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11 behalf of other persons similarly situated and similarly aggrieved
12 employees

13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
14 **FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE**

15 EDUARDO GARIBAY RAMIREZ,
16 individually and on behalf of other persons
17 similarly situated and similarly aggrieved
18 employees,

19 Plaintiffs,

20 v.

21 H MART LOGISTICS, INC., an active
22 California Corporation; MOONSTONE PEO,
23 INC., an active Texas Corporation; and DOES
24 1 through 25,

25 Defendants.

FILED
Superior Court of California
County of Los Angeles
03/11/2024
David W. Slayton, Executive Officer / Clerk of Court
By: R. Lozano Deputy

Case No.: 23STCV06670

Assigned to: Hon. Stuart M. Rice
Department: SS-1

**FIRST AMENDED COMPLAINT –
CLASS AND REPRESENTATIVE
ACTION
JURY TRIAL DEMANDED**

1. Failure to Provide Meal Periods;
2. Failure to Provide Paid Rest Periods;
3. Failure to Pay Wages;
4. Failure to Timely Pay Wages at Termination/Separation;
5. Failure to Timely Pay Vacation Wages at Termination;
6. Failure to Provide Accurate Wage Statements;
7. Failure to Reimburse Business Expenses;

8. Violation of Unfair Business Practices Act – Bus. & Prof. Code §§ 17200, *et seq.*; and
9. Penalties Pursuant to Private Attorneys General Act (“PAGA”)

Plaintiff EDUARDO GARIBAY RAMIREZ (“Plaintiff”), on behalf of himself and all others similarly situated, based on information and belief, complains and alleges:

I.

INTRODUCTION

1. This class and representative action lawsuit arises out of the failure of Defendant H MART LOGISTICS, INC. and Defendant MOONSTONE PEO, INC. (collectively referred to hereafter as “Defendants”) to provide meal periods at the proper intervals, to provide rest periods at the proper intervals, to pay all wages owed including overtime, to provide accurate and compliant wage statements, to pay all wages owed to terminated or separated employees in a timely manner, to pay all vacation pay owed to terminated or separated employees, and to reimburse employee business expenses.
2. Defendants employed Plaintiff during the applicable time period, utilizing consistent policies and procedures in violation of Labor Code §200, *et seq.*, Labor Code §500, *et seq.*, Labor Code §1194, *et seq.*, Labor Code §2800, *et seq.*, and the applicable Wage Orders issued by the California Industrial Welfare Commission.
3. Defendants are engaged in the business of supermarket ownership, operation, and related distribution. Plaintiff was hired on or about October of 2021 and separated on or about October of 2022. At all times during said employment, Plaintiff had a non-exempt classification. Plaintiff was employed by Defendants at their facility located at 11966 Washington Boulevard in Whittier, California 90606.

- 1 4. At the time of his separation, Plaintiff was not paid all his wages, including all
2 accrued and vested vacation pay.
- 3 5. Plaintiff was also deprived of lawful meal and rest periods, not paid all wages
4 he was entitled to, and failed to receive accurate and compliant itemized wage
5 statements.
- 6 6. Defendants had a consistent policy of not paying wages, including overtime
7 and double time wages to the extent applicable, for all hours worked inclusive
8 of rounding and work off-the-clock.
- 9 7. Defendants had a consistent policy of requiring their employees, including
10 Plaintiff, to work through meal periods or work without a meal period for at
11 least five (5) hours of a shift and failing to pay such employees one (1) hour of
12 pay at the employees' regular rate of compensation for each workday that the
13 meal period was not provided or as required by California state wage and hour
14 laws.
- 15 8. Defendants had a consistent policy of failing to allow their employees,
16 including Plaintiff, rest periods for at least ten (10) minutes per four (4) hours,
17 or a major fraction worked, and failing to pay such employees one (1) hour of
18 pay at their regular rate of compensation for each workday that the rest period
19 was not provided, or other compensation, as required by California state and
20 wage and hour laws.
- 21 9. Defendants knowingly provided inaccurate wage statements to their
22 employees, including Plaintiff, that did not correctly include the correct wages,
23 including compensation for meal periods not provided and rest period not
24 authorized or permitted as required by California state wage and hour laws.
25 Said wage statements also did not properly identify the employee.
- 26 10. Defendants had a consistent policy of failing to pay their employees, including
27 Plaintiff, all wages including accrued and vested vacation pay, due at the
28 termination or separation, in violation of California state wage and hour laws.

- 1 11. Defendants had a consistent policy of failing to reimburse their employees,
2 including Plaintiff, for all business expenses incurred in the discharge of their
3 duties including for purchase of safety gear.
- 4 12. Plaintiff, on behalf of himself and all Class Members, brings this action
5 pursuant to Lab. Code §§ 201, 202, 203, 204, 210, 226, 226.7, 227.3, 510, 512, 1194,
6 1194.2, 2800, and 2802 seeking unpaid wages, penalties, equitable relief, and
7 reasonable attorneys' fees and costs.
- 8 13. Plaintiff, on behalf of himself and the putative class members, also brings
9 this action pursuant to Bus. & Prof. Code §§ 17200, *et seq.*, seeking injunctive
10 relief, restitution, and disgorgement of all benefits obtained by Defendants as a
11 result of Labor Code and applicable Wage Order violations.
- 12 14. Plaintiff, on behalf of the State of California, himself, and other similarly
13 aggrieved employees, also brings this action pursuant to California Private
14 Attorney General Act ("PAGA"), Cal. Lab. Code §2698, *et seq.* seeking unpaid
15 wages and other compensation, penalties, and reasonable attorneys' fees and
16 costs.

17 **II.**

18 **JURISDICTION AND VENUE**

- 19 15. Venue as to as to each Defendant is proper in this judicial district, pursuant to
20 Code of Civil Procedure § 395. The County of Los Angeles is the proper venue,
21 because work for Defendants was performed by Plaintiff and other class
22 members in the County of Los Angeles and the legal obligations owed by
23 Defendants to Plaintiff and other class members were breached in the County
24 of Los Angeles.
- 25 16. The California Superior Court has jurisdiction in this matter, because Plaintiff is
26 a resident of California, Defendants are qualified to do business in California
27 and regularly conduct business in California.

28 **III.**

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- 1 22. The employees of Defendants have not been provided: uninterrupted thirty-
2 minute meal periods for work periods of more than five (5) hours per day;
3 second uninterrupted thirty-minute meal periods for work periods of more
4 than ten (10) hours per day; and have not been permitted to take ten-minute
5 (10) rest periods for work periods of four (4) hours or major fractions, pursuant
6 to the Labor Code, and applicable IWC Wage Orders.
- 7 23. Defendants failed to pay employees wages owed for all hours worked,
8 including overtime hours as applicable.
- 9 24. Defendants failed to pay Plaintiff and the members of his putative class upon
10 separation the wages earned and unpaid at the time of discharge, including
11 accrued and vested vacation pay or "PTO."
- 12 25. Defendants failed to provide Plaintiff and the putative members of his class, at
13 the time of each payment of wages, an accurate itemized statement in writing,
14 showing the gross wages earned and/or paid, including premium wages owed
15 for failing to provide meal and/or rest periods at the proper intervals. These
16 statements also did not correctly identify the employee.
- 17 26. Defendants failed to fully reimburse Plaintiff and putative members of his class
18 for all their business-related expenditures. In violation of the Labor Code,
19 Plaintiff and putative members of his class did not receive indemnification for
20 all business-related expenditures including for safety gear.
- 21 27. Plaintiff asserts claims for relief on behalf of himself and other similarly
22 situated persons as a class action pursuant to Code of Civil Procedure § 382.
23 Plaintiff and all members of his putative class are described below with
24 specificity and fall in several categories of subclasses whose rights have been
25 violated under the law. Defendants have made no effort as of the filing of this
26 First Amended Complaint to correct or remedy the violations of law specified
27 here.
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V.

CLASS ACTION ALLEGATIONS

28. Plaintiff brings this action on behalf of himself and all other employees of Defendants who are similarly-situated persons as a class action pursuant to California Code of Civil Procedure § 382. There is a well-defined common interest by and among Plaintiff and the putative class members, and it is impractical to bring all those individuals before the court under separate, different and repetitive actions. Plaintiff also reserves the right to amend or modify the class descriptions set forth below in greater specificity or clarity if required in the future in accordance with Rule 3.765 (b), California Rules of Court. The class which Plaintiff seeks to represent is composed of and defined as follows:

“Plaintiff Class” – All of Defendants’ current and former non-exempt employees who worked for Defendants in California, during the four years before the filing of the Complaint through the time of class certification.

29. Plaintiff seeks to certify the following subclasses of employees:

- a) “Meal Period Subclass” – All members of Plaintiff Class who worked each period exceeding five (5) hours without an uninterrupted, off duty, thirty (30) minute meal period and/or periods in excess of ten (10) hours without a second uninterrupted, off duty, thirty (30) minute meal periods; and were not provided compensation of one hour’s pay at the employee’s regular rate of compensation for each day that a meal period was not provided.
- b) “Rest Period Subclass” – All members of Plaintiff Class who worked periods of four (4) hours or major fraction thereof without a duty free rest period of at least 10-minutes and who were not compensated one

hour's pay at the employee's regular rate of compensation for each day that a rest period was not permitted.

- c) "Unpaid Wage Subclass" – All members of Plaintiff Class who were not paid their minimum/actual wages, including any time that was unlawfully rounded by Defendants or otherwise considered as off-the-clock, as well as overtime wages for hours worked in excess of eight hours per day at the one and a half rate (of an employee's regular rate of compensation) or at a double time rate (of an employee's regular rate of compensation) as applicable.
- d) "Waiting Time Subclass" – All members of Plaintiff Class to whom Defendants failed to pay all wages due to them upon termination or resignation under Labor Code §§ 201-203.
- e) "Vacation Pay Subclass" – All members of Plaintiff Class to whom Defendants failed to pay all vacation wages owed, vested or agreed to upon termination or resignation as required by Labor Code §227.3.
- f) "Wage Statement Subclass" – All members of Plaintiff Class to whom Defendants improperly failed to provide accurate itemized wage statements under Labor Code §§ 226.
- g) "Expense Reimbursement Subclass" – All members of Plaintiff Class to whom Defendants failed to fully reimburse employee business expenses as required by Labor Code §2802.
- h) "UCL Subclass" – All members of the Meal Period, Rest Period, Unpaid Wage, Waiting Time, Vacation Pay, Wage Statement, and Expense Reimbursement Subclasses who were subject to unlawful, illegal, unfair and/or deceptive business acts and practices by Defendants and are entitled to disgorgement and restitution of unpaid wages.

1 30. There is a well-defined community of interest among many persons who
2 comprise a readily ascertainable class:

- 3 a) Numerosity -The potential members of the Class and Subclasses as
4 defined here are so numerous that the individual joinder of all of them as
5 named plaintiffs is impracticable. The number of members of the Class
6 and Subclasses is unknown to Plaintiff. It is however estimated that the
7 members are more than 100 individuals, and their identities may readily
8 be ascertained from Defendants' records.
- 9 b) Typicality – The claims of Plaintiff are typical of the claims of all
10 members of the Class and Subclasses, who sustained similar damages
11 arising out of Defendants' common course of conduct in violation of law
12 as alleged.
- 13 c) Ascertainable Class – The proposed Class and Subclasses are
14 ascertainable as the members can readily be identified and located based
15 on Defendants' payroll and personnel records.
- 16 d) Adequacy – Plaintiff is an adequate representative of the Class and
17 Subclasses: Plaintiff will fairly protect the interests of the members, he
18 has no interest adverse to the members, and he will vigorously pursue
19 this lawsuit on behalf of all the members of the Class and Subclasses.
20 Plaintiff's attorneys are competent, skilled and experienced in litigating
21 large employment law class actions.
- 22 e) Superiority - Class action treatment will allow a large number of
23 similarly situated persons to prosecute their common claims in a single
24 forum simultaneously, efficiently, and without the unnecessary
25 duplication of effort and expense that numerous individual actions
26 would require. Further, the monetary amounts due to many individual
27 members of the Class and Subclasses are likely to be relatively small, and
28 the burden and expense of individual litigation would make it difficult

1 or impossible for the members to seek and obtain relief. A class action
2 will serve an important public interest by permitting employees harmed
3 by Defendants' unlawful practices to effectively pursue recovery of the
4 sums owed to them.

- 5 f) Common Questions of Law and Fact – There are common questions of
6 law and fact as to the members of the Class and Subclasses which are
7 superior to questions affecting only individual members of the Class and
8 Subclasses. The common questions of law and fact may be summarized
9 as follows and if necessary will be refined with the progress of formal
10 discovery in the case:
- 11 g) Whether Defendants failed to provide members of Plaintiff Class who
12 ceased employment with Defendants all wages owed at the time of the
13 cessation of the employee-employer relationship?
- 14 h) Whether Defendants violated California law and applicable Wage
15 Orders by failing to provide Plaintiff Class members with paid ten-
16 minute (10) rest periods for each four hours worked?
- 17 i) Whether the remedy for an employer's failure to provide rest breaks as
18 required by law is a premium wage for hardship of missing a lawful rest
19 break?
- 20 j) Whether Defendants violated California law and applicable Wage
21 Orders by failing to provide Plaintiff Class members with thirty minute
22 (30) meal period for more than five hours of work?
- 23 k) Whether Defendants violated California law and applicable Wage
24 Orders by failing to provide members of Plaintiff Class with a second
25 meal period?
- 26 l) Whether the remedy for an employer's failure to provide meal period as
27 required by law is a premium wage for hardship of missing a lawful
28 meal period?

- 1 m) Whether Defendants violated California law, including the applicable
2 wage orders by failing to properly compensate Plaintiff Class members
3 for all hours worked, including overtime hours as applicable?
- 4 n) Whether Plaintiff Class is entitled to waiting time penalties under Labor
5 Code § 203?
- 6 o) Whether Defendants violated Labor Code §227.3 by their failure to
7 provide Plaintiff Class with all vacation wages or PTO owed, vested or
8 agreed to upon termination or separation?
- 9 p) Whether Defendants violated California law by their failure to provide
10 Plaintiff Class with accurate and itemized wage statements?
- 11 q) Whether Defendants have violated Labor Code §2802 by failing to
12 reimburse Plaintiff and the Plaintiff Class for all business expenses
13 incurred by them in direct consequence of the discharge of their duties?
- 14 r) Whether Defendants violated Business and Professions Code §§ 17200 et.
15 seq., Labor Code §§ 201, 202, 203, 204, 210, 226, 226.7, 227.3, 510, 512,
16 1194, 1194.2, 2800, 2802, and applicable Wage Orders which constitute
17 violations of the public policy?
- 18 s) Whether Plaintiff Class is entitled to an equitable relief in accordance
19 with Business and Professions Code §§ 17200 et. seq.
- 20 t) Whether Defendants' affirmative defenses, if any, raise common issues
21 of law and fact as to Plaintiff Class as a whole and/or Subclasses in
22 particular?

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VI.

FIRST CAUSE OF ACTION
FAILURE TO PROVIDE MEAL PERIOD OR
COMPENSATION IN LIEU THEREOF

(Labor Code §§ 226.7, 512)

(By Plaintiff and Meal Period Subclass against Defendants)

31. Plaintiff incorporates paragraphs 1 through 30 of this First Amended Complaint as if fully alleged herein.
32. By their failure to provide thirty minute (30) uninterrupted meal period as well as second meal period, if applicable, to Plaintiff and members of Meal Period Subclass, Defendants willfully violated the provisions of Labor Code §§ 226.7, 512 and applicable IWC Wage Orders.
33. As a result of Defendants' unlawful conduct, Plaintiff and other members of the Subclass have suffered damages as articulated in the Prayer for Relief, set forth below, and fully incorporated here as applicable.

VII.

SECOND CAUSE OF ACTION
FAILURE TO PROVIDE REST PERIODS OR
COMPENSATION IN LIEU THEREOF

(Labor Code § 226.7)

(By Plaintiff and Rest Period Subclass against Defendants)

34. Plaintiff incorporates paragraphs 1 through 30 of this First Amended Complaint as if fully alleged herein.
35. By their failure to provide ten-minute (10) rest periods for every four (4) hours of work or major fraction thereof per day to Plaintiff and Rest Period Subclass, Defendants willfully violated Labor Code § 226.7 and applicable Wage Orders.
36. As a result of Defendants' unlawful conduct, Plaintiff and other members of the Subclass have suffered damages as articulated in the Prayer for Relief, set forth below, and fully incorporated here as applicable.

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VIII.

THIRD CAUSE OF ACTION

FAILURE TO PAY WAGES

(Labor Code §§ 204, 210, 510, 1194, 1194.2)

(By Plaintiff and the Unpaid Wage Subclass against Defendants)

37. Plaintiff incorporates paragraphs 1 through 30 of this First Amended Complaint as if fully alleged herein.

38. At all relevant times, Plaintiff and the other members of the Unpaid Wage Class were employees of Defendants covered by Labor Code §§ 204, 210, 510, 1194, 1194.2 and applicable Wage Orders, and they were entitled to receive minimum and overtime wages for all hours worked and liquidated damages equal to unlawfully unpaid minimum wages with interest.

39. Defendants have violated California law and the specified provisions of the Labor Code and applicable Wage Orders by their failure to pay all wages due in accordance, including minimum wages, wrongfully classified off-the-clock wages and overtime pay. Notably, any wages that were paid were not effectively paid within seven (7) days of the close of any applicable payroll period. As a result of Defendants' unlawful conduct, Plaintiff and other members of the Subclass have suffered damages as articulated in the Prayer for Relief, set forth below, and fully incorporated here as applicable.

IX.

FOURTH CAUSE OF ACTION

FAILURE TO PAY WAGES DUE AT TERMINATION

(Labor Code §§ 201, 202, 203)

(By Plaintiff and Waiting Time Subclass against Defendants)

40. Plaintiff incorporates paragraphs 1 through 30 of this First Amended Complaint as if fully alleged herein.

41. By their failure to timely pay Plaintiff and Waiting Time Subclass, Defendants willfully violated the provisions of Labor Code §§ 201, 202, 203 and applicable

1 Wage Orders. Sec. 203 of Labor Code provides that if an employer willfully fails
2 to timely pay such wages, the employer must, as penalty, continue to pay the
3 employee's wages until the back wages are paid in full or an action is
4 commenced.

5 42. As a result of Defendants' unlawful conduct, Plaintiff and other members of the
6 Subclass have suffered damages as articulated in the Prayer for Relief, set forth
7 below, and fully incorporated here as applicable.

8 X.

9 **FIFTH CAUSE OF ACTION**
10 **FAILURE TO PAY VACATION WAGES DUE AT TERMINATION**
11 **(Labor Code §227.3)**
12 **(By Plaintiff and Vacation Pay Subclass against Defendants)**

13 43. Plaintiff incorporates paragraphs 1 through 30 of this First Amended Complaint
14 as if fully alleged herein.

15 44. By their failure to timely pay Plaintiff and Vacation Pay Subclass, Defendants
16 willfully violated the provisions of Labor Code §227.3. Section 227.3 of Labor
17 Code provides that whenever a contract of employment or employer policy
18 provides for paid vacation, and an employee is terminated without having
19 taken off his or her vested vacation time, all vested vacation shall be paid to
20 him as wages at his or her final rate in accordance with such contract of
21 employment or employer policy respecting eligibility of time served; provided,
22 however, that an employment contract or employer policy shall not provide for
23 forfeiture of vested vacation time upon termination.

24 45. As a result of Defendants' unlawful conduct, Plaintiff and other members of the
25 Subclass have suffered damages as articulated in the Prayer for Relief, set forth
26 below, and fully incorporated here as applicable.

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XI.

SIXTH CAUSE OF ACTION
FAILURE TO PROVIDE ITEMIZED WAGE STATEMENTS
(Labor Code §226)
(By Plaintiff and Wage Statement Subclass against Defendants)

46. Plaintiff incorporates paragraphs 1 through 30 of this First Amended Complaint as if fully alleged herein.
47. By their failure to provide accurate itemized wage statements, semimonthly or at the time of each payment of wages, Defendants willfully violated the provisions of Labor Code §226 and applicable Wage Orders.
48. As a result of Defendants' unlawful conduct, Plaintiff and other members of the Subclass have suffered damages as articulated in the Prayer for Relief, set forth below, and fully incorporated here as applicable.

XII.

SEVENTH CAUSE OF ACTION
FAILURE TO REIMBURSE ALL BUSINESS EXPENSES
(Labor Code §§2800, 2802)
(By Plaintiff and Expense Reimbursement Subclass against Defendants)

49. Plaintiff incorporates paragraphs 1 through 30 of this First Amended Complaint as if fully alleged herein.
50. Labor Code § 2800 provides, in pertinent part, "[a]n employer shall in all cases indemnify his employee for losses caused by the employer's want of ordinary care."
51. Labor Code § 2802 provides, in pertinent part, "[a]n employer shall indemnify his or his employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or his duties..."
52. Further, Labor Code § 2802 additionally provides, in pertinent part: "(c)...the term 'necessary expenditures or losses' shall include all reasonable costs,

1 including but not limited to, attorney's fees incurred by the employee enforcing
2 the rights granted by this section."

- 3 53. During the relevant time period, Defendants were required to reimburse
4 Plaintiff and class members for all expenditures or losses caused by the
5 employer's want of ordinary care and/or incurred in direct consequence of the
6 discharge of their duties, but failed to indemnify and reimburse Plaintiff and
7 class members in violation of Labor Codes §§ 2800 and 2802.
- 8 54. As a direct and proximate result, Plaintiff and class members have suffered, and
9 continue to suffer, substantial losses, related to the use and enjoyment of such
10 monies to be reimbursed, lost interest on such monies, and expenses and
11 attorney's fees in seeking to compel Defendants to fully perform their
12 obligations under California law, all of their damage in amounts according to
13 proof at the time of trial.

14 **XIII.**

15 **EIGHTH CAUSE OF ACTION**
16 **VIOLATION OF UNFAIR BUSINESS PRACTICES ACT**
17 **(Bus. & Prof. Code §§ 17200, *et seq.*)**
18 **(By Plaintiff, Plaintiff Class and All Subclasses against Defendants)**

- 19 55. Plaintiff incorporates paragraphs 1 through 54 of this First Amended Complaint
20 as if fully alleged herein.
- 21 56. The alleged unlawful conduct of Defendants constitutes unfair competition
22 pursuant to Business and Professions Code §§ 17200 *et seq.*, and this cause of
23 action is brought as a cumulative remedy under Bus. & Prof. Code § 17205 for
24 the time period starting four (4) years before the filing of the Complaint.
- 25 57. As a result, Plaintiff and other members of Plaintiff Class and Subclasses have
26 suffered injury in fact and lost money or property. Plaintiff and said members
27 have been deprived of their rights as set forth in this First Amended Complaint,
28 including, but not limited to, payment of minimum and/or actual wages for all
hours worked.

1 58. Pursuant to Business and Professions Code § 17203, Plaintiff and other
2 members of Plaintiff Class and Subclasses are entitled to restitution of all wages
3 owed to them under the Labor Code, and interest thereon, in which they had a
4 property interest, which Defendants failed to pay to them but withheld and
5 retained for themselves. Restitution of the money owed to Plaintiff, Plaintiff
6 Class and Subclasses is necessary to prevent Defendants from becoming
7 unjustly enriched by their failure to comply with the Labor Code provisions.

8 59. Plaintiff and members of Plaintiff Class and Subclasses are entitled to recover
9 reasonable attorney's fees in connection with their unfair competition claims
10 pursuant to Code of Civil Procedure § 1021.5, the substantial benefit doctrine
11 and/or the common fund doctrine.

12 60. Plaintiff requests the court to issue a preliminary and permanent injunction
13 prohibiting Defendants from committing the Labor Code and applicable Wage
14 Order violations set forth in this First Amended Complaint, and Plaintiff and
15 the members of Plaintiff Class and Subclasses have suffered further damages as
16 articulated in the Prayer for Relief, set forth below, also incorporated here fully
17 as applicable.

18 **XIV.**

19 **NINTH CAUSE OF ACTION**

20 **VIOLATION OF CALIFORNIA'S PRIVATE ATTORNEY GENERAL ACT**

21 **(LABOR CODE § 2699 *et seq.*)**

22 **(By Plaintiff and Aggrieved Employees Against Each Defendant)**

23 61. Plaintiff incorporates paragraphs 1 through 60 of this First Amended Complaint
24 as if fully alleged herein.

25 62. Under the Private Attorney General Act, Labor Code §§ 2698-99 ("PAGA"),
26 private parties may recover civil penalties for violations of the California Labor
27 Code. PAGA penalties are in addition to any other relief available under the
28 Labor Code.

1 63. As set forth above, Defendant violated the California Labor Code by
2 consistently failing to employ Plaintiff and other similarly situated employees
3 in compliance with California law.

4 64. Plaintiff provided written notice by certified mail to Defendants on August 23,
5 2023, and electronic notice thereafter to the State Labor & Workforce
6 Development Agency ("LWDA"), of the legal claims and theories of this case.
7 To date, and after 65 days from the date of mailing of notice, the LWDA has not
8 notified Plaintiff that the LWDA intends to exercise jurisdiction over the claim
9 for civil penalties under the PAGA. Accordingly, Plaintiff exhausted
10 administrative remedies as required by Labor Code § 2699.3. Plaintiff's PAGA
11 claim was assigned case number LWDA-CM-944716-23 by the LWDA.
12 Appended hereto is a copy of the notice communicated by Plaintiff.

13
14 65. Under the PAGA, Plaintiff and all other aggrieved employees are entitled to
15 recover the maximum civil penalties permitted by law from Defendant for the
16 violations of Labor Code alleged in this First Amended Complaint and the
17 notice communicated by Plaintiff.

18 66. Plaintiff and all other aggrieved employees are also entitled to recover their
19 attorneys' fees and costs under Labor Code § 2699.

20 **XV.**

21 **PRAYER FOR RELIEF**

22 **WHEREFORE**, on behalf of himself and all others similarly situated, Plaintiff
23 prays for relief and judgment against Defendants as follows:

24 A. An order certifying that Plaintiff may pursue his claims as a class action
25 under Section 382 of the Code of Civil Procedure; and it is further requested that
26 Plaintiff Class and each Plaintiff Subclass be certified;

27 B. An order appointing Plaintiff as Class representative;

28 C. An order appointing Plaintiff's counsel as Class counsel;

1 D. Disgorgement of Defendants' wrongfully obtained profits and restitution
2 of unpaid wages under Business and Professions Code §§ 17203, 17204;

3 E. Damages for unpaid additional compensation for failing to provide
4 timely or uninterrupted or lawful meal periods and rest periods;

5 F. Damages for unpaid minimum wages under Labor Code § 1194;

6 G. Liquidated damages under Labor Code § 1194.2;

7 H. Statutory penalties under Labor Code § 210;

8 I. Statutory penalties under Labor Code § 226(e);

9 J. Damages for unpaid penalty wages under Labor Code § 203;

10 K. Reimbursement of business expenses under Labor Code § 2802;

11 L. Damages for unpaid vacation wages at the time of discharge under
12 Labor Code § 227.3;

13 M. Reasonable attorney's fees and costs pursuant to statute, including, but
14 not limited to Labor Code § 218.5 and Code of Civ. Proc. § 1021.5;

15 N. Enjoinment of Defendants from further acts of unfair competition and
16 continuous violations of the Labor Code and applicable Wage Orders;

17 O. Civil penalties under Labor Code Section 2699 (75% payable to the
18 LWDA and 25% payable to aggrieved employees); and

19 P. For such other relief that the Court may deem just and proper, including
20 prejudgment interest and costs.

21
22 DATED: March 8, 2024

MOORADIAN LAW, APC

23
24 By: /s/Haik Hacopian

25 **Zorik Mooradian,**

26 **Haik Hacopian,**

27 Attorneys for Plaintiff and the putative class
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DEMAND FOR A JURY TRIAL

Plaintiff EDUARDO GARIBAY RAMIREZ hereby demands a jury trial in the
above case.

DATED: March 8, 2024

MOORADIAN LAW, APC

By: /s/Haik Hacopian

Zorik Mooradian,

Haik Hacopian,

Attorneys for Plaintiff and the putative class

PROOF OF SERVICE
23STCV06670

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and am not a party to the within action, my business address is 24007 Ventura Blvd., Suite 210, Calabasas, CA 91302.

On **March 8, 2024**, I served on the parties of record in this action the foregoing document(s) described as:
FIRST AMENDED COMPLAINT – CLASS AND REPRESENTATIVE ACTION

on the parties to this action by placing them in a sealed envelope(s) addressed as follows:

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☒ **VIA ELECTRONIC SERVICE** – Based on a court order or agreement of the parties to accept service by electronic transmission, I caused the document(s) to be sent to the above persons listed at their electronic notification addresses by uploading to the CaseAnywhere electronic service platform.

1 ☒ **STATE** – I declare under penalty of perjury under the laws of the “State of
2 California that the above is true and correct.

3 Executed on **March 8, 2024** at Calabasas, California.

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5 /s/Haik Hacopian

6 Haik Hacopian
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PROOF OF SERVICE