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Attorneys for Plaintiffs

As individuals and on behalf of all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

11 ELISEO DE LA TORRE, JOSE
12 NORIEGA, NICASIO ANDRADE, and
13 MARIO CASTRO, as individuals on behalf
14 of themselves and on behalf of all others
similarly situated,

15 Plaintiffs,

16 v.

17 UNIQUE BUILDING GROUP, INC., a
18 California Corporation; and DOES 1-100,
19 inclusive,

20 Defendants.
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County of San Diego

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Clerk of the Superior Court
By Brenda Ramirez, Deputy Clerk

Case No.: 37-2023-00011128-CU-OE-CTL

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION
COMPLAINT FOR:**

1. **Recovery of Unpaid Minimum Wages
and Liquidated Damages**
2. **Recovery of Unpaid Overtime Wages**
3. **Failure to Provide Meal Periods or
Compensation in Lieu Thereof**
4. **Failure to Provide Rest Periods or
Compensation in Lieu Thereof**
5. **Violations of Labor Code Section 226**
6. **Failure to Timely Pay All Wages Due
Upon Separation of Employment**
7. **Failure to Reimburse Business Expenses
and**
8. **Unfair Competition**

DEMAND FOR JURY TRIAL

1 Plaintiffs, ELISEO DE LA TORRE, JOSE NORIEGA, NICASIO ANDRADE, and MARIO
2 CASTRO (“PLAINTIFFS”), as individuals on behalf of PLAINTIFFS and all other similarly
3 situated Class Members (as defined below) and Aggrieved Employees (defined below) hereby files
4 this First Amended Complaint against Defendants UNIQUE BUILDING GROUP, INC., a
5 California Corporation; and DOES 1-100, inclusive, (collectively referred to herein as
6 “DEFENDANTS”). PLAINTIFFS are informed and believe and thereon allege as follows:

7 **JURISDICTION AND VENUE**

8 1. This court possesses original subject matter jurisdiction over this matter. Venue is
9 proper in the County of San Diego pursuant to California Code of Civil Procedure section 395.5
10 because DEFENDANTS transact business within this judicial district, DEFENDANTS employed
11 PLAINTIFF DE LA TORRE to work in this judicial district, DEFENDANTS maintain its principal
12 place of business in this judicial district, and some of the acts, omissions, and conduct alleged by
13 PLAINTIFFS herein occurred in this this judicial district. *See also Crestwood Behavioral Health,*
14 *Inc. v. Superior Court* (2021) 60 Cal.App.5th 1069 (venue in a PAGA action is proper in any county
15 where the defendants committed Labor Code violations against some of its employees).

16 **THE PARTIES**

17 2. PLAINTIFFS are, and at all relevant times, were individuals domiciled in the State
18 of California and a citizen of the State of California. PLAINTIFFS were employed by
19 DEFENDANTS in the State of California as non-exempt employees during the Class Period.

20 3. Plaintiff ELISEO DE LA TORRE worked for DEFENDANTS as a framer, drywaller
21 and/or similar title(s) from on or around February 11, 2022, through on or around June 13, 2022,
22 and was assigned to work primarily out of DEFENDANTS’ yard(s), facilities and/or site(s) located
23 in San Diego, California.

24 4. Plaintiff JOSE NORIEGA worked for DEFENDANTS as a hanger and/or similar
25 title(s) from in or around January 2020 through on or around November 24, 2021, and was assigned
26 to work primarily out of DEFENDANTS’ yard(s), facilities and/or site(s) located in San Francisco,
27 California and/or Palo Alto, California.

28 5. Plaintiff NICASIO ANDRADE worked for DEFENDANTS as a taper and/or similar
PLAINTIFFS’ FIRST AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT AND DEMAND
FOR JURY TRIAL

1 title(s) from in or around March 2021 until on or around December 10, 2021, and was assigned to
2 work out of DEFENDANTS' yard(s), facilities and/or site(s) located in California.

3 6. Plaintiff MARIO CASTRO worked for DEFENDANTS as a taper, drywaller and/or
4 similar title(s) from in or around March 2021 until on or around December 10, 2021, and was
5 assigned to work out of DEFENDANTS' yard(s), facilities and/or site(s) located in California.

6 7. PLAINTIFFS worked for DEFENDANTS as a framer, hanger, drywaller, taper
7 construction worker and/or similar title(s) at various locations, yards, facilities and/or sites located
8 in cities throughout California as assigned by DEFENDANTS.

9 8. DEFENDANTS are a California corporation that, at all relevant times, were
10 authorized to do business within the State of California and are doing business in the State of
11 California.

12 9. DEFENDANTS own, operate, or otherwise manage a construction company,
13 providing construction of commercial, residential, and mix-use buildings, complexes and/or
14 campuses and other construction services to customers in California.¹

15 10. The true names and capacities of the DOE Defendants sued herein as DOES 1
16 through 100, inclusive, are currently unknown to PLAINTIFFS, who therefore sues each such
17 Defendant by said fictitious names. Each of the Defendants designated herein as a DOE is legally
18 responsible for the unlawful acts alleged herein. PLAINTIFFS will seek leave of Court to amend
19 this Complaint to reflect the true names and capacities of the Doe Defendants when such identities
20 become known.

21 11. PLAINTIFFS are further informed and believe that, at all relevant times, each
22 Defendant was the principal, agent, partner, joint venturer, joint employer, officer, director,
23 controlling shareholder, subsidiary, affiliate, parent corporation, successor in interest and/or
24 predecessor in interest of some or all of the other Defendants, and was engaged with some or all of
25 the other defendants in a joint enterprise for profit, and bore such other relationships to some or all
26 of the other Defendants so as to be liable for their conduct with respect to the matters alleged in this
27 complaint. PLAINTIFFS are further informed and believe and thereon allege that each Defendant

28 ¹ See <https://uniquebuildinggroup.com/> (Last visited on March 13, 2023).

1 acted pursuant to and within the scope of the relationships alleged above, and that at all relevant
2 times, each Defendant knew or should have known about, authorized, ratified, adopted, approved,
3 controlled, aided and abetted the conduct of all other Defendants.

4 **JOINT LIABILITY**

5 12. Under California law, the definition of the terms “to employ” are broadly construed
6 under the applicable IWC Wage Order(s) to have three alternative definitions, including: (1) to
7 exercise control over the wages, hours or working conditions; (2) to suffer of permit to work; or (3)
8 to engage, thereby creating a common law employment relationship. See, *Martinez v. Combs*, 49
9 Cal.4th 35, 64 (2010). One reason that the IWC defined “employer” in terms of exercising control
10 was to reach situations in which multiple entities control different aspects of the employment
11 relationship. Supervision of the work, in the specific sense of exercising control over how services
12 are properly performed, is properly viewed as one of the “working conditions” mentioned in the
13 wage order. *Id.* at 76. A joint employer relationship exists, for example, when one entity (such as a
14 temporary employment agency) hires and pays a worker, and the other entity supervises the work.
15 *Id.* Moreover, the California Court of Appeal recently broadened the test for joint employment in
16 California, applying a less stringent standard to what constitutes sufficient control by a business
17 over its vendor’s employees’ wages and working conditions to render that business liable as a joint
18 employer. See, *Medina v. Equilon Enterprises, LLC*, 68 Cal. App. 5th 868 (2021); “[i]f the putative
19 joint employer instead exercises enough control over the intermediary entity to *indirectly* dictate the
20 wages, hours, or working conditions of the employee, that is a sufficient showing of joint
21 employment,” *Id.* at 875 [emphasis added].

22 13. During PLAINTIFF’s employment by DEFENDANTS, PLAINTIFFS and the Class
23 Members (defined below) were jointly employed by DEFENDANTS for purposes of the Wage
24 Orders, under the alternative definitions of “to employ” adopted by the California Supreme Court
25 in *Martinez*, supra. As discussed below, these DEFENDANTS (1) exercised control over wages,
26 hours and working conditions of PLAINTIFFS and the Class Members and Aggrieved Employees;
27 (2) suffered or permitted PLAINTIFFS and Class Members and Aggrieved Employees to work for
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1 them; and (3) engaged PLAINTIFFS and Class Members and Aggrieved Employees to work for
2 them.

3 14. PLAINTIFFS are informed and believe, and thereon allege that at all relevant times
4 DEFENDANTS operated as a single integrated enterprise with common ownership and centralized
5 human resources. As a result, DEFENDANTS utilized the same unlawful policies and practices
6 across all of their locations/facilities and subjected all of the Class Members and Aggrieved
7 Employees to these same policies and practices regardless of the location(s) where they worked.
8 Among other things, PLAINTIFFS are informed and believe that: (1) there is common ownership
9 in, and financial control, in DEFENDANTS' companies, (2) DEFENDANTS utilize common
10 management, who have control over the day-to-day operations and employment matters, including
11 the power to hire and fire, set schedules, issue employee policies, and determine rates of
12 compensation across its locations in California; (3) DEFENDANTS utilize the same policies and
13 procedures for all California employees, including issuing the same employee handbooks and other
14 form agreements; (4) DEFENDANTS use at least some of the same Human Resources personnel
15 and attorneys to oversee employment matters; and, (6) DEFENDANTS share employees.

16 15. PLAINTIFFS are informed and believe, and thereon allege that at all times relevant
17 to this Complaint, DEFENDANTS were the joint employers of PLAINTIFFS and the Class
18 Members and Aggrieved Employees upon whose behalf PLAINTIFFS bring these allegations and
19 causes of action, in that DEFENDANTS, exercised sufficient control over PLAINTIFFS and the
20 Class Members and Aggrieved Employees' wages, hours and working conditions, and/or suffered
21 or permitted PLAINTIFFS and the Class Members and Aggrieved Employees to work so as to be
22 considered the joint employers of PLAINTIFFS and the Class Members and Aggrieved Employees.

23 16. Upon information and belief, PLAINTIFFS allege that DEFENDANTS created a
24 uniform set of policies, practices and/or procedures concerning, inter alia, hourly and overtime pay,
25 time-keeping practices, meal and rest periods, reimbursement of business expenses and other
26 working conditions that were distributed to, and/or applied to PLAINTIFFS and the Class Members
27 and Aggrieved Employees, and further that DEFENDANTS uniformly compensated and controlled
28 the wages of PLAINTIFFS and the Class Members and Aggrieved Employees in a uniform manner.

1 DEFENDANTS collectively represented to PLAINTIFFS and the Class Members and Aggrieved
2 Employees that each was an "at-will" employee of DEFENDANTS, and that DEFENDANTS
3 collectively retained the right to terminate PLAINTIFF's and Class Members and Aggrieved
4 Employees' employment with or without cause. Upon information and belief, DEFENDANTS
5 further collectively represented to PLAINTIFFS and Class Members and Aggrieved Employees in
6 writing the details of their compensation, and the manner in which they were to take meal and rest
7 periods, the procedures required by DEFENDANTS collectively for recordation of hours worked
8 and the policies applicable to PLAINTIFFS and Class Members and Aggrieved Employees by which
9 DEFENDANTS collectively would evaluate the wage rates of PLAINTIFFS and Class Members
10 and Aggrieved Employees.

11 17. Thus, DEFENDANTS collectively exercised the right to control the wages, hours
12 and working conditions of PLAINTIFFS and Class Members and Aggrieved Employees. As such,
13 DEFENDANTS collectively held the right to control virtually every aspect of PLAINTIFFS' and
14 the Class Members and Aggrieved Employees' employment, including the instrumentality that
15 resulted in the illegal conduct for which PLAINTIFFS seek relief in this Complaint.

16 18. PLAINTIFFS are informed and believe that DEFENDANTS exercised the same
17 control over, applied the same policies and practices, and engaged in the same acts and omissions
18 with regard to the other Class Members and Aggrieved Employees.

19 **CLASS ALLEGATIONS**

20 19. PLAINTIFFS bring this action on behalf of PLAINTIFFS, and all others similarly
21 situated as a class action pursuant to Code of Civil Procedure section 382. The class PLAINTIFFS
22 seek to represent are defined as follows and referred to as the "Class" or "Class Members":

23 All current and former non-exempt employees that worked either
24 directly or via a staffing agency for any of the DEFENDANTS at any
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1 location in California at any time within the four years and 178 days
2 prior to the filing of the initial Complaint (“Class Period”).²

- 3 a. Numerosity. While the exact number of Class Members is unknown to
4 PLAINTIFFS at this time, the Class is so numerous that the individual joinder
5 of all members is impractical under the circumstances of this case. PLAINTIFFS
6 are informed and believe the Class consists of at least 100 individuals.
- 7 b. Common Questions of Law and Fact. This lawsuit is suitable for class treatment
8 because common questions of law and fact predominate over individual issues.
9 Common questions include, but are not limited to, the following: (1) whether
10 DEFENDANTS understated hours worked and failed to pay all amounts due to
11 PLAINTIFFS and the Class Members for wages earned, including minimum
12 and overtime wages, under California law; (2) whether DEFENDANTS
13 provided PLAINTIFFS and the Class Members with all meal periods or
14 premium payments in lieu thereof in compliance with California law; (3)
15 whether DEFENDANTS provided PLAINTIFFS and the Class Members with
16 all rest periods or premium payments in lieu thereof, in compliance with
17 California law; (4) whether DEFENDANTS provided PLAINTIFFS and Class
18 Members with accurate, itemized wage statements in compliance with
19 California law, displaying, including but not limited to, the total hours worked
20 during the pay period; (5) whether DEFENDANTS failed to produce and/or
21 allow access to employment records within the time limits prescribed under
22 California law; (6) whether DEFENDANTS timely paid PLAINTIFFS and the
23 Class Members all wages due upon separation of employment; (7) whether
24 DEFENDANTS failed to reimburse PLAINTIFFS and the Class Members for
25 all business expenses; and (8) whether DEFENDANTS violated California

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27 ² In response to the COVID-19 pandemic, the Judicial Council of California adopted Emergency Rule 9(a)
28 (California Rules of Court), whereby “statutes of limitations and repose for civil causes of action that
exceed 180 days are tolled from April 6, 2020 to October 1, 2020.”

1 Business and Professions Code sections 17200, *et seq.*

- 2 c. Ascertainable Class. The proposed Class is ascertainable as members can be
3 identified and located using information in DEFENDANTS' business, payroll
4 and personnel records.
- 5 d. Typicality. PLAINTIFFS' claims are typical of the claims of the Class
6 Members. PLAINTIFFS suffered a similar injury as members of the Class as a
7 result of DEFENDANTS' common practices regarding, *inter-alia*, failure to
8 calculate and pay all owed minimum and overtime wages, failure to provide
9 proper meal periods and rest periods or premium compensation in lieu thereof,
10 failure to provide accurate wage statements, failure to reimburse business
11 expenses, and failure to timely pay all wages due upon separation of
12 employment.
- 13 e. Adequacy. PLAINTIFFS will fairly and adequately protect the interests of the
14 Class Members. PLAINTIFFS have no interests adverse to the interests of the
15 other Class Members. Counsel who represent PLAINTIFFS are competent and
16 experienced in litigating similar class action cases and are California lawyers in
17 good standing. Counsel for PLAINTIFFS have the experience and resources to
18 vigorously prosecute this case.
- 19 f. Superiority. A class action is superior to other available means for the fair and
20 efficient adjudication of this controversy since individual joinder of all members
21 of the class is impractical. Class action treatment will permit a large number of
22 similarly situated persons to prosecute their common claims in a single forum
23 simultaneously, efficiently, and without the unnecessary duplication of effort
24 and expense that numerous individual actions would engender. Furthermore, as
25 the damages suffered by each individual member of the Class may be relatively
26 small, the expenses and burden of individual litigation would make it difficult
27 or impossible for individual members of the Class to redress the wrongs done to
28 them, while an important public interest will be served by addressing the matter

1 as a class action. The cost to the court system of adjudication of such
2 individualized litigation would be substantial. Individualized litigation would
3 also present the potential for inconsistent or contradictory judgments. Finally,
4 the alternative of filing a claim with the California Labor Commissioner is not
5 superior, given the lack of discovery in such proceedings, the fact that there are
6 fewer available remedies, and the losing party has the right to a trial de novo in
7 the Superior Court.

8 **FACTUAL AND LEGAL ALLEGATIONS**

9 20. During the relevant period, PLAINTIFFS and each of the Class Members and
10 Aggrieved Employees worked for DEFENDANTS in the State of California. At all times referenced
11 herein, DEFENDANTS exercised control over PLAINTIFFS and Class Members and Aggrieved
12 Employees, and suffered and/or permitted them to work.

13 21. PLAINTIFFS were employed by DEFENDANTS as non-exempt employees during
14 the Class Period. PLAINTIFFS worked for DEFENDANTS as framers, hangers, drywallers, tapers
15 construction workers and/or similar title(s) at various locations, yards, facilities and/or sites located
16 in cities throughout California as assigned by DEFENDANTS. PLAINTIFFS regularly worked at
17 least eight (8) hours per day, at least five (5) days per week.

18 22. At all relevant times, PLAINTIFFS were non-exempt employees that was paid on an
19 hourly basis for time counted by DEFENDANTS as hours worked.

20 23. **Unpaid Minimum and Overtime Wages.** DEFENDANTS failed to compensate
21 PLAINTIFFS and Class Members and Aggrieved Employees for all hours worked, resulting in the
22 underpayment of minimum and overtime wages. DEFENDANTS failed to compensate
23 PLAINTIFFS and Class Members and Aggrieved Employees for all hours worked by virtue of,
24 DEFENDANTS' automatic deduction and time rounding policies, and failure to relieve employees
25 of all duties/employer control during unpaid meal periods or otherwise unlawful practices for missed
26 or improper meal periods, as explained below. For example, as explained below, at times,
27 PLAINTIFFS' unpaid meal periods were interrupted and/or cut short due to the need to complete
28 assigned jobs on time, respond to work-related communications and/or complete other work tasks,

1 resulting in DEFENDANTS' failure to pay Class Members and Aggrieved Employees for all time
2 worked and the underpayment of wages owed to Class Members and Aggrieved Employees.

3 24. Based on information and belief, DEFENDANTS clocked PLAINTIFFS and other
4 Class Members and Aggrieved Employees out for meal periods but required them to continue
5 working during unpaid meal periods and/or edited meal period times as reported by PLAINTIFFS
6 and other Class Members and Aggrieved Employees, resulting in the failure to pay Class Members
7 and Aggrieved Employees for all time worked, in violation of California's minimum wage laws and
8 overtime wage laws.

9 25. Based on information and belief, DEFENDANTS implemented a policy and/or
10 practice of rounding meal period start and end times and/or automatically deducting at least thirty
11 minutes per shift for meal periods, despite having actual and/or constructive knowledge that
12 PLAINTIFFS and other Class Members and Aggrieved Employees were subject to
13 DEFENDANTS' control during purported meal periods and/or were otherwise not afforded lawful
14 meal periods, depriving PLAINTIFFS and Class Members and Aggrieved Employees of all wages
15 owed.

16 26. Based on information and belief, Class Members and Aggrieved Employees were
17 not paid for all hours worked due to DEFENDANTS' policy and/or practice of rounding time entries
18 or paying according to scheduled hours worked instead of actual time worked, and/or mandated off-
19 the clock work policies and/or practices. Based on information and belief, DEFENDANTS required
20 Class Members and Aggrieved Employees to be at their assigned workstations at the start of a
21 scheduled shift, thereby forcing Class Members and Aggrieved Employees to gather work related
22 equipment and/or safety gear prior to their scheduled shift and/or prior to clocking in/signing in,
23 thereby resulting in pre-shift off-the-clock work. Based on information and belief, DEFENDANTS
24 also failed to compensate Class Members and Aggrieved Employees for post-shift off-the-clock
25 work, such as but not limited to, returning tools and/or equipment to DEFENDANTS'
26 facilities/locations/sites/yards, performing maintenance or cleaning-related tasks and/or completing
27 other work tasks.

28 27. Based on information and belief, DEFENDANTS did not compensate Class
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1 Members and Aggrieved Employees for all time spent donning and doffing personal protective
2 equipment, safety equipment and/or uniforms/work clothing (e.g., reflective vests, gloves, and/or
3 face masks) during meal periods, rest periods, before the start of a scheduled shift, and after
4 completing a scheduled shift.

5 28. Based on information and belief, DEFENDANTS required/requires Class Members
6 and Aggrieved Employees to travel between DEFENDANTS' yards, facilities/locations and/or
7 between job sites without compensating Class Members and Aggrieved Employees for the travel
8 time, resulting in off-the-clock work and the underpayment of minimum wages and overtime wages
9 owed to Class Members and Aggrieved Employees.

10 29. Based on information and belief, Class Members and Aggrieved Employees were
11 also pressured to complete at least some of their work tasks off-the-clock in order to meet
12 DEFENDANTS' goals and expectations. On information and belief, Class Members and Aggrieved
13 Employees were also required to complete off-the-clock work outside of scheduled shifts due to
14 work-related phone calls and/or messages they received to their personal phones and were required
15 to respond to, including but not limited to, communications from supervisors regarding scheduling
16 and/or other work tasks, resulting in the underpayment of wages owed to Class Members and
17 Aggrieved Employees.

18 30. Based on information and belief, DEFENDANTS failed to pay Class Members and
19 Aggrieved Employees for time they were required to spend completing orientation, policy
20 questionnaires, and/or time spent completing the onboarding process including but not limited to
21 reviewing various documents and policies provided by DEFENDANTS. Based on information and
22 belief, this work time was completed off-the-clock and was not compensated.

23 31. Based on further information and belief, DEFENDANTS implemented a time-
24 rounding system that as applied systematically deprived PLAINTIFFS and other Class Members
25 and Aggrieved Employees of compensable time because the time-rounding system implemented by
26 DEFENDANTS would almost always, if not always, result in understating actual compensable work
27 time. For example, based on information and belief, DEFENDANTS' wage statements and/or pay
28 records for PLAINTIFFS evidence rounding to at least the nearest quarter hour. Based on

1 information and belief, DEFENDANTS rounded to at least the nearest quarter hour, other Class
2 Members and Aggrieved Employees' total hours worked during most if not all pay periods, resulting
3 in the consistent underpayment of wages owed to PLAINTIFFS and other Class Members and
4 Aggrieved Employees.

5 32. Moreover, based on information and belief, DEFENDANTS had and continue to
6 have a policy and practice of unlawfully deducting wages from Class Members and Aggrieved
7 Employees' paychecks, such as, but not limited to, unlawful deductions for business expenses, fees
8 for purported overpayments from prior pay periods, negligently damaged property and/or fees for
9 costs incurred in connection with any money/payroll card DEFENDANTS required Class Members
10 and Aggrieved Employees to use to receive compensation and/or other fines and/or fees/costs,
11 resulting in violations of California wage and hour laws, including but not limited to, Labor Code
12 sections 224 and 1197.

13 33. DEFENDANTS' failure to pay for all time worked by virtue of its time rounding,
14 auto-deduction policies and practices for unlawful meal periods, failure to provide lawful meal
15 periods, and/or other off-the-clock work practices and policies, resulted in the underpayment of
16 minimum wages owed to PLAINTIFFS and Class Members and Aggrieved Employees as well as
17 unpaid overtime wages for those Class Members and Aggrieved Employees who worked more than
18 eight (8) hours in a day and/or more than forty (40) hours in a week.

19 34. Based on information and belief, DEFENDANTS had actual and/or constructive
20 knowledge that its time rounding policies/practices, auto-deduction policies and practices, failure to
21 provide lawful meal periods (as described below) and/or other off-the-clock work resulted in the
22 underpayment of minimum wages owed to PLAINTIFFS and other Class Members and Aggrieved
23 Employees, in violation of California's minimum and overtime wage laws.

24 35. Based on information and belief, DEFENDANTS failed and continue to fail to pay
25 Class Members and Aggrieved Employees two times their regular rate of pay for time worked
26 beyond twelve (12) hours per workday and for time worked beyond eight (8) hours on the seventh
27 consecutive day of work in a work week, in violation of California's overtime laws.

28 36. Based on information and belief, DEFENDANTS have a policy and practice of
PLAINTIFFS' FIRST AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT AND DEMAND
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1 failing to pay premium wages for hours worked beyond eight (8) in a workday and/or forty in a
2 workweek, even for hours counted by DEFENDANTS as hours worked.

3 37. Based on information and belief, DEFENDANTS failed to incorporate all non-
4 discretionary remuneration, including but not limited to, shift differential pay, bonus pay, and/or
5 other non-discretionary pay into the regular rate of pay used to calculate the owed overtime rate(s),
6 resulting in the miscalculation and underpayment of overtime wages owed to PLAINTIFFS and
7 other Class Members and Aggrieved Employees.

8 38. **Meal Period Violations.** PLAINTIFFS and other Class Members and Aggrieved
9 Employees consistently worked shifts of at least five and one-half hours or more, entitling them to
10 at least one meal period. However, PLAINTIFFS and other Class Members and Aggrieved
11 Employees would not receive legally compliant thirty (30) minute first and second meal periods.
12 Based on information and belief, Class Members and Aggrieved Employees were consistently
13 unable to take timely, off duty, thirty-minute, uninterrupted meal periods, often being forced to take
14 late meal periods, interrupted meal periods, and/or work through part or all their meal periods due
15 to understaffing, the nature and constraints of their job duties and/or commentary from supervisors
16 pressuring them to take non-compliant meal periods or skip meal periods completely.

17 39. Based on information and belief, other Class Members and Aggrieved Employees
18 were consistently suffered and permitted to take meal periods past the fifth hour of work and/or had
19 their meal periods interrupted, cut short, restricted to DEFENDANTS' premises and/or otherwise
20 on duty due to commentary from supervisors, understaffing, the nature and constraints of their job
21 duties, and/or the need to meet DEFENDANTS' goals and expectations. For example, at times,
22 Class Members and Aggrieved Employees' meal periods were interrupted, cut short and/or worked
23 through completely due to the need to complete assigned jobs on time, respond to work-related
24 communications and/or complete other work tasks. Also, Class Members and Aggrieved
25 Employees were consistently required to take any meal periods late (i.e. after working more than
26 five (5) hours) due to the need to complete assigned jobs on time, respond to work-related
27 communications and/or complete other work tasks.

28 40. Based on information and belief, DEFENDANTS implemented policies and/or
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1 practices that failed to relieve Class Members and Aggrieved Employees of all duties and
2 DEFENDANTS' control during unpaid meal periods.

3 41. Based on information and belief, DEFENDANTS required Class Members and
4 Aggrieved Employees to complete off-the-clock work prior to their scheduled shift time which
5 DEFENDANTS failed to take into account when scheduling meal periods for Class Members and
6 Aggrieved Employees. Based on information and belief, meal periods were late, in part due to
7 unaccounted pre-shift off-the-clock work.

8 42. Based on information and belief, despite DEFENDANTS' failure to provide lawful
9 meal periods, DEFENDANTS implemented a policy and/or practice of rounding the start and end
10 times of PLAINTIFF's and other Class Members and Aggrieved Employees' meal periods and/or
11 automatically deducting at least thirty minutes per shift for missed and/or otherwise unlawful meal
12 periods despite having actual and/or constructive knowledge that PLAINTIFFS and other Class
13 Members and Aggrieved Employees did not receive lawful meal periods.

14 43. Moreover, per DEFENDANTS' uniform policy and practice, Class Members and
15 Aggrieved Employees who worked shifts of more than ten hours did not receive a second legally
16 compliant thirty (30) minute second meal period.

17 44. Based on information and belief, DEFENDANTS failed to instruct PLAINTIFFS
18 and other Class Members and Aggrieved Employees as to the timing and duty-free nature of meal
19 periods. Based on further information and belief, DEFENDANTS did not have a compliant written
20 meal period policy, nor did DEFENDANTS have any sort of compliant policy in practice.

21 45. Moreover, based on information and belief, DEFENDANTS failed to keep accurate
22 records of the true start and end times of PLAINTIFF's and Class Members and Aggrieved
23 Employees' meal periods. Based on information and belief, to the extent meal period were recorded,
24 DEFENDANTS illegally rounded the start and end times of purported meal periods resulting in
25 PLAINTIFFS and other Class Members and Aggrieved Employees not being paid for all time
26 worked as well as late and/or shortened meal periods. *See Donohue v. AMN Services, LLC* (2021)
27 11 Cal.5th 58.

28 46. Based on information and belief, DEFENDANTS had actual and/or constructive
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1 knowledge that its policies and practices resulted in the denial of uninterrupted meal periods which
2 were free of DEFENDANTS' control owed to PLAINTIFFS and other Class Members and
3 Aggrieved Employees, in violation of California's meal period laws.

4 47. DEFENDANTS failed to pay PLAINTIFFS and other Class Members and Aggrieved
5 Employees, an additional hour of wages at their respective regular rates of compensation for each
6 workday a lawful meal period was not provided. DEFENDANTS either failed to pay a meal period
7 premium at all for each workday a lawful meal period was not provided and/or failed to pay the
8 proper meal period premium for failure to incorporate all non-discretionary remuneration, including
9 but not limited to, bonuses, shift differential pay and/or other non-discretionary compensation into
10 the regular rate or compensation for purposes of calculating the owed meal period premium.

11 48. **Rest Period Violations.** DEFENDANTS did not properly authorize and provide
12 PLAINTIFFS and other Class Members and Aggrieved Employees with legally compliant rest
13 periods at a rate of every four (4) hours worked or major fraction thereof, that insofar as practicable,
14 are provided in the middle of the work period, as required by law.

15 49. PLAINTIFFS and other Class Members and Aggrieved Employees were not
16 adequately informed, authorized, instructed about, nor permitted an opportunity to take proper rest
17 periods per California law. Based on information and belief, DEFENDANTS had no policy in place
18 nor instruction as to the taking of duty-free rest periods.

19 50. Based on information and belief, DEFENDANTS did not have a have a compliant
20 written rest period policy, nor did DEFENDANTS have any sort of compliant rest period policy in
21 practice. For example, PLAINTIFFS were consistently required to work through their owed rest
22 periods and/or cut any rest periods short due to the need to complete assigned jobs on time, respond
23 to work-related communications and/or complete other work tasks. For example, on most, if not all
24 shifts Class Member worked for DEFENDANTS, Class Members and Aggrieved Employees were
25 required to work through their first owed rest period and any second rest period afforded Class
26 Members and Aggrieved Employees was typically interrupted and/or otherwise legally
27 noncompliant due to Class Members and Aggrieved Employees being restricted to the premises
28 and/or not afforded a full net ten minutes in a suitable resting area.

1 51. Based on information and belief, Class Members and Aggrieved Employees' rest
2 periods were interrupted, cut short, on duty, restricted to work premises and/or late due to
3 understaffing, the nature and constraints of their job duties, and/or due to commentary from
4 supervisors/managers pressuring them to skip rest periods completely or otherwise take non-
5 compliant rest periods.

6 52. Moreover, DEFENDANTS failed to provide any form of a third rest period on shifts
7 lasting longer than ten hours.

8 53. Based on information and belief, DEFENDANTS implemented policies and/or
9 practices that failed to relieve PLAINTIFFS and other Class Members and Aggrieved Employees
10 of all duties and DEFENDANTS' control during rest periods.

11 54. Based on information and belief, Class Members and Aggrieved Employees were
12 pressured to complete their work duties according to a designated schedule such that rest periods
13 were only taken once tasks were completed, and/or as time permitted.

14 55. Furthermore, DEFENDANTS failed to pay a rest period premium for each day in
15 which PLAINTIFFS and Class Members and Aggrieved Employees experienced a missed/unlawful
16 rest period in violation of California law. DEFENDANTS either failed to pay a rest period premium
17 at all for each workday a proper rest period was not provided and/or failed to pay the proper rest
18 period premium for failure to incorporate all non-discretionary remuneration, including but not
19 limited to, bonuses, shift differential pay, and/or other non-discretionary compensation into the
20 regular rate of compensation for purposes of calculating the owed rest period premium.

21 56. **Inaccurate Wage Statements.** During the relevant period, DEFENDANTS failed to
22 provide PLAINTIFFS and other Class Members and Aggrieved Employees with accurate wage
23 statements that complied with Labor Code section 226. As DEFENDANTS failed to provide
24 PLAINTIFFS and Class Members and Aggrieved Employees with meal and rest periods that
25 complied with Labor section 226.7, the wage statements DEFENDANTS issued to PLAINTIFFS
26 and Class Members and Aggrieved Employees failed and continue to fail to correctly set forth the
27 gross wages earned, the total hours worked, the net wages earned, and all applicable hourly rates in
28 effect during the pay period and the corresponding number of hours worked at each hourly rate by

1 the employee.

2 57. DEFENDANTS issued wage statements to PLAINTIFFS and Class Members and
3 Aggrieved Employees that also failed to indicate the earned gross and net wages earned during the
4 pay period, the correct applicable rates of pay for all hours worked, and the total hours worked by
5 PLAINTIFFS and Class Members and Aggrieved Employees (by virtue of rounded time entries,
6 automatic deduction for meal periods/failure to relieve Class Members and Aggrieved Employees
7 of all duties and employer control during unpaid meal periods, payment according to scheduled
8 hours worked rather than actual hours worked, and/or other off-the-clock work policies and
9 practices) which results in a violation of Labor Code section 226(a). For example, DEFENDANTS'
10 wage statements issued to Class Members and Aggrieved Employees show DEFENDANTS
11 rounded Class Members and Aggrieved Employees' hours worked to at least the nearest quarter
12 hour, thereby failing to list the accurate hours Class Members and Aggrieved Employees worked on
13 DEFENDANTS' issued wage statements.

14 58. Based on information and belief, wage statements issued by DEFENDANTS failed
15 to list all applicable hourly rates in effect during the pay period and the corresponding number of
16 hours worked at each hourly rate by the employee, in violation of Labor Code section 226(a)(9).
17 For example, as described herein, based on information and belief, DEFENDANTS failed to
18 incorporate all forms of non-discretionary compensation earned during the pay period into the
19 overtime pay rate calculation, and as such, failed to display the proper overtime rate(s) for each hour
20 of overtime worked by PLAINTIFFS and other Class Members and Aggrieved Employees.

21 59. Based on information and belief, DEFENDANTS failed to accurately list all
22 deductions, including but not limited to, deductions for business expenses, fees for purported
23 overpayments from prior pay periods, negligently damaged property and/or fees for costs incurred
24 in connection with any money/payroll card DEFENDANTS required Class Members and Aggrieved
25 Employees to use to receive compensation and/or other fines and/or fees/costs, in violation of Labor
26 Code section 226(a).

27 60. Moreover, based on information and belief, DEFENDANTS issued wage statements
28 to PLAINTIFFS and Class Members and Aggrieved Employees that further violate Labor Code

1 section 226(a), by among other things, failing to list the correct name and/or address of the legal
2 entity that is the employer.

3 61. As a result, DEFENDANTS issued wage statements to PLAINTIFFS and Class
4 Members and Aggrieved Employees that were not accurate and did not include all of the statutorily
5 required information. As such, DEFENDANTS violated Labor Code section 226.

6 62. **Failure to Produce Employment Records.** Based on information and belief,
7 DEFENDANTS have a uniform policy and practice of failing to timely produce or make available
8 a current or former employee's time, pay, and/or personnel records when requested pursuant to
9 Labor Code sections 226, 1198.5, 432, and/or the applicable Wage Order. For example,
10 PLAINTIFFS, through counsel, sent written requests for time, pay and personnel records to
11 DEFENDANTS. Yet, DEFENDANTS failed to timely produce complete records, including but not
12 limited to, wage statements and/or time records, within the time periods delineated by California
13 labor law. Based on information and belief, DEFENDANTS failed and continue to fail to timely
14 produce complete time, pay, and personnel records when requested by other Class Members and
15 Aggrieved Employees.

16 63. **Failure to Timely Pay All Wages Upon Separation of Employment.** Based on
17 information and belief, DEFENDANTS failed to timely pay Class Members and Aggrieved
18 Employees all wages that were due and owing upon termination or resignation. Based on
19 information and belief, DEFENDANTS untimely provide final wages to Class Members and
20 Aggrieved Employees without regard to the timing requirements of Labor Code sections 201-202.

21 64. Upon separation of employment, Class Members and Aggrieved Employees' final
22 paychecks were not timely provided and/or were not timely provided with all owed vacation pay
23 and/or paid time off. Moreover, PLAINTIFF's and Class Members and Aggrieved Employees' final
24 paychecks, once provided, did not include all wages owed as they were devoid of, including but not
25 limited to, all owed minimum wages, overtime wages, premium wages, vacation pay, and all owed
26 sick leave and/or paid time off wages at the properly accrued rates.

27 65. Moreover, DEFENDANTS failed to timely provide all owed wages immediately
28 upon discharge of employment. For example, based on information and belief, at times, Class

1 Members and Aggrieved Employees experienced breaks in their employment caused by
2 DEFENDANTS whereby Class Members and Aggrieved Employees would not be called in for work
3 for longer than a single pay period due to including but not limited to DEFENDANTS' lack of work
4 or lack of assignments. Such instances qualify as a discharge of employment. Yet, DEFENDANTS
5 failed to timely pay all owed wages at the end of such periods of employment, in violation of
6 including but not limited to Labor Code section 201-202.

7 66. These violations subject DEFENDANTS to civil penalties under Labor Code section
8 203, 210, and/or 256.

9 67. **Unreimbursed Business Expenses.** Based on information and belief,
10 DEFENDANTS required PLAINTIFFS and Class Members and Aggrieved Employees to incur
11 business expenses as a direct consequence of the performance of their job duties without providing
12 reimbursement, in violation of Labor Code section 2802. Based on information and belief,
13 PLAINTIFFS and Class Members and Aggrieved Employees were improperly required to provide
14 and maintain work tools that are supposed to be the responsibility of the employer.

15 68. Based on information and belief, DEFENDANTS shifted the costs of doing business
16 onto Class Members and Aggrieved Employees by requiring them to pay for business expenses,
17 including but not limited to, uniforms/work clothing/personal protective/safety gear, the use of Class
18 Members and Aggrieved Employees' personal mobile phone, internet and/or data usage for work
19 related purposes, including but not limited to, to receive and respond to work related messages
20 and/or phone calls.

21 69. Additionally, Class Members and Aggrieved Employees were not reimbursed for the
22 business use of their personal vehicles, including mileage, wear and tear, and gas when they were
23 required to drive between job sites, and/or use their personal vehicles in carrying out the duties
24 assigned by DEFENDANTS. For example, DEFENDANTS required Class Members and
25 Aggrieved Employees to use their personal vehicles to drive between job sites and/or use their
26 personal vehicles for other work purposes including but not limited to transporting tools, without
27 providing any and/or full reimbursement for the vehicle-related expenses incurred in connection
28 therewith. As such, DEFENDANTS failed to compensate Class Members and Aggrieved

1 Employees at the legally mandated Internal Revenue Service (IRS) per mile compensation rates in
2 effect during the relevant period.

3 70. Based on information and belief, DEFENDANTS also failed to reimburse Class
4 Members and Aggrieved Employees for parking expenses they incurred as a direct consequence of
5 the performance of their job duties.

6 71. Based on information and belief, DEFENDANTS failed to reimburse Class Members
7 and Aggrieved Employees for expenses associated with having to purchase and/or maintain their
8 own hand tools and/or equipment required to perform their assigned job duties.

9 72. Based on information and belief, Class Members and Aggrieved Employees were
10 not reimbursed for the cost of purchasing and/or maintaining work uniforms/clothing/shoes and/or
11 protective gear.

12 73. Based on information and belief, DEFENDANTS regularly failed to reimburse and
13 indemnify Class Members and Aggrieved Employees for business expenses. Pursuant to California
14 Labor Code section 2802, PLAINTIFFS and Class Members and Aggrieved Employees were
15 entitled to be reimbursed for all reasonable expenses associated with carrying out DEFENDANTS'
16 orders and/or carrying out the duties assigned by DEFENDANTS.

17 74. DEFENDANTS' failure to provide Class Members and Aggrieved Employees with
18 full reimbursement for all reasonable expenses associated with carrying out their duties required
19 that Class Members and Aggrieved Employees subsidize and/or carry the burden of business
20 expenses in violation of Labor Code section 2802.

21 75. PLAINTIFFS are informed and believe and allege thereon that DEFENDANTS
22 engaged in these same herein described unlawful practices and that DEFENDANTS applied these
23 same herein described unlawful practices to all of its employees that it applied to PLAINTIFF.

24 **FIRST CAUSE OF ACTION**

25 **Recovery of Unpaid Minimum Wages and Liquidated Damages**
26 **(By PLAINTIFFS and the Class Members Against all DEFENDANTS)**

27 76. PLAINTIFFS incorporate all preceding paragraphs as if fully alleged herein.

28 77. It is fundamental that an employer must pay its employees for all time worked.
California Labor Code sections 218 and 218.5 provide a right of action for nonpayment of wages.

1 Labor Code section 222 prohibits the withholding of part of a wage. Labor Code section 224 only
2 permits deductions from wages when the employer is required or empowered to do so by state or
3 federal law or when the deduction is expressly authorized in writing by the employee for specified
4 purposes that do not have the effect of reducing the agreed upon wage. Labor Code section 223
5 prohibits the pay of less than a statutory or contractual wage scale.

6 78. Pursuant to California Labor Code sections 1194 and 1197, and the Industrial Wage
7 Commission (“IWC”) Wage Orders, an employer must pay its employees for all hours worked, up
8 to 40 hours per week or 8 hours per day, at a regular rate no less than the mandated minimum wage.
9 Payment to an employee of less than the applicable minimum wage for all hours worked in a payroll
10 period is unlawful.

11 79. DEFENDANTS violated California’s minimum wage laws by failing to compensate
12 PLAINTIFFS and the Class Members for all hours worked by virtue of, among other things,
13 DEFENDANTS’ time rounding, automatic deduction for meal periods, off-the-clock/unpaid work
14 completed during meal periods, other pre-shift, post-shift and/or otherwise off-the-clock work,
15 and/or payment according to scheduled hours worked rather than actual hours worked (described
16 above), which resulted in the failure to account for all hours worked and thus the denial of minimum
17 wages.

18 80. DEFENDANTS had and continue to have a policy of failing to pay PLAINTIFFS
19 and Class Members for all hours worked.

20 81. Based on information and belief, DEFENDANTS had actual or constructive
21 knowledge that its time-rounding policies and practices, auto-deduction policies and practices for
22 meal periods, failure to relieve employees of all duties and employer control during unpaid meal
23 periods, policy and practice of payment according to scheduled work time rather than actual work
24 time, and/or other mandated off-the-clock work resulted in the underpayment of minimum wages
25 owed to PLAINTIFFS and other Class Members.

26 82. Pursuant to Labor Code sections 1194 and 1194.2, PLAINTIFFS and the Class
27 Members are entitled to recover all unpaid minimum wages and liquidated damages thereon, plus
28 attorney's fees and costs, in an amount to be proved at trial.

1 **SECOND CAUSE OF ACTION**

2 **Recovery of Unpaid Overtime Wages**
3 **(By PLAINTIFFS and the Class Members Against all DEFENDANTS)**

4 83. PLAINTIFFS incorporate all preceding paragraphs as if fully alleged herein.

5 84. Employees in California must be paid overtime, equal to one and one-half times the
6 employee's regular rate of pay for all hours worked in excess of eight (8) hours up to and including
7 12 hours in any workday, and for the first eight (8) hours worked on the seventh consecutive day of
8 work in a workweek, and they must be paid double the regular rate of pay for all hours worked in
9 excess of 12 hours in any workday and for all hours worked in excess of eight (8) on the seventh
10 consecutive day of work in a workweek, unless they are exempt.

11 85. PLAINTIFFS and the Class Members worked overtime hours for which they were
12 not compensated by DEFENDANTS by virtue of, among other things, DEFENDANTS' time
13 rounding, automatic deduction for meal periods, off-the-clock/unpaid work completed during meal
14 periods, other pre-shift, post-shift and/or otherwise off-the-clock work, and/or payment according
15 to scheduled hours worked rather than actual hours worked (described above), which resulted in the
16 failure to account for all hours worked and thus the denial of all owed overtime wages.

17 86. Based on information and belief, DEFENDANTS failed to pay twice Class
18 Members' regular rate(s) of pay for time worked beyond twelve (12) hours per workday and for
19 time worked beyond eight (8) hours on the seventh consecutive day of work in a work week, in
20 violation of California's overtime laws.

21 87. Based on information and belief, DEFENDANTS further violated California's
22 overtime wage laws by failing to incorporate all non-discretionary compensation, including but not
23 limited to, non-discretionary bonus compensation, shift differentials, and/or other non-discretionary
24 compensation into the regular rate of pay used to calculate the overtime rate of pay. Failing to
25 include non-discretionary compensation into the regular rate of pay resulted in a miscalculation of
26 the overtime wage rate, resulting in the underpayment of overtime wages owed to PLAINTIFFS and
27 other Class Members.

28 88. DEFENDANTS' conduct described above is in violation of California Labor Code
sections 510 and 1194 and all applicable Wage Orders.

1 89. PLAINTIFFS and the Class Members are entitled to recover all unpaid overtime
2 wages, plus attorney's fees and costs, in an amount to be proved.

3 **THIRD CAUSE OF ACTION**

4 **Failure to Provide Meal Periods or Compensation in Lieu Thereof**
5 **(By PLAINTIFFS and the Class Members Against all DEFENDANTS)**

6 90. PLAINTIFFS incorporate all preceding paragraphs as if fully alleged herein.

7 91. Pursuant to Labor Code section 512 and all applicable IWC Wage Orders,
8 DEFENDANTS were required to provide PLAINTIFFS and the Class Members with one 30-minute
9 meal break free from all duties and employer control for all shifts longer than 5 hours, and a second
10 30-minute meal break free from all duties for all shifts longer than 10 hours. Meal periods can be
11 waived, but only under the following circumstances: (1) if an employee's total work period in a day
12 is over five (5) hours but no more than six (6) hours, the required meal period may be waived by
13 mutual consent of the employer and employee, and (2) if an employee's total work period in a day
14 is over ten (10) hours but no more than twelve (12) hours, the required second meal period may be
15 waived by mutual consent of the employer and employee, but only if the first meal period was not
16 waived. Employers covered by the Wage Orders have an obligation to both (1) relieve their
17 employees for at least one meal period for shifts over five hours (see above), and (2) to record having
18 done so.

19 92. Employers must pay employees an additional hour of wages at the employees'
20 regular rate of pay for each missed or unlawful meal period (e.g., less than 30 minutes, interrupted
21 meal period, first meal period provided after five (5) hours, second meal period provided after 10
22 hours). Lab. Code § 226.7.

23 93. As explained above, PLAINTIFFS and other Class Members were consistently
24 unable to take timely, off duty, thirty-minute, uninterrupted first and second meal periods, often
25 being forced to take late meal periods, interrupted meal periods, and/or work through part or all of
26 their meal periods due to understaffing, the nature and constraints of their job duties, and/or
27 commentary from supervisors pressuring them to take non-compliant meal periods or skip meal
28 periods completely.

94. Based on information and belief, DEFENDANTS had and continue to have a policy

1 of rounding the start and end times of employees' meal periods and/or automatically deducting thirty
2 minutes per shift despite having actual and/or constructive knowledge that PLAINTIFFS and Class
3 Members did not receive compliant meal periods.

4 95. Moreover, based on information and belief, Class Members did not receive a timely,
5 uninterrupted second meal period when working shifts over ten (10) hours in a workday.

6 96. PLAINTIFFS are informed and believe and thereon allege that DEFENDANTS had
7 actual and/or constructive knowledge that its time-rounding and auto-deduction policies and
8 practices, other unlawful policies and practices resulted in the denial of compliant meal periods in
9 violation of California's meal period laws.

10 97. DEFENDANTS also failed to pay premiums for missed/otherwise unlawful meal
11 periods in violation of California law and/or failed to pay the proper meal period premium for failure
12 to incorporate all non-discretionary remuneration including but not limited to, bonuses, shift
13 differential pay and/or other non-discretionary compensation into the regular rate or compensation
14 for purposes of calculating the owed meal period premium.

15 98. As a result, under Labor Code section 226.7, PLAINTIFFS and the Class Members
16 are entitled to one additional hour's pay at the employee's regular rate of compensation for each day
17 a meal period was missed, late, interrupted, or otherwise unlawful, plus attorneys' fees and costs,
18 all in an amount to be proved at trial.

19 **FOURTH CAUSE OF ACTION**

20 **Failure to Provide Rest Periods or Compensation in Lieu Thereof (By PLAINTIFFS and the Class Members Against all DEFENDANTS)**

21 99. PLAINTIFFS incorporate all preceding paragraphs as if fully alleged herein.

22 100. Labor Code section 226.7 and all applicable IWC Wage Orders require an employer
23 to authorize or permit an employee to take a rest period of ten (10) net minutes for every four hours
24 worked or major fraction thereof. Such rest periods must be in the middle of the four-hour period
25 "insofar as practicable." In *Brinker Restaurant Corp. v. Superior Court*, 53 Cal.4th 1004 (2012), the
26 California Supreme Court held that employees are entitled to a 10-minute paid rest period for shifts
27 from 3 ½ to 6 hours in a length, two 10-minute rest periods for shifts more than 6 hours up to 10
28 hours, and three 10-minute rest periods for shifts of more than 10 hours up to 14 hours. (*Id.* at 1029).

1 The rest period requirement obligates employers to permit and authorize employees to take off-duty
2 rest periods, meaning employers must relieve employees of all duties and relinquish control over
3 how employees spend their time. *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th 257.

4 101. If the employer fails to provide any required rest period, the employer must pay the
5 employee one hour of pay at the employee's regular rate of compensation for each workday the
6 employer did not provide at least one legally required rest period, pursuant to Labor Code section
7 226.7.

8 102. PLAINTIFFS and the Class Members did not receive legally compliant, timely 10-
9 minute rest periods for every four (4) hours worked or major fraction thereof. As explained above,
10 any purported rest periods were late, interrupted, cut short, on duty, and/or otherwise subject to
11 DEFENDANTS' control due to the nature and constraints of Class Members' job duties,
12 understaffing, and/or commentary from supervisors pressuring PLAINTIFFS and Class Members
13 to skip rest periods completely or otherwise take non-compliant rest periods.

14 103. Based on information and belief, DEFENDANTS implemented policies and/or
15 practices that failed to relieve PLAINTIFFS and other Class Members of all duties and employer
16 control during rest periods. Based on further information and belief, Class Members were pressured
17 to complete their work duties according to a designated schedule such that rest periods were only
18 taken once tasks were completed, and/or as time permitted.

19 104. As a result, PLAINTIFFS and Class Members did not receive legally compliant first,
20 second, or third rest periods as required by California law.

21 105. Moreover, based on information and belief, DEFENDANTS failed to pay a rest
22 period premium to PLAINTIFFS and other Class Members for each workday in which there was a
23 missed or otherwise unlawful rest period. Based on further information and belief, when a rest
24 premium was paid, DEFENDANTS failed to include non-discretionary compensation including but
25 not limited to, bonuses, shift differential pay, and/or other non-discretionary compensation into the
26 regular rate of compensation for purposes of determining the owed rest period premium.

27 106. DEFENDANTS are therefore liable to PLAINTIFFS and the Class Members for one
28 hour of additional pay at the regular rate of compensation for each workday that a required rest

1 period was not provided, pursuant to California Labor Code section 226.7 and the applicable Wage
2 Order, plus pre-judgment interest, plus attorneys' fees and costs, all in an amount to be proved at
3 trial.

4 **FIFTH CAUSE OF ACTION**
5 **Violations of Labor Code Section 226**
6 **(By PLAINTIFFS and the Class Members Against all DEFENDANTS)**

7 107. PLAINTIFFS incorporate all preceding paragraphs as if fully alleged herein.

8 108. Pursuant to California Labor Code § 226, subdivision (a), PLAINTIFFS and the
9 Class Members were entitled to receive, semimonthly or at the time of each payment of wages, an
itemized wage statement accurately stating the following:

10 (1) gross wages earned, (2) total hours worked by the employee,
11 except for any employee whose compensation is solely based on a
12 salary and who is exempt from payment of overtime under
13 subdivision (a) of Section 515 or any applicable order of the Industrial
14 Welfare Commission, (3) the number of piece-rate units earned and
15 any applicable piece rate if the employee is paid on a piece-rate basis,
16 (4) all deductions, provided that all deductions made on written orders
17 of the employee may be aggregated and shown as one item, (5) net
18 wages earned, (6) the inclusive dates of the period for which the
employee is paid, (7) the name of the employee and his or her social
security number, except that by January 1, 2008, only the last four
digits of his or her social security number or an employee
identification number other than a social security number may be
shown on the itemized statement, (8) the name and address of the
legal entity that is the employer, and (9) all applicable hourly rates in
effect during the pay period and the corresponding number of hours
worked at each hourly rate by the employee.

19 109. As DEFENDANTS failed to provide PLAINTIFFS and other Class Members with
20 meal and rest periods that complied with Labor Code section 226.7, the wage statements
21 DEFENDANTS issued to PLAINTIFFS and other Class Members failed and continue to fail to
22 correctly set forth (a) the gross wages earned, in violation of Labor Code section 226(a)(1); (b) the
23 total hours worked by the employee in violation of Labor Code section 226(a)(2); (c) the net wages
24 earned, in violation of Labor Code section 226(a)(5); and (d) all applicable hourly rates in effect
25 during the pay period and the corresponding number of hours worked at each hourly rate by the
26 employee, in violation of Labor Code section 226(a)(9).

27 110. Moreover, due to violations detailed above, including but not limited to,
28 DEFENDANTS' failure to pay regular and overtime wages for all hours worked, failure to provide

1 meal and rest break premiums, and failure to pay all sick leave wages at the proper rates,
2 DEFENDANTS have violated California Labor Code § 226 by willfully failing to furnish
3 PLAINTIFFS and other Class Members with accurate, itemized wage statements that listed the gross
4 and net wages earned and the correct applicable rates of pay for all hours worked. Based on
5 information and belief, DEFENDANTS failed to incorporate all forms of non-discretionary
6 compensation earned during the pay period into the regular rate of pay for purposes of calculating
7 the owed overtime rate, and as such, failed to display the proper overtime rate(s) for each hour of
8 overtime worked by PLAINTIFFS and other Class Members.

9 111. As explained above, wage statements issued by DEFENDANTS failed to list the
10 “total hours worked” by PLAINTIFFS and Class Members (by virtue of rounded time entries,
11 automatic deduction for meal periods/failure to relieve Class Members of all duties and employer
12 control during unpaid meal periods, payment according to scheduled hours worked rather than actual
13 hours worked, and/or other off-the-clock work policies and practices all described in greater detail
14 *supra*), which results in a violation of Labor Code section 226(a). Failure to list all hours worked on
15 a wage statement, gives rise to an inference of injury under Labor Code Section 226 (*Maldonado v.*
16 *Epsilon Plastics, Inc.*, (2018) 22 Cal.App.5th 1308, 1337).

17 112. Based on information and belief, wage statements issued by DEFENDANTS failed
18 to list all applicable hourly rates in effect during the pay period and the corresponding number of
19 hours worked at each hourly rate by the employee, in violation of Labor Code section 226(a)(9).
20 For example, as described herein, based on information and belief, DEFENDANTS failed to
21 incorporate all forms of non-discretionary compensation earned during the pay period into the
22 overtime pay rate calculation, and as such, failed to display the proper overtime rate(s) for each hour
23 of overtime worked by Class Members.

24 113. Separately, and independent from the above allegations, DEFENDANTS issued
25 wage statements to PLAINTIFFS and Class Members that violate Labor Code section 226(a)(8), by
26 failing to list the correct name and/or address of the legal entity that is the employer.

27 114. Based on information and belief, wage statements issued by DEFENDANTS failed
28 to list the inclusive dates of the pay period for which the Class Member is being paid.

1 115. DEFENDANTS' failure to accurately list all hours worked on all wage statements
2 caused confusion to PLAINTIFFS and caused and continues to cause confusion to other Class
3 Members over whether they received all wages owed to them.

4 116. As a result, PLAINTIFFS and other Class Members have suffered injury as they
5 could not easily determine whether they received all wages owed to them and whether they were
6 paid for all hours worked.

7 117. Moreover, as a result of DEFENDANTS' failure to list the correct name and/or
8 address of the legal entity that is the employer, PLAINTIFFS and Class Members have suffered
9 injury as they could not contact their employer regarding any question(s) they had about wages paid.

10 118. DEFENDANTS' knowingly and intentionally failed to provide PLAINTIFFS and
11 Class Members with accurate, itemized wage statements.

12 119. As a result of DEFENDANTS' unlawful conduct, PLAINTIFFS and Class Members
13 have suffered injury. The absence of accurate information on their wage statements has prevented
14 earlier challenges to DEFENDANTS' unlawful pay practices, will require discovery and
15 mathematical computations to determine the amount of wages owed, and will cause difficulty and
16 expense in attempting to reconstruct time and pay records. DEFENDANTS' conduct led to the
17 submission of inaccurate information about wages and amounts deducted from wages to state and
18 federal government agencies. As a result, PLAINTIFFS and Class Members are required to
19 participate in this lawsuit and create more difficulty and expense from having to reconstruct time
20 and pay records than if DEFENDANT had complied with its legal obligations.

21 120. Pursuant to California Labor Code section 226(e), PLAINTIFFS and Class Members
22 are entitled to recover fifty dollars per employee for the initial pay period in which a Section 226
23 violation occurred and one hundred dollars per employee per violation for each subsequent pay
24 period, not to exceed an aggregate penalty of four thousand dollars per employee.

25 121. Pursuant to California Labor Code § 226(h), PLAINTIFFS and Class Members are
26 entitled to bring an action for injunctive relief to ensure DEFENDANTS' compliance with
27 California Labor Code § 226(a). Injunctive relief is warranted because DEFENDANTS continue to
28 provide currently employed Class Members with inaccurate wage statements in violation of

1 California Labor Code § 226(a). Currently employed Class Members have no adequate legal remedy
2 for the continuing injuries that will be suffered as a result of DEFENDANTS' ongoing unlawful
3 conduct. Injunctive relief is the only remedy available for ensuring DEFENDANTS' compliance
4 with California Labor Code § 226(a).

5 122. Pursuant to California Labor Code §§ 226(e) and 226(h), PLAINTIFFS and Class
6 Members are entitled to recover the full amount of penalties due under Section 226(e), reasonable
7 attorneys' fees, and costs of suit.

8 **Failure to Produce Employment Records**

9 123. *Time and Pay Records.* Labor Code section 226(b)-(c) and all applicable IWC Wage
10 Orders, section 7 require that employers keep the following information on file for each employee
11 for a minimum of three years: The employee's dates of employment; the employee's hourly rates
12 and the corresponding number of hours worked by the employee at each hourly rate, when the
13 employee begins and ends each work period (including meal periods) and split intervals; total hours
14 worked by the employee; all deductions; gross wages earned; and net wages earned.

15 124. Section (b) of Labor Code section 226 further requires employers to "afford current
16 and former employees the right to inspect or receive a copy of records pertaining to their
17 employment upon reasonable request to the employer." Section (c) of Labor Code section 226
18 provides that, "an employer who receives a written or oral request to inspect or receive a copy of
19 records pursuant to subdivision (b) pertaining to a current or former employee shall comply with
20 the request as soon as practicable, but no later than 21 calendar days from the date of the request. A
21 violation of this subdivision is an infraction." An employer's failure to comply within this timeframe
22 entitles a current or former employee to recover a seven hundred fifty-dollar (\$750) penalty from
23 the employer. Lab. Code section 226(f).

24 125. *Personnel Records.* In addition to their right to time and pay records, employees, and
25 their representatives, have the right to inspect and receive a copy of their personnel files pursuant to
26 Labor Code section 1198.5. This statute applies to both former and current employees. Labor Code
27 section 432 further specifies that employers must furnish copies of all employment records bearing
28 the employee's signature.

1 126. Labor Code section 1198.5 also requires that the file be made available for inspection
2 or receipt within a "reasonable" amount of time, but "not later than 30 calendar days from the date
3 the employer receives a written request." An employer's failure to comply within this timeframe
4 likewise entitles a current or former employee to recover a seven hundred fifty-dollar (\$750) penalty
5 from the employer. Lab. Code section 1198.5(k).

6 127. Based on information and belief, DEFENDANTS have a uniform policy and practice
7 of failing to produce or make available a current or former employee's personnel records and/or
8 payroll records when requested pursuant to Labor Code sections 226, 1198.5, 432, and/or the
9 applicable Wage Order.

10 128. DEFENDANTS' conduct explained above is in violation of Labor Code Sections
11 226(b) & (c). Accordingly, PLAINTIFFS and Class Members are therefore each entitled to recover
12 a \$750.00 penalty from DEFENDANTS, along with costs and reasonable attorneys' fees, pursuant
13 to Labor Code Section 226(f).

14 129. DEFENDANTS' conduct is also in violation of Labor Code section 1198.5. Pursuant
15 to Labor Code Sections Labor Code section 1198.5(k), PLAINTIFFS and the Class Members are
16 entitled to recover an additional \$750.00 penalty from DEFENDANTS, along with injunctive relief,
17 costs and reasonable attorney's fees pursuant to Labor Code section 1198.5(l).

18 **SIXTH CAUSE OF ACTION**

19 **Failure to Timely Pay All Wages Due Upon Separation of Employment** 20 **(By PLAINTIFFS and the Class Members Against all DEFENDANTS)**

21 130. PLAINTIFFS incorporate all preceding paragraphs as if fully set forth herein.

22 131. California Labor Code section 201(a) provides, in relevant part, that "[i]f an
23 employer discharges an employee, the wages earned and unpaid at the time of discharge are due and
24 payable immediately."

25 132. California Labor Code section 202(a) provides, in relevant part, that "[i]f an
26 employee not having a written contract for a definite period quits his or her employment, his or her
27 wages shall become due and payable not later than 72 hours thereafter, unless the employee has
28 given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled
to his or her wages at the time of quitting."

1 133. Based in information and belief, DEFENDANTS failed and continue to fail to timely
2 pay final wages to PLAINTIFFS and Class Members upon separation of employment in violation
3 of Labor Code section 201-202. Moreover, final paychecks once provided to PLAINTIFFS and
4 Class Members do not include all wages owed as they are devoid of, including but not limited to,
5 all owed minimum wages, overtime wages, premium wages, vacation pay, and all owed sick leave
6 and/or paid time off wages at the properly accrued rates.

7 134. Under Labor Code section 203, PLAINTIFFS and the Class Members who are no
8 longer employed by DEFENDANTS are entitled to recover waiting time penalties of up to 30 days'
9 pay, plus attorney's fees and costs, in an amount to be proved at trial.

10 **SEVENTH CAUSE OF ACTION**
11 **Failure to Reimburse Business Expenses**
12 **(By PLAINTIFFS and the Class Members Against all DEFENDANTS)**

13 135. PLAINTIFFS incorporate all preceding paragraphs as if fully alleged herein.

14 136. California law requires employers to indemnify their employees for all necessary
15 expenditures incurred by the employee in direct consequence of the discharge of their duties or of
16 their obedience to the directions of the employer. *See* Cal. Lab. Code s. 2802 and all applicable
17 Wage Orders section 9(b). Furthermore, "for purposes of [section 2802], the term 'necessary
18 expenditure or losses' shall include all reasonable costs, including, but not limited to, attorneys' fees
19 incurred by the employee enforcing the rights granted by this section."

20 137. Among other things, under California law, when employees must use their personal
21 cellphones for work-related purposes, the employer must reimburse them for a reasonable
22 percentage of their cell phone bills. *See Cochran v. Schwan's Home Services, Inc.* (2014) 228
23 Cal.App.4th 1137, 1140. To show liability, an employee will only need to show that he or she was
24 required to use their personal cellphone for work-related purposes and not reimbursed for the use.
25 *Id.* 1144-1145. California law also requires employers to reimburse employees for automobile
26 expenses incurred for the business use of personal vehicles, such as for mileage, gas, and the wear
27 and tear on the vehicle. *See Gattuso v. Harte-Hanks Shoppers, Inc.* (2007) 42 Cal.4th 554.

28 138. As described above, PLAINTIFFS and the Class Members were improperly required
to pay for business expenses that are legally the responsibility of the employer.

139. DEFENDANTS' failure to provide PLAINTIFFS and the Class Members with full reimbursement for all reasonable expenses associated with carrying out their duties required that PLAINTIFFS and the Class Members subsidize and/or carry the burden of business expenses in violation of Labor Code section 2802.

140. As a result of DEFENDANTS' unlawful conduct, PLAINTIFFS and the Class Members have suffered injury in that they were not completely reimbursed as mandated by California law.

141. Pursuant to California Labor Code section 2802, PLAINTIFFS and the Class Members are entitled to recover the full amount of reimbursable expenses due, in addition to reasonable attorneys' fees, and costs of suit.

EIGHTH CAUSE OF ACTION

Unfair Competition

(By PLAINTIFFS and the Class Members Against all DEFENDANTS)

142. PLAINTIFFS incorporate all preceding paragraphs as if fully alleged herein.

143. DEFENDANTS' unlawful conduct alleged herein constitutes unfair competition within the meaning of California Business and Professions Code section 17200 *et seq.* This unfair conduct includes all unlawful conduct alleged herein, including but not limited to: DEFENDANTS' failure to pay minimum and overtime wages by virtue of its illegal policies and practices; DEFENDANTS' failure to authorize or permit, or provide, all required meal and rest periods or pay proper premiums in lieu thereof; DEFENDANTS' failure to furnish complete and accurate itemized wage statements; DEFENDANTS' failure to produce and/or allow access to employment records within the time limits prescribed under California law; DEFENDANTS' failure to reimburse business expenses; DEFENDANTS' failure to timely pay all wages owed upon separation of employment; and DEFENDANTS' failure to provide paid sick leave (or paid time off in lieu thereof) at the properly accrued rates (due to, including but not limited to, DEFENDANTS' failure to incorporate all non-discretionary compensation into the sick pay calculation and failure to base the accrued sick leave on the correct number of hours worked as a result of DEFENDANTS' time-rounding/auto deduction policies and practices, payment according to scheduled hours worked and/or other off-the-clock work policies and practices).

1 144. Due to DEFENDANTS' unfair and unlawful business practices in violation of the
2 California Labor Code, DEFENDANTS have gained a competitive advantage over other
3 comparable companies doing business in the State of California that comply with their obligations
4 to authorize or permit rest periods and meal periods or pay proper meal and rest period premiums
5 in lieu thereof, to properly accrue and pay sick time benefits, to provide complete and accurate
6 itemized wage statements, to reimburse employees for all business expenses, to pay all owed
7 minimum and overtime wages and to pay all wages due upon separation of employment of their
8 employees.

9 145. As a result of DEFENDANTS' unfair competition as alleged herein, PLAINTIFFS
10 and Class Members have suffered injury in fact and lost money or property, as described in more
11 detail above. Pursuant to California Business and Professions Code section 17200, *et seq.*,
12 PLAINTIFFS and Class Members are entitled to restitution of all wages and other monies rightfully
13 belonging to them that DEFENDANTS failed to pay and wrongfully retained by means of their
14 unlawful and unfair business practices.

15 146. PLAINTIFFS also seek an injunction against DEFENDANTS on behalf of the Class
16 Members, enjoining DEFENDANTS and any and all persons acting in concert with them from
17 engaging in each of the unlawful practices and policies set forth herein.

18 147. PLAINTIFFS also seek an award of attorney's fees pursuant to Code Civ. Proc
19 Section 1021.5 and as permitted by law, and an award for costs reasonably incurred, as permitted
20 by law.

21 **NINTH CAUSE OF ACTION**

22 **Violation of the Private Attorneys General Act of 2004**

23 **(By PLAINTIFF ELISEO DE LA TORRE and the Aggrieved Employees Against All 24 DEFENDANTS)**

25 148. PLAINTIFF ELISEO DE LA TORRE ("PLAINTIFF TORRE") incorporates all
26 preceding paragraphs as if full alleged herein.

27 149. PLAINTIFF TORRE brings this action under the Private Attorneys General Act of
28 2004, Labor Code sections 2698, *et seq.*, ("PAGA"), as a representative action on behalf of
PLAINTIFF TORRE, the State of California and all other Aggrieved Employees, regarding

1 violations of the California Labor Code as set forth herein as to all Aggrieved Employees. Said
2 "Aggrieved Employees" include:

3 All current and former non-exempt employees that worked either
4 directly or via a staffing agency for DEFENDANTS at any location
5 in California at any time from one year plus 65 days from the filing
6 of the initial Complaint through the present ("PAGA Period").

7 150. PLAINTIFF TORRE is an "aggrieved employee," as that term is defined under Labor
8 Code section 2699(c), as PLAINTIFF TORRE was employed by DEFENDANTS during the
9 applicable statutory limitations period and suffered one or more of the Labor Code violations set
10 forth herein. Accordingly, PLAINTIFF TORRE seeks to recover on behalf of the State of California
11 and all Aggrieved Employees, the civil penalties provided by PAGA, plus reasonable attorney's fees
12 and costs. PLAINTIFF TORRE has standing to bring a PAGA cause of action on behalf of
13 PLAINTIFF, the State of California, and all Aggrieved Employees, as PLAINTIFF TORRE was
14 jointly employed by DEFENDANTS and is thereby affected by one or more of the alleged
15 violations. See *Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal.App.5th 745, 757. A
16 PAGA plaintiff has authority to seek penalties for all known violations committed by the employer
17 - regardless of whether Plaintiff experienced all violations personally. *Id.* at 760-761.

18 **COMPLIANCE WITH PAGA'S NOTIFICATION REQUIREMENTS**

19 151. On March 20, 2023, PLAINTIFF TORRE, through counsel, gave written notice by
20 online filing with the California Labor and Workforce Development Agency ("LWDA") informing
21 it that DEFENDANTS failed to comply with California's labor laws with regard to the allegations
22 alleged in this Complaint ("PAGA Notice").

23 152. The LWDA did not provide notice of its intention to investigate DEFENDANTS'
24 violations after expiration of the 65-day waiting time period, or at any time. To the extent any of the
25 alleged violations were curable, DEFENDANTS failed to cure within the time allotted by PAGA.
26 Accordingly, PLAINTIFF TORRE has exhausted the administrative remedies as required by Labor
27 Code section 2699.3. Consequently, PLAINTIFF TORRE's right to file the instant lawsuit against
28 DEFENDANTS has duly accrued.

1 153. PLAINTIFF TORRE seeks to recover the PAGA civil penalties through a
2 representative action permitted by PAGA and the California Supreme Court in *Arias v. Superior*
3 *Court* (2009) 46 Cal.4th 969. Therefore, class certification of the PAGA claims is not required.

4 154. From one year prior to PLAINTIFF TORRE's filing of the required PAGA notice
5 with the LWDA, and continuing through the present, as alleged herein, DEFENDANTS violated
6 California Labor Code sections, 201-203, 204, 216, 221-223, 226, 226.7, 245-248.5, 432, 432.5,
7 432.7, 510, 512, 558, 558.1, 1024.5, 1174, 1194, 1197, 1197.1, 1198, 1198.5, 1199, 2802, 2810.5,
8 and all applicable Wage Orders.

9 155. As set forth above, DEFENDANTS have committed numerous violations of the
10 California Labor Code due to including but not limited to their failure to pay all owed minimum
11 wages and all owed overtime wages, failure to provide lawful meal and rest periods or compensation
12 in lieu thereof, failure to provide accurate wage statements, failure to reimburse business expenses,
13 and failure to pay all wages owed upon separation of employment as alleged above. PAGA penalties
14 are in addition to any other relief available under the Labor Code.

15 156. Additionally, DEFENDANTS have violated the following Labor Code sections and
16 provisions of the applicable Wage Order as to the PLAINTIFF TORRE and other Aggrieved
17 Employees.

18 **Failure to Keep Accurate Records**

19 157. California Labor Code § 1174 requires employers to keep "accurate and complete"
20 payroll records showing, among other things, the hours worked daily by all non-exempt employees.
21 All applicable Wage Orders § 7 similarly requires employers to keep time records reflecting the
22 times during which all owed meal periods were provided each day.

23 158. At all relevant times, DEFENDANTS failed, and continue to fail, to keep accurate
24 and complete records as required by law, including but not limited to the following records: total
25 daily hours worked, applicable rates of pay, time records showing when PLAINTIFF TORRE and
26 other Aggrieved Employees began and ended each work period, time records of meal periods, and
27 accurate itemized wage statements.

28 159. DEFENDANTS' failure to keep³⁵ "accurate and complete" payroll records for
PLAINTIFFS' FIRST AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT AND DEMAND
FOR JURY TRIAL

1 PLAINTIFF TORRE and other Aggrieved Employees violates Labor Code §§ 1174, 1198, 1199,
2 and all applicable Wage Orders, section 7. These violations subject DEFENDANTS to civil
3 penalties under Labor Code §§ 558.1, 226.6, 1174.5 and 2699. Each violation of each Labor Code
4 section and Wage Order provision results in a *separate* civil penalty, for each Aggrieved Employee
5 for each pay period during which the referenced statutes and Wage Order provisions were violated.³

6 **Failure to Produce Records in Violation of Labor Code §§ 226(b)-(c), 1198.5, and 432**

7 160. Time and Pay Records: Labor Code section 226 and all applicable IWC Wage
8 Orders, section 7 require that employers keep the following information on file for each employee
9 for a minimum of three years: The employee's dates of employment; the employee's hourly rates
10 and the corresponding number of hours worked by the employee at each hourly rate, when the
11 employee begins and ends each work period (including meal periods) and split intervals; total hours
12 worked by the employee; all deductions; gross wages earned; and net wages earned.

13 161. Section (b) of Labor Code section 226 further requires employers to "afford current
14 and former employees the right to inspect or receive a copy of records pertaining to their
15 employment upon reasonable request to the employer." Section (c) of Labor Code section 226
16 provides that, "an employer who receives a written or oral request to inspect or receive a copy of
17 records pursuant to subdivision (b) pertaining to a current or former employee shall comply with
18 the request as soon as practicable, but no later than 21 calendar days from the date of the request. A
19 violation of this subdivision is an infraction." An employer's failure to comply within this timeframe
20 entitles a current or former employee to recover a seven hundred fifty-dollar (\$750) penalty from
21 the employer. Lab. Code section 226(f).

22 162. Personnel Records. In addition to their right to time and pay records, employees, and
23 their representatives, have the right to inspect and receive a copy of their personnel files pursuant to
24 Labor Code section 1198.5. This statute applies to both former and current employees. Labor Code

25 ³ Labor Code § 2699(f)(2) (establishing that the civil penalty is "for each aggrieved employee per pay period"); Labor
26 Code § 558 (establishing that the civil penalty is "for each underpaid employee for each pay period for which the
27 employee was underpaid"); All applicable wage orders, § 20 (establishing that "[i]n addition to any other civil
28 penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes
to be violated, the provisions of this order, shall be subject to the civil penalty...for each underpaid employee for each
pay period during which the employee was underpaid") (emphasis added).

1 section 432 further specifies that employers must furnish copies of all employment records bearing
2 the employee's signature. Labor Code section 1198.5 also requires that the file be made available
3 for inspection or receipt within a "reasonable" amount of time, but "not later than 30 calendar days
4 from the date the employer receives a written request." An employer's failure to comply within this
5 timeframe likewise entitles a current or former employee to recover a seven hundred fifty-dollar
6 (\$750) penalty from the employer. Lab. Code section 1198.5(k).

7 163. Based on information and belief, DEFENDANTS fail to timely produce or make
8 available Aggrieved Employees' personnel records and/or payroll records when requested pursuant
9 to Labor Code sections 226, 1198.5, 432, and/or the applicable Wage Order. For example,
10 PLAINTIFF, through counsel, sent multiple written requests for payroll and personnel records to
11 DEFENDANTS, on or about, including but not limited to, the following dates: January 26, 2023
12 and March 7, 2023. Yet, DEFENDANTS failed to timely produce complete records, including but
13 not limited to, wage statements and time records, within the time periods delineated by California
14 labor law. These violations subject DEFENDANTS to penalties under Labor Code sections 226,
15 1198.5, and 2699.

16 **Statutory Wage Violations**

17 164. California Labor Code section 223 makes it unlawful for an employer to secretly pay
18 wages lower than required by statute while purporting to pay legal wages. As described above,
19 DEFENDANTS willfully and systematically denied PLAINTIFF and Aggrieved Employees of all
20 earned minimum and overtime compensation for all hours worked which resulted in the payment of
21 less than statutorily required wages. DEFENDANTS acted with the intent to deprive them of
22 statutory wages, including, but not limited to, minimum and overtime wages, to which they were
23 entitled to under California law. Thus, DEFENDANTS paid PLAINTIFF and other Aggrieved
24 Employees lower wages than those they were entitled to while purporting that PLAINTIFF and
25 other Aggrieved Employees were properly paid. As a result, PLAINTIFF and other Aggrieved
26 Employees are entitled to recover penalties, attorney's fees, costs, and interest thereon, pursuant to
27 Labor Code § 2699(f)-(g).

28 **Refusal to Make Payment**

1 165. Labor Code section 216 declares unlawful an employer's refusal to pay wages due
2 and payable and/or the denial of the validity of any claim to wages due. DEFENDANTS violated
3 and continue to violate this section by failing to pay PLAINTIFF and Aggrieved Employees for all
4 hours worked at the proper wage rate and by failing to pay an additional hour of pay for each
5 meal/rest period not provided or that was otherwise unlawful. *Gould v. Maryland Sound Industries,*
6 *Inc.* (1995) 31 Cal.App.4th 1137, 1154-1155. These violations subject DEFENDANTS to civil
7 penalties under Labor Code section 225.5. Each violation results in a *separate* civil penalty, for
8 each Aggrieved Employee, for each pay period during which the statute provisions were violated.⁴

9 **Standard Conditions of Labor Violations**

10 166. Together, Labor Code sections 1198 and 1199 make unlawful any employment of
11 any employee under conditions of labor prohibited by the Wage Orders, and any violation, refusal,
12 or neglect to comply with any provision within Part 4, Chapter 1 of the Labor Code, including
13 sections 1174, 1197, and 1198, or order or ruling of the commission. Therefore, DEFENDANTS'
14 violations with respect to meal periods, rest periods, record keeping provisions, business expenses,
15 minimum/overtime wages and other violations described herein result in separate violations of
16 sections 1198 and 1199, which subject DEFENDANTS to civil penalties under Labor Code sections
17 1197.1 and 2699.

18 **Unlawful Deductions**

19 167. Labor Code section 221 prohibits an employer from "collect[ing] or receiv[ing] from
20 an employee any part of wages theretofore paid by said employer to said employee." Based on
21 information and belief DEFENDANTS made unlawful deductions from Aggrieved Employees
22 paychecks during the relevant period. Such a practice is in violation of including but not limited to,
23 Labor Code Sections 221-222 which subjects DEFENDANTS to civil penalties under Labor Code
24 Section 2699.

25 168. Each violation results in a separate civil penalty, for each Aggrieved Employee, for
26

27 ⁴ Labor Code § 225.5 (establishing that "[i]n addition to, and entirely independent and apart from, any other penalty
28 provided in this article, every person who unlawfully withholds wages due any employee in violation of sections 212,
216, 221, 222, or 223 shall be subject to a civil penalty...for each failure to pay each employee") (emphasis added).

1 each pay period during which the statute provisions were violated. See Lab. Code §225.5
2 (establishing that “[i]n addition to, and entirely independent and apart from, any other penalty
3 provided in this article, every person who unlawfully withholds wages due any employee in
4 violation of Section 212, 216, 221, 222, or 223 shall be subject to a civil penalty...for each failure
5 to pay each employee”).

6 **Reporting Time Pay Violations**

7 169. Section 5 of all applicable IWC Wage Orders, provides as follows:

8 170. (A) Each workday an employee is required to report for work and does report, but is
9 not put to work or is furnished less than half said employee’s usual or scheduled day’s work, the
10 employee shall be paid for half the usual or scheduled day’s work, but in no event for less than two
11 (2) hours nor more than four (4) hours, at the employee’s regular rate of pay, which shall not be less
12 than the minimum wage. (B) If an employee is required to report for work a second time in any one
13 workday and is furnished less than two (2) hours of work on the second reporting said employee
14 shall be paid for two hours at the employee's regular rate of pay, which shall not be less than the
15 minimum wage.

16 171. Aggrieved Employees were not paid reporting time wages in accordance with
17 California law, including but not limited to the applicable IWC Wage Order. For example, based on
18 information and belief, at times, Aggrieved Employees reported to work for a scheduled shift but
19 were sent home and/or were not put to work and were not paid all owed reporting time pay wages
20 in accordance with California law.

21 172. Based on further information and belief, as described above, DEFENDANTS
22 required Aggrieved Employees to travel between DEFENDANTS’ locations, facilities, and/or yards
23 without compensating Aggrieved Employees for the travel time, in violation of California’s
24 minimum wage laws, overtime wage laws, and all applicable IWC Wage Orders, including but not
25 limited to, section 5. Based on information and belief, DEFENDANTS also failed to compensate
26 other Aggrieved Employees for all employer-mandated travel required after arriving at their first
27 assigned location at their regular rate(s) of pay, in violation of California law, including but not
28 limited to, IWC Wage Order 16, Section 5(A).

1 173. Based on information and belief, DEFENDANTS have a policy and practice of
2 failing to pay all reporting time wages to Aggrieved Employees, in violation of California law,
3 including but not limited to, the applicable IWC Wage Order, Section 5. DEFENDANTS' failure to
4 pay all reporting time wages to Aggrieved Employees violated and continues to violate the
5 applicable Wage Order, and the California Labor Code, including but not limited to section 1198.

6 **Seating Violations**

7 174. Per section 12 of the applicable wage order, "[w]here practicable and consistent with
8 applicable industry-wide standards, all working employees shall be provided with suitable seats
9 when the nature of the process and the work performed reasonably permits the use of seats."

10 175. Suitable seating is one of the worker protections covered by California's Wage
11 Orders, which have the same dignity as statutes, are remedial in nature and are to be broadly
12 construed to effectuate the goal of protecting the comfort and welfare of employees. *Brinker*
13 *Restaurant Corp. v. Superior Court*, 53 Cal.4th 1004, 1027 (2012).

14 176. Based on information and belief, DEFENDANTS failed to provide PLAINTIFF
15 TORRE and other Aggrieved Employees with suitable seating, and when such employees were not
16 engaged in duties which required them to stand, no seating was placed in reasonable proximity to
17 their workstations.

18 177. Moreover, based on information and belief, the nature of the work reasonably
19 permitted the use of seats for at least part of the time that Aggrieved Employees were working.
20 Lastly, there were periods of time when Aggrieved Employees were not engaged in active duties of
21 their employment, yet there were no suitable seats in reasonable proximity to the work area and use
22 of seats would not interfere with the performance of their duties.

23 178. The Aggrieved Employees worked in various positions. The nature of Aggrieved
24 Employees' work reasonably permitted the use of seats. However, DEFENDANTS failed to provide
25 suitable seating in reasonable proximity to Aggrieved Employees' work areas in violation of section
26 14(A-B) of all applicable Wage Orders, and Labor Code sections 1198 and 1199, subjecting
27 DEFENDANTS to civil penalties under Labor Code sections 1199 and 2699. Each violation of each
28 Labor Code section and IWC Wage Order provision, for each Aggrieved Employee, results in a

1 separate civil penalty.

2 **Sick Leave Violations**

3 179. DEFENDANTS violated California's paid sick leave laws including, Labor Code
4 section 245-248.5 and 233-234. DEFENDANTS either failed to provide sick leave pay to
5 PLAINTIFF TORRE and other Aggrieved Employees or failed to properly accrue paid sick leave
6 due to DEFENDANTS' failure to account for actual hours worked (as explained above), and/or
7 failure to incorporate multiple rates of pay and/or all forms of non-discretionary remuneration
8 including but not limited to, non-discretionary bonuses, shift differential pay, and/or other non-
9 discretionary compensation into the sick leave pay rate calculation.

10 180. DEFENDANTS further failed to give PLAINTIFF TORRE and other Aggrieved
11 Employees notice of their paid sick leave rights – or thereby putting their entitlement to sick leave
12 in a Labor Code section 2810.5 notice. In addition, DEFENDANTS failed to maintain accurate
13 records of used sick leave and the balance of paid sick leave left to the employees, which affected
14 PLAINTIFF TORRE and Aggrieved Employees' intelligent exercise of their paid sick leave.

15 181. But for this failure, PLAINTIFF TORRE and other Aggrieved Employees would
16 have used their paid sick leave at least prior to their respective separations, for as on several
17 occasions thereafter, he or she would have been entitled to use the banked sick leave and earn
18 appropriate compensation.

19 182. In violation of Labor Code section 247.5, DEFENDANTS failed to maintain records
20 documenting the hours worked and paid sick days accrued and used by PLAINTIFF TORRE and
21 all Aggrieved Employees, permitting the presumption that PLAINTIFF TORRE and all Aggrieved
22 Employees were entitled to the maximum number of hours accruable.

23 183. Upon information and belief, DEFENDANTS failed and continue to fail to comply
24 with Labor Code section 246, by failing to provide PLAINTIFF TORRE and all Aggrieved
25 Employees with a Labor Code section 226 wage statement, or separate writing containing the
26 amount of paid sick leave available, or paid time off leave an employer provides in lieu of sick leave,
27 at the time it pays wages.

28 184. These practices violated California's sick leave laws, Labor Code section 245, *et seq.*
PLAINTIFFS' FIRST AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT AND DEMAND
FOR JURY TRIAL

1 185. On information and belief, PLAINTIFF TORRE alleges that all of these practices
2 were experienced and continue to be experienced by other Aggrieved Employees.

3 186. Accordingly, PLAINTIFF TORRE seeks all appropriate relief under the PAGA, the
4 aforementioned code provisions including but not limited to Labor Code section 233 and 234, and
5 seeks injunctive relief, attorney's fees, declaratory relief, and penalties as permitted by law.

6 **Failure To Provide Supplemental Paid Sick Leave**

7 187. Labor Code § 248.2 provides that all employers with 26 or more employees are
8 required to provide up to 80 hours for covered employees to take 2021 COVID-19 Supplemental
9 Paid Sick Leave to care for themselves, to care for a family member or if it is vaccine-related.
10 DEFENDANTS violated Labor Code § 248.2 by not providing PLAINTIFF TORRE and other
11 Aggrieved Employees with required 2021 COVID-19 Supplemental Paid Sick Leave. Based on
12 information and belief, DEFENDANTS failed to provide Supplemental Paid Sick Leave in 2022 in
13 violation of Labor Code section 248.6.

14 **Failure to Pay Vested Vacation/Paid Time Off**

15 188. California Labor Code section 227.3 provides that when an employer policy provides
16 for paid vacations and/or paid time off, and an employee is terminated without having taken off his,
17 her, or their vested vacation time, all vested vacation shall be paid to the employee as wages at the
18 employee's final rate in accordance with such contract of employment or employer policy respecting
19 eligibility or time served and that there shall be no forfeiture of vested vacation time or paid time
20 off upon termination.

21 189. Based on information and belief, DEFENDANTS had and continue to have a
22 uniform policy and practice of failing to allow Aggrieved Employees to use their earned
23 vacation/paid time off during their employment and failing to pay all vested, accrued paid time off
24 to Aggrieved Employees upon separation of employment, in violation of California law, including
25 but not limited to, Labor Code section 227.3.

26 **Unlawful Inquiries into Salary History**

27 190. Labor code section 432.3 provides in part "(b) An employer shall not, orally or in
28 writing, personally or through an agent, seek salary history information, including compensation

1 and benefits, about an applicant for employment.” Based on information and belief, DEFENDANTS
2 have a policy and/or practice of unlawfully asking Aggrieved Employees to reveal their salary
3 history when applying for employment with DEFENDANTS. For example, when PLAINTIFF
4 TORRE applied for employment with DEFENDANTS, PLAINTIFF TORRE was required to fill
5 out an application that requested, among other things, the following information: Name and address
6 of former employer, length of former employment relationship, and the “starting/beginning” and
7 “final/ending” “hourly rate/salary” of the former employment relationship. Based on information
8 and belief, DEFENDANTS required other Aggrieved Employees to disclose the same or similar
9 information, in violation of Labor Code section 432.3.

10 191. Moreover, by requiring Aggrieved Employees to disclose prior salary information in
11 a written application for employment, DEFENDANTS violated Labor Code section 432.5 by
12 requiring Aggrieved Employees to agree in writing to disclose their salary history as a condition of
13 obtaining employment with DEFENDANTS, in violation of California law.

14 **Unlawful Agreements/ Unlawful Criminal History Inquiries**

15 192. *Unlawful Agreements.* Labor Code section 432.5 provides that “no employer...shall
16 require any employee or applicant for employment to agree, in writing, to any term or condition
17 which is known by such employer...to be prohibited by law.” DEFENDANTS required and
18 continue to require Aggrieved Employees to agree in writing to unlawful conditions of employment
19 including but not limited to unlawful criminal and/or financial checks as a condition of obtaining
20 and/or continuing employment in violation of Labor Code section 432.5.

21 193. The California Labor Code places certain procedural and substantive limits on an
22 employers’ ability to conduct employee background checks and on how employers can use the
23 information they obtain through those background checks. Labor Code section 1024.5 states that
24 employers, except for financial institutions, may order a credit check only if the individual works
25 (or is applying to work) in certain positions (e.g., managerial positions, financially-related positions,
26 and certain government positions). Additionally, the Investigative Consumer Reporting Agencies
27 Act (ICRAA- CA Civil Code section 1786, *et seq.*) and the Fair Credit Reporting Act (FCRA - 15
28 U.S.C. section 1681, *et seq.*) mandate several requirements prior to and following an employee

1 background check, including but not limited to identifying an appropriate reason for the background
2 check, a separate consent form with required disclosures and certain formatting requirements,
3 additional forms such as a summary of rights, a way by which to request a copy of the report, as
4 well as proper notice of adverse actions taken, among other statutory requirements.

5 194. Based on information and belief, DEFENDANTS ordered unlawful financial credit
6 checks on Aggrieved Employees, in violation of Labor Code section 1024.5, and required them to
7 provide ongoing written consent to the unlawful credit checks as a condition of employment, in
8 violation of California and Federal law, which results in a violation of Labor Code section 432.5.

9 195. Based on information and belief, DEFENDANTS required Aggrieved Employees to
10 submit and/or agree to submit in writing to unlawful criminal background checks as a condition of
11 obtaining and/or holding employment in violation of the ICRAA and the FCRA as alleged above.

12 196. Based on further information and belief, DEFENDANTS required Aggrieved
13 Employees to agree in writing to provide DEFENDANTS with ongoing consent to conduct
14 background checks throughout the duration of employment, in violation of the ICRAA and/or FCRA
15 and/or other applicable laws, resulting in a further violation of Labor Code section 432.5, by
16 requiring applicants and employees to agree to an unlawful provision as a condition of employment.

17 197. Based on further information and belief, DEFENDANTS knew that requiring
18 Aggrieved Employees to agree to unlawful criminal and/or financial background checks as a
19 condition of obtaining and/or holding employment was unlawful.

20 198. By requiring that Aggrieved Employees sign off on the illegal background and/or
21 financial checks, DEFENDANTS violated Labor Code section 432.5.

22 Unlawful Inquires into Criminal History

23 199. Labor Code section 432.7 prohibits an employer from asking applicants about past
24 arrest(s) unless they resulted in conviction(s) and even then, certain limitations apply. Based on
25 information and belief, DEFENDANTS asked Aggrieved Employees about arrests not resulting in
26 convictions on its employment application, in violation of California law.

27 200. Upon information and belief, DEFENDANTS, in violation of California law,
28 including but not limited to the Fair Chance Act/⁴⁴ the California Fair Employment and Housing Act

1 (“FEHA”), asked Aggrieved Employees about convictions prior to extending an offer of
2 employment and/or otherwise impermissibly inquired into criminal history on its employment
3 application in violation of California law.

4 201. By asking about arrests not resulting in convictions, DEFENDANTS violated Labor
5 Code section 432.7. By asking about convictions at the application phase or prior to extending an
6 employment offer, DEFENDANTS violated California’s Fair Chance Act, and thereby violated
7 Labor Code section 432.5 by unlawfully requiring Aggrieved Employees to agree in writing to
8 disclose arrests and/or convictions as a condition of employment.

9 202. Under the provisions of PAGA and the above mentioned Labor Code sections,
10 including but not limited to Labor Code sections 201-203, 210, 216, 221-223, 225.5, 226, 226.7,
11 245-248.6, 256, 432, 432.5, 432.7, 510, 512, 558, 558.1, 1174, 1174.5, 1194, 1197, 1197.1, 1198,
12 1198.5, 1199, 2699, 2699.3, 2802, 2810.5 and all applicable Wage Orders as well as all
13 interpretations of these laws by California Courts and administrative bodies, as well as any other
14 law that is enforceable through PAGA, DEFENDANTS are liable for the following penalties:

- 15 a. All statutorily-specified penalties recoverable under PAGA as enumerated in the
16 relevant California Labor Code provisions listed herein only if permitted by the
17 PAGA statute, pursuant to Labor Code section 2699(a); and
18 b. Default PAGA penalties for any violation of the enumerated list of Labor Code
19 violations without a civil penalty recoverable under the PAGA, all in the default
20 amounts provided by Labor Code section 2699(f).
21 c. The proper measure of penalties under PAGA is the number of violations,
22 whether those violations were committed as against PLAINTIFF or any
23 Aggrieved Employee, whether a party to this action or not.

24 203. Pursuant to Labor Code section 2699(g), and/or any and all other applicable laws,
25 PLAINTIFF is entitled to recover civil penalties, costs, and attorney’s fees.

26 **PRAYER FOR RELIEF**

27 WHEREFORE, PLAINTIFFS pray for relief and judgment, on behalf of PLAINTIFFS and
28 Class Members and Aggrieved Employees as follows:

1. For an order that the action be certified as a class action;
2. For an order that PLAINTIFFS be appointed as class representatives;
3. For an order that counsel for PLAINTIFFS be appointed as class counsel;
4. For compensatory damages according to proof;
5. For liquidated damages according to proof;
6. For penalties according to proof;
7. For an order requiring DEFENDANTS to make restitution of all amounts wrongfully withheld from PLAINTIFFS and the Class Members;
8. For an order finding DEFENDANTS have engaged in unfair competition in violation of section 17200, *et seq.*, of the California Business and Professions Code;
9. For an order enjoining DEFENDANTS from further acts of unfair competition;
10. For pre-judgment interest as permitted by law;
11. For attorney's fees and costs reasonably incurred;
12. For civil penalties according to proof, including PAGA penalties (75% payable to the LWDA and 25% payable to Aggrieved Employees); and
13. For such other and further relief that the Court deems just and proper.

Dated: June 7, 2023

CROSNER LEGAL, PC

By: Samantha Smith

Zachary M. Crosner, Esq.

Jamie Serb, Esq.

Samantha Smith, Esq.

Attorneys for Plaintiffs

ELISEO DE LA TORRE, JOSE NORIEGA,

NICASIO ANDRADE, and MARIO

CASTRO

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1 **DEMAND FOR JURY TRIAL**

2 PLAINTIFFS demand a trial by jury on all claims so triable.

3
4 Dated: June 7, 2023

CROSNER LEGAL, PC

5
6 By: Samantha Smith

7 Zachary M. Crosner, Esq.

8 Jamie Serb, Esq.

9 Samantha Smith, Esq.

10 Attorneys for Plaintiffs

11 ELISEO DE LA TORRE, JOSE NORIEGA,

12 NICASIO ANDRADE, and MARIO

13 CASTRO
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PROOF OF SERVICE
ELISEO BANUELOS DE LA TORRE VS. UNIQUE BUILDING GROUP, INC. et al.
San Diego Superior Court Case No. 37-2023-00011128-CU-OE-CTL

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Los Angeles, State of California. My business address is 9440 Santa Monica Blvd., Ste. 301, Beverly Hills, CA 90210.

On June 7, 2023, I served true copies of the following document(s) described as

FIRST AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT

on the interested parties in this action as follows:

SEE ATTACHED SERVICE LIST

- ☐ BY ELECTRONIC TRANSMISSION. I transmitted copies of the above-referenced document(s) on the interested parties in this action by electronic transmission. Said electronic transmission was reported as complete and without error.
- ☐ BY FACSIMILE TRANSMISSION. I transmitted copies of the above-referenced document(s) on the interested parties in this action by facsimile transmission from (310) 510-6429. A transmission report was properly issued by the transmitting facsimile machine and the transmission was reported as complete and without error.
- ☒ BY UNITED STATES POSTAL SERVICE. I enclosed the documents in electronic pdf format and submitted them electronically into the mail provider, Letterstream, Inc.'s, online mail portal (letterstream.com) to be mailed addressed to the entities and/or persons listed in the Service List as set forth herein. I caused an envelope containing the documents to be placed for collection and mailing and to be mailed by First Class Mail, following our law firm and Letterstream, Inc.'s ordinary business practices. I am readily familiar with our business practices and the business practices of Letterstream, Inc. for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid. Pursuant to that practice, the above-referenced document(s) were sealed in an envelope, with postage paid, and deposited with a a post office, mailbox, sub-post office, substation, mail chute, or other facility or postal pick up/drop off regularly maintained by the United States Postal Service or an affiliate thereof, at or near Phoenix, Arizona.
- ☐ BY OVERNIGHT MAIL SERVICE. I enclosed the documents in electronic pdf format and submitted them electronically into the mail provider, Letterstream, Inc.'s, online mail portal (letterstream.com) addressed to the entities and/or persons listed in the Service List as set forth herein. I caused an envelope containing the documents to be placed for collection and mailing and to be mailed by Overnight Mail via Federal Express, following our law firm and Letterstream, Inc.'s ordinary business practices. I am readily familiar with our business practices and the business practices of Letterstream, Inc. for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with Federal Express, an express carrier, in Phoenix, Arizona, or delivered with any and all delivery fees to an authorized courier or driver authorized by the express service carrier to receive documents.

1 I declare under penalty of perjury under the laws of the United States of America that the
2 foregoing is true and correct and that I am employed in the office of a member of the bar of this
Court at whose direction the service was made.

3 Executed on June 7, 2023, at Los Angeles, California.

4
5 
Jessica Ball

SERVICE LIST

ELISEO BANUELOS DE LA TORRE VS. UNIQUE BUILDING GROUP, INC. et al.
San Diego Superior Court Case No. 37-2023-00011128-CU-OE-CTL

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