

BIBIYAN LAW GROUP, P.C.
Jason Rothman (Cal. Bar No. 304961)
jason@tomorrowlaw.com
Nairi Shirinian (Cal. Bar No. 335909)
nairi@tomorrowlaw.com
Audrey M. Wacker (Cal. Bar No. 367665)
awacker@tomorrowlaw.com
1460 Westwood Boulevard,
Los Angeles, California 90024
Tel: (310) 438-5555; Fax: (310) 300-1705

Attorneys for Plaintiff, LEE ROY TRIVINO and
on behalf of all others similarly situated

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

LEE ROY TRIVINO, an individual and on
behalf of all others similarly situated,

Plaintiff,

v.

ROSE PAVING, LLC, a Delaware limited
liability company; and DOES 1 through 100,
inclusive,

Defendants.

Case No.: 25STCV28652

Assigned for all Purposes to:

Elihu M. Berle

Dept. 6

FIRST AMENDED COMPLAINT FOR:

1. FAILURE TO PAY OVERTIME WAGES;
2. FAILURE TO PAY MINIMUM WAGES;
3. FAILURE TO PROVIDE MEAL PERIODS;
4. FAILURE TO PROVIDE REST PERIODS;
5. WAITING TIME PENALTIES;
6. WAGE STATEMENT VIOLATIONS;
7. FAILURE TO TIMELY PAY WAGES;
8. FAILURE TO INDEMNIFY;
9. UNFAIR COMPETITION; and
10. CIVIL PENALTIES UNDER THE LABOR CODE PRIVATE ATTORNEYS' GENERAL ACT (2004) FOR VIOLATIONS OF LABOR CODE SECTIONS 210, 226.3, 558, 1174.5, 1197.1, AND 2699, *et seq.*

DEMAND FOR JURY TRIAL

[Amount in Controversy Exceeds \$35,000.00]

1 Plaintiff LEE ROY TRIVINO, on behalf of Plaintiff and all others similarly situated, alleges
2 as follows:

3 **GENERAL ALLEGATIONS**

4 **INTRODUCTION**

5 1. This is a Class Action, pursuant to Code of Civil Procedure section 382, against Rose
6 Paving, LLC, and any of its respective subsidiaries or affiliated companies within the State of
7 California (“Rose Paving,” collectively, with DOES 1 through 100, as further defined below,
8 “Defendants”) on behalf of Plaintiff and all other current and former non-exempt employees in
9 California employed by or formerly employed by Defendants (“Class Members”).

10 2. This is also a representative action, pursuant to the Labor Code Private Attorneys
11 General Act of 2004, codified at Labor Code section 2698, *et seq.* (“PAGA”), against Defendants, and
12 any of its respective subsidiaries or affiliated companies within the State of California as a proxy of
13 the Labor and Workforce Development Agency of the State of California (“LWDA”), on behalf of
14 Plaintiff and all other current and former non-exempt employees of Defendants working within the
15 Civil Penalty Period, as further defined herein, and, as it pertains to the alleged claims for failure to
16 comply with the Labor Code. Specifically, in connection with the alleged claims for failure to comply
17 with Labor Code sections 201, 202, 203, 204, 210, 221, 223, 226, 226.2, 226.3, 226.7, 227.3, 233,
18 234, 245, 246, 432, 432.3, 510, 512, 551, 552, 558, 1102.5, 1174, 1174.5, 1182.12, 1197.5, 1194,
19 1194.2, 1198, 1198.5, 1771, 1774, 1197, 1197.1, 1197.5, 2800, 2802, 2810.5, 2699, among others,
20 Business and Professions Code section 17200, as well as applicable Wage Orders, Plaintiff seeks to
21 represent all employees of Rose Paving, and each of them, DOES 1 through 100, as well as their
22 parents, subsidiaries and affiliates (hereinafter, collectively, “Defendants”) working within one years
23 preceding the date of the PAGA letter and continuing past the date of this Letter into perpetuity (“Civil
24 Penalty Period”). On all other claims mentioned herein, Plaintiff seeks to represent only non-exempt
25 employees of Defendants working within the Civil Penalty Period. Collectively, those employees shall
26 be known as “Aggrieved Employees” herein.

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28 ///

PARTIES

A. Plaintiff

3. Plaintiff LEE ROY TRIVINO is a resident of the State of California. At all relevant times herein, Plaintiff is informed and believes, and based thereon alleges, that Defendants employed Plaintiff as a non-exempt employee, with duties that included, but were not limited to, foreman and labor worker at various job sites. Plaintiff is informed and believes, and based thereon alleges, that Plaintiff LEE ROY TRIVINO worked for Defendants from approximately July of 2017 through approximately April of 2025.

B. Defendants

4. Plaintiff is informed and believes and based thereon alleges that defendant Rose Paving is, and at all times relevant hereto was, a limited liability company organized and existing under and by virtue of the laws of the State of Delaware and doing business in the County of Los Angeles, State of California. At all relevant times herein, Rose Paving employed Plaintiff and similarly situated employees within the State of California.

5. The true names and capacities, whether individual, corporate, associate, or otherwise, of defendants sued herein as DOES 1 through 100, inclusive, are currently unknown to Plaintiff, who therefore sues defendants by such fictitious names under Code of Civil Procedure section 474. Plaintiff is informed and believes and based thereon alleges that each of the defendants designated herein as DOE is legally responsible in some manner for the unlawful acts referred to herein. Plaintiff will seek leave of court to amend this Complaint to reflect the true names and capacities of the defendants designated hereinafter as DOES when such identities become known.

6. Plaintiff is informed and believes, and based thereon alleges, that each defendant acted in all respects pertinent to this action, as the agent of the other defendant(s), carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each defendant are legally attributable to the other defendants. Whenever, heretofore or hereinafter, reference is made to "Defendants," it shall include Rose Paving, LLC and any of their parent, subsidiary, or affiliated companies within the State of California, as well as DOES 1 through 100 identified herein.

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1 **JOINT LIABILITY ALLEGATIONS**

2 7. Plaintiff is informed and believes and based thereon alleges that all the times
3 mentioned herein, each of the Defendants was the agent, principal, employee, employer,
4 representative, joint venture or co-conspirator of each of the other defendants, either actually or
5 ostensibly, and in doing the things alleged herein acted within the course and scope of such agency,
6 employment, joint venture, and conspiracy.

7 8. All of the acts and conduct described herein of each and every corporate defendant was
8 duly authorized, ordered, and directed by the respective and collective defendant corporate employers,
9 and the officers and management-level employees of said corporate employers. In addition thereto,
10 said corporate employers participated in the aforementioned acts and conduct of their said employees,
11 agents, and representatives, and each of them; and upon completion of the aforesaid acts and conduct
12 of said corporate employees, agents, and representatives, the defendant corporation respectively and
13 collectively ratified, accepted the benefits of, condoned, lauded, acquiesced, authorized, and otherwise
14 approved of each and all of the said acts and conduct of the aforementioned corporate employees,
15 agents and representatives.

16 9. As a result of the aforementioned facts, Plaintiff is informed and believes, and based
17 thereon alleges that Defendants, and each of them, are joint employers.

18 **JURISDICTION**

19 10. Jurisdiction exists in the Superior Court of the State of California pursuant to Code of
20 Civil Procedure section 410.10.

21 11. Venue is proper in Los Angeles County, California pursuant to Code of Civil Procedure
22 sections 392, et seq. because, among other things, Los Angeles County is where the causes of action
23 complained of herein arose; the county in which the employment relationship began; the county in
24 which performance of the employment contract, or part of it, between Plaintiff and Defendants was
25 due to be performed; the county in which the employment contract, or part of it, between Plaintiff and
26 Defendants was actually performed; and the county in which Defendants, or some of them, reside.
27 Moreover, the unlawful acts alleged herein have a direct effect on Plaintiff and Class Members in Los
28 Angeles County, and because Defendants employ numerous Class Members in Los Angeles County.

12. Plaintiff is an “aggrieved employee” under PAGA, as Plaintiff was employed by Defendants during the Civil Penalty Period and suffered the Labor Code violations set forth herein, even if not in the precise exact fashion as other Aggrieved Employees. Accordingly, Plaintiff seeks to recover civil penalties under the Labor Code Private Attorneys General Act of 2004, codified at Labor Code section 2698, *et seq.* (“PAGA”), as amended, plus reasonable attorneys’ fees and costs, for Plaintiff and all other current and former Aggrieved Employees of Defendants during the Civil Penalty Period.

13. Specifically, Plaintiff seeks to recover PAGA civil penalties through a representative action permitted by PAGA and the California Supreme Court in, among other authorities, *Arias v. Superior Court* (2009) 46 Cal.4th 969. According to the same authorities, class certification of the PAGA allegations described herein is not required.

14. During the Civil Penalty Period, Defendants violated, *inter alia*, Labor Code sections 201, 202, 203, 204, 210, 221, 223, 226, 226.2, 226.3, 226.7, 227.3, 233, 234, 245, 246, 432, 432.3, 510, 512, 551, 552, 558, 1102.5, 1174, 1174.5, 1182.12, 1197.5, 1194, 1194.2, 1198, 1198.5, 1771, 1774, 1197, 1197.1, 1197.5, 2800, 2802, 2810.5, 2699, among others, Business and Professions Code section 17200, as well as applicable Wage Orders.

15. Labor Code section 2699, subdivisions (a) and (g), authorizes Aggrieved Employees such as Plaintiff, on behalf of Plaintiff and all other current and former Aggrieved Employees within the Civil Liability Period, to bring a civil action to recover civil penalties pursuant to the procedures specified in Labor Code section 2699.3.

16. On or around September 30, 2025, Plaintiff provided written notice pursuant to Labor Code section 2699.3 online and by certified mail, with return receipt requested, of Defendants' violation of various, including the herein-described, provisions of the Labor Code, to the LWDA, as well as by certified mail, with return receipt requested to Defendants, and each of them.

FACTUAL BACKGROUND

17. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should have known that Plaintiff and Class Members were entitled to receive at least minimum, regular, overtime, and double times wages and that they were not receiving minimum, regular, overtime, and

1 double time wages for all work that was required to be performed.

2 18. For at least four (4) years prior to the filing of this action and continuing to the present,
3 Defendants have, at times, failed to pay minimum wages to Plaintiff and Class Members, or some of
4 them, in violation of California state wage and hour laws.

5 19. For at least four (4) years prior to the filing of this action and continuing to the present,
6 Defendants have, at times, failed to pay overtime wages to Plaintiff and Class Members, or some of
7 them, in violation of California state wage and hour laws as a result of, without limitation, Plaintiff
8 and Class Members working over eight (8) hours per day, forty (40) hours per week, and seven
9 consecutive work days in a work week without being properly compensated for hours worked in
10 excess of (8) hours per day in a work day, forty (40) hours per week in a work week, and/or hours
11 worked on the seventh consecutive work day in a work week.

12 20. On information and belief, Defendants did not accurately or appropriately compensate
13 Plaintiff and Class Members for the hours worked by, among other things, failing to accurately track
14 and/or pay for all minutes actually worked at the proper overtime rate of pay; engaging, suffering, or
15 permitting employees to work off the clock, including, without limitation, by requiring Plaintiff and
16 Class Members to complete pre-shift tasks before clocking in and post-shift tasks after clocking out,
17 and requiring Plaintiff and Class Members to don and doff required uniforms and/or safety prior to
18 starting their shift. By way of example, Plaintiff and, upon information and belief, Class Members,
19 were required to arrive to work early to open the gate before clocking in and were required to close
20 the gate and/or tend to emails after clocking out. Additionally, Plaintiffs and Class Members had to
21 monitor phones and address supervisor inquiries regarding projects off the clock and/or during breaks.
22 In addition, Defendants failed to include all forms of remuneration, including non-discretionary
23 bonuses, and other forms of remuneration into the regular rate of pay during pay periods where
24 overtime was worked.

25 21. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should
26 have known that Plaintiff and Class Members were entitled to receive a timely, off-duty, uninterrupted
27 30-minute meal period for every five hours of work, or payment of one additional hour of pay at their
28 regular rate of pay when they did not receive a compliant meal period.

1 22. For at least four (4) years prior to the filing of this action and continuing to the present,
2 Defendants have, at times, failed to provide Plaintiff and Class Members, or some of them, full, timely
3 thirty (30) minute uninterrupted meal period for days on which they worked more than five (5) hours
4 in a work day and a second thirty (30) minute uninterrupted meal period for days on which they
5 worked in excess of ten (10) hours in a work day, and failing to provide compensation for such
6 unprovided meal periods as required by California wage and hour laws.

7 23. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should
8 have known that Plaintiff and Class Members were entitled to receive a ten-minute, off-duty,
9 uninterrupted rest period for every four (4) hours worked, or major fraction thereof, or payment of
10 one (1) additional hour of pay at their regular rate of pay when they were not permitted to take a
11 compliant rest period.

12 24. For at least four (4) years prior to the filing of this action and continuing to the present,
13 Defendants have, at times, failed to authorize and permit Plaintiff and Class Members to take rest
14 periods of at least ten (10) minutes per four (4) hours worked or major fraction thereof and failed to
15 provide compensation for such unprovided rest periods as required by California wage and hour laws.

16 25. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should
17 have known that Plaintiff and Class Members who separated from their employment with Defendants
18 during the statutory period were entitled to timely payment of all wages due. For at least three (3)
19 years prior to the filing of this action and continuing to the present, Defendants have, at times, failed
20 to pay Plaintiff and Class Members the full amount of their wages owed to them upon termination
21 and/or resignation as required by Labor Code sections 201 and 202, including for, without limitation,
22 failing to pay overtime wages, minimum wages, and premium wages.

23 26. Plaintiff is informed and believes, and thereon alleges that Defendants knew or should
24 have known that Plaintiff and Class Members were entitled to receive complete and accurate wage
25 statements and failed to abide by the requirements of Labor Code section 226. For at least one (1) year
26 prior to the filing of this action and continuing to the present, Defendants have, at times, failed to
27 furnish Plaintiff and Class Members with itemized wage statements that accurately reflect gross wages
28 earned; total hours worked; net wages earned; all applicable hourly rates in effect during the pay

1 period and the corresponding number of hours worked at each hourly rate; and other such information
2 as required by Labor Code section 226, subdivision (a). As a result thereof, Defendants have further
3 failed to furnish employees with an accurate calculation of gross and gross wages earned, as well as
4 gross and net wages paid.

5 27. Plaintiff is informed and believes, and thereon alleges that Defendants knew or should
6 have known that Plaintiff and Class Members were entitled to receive their wages in a timely fashion.
7 For at least one (1) year prior to the filing of this action and continuing to the present, Defendants
8 have, at times, failed to pay Plaintiff and Class Members, or some of them, the full amount of their
9 wages for labor performed in a timely fashion as required under Labor Code section 204.

10 28. Plaintiff is informed and believes, and thereon alleges that Defendants knew or should
11 have known that Plaintiff and Class Members were entitled to be reimbursed for necessary expenses
12 incurred in the discharge of their duties. For at least three (3) years prior to the filing of this action
13 and continuing to the present, Defendants have, at times, failed to indemnify Plaintiff and Class
14 Members, or some of them, for the costs incurred in using cellular phones for work-related purposes.

15 29. Plaintiff is informed and believes, and thereon alleges that Defendants knew or should
16 have known that Plaintiff and Class Members were entitled to paid sick leave at their regular rate of
17 pay. For at least four (4) years prior to the filing of this action and continuing to the present,
18 Defendants have had a consistent policy of failing to provide Plaintiff and Class Members with the
19 rights provided to them under the Healthy Workplace Healthy Families Act of 2014, codified at Labor
20 Code section 245, *et seq.*

21 30. Plaintiff, on Plaintiff's own behalf and on behalf of Class Members, brings this action
22 pursuant to, including but not limited to, Labor Code sections 200, 201, 202, 203, 204, 226, 226.7,
23 510, 512, 558.1, 1194, 1194.2, 1197, 2802, and California Code of Regulations, Title 8, section 11040,
24 seeking overtime wages, minimum wages, payment of premium wages for missed meal and rest
25 periods, failure to pay timely wages, waiting time penalties, wage statement penalties, failure to
26 indemnify work-related expenses, other such provisions of California law, and reasonable attorneys'
27 fees and costs.

28 31. Plaintiff, on Plaintiff's own behalf and on behalf of Class Members, pursuant to

1 Business and Professions Code sections 17200 through 17208, also seeks (an) injunction(s)
2 prohibiting Defendants from further violating the Labor Code and requiring the establishment of
3 appropriate and effective means to prevent further violations, as well as all monies owed but withheld
4 and retained by Defendants to which Plaintiff and Class Members are entitled, as well as restitution
5 of amounts owed.

6 **REPRESENTATIVE ACTION ALLEGATIONS**

7 32. Plaintiff is informed and believes, and based thereon alleges, that Defendants had and
8 have a practice or policy of failing to compensate Plaintiff and other Aggrieved Employees with
9 minimum and overtime wages for all minutes worked, at the proper rates of pay. Plaintiff is informed
10 and believes, and based thereon alleges, that Defendants had and have a policy or practice of requiring
11 Plaintiff and other Aggrieved Employees to work more than eight (8) hours per day, forty (40) hours
12 per week, and/or seven (7) straight workdays in a workweek (in violation of Labor Code sections 551
13 and 552).

14 33. Defendants failed to accurately track and/or pay for all minutes actually worked by
15 Plaintiff and Aggrieved Employees. Defendants also engaged, suffered, or permitted Aggrieved
16 Employees to work off the clock, including, without limitation, by requiring Plaintiff and other
17 Aggrieved Employees to complete pre-shift tasks before clocking in and post-shift tasks after clocking
18 out, and to don and doff uniforms before clocking in. By way of example, Plaintiff and, upon
19 information and belief, Aggrieved Employees were required to arrive to work early to open the gate
20 before clocking in and were required to close the gate and/or tend to emails after clocking out.

21 34. In addition, Defendants failed to include all forms of remuneration, including non-
22 discretionary bonuses, and other forms of remuneration into the regular rate of pay during pay periods
23 where overtime was worked.

24 35. Given Plaintiff personally suffered these violations of the overtime laws, Plaintiff also
25 seeks to represent Aggrieved Employees in connection with other violations of the minimum wage
26 and overtime laws, including potential violations for requiring Aggrieved Employees to don and doff
27 safety equipment or uniforms during meal and rest periods and requiring Aggrieved Employees to
28 clock out for meal periods but continue working, among other potential violations. These practices

1 were all to the detriment of Plaintiff and other Aggrieved Employees. As such, Plaintiff is informed
2 and believes, and based thereon alleges, that Defendants violated, without limitation, Labor Code
3 sections 1197, 1182.12, Cal. and applicable Wage Orders based on its continued failure to pay
4 minimum wages for all hours worked. Thus, Plaintiff and other Aggrieved Employees are entitled to
5 actual and liquidated damages under, without limitation, Labor Code sections 1771, 1774, 1194,
6 1194.2, and 1198 to compensate them for work each day for each Aggrieved Employee in the PAGA
7 Period.

8 36. Moreover, Plaintiff is informed and believes, and based thereon alleges, that
9 Defendants further violated Labor Code sections 223, 551, 552, 1194, 1198, and applicable Wage
10 Orders based on its practice of providing total compensation that is less than the required legal
11 overtime compensation for the overtime worked, entitling Plaintiff and other Aggrieved Employees
12 to damages, including, without limitation, unpaid overtime wages each day worked by each Aggrieved
13 Employee during the PAGA Period.

14 37. Plaintiff is informed and believes, and based thereon alleges, that Defendants had and
15 have a policy or practice of compelling Plaintiff and other Aggrieved Employees during the PAGA
16 Period to work every day in excess of five (5) and ten (10) hours per day, without being afforded
17 uninterrupted, timely, and complete 30-minute meal periods or compensation in lieu thereof. By way
18 of example, Defendants regularly denied Plaintiff and Aggrieved Employees lawful meal periods by
19 interrupting meal periods; not providing timely meal periods; failing to provide first and/or second
20 meal periods; providing short meal periods, including without, limitation meal periods that were
21 recorded for less than thirty minutes, and meal periods that may appear on the record to be thirty
22 minutes or longer but in practice were shorter than thirty minutes due to work demands and
23 interruptions; and auto-deducting meal periods that could not be auto-deducted by law or during which
24 employees worked. Given Plaintiff personally suffered these violations of the meal period laws,
25 Plaintiff also seeks to represent Aggrieved Employees in connection with other violations of the meal
26 period laws, including potential violations for unprovided meals, late meals, short meals, interrupted
27 meals, auto-deducted meals, meals for which Aggrieved Employees were not relieved of all duties,
28 and meals for which Aggrieved Employees were not permitted to leave the premises, if any of these

1 should be found. Consequently, Plaintiff is informed and believes, and based thereon alleges, that
2 Defendants violated Labor Code 512 and 1198 each day for each Aggrieved Employee during the
3 PAGA Period, and that, thus each Aggrieved Employee was owed one hour of premium pay at his or
4 her regular rate of pay for each day worked during the PAGA Period under Labor Code section 226.7.
5 However, Plaintiff is informed and believes that those premium payments under Labor Code section
6 226.7 were not made for these non-compliant meal periods, either at all or at the proper regular rate
7 of pay. Defendants would thus be liable for civil penalties pursuant to Labor Code sections 210 (for
8 failure to timely pay these wages), 558, 1198 and 2699 for both failing to authorize the taking of
9 compliant meal periods and for failing to provide premium pay under Labor Code section 226.7, or
10 injunctive relief under sections 2699(e)(1) and 2699(k).

11 38. Plaintiff is informed and believes, and based thereon alleges, that Defendant maintain
12 policies or practices of compelling Plaintiff and other Aggrieved Employees every day to, including,
13 without limitation, work over four-hour periods (or major fractions thereof) without authorizing and
14 permitting Plaintiff and other Aggrieved Employees to take uninterrupted, timely, and complete ten-
15 minute rest periods in which the Aggrieved Employees are completely relieved of all of their duties,
16 including, without limitation by failing to provide rest periods all together; failing to provide rest
17 periods that were at least ten minutes in length, including rest periods that were shorter than ten
18 minutes, or rest periods that may have encompassed a total of ten minutes but were in practice less
19 than ten uninterrupted minutes due to, without limitation, work demands and interrupting rest periods
20 in order to attend to supervisor inquiries on projects; requiring Aggrieved Employees carry cellular
21 telephones or walkie-talkies during rest periods and continue to monitor calls/messages regarding
22 projects; not providing rest periods in a timely fashion; not permitting Aggrieved Employees to leave
23 the premises during rest periods; and otherwise requiring on-duty/on-call rest periods. Further,
24 Defendants would also rush Plaintiff's and other Aggrieved Employees' water breaks. Given Plaintiff
25 personally suffered these violations of the rest period laws, Plaintiff also seeks to represent Aggrieved
26 Employees in connection with other violations of the rest period laws, including potential violations
27 for unprovided rest periods, short rest periods, interrupted rest periods, rest periods where Aggrieved
28 Employees are required to clock-out, rest periods for which Aggrieved Employees were not relieved

1 of all duties, and rest periods for which Aggrieved Employees were not permitted to leave the
2 premises, if any of these should be found. Plaintiff is informed and believes, and based thereon alleges,
3 that Defendants violated the applicable Wage Order(s) each day for each Aggrieved Employee during
4 the PAGA Period, and that, thus each Aggrieved Employee was owed one hour of premium pay at
5 their regular rate of pay for each day worked during the PAGA Period under Labor Code section
6 226.7. However, Plaintiff is informed and believes that those premium payments under Labor Code
7 section 226.7 were not made for these non-compliant rest periods, either at all or at the proper regular
8 rate of pay, in violation of Labor Code sections 226.7 and 1198. Defendants would thus be liable for
9 civil penalties pursuant to Labor Code sections 210 (for failure to timely pay these wages), 558, 1198
10 and 2699 for both failing to authorize the taking of compliant rest periods and for failing to provide
11 premium pay under Labor Code section 226.7, or injunctive relief under sections 2699(e)(1) and
12 2699(k).

13 39. In addition to the above, Plaintiff is informed and believes, and based thereon alleges
14 that Defendants failed and continue to fail to keep adequate or accurate time records including wage
15 statements and similar payroll documents under Labor Code section 226, documents signed to obtain
16 or hold employment under Labor Code section 432, personnel records under Labor Code section
17 1198.5, time records under Labor Code section 1174, making it difficult for Plaintiff and other
18 aggrieved employees to calculate their unpaid wages and/or premium payments. Plaintiff and the
19 Aggrieved Employees personally suffered these violations, which in turn entitles Plaintiff and other
20 Aggrieved Employees to penalties prescribed by Labor Code sections 226 and 1198.5. Defendants
21 would also be liable for civil penalties pursuant to Labor Code sections 558, 1174.5, and 2699.

22 40. Both independently and as a result of, among other things, Defendants' herein-
23 described policies or practices, Defendants also intentionally failed and continue to fail to furnish
24 Aggrieved Employees, including, without limitation, Plaintiff, with itemized wage statements that
25 accurately reflect: gross wages earned; total hours worked by the employee; net wages earned; and all
26 applicable hourly rates in effect during the pay period and the corresponding number of hours worked
27 at each hourly rate by the employee. Consequently, Plaintiff is informed and believes, and based
28 thereon alleges, that Defendants violated Labor Code sections 226 and 1198 each day for each

1 Aggrieved Employee during the PAGA Period, and that, thus Plaintiff and each Aggrieved Employee
2 personally suffered these violations and was owed penalties under Labor Code section 226 for each
3 pay period worked during the PAGA Period. However, Plaintiff is informed and believes that those
4 penalties under Labor Code section 226 were not paid for these violations of Labor Code sections
5 226. Defendants would thus be liable for civil penalties pursuant to Labor Code sections 226.3, 558,
6 1198, and 2699.

7 41. Plaintiff is informed and believes, and based thereon alleges, that Defendants, both
8 independently and for the reasons stated above, also willfully and/or intentionally failed and refused,
9 and continues to fail and refuse, to timely pay compensation to Plaintiff and other terminated or
10 resigned Aggrieved Employees, including but not limited to, all overtime wages owed, all minimum
11 wages owed, vacation pay and paid time off; and all premium pay owed. Consequently, Plaintiff is
12 informed and believes, and based thereon alleges, that Defendants violated Labor Code sections 201,
13 202 203, and 1198 each pay period for each Aggrieved Employee during the PAGA Period, and that,
14 thus Plaintiff and each Aggrieved Employee personally suffered these violations and was owed
15 penalties under Labor Code section 203 for each pay period worked during the PAGA Period.

16 42. Plaintiff is further informed and believes, and based thereon alleges that Defendants
17 failed and refused, and continue to fail and refuse, to comply with the notice requirements of Labor
18 Code section 2810.5 (*i.e.*, the Wage Theft Protection Act of 2011) by, among other things, failing to
19 provide Plaintiff and other Aggrieved Employees with the rates of pay and overtime rates of pay
20 applicable to their employment, allowances claimed as part of the minimum wage, the regular payday
21 designated by Defendants, the name of the employer, including any “doing business as” names used,
22 the name, address and telephone number of the workers’ compensation insurance carrier, information
23 regarding paid sick leave, and other pertinent information required to be disclosed by Defendants
24 under Labor Code section 2810.5. Plaintiff is informed and believes that failure to provide such
25 information, including rates of pay that are in effect, has permitted Defendants to pay employees at
26 rates of pay that were not agreed upon and violate minimum wage and overtime wage laws in
27 California. Plaintiff is additionally informed and believes that the notice requirement of Labor Code
28 section 2810.5 involves a mandatory payroll or workplace injury reporting. Plaintiff is informed and

1 believes that Defendants violated Labor Code sections 1198 and 2810.5.

2 43. Plaintiff is informed and believes, and based thereon alleges that Defendants also failed
3 and refused, and continues to fail and refuse, to reimburse Plaintiff and other Aggrieved Employees,
4 with their costs incurred for use of personal cellular phone for work purposes, in direct consequence
5 of the discharge of their duties, or of their obedience to the directions of Defendants, as required by
6 Labor Code sections 2800 and 2802, and other statutory and common law offenses. As a result,
7 Plaintiff and other Aggrieved Employees have personally suffered these violations and Defendants
8 are liable to reimburse Plaintiff and other Aggrieved Employees for the costs incurred in furtherance
9 of work duties.

10 44. Plaintiff is informed and believes, and based thereon alleges that Defendants had and
11 have a policy or practice of failing to pay Aggrieved Employees their wages in accordance with Labor
12 Code Section 204, which requires that: “[l]abor performed between the 1st and 15th days, inclusive,
13 of any calendar month shall be paid for between the 16th and 26th day of the month during which the
14 labor was performed, and labor performed between the 16th and the last day, inclusive of any calendar
15 month, shall be paid for between the 1st and 10th day of the following month.” Plaintiff is informed
16 and believes and based thereon alleges that Defendants did not and do not pay Plaintiff and other
17 Aggrieved Employees every day and every workweek in accordance with Labor Code sections 204
18 and 1198 due to, among other things, the violations set forth above, the derivative nature of which is
19 an implicit consequence of the rationale in *Camp v. Home Depot USA, Inc.* (2022) 84 Cal.App.5th
20 638. As such, Plaintiff is informed and believes, and based thereon alleges that Defendants violated
21 Labor Code section 204 and that Plaintiff and other Aggrieved Employees have personally suffered
22 these violations.

23 45. Plaintiff is informed and believes, and based thereon alleges, that Defendants had and
24 have a practice or policy of relying on the salary history information of an applicant for employment
25 as a factor in determining whether to offer employment to an applicant or what salary to offer the
26 applicant in violation of Labor Code section 432.3 by including, on Defendants’ application for
27 employment, an inquiry regarding current and/or former salary history information, including, without
28 limitation, compensation and benefits of the applicant for employment. Plaintiff is informed and

1 believes that this practice has resulted in unequal pay. Specifically, for this reason, as well as for other
2 reasons, Plaintiff is informed and believes, and based thereon alleges, that Defendants have failed to
3 pay its employees at wage rates less than those paid to employees of the opposite sex and/or another
4 race or ethnicity for substantially similar work, when viewed as a composite of skill, effort, and
5 responsibility, and/or performed under similar working conditions without sufficient legal rationale.
6 Finally, Plaintiff is informed and believes, and based thereon alleges that Defendants have discharged
7 and/or discriminated and/or retaliated against Plaintiff and Aggrieved Employees by reason of an
8 action taken by them to invoke or assist in the enforcement of Labor Code section 1197.5. As such,
9 Plaintiff is informed and believes, and based thereon alleges, that Defendants violated, without
10 limitation, Labor Code sections 432.3, 1102.5, 1197.5, and 1198.

11 **CLASS ACTION ALLEGATIONS**

12 46. Plaintiff brings this action on behalf of Plaintiff and Class Members as a class action
13 pursuant to Code of Civil Procedure section 382. Plaintiff seeks to represent a class of all current and
14 former non-exempt employees of Defendants within the State of California at any time commencing
15 four (4) years preceding the filing of Plaintiff's complaint up until the time that notice of the class
16 action is provided to the class (collectively referred to as "Class Members").

17 47. Plaintiff reserves the right under California Rule of Court rule 3.765, subdivision (b)
18 to amend or modify the class description with greater specificity, further divide the defined class into
19 subclasses, and to further specify or limit the issues for which certification is sought.

20 48. This action has been brought and may properly be maintained as a class action under
21 the provisions of Code of Civil Procedure section 382 because there is a well-defined community of
22 interest in the litigation and the proposed Class is easily ascertainable.

23 **A. Numerosity**

24 49. The potential Class Members as defined are so numerous that joinder of all the
25 members of the Class is impracticable. While the precise number of Class Members has not been
26 determined yet, Plaintiff is informed and believes that there are over seventy-five (75) Class Members
27 employed by Defendants within the State of California.

28 50. Accounting for employee turnover during the relevant periods necessarily increases

1 this number. Plaintiff alleges Defendants' employment records would provide information as to the
2 number and location of all Class Members. Joinder of all members of the proposed Class is not
3 practicable.

4 **B. Commonality**

5 51. There are questions of law and fact common to Class Members. These common
6 questions include, but are not limited to:

- 7 A. Did Defendants violate Labor Code sections 510 and 1194 by failing to pay all hours
8 worked at a proper overtime rate of pay?
- 9 B. Did Defendants violate Labor Code sections 510, 1194 and 1197 by failing to pay for
10 all other time worked at the employee's regular rate of pay?
- 11 C. Did Defendants violate Labor Code section 512 by not authorizing or permitting Class
12 Members to take compliant meal periods?
- 13 D. Did Defendants violate Labor Code section 226.7 by not providing Class Members
14 with additional wages for missed or interrupted meal periods?
- 15 E. Did Defendants violate applicable Wage Orders by not authorizing or permitting Class
16 Members to take compliant rest periods?
- 17 F. Did Defendants violate Labor Code section 226.7 by not providing Class Members
18 with additional wages for missed or interrupted rest periods?
- 19 G. Did Defendants violate Labor Code sections 201 and 202 by failing to pay Class
20 Members upon termination or resignation all wages earned?
- 21 H. Are Defendants liable to Class Members for waiting time penalties under Labor Code
22 section 203?
- 23 I. Did Defendants violate Labor Code section 226, subdivision (a) by not furnishing
24 Class Members with accurate wage statements?
- 25 J. Did Defendants fail to pay Class Members in a timely fashion as required under Labor
26 Code section 204?
- 27 K. Did Defendants fail to indemnify Class Members for all necessary expenditures or
28 losses incurred in direct consequence of the discharge of their duties or by obedience

to the directions of Defendants as required under Labor Code section 2802?

L. Did Defendants violate the Unfair Competition Law, Business and Professions Code section 17200, *et seq.*, by their unlawful practices as alleged herein?

M. Are Class Members entitled to restitution of wages under Business and Professions Code section 17203?

N. Are Class Members entitled to costs and attorneys' fees?

O. Are Class Members entitled to interest?

C. Typicality

52. The claims of Plaintiff herein alleged are typical of those claims which could be alleged by any Class Members, and the relief sought is typical of the relief which would be sought by each Class Member in separate actions. Plaintiff and Class Members sustained injuries and damages arising out of and caused by Defendants' common course of conduct in violation of laws and regulations that have the force and effect of law and statutes as alleged herein.

D. Adequacy of Representation

53. Plaintiff will fairly and adequately represent and protect the interest of Class Members. Counsel who represents Plaintiff is competent and experienced in litigating wage and hour class actions.

E. Superiority of Class Action

54. A class action is superior to other available means for the fair and efficient adjudication of this controversy. Individual joinder of all Class Members is not practicable, and questions of law and fact common to Class Members predominate over any questions affecting only individual Class Members. Class Members, as further described therein, have been damaged and are entitled to recovery by reason of Defendants' policies and/or practices that have resulted in the violation of the Labor Code at times, as set out herein.

55. Class action treatment will allow Class Members to litigate their claims in a manner that is most efficient and economical for the parties and the judicial system. Plaintiff is unaware of any difficulties that are likely to be encountered in the management of this action that would preclude its maintenance as a class action.

1 **FIRST CAUSE OF ACTION**

2 **(Failure to Pay Overtime Wages – Against All Defendants)**

3 56. Plaintiff realleges and incorporates by reference all of the allegations contained in the
4 preceding paragraphs as though fully set forth hereat.

5 57. At all relevant times, Plaintiff and Class Members were employees or former
6 employees of Defendants covered by Labor Code sections 510, 1194 and 1199, as well as applicable
7 Wage Orders.

8 58. At all times relevant to this Complaint, Labor Code section 510 was in effect and
9 provided: “(a) Eight hours of labor constitutes a day’s work. Any work in excess of eight hours in
10 one workday and any work in excess of forty hours in any one workweek . . . shall be compensated at
11 the rate of no less than one and one-half times the regular rate of pay for an employee.”

12 59. At all times relevant to this Complaint, Labor Code section 510 further provided that
13 “[a]ny work in excess of 12 hours in one day shall be compensated at the rate of no less than twice
14 the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh
15 day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay.”

16 60. Four (4) years prior to the filing of the Complaint in this action through the present,
17 Plaintiff and Class Members, at times, worked for Defendants during shifts that consisted of more
18 than eight (8) hours in a workday and/or more than forty hours in a workweek, and/or seven (7)
19 consecutive workdays in a workweek, without being paid overtime wages for all hours worked as a
20 result of, including but not limited to, Defendants failing to accurately track and/or pay for all minutes
21 actually worked at the proper overtime rate of pay; engaging, suffering, or permitting employees to
22 work off the clock, including, without limitation, by requiring Plaintiff and Class Members to
23 complete pre-shift tasks before clocking in and post-shift tasks after clocking out and requiring
24 Plaintiff and Class Members to don and doff required uniforms and/or safety prior to starting their
25 shift, all to the detriment of Plaintiff and Class Members.

26 61. Accordingly, by requiring Plaintiff and Class Members to, at times, work greater than
27 eight (8) hours per workday, forty (40) hours per workweek, and/or seven (7) straight workdays
28 without properly compensating overtime wages at the proper overtime rate of pay, Defendants, on

1 occasion, willfully violated the provisions of the Labor Code, among others, sections 510, 1194, and
2 applicable IWC Wage Orders, and California law.

3 62. As a result of the unlawful acts of Defendants, Plaintiff and Class Members have been
4 deprived of overtime wages in amounts to be determined at trial, and are entitled to recovery, plus
5 interest and penalties thereon, attorneys' fees and costs, pursuant to Labor Code section 1194 and
6 1199, Code of Civil Procedure section 1021.5 and 1032, and Civil Code section 3287.

7 **SECOND CAUSE OF ACTION**

8 **(Failure to Pay Minimum Wages – Against All Defendants)**

9 63. Plaintiff realleges and incorporates by reference all of the allegations contained in the
10 preceding paragraphs as though fully set forth hereat.

11 64. At all relevant times, Plaintiff and Class Members were employees or former
12 employees of Defendants covered by Labor Code sections 1197, 1199 and applicable Wage Orders.

13 65. Pursuant to Labor Code section 1197 and applicable Wage Orders, Plaintiff and Class
14 Members were entitled to receive minimum wages for all hours worked or otherwise under
15 Defendants' control.

16 66. For four (4) years prior to the filing of the Complaint in this action through the present,
17 Defendants failed to failing to accurately track and/or pay for all minutes actually worked at the proper
18 overtime rate of pay; engaging, suffering, or permitting employees to work off the clock, including,
19 without limitation, by requiring Plaintiff and Class Members to complete pre-shift tasks before
20 clocking in and post-shift tasks after clocking out, and requiring Plaintiff and Class Members to don
21 and doff required uniforms and/or safety prior to starting their shift, all to the detriment of Plaintiff
22 and Class Members.

23 67. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have
24 suffered damages in an amount, subject to proof, to the extent they were not paid minimum wages for
25 all hours worked or otherwise due.

26 68. Pursuant to Labor Code sections 218.6, 1194, 1194.2, Code of Civil Procedure sections
27 1021.5 and 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to recover
28 the full amount of unpaid minimum wages, interest and penalties thereon, liquidated damages,

1 reasonable attorneys' fees and costs of suit.

2 **THIRD CAUSE OF ACTION**

3 **(Failure to Provide Meal Periods – Against All Defendants)**

4 69. Plaintiff realleges and incorporates by reference all of the allegations contained in the
5 preceding paragraphs as though fully set forth hereat.

6 70. At all relevant times, Plaintiff and Class Members were employees or former
7 employees of Defendants covered by Labor Code section 512 and applicable Wage Orders.

8 71. Pursuant to Labor Code section 512 and applicable Wage Orders, no employer shall
9 employ an employee for a work period of more than five (5) hours without a timely meal break of not
10 less than thirty (30) minutes in which the employee is relieved of all of his or her duties. Furthermore,
11 no employer shall employ an employee for a work period of more than ten (10) hours per day without
12 providing the employee with a second timely meal period of not less than thirty (30) minutes in which
13 the employee is relieved of all of his or her duties.

14 72. Pursuant to Labor Code section 226.7, if an employer fails to provide an employee
15 with a meal period as provided in the applicable Wage Order of the Industrial Welfare Commission,
16 the employer shall pay the employee one (1) additional hour of pay at the employee's regular rate of
17 compensation for each workday that the meal period is not provided.

18 73. For four (4) years prior to the filing of the Complaint in this action through the present,
19 Plaintiff and Class Members were, at times, not provided complete, timely 30-minute, duty-free
20 uninterrupted meal periods every five hours of work without waiving the right to take them, as
21 permitted. Moreover, at times, Defendants failed to provide one (1) additional hour of pay at the Class
22 Member's regular rate of compensation on the occasions that Class Members were not provided
23 compliant meal periods.

24 74. By their failure to provide Plaintiff and Class Members compliant meal periods as
25 contemplated by Labor Code section 512, among other California authorities, and failing, at times, to
26 provide compensation for such unprovided meal periods, as alleged above, Defendants willfully
27 violated the provisions of Labor Code section 512 and applicable Wage Orders.

28 75. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have

1 suffered damages in an amount, subject to proof, to the extent they were not paid additional pay owed
2 for missed, untimely, interrupted, incomplete and/or on-duty meal periods.

3 76. Plaintiff and Class Members are entitled to recover the full amount of their unpaid
4 additional pay for unprovided compliant meal periods, in amounts to be determined at trial, plus
5 interest and penalties thereon, attorneys' fees, and costs, under Labor Code sections 226 and 226.7,
6 Code of Civil Procedure sections 1021.5 and 1032, and Civil Code section 3287.

7 **FOURTH CAUSE OF ACTION**

8 **(Failure to Provide Rest Periods – Against All Defendants)**

9 77. Plaintiff realleges and incorporates by reference all of the allegations contained in the
10 preceding paragraphs as though fully set forth hereat.

11 78. At all relevant times, Plaintiff and Class Members were employees or former
12 employees of Defendants covered by applicable Wage Orders.

13 79. California law and applicable Wage Orders require that employers “authorize and
14 permit” employees to take ten (10) minute rest periods in about the middle of each four (4) hour work
15 period “or major fraction thereof.” Accordingly, employees who work shifts of three and-a-half (3
16 ½) to six (6) hours must be provided ten (10) minutes of paid rest period, employees who work shifts
17 of more than six (6) and up to ten (10) hours must be provided with twenty (20) minutes of paid rest
18 period, and employees who work shifts of more than ten (10) hours must be provided thirty (30)
19 minutes of paid rest period.

20 80. Pursuant to Labor Code section 226.7, if an employer fails to provide an employee
21 with a meal period or rest period as provided in the applicable Wage Order of the Industrial Welfare
22 Commission, the employer shall pay the employee one (1) additional hour of pay at the employee's
23 regular rate of compensation for each work day that the rest period is not provided.

24 81. For four (4) years prior to the filing of the Complaint in this action through the present,
25 Plaintiff and Class Members were, at times, not authorized or permitted to take complete, timely 10-
26 minute, duty-free uninterrupted rest periods every four (4) hours of work or major fraction thereof.
27 Moreover, at times, Defendants failed to provide one (1) additional hour of pay at the Class Member's
28 regular rate of compensation on the occasions that Class Members were not authorized or permitted

1 to take compliant rest periods.

2 82. By their failure, at times, to authorize and permit Plaintiff and Class Members to take
3 rest periods contemplated by California law, and one (1) additional hour of pay at the employee's
4 regular rate of compensation for such unprovided rest periods, as alleged above, Defendants willfully
5 violated the provisions of Labor Code section 226.7 and applicable Wage Orders.

6 83. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have
7 suffered damages in an amount, subject to proof, to the extent they were not paid additional pay owed
8 for rest periods that they were not authorized or permitted to take.

9 84. Plaintiff and Class Members are entitled to recover the full amount of their unpaid
10 additional pay for unprovided compliant rest periods, in amounts to be determined at trial, plus interest
11 and penalties thereon, attorneys' fees, and costs, under Labor Code sections 226 and 226.7, Code of
12 Civil Procedure sections 1021.5 and 1032, and Civil Code section 3287.

13 **FIFTH CAUSE OF ACTION**

14 **(Failure to Pay All Wages Due Upon Termination – Against All Defendants)**

15 85. Plaintiff realleges and incorporates by reference all of the allegations contained in the
16 preceding paragraphs as though fully set forth hereat.

17 86. At all relevant times, Plaintiff and Class Members were employees or former
18 employees of Defendants covered by Labor Code sections 201, 202 and 203, as well as applicable
19 Wage Orders.

20 87. Pursuant to Labor Code sections 201 and 202, Plaintiff and Class Members were
21 entitled upon termination to timely payment of all wages earned and unpaid prior to termination.
22 Discharged Class Members were entitled to payment of all wages earned and unpaid prior to discharge
23 immediately upon termination. Class Members who resigned were entitled to payment of all wages
24 earned and unpaid prior to resignation within 72 hours after giving notice of resignation or, if they
25 gave 72 hours previous notice, they were entitled to payment of all wages earned and unpaid at the
26 time of resignation.

27 88. Plaintiff is informed and believes, and based thereon alleges, that in the three (3) years
28 before the filing of the Complaint in this action through the present, Defendants, due to the failure, at

1 times, to provide overtime wages mentioned above, failed to pay Plaintiff and Class Members all
2 wages earned prior to resignation or termination in accordance with Labor Code sections 201 or 202.

3 89. Plaintiff is informed and believes Defendants' failure, at times, to pay Plaintiff and
4 Class Members all wages earned prior to termination or resignation in accordance with Labor Code
5 sections 201 and 202 was willful. Defendants had the ability to pay all wages earned by Plaintiff and
6 Class Members at the time of termination in accordance with Labor Code sections 201 and 202, but
7 intentionally adopted policies or practices incompatible with the requirements of Labor Code sections
8 201 and 202 resulting in the failure, at times, to pay all wages earned prior to termination or
9 resignation.

10 90. Pursuant to Labor Code section 203, Plaintiff and Class Members are entitled to
11 waiting time penalties from the date their earned and unpaid wages were due, upon termination or
12 resignation, until paid, up to a maximum of thirty (30) days.

13 91. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have
14 suffered damages in an amount subject to proof, to the extent they were not paid for all wages earned
15 prior to termination or resignation.

16 92. Pursuant to Labor Code section 203 and 218.6, Code of Civil Procedure sections
17 1021.5 and 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to recover
18 waiting time penalties, interest, and their costs of suit, as well.

19 **SIXTH CAUSE OF ACTION**

20 **(Failure to Provide Accurate Wage Statements – Against All Defendants)**

21 93. Plaintiff realleges and incorporates by reference all of the allegations contained in the
22 preceding paragraphs as though fully set forth hereat.

23 94. At all relevant times, Plaintiff and Class Members were employees or former
24 employees of Defendants covered by Labor Code section 226, as well as applicable Wage Orders.

25 95. Pursuant to Labor Code section 226, subdivision (a), Plaintiff and Class Members were
26 entitled to receive, semi-monthly or at the time of each payment of wages, an accurate itemized
27 statement that accurately reflects, among other things, gross wages earned; total hours worked; net
28 wages earned; and all applicable hourly rates in effect during the pay period and the corresponding

1 number of hours worked at each hourly rate,, among other things.

2 96. Plaintiff is informed and believes, and based thereon alleges, that in the one (1) year
3 before the filing of the Complaint in this Action through the present, Defendants failed to comply with
4 Labor Code section 226, subdivision (a) by adopting policies and practices that resulted in their
5 failure, at times, to furnish Plaintiff and Class Members with accurate itemized statements that
6 accurately reflect, among other things, gross wages earned; total hours worked; net wages earned; and
7 all applicable hourly rates in effect during the pay period and the corresponding number of hours
8 worked at each hourly rate, among other things.

9 97. Defendants' failure to, at times, provide Plaintiff and Class Members with accurate
10 wage statements was knowing, intentional, and willful. Defendants had the ability to provide Plaintiff
11 and the other Class Members with accurate wage statements, but, at times, willfully provided wage
12 statements that Defendants knew were not accurate.

13 98. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have
14 suffered injury. The absence of accurate information on Class Members' wage statements at times
15 has delayed timely challenge to Defendants' unlawful pay practices; requires discovery and
16 mathematical computations to determine the amount of wages owed; causes difficulty and expense in
17 attempting to reconstruct time and pay records; and led to submission of inaccurate information about
18 wages and amounts deducted from wages to state and federal governmental agencies, among other
19 things.

20 99. Pursuant to Labor Code section 226, subdivision (e), Plaintiff and Class Members are
21 entitled to recover \$50 for the initial pay period during the period in which violation of Labor Code
22 section 226 occurred and \$100 for each violation of Labor Code section 226 in a subsequent pay
23 period, not to exceed an aggregate \$4,000.00 per employee.

24 100. Pursuant to Labor Code sections 226, subdivisions (e) and (g), Code of Civil Procedure
25 section 1032, Civil Code section 3287, Plaintiff and Class Members are entitled to recover the full
26 amount of penalties due under Labor Code section 226, subdivision (e), reasonable attorneys' fees,
27 and costs of suit.

28 ///

1 **SEVENTH CAUSE OF ACTION**

2 **(Failure to Timely Pay Wages During Employment – Against All Defendants)**

3 101. Plaintiff realleges each and every allegation set forth in the preceding paragraphs and
4 incorporate each by reference as though fully set forth hereat.

5 102. At all relevant times, Plaintiff and Class Members were employees or former
6 employees of Defendants covered by Labor Code section 204 and applicable Wage Orders.

7 103. Labor Code section 204 provides that “[l]abor performed between the 1st and 15th days,
8 inclusive, of any calendar month shall be paid for between the 16th and 26th day of the month during
9 which the labor was performed, and labor performed between the 16th and the last day, inclusive, of
10 any calendar month, shall be paid for between the 1st and 10th day of the following month.”

11 104. Labor Code section 210, subdivision (a) states that “[i]n addition to, and entirely
12 independent and apart from, any other penalty provided in this article, every person who fails to pay
13 the wages of each employee as provided in Sections 201.3, 204, 204b, 204.1, 204.2, 205, 205.5, and
14 1197.5, shall be subject to a civil penalty as follows: (1) For any initial violation, one hundred dollars
15 (\$100) for each failure to pay each employee” and “(2) For each subsequent violation, or any willful
16 or intentional violation, two hundred dollars (\$200) for each failure to pay each employee, plus 25
17 percent of the amount unlawfully withheld.”

18 105. Plaintiff is informed and believes, and based thereon alleges, that in the one (1) year
19 before the filing of the Complaint in this action through the present, Defendants employed policies
20 and practices that resulted in, at times, not paying Plaintiff and Class Members in accordance with
21 Labor Code section 204.

22 106. Pursuant to Labor Code section 210, Plaintiff and Class Members are entitled to
23 recover penalties for Defendants’ violations of Labor Code section 204, in the amount of one hundred
24 dollars (\$100) for each initial violation per Class Member, and two hundred dollars (\$200) for each
25 subsequent violation in connection with each payment that was made in violation of Labor Code
26 section 204 per Class Member, plus 25 percent of the amount unlawfully withheld.

27 107. Pursuant to Labor Code section 218.6, Code of Civil Procedure sections 1021.5 and
28 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to recovery of penalties,

1 interest, and their costs of suit, as well.

2 **EIGHTH CAUSE OF ACTION**

3 **(Violation of Labor Code § 2802 – Against All Defendants)**

4 108. Plaintiff realleges and incorporates by reference all of the allegations contained in the
5 preceding paragraphs as though fully set forth hereat.

6 109. At all relevant times, Plaintiff and Class Members were employees or former
7 employees of Defendants covered by Labor Code section 2802 and applicable Wage Orders.

8 110. Labor Code section 2802, subdivision (a) provides that “an employer shall indemnify
9 his or her employee for all necessary expenditures or losses incurred by the employee in direct
10 consequence of the discharge of his or her duties . . .”

11 111. For three (3) years prior to the filing of the Complaint in this Action through the
12 present, Defendants required Plaintiff and Class Members, or some of them, to incur, at times,
13 necessary expenditures or losses in direct consequence of the discharge of their duties or at the
14 obedience to the directions of Defendants that included, without limitation: using cellular phones for
15 work-related purposes.

16 112. During that time period, Plaintiff is informed and believes, and based thereon alleges
17 that Defendants failed and refused, and still fail and refuse, at times, to reimburse Plaintiff and Class
18 Members for those losses and/or expenditures.

19 113. As a result of Defendants’ unlawful conduct, Plaintiff and Class Members have
20 suffered damages in an amount subject to proof, to the extent they were not reimbursed for the herein-
21 described losses and/or expenditures.

22 114. Pursuant to Labor Code section 2802, Code of Civil Procedure sections 1021.5 and
23 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to recover reimbursement
24 for their herein-described losses and/or expenditures, reasonable attorneys’ fees and costs of suit.

25 **NINTH CAUSE OF ACTION**

26 **(Unfair Competition – Against All Defendants)**

27 115. Plaintiff realleges and incorporates by reference all of the allegations contained in the
28 preceding paragraphs as though fully set forth hereat.

1 116. Plaintiff is informed and believes and based thereon alleges that the unlawful conduct
2 of Defendants alleged herein constitutes unfair competition within the meaning of Business and
3 Professions Code section 17200. Due to their unlawful business practices in violation of the Labor
4 Code, Defendants have gained a competitive advantage over other comparable companies doing
5 business in the State of California that comply with their obligations to compensate employees in
6 accordance with the Labor Code.

7 117. As a result of Defendants' unfair competition as alleged herein, Plaintiff and Class
8 Members have suffered injury in fact and lost money or property.

9 118. Moreover, as a result of Defendants' unfair competition, as alleged herein, the public
10 has suffered injury. Defendants' Labor Code violations provide them with an unfair competitive
11 advantage against other California employers. Pursuant to Business and Professions Code sections
12 17203 and 17204, Plaintiff seeks public injunctive relief for the benefit of the general public that
13 prohibits Defendants from further violating the Labor Code and requiring the establishment of
14 appropriate and effective means to prevent further violations. This relief benefits Plaintiff only
15 incidentally and as a member of the general public. The primary purpose and effect of this prohibition
16 is to prohibit unlawful acts that threaten future injury to the general public by means of Defendants'
17 unlawful competition with other California employers. (*McGill v. CitiBank, N.A.* (2017) 2 Cal.5th
18 945, 954; *accord* at 957.)

19 119. As a distinct ground, Plaintiff seeks under Labor Code section 17203 restitution of all
20 wages and other monies owed to them under the Labor Code, including interest thereon, in which
21 Plaintiff and Class Members had a property interest and which Defendants nevertheless failed to pay
22 them and instead withheld and retained for themselves. Restitution of the money owed to Plaintiff
23 and Class Members is necessary to prevent Defendants from becoming unjustly enriched by their
24 failure to comply with the Labor Code.

25 120. Plaintiff and Class Members are entitled to costs of suit under Code of Civil Procedure
26 section 1032 and interest under Civil Code section 3287.

27 ///

28 ///

1 **TENTH CAUSE OF ACTION**

2 **(Civil Penalties Under the Private Attorneys' General Act (2004) – Against All Defendants)**

3 121. Plaintiff re-alleges and incorporates by reference all of the allegations set forth in the
4 preceding paragraphs as though fully set forth hereat.

5 **Civil Penalties Under Labor Code § 210**

6 122. At all relevant times herein, Labor Code section 204, requires and required that:
7 “[l]abor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for
8 between the 16th and 26th day of the month during which the labor was performed, and labor performed
9 between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st
10 and 10th day of the following month.”

11 123. At all relevant times herein, Labor Code section 210, subdivision (a) states and stated
12 that “[i]n addition to, and entirely independent and apart from, any other penalty provided in this
13 article, every person who fails to pay the wages of each employee as provided in Sections 201.3, 204,
14 204b, 204.1, 205, 205.5, and 1197.5, shall be subject to a civil penalty as follows: (1) For any initial
15 violation, one hundred dollars (\$100) for each failure to pay each employee” and “(2) For each
16 subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for each
17 failure to pay each employee, plus 25 percent of the amount unlawfully withheld.”

18 124. At all relevant times herein, Defendants have had a consistent policy or practice of
19 failing to pay Plaintiff and/or Aggrieved Employees during their employment on a timely basis as per
20 Labor Code section 204 including, without limitation, for the reasons and in a manner set forth in the
21 preceding paragraphs. Thus, pursuant to Labor Code section 210, Plaintiff and other Aggrieved
22 Employees are entitled to recover as civil penalties injunctive relief and monetary civil penalties in
23 the amount of one hundred dollars (\$100) for each Aggrieved Employee for each initial violation per
24 employee, and two hundred dollars (\$200) for each failure to pay each employee, plus 25 percent of
25 the amount unlawfully withheld for each Aggrieved Employee for each subsequent violation in
26 connection with each payment that was made in violation of Labor Code section 204.

27 **Civil Penalties Under Labor Code § 226.3**

28 125. Defendants had and have a policy or practice of failing to comply with Labor Code

1 section 226, subdivision (a) by intentionally failing to furnish Plaintiff and Aggrieved Employees with
2 itemized wage statements that accurately reflect gross wages earned; total hours worked; net wages
3 earned; the name and address of each employer with whom they have been placed to work; all
4 applicable hourly rates in effect during the pay period and the corresponding number of hours worked
5 at each hourly rate; the legal name of the employer; and other such information as required by Labor
6 Code section 226, subdivision (a) and/or Labor Code section 226.2 to the extent it does not include
7 for piece-rate work the information required therein including, without limitation, the quantity, rate
8 and units worked per piece, as well as separately itemized non-productive time and rest and recovery
9 periods

10 126. Labor Code section 226.3 states that “[a]ny employer who violates subdivision (a) of
11 Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per
12 employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each
13 violation in a subsequent citation, for which the employer fails to provide the employee a wage
14 deduction statement or fails to keep the records required in subdivision (a) of Section 226.”

15 127. Labor Code section 226.3 further provides that “[t]he civil penalties provided for in
16 this section are in addition to any other penalty provided by law.”

17 128. Plaintiff is informed and believes, and based thereon alleges, that Defendants had and
18 have a policy or practice of failing to furnish Aggrieved Employees with itemized wage statements as
19 set forth in the preceding paragraphs.

20 129. Pursuant to Labor Code section 226.3, Plaintiff and other Aggrieved Employees are
21 entitled to recover civil penalties for Defendants’ violation of Labor Code section 226, subdivision
22 (a) in the amount of two hundred fifty dollars (\$250) for each Aggrieved Employee per pay period for
23 the initial violation, and one thousand dollars (\$1,000) for each Aggrieved Employee per pay period
24 for each subsequent violation.

25 Violation of Labor Code § 558

26 130. Pursuant to Labor Code section 558, subdivision (a): “Any employer or other person
27 acting on behalf of an employer who violates, or causes to be violated . . . any provision regulating
28 hours and days of work in any of the Industrial Welfare Commission” shall be subject to a civil penalty

as follows:

- 1) For any initial violation, fifty dollars (\$50) for each underpaid employee and for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages;
- 2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages;
- 3) Wages recovered pursuant to this section shall be paid to the affected employee.”

131. Plaintiff is informed and believes, and based thereon alleges, that Defendants, and each of them, violated, or caused to be violated, the Labor Code sections described herein, including causing Plaintiff and other Aggrieved Employees not to: be paid with the rates of pay and overtime rates of pay applicable to their employment, allowances claimed as part of the minimum wage, the regular payday designated by employer, the name of the employer, including any “doing business as” names used, the name, address, and telephone number of the workers’ compensation insurance carrier, information regarding paid sick leave, and other pertinent information.

132. As a direct and proximate result of the herein-described Labor Code violations, pursuant to Labor Code section 558, Plaintiff and other Aggrieved Employees are entitled to recover civil penalties for Defendants’ herein-described Labor Code violations in the amount fifty dollars (\$50) for each Aggrieved Employee per pay period for the initial violation, and one hundred dollars (\$100) for each Aggrieved Employee per pay period for each subsequent violation.

Violation of Labor Code § 1174.5

133. At all times mentioned herein, Labor Code section 1174, subdivision (b) has required every person employing labor in California to “[a]llow any member of the commission or the employees of the Division of Labor Standards Enforcement free access to the place of business or employment of the person to secure any information or make any investigation that they are authorized by this chapter to ascertain or make. The commission may inspect or make excerpts, relating to the employment of employees, from the books, reports, contracts, payrolls, documents, or papers of the person.”

134. At all times mentioned herein, Labor Code section 1174, subdivision (c) has required every person employing labor in California to “[k]eep a record showing the names and addresses of all employees employed and the ages of all minors.”

135. At all times mentioned herein, Labor Code section 1174, subdivision (d) has required every person employing labor in California to “[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept in accordance with rules established for this purpose by the commission, but in any case, shall be kept on file for not less than three years. An employer shall not prohibit an employee from maintaining a personal record of hours worked, or, if paid on a piece-rate basis, piece-rate units earned.”

136. Pursuant to Labor Code section 1174.5, “[a]ny person employing labor who willfully fails to maintain the records required by subdivision (c) of [Labor Code] Section 1174 or accurate and complete records required by subdivision (d) of [Labor Code] Section 1174, or to allow any member of the commission or employees of the division to inspect records pursuant to subdivision (b) of [Labor Code] Section 1174, shall be subject to a civil penalty of five hundred dollars (\$500).

137. Plaintiff is informed and believes, and based thereon alleges, that Defendants have willfully failed to keep adequate or accurate time records including wage statements and similar payroll documents under Labor Code section 226, documents signed to obtain or hold employment under Labor Code section 432, personnel records under Labor Code section 1198.5, and time records under Labor Code section 1174.

138. As a direct and proximate result of the herein-described Labor Code violations, pursuant to Labor Code section 1174.5, Plaintiff and other Aggrieved Employees are entitled to recover civil penalties for Defendants' herein-described Labor Code violations in the amount of five hundred dollars (\$500) per violation per pay period per Aggrieved Employee.

Violation of Labor Code § 1197.1

139. Pursuant to Labor Code section 1197.1, subdivision (a): "Any employer or other person acting either individually or as an officer, agent, or employee of another person, who pays or

1 causes to be paid to any employee a wage less than the minimum fixed by an applicable state or local
2 law, or by an order of the commission shall be subject to a civil penalty, restitution of wages, liquidated
3 damages payable to the employee, and any applicable penalties imposed pursuant to Section 203 as
4 follows:

- 5 1) For any initial violation that is intentionally committed, one hundred dollars (\$100) for
6 each underpaid employee for each pay period for which the employee is underpaid.
7 This amount shall be in addition to an amount sufficient to recover underpaid wages,
8 liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed
9 pursuant to Section 203.
- 10 2) For each subsequent violation for the same specific offense, two hundred fifty dollars
11 (\$250) for each underpaid employee for each pay period for which the employee is
12 underpaid regardless of whether the initial violation is intentionally committed. This
13 amount shall be in addition to an amount sufficient to recover underpaid wages,
14 liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed
15 pursuant to Section 203.
- 16 3) Wages, liquidated damages, and any applicable penalties imposed pursuant to Section
17 203, recovered pursuant to this section shall be paid to the affected employee.”

18 140. Plaintiff is informed and believes, and based thereon alleges, that Defendants caused
19 Plaintiff and Aggrieved Employees not to be paid minimum wages as a result of Defendants, without
20 limitation, routinely failing to pay Plaintiff or other Aggrieved Employees’ minimum wages for all
21 hours worked or otherwise under Defendants’ control due to, without limitation, routinely failing to
22 accurately track and/or pay for all hours actually worked; detrimental rounding or manipulation of
23 time entries; paying straight pay instead of overtime or otherwise failing to pay overtime hours at the
24 proper overtime rate of pay; engaging, suffering, or permitting employees to work off the clock,
25 entitling Plaintiff and other Aggrieved Employees to actual and liquidated damages.

26 141. As a direct and proximate result of the herein-described Labor Code violations,
27 pursuant to Labor Code section 1197.1, Plaintiff and other Aggrieved Employees are entitled to
28 recover civil penalties for Defendants’ herein-described Labor Code violations in the amount of one

1 hundred dollars (\$100) for each Aggrieved Employee per pay period for the initial violation, and two
2 hundred and fifty dollars (\$250) for each Aggrieved Employee per pay period for each subsequent
3 violation.

4 Civil Penalties Under Labor Code § 2699

5 142. Pursuant to Labor Code section 2699, subdivision (a), notwithstanding any other
6 provision of law, any provision of the Labor Code that provides for a civil penalty to be assessed and
7 collected by the LWDA or any of its departments, divisions, commissions, boards, agencies or
8 employees for a violation of the Labor Code may, as an alternative, be recovered through a civil action
9 brought by an aggrieved employee on behalf of himself or herself and other current or former
10 employees pursuant to the procedures specified in Labor Code section 2699.3.

11 143. Plaintiff is informed and believes, and based thereon alleges that Defendants, and each
12 of them, violated the Labor Code sections described in the preceding paragraphs.

13 144. As such, Plaintiff and aggrieved employees are entitled to injunctive relief, one
14 hundred dollars (\$100) for each Aggrieved Employee for each pay period in the PAGA Period, and
15 two hundred dollars (\$200) for each Aggrieved Employee for each pay period in the PAGA Period to
16 the extent Defendants' conduct is found to be malicious, fraudulent and/or oppressive.

17 145. Moreover, Plaintiff and other Aggrieved Employees within the State of California
18 whom he seeks to represent are entitled to an award of reasonable attorneys' fees and costs in
19 connection with their herein-described claims for civil penalties.

20 **DEMAND FOR JURY TRIAL**

21 146. Plaintiff demands a trial by jury on all causes of action contained herein.

22 **PRAYER**

23 WHEREFORE, on behalf of Plaintiff and Class Members, Plaintiff prays for judgment
24 against Defendants as follows:

- 25 A. An order certifying this case as a Class Action;
- 26 B. An Order appointing Plaintiff as Class Representative and appointing Plaintiff's
27 counsel as Class counsel;
- 28 C. Damages for all wages earned and owed, including minimum and overtime wages

- 1 and unpaid wages for vested vacation time, under Labor Code sections 510, 558.1,
2 1194, 1197 and 1199;
- 3 D. Liquidated damages pursuant to Labor Code sections 558.1 and 1194.2;
- 4 E. Damages for unpaid premium wages from missed meal and rest periods under,
5 among other Labor Code sections, 512, 558.1 and 226.7;
- 6 F. Penalties for inaccurate wage statements under Labor Code sections 226, subdivision
7 (e) and 558.1;
- 8 G. Waiting time penalties under Labor Code sections 203 and 558.1;
- 9 H. An award of civil penalties pursuant to Labor Code sections 210, 226.3, 558, 1174.5,
10 1197.1, and 2699;
- 11 I. An award of reasonable attorneys' fees and costs pursuant to Labor Code sections
12 210, 226.3, 558, 1174.5, 1197.1, and 2699;
- 13 J. Penalties to timely pay wages under Labor Code section 210;
- 14 K. Damages under Labor Code sections 2802 and 558.1;
- 15 L. Preliminary and permanent public injunctions under Labor Code section 17200, *et*
16 *seq.* imposed for the benefit of the public prohibiting Defendants from further
17 violating the California Labor Code and requiring the establishment of appropriate
18 and effective means to prevent future violations, thus permitting proper competition
19 by other California employers;
- 20 M. Restitution of wages and benefits due which were acquired by means of any unfair
21 business practice, according to proof;
- 22 N. Prejudgment and post-judgment interest at the maximum rate allowed by law;
- 23 O. For attorneys' fees in prosecuting this action;

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- P. For costs of suit incurred herein; and
- Q. For such other and further relief as the Court deems just and proper.

Dated: June 17, 2026 BIBIYAN LAW GROUP, P.C.

BY: /s/ Audrey Wacker
Jason W. Rothman
Nairi Shirinian
Audrey Wacker
Attorneys for Plaintiff LEE ROY TRIVINO and
on behalf of all others similarly situated

1 **PROOF OF SERVICE**

2 **STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

3 I am employed in the County of Los Angeles, State of California. I am over the age of
4 eighteen and not a party to the within action; my business address is 1460 Westwood Boulevard,
Los Angeles, California 90024.

5 On June 30, 2026, and pursuant to the California Code Of Civil Procedure section 1010.6, I
6 caused a true and correct copy of the foregoing document(s) described as **FIRST AMENDED**
7 **COMPLAINT** to be served by electronic transmission via Case Anywhere to the parties and/or
counsel who are registered to use Case Anywhere and set forth in the below service list:

8 SAUL EWING LLP
9 Kenneth M. Jones, Esq.
E. Jason Tremblay, Esq.
Casey Grabenstein, Esq.
10 Mark Nehme, Esq.
Christi Styles
11 1888 Century Park East, Suite 1500
Los Angeles, CA 90067
12 Tel: (310) 225-6100
Fax: (310) 225-6200
13 *Kenneth.jones@saul.com*
jason.tremblay@saul.com
14 *casey.grabenstein@saul.com*
mark.nehme@saul.com
15 *christi.styles@saul.com*
Attorneys for Defendant: ROSE PAVING, LLC

16 ☒ **BY CASE ANYWHERE:**

17 Based on a Court order or on an agreement by the parties to accept service by email or
18 electronic transmission, I caused the document(s) described above to be electronically
served on the individual(s) listed above via Case Anywhere.

19 I declare under penalty of perjury under the laws of the State of California that the
20 foregoing is true and correct.

21 Executed on June 30, 2026, at Los Angeles, California.

22
23 *Melissa Gonzalez*
24 _____
25 MELISSA GONZALEZ
26
27
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