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JUAN ALEJANDRO VELA LUQUE

ELECTRONICALLY
FILED
Superior Court of California,
County of San Francisco

09/22/2025
Clerk of the Court
BY: WILMA CORRALES
Deputy Clerk

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO**

JUAN ALEJANDRO VELA LUQUE, an
individual, on his own behalf and on
behalf of all others similarly situated,

Plaintiffs,

vs.

TAVERN 242 LP DBA BARTLETT
HALL, a California limited partnership;
CHRIS LEHMAN, an individual, and
DOES 1 through 100, inclusive,

Defendants.

CASE NO.:

CGC-25-629446

CLASS ACTION COMPLAINT FOR:

- 1. FAILURE TO PAY PREMIUM
OVERTIME WAGES DUE (Cal. Labor
Code §§ 510, 1198; IWC WAGE ORDER
NO. 5);**
- 2. FAILURE TO PAY MINIMUM WAGES
(Cal. Labor Code §§1194, 1194.2, 1997,
1197.1, 1198; IWC WAGE ORDER NO.
5);**
- 3. FAILURE TO PROVIDE TIMELY OFF
DUTY MEAL PERIODS (Cal. Labor Code
§§ 226.7, 512; IWC WAGE ORDER NO.
5);**
- 4. FAILURE TO PROVIDE TIMELY OFF
DUTY REST PERIODS (Cal. Labor Code
§§ 226.7, 512; IWC WAGE ORDER NO.
5);**
- 5. FAILURE TO MAINTAIN RECORDS
AND PROVIDE ACCURATE ITEMIZED
WAGE STATEMENTS (Cal. Labor Code
§226);**
- 6. FAILURE TO PAY WAGES DUE ON
TERMINATION (Cal. Labor Code §§ 201-
203);**
- 7. FAILURE TO REIMBURSE BUSINESS
EXPENSES (Cal. Labor Code §2802);**

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8. **FAILURE TO PROVIDE A UNIFORM MAINTENANCE ALLOWANCE (Cal. Labor Code §2802);**
 9. **FAILURE TO PAY FOR ALL HOURS WORKED (Cal. Labor Code § 204; IWC Wage Order No. 5);**
 10. **FAILURE TO PAY REPORTING TIME PAY (IWC Wage Order No. 5);**
 11. **FAILURE TO PAY ALL SICK LEAVE WAGES WHEN DUE (Cal. Labor Code §§201-204, 218, 218.5, 233, 245, 246 et seq.);**
 12. **FAILURE TO ALLOW INSPECTION OF EMPLOYMENT RECORDS (Cal. Labor Code §1198.5); and**
 13. **UNFAIR COMPETITION (Cal. Bus. & Prof. Code §§17200 et seq.)**

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DEMAND FOR A JURY TRIAL

All allegations in this Complaint are based upon information and belief except for those allegations which pertain to the Plaintiff named herein and his counsel. Each allegation has evidentiary support or is likely to have evidentiary support after a reasonable opportunity for further investigation and discovery.

JUAN ALEJANDRO VELA LUQUE (“Plaintiff”) alleges the following:

1. This is a class action brought under California law by an individual who was employed by Tavern 242 LP dba Bartlett Hall (“BH”).

2. Plaintiff is informed and believes and thereon alleges that Defendant Chris Lehman (“Chris”) (collectively with BH and Does 1 through 100 “Defendants”) is an individual, who at all times relevant herein, was a resident of San Francisco County. Chris is the owner of BH.

3. Plaintiff brings this action on behalf of himself and others similarly situated to recover wages from Defendants due to Defendants’ systematic failure to pay overtime wages,

1 failure to pay minimum wages, failure to provide meal/rest breaks (or pay the statutory
2 compensation due), failure to issue accurate wage statements, failure to pay all wages on
3 termination, failure to reimburse business expenses, failure to provide a uniform maintenance
4 allowance, failure to pay for all hours worked, failure to pay reporting time pay, failure to pay
5 sick pay and failure to allow inspection of employment records.

6 4. Plaintiffs have worked as employees for Defendants' bar in San Francisco,
7 California. While working, Plaintiffs have been forced to endure stressful and illegal workplace
8 conditions created by Defendants' efforts to maximize profits and tightly control labor costs.

9 5. Plaintiff, like his co-workers whom Defendants also employed during the
10 applicable limitations period, spend their workdays at Defendants' bar in California, under
11 illegal and highly regimented circumstances. That regimen results from Defendants' insistence
12 to strictly monitor and curtail labor costs, which Defendants accomplish by not paying for all
13 labor costs, failing to pay overtime, failing to pay minimum wages, refusing to provide timely
14 meal/rest periods, not paying the required extra hour for missed meal/rest breaks, failing to
15 issue accurate wage statements, failure to pay all wages on termination, failing to reimburse
16 business expenses, failing to provide a uniform maintenance allowance, failing to pay for all
17 hours worked, failing to pay reporting time pay, failing to pay sick pay, failing to allow
18 inspection of employment records, and by using other unlawful stratagems to ensure that labor
19 costs remain artificially low.

20 6. Plaintiff brings this class action to recover, among other things, wages and
21 penalties from unpaid wages earned and due, including but not limited to, premium overtime
22 wages, minimum wages, late meal/rest break wages, penalties for failure to provide accurate
23 itemized wage statements, wages for failure to issue all wages on termination, damages for
24 unreimbursed business expenses, damages for failure to provide a uniform maintenance
25 allowance, wages for failure to pay for all hours worked, wages for reporting time, wages for
26 sick pay, penalties for failure to allow inspection of employment records and interest,
27 attorneys' fees, costs, and expenses.

7. Plaintiff seeks compensatory, statutory, declaratory, and injunctive relief for himself and all members of the class, to compensate these workers for the unpaid wages and to protect current and future workers of Defendants from being subjected to similar wage theft and otherwise unlawful working conditions.

8. Plaintiff also brings an action seeking relief for Defendants' violations of California *Business & Professions Code* §§ 17200 *et seq.*, including full restitution and disgorgement of all compensation retained by Defendants as a result of their unlawful and unfair business practices, as well as injunctive relief.

JURISDICTION AND VENUE

9. This Court has jurisdiction over this Complaint under Code of Civil Procedure §410.10. This action is brought under *Code of Civil Procedure* § 382, and *Business & Professions Code* §§ 17200 *et seq.* Plaintiff Juan Alejandro Vela Luque brings this Complaint on his own behalf and on behalf of all persons in the Class as defined in paragraph 21 below.

10. Venue is proper in this Court pursuant to *Code of Civil Procedure* §§ 395 and 395.5, because the claims made, and the *Labor Code* violations as against the persons identified herein, occurred in the County of San Francisco and because Defendants owned and operated their business in the County of San Francisco.

PAGA NOTICE

11. Pursuant to the California Labor Code, on or about September 19, 2025, Plaintiff filed a notice with the Labor and Workforce Development Agency (LWDA) of his intent to pursue claims against Defendants under the Private Attorney General Act (PAGA). As such, Plaintiff further reserves the right to amend this Complaint once he completes and complies with the provisions under the law.

THE PARTIES

PLAINTIFF

12. At all times relevant hereto, Plaintiff was:

(a) An individual over age 18 and a resident of San Francisco, California;

- 1 (b) Employed as an hourly employee for Defendants in San Francisco,
2 California;
- 3 (c) Did not receive overtime compensation required by *Labor Code* §§510
4 and 1194 and IWC Wage Order No. 5;
- 5 (d) Did not receive minimum wages in violation of *Labor Code* §§1194,
6 1194.2, 1997, 1197.1, 1198 and IWC Wage Order No. 5:
- 7 (e) Did not receive the meal/rest periods required by *Labor Code* §266.7 and
8 IWC Wage Order No. 5;
- 9 (f) Did not receive accurate wage statements as mandated by *Labor Code*
10 §226;
- 11 (g) Was not paid all wages owed on termination as mandated by *Labor Code*
12 §§ 201-203;
- 13 (h) Was not reimbursed his necessary business expenses in violation of
14 *Labor Code* §2802;
- 15 (i) Was not provided a uniform maintenance allowance in violation of
16 *Labor Code* §2802;
- 17 (j) Was not paid for all hours worked in violation of *Labor Code* §204;
- 18 (k) Was not paid reporting time pay in violation of Wage Order No. 5;
- 19 (l) Was not paid sick pay in violation of *Labor Code* §§ 201-204, 218,
20 218.5, 233, 245, 246 et seq.; and
- 21 (m) Was not provided his personnel records. Each of these was a violation of
22 the *Labor Code*.

23 **DEFENDANTS**

24 13. Plaintiff is informed and believes, and based on that information and belief,
25 alleges, Defendant BH is, and at all times mentioned herein was:

- 26 (a) A California limited partnership, with a principal place of business at
27 240 O'Farrell Street, San Francisco, CA 94102. Defendant BH has been
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1 authorized to do business and has been doing business in the County of
2 San Francisco;

3 (b) The former employer of Plaintiff and the current and former employer of
4 the putative Class members;

5 (c) Paid Plaintiff and all Class Members on an hourly basis;

6 (d) Failed to pay Plaintiff and all putative Class members premium overtime
7 wages;

8 (e) Failed to pay Plaintiff and all putative Class members minimum wages;

9 (f) Failed to provide Plaintiff and all putative Class members with meal/rest
10 periods and failed to provide Plaintiff and all putative Class members
11 with accurate itemized wage statements;

12 (g) Failed to pay Plaintiff and all putative Class members wages owed on
13 termination and/or resignation;

14 (h) Failed to reimburse Plaintiff's and Class members' business expenses;

15 (i) Failed to provide a uniform maintenance allowance for Plaintiff and all
16 putative Class members;

17 (j) Failed to pay Plaintiff and all putative Class members for all hours
18 worked;

19 (k) Failed to pay Plaintiff and all putative Class members reporting time
20 pay;

21 (l) Failed to pay Plaintiff and all putative Class members sick pay; and

22 (m) Failed to provide Plaintiff and all putative Class members their personnel
23 records. Each of these was a violation of the *Labor Code*.

24 14. Plaintiff is informed and believes, and based on that information and belief,
25 alleges, Defendant Chris is, and at all times mentioned herein was:

26 (a) An individual who owns BH. Defendant Chris has been has been doing
27 business in the County of San Francisco;
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- 1 (b) The former employer of Plaintiff and the current and former employer of
2 the putative Class members;
- 3 (c) Paid Plaintiff and all Class members on an hourly basis;
- 4 (d) Failed to pay Plaintiff and all putative Class members premium overtime
5 wages;
- 6 (e) Failed to pay Plaintiff and all putative Class members minimum wages;
- 7 (f) Failed to provide Plaintiff and all putative Class members with meal/rest
8 periods and failed to provide Plaintiff and all putative Class members
9 with accurate itemized wage statements;
- 10 (g) Failed to pay Plaintiff and all putative Class members wages owed on
11 termination and/or resignation;
- 12 (h) Failed to reimburse Plaintiff's and Class members' business expenses;
- 13 (i) Failed to provide a uniform maintenance allowance for Plaintiff and all
14 putative Class members;
- 15 (j) Failed to pay Plaintiff and all putative Class members for all hours
16 worked;
- 17 (k) Failed to pay Plaintiff and all putative Class members reporting time
18 pay;
- 19 (l) Failed to pay Plaintiff and all putative Class members sick pay; and
- 20 (m) Failed to provide Plaintiff and all putative Class members their personnel
21 records. Each of these was a violation of the *Labor Code*.

22 15. The true names and capacities, whether individual, corporate, subsidiary,
23 partnership, associate or otherwise of Defendants DOES 1 through 100, inclusive, are unknown
24 to Plaintiff, who therefore sues these Defendants by such fictitious names pursuant to *Code of*
25 *Civil Procedure* § 474. Plaintiff will seek leave to amend his Complaint to allege the true
26 names and capacities of DOES 1 through 100, inclusive, when they are ascertained.

27 16. Plaintiff is informed and believes, and based on that information and belief
28 alleges, that Defendant DOES 1 through 100 are persons, corporations or other entities which

1 reside in or are authorized to do, or are otherwise doing, business in the State of California.
2 Specifically, DOES 1 through 100 maintain offices, operate businesses, employ persons, and
3 conduct business in the County of San Francisco. Each of the Defendants DOES 1 through 100
4 was the managerial agent, employee, predecessor, successor, joint-venturers, co-conspirator,
5 alter ego and/or representative of one or more of the other Defendants named herein, and acting
6 with permission, authorization, and/or ratification and consent of the other Defendants.

7 17. Plaintiff is informed and believes, and based on that information and belief
8 alleges, that the Defendants named in this Complaint, including DOES 1 through 100,
9 inclusive, are responsible in some manner for one or more of the events and happenings that
10 proximately caused the injuries and damages hereinafter alleged.

11 18. Plaintiff is informed and believes, and based on that information and belief
12 alleges, that Defendants named in this Complaint, including DOES 1 through 100, inclusive,
13 are, and at all times mentioned herein were, the agents, servants, and/or employees of each of
14 the other Defendants and that each Defendant was acting within the course and scope of his,
15 hers or its authority as the agent, servant and/or employee of each of the other Defendants.
16 Consequently, all of the Defendants are jointly and severally liable to the Plaintiff, and the
17 Class, for the damages sustained as a proximate result of their conduct.

18 19. Plaintiff is informed and believes, and based on that information and belief
19 alleges, that the Defendants named in this Complaint, including DOES 1 through 100,
20 inclusive, knowingly and willfully acted in concert, conspired and agreed together among
21 themselves and entered into a combination and systemized campaign of activity to *inter alia*
22 damage Plaintiff, and the Class, and to otherwise consciously and/or recklessly act in
23 derogation of the rights of Plaintiff and the Class, and the trust reposed by Plaintiff, and the
24 Class, in each of the Defendants, the acts being negligently and/or intentionally inflicted. Their
25 conspiracy, and Defendants' concerted actions, were such that, to Plaintiff's information and
26 belief, and to all appearances, Defendants, and each of them, represented a unified body so that
27 the actions of one Defendant was accomplished in concert with, and with the knowledge,
28 ratification, authorization and approval of each of the other Defendants.

20. An employer or other person acting on behalf of an employer, who violates, or causes to be violated, a provision regulating minimum wages or hours and days of work in an order of the Industrial Welfare Commission may be held liable as the employer for that violation. (Lab. Code § 558.1(a).) The term “other person acting on behalf of an employer” is limited to a natural person who is an owner, director, officer, or managing agent of the employer, and the term “managing agent” has the same meaning as in C.C.P. § 3294(b). (Lab. Code. § 558.1(b).)

CLASS ALLEGATIONS

A. The Definition of the Class

21. The Class (“the Class”) is defined as follows:

(a) “All current and former employees who were hourly paid employees of Defendants and worked for Defendants in California at any time during the period commencing on the date that is four (4) years prior to the filing of this Complaint and continuing through the present date (the “Class Period”).”

(b) “All persons who were hourly paid employees of Defendants and worked for BH in California and left the employ of Defendants at any time during the period commencing on the date that is within one (1) year prior to the filing of this Complaint and continuing through the present date (the “Class Period”)”.

Plaintiff reserves his right under Rule 3.765 of the California Rules of Court to amend or modify the Class description with greater specificity or further division into subclasses or limitation to particular issues.

B. Maintenance of the Action

22. Plaintiff brings this action individually and on behalf of himself and as representative of all similarly situated persons under *Business & Professions Code* §§ 17203 and 17204 and *Code of Civil Procedure* § 382.

C. The Class Requisites

23. At all material times, Plaintiff was a member of the Class.

1 24. The Class action meets the statutory prerequisites for maintaining a class action
2 under Code of Civil Procedure § 382 in that:

- 3 (a) The persons who comprise the Class are so numerous that the joinder of all
4 those persons is impracticable and the disposition of their claims as a Class
5 will benefit the parties and the Court;
- 6 (b) Nearly all factual, legal, statutory, declaratory and injunctive relief issues
7 that are raised in this Complaint are common to the Class and will apply
8 uniformly to every Class member;
- 9 (c) The claims of the representative Plaintiff are typical of the claims of each
10 Class member. Plaintiff, like all Class members, has sustained damages
11 arising from Defendants' violations of the laws of the State of California.
12 Plaintiff, and the Class members, were and are similarly or identically
13 harmed by the same unlawful, deceptive, unfair, systematic and pervasive
14 pattern of misconduct engaged in by the Defendants;
- 15 (d) The representative Plaintiff has, and will continue to, fairly and adequately
16 represent and protect the interests of the Class and has retained counsel
17 who are competent and experienced in class action litigation. There are no
18 material conflicts between the claims of the representative Plaintiff and the
19 Class members that would make class certification inappropriate. Counsel
20 for the Class will vigorously assert the claims of all Class members.

21 25. The persons who comprise the Class are so numerous that joining all of them is
22 impracticable, and jointly adjudicating their claims will benefit the parties and the Court.
23 Plaintiff's claims are typical of the claims of the Class that Plaintiff seeks to represent. Plaintiff
24 will fairly and adequately protect the interests of the Class he seeks to represent. Plaintiff does
25 not have any interests that are antagonistic to the Class he seeks to represent. Counsel for
26 Plaintiff are experienced, qualified and generally able to conduct complex class action
27 litigation.

1 26. The Court should permit the action to be maintained as a class action under
2 *Code of Civil Procedure* § 382 because:

- 3 (a) The questions of law and fact common to the Class predominate over any
4 question affecting only individual members;
- 5 (b) A class action is superior to any other available method for fairly and
6 efficiently adjudicating the claims of the Class;
- 7 (c) The Class members are so numerous that it is impractical to bring all of
8 them before the Court;
- 9 (d) Plaintiff and other Class members will not be able to obtain effective and
10 economic legal redress unless the action is maintained as a class action;
- 11 (e) There is a community of interest in obtaining appropriate legal and
12 equitable relief for the statutory violations, and in obtaining adequate
13 compensation for the damages and injuries for which Defendants are
14 responsible in an amount sufficient to adequately compensate the Class
15 members;
- 16 (f) Without Class certification, the prosecution of separate actions by
17 individual Class members would create a risk of:
- 18 i. Inconsistent or varying adjudications for individual Class members
19 that would establish incompatible standards of conduct for
20 Defendants; and/or,
- 21 ii. Adjudication for individual Class members that would, as a
22 practical matter, dispose of other non-party members' interests, or
23 that would substantially impair or impede the non-parties' ability
24 to protect their interests, by, for example, potentially exhausting
25 the funds available from Defendants, and
- 26 (g) Defendants have acted or refused to act on grounds generally applicable
27 to the Classes, making final injunctive relief appropriate for the Class, as
28 a whole.

27. Plaintiff contemplates eventually issuing notice to the proposed Class Members that would set forth the subject and nature of the action. The Defendants' own business records may be utilized for assisting to prepare and issue the contemplated notice. To the extent that any further notices may be required, Plaintiff would contemplate using additional media and/or mailing.

GENERAL ALLEGATIONS

28. At all times material hereto, Defendant BH has been and is a company that owns bars.

29. At all times material hereto, Defendant Chris has been and is, the owner of BH.

30. Plaintiff and members of the Class were employed as Bartenders and other non-exempt employees by Defendants in California at various times during the Class Period.

31. The employment by Defendants of the Class members, and each them, is governed by Industrial Welfare Commission Wage Order No. 5, which covers those persons employed in the public housekeeping industry.

THE CONDUCT

32. Plaintiff seeks relief from Defendants' uniform policies and practices of denying Plaintiff and members of the Class wages and compensation owed under California law.

33. Starting on or about July 4, 2016 and continuing to November 11, 2024, Defendants employed Plaintiff on an hourly basis as a Bartender in San Francisco, California.

34. While employed by Defendants as a Bartender, Plaintiff was paid approximately \$18.00 per hour.

OFF THE CLOCK WORK

35. Employers must compensate non-exempt employees for “off-the-clock” work (before punching in or after punching out on a time clock) if the employers knew or should have known that the employees were working those hours. *Morillion v. Royal Packing Co.* (2000) 22 Cal. 4th 575, 585.

36. Defendants required Plaintiff and the Class to regularly perform compensable tasks off-the-clock for which they did not receive any compensation. Specifically, at all times

1 relevant, Plaintiff and Class members consistently worked hours for which they were not paid
2 because Plaintiff and the Class members were required to use their personal cell phones while
3 off the clock for 1 hour per day for work-related activities such as texting/calling supervisors,
4 texting/calling co-workers, checking schedules and downloading the work app.

5 37. Further, Defendants required training which Plaintiff and Class members were
6 required to do off the clock. Plaintiff and Class members spent approximately 2 hours off the
7 clock doing training.

8 38. As a result, and because they improperly treated such off the clock work as non-
9 compensable, Defendants failed to compensate Plaintiff and the Class for such time.

10 39. Further, Plaintiff and Class members' meal/rest breaks were routinely
11 interrupted and they would perform work during their meal/rest breaks while off the clock and
12 while on their meal/rest breaks.

13 **FAILURE TO PAY OVERTIME AND MINIMUM WAGES**

14 40. Under California law, non-exempt employees as defined by Wage Order No. 5,
15 are entitled to premium wages for overtime worked. Under California law, an hourly paid
16 employee is entitled to overtime pay when they exceed eight hours of work in a single day,
17 exceed 40 hours of work in a week or work seven days in a row.

18 41. Under California law, non-exempt employees as defined by Wage Order No. 5
19 are entitled to minimum wages. Labor Code Section 1197 states the California requirement that
20 employees must be paid at least the minimum wage fixed by the Commission or by any
21 applicable state or local law, and any payment of less than the minimum wage is unlawful.
22 Similarly, Labor Code Section 1194 entitles "any employee receiving less than the legal
23 minimum wage...is entitled to recover in a civil action the unpaid balance of the full amount of
24 this minimum wage." IWC Wage Order No. 5, obligates employers to pay each employee
25 minimum wages for all hours worked.

26 42. These minimum wage standards apply to each hour employees worked or were
27 subject to control by the employer for which they were not paid. Therefore, an employer's
28 failure to pay for any particular hour of time worked by an employee or subject to the

1 employer's control is unlawful, even if averaging an employee's total pay over all hours
2 worked, paid or not, results in an average hourly wage above minimum wage. *Armenta v.*
3 *Osmose, Inc.*, 135 Cal. App. 4th 314, 324 (2005).

4 43. Plaintiff and Class members were not afforded compliant meal/rest breaks and
5 were required to engage in off the clock activities. As a result, Defendants failed to pay
6 Plaintiff and Class members all overtime wages due.

7 44. Plaintiff and the Class were not paid minimum wages due Defendants' failure to
8 afford compliant meal/rest breaks.

9 45. At all times during the relevant time period, Plaintiff and the Class routinely
10 worked schedules such that they were due pay at overtime and minimum wage rates. During
11 this period, it was the practice and policy of Defendants to not pay employees' overtime and
12 minimum wages. Monies for unpaid overtime and minimum wages remain due and owing.

13 **EXCLUSION OF GIFT CARDS AND EXTRA BENEFITS FROM REGULAR RATE**
14 **OF PAY**

15 46. California law uses the terms "compensation" and "pay" interchangeably and
16 requires that all applicable remuneration, including but not limited to, commissions, and/or
17 non-discretionary bonuses, and/or gift cards and/or extra benefits, etc., be included when
18 calculating an employee's regular rate of pay.

19 47. Defendants failed to properly pay and calculate wages due to excluding gift
20 cards and extra benefits from regular rate of pay calculations. Such gift cards and extra
21 benefits are required under California law to be included in an employee's regular rate of pay
22 for wage calculation. Defendants failed to do so, thereby failing to pay employees their full
23 wages as required under the Labor Code.

24 48. Plaintiff and members of the Class received gift cards that must be included
25 when calculating their regular rates of pay for purposes of wages. However, Defendants failed
26 to correctly calculate Plaintiff and members of the Class's regular rate of pay to include all
27 applicable remuneration, including, but not limited to, gift cards. Defendants issued gift cards,
28 to Plaintiff and Class members, but the gift cards were not blended into Plaintiff and Class

1 member's regular rate of pay. Plaintiff and Class members received a \$50.00 gift card for
2 Christmas. Plaintiff's available paystubs do not show any gift cards paid to Plaintiff.
3 Thus, the gift cards were not incorporated into the regular rate of pay. This may have caused
4 regular rate issues.

5 49. Further, Plaintiff and Class members received extra benefits such as 50% off on
6 food purchases from Defendant's restaurant. Additionally, beginning in August 2023, the
7 restaurant would comp a meal for Plaintiff. Available paystubs do not show any extra benefits
8 paid to Plaintiff. This may cause regular rate issues. Plaintiff's paystubs dated May 16, 2024,
9 June 28, 2024, July 12, 2024, July 26, 2024 and August 23, 2024, show that overtime was paid
10 at exactly 1.5 times the base rate.
11

12 **FAILURE TO AFFORD COMPLIANT MEAL BREAKS**

13 50. Under California law, non-exempt employees as defined by Wage Order No. 5,
14 are entitled to premium wages for overtime worked, a 30-minute lunch period for each 5 hours
15 worked, or major fraction thereof. Non-exempt employees are entitled to one hour pay at their
16 regular pay rate for each day the requisite meal periods are not provided.

17 51. Plaintiff and Class members' meal breaks were routinely interrupted, not
18 afforded, shortened and/or afforded late.

19 52. Defendants' policies and procedures were applied to all non-exempt employees
20 in California and resulted in non-exempt employees working time which was not compensated
21 by any wages in violation of Labor Code sections 510, 1194 and Wage Order No. 5. As a
22 result, Defendants owe wages at the legal overtime rate for unpaid overtime to each of their
23 California non-exempt employees whose daily hours were reduced even though their meals
24 periods were not properly afforded.

25 **REST PERIODS NOT PROPERLY AFFORDED**

26 53. Plaintiff and Class members' rest breaks were interrupted and/or not afforded.

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1 **FAILURE TO ISSUE ACCURATE WAGE STATEMENTS**

2 54. As a result of Defendants’ failure to pay employees at required overtime rates,
3 minimum wages and premium pay for meal/rest breaks not afforded, the wage statements
4 issued to the employees did not comply with *Labor Code* §226 and the California Industrial
5 Welfare Commission (“IWC”) Wage Order No. 5 in that they did not accurately reflect all
6 wages earned and due and owing.

7 **FAILURE TO PAY WAGES ON TERMINATION**

8 55. As a further result of Defendants’ failure to pay employees at required overtime
9 rates, minimum wages, afford proper meal/rest breaks, when the employees left their employ,
10 they were not timely paid all wages due them, as required by Labor Code §§ 201, 202 and IWC
11 Wage Order No. 5. Further, it was the practice of Defendants to not pay employees the final
12 paychecks within the time periods mandated by Labor Code §§201, 202 and IWC Wage Order
13 No. 5.

14 **FAILURE TO REIMBURSE BUSINESS EXPENSES**

15 56. Defendants required Plaintiff and Class members to use their personal cell
16 phone for work-related purposes both on and off the clock.

17 **FAILURE TO PROVIDE UNIFORM MAINTENANCE ALLOWANCE**

18 57. Defendants failed to provide Plaintiff and Class members with a uniform
19 maintenance allowance. Plaintiff and Class members were required to wear uniforms, but were
20 required to maintain and clean the uniforms themselves.

21 **FAILURE TO PAY FOR ALL HOURS WORKED**

22 58. Defendants failed to pay Plaintiff and Class members for all hours worked since
23 they failed to pay for training time.

24 **FAILURE TO PAY ALL SICK LEAVE WAGES WHEN DUE**

25 59. Plaintiff’s paystub dated May 16, 2024, shows that “Sick” was paid at the rate of
26 exactly the base rate. Plaintiff and Class members were given gift cards and extra benefits, but
27 the gift cards and extra benefits were not incorporated into their regular rate of pay for purposes
28 of sick pay.

1 **FAILURE TO ALLOW INSPECTION OF PERSONNEL RECORDS**

2 60. Defendants failed to allow Plaintiff and Class members to timely inspect their
3 records and payroll files.

4 **FIRST CAUSE OF ACTION**

5 **FAILURE TO PAY OVERTIME**

6 **(Labor Code §§510, 558, 1194.3 and IWC Wage Order No. 5 by Plaintiffs Against**
7 **Defendants and Does 1-100)**

8 61. Plaintiff and the Class reallege and incorporate by reference all of the allegations
9 set forth in this Complaint.

10 62. During Plaintiff's entire employment with Defendants, pursuant to Cal. Lab.
11 Code §§510, 1194, and 1198, and IWC Wage Order No. 5, Defendants were required to
12 compensate Plaintiff with premium pay for all overtime work performed, for hours worked in
13 excess of eight (8) hours per day and/or forty (40) hours per week and for the first eight (8)
14 hours on the seventh (7th) consecutive day of any work week.

15 63. At all times relevant herein, Cal. Lab. Code §1194(a) provided that an employee
16 who had not been paid overtime compensation could recover the unpaid balance of the full
17 amount of overtime wages due, including interest thereon, together with reasonable attorneys'
18 fees and costs of suit.

19 64. Pursuant to IWC Wage Order No. 5, § 3, "Employment beyond eight (8) hours
20 in any workday is permissible provided the employee is compensated for such overtime at not
21 less than: (a) One and one-half (1 1/2) times the employee's regular rate of pay for all hours
22 worked in excess of eight (8) hours up to and including twelve (12) hours in any workday...

23 65. California Labor Code section 558 provides in pertinent part:

24 (a) Any employer or other person acting on behalf of an employer who
25 violates, or causes to be violated, a section of this chapter or any
26 provision regulating hours and days of work in any order of the
27 Industrial Welfare Commission shall be subject to a civil penalty as
28 follows:

1 (1) For any initial violation, fifty dollars (\$50) for each underpaid
2 employee for each pay period for which the employee was underpaid in
3 addition to an amount sufficient to recover underpaid wages.

4 (2) For each subsequent violation, one hundred dollars (\$100) for each
5 underpaid employee for each pay period for which the employee was
6 underpaid in addition to an amount sufficient to recover underpaid
7 wages.

8 (3) Wages recovered pursuant to this section shall be paid to the affected
9 employee...

10 (c) The civil penalties provided for in this section are in addition to any
11 other civil or criminal penalty provided by law.

12 66. Pursuant to Cal. Labor Code §558.1:

13 (a) Any employer or other person acting on behalf of an employer, who
14 violates, or causes to be violated, any provision regulating...hours and days of
15 work in any order of the Industrial Welfare Commission, or violates, or causes
16 to be violated Sections 203, 226, 226.7...may be held liable as the employer for
17 such violation.

18 (b) For purposes of this section, the term "other person acting on behalf of
19 an employer" is limited to a natural person who is an owner, director, officer, or
20 managing agent of the employer, and the term "managing agent" has the same
21 meaning as in subdivision (b) of Section 3294 of the Civil Code.

22 (c) Nothing in this section shall be construed to limit the definition of
23 employer under existing law.

24 67. Chris is the owner of BH and is therefore liable to Plaintiff as an employer.

25 Chris caused the laws relating to overtime time pay to be violated.

26 68. Throughout Plaintiff's employment, Plaintiff worked overtime hours and was
27 not paid overtime pay due to Defendants' requiring him and Class members to engage in off the
28 clock work. Further, Plaintiff and Class members were required to use their cell phones while
off the clock.

69. The amount of time spent by Class members off the clock was not *de minimis*.

1 70. The regular rate of pay under California law includes all remuneration for
2 employment paid, on behalf of the employer, to the employee. Employers must properly factor
3 all economic items into the regular rate of pay for purposes of calculating the overtime wages
4 due to their employees. *See Alvarado v. Dart Container Corp. of California* (2018) 4 Cal. 5th
5 542, 554, 568 (the regular rate of pay must include the “value of any nonhourly compensation,”
6 including bonuses).

7 71. Specifically, Defendants had a company-wide policy of failing to properly pay
8 and calculate wages due.

9 72. Defendants violated the rights of Plaintiff and the members of the Class by not
10 correctly calculating their regular rate of pay. Plaintiff and Class members’ gift cards and extra
11 benefits were not incorporated into their regular rate of pay.

12 73. Further, Defendants’ management shaved time to delete overtime worked.
13 Defendant used the ADP app to adjust and shave Plaintiff and Class members’ time.

14 74. Throughout Plaintiff’s employment, Defendants failed and refused to pay and
15 properly calculate overtime compensation to Plaintiff and Class members as required by law.

16 75. The foregoing overtime compensation is owed and unpaid. As a direct and
17 proximate result of Defendants’ failure and refusal to pay overtime, Plaintiff and Class
18 members suffered damages in an amount to be proven at trial.

19 76. Pursuant to Cal. Lab. Code §1194(a), Plaintiff, who retained the services of legal
20 counsel in order to enforce Plaintiff’s rights to overtime pay, is entitled to recover Plaintiff’s
21 attorneys’ fees, costs and interest.

22 **SECOND CAUSE OF ACTION**

23 **FAILURE TO PAY MINIMUM WAGES**

24 **(IWC Wage Order No. 5; Labor Code §§ 1194, 1194.2, 1997, 1197.1, 1198 By Plaintiffs**
25 **Against Defendants and Does 1 through 100)**

26 77. Plaintiff and the Class reallege and incorporate by reference all of the allegations
27 set forth in this Complaint.
28

1 78. Labor Code §§ 1194(a) states: “Notwithstanding any agreement to work for a
2 lesser wage, any employee receiving less than the legal minimum wage or the legal overtime
3 compensation applicable to the employee is entitled to recover in a civil action the unpaid
4 balance of the full amount of this minimum wage or overtime compensation, including interest
5 thereon, reasonable attorney's fees, and costs of suit.”

6 79. *Labor Code* § 1197 states the California requirement that employees must be
7 paid at least the minimum wage fixed by the Commission, and any payment of less than the
8 minimum wage is unlawful. Similarly, *Labor Code* § 1194 entitles “any employee receiving
9 less than the legal minimum wage...entitled to recover in a civil action the unpaid balance of
10 the full amount of this minimum wage.” IWC Wage Order 4-2001 also obligates employers to
11 pay each employee minimum wages for all hours worked. These minimum wage standards
12 apply to each hour employees worked for which they were not paid. Therefore, an employer’s
13 failure to pay for any particular hour of time worked by an employee is unlawful, even if
14 averaging an employee’s total pay over all hours worked, paid or not, results in an average
15 hourly wage above minimum wage. *Armenta v. Osmose, Inc.*, 135 Cal. App. 4th 314, 324
16 (2005).

17 80. Pursuant to IWC Wage Order No. 5, Defendants is required to pay the members
18 of the Class for all hours worked, meaning the time during which an employee is subject to the
19 control of an employer, including all the time the employee is suffered or permitted to work,
20 whether or not required to do so.

21 81. Furthermore, pursuant to *Labor Code* § 1198, “[t]he maximum hours of work
22 and the standard conditions of labor fixed by the commission shall be the maximum hours of
23 work and the standard conditions of labor for employees. The employment of any employee for
24 longer hours than those fixed by the order or under conditions of labor prohibited by the order
25 is unlawful.”

26 82. Pursuant to Cal. Labor Code §558.1:

27 (a) Any employer or other person acting on behalf of an employer, who
28 violates, or causes to be violated, any provision regulating...hours and days of

1 work in any order of the Industrial Welfare Commission, or violates, or causes to
2 be violated Sections 203, 226, 226.7...may be held liable as the employer for
3 such violation.

4 (b) For purposes of this section, the term “other person acting on behalf of
5 an employer” is limited to a natural person who is an owner, director, officer, or
6 managing agent of the employer, and the term “managing agent” has the same
7 meaning as in subdivision (b) of Section 3294 of the Civil Code.

8 (c) Nothing in this section shall be construed to limit the definition of
9 employer under existing law.

10 83. Chris is the owner of BH and is therefore liable to Plaintiff as an employer.
11 Chris caused the laws relating to minimum wage pay to be violated.

12 84. Defendants failed to satisfy minimum wage requirements because they failed to
13 afford compliant meal/rest breaks to Plaintiff and Class members in violation of *Labor Code* §§
14 1197, 1198 and IWC Wage Order No. 5.

15 85. Defendants’ pattern, practice and uniform administration of corporate policy
16 regarding illegal employee compensation as described herein is unlawful and creates an
17 entitlement, pursuant to Labor Code § 218, to recovery by Plaintiff and the members of the
18 Class, in a civil action, of the unpaid balance of the full amount of wages owing, calculated at
19 the appropriate rate.

20 86. *Labor Code* § 1194.2 allows an employee to recover liquidated damages in an
21 amount equal to the wages unlawfully unpaid and interest thereon for any action under *Labor*
22 *Code* § 1194. Where an employee, such as Plaintiff and the other Class members, are not paid
23 for all hours worked under *Labor Code* § 1194, the employee may recover minimum wages for
24 the time associated with the overtime for which they received no compensation. *See Sillah v.*
25 *Command Int’l Sec. Servs.*, 154 F. Supp. 3d 891 (N.D. Cal. 2015) (holding that employees
26 suing for failure to pay overtime could recover liquidated damages under § 1194.2 if they also
27 showed they were paid less than minimum wage); *accord Andrade v. Arby’s Rest. Grp., Inc.*,
28 225 F. Supp. 3d 1115, 1132-33 (N.D. Cal. 2016).

87. Plaintiff and the other Class members suffered and continue to suffer losses related to the use and enjoyment of compensation due and owing to them as a direct result of Defendants' unlawful acts and Labor Code violations in an amount to be shown according to proof at trial and within the jurisdictional limitations of this Court.

88. Therefore, pursuant to Labor Code §§200, 218.5, 558 and 1194, Plaintiff and the Class are entitled to recover the unpaid balances of the minimum wages Defendants owes them, plus interest, penalties, attorneys' fees, expenses and costs of suit, in amounts according to proof.

THIRD CAUSE OF ACTION

FOR FAILURE TO PROVIDE TIMELY OFF-DUTY MEAL PERIODS

**(IWC Wage Order No. 5; Labor Code §§ 226.7, 512 By Plaintiffs Against Defendants and
Does 1 through 100)**

89. Plaintiff and the Class reallege and incorporate by reference all of the allegations set forth in this Complaint.

90. California Labor Code §226.7(a) prohibits an employer from requiring an employee to work during any meal period mandated by an applicable Industrial Wage Order. Section 226.7(b) of the California Labor Code provides that "[a]n employer shall not require an employee to work during a meal or rest break or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission..."

91. California Labor Code §1198 makes unlawful the employment of an employee under conditions the IWC prohibits.

92. Wage Order No. 5 provides, in relevant part: "No employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30-minutes, except that when a work period of not more than six (6) hours will complete the day's work the meal period may be waived by mutual consent of the employer and the employee."

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1 93. IWC Wage Order No. 5, section (11)(c) further provides, in relevant part:
2 "Unless the employee is relieved of all duty during a 30-minute meal period, the meal period
3 shall be considered an 'on duty' meal period and counted as time worked."

4 94. Section 512(a) of the California Labor Code provides, in relevant part, that:

5 An employer may not employ an employee for a work period of more than five
6 hours per day without providing the employee with a meal period of not less
7 than 30-minutes, except that if the total work period per day of the employee is
8 no more than six hours, the meal period may be waived by mutual consent of
9 both the employer and employee. An employer may not employ an employee
10 for a work period of more than 10 hours per day without providing the
11 employee with a second meal period of not less than 30-minutes, except that if
12 the total hours worked is no more than 12 hours, the second meal period may
13 be waived by mutual consent of the employer and the employee only if the first
14 meal period was not waived.

15 95. Pursuant to Cal. Labor Code §558.1:

16 (a) Any employer or other person acting on behalf of an employer, who
17 violates, or causes to be violated, any provision regulating...hours and days of
18 work in any order of the Industrial Welfare Commission, or violates, or causes
19 to be violated Sections 203, 226, 226.7...may be held liable as the employer for
20 such violation.

21 (b) For purposes of this section, the term "other person acting on behalf of
22 an employer" is limited to a natural person who is an owner, director, officer, or
23 managing agent of the employer, and the term "managing agent" has the same
24 meaning as in subdivision (b) of Section 3294 of the Civil Code.

25 (c) Nothing in this section shall be construed to limit the definition of
26 employer under existing law.

27 96. Chris is the owner of BH and is therefore liable to Plaintiff as an employer.
28 Chris caused the laws relating to meal breaks to be violated.

 97. The Labor Code and Wage Order No. 5 provisions cited above require
California employers to provide employees with off-duty 30-minute meal periods on or before
the fifth hour of their shifts. To satisfy this obligation, California employers must: (1) make

1 employees aware of their right to off-duty 30-minute meal periods before the fifth hour of their
2 shifts, and (2) ensure that employees are actually free of job duties for thirty minutes per day on
3 or before the fifth hour of their shifts.

4 98. As alleged herein, Defendants failed to relieve employees of duties for meal
5 breaks throughout the Class Period. Plaintiff and the members of the Class's meal periods
6 were not properly afforded since Plaintiff and Class members' meal breaks were interrupted,
7 shortened and/or afforded late. Plaintiff and class members clocked out for meal breaks even
8 when they did not take meal breaks. Plaintiff and Class members were also not afforded
9 compliant second meal breaks on days when they worked in excess of 10 hours.

10 99. Under California law, employers must also record their employees' meal
11 periods: "Every employer shall keep accurate information with respect to each employee,
12 including the following: ... Meal periods ... shall also be recorded. Meal periods during which
13 operations cease ... need not be recorded." IWC Wage Order No. 5, § (7)(A)(3). Where the
14 employer has failed to keep records required by statute, the consequences of such failure should
15 fall on the employer, not the employee. In such a situation, imprecise evidence by the employee
16 can provide a sufficient basis for liability." *Hernandez v. Mendoza*, 199 Cal. App. 3d 721, 727
17 (1988). Inasmuch as Defendants had an obligation under the record-keeping requirements of
18 the Wage Order to track meal periods unless "all work ceases", Defendants knew or should
19 have known its employees were regularly afforded late, shortened and/or interrupted meal
20 periods during the Class Period.

21 100. Defendants have a policy or practice of failing to ensure that Plaintiff and
22 members of the class take off duty meal periods required by California Labor Code §226.7 and
23 Wage Order No. 5, §11.

24 101. By their actions in not affording Plaintiff and Class members compliant meal
25 periods, Defendants violated Cal. Lab. Code §226.7(b) and section 11 of Wage Order No. 5 in
26 the amount of one additional hour of pay at the employee's regular rate of compensation for
27 each work period during each day in which Defendants failed to provide employees with
28 statutory timely off-duty meal periods.

1 102. Defendants also have a policy or practice of failing to pay each of their
2 employees who was provided with an on-duty meal period an additional one hour of
3 compensation at each employee's regular rate of pay.

4 103. Cal. Labor Code § 218 authorizes Plaintiff and the members of the Class to
5 bring a private right of action to recover wages due based on the deprivation of timely meal
6 periods under Cal. Labor Code § 226.7(b).

7 104. As a direct and proximate result of Defendants' unlawful conduct as alleged
8 herein, Plaintiff and members of the Class have sustained economic damages, including but not
9 limited to unpaid wages and lost interest, in an amount to be established at trial, and are entitled
10 to recover economic and statutory damages, attorneys' fees and penalties and other appropriate
11 relief due to Defendants' violations of the California Labor Code and IWC Wage Order No. 5.

12 **FOURTH CAUSE OF ACTION**

13 **FOR FAILURE TO PROVIDE TIMELY OFF-DUTY REST PERIODS**

14 **(IWC Wage Order No. 5; Labor Code §§ 226.7, 512 By Plaintiffs Against Defendants and**
15 **Does 1 through 100)**

16 105. Plaintiff and the Class reallege and incorporate by reference all of the allegations
17 set forth in this Complaint.

18 106. Labor Code § 226.7 and Wage Order No. 5 provide that employers shall
19 authorize and permit all employees to take rest periods at the rate of ten minutes net rest time
20 per four hours of work, or major fraction thereof.

21 107. Labor Code § 226.7 and IWC Wage Order No. 5 provide that if an employer
22 fails to provide an employee with rest periods in accordance with those provisions, the
23 employer shall pay the employee one hour of pay at the employee's regular rate of
24 compensation for each workday that the rest periods were not so provided.

25 108. At all times relevant hereto, Plaintiff and members of the Class have worked
26 between 6-8 or more hours daily.

27 109. At all times relevant hereto, Defendants failed to provide rest periods as required
28 by Labor Code § 226.7 and Wage Order No. 5. Plaintiff and Class members' rest breaks were

1 routinely not afforded and/or interrupted. On days when Plaintiff and Class members worked
2 more than 10 hours they were not afforded third rest breaks. At most, Plaintiff and Class
3 members were afforded 1 rest break per day.

4 110. Pursuant to Cal. Labor Code §558.1:

5 (a) Any employer or other person acting on behalf of an employer, who
6 violates, or causes to be violated, any provision regulating...hours and days of
7 work in any order of the Industrial Welfare Commission, or violates, or causes
8 to be violated Sections 203, 226, 226.7...may be held liable as the employer for
9 such violation.

10 (b) For purposes of this section, the term “other person acting on behalf of
11 an employer” is limited to a natural person who is an owner, director, officer, or
12 managing agent of the employer, and the term “managing agent” has the same
13 meaning as in subdivision (b) of Section 3294 of the Civil Code.

14 (c) Nothing in this section shall be construed to limit the definition of
15 employer under existing law.

16 111. Chris is the owner of BH and is therefore liable to Plaintiff as an employer.
17 Chris caused the laws relating to rest breaks to be violated.

18 112. By virtue of Defendants’ unlawful failure to provide compliant rest periods to
19 the Plaintiff and the Class, Plaintiff and the Class have suffered, and will continue to suffer,
20 damages in amounts which are presently unknown to Plaintiff and the Class, but which exceed
21 the jurisdictional limits of the Court and which will be ascertained according to proof at trial.

22 **FIFTH CAUSE OF ACTION**

23 **FOR FAILURE TO MAINTAIN RECORDS AND PROVIDE ACCURATE WAGE**

24 **ITEMIZED STATEMENTS**

25 **(Labor Code §226 By Plaintiffs Against Defendants and Does 1 through 100)**

26 113. Plaintiff and the Class reallege and incorporate by reference all of the allegations
27 set forth in this Complaint.
28

1 114. Pursuant to IWC Wage Order No. 5, Defendants were the employers of Plaintiff
2 and the Class.

3 115. Pursuant to California Labor Code sections 226 and 1174, and Wage Order No.
4 5, section 7, Defendants are required to maintain and provide accurate records relating to
5 employee compensation including all formulas and production records used to calculate wages
6 due.

7 116. Defendants is further required to provide, *inter alia*, semimonthly or at the time
8 of each payment of wages, an accurate itemized statement showing: (1) gross wages earned; (2)
9 all deductions from wages; (3) net wages earned; (4) the inclusive dates of the period for which
10 the employee is being paid; (5) the name of the employee; and (6) the name and address of the
11 legal entity that is the employee's actual employer. Cal. Labor Code §226(a).

12 117. Section 226(e) provides that an employee is entitled to recover \$50 for the initial
13 pay period in which a violation of Section 226 occurs and \$100 for each subsequent pay period,
14 not to exceed \$4,000, plus an award of costs and reasonable attorneys' fees, for all pay periods
15 in which the employer knowingly and intentionally failed to provide accurate itemized
16 statements to the employee causing the employee to suffer injury.

17 118. Notwithstanding these provisions. Defendants have engaged in a uniform
18 practice of refusing to maintain and provide the accurate records and wage statements required
19 by California law.

20 119. Throughout the Class Period, Defendants intentionally and knowingly provided
21 Plaintiff and other members of the Class with weekly itemized wage statements containing
22 inaccurate information regarding the wages earned by Plaintiff and members of the Class in
23 that the payments owed to Plaintiff and the members of the Class for overtime compensation,
24 minimum wages, on duty meal/rest periods, reporting time pay, sick pay and pay for all hours
25 worked, were not included in gross wages earned by Plaintiff and members of the Class.

26 120. As a result, Plaintiff and members of the Class have been injured by having been
27 deprived of the true facts pertaining to their compensation and employment.
28

1 121. Plaintiff and members of the Class were damaged by these failures because,
2 among other things, the failures led them to believe that they were not entitled to overtime
3 compensation, minimum wages, pay for meal/rest periods not properly provided, reporting time
4 pay, sick pay and pay for all hours worked, even though they were so entitled and these failures
5 hindered them from determining the amounts of wages owed to them.

6 122. Plaintiff and members of the Class are entitled to the amounts provided in Labor
7 Code §226(e), plus attorneys' fees and costs.

8 123. As result, Plaintiff seeks recovery of the penalties authorized by Labor Code
9 sections 226(e) and 558, and such other penalties and legal and equitable remedies as are
10 provided by law for Defendants' improper conduct.

11 **SIXTH CAUSE OF ACTION**

12 **FOR FAILURE TO PAY WAGES UPON TERMINATION**

13 **(Labor Code §§201-203 By Plaintiffs against Defendants and Does 1 through 100)**

14 124. Plaintiff and the Class reallege and incorporate by reference all of the allegations
15 set forth in this Complaint.

16 125. Labor Code § 201(a) provides that a discharged employee's unpaid wages are
17 due and payable immediately. Labor Code § 202(a) provides that when an employee resigns
18 from employment, unpaid wages are due and payable within 72 hours of resignation.

19 126. Labor Code § 203(a) provides that if an employer willfully fails to pay wages as
20 mandated by Labor Code §§ 201 and 202, the employee's wages shall continue to accrue until
21 paid, not to exceed thirty days.

22 127. Plaintiff and the Class were discharged and/or resigned from Defendants'
23 employ and Defendants willfully failed to pay Plaintiff and the Class wages due them.

24 128. Under Labor Code § 203(a), Plaintiff and the Class are entitled to one day's
25 wages for each day he or she was not timely paid, not to exceed 30 days' wages.

26 **SEVENTH CAUSE OF ACTION**

27 **FAILURE TO REIMBURSE BUSINESS EXPENSES**

28 **(Cal. Labor Code §2802 By Plaintiffs Against Defendants and Does 1 through 100)**

1 129. Plaintiff and the Class reallege and incorporate by reference all of the allegations
2 set forth in this Complaint.

3 130. Labor Code §2802 requires employers to indemnify employees for all necessary
4 expenditures incurred by employees in the discharge of their duties.

5 131. Defendants required Plaintiff and Class members to use their personal cell
6 phone both on and off the clock. However, Defendants failed to reimburse Plaintiff and
7 members of the Class for their cell phone expenses incurred on Defendants' behalf.
8 Additionally, Defendant failed to reimburse Plaintiff and Class members for tools that they
9 purchased that were necessary business expenses.

10 132. At all times relevant herein, Defendants were aware that Plaintiff and Class
11 members were using their personal cell phones and tool purchases for work-related purposes
12 both on and off the clock, but failed to indemnify Plaintiff and Class members for all their
13 business-related expenses, in accordance with Labor Code §2802. Plaintiff is informed and
14 believes and thereon alleges that at all relevant times, Defendants maintained a practice of not
15 reimbursing Plaintiff and Class members for their work-related expenses that they incurred in
16 using their personal cell phones, including wear and tear, and purchases of tools, for work-
17 related purposes.

18 133. As a result of Defendants' conduct, Plaintiff and Class members suffered
19 damages in an amount, subject to proof, to the extent they were not reimbursed for all of their
20 business-related expenses incurred in the discharge of their duties.

21 134. Pursuant to Labor Code §2802, Plaintiff and Class members are entitled to
22 recover the full amount of their unreimbursed business expenses, reasonable attorneys' fees and
23 costs of suit.

24 **EIGHTH CAUSE OF ACTION**

25 **FAILURE TO PROVIDE A UNIFORM MAINTENANCE ALLOWANCE**

26 **(Cal. Labor Code §2802 By Plaintiffs Against Defendants and Does 1 through 100)**

27 135. Plaintiff and the Class reallege and incorporate by reference all of the allegations
28 set forth in this Complaint.

136. Under California law, if an employer requires employees to wear a uniform, the employer must pay for and maintain the uniform for the employee. Labor Code §2802.

137. An employer may never impose a financial burden on employees, with respect to paying for and maintaining clothing, which would reduce the employees' wage rate below the minimum wage.

138. Here, Defendants required Plaintiff and Class members to wear uniforms such as black and white shirts with the company logo. However, Plaintiff and Class members were required to maintain their uniforms themselves.

139. Defendants failed to reimburse Plaintiff and members of the Class for their maintenance expenses.

140. As a proximate result of the aforementioned violations of Labor Code § 2802, Plaintiff and members of the Class have been damaged in an amount according to proof at the time of trial.

141. As a proximate result of the aforementioned violations of § 2802, Plaintiff and members of the Class are entitled to recovery from Defendants for reimbursement of necessary expenditures including interest and attorneys' fees.

NINTH CAUSE OF ACTION

FAILURE TO PAY FOR ALL HOURS WORKED

(Cal. Labor Code §204 By Plaintiffs Against Defendants and Does 1 through 100)

142. Plaintiff and the Class reallege and incorporate by reference all of the allegations set forth in this Complaint.

143. At all times relevant to this action, Plaintiff and members of the Class were employed by Defendants within the meaning of the California Labor Code.

144. California Labor Code section 204 requires an employer, such as Defendants, to pay employees for all work performed on the job.

145. Section 4 of IWC Wage Order No. 5 requires that employers pay employees for all hours worked, including time spent being trained.

146. At all times relevant herein, Defendants was required to compensate their non-exempt employees for all hours worked pursuant to Wage Order No. 5, and Cal. Labor Code §§200, 223, 226, 500, 510, 1197, 1198.

147. During the class period, Defendants had, and continues to have, a policy and practice of failing to fully compensate its employees for all hours worked.

148. Defendants had, and continues to have, a policy and practice of requiring, suffering, or otherwise permitting employees to attend mandatory training while off the clock without compensating them for all of the time spent training.

149. By requiring Plaintiff and Class members to attend mandatory training without compensation as alleged above, Defendants willfully has violated and continues to violate the provisions of California Labor Code section 204.

150. Defendants have knowingly and willfully refused to perform its obligations to compensate Plaintiff and the Class for all hours worked.

151. As a result of the unlawful acts of Defendants, Plaintiff and Class members have been deprived of compensation in amounts to be determined at trial and are entitled to recovery of such amounts, in addition to penalties, plus interest thereon, attorneys' fees, and costs, under Labor Code section 1194.

TENTH CAUSE OF ACTION

FAILURE TO PAY REPORTING TIME PAY

(Wage Order No. 5 By Plaintiffs against Defendants and Does 1 through 100)

152. Plaintiff and the Class reallege and incorporate by reference all of the allegations set forth in this Complaint.

153. Wage Order No. 5-2001 provides that "[e]ach workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee's usual or scheduled day's work, the employee shall be paid for half the usual or scheduled day's work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee's regular rate of pay, which shall not be less than the minimum wage."

1 154. Defendant had a policy and practice that required Plaintiff and Class members to
2 be on-call or standby on weekends. Plaintiff and Class members were not paid on-call pay.
3 Further, at times Plaintiff and Class members were sent home during the first 2 hours of work
4 and told it was because business was slow.

5 155. This has resulted in Defendants failing to pay required reporting time pay to
6 Plaintiff and the Class.

7 156. As a direct and proximate results of Defendants' actions as set forth herein,
8 Plaintiff and the Class have been damaged in that Plaintiff and the Class have not been paid all
9 required reporting time pay.

10 **ELEVENTH CAUSE OF ACTION**

11 **FAILURE TO PAY ALL SICK LEAVE WAGES WHEN DUE**

12 **(Cal. Labor Code §§201-204, 218, 218.5, 233, 245, 246 et. seq. By Plaintiff Against**
13 **Defendants and Does 1 through 100)**

14 157. Plaintiff and the Class reallege and incorporate by reference all of the allegations
15 set forth in this Complaint.

16 158. Section 246 (1) requires that employers pay sick time pay to non-exempt
17 employees at the employee's "regular rate of pay." Employers must calculate paid sick leave for
18 nonexempt employees (1) "in the same manner as the regular rate of pay for the workweek in
19 which the employee uses paid sick time, whether or not the employee actually works overtime
20 in that workweek" or (2) "by dividing the employee's total wages, not including overtime
21 premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days
22 of employment."

23 159. The "regular rate of pay" includes all remuneration for employment paid to the
24 employee with the exception of overtime pay and includes, but is not limited to base hourly
25 wages, shift premiums and other forms of non-discretionary wages.

26 160. Defendants failed to properly calculate and pay Plaintiff and Class members sick
27 pay wages.
28

1 161. California law also requires that any compensation, including gift cards and
2 extra benefits be included in the sick pay rate of pay. Defendants failed to blend gift cards and
3 extra benefits when calculating Plaintiff and Class members' regular rate in workweeks when
4 they earned sick pay. As such, Plaintiff and Class members were paid at a sick pay rate less
5 than the rate required under California law.

6 162. Plaintiff and Class members were given gift cards and extra benefits. However,
7 those gift cards and extra benefits were not blended into their sick pay rate for purposes of
8 calculating sick pay.

9 163. Moreover, Section 204 provides that wages are generally due and payable no later
10 than seven days after the end of a pay period or at least twice during each calendar month, on
11 days designated in advance as the regular paydays. Section 201 provides if an employer
12 discharges an employee, the wages earned and unpaid at the time of discharge are due and
13 payable immediately. Section 202 provides that an employee is entitled to receive all unpaid
14 wages no later than 72 hours after an employee quits his or her employment, unless the employee
15 has given seventy-two (72) hours previous notice of his or her intention to quit, in which case
16 the employee is entitled to his or her wages at the time of quitting. Section 203 provides that if
17 an employer willfully fails to pay wages owed in accordance with Sections 201 and 202, then
18 the wages of the employee shall continue as a penalty from the due date, and at the same rate
19 until paid, but the wages shall not continue for more than thirty (30) days.

20 164. Because Defendants did not pay Plaintiff and members of the Class all owing and
21 underpaid sick pay wages, Defendants violated Sections 201-204, 246, and other Labor Code
22 sections. Defendants willfully failed to timely pay Plaintiff and members of the Class all their
23 wages due during employment and failed to timely pay all their wages due upon the termination
24 of their employment within the times prescribed by the Labor Code and is therefore subject to
25 applicable penalties, including a waiting time penalty, for each day, up to a thirty (30) day
26 maximum, pursuant to Section 203.

27 165. Labor Code section 233 provides: "Any employer who provides sick leave for
28 employees shall permit an employee to use in any calendar year the employee's accrued and

1 available sick leave entitlement, in an amount not less than the sick leave that would be accrued
2 during six months at the employee's then current rate of entitlement, for the reasons specified in
3 subdivision (a) of Section 246.5.”

4 166. During the relevant time period, Defendants intentionally and willfully failed to
5 pay Plaintiff and members of the Class their sick pay wages at the regular rate including gift
6 cards and extra benefits of pay required by law. Accordingly, Plaintiff and members of the Class
7 did not receive the full amount of paid sick time that they were entitled to receive by law, and
8 were therefore denied the right to use sick leave within the meaning of Labor Code Sections
9 233(a) and (c).

10 167. Any employer who violates Labor Code section 233 is liable to employees for
11 the greater of one day's pay or actual damages, reasonable equitable relief, and reasonable
12 attorneys' fees and costs. Lab. Code sections 233(d), (e).

13 168. Labor Code section 218 authorizes a private right of action to recover unpaid
14 wages, including under sections 204 and 233.

15 169. Pursuant to Labor Code sections 218 and 218.5, Plaintiff and members of the
16 Class are entitled to recover the full amount of their unpaid wages, applicable penalties,
17 prejudgment interest on the amount of their unpaid wages, reasonable attorneys' fees and costs
18 of suit.

19 **TWELFTH CAUSE OF ACTION**

20 **FAILURE TO ALLOW INSPECTION OF EMPLOYMENT RECORDS**

21 ***(Labor Code §1198.5 By Plaintiffs Against Defendants and Does 1 through 100)***

22 170. Plaintiff and the Class reallege and incorporate by reference all of the allegations
23 set forth in this Complaint.

24 171. California Labor Code Section 1198.5 provides:

- 25
- 26 (a) Every current and former employee, or his or her representative, has the
27 right to inspect and receive a copy of the personnel records that the
28 employer maintains relating to the employee's performance or to any
grievance concerning the employee.

1 (b) The employer shall make the contents of those personnel records available
2 for inspection to the current or former employee, or his or her
3 representative, at reasonable intervals and at reasonable times, but not later
4 than 30 calendar days from the date the employer receives a written request,
5 unless the current or former employee, or his or her representative, and the
6 employer agree in writing to a date beyond 30 calendar days to inspect the
7 records, and the agreed-upon date does not exceed 35 calendar days from
8 the employer's receipt of the written request to inspect the records. Upon a
9 written request from a current or former employee, or his or her
10 representative, the employer shall also provide a copy of the personnel
11 records,..... later than 30 calendar days from the date the employer receives
12 the request...

13 (k) If an employer fails to permit a current or former employee, or his or her
14 representative, to inspect or copy personnel records within the times specified I
15 this section... the current or former employee may recover a penalty of seven
16 hundred fifty dollars (\$750) from the employer.

17 (l) A current or former employee may also bring an action for injunctive relief
18 to obtain compliance with this section, and may recover costs and reasonable
19 attorney's fees in such an action.

20 172. Additionally, pursuant to IWC Wage Order No. 5, at section 7 re: Records,
21 employers are required to keep accurate payroll records on each employee, and such records
22 must be made readily available for inspection by the employee upon reasonable request. The
23 employer must also maintain accurate production records.

24 173. On or about September 19, 2025, Plaintiff's counsel issued a written request to
25 Defendants for copies of his personnel records.

26 174. Under California Labor Code Sections 226, 432 and 1198.5, such records were
27 to include all records relating to Plaintiff's hours worked, wage statements and compensation.
28 Plaintiff's counsel and Defendants did not enter into an agreement to enlarge the time for
Defendants' compliance, and Defendants have failed and refused to permit Plaintiff copies of
his records.

As a direct result and consequence of Defendants' failure and refusal to permit
Plaintiff full access to his records, Plaintiff seeks injunctive relief in the form of an order or
decree mandating Defendants' compliance. Plaintiff has suffered and will suffer harm as a

1 result of Defendants' ongoing refusal to comply. Plaintiff also seeks recovery of the statutory
2 penalty of \$750 based upon Defendants' violation of §1198.

3 **THIRTEENTH CAUSE OF ACTION**

4 **UNFAIR COMPETITION**

5 **(Business & Professions Code §§ 17200 *et seq.* By Plaintiffs Against Defendants and Does**
6 **1 through 100)**

7 176. Plaintiff and the Class reallege and incorporate by reference all of the allegations
8 set forth in this Complaint.

9 177. Pursuant to IWC Wage Order No. 5, Defendants was the employer of Plaintiff
10 and the Class. Defendants is also a "person" as that term is defined in Business & Professions
11 Code §17021.

12 178. The Business & Professions Code defines unfair competition as any unlawful,
13 unfair, or fraudulent business practice. At all times relevant herein, by and through the conduct
14 described herein, Defendants has engaged in unfair and unlawful practices by failing to (1) pay
15 Plaintiff and the Class overtime compensation; (2) pay minimum wages; (3) pay Plaintiff and
16 the Class meal periods improperly afforded, (4) pay Plaintiff and the Class rest periods
17 improperly afforded, (5) furnish Plaintiff and the Class with accurate itemized wage statements,
18 as mandated by the applicable Labor Code and Industrial Welfare Commission requirements,
19 (6) pay all wages on termination, (7) reimburse business expenses, (8) provide a uniform
20 maintenance allowance (9) pay for all hours worked, (10) pay reporting time pay; (11) pay sick
21 leave wages, and (12) provide personnel records, all in violation of Business & Professions
22 Code §§ 17200 *et seq.*

23 179. By and through the unfair and unlawful business practices described herein,
24 Defendants have obtained valuable property, money and services from the Plaintiff and the
25 Class and has deprived them of valuable rights and benefits guaranteed by law all to the
26 detriment of Plaintiff and the Class.

27 180. All the acts described herein are violations of, among other things, the Labor
28 Code and Industrial Commission Wage Order No. 5, are unlawful and in violation of public

1 policy; and in addition are immoral, unethical, oppressive, and unscrupulous, and thereby
2 constitute unfair and unlawful business practices in violation of Business & Professions Code
3 §§ 17200 *et seq.*

4 181. Plaintiff and the Class are entitled to, and do, seek such relief as may be
5 necessary to restore to them the money and property which Defendants have acquired, or of
6 which Plaintiff and the Class have been deprived by means of the above-described unfair and
7 unlawful business practices.

8 182. Plaintiff and the Class are further entitled to, and do, seek a declaration that the
9 above-described business practices are unfair and unlawful and that injunctive relief should be
10 issued restraining Defendants from engaging in any of the above described unfair and unlawful
11 business practices in the future.

12 183. Plaintiff and the Class have no plain, speedy, and/or adequate remedy at law to
13 redress the injuries which they have suffered as a consequence of the unfair and unlawful
14 business practices of Defendants. As a result of the unfair and unlawful business practices
15 described above, Plaintiff and the Class have suffered and will continue to suffer irreparable
16 harm unless Defendants are restrained from continuing to engage in these unfair and unlawful
17 business practices. In addition, Defendants should be required to disgorge the unpaid moneys
18 to Plaintiff and the Class.

19 **PRAYER FOR RELIEF**

20 WHEREFORE, Plaintiff respectfully prays that this Court enter judgment in his favor
21 and against Defendants as follows:

22 1. For compensatory damages in the amount of unpaid overtime due to Plaintiff
23 and Class members, according to proof;

24 2. For compensatory damages in the amount minimum wages due to Plaintiff and
25 Class members, according to proof;

26 3. For payment of unpaid wages in accordance with California labor and
27 employment law;

28

- 1 4. For one (1) hour of pay at the regular rate of compensation for Plaintiff and
2 Class members for each workday that a meal period was not properly provided;
- 3 5. For one (1) hour of pay at the regular rate of compensation for Plaintiff and
4 Class members for each workday that a rest period was not properly provided;
- 5 6. For compensatory damages in the amount of Plaintiff and Class members' cell
6 phone and tool expenses for business purposes, costs and attorneys' fees pursuant to Cal. Code
7 Civ. Proc. §2802(c);
- 8 7. For compensatory damages in the amount of Plaintiff and Class members'
9 uniform maintenance expenses, costs and attorneys' fees pursuant to Cal. Code Civ. Proc.
10 §2802(c);
- 11 8. For compensatory damages in the amount of unpaid wages due to failure to pay
12 for all hours worked in accordance with California labor and employment law;
- 13 9. For reporting time pay;
- 14 10. For sick pay;
- 15 11. For an award of consequential damages in Plaintiff and Class Members' favor
16 and against Defendants, in an amount to be proven at trial;
- 17 12. For statutory damages pursuant to *Cal. Lab. Code* §226, according to proof;
- 18 13. For payment to Plaintiff and Class members of waiting time penalties pursuant
19 to *Cal. Lab. Code* §203, in an amount equal to their respective daily rates of pay at the time of
20 termination or layoff, multiplied by the total amount of days elapsed between the date of the
21 involuntary termination, and/or 72 hours after notice of the voluntary termination, up to a
22 maximum of 30 days' pay, according to proof;
- 23 14. For specific relief enforcing waiting time penalties of 30 days of per diem wages
24 pursuant to *Cal. Bus. & Prof. Code* §17200 and *Cal. Lab. Code* §203, according to proof;
- 25 15. For prejudgment interest accrued on all due and unpaid overtime and minimum
26 wages from the date that wages were due and payable, pursuant to *Cal. Lab. Code* §§218.6 and
27 1194(a), according to proof;
- 28

1 16. For statutory penalties pursuant to *Cal. Lab. Code* §§ 558, 226.7, 1198.5,
2 according to proof;

3 17. For civil penalties pursuant to *Cal. Labor Code* §1198 and Wage Order No. 5;

4 18. For reasonable costs, including attorneys' fees, in an amount according to proof
5 pursuant to, *inter alia*, *Cal. Labor Code* §§1194, 1198.5(1), 218.5, 2802 and/or *Cal. Code of*
6 *Civ. Proc.* §1021.5;

7 19. For an award of restitution of wages to Plaintiff and Class members in an
8 amount equal to the amount of wages owed and unpaid, according to proof;

9 20. For injunctive relief requiring Defendants to comply with Labor Code
10 1198.5(b)(1);

11 21. For injunctive relief ordering the continuing unfair business acts and practices to
12 cease, as the Court deems just and proper;

13 22. For other injunctive relief ordering Defendants to notify Plaintiff and Class
14 members that they have not been paid the proper amounts in accordance with California law;

15 23. For punitive and exemplary damages in a sum to be determined at trial; and

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

17 **DEMAND FOR JURY TRIAL**

18 Plaintiff Juan Alejandro Vela Luque hereby respectfully requests a trial by jury for all
19 claims and issues raised in his Complaint that may be entitled to a jury trial.

20
21 LIPELES LAW GROUP, APC

22 Date: September 19, 2025

23 
24 By: _____
25 Kevin A. Lipeles
26 Attorneys for Plaintiff
27 Juan Alejandro Vela Luque
28