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Electronically FILED by
Superior Court of California,
County of Los Angeles
6/02/2023 2:49 PM
David W. Slayton,
Executive Officer/Clerk of Court,
By D. Jackson Aubry, Deputy Clerk

SUPERIOR COURT OF CALIFORNIA

COUNTY OF LOS ANGELES

RAFAEL ARIAS GARCIA, individually
and on behalf of all individuals similarly
situated,

Plaintiff,

vs.

GOLD CARPENTRY, INC., a California
corporation; GOLD CARPENTRY, LLC, a
California limited liability company; IDAN
GOLDBERG, an individual; and DOES 1
through 50, inclusive,

Defendants.

CASE NO. 23STCV12495

CLASS ACTION COMPLAINT

- 1. FAILURE TO COMPENSATE ALL HOURS WORKED IN VIOLATION OF INDUSTRIAL WELFARE COMMISSION ORDER NO. 4 AND CAL. LABOR CODE §§ 200, 226, 500, 510, 1194, 1197, AND 1198;**
- 2. FAILURE TO PAY MINIMUM WAGES IN VIOLATION OF LABOR CODE §§ 1182.12, 1194, 1194.2, 1197;**
- 3. FAILURE TO PAY OVERTIME AND DOUBLE TIME COMPENSATION IN VIOLATION OF CAL. LABOR CODE § 1194, ET SEQ.;**
- 4. FAILURE TO PROVIDE WAGE STATEMENTS IN VIOLATION OF CAL. LABOR CODE § 226;**
- 5. MISSED MEAL AND REST BREAKS IN VIOLATION OF LABOR CODE §§ 200, 226.7, 512, AND 12 CALIFORNIA CODE OF CIVIL REGULATIONS § 11050**
- 6. FAILURE TO PAY COMPENSATION UPON TERMINATION OF EMPLOYMENT IN VIOLATION OF CAL. LABOR CODE § 201-203;**
- 7. VIOLATION OF LABOR CODE §§ 2698, ET SEQ. (“PAGA”); AND**

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- 8. VIOLATIONS OF CAL. B&P CODE §§ 17200,
ET SEQ.;
- 9. FAILURE TO PERMIT INSPECTION OF
PERSONNEL AND PAYROLL RECORDS IN
VIOLATION OF CAL. LABOR CODE § 1198.5

DEMAND FOR JURY TRIAL

1 Plaintiff RAFAEL ARIAS GARCIA, an individual and on behalf of all individuals similarly
2 situated (“Plaintiff”), hereby brings this Class Action Complaint for Damages against Defendants
3 GOLD CARPENTRY, INC. (“GCI”), a California corporation; GOLD CARPENTRY, LLC (“GCL”),
4 a California limited liability company; IDAN GOLDBERG (“GOLDBERG”), an individual, and
5 DOES 1 through 50, inclusive, (collectively, “Defendants”) and states and alleges as follows:

6 **THE PARTIES**

7 1. Plaintiff was, at all times relevant to this Complaint, an adult individual living and
8 working in Los Angeles County, California.

9 2. At all times relevant to this Complaint, Defendant GCI is and was a California
10 corporation operating a business within the State of California, specifically in the County of Los
11 Angeles.

12 3. At all times relevant to this Complaint, Defendant GCL is and was a California limited
13 liability company operating a business within the State of California, specifically in the County of Los
14 Angeles.

15 4. Plaintiff is unaware of the true names or capacities of Defendants sued herein under the
16 fictitious names DOES 1–50 but prays for leave to amend and serve such fictitiously named Defendants
17 pursuant to California Code of Civil Procedure section 474 once their names and capacities become
18 known.

19 5. Plaintiff is informed and believes, and thereon alleges, that DOES 1–50 are the partners,
20 agents, owners, shareholders, managers, principals or employees of Defendants and/or were acting on
21 behalf of Defendants.

22 6. Plaintiff is informed and believes, and thereon alleges, that each and all of the acts and
23 omissions alleged herein was performed by or is attributable to Defendants and/or DOES 1–50, each
24 acting as the agent for the other, with legal authority to act on the other’s behalf. The acts of any and
25 all Defendants were in accordance with, and represent the policy of, all Defendants.

26 7. At all times herein mentioned, Defendants, and each of them, ratified each and every
27 act or omission complained of herein. At all times herein mentioned, Defendants, and each of them,
28 aided and abetted the acts and omissions of each and all of the other Defendants in proximately causing

1 the damages herein alleged.

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

5 **JURISDICTION**

6 9. This action is properly filed in Los Angeles County because the acts and omissions that
7 give rise to Plaintiff's claims took place in Los Angeles County, California, as Plaintiff was employed
8 by Defendants in Los Angeles County, California, and Defendants transact business in this County.

9 10. This Court has jurisdiction over Defendants because Defendants have sufficient
10 minimum contacts with and regularly conduct business within the State of California, specifically in
11 the County of Los Angeles.

12 **ALTER EGO, AGENCY, AND JOINT EMPLOYER**

13 11. GOLDBERG owned and/or controlled the businesses operated by GCI and GCL, and
14 furthermore, GOLDBERG exercised control over the labor practices of each and every one of the
15 employees (inclusive of Plaintiff) of each and every one of their said interests, and caused the violations
16 at issue in this Complaint.

17 12. Based on the foregoing allegations, GOLDBERG, in fact, caused violations at-issue in
18 this Complaint, thereby creating individual liability under Labor Code § 558.1.

19 13. Pursuant to the provisions of Labor Code § 558, the liability of GOLDBERG would
20 include any and all amounts sufficient to recover any and all missed meal and rest break premiums and
21 unpaid wages to Plaintiff and the Class Members.

22 14. As further referenced hereinbelow, the viability of obtaining liability of individuals by
23 this method was discussed by the California Supreme Court in *Reynolds v. Bement* (2005) 36 Cal.4th
24 1075, 1089 where the court noted that individual liability against non-employers could be obtained
25 through the use of § 558.

26 15. PLAINTIFF is informed and believes, and based thereon alleges, that there exists such
27 a unity of interest and ownership between GCI, GCL, GOLDBERG, and DOES 1-50 that the
28 individuality and separateness of defendants have ceased to exist.

1 16. PLAINTIFF is informed and believes, and based thereon alleges, that despite the
2 formation of purported corporate existence, GCI, GCL, GOLDBERG, and DOES 1-50 are, in reality,
3 one and the same, including, but not limited to because:

4 a. GCI and GCL are or were completely dominated and controlled by GOLDBERG and
5 DOES 1-50, who personally committed the frauds and violated the laws as set forth in this
6 complaint, and who have hidden and currently hide behind GCI and GCL to perpetrate frauds,
7 circumvent statutes, or accomplish some other wrongful or inequitable purpose.

8 b. GOLDBERG and DOES 1-50 have acted on behalf of GCI and GCL, who violate, or
9 cause to be violated, the provisions regulating minimum wages or hours and days of work in
10 any order of the Industrial Welfare Commission, or violate, or cause to be violated, California
11 Labor Code Sections 203, 226, 226.7, 510, 1194, 1197, or 2802.

12 c. GOLDBERG and DOES 1-50 have acted on behalf of GCI and GCL, who violate, or
13 cause to be violated, the provisions regulating meal and rest breaks in any order of the Industrial
14 Welfare Commission, or violate, or cause to be violated, California Labor Code Sections 226.7,
15 and 512.

16 d. GOLDBERG and DOES 1-50 derive actual and significant monetary benefits by and
17 through GCI and GCL as the funding sources for their own personal expenditures.

18 e. Plaintiff is informed and believes that GOLDBERG, GCI, GCL, and DOES 1-50, while
19 really one and the same, were segregated to appear as though separate and distinct for purposes
20 of perpetrating a fraud, circumventing a statute, or accomplishing some other wrongful or
21 inequitable purpose.

22 f. Plaintiff is informed and believes that GCI and GCL do not or did not comply with all
23 requisite corporate formalities to maintain a legal and separate corporate existence.

24 g. Plaintiff is informed and believes, and based thereon alleges, that the business affairs of
25 GOLDBERG, GCI, GCL, and DOES 1-50 are, and at all times relevant were, so mixed and
26 intermingled that the same cannot reasonably be segregated, and the same are in inextricable
27 confusion.

28 h. GCI and GCL are, and at all times relevant hereto was, used by GOLDBERG and DOES

1 1-50 as a mere shell and conduit for the conduct of certain of Defendants' affairs, and is, and
2 was, the alter ego of GOLDBERG and DOES 1-50. The recognition of the separate existence
3 of GCI and GCL, and/or GOLDBERG would not promote justice, in that it would permit
4 Defendants to insulate themselves from liability to Plaintiffs for violations of the Labor Code.
5 The corporate existence of GOLDBERG, GCI, GCL, and DOES 1-50 should be disregarded in
6 equity and for the ends of justice because such disregard is necessary to avoid fraud and
7 injustice to Plaintiff herein.

8 17. Accordingly, GCI and GCL constitute the alter egos of GOLDBERG and DOES 1-50,
9 and the fiction of their separate corporate existence must be disregarded.

10 18. As a result of the aforementioned facts, Plaintiff is informed and believes, and based
11 thereon alleges that GCI, GCL, GOLDBERG, and DOES 1-50 are Plaintiff's joint employers by virtue
12 of a joint enterprise, and that Plaintiff was an employee of GCI, GCL, GOLDBERG, and DOES 1-50.
13 Plaintiff performed services for each and every one of Defendants, and to the mutual benefit of all
14 Defendants, and all Defendants shared control of Plaintiff as an employee, either directly or indirectly,
15 and the manner in which Defendants' business was and is conducted.

16 **FACTUAL ALLEGATIONS**

17 19. Plaintiff worked for Defendants as an hourly, non-exempt employee in the position of
18 "Installer" since on or around 2013 until on or around February 2023.

19 20. Plaintiff's job duties included construction work on residential property including
20 renovating kitchens, ceilings, and bathrooms. Plaintiff regularly worked from 6 a.m. to 6 p.m., or
21 longer, Monday through Saturday. However, Plaintiff's work hours would often last until 8 p.m., and
22 sometimes even up to 10 p.m.

23 21. Despite the fact that these events would push Plaintiff and the Class Members' total
24 working hours for the week over 40 hours and more than eight (8) hours a day, Defendants did not
25 properly compensate Plaintiff and the Class Members with overtime rates. Specifically, despite
26 Plaintiff working twelve (12) hour shifts, Defendants would pay Plaintiff and the Class Members'
27 regular rates for those twelve hours worked and paid Plaintiff and the Class Members at their regular
28 rates for the four (4) hours of overtime.

1 22. Furthermore, Plaintiff and the Class Members often worked more than twelve (12) hours
2 a day, but Defendants did not properly compensate Plaintiff and the Class Members with proper double
3 time rates.

4 23. Also, throughout Plaintiff's employment with Defendants, Plaintiff was not given a
5 proper second thirty (30) minute meal break as required by law on days where Plaintiff worked more
6 than ten (10) hours a day. Thus, even on days where Plaintiff properly received his first meal period,
7 Defendants failed to provide Plaintiff with his second meal period and never paid Plaintiff the one (1)
8 hour of pay at his regular rate of compensation for each workday where a legally compliant second
9 meal period was not provided.

10 24. Moreover, throughout their employment with Defendants, Plaintiff and the Class
11 Members routinely worked for Defendants without being provided with a timely, off-duty ten-minute
12 paid rest period for every four (4) hours worked or major fraction thereof. Despite the aforementioned,
13 during their employment with Defendants, Plaintiff and the Class Members were not paid one (1) hour
14 of pay at their regular rate of compensation for each workday where a legally compliant rest period
15 was not provided.

16 25. Despite the aforementioned, during their employment with Defendants, Plaintiff and the
17 Class Members were not paid one (1) hour of pay at their regular rate of compensation for each workday
18 where a legally compliant meal period was not provided nor were they paid one (1) hour of pay at their
19 regular rate of compensation for each workday where a legally compliant rest period was not provided.

20 26. Defendants also required Plaintiff and the Class Members to come in to work about
21 fifteen (15) minutes before their shifts every day for an early meeting. During these meetings
22 Defendants would notify Plaintiff and the Class Members where they would be dispatched for the day.
23 However, Defendants never paid Plaintiff and the Class Members for those additional minutes.

24 27. As a result of Defendants' failure to pay all hours worked, failure to pay proper overtime
25 and double time wages, and failure to pay all meal and rest premiums, Defendants maintained
26 inaccurate payroll records. Furthermore, Defendants paid Plaintiff and the Class Members by cash and
27 never issued wage statements to Plaintiff and the Class Members.
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28. Defendants have engaged in, and continue to engage in, unfair business practices in California by practicing, employing, and utilizing the employment practices and policies outlined above. Defendants' utilization of such unfair business practices constitutes unfair competition and provides an unfair advantage over Defendants' competitors. Defendants' utilization of such unfair business practices deprives Plaintiff and the Class Members of the general minimum working standards and entitlements due to them under California law and the Industrial Welfare Commission wage orders as described herein.

29. As a direct result of the wage and hour violations herein alleged, Plaintiff and the Class Members have suffered, and continue to suffer, substantial losses related to the use and enjoyment of wages, lost interest on such wages, and expenses and attorney's fees in seeking to compel Defendants to fully perform their obligations under state law, all to their respective damage in amounts according to proof at the time of trial.

CLASS ACTION ALLEGATIONS

30. Plaintiff brings this action as a class action on behalves of the following defined Class:
The Class: All individuals who have been, or currently are, employed by Defendants as “non-exempt employees” during the Class Period.

31. “Class Period” is defined as the time from June 2, 2019, through the date that judgment is entered, based upon information and belief that the violations, as described more fully hereinafter, began long before June 2, 2019, and are continuing. Plaintiff and members of Class herein reserve the right to amend this Complaint to reflect a different Class Period as discovery in this matter proceeds.

32. Numerosity: Plaintiff is informed and believes, and on that basis alleges, that during the Class Period, dozens of Class members have been employed by Defendants as non-exempt employees in the State of California. Because so many persons have been employed by Defendants in this capacity, the members of the Plaintiffs' Class are so numerous that joinder of all members is impossible and/or impracticable.

33. Commonality: Common questions of law, in fact, exist as to all members of the Plaintiffs' Class *and predominate over any questions affecting solely individual members of the*

1 *Plaintiffs' Class. Among the questions of law and fact, that are relevant to the adjudication of Class*
2 *members claims are as follows:*

3 (a) Whether Defendants had/have policies and/or practices that result in hours worked not
4 being properly compensated;

5 (b) Whether Defendants unlawfully failed to properly calculate and pay overtime and
6 double time compensation due and owing to the Plaintiff and members of the Class in violation
7 of Labor Code § 1194;

8 (c) Whether Defendants' policy and/or practice of failing to accurately pay overtime and
9 double time to Plaintiff and members of the Class violates applicable provisions of California
10 Law, including Labor Code sections, applicable Industrial Welfare Commission Orders, and
11 applicable State Regulations;

12 (d) Whether Defendants had/have a policy and/or practice that resulted in Plaintiff and the
13 Class not receiving any wage statements;

14 (e) Whether Defendants unlawfully and/or willfully failed to furnish Plaintiff and Class
15 members with accurate, itemized wage statements upon payment of wages in violation of Labor
16 Code § 226;

17 (f) Whether Defendants unlawfully and/or willfully deprived Plaintiff and Class Members
18 of meal and rest breaks and pay for missed breaks pursuant to Labor Code §§ 200, 226.7, 512,
19 and 12 CCR § 11040;

20 (g) Whether Plaintiff and Class members sustained damages, and if so, the proper measure
21 of such damages, as well as interest, penalties, costs, attorneys' fees, and equitable relief; and,

22 (h) Whether Defendant violated the Unfair Competition Law of California, §17200, *et seq.*,
23 by violating the above-cited provisions, and treating Plaintiff and Class members unfairly by
24 failing to pay all wages due and for all hours worked, failing to reimburse for business expenses;
25 failing to provide meal and rest breaks; failing to furnish an accurate, itemized wage statement
26 upon payment of wages.

27 34. Typicality: Plaintiff's claims are typical of the members of the Plaintiff's Class.
28 Plaintiff, like other members of the Class working for Defendants in California, was subjected to

1 Defendants' policies and/or practices set forth above. Plaintiff's job duties were, and are, typical of
2 those of other Class members.

3 35. Adequacy of Representation: Plaintiff will fairly and adequately protect the interests of
4 the members of the Class and have retained counsel competent and experienced in both class action
5 and employment litigation.

6 36. Questions of law or fact common to Class members predominate over any questions
7 solely affecting individual Class members and class action is superior to other available methods for
8 the fair and efficient adjudication of this controversy.

9 37. Class action treatment will allow a large number of similarly situated Class members to
10 simultaneously and efficiently prosecute his common claims in a single forum without the needless
11 duplication of effort and expense that numerous individual actions would entail.

12 38. In addition, a class action will serve the important public interest of permitting Class
13 members harmed by Defendants' unlawful policies and/or practices to effectively pursue recovery of
14 the sums owed to them.

15 39. Plaintiff knows of no difficulty which will be encountered in the management of this
16 litigation which would preclude its maintenance as a class action.

17 **FIRST CAUSE OF ACTION**

18 **FAILURE TO COMPENSATE ALL HOURS WORKED IN VIOLATION OF**
19 **INDUSTRIAL WELFARE COMMISSION ORDER NO. 4 AND LABOR CODE §§200, 226,**
20 **500, 510, 1194, 1197, AND 1198**

21 **(BY PLAINTIFF AGAINST ALL DEFENDANTS)**

22 40. Plaintiff hereby re-alleges, and incorporates by reference as though set forth fully herein,
23 the allegations contained in all preceding paragraphs.

24 41. At all times relevant herein, Defendants were required to compensate its non-exempt
25 employees for all hours worked, pursuant to Industrial Welfare Commission Order 4, and Labor Code
26 §§ 200, 226, 500, 510, 1197, 1194 and 1198.

27 42. As alleged above, Plaintiff and the Class were not paid the correct minimum wage or
28 overtime and double time wages for all hours worked.

1 43. Under the aforementioned wage orders and regulations, Plaintiff and the Class are
2 entitled to recover compensation for all hours worked, but not paid, during the Class Period, plus
3 reasonable attorneys' fees and costs of suit pursuant to Labor Code §§ 218.5, 1194, and penalties
4 pursuant to Labor Code §§ 203 and 226.

5 44. In violation of state law, Defendants have knowingly and willfully refused to perform
6 their obligations to compensate Plaintiff and the Class for all wages earned and all hours worked. As a
7 direct result, Plaintiff and the Class have suffered, and continue to suffer, substantial losses related to
8 the use and enjoyment of such wages, lost interest on such wages, and expenses and attorneys' fees in
9 seeking to compel Defendants to fully perform their obligations under state law, all to their respective
10 damage in amounts according to proof at time of trial.

11 45. Plaintiff and the Class are thus entitled to recover nominal, actual and compensatory
12 damages in amount according to proof at time of trial, but in amounts in excess of the jurisdiction of
13 this Court.

14 46. As a proximate result of the aforementioned violations, Plaintiff and the Class have been
15 damaged in an amount according to proof at time of trial.

16 47. Defendants' conduct described herein violates Industrial Welfare Commission Order 4,
17 and Labor Code §§ 200, 203, 218.5, 226, 558, 1194, and 1198. Therefore, pursuant to 12 CCR § 11040
18 and Labor Code §§ 203, 218.5, 226, 558, 1194 and 1198, Plaintiff and the Class are entitled to recover
19 damages for the nonpayment of wages of all hours worked that were improperly deducted and/or not
20 counted as a result of Defendants' policies, liquidated damages for underpayment of minimum wages,
21 penalties, reasonable attorneys' fees, expenses, and costs of suit.

22 48. WHEREFORE, Plaintiff requests relief as hereinafter provided.

23 **SECOND CAUSE OF ACTION**

24 **FAILURE TO PAY MINIMUM WAGES IN VIOLATION OF**

25 **LABOR CODE §§ 1182.12, 1194, 1194.2, 1197**

26 **(By PLAINTIFF AGAINST ALL DEFENDANTS)**

27 49. Plaintiff hereby re-alleges, and incorporates by reference as though set forth fully herein,
28 the allegations contained in all preceding paragraphs.

1 50. Pursuant to Labor Code § 1197, payment of less than the minimum wage fixed by law
2 is unlawful. An employer violates the minimum wage statute even if the average rate for paid and
3 unpaid hours exceeded the minimum wage.

4 51. At all relevant times, Defendants failed and refused to pay Plaintiff and the Class the
5 legal minimum wage in the State of California, as set forth in Labor Code §1182.12. Under California
6 law, Plaintiff and the Class are entitled to at least the minimum wage for every hour worked.

7 52. Defendants' failure to pay the legal minimum wage to Plaintiff and the Class as alleged
8 herein is unlawful and creates entitlement, pursuant to Labor Code §1197, to recovery by Plaintiff and
9 the Class in a civil action for the unpaid balance of the full amount of the unpaid wages owed, calculated
10 as the difference between the straight time compensation paid and applicable minimum wage, including
11 interest thereon.

12 53. As a direct result, Plaintiff and the Class have suffered, and continue to suffer,
13 substantial losses related to the use and enjoyment of such wages, lost interest on such wages, and
14 expenses and attorneys' fees in seeking to compel Defendants to fully perform their obligations under
15 state law, all to his damage in amounts according to proof at time of trial, but in amounts in excess of
16 the minimum jurisdiction of this Court.

17 54. Defendants have committed the acts alleged herein knowingly and willfully, with the
18 wrongful and deliberate intention of injuring Plaintiff and the Class, from improper motives amounting
19 to malice, and in conscious disregard of Plaintiff and the Class' rights. Plaintiff and the Class are thus
20 entitled to recover nominal, actual and compensatory damages in amounts according to proof at time
21 of trial, but in amounts in excess of the minimum jurisdiction of this Court.

22 55. Pursuant to Labor Code § 1194, Plaintiff requests that the court award reasonable
23 attorneys' fees and costs incurred by Plaintiff in this action.

24 56. In addition, pursuant to Labor Code §1194.2, Plaintiff and the Class are entitled to
25 recover liquidated damages in an amount equal to the minimum wages unlawfully unpaid and interest
26 thereon.

27 57. WHEREFORE, Plaintiff requests relief as hereinafter provided.

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1 **THIRD CAUSE OF ACTION**

2 **FAILURE TO PAY FULL OVERTIME AND DOUBLE TIME COMPENSATION**

3 **IN VIOLATION OF CAL. LABOR CODE SECTION 1194, *ET SEQ.***

4 **(BY PLAINTIFF AGAINST ALL DEFENDANTS)**

5 58. Plaintiff hereby re-alleges, and incorporates by reference as though set forth fully herein,
6 the allegations contained in all preceding paragraphs.

7 59. Pursuant to the applicable Industrial Welfare Commission Order and Labor Code
8 §§ 200, 226, 500, 510, 1194, and 1198, Defendants were required to compensate Plaintiff and the Class
9 for all overtime work performed for the benefit of Defendants, which is calculated at one and one-half
10 (1-1/2) times the regular rate of pay for hours worked in excess of eight (8) hours per day and/or forty
11 (40) hours per week, and for the first eight (8) hours on the seventh consecutive work day; with double
12 time after eight (8) hours on the seventh day of any work week, or after 12 hours in any work day

13 60. Plaintiff and the Class were non-exempt employees entitled to the protections of the
14 Industrial Welfare Commission and Labor Code §§ 200, 226, 500, 510, 1194, and 1198. During the
15 course of Plaintiff's and the Class' employment, Defendants failed to compensate Plaintiff and the
16 Class for all overtime and double time hours worked as required under the aforementioned labor codes
17 and regulations.

18 61. In violation of state law, Defendants have knowingly and willfully refused to perform
19 their obligations to compensate Plaintiff and the Class for all overtime and double time wages earned
20 and all hours worked.

21 62. As a direct result, Plaintiff and the Class have suffered, and continues to suffer,
22 substantial losses related to the use and enjoyment of such wages, lost interest on such wages, and
23 expenses and attorneys' fees in seeking to compel Defendants to fully perform their obligations under
24 state law, all to his damage in amounts according to proof at time of trial, but in amounts in excess of
25 the minimum jurisdiction of this Court.

26 63. Defendants have committed the acts alleged herein knowingly and willfully, with the
27 wrongful and deliberate intention of injuring Plaintiff, from improper motives amounting to malice,
28 and in conscious disregard of Plaintiff's and the Class' rights. Plaintiff and the Class are thus entitled

1 to recover nominal, actual and compensatory damages in amounts according to proof at time of trial,
2 but in amounts in excess of the minimum jurisdiction of this Court.

3 64. Defendants' conduct described herein violates the Industrial Welfare Commission
4 Orders and Labor Code §§ 200, 226, 500, 510, and 1198. Therefore, pursuant to Labor Code §§ 200,
5 203, 226, 226.7, 558 and 1194, Plaintiff and the Class are entitled to recover the unpaid balance of
6 overtime compensation Defendants owe Plaintiff and the Class plus interest, penalties, attorneys' fees,
7 expenses, and costs of suit.

8 65. WHEREFORE, Plaintiff requests relief as hereinafter provided.

9 **FOURTH CAUSE OF ACTION**

10 **FAILURE TO PROVIDE WAGE STATEMENTS IN VIOLATION OF CAL. LABOR**
11 **CODE §226**

12 **(BY PLAINTIFF AGAINST ALL DEFENDANTS)**

13 66. Plaintiff hereby re-alleges, and incorporates by reference as though set forth fully herein,
14 the allegations contained in all preceding paragraphs.

15 67. Labor Code §226(a) sets forth reporting requirements for employers when they pay
16 wages, as follows:

17 "Every employer shall . . . at the time of each payment of wages, furnish his or her employees
18 . . . an itemized statement in writing showing (1) gross wages earned; (2) total hours worked by the
19 employee . . . (8) the name and address of the legal entity that is the employer..."

20 Section (e) provides: "An employee suffering injury as a result of a knowing and intentional
21 failure by an employer to comply with subdivision (a) shall be entitled to recover the greater of all
22 actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one
23 hundred dollars (\$100) per employee for each violation in a subsequent pay period, not exceeding an
24 aggregate penalty of four thousand dollars (\$4000), and shall be entitled to an award of costs and
25 reasonable attorneys' fees."

26 68. Defendants failed to provide Plaintiff and the Class of any wage statements that
27 accurately recorded the regular, overtime, and double time hours worked by Plaintiff and the Class,
28 and total wages due.

69. Plaintiff and the Class were damaged by this failure to provide accurate wage statements because, among other things, Plaintiff was unable to determine the proper amount of wages actually owed to him, and whether he had received full compensation therefore.

70. Plaintiff requests recovery of Labor Code § 226(e) penalties according to proof, as well as interest, attorneys' fees and costs pursuant to Labor Code §226(e), and all other damages, attorneys' fees, costs, expenses and interest permitted by statute.

71. WHEREFORE, Plaintiff requests relief as hereinafter provided.

FIFTH CAUSE OF ACTION

MISSED MEAL AND REST BREAKS IN VIOLATION OF LABOR CODE §§ 200, 226.7,

512, AND 12 CALIFORNIA CODE OF CIVIL REGULATIONS § 11050

(BY PLAINTIFF AGAINST ALL DEFENDANTS)

72. Plaintiff hereby re-alleges, and incorporates by reference as though set forth fully herein, the allegations contained in all preceding paragraphs.

73. Throughout the employment of Plaintiff and the Class, Defendants failed to provide all meal and rest breaks as required by law.

74. In addition, Defendants failed to pay Plaintiff and the Class the full statutory penalty for all missed meal and rest periods.

75. Plaintiff and the Class are entitled to recover additional compensation for all meal and rest periods that were missed, but not paid for during his employment, plus penalties pursuant to Labor Code §§ 226.7 and 558.

76. Defendants' conduct described herein violates the Industrial Welfare Commission Order 4-2001 sections 10 and 11, and Labor Code §§ 200, 226, 226.7, 512, 558, and 1198, and California Code of Regulations § 11040.

77. As a proximate result of the aforementioned violations, Plaintiff and the Class have been damaged in an amount according to proof at time of trial and has suffered, and continue to suffer, substantial losses related to the use and enjoyment of such monies, and lost interest on such monies in seeking to compel Defendants to fully perform their obligation under state law. Plaintiff and the Class are thus entitled to recover nominal, actual, and compensatory damages in an amount according to

1 proof at time of trial.

2 78. WHEREFORE, Plaintiff requests relief as hereinafter provided.

3 **SIXTH CAUSE OF ACTION**

4 **FAILURE TO PAY COMPENSATION UPON TERMINATION OF EMPLOYMENT IN**
5 **VIOLATION OF CAL. LABOR CODE § 201-203**
6 **(BY PLAINTIFF AGAINST ALL DEFENDANTS)**

7 79. Plaintiff repeats and re-alleges the allegations set forth above and incorporates the same
8 by reference as though fully set forth herein.

9 80. Labor Code § 201 provides, in relevant part, “[i]f an employer discharges an employee,
10 the wages earned and unpaid at the time of discharge are due and payable immediately.”

11 81. Labor Code § 202 provides, in relevant part, “[i]f an employee not having a written
12 contract for a definite period quits his or her employment, his or her wages shall become due and
13 payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of
14 his or her intention to quit, in which case the employee is entitled to his or her wages at the time of
15 quitting.”

16 82. Pursuant to Labor Code § 201, upon Plaintiff’s and Class members’ termination,
17 Defendants were required to pay all earned wages.

18 83. Defendants failed to compensate Plaintiff and Class members their entitled wages by
19 failing to compensate them for all hours worked including overtime hours worked, meal and rest
20 premiums, and failing to provide wage statements reflecting the accurate number of hours worked per
21 pay period. Plaintiff and the Class members’ wages remained unpaid even after their separation from
22 employment.

23 84. Plaintiff and the Class Members are entitled to “waiting time” penalties under Labor
24 Code § 203.

25 85. WHEREFORE, Plaintiff requests relief as hereinafter provided.

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1 **SEVENTH CAUSE OF ACTION**

2 **VIOLATION OF LABOR CODE §§ 2698, ET SEQ. (“PAGA”)**

3 **(BY PLAINTIFF AGAINST ALL DEFENDANTS)**

4 86. Plaintiff hereby re-alleges, and incorporates by reference as though set forth fully herein,
5 the allegations contained in all preceding paragraphs.

6 87. On March 28, 2023, Plaintiff filed a notice with the Labor Workforce and Development
7 Agency (“LWDA”) at their website pursuant to the Private Attorney General Act, California Labor
8 Code §§ 2698, et seq. (“PAGA”) regarding Defendants. This notice was also sent to the Defendants
9 that same day via certified mail. PAGA permits Plaintiffs to recover civil penalties for the violation(s)
10 of the Labor Code sections enumerated in Labor Code section 2699.5.

11 88. PAGA provides as follows: “[n]otwithstanding any other provision of law, a Plaintiff
12 may as a matter of right amend an existing complaint to add a cause of action arising under this part at
13 any time within 60 days of the time periods specified in this part.”

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

16 a. Defendants violated Industrial Welfare Commission Order No. 4 and Labor Code §§
17 226.7 and 512, 516, 558 and 1198 by failing to provide all legally required meal and rest period
18 premiums to Plaintiff and similarly aggrieved employees;

19 b. Defendants violated Industrial Welfare Commission Order No. 4 and Labor Code §§
20 200, 226, 226.7, 500, 510, 1197, 1194, and 1198 by failing to pay Plaintiff and similarly aggrieved
21 employees for all hours worked including overtime and double time;

22 c. Defendants violated Labor Code § 226 by failing to provide Plaintiff and similarly
23 aggrieved employees with accurate and compliant itemized wage statements

24 d. Defendants violated Labor Code §§ 201-203 by failing to timely pay all final wages
25 due, including, but not limited to meal and rest period premium wages to Plaintiff and other similarly
26 aggrieved employees upon their separation of employment.

27 90. California Labor Code section 1174 provides that “[e]very person employing labor in
28 this state shall ... [k]eep a record showing the names and addresses of all employees employed and the

1 ages of all minors” and “[keep, at a central location in the state or at the plants or establishments at
2 which employees are employed, payroll records showing the hours worked daily by and the wages paid
3 to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees
4 employed at the respective plants or establishments...”

5 91. Labor Code section 558(a) provides “[a]ny employer or other person acting on behalf
6 of an employer who violates, or causes to be violated, a section of this chapter or any provision
7 regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject
8 to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid
9 employee for each pay period for which the employee was underpaid in addition to an amount sufficient
10 to recover underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each
11 underpaid employee for each pay period for which the employee was underpaid in addition to an
12 amount sufficient to recover underpaid wages. (3) Wages recovered pursuant to this section shall be
13 paid to the affected employee.” Labor Code section 558(c) provides “[t]he civil penalties provided for
14 in this section are in addition to any other civil or criminal penalty provided by law.”

15 92. Defendants, at all times relevant to this complaint, were employers or persons acting on
16 behalf of an employer(s) who violated Plaintiffs’ rights by violating various sections of the California
17 Labor Code as set forth above. As set forth above, Defendants have violated numerous provisions of
18 both the Labor Code sections regulating hours and days of work as well as the applicable order of the
19 IWC. Accordingly, Plaintiff seeks the remedies set forth in Labor Code section 558 for himself, the
20 State of California, and all other aggrieved employees.

21 93. Pursuant to PAGA, and in particular California Labor Code sections 2699(a), 2699.3,
22 2699.5, Plaintiff, acting in the public interest as a private attorney general, seeks assessment and
23 collection of unpaid wages and civil penalties for Plaintiff, all other aggrieved employees, and the State
24 of California against Defendant, in addition to other remedies, for violations of California Labor Code
25 sections 200, 201, 202, 203, 210, 226(a), 226.7, 510, 558, 1194, 1194.2, 1197, 1197.1, and 1198.

26 94. WHEREFORE, Plaintiff requests relied as hereinafter provided.

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28 ///

1 **EIGHTH CAUSE OF ACTION**

2 **VIOLATIONS OF CAL. B&P CODE §§ 17200, *et seq.***

3 **(By PLAINTIFF AGAINST ALL DEFENDANTS)**

4 95. Plaintiff hereby re-alleges, and incorporates by reference as though set forth fully herein,
5 the allegations contained in all preceding paragraphs.

6 96. Section 17200 of the California Business and Professions Code prohibits any unlawful,
7 unfair or fraudulent business act or practice.

8 97. Plaintiff and the Class have suffered and continues to suffer injury in fact and monetary
9 damages as a result of Defendants' actions. The actions by Defendants as herein alleged amount to
10 conduct which is unlawful and a violation of law. As such, said conduct amounts to unfair business
11 practices in violation of Business and Professions Code § 17200, *et seq.*

12 98. Defendants' conduct as herein alleged has damaged Plaintiff by denying his wages due
13 and payable including overtime and double time wages, by failing to provide meal and/or rest periods,
14 failing to provide proper wage statements, and failing to pay all final wages due at termination.
15 Defendants' actions are thus substantially injurious to Plaintiff causing him injury in fact and loss of
16 money.

17 99. As a result of such conduct, Defendants have unlawfully and unfairly obtained monies
18 due to Plaintiff.

19 100. The amount of wages due Plaintiff can be readily determined from Defendants' records.
20 Plaintiff is entitled to restitution of monies due and obtained by Defendants during the period of last 4
21 years as a result of Defendants' unlawful and unfair conduct.

22 101. Defendants' course of conduct, acts, and practices in violation of the California law as
23 mentioned in each paragraph above constitutes a separate and independent violation of §17200 etc. of
24 the Business and Professions Code.

25 102. The harm to Plaintiff of being wrongfully denied lawfully earned and unpaid wages
26 outweighs the utility, if any, of Defendants' policies and practices and, therefore, Defendants' actions
27 described herein constitute an unfair business practice or act within the meaning of Business and
28 Professions Code § 17200.

103. Defendants' conduct described herein threatens an incipient violation of California's wage and hour laws, and/or violates the policy or spirit of such laws, or otherwise significantly threatens or harms competition.

104. Defendants' course of conduct described herein further violates Business and Professions Code 17200 in that it is fraudulent, improper, and unfair.

105. The unlawful, unfair, and fraudulent business practices and acts of Defendants as described herein above have injured Plaintiff in that he was wrongfully denied the timely and full payment of wages due to him.

106. WHEREFORE, Plaintiff requests relied as hereinafter provided.

NINTH CAUSE OF ACTION

FAILURE TO PERMIT INSPECTION OF PERSONNEL AND PAYROLL RECORDS IN

VIOLATION OF CAL. LABOR CODE § 1198.5

(By PLAINTIFF AGAINST ALL DEFENDANTS)

107. Plaintiff re-alleges and incorporates herein by reference all preceding paragraphs as though each such Paragraph were fully set forth herein.

108. California Labor Code section 432 requires employers to give an employee, upon request, a copy of any instrument that the employee or applicant has signed relating to the obtaining or holding of employment.

109. California Labor Code section 1198.5 requires employers to allow current and former employees' access to their personnel files and record that relate to the employee's performance or to any grievance concerning the employee.

110. An employer who receives a written or oral request to inspect or copy records pertaining to a current or former employee's wage information shall comply with the request as soon as practicable, but no later than 21 calendar days from the date of the request pursuant to Labor Code §226.

111. Defendants demonstrated a consistent policy of discouraging and ultimately preventing Plaintiff from accessing his employment records and reviewing their personnel files. Plaintiff sent a letter demanding his wage records via USPS certified mail on March 27, 2023. To date, Plaintiff has

1 not received his payroll records or personnel file. Defendants thereby violated Labor Code §§ 226, 432
2 and 1198.5.

3 112. Failure to properly comply with a request for inspection of employment records is a
4 criminal infraction which subjects the employer to monetary penalties of \$750. Therefore, Plaintiff
5 seeks an order to compel compliance and is entitled to costs and attorneys' fees.

6 113. WHEREFORE, Plaintiff requests relief as hereinafter provided.

7 **PRAYER FOR RELIEF**

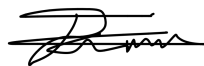
8 WHEREFORE, Plaintiff prays for judgment as follows:

- 9 1. For nominal damages;
- 10 2. For compensatory damages;
- 11 3. For equitable relief in the nature of declaratory relief, restitution of all monies due to
12 Plaintiffs, and disgorgement of profits from the unlawful business practices of Defendants, and
13 accounting;
- 14 4. For penalties permitted by Labor Code §§ 200, 201, 202, 203, 210, 226, 226.7, 510,
15 512, 558, 1194, 1197, 1197.1, 1198, and 2698 et seq. and all other applicable sections;
- 16 5. For interest accrued to date;
- 17 6. For costs of suit and expenses incurred herein pursuant to Labor Code §§ 226, 1194,
18 and 2698;
- 19 7. For reasonable attorneys' fees pursuant to Labor Code §§ 218.6, 226, 226.7, 1194, and
20 2698; and
- 21 8. For all such other and further relief that the Court may deem just and proper.
- 22

23 DATED: June 2, 2023

LOYR, APC

24
25 By: _____



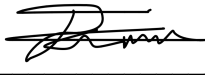
Young W. Ryu, Esq.
Joshua Park, Esq.
Kee Seok Mah, Esq.
Attorneys for Plaintiff
RAFAEL ARIAS GARCIA

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury for themselves on all claims so triable.

DATED: June 2, 2023

LOYR, APC

By: 

Young W. Ryu, Esq.
Joshua Park, Esq.
Kee Seok Mah, Esq.
Attorneys for Plaintiff
RAFAEL ARIAS GARCIA