period was not provided;

15 h. For pre-judgment interest as authorized by Labor Code § 218.6 and CC § 3287;

16 As to the Fourth Cause of Action for Failure to Authorize and Permit Paid Rest Periods:

17 i. For one (1) hour of pay at the regular rate of compensation for each member of
18 the Rest Period for each workday that a meal or rest period was not provided;

19 j. For pre-judgment interest as authorized by Labor Code § 218.6 and CC § 3287;

20 k. For an award of reasonable attorneys' fees and costs pursuant to Labor Code

21 As to the Fifth Cause of Action for Failure to Timely Furnish Accurate Itemized Wage

22 Statements:'

23 l. For recovery as authorized by Labor Code § 226(e);

24 m. For injunctive relief to ensure Defendants' compliance with Labor Code § 226
25 and the IWC Wage Orders § 7(A) pursuant to Labor Code § 226(g);

26 n. For an award of costs and reasonable attorneys' fees pursuant to Labor Code §
27 226(e) and/or § 226(g);

28 As to the Sixth Cause of Action for Violations of Labor Code §203:

- 1 o. For recovery as authorized by Labor Code § 203;
- 2 p. For pre-judgment interest as allowed CC § 3287;
- 3 q. For an accounting, under administration of Plaintiffs and/or receiver and subject
- 4 to Court review, to determine the amount to be returned by Defendants, and the amounts to be
- 5 refunded to members of the Classes who are owed monies by Defendants;
- 6 r. For an Order requiring Defendants to identify each of the members of the
- 7 Classes by name, home address, and home telephone number;
- 8 s. For an Order requiring Defendants to make full restitution and payment pursuant
- 9 to California law;
- 10 t. For an Order for a preliminary and /or permanent injunction prohibiting
- 11 Defendants from engaging in the acts complained of herein;
- 12 u. For the creation of an administrative process wherein each injured member of
- 13 the Classes may submit a claim in order to receive his/her money;
- 14 v. For all other appropriate injunctive, declaratory and equitable relief;
- 15 w. For interest to the extent permitted by law;
- 16 x. For an award of attorneys' fees and costs incurred in the investigation, filing and
- 17 prosecution of this action pursuant to CCP § 1021.5, B&PC § 17200, et. seq., Labor Code §
- 18 1194 and/or any other applicable provision of law;

19 As to the Seventh Cause of Action for Violations of Labor Code §2802:

- 20 y. For recovery as authorized by Labor Code § 2802;
- 21 z. For pre-judgment interest as allowed by CC § 3287;
- 22 aa. Pursuant to Labor Code § 2802, the members of the LC § 2802 Class request
- 23 that the Court award reasonable attorneys' fees and costs incurred by them in this action;

24 As to the Eighth Cause of Action for PAGA Civil Penalties - Labor Code §2699:

- 25 bb. That the Court declare, adjudge and decree that Defendants violated the
- 26 following California Labor Code provisions as to Plaintiff and/or other aggrieved employees:
- 27 510 and 1198 (by failing to pay all overtime compensation); 226.7, 510, and 1198 (by failing
- 28 to include all forms of remuneration in the "regular rate" of pay for purposes of paying

overtime wages and/or meal and rest period premiums); 1182.12, 1194, 1197, 1197.1, and 1198 (by failing to pay at least minimum wages for all hours worked); 226.7, 512(a), 516, and 1198 (by failing to provide all meal periods); 226.7, 516, and 1198 (by failing to authorize and permit all rest periods); 226(a), 1174(d), and 1198 (by failing to provide accurate wage statements and maintain accurate payroll records); 201 and 202 (by failing to timely pay all earned wages upon termination); 204 (by failing to timely pay all earned wages during employment); and 1198 and the applicable IWC Wage Order (by failing to pay split-shift premiums).

cc. For civil penalties pursuant to the California Labor Code, including sections 210, 226.3, 256, 558, 1174.5, 1197.1, and/or 2699(a), (f), and (g), for violations of California Labor Code sections 201, 202, 204, 222.5, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, and 1199;

dd. For attorneys' fees and costs pursuant to California Labor Code section 2699(g)(1), and any and all other relevant statutes, for Defendants' violations of California Labor Code sections 201, 202, 204, 222.5, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, and 1199;

As to All Causes of Action:

ee. For such other and further relief as this Court may deem just and proper;

ff. For reasonable attorneys' fees and costs incurred; and

gg. For pre-judgment and post-judgment interest as provided by law; and

VII. DEMAND FOR JURY TRIAL

Plaintiffs hereby demand trial of their claims by jury to the extent authorized by law.

DATED: July 27, 2023

BOYAMIAN LAW, INC.

By:



Michael H. Boyamian
Attorneys for Plaintiffs FRANCO RANGEL And
All Others Similarly Situated

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DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial for all claims so triable.

DATED: July 27, 2023

BOYAMIAN LAW, INC.

By: 

Michael H. Boyamian
Attorneys for Plaintiff FRANCO RANGEL And
All Others Similarly Situated