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FILED
Superior Court of California
County of Los Angeles

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David W. Slayton, Executive Officer / Clerk of Court

By: D. Tamayo Deputy

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

JONATHAN CHANDE as an individual, and
on behalf of all others similarly situated,

Plaintiff,

v.

THE SHADE STORE, LLC, a Delaware
limited liability company; and DOES 1 through
100, inclusive,

Defendants.

Case No. 23STCV05050

Amended As a Matter of Right Pursuant to
Labor Code § 2699.3(a)(2)(C)

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

- (1) MINIMUM WAGE VIOLATIONS
(LABOR CODE §§ 1182.12, 1194,
1194.2, 1197);**
- (2) FAILURE TO PAY ALL
OVERTIME WAGES (LABOR
CODE §§ 204, 510, 558, 1194, AND
1198);**
- (3) MEAL PERIOD VIOLATIONS
(LABOR CODE §§ 226.7 AND 512);**
- (4) REST PERIOD VIOLATIONS
(LABOR CODE §§ 226.7 AND 516);**
- (5) WAGE STATEMENT
VIOLATIONS (LABOR CODE §
226, *et seq.*);**
- (6) UNFAIR COMPETITION (BUS &
PROF CODE § 17200, *et seq.*);**
- (7) WAITING TIME PENALTIES
(LABOR CODE §§ 201-203);**
- (8) FAILURE TO REIMBURSE FOR
NECESSARY BUSINESS
EXPENSES (LABOR CODE §
2802); AND**

**(9) CIVIL PENALTIES UNDER THE
PRIVATE ATTORNEYS
GENERAL ACT (LABOR CODE §
2698 *et seq.*).**

**DEMAND FOR JURY TRIAL
UNLIMITED CIVIL CASE**

1 Plaintiff Jonathan Chande (hereinafter “Plaintiff”), as an individual, and on behalf of all
2 others similarly situated, hereby brings this First Amended Class and Representative Action
3 Complaint against The Shade Store, LLC, a Delaware limited liability company, and DOES 1 to
4 100, inclusive (collectively “Defendants”), and on information and belief alleges as follows:

5 **JURISDICTION**

6 1. Plaintiff hereby brings this First Amended Class and Representative Action
7 Complaint for recovery of unpaid wages and penalties under California Business and Professions
8 Code § 17200 *et. seq.*, Labor Code § 201-203, 204, 226 *et. Seq.*, 226.7, 510, 512, 516, 558,
9 1182.12, 1194, 1194.2, 1197, 1198, 2698 *et seq.*, and 2802; and Industrial Welfare Commission
10 Wage Order 16 (“Wage Order 16”), in addition to seeking declaratory relief and restitution. This
11 Complaint is brought pursuant to California Code of Civil Procedure § 382. This Court has
12 jurisdiction over Defendants’ violations of the California Labor Code because the amount in
13 controversy exceeds this Court’s jurisdictional minimum.
14

15 **VENUE**

16 2. Venue is proper in this judicial district pursuant to California Code of Civil
17 Procedure § 395(a) and 395.5, and at least some of the acts and omissions complained of herein
18 occurred in the County of Los Angeles. Defendants own, maintain offices, transact business, have
19 an agent or agents within the County of Los Angeles, and/or otherwise are found within the
20 County of Los Angeles, and Defendants are within the jurisdiction of this Court for purposes of
21 service of process.

22 **PARTIES**

23 3. Plaintiff is an individual over the age of eighteen (18). At all relevant times herein,
24 Plaintiff was and currently is a California resident. During the four years immediately preceding
25 the filing of the Complaint in this action and within the statute of limitations period applicable to
26 each cause of action pled herein, Plaintiff was employed by Defendants as a non-exempt
27 employee. Plaintiff was and is a victim of Defendants’ policies and/or practices complained of

herein, lost money and/or property, and has been deprived of the rights guaranteed by Labor Code §§ 201-203, 204, 226 *et seq.*, 226.7, 510, 512, 516, 558, 1182.12, 1194, 1194.2, 1197, 1198, 2698 *et seq.*, and 2802, California Business and Professions Code § 17200 *et seq.* (“Unfair Competition Law”), and Wage Order 16, which sets employment standards for construction occupations.

4. Plaintiff is informed, believes, and alleges, that during the four years preceding the filing of the Complaint and continuing to the present, Defendants did (and continue to do) business in California and the United States, employed Plaintiff within Los Angeles County and the state of California and, therefore, were (and are) doing business in Los Angeles County and the State of California.

5. Plaintiff does not know the true names or capacities, whether individual, partner, or corporate, of the Defendants sued herein as DOES 1 to 100, inclusive, and for that reason, said defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to amend this Complaint when such true names and capacities are discovered. Plaintiff is informed, and believes, and thereon alleges, that each of said fictitious Defendants, whether individual, partners, or corporate, were responsible in some manner for the acts and omissions alleged herein, and proximately caused Plaintiff and the Classes (as defined herein) to be subjected to the unlawful employment practices, wrongs, injuries and damages complained of herein.

6. Plaintiff is informed, and believes, and thereon alleges, that at all times mentioned herein, Defendants were and are the employers of Plaintiff and all members of the Classes.

7. At all times herein mentioned, each of said Plaintiffs participated in the doing of the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the Plaintiffs, and each of them, were the agents, servants, and employees of each and every one of the other Defendants, as well as the agents of all Defendants, and at all times herein mentioned were acting within the course and scope of said agency and employment. Defendants, and each of them, approved of, condoned, and/or otherwise ratified each and every one of the acts or omissions complained of herein.

8. At all times mentioned herein, Defendants, and each of them, were members of and engaged in a joint venture, partnership, and common enterprise, and acting within the course

1 and scope of, and in pursuance of said joint venture, partnership, and common enterprise. Further,
2 Plaintiff alleges that all Defendants were joint employers for all purposes towards Plaintiff and
3 all members of the Classes.

4 **GENERAL FACTUAL ALLEGATIONS**

5 9. Plaintiff worked for Defendants from approximately August 2021 through
6 approximately November 2023 working as a measure and pro installer. Plaintiff's job duties
7 generally revolved around installing window treatments such as blinds, roller shades, and
8 draperies for Defendants' various clients.

9 10. Plaintiff had no set schedule. He would generally work Monday through Friday
10 between 8-12 hours per day depending on work demands. However, as discussed below, Plaintiff
11 worked considerably more hours than he was credited for on his wage statements. Plaintiff was
12 paid at a rate of approximately \$27.00 per hour at the time of his separation with Defendants.

13 11. Throughout the duration of Plaintiff's employment with Defendants, Plaintiff and
14 other aggrieved employees were not paid for all hours worked. Furthermore, Plaintiff and other
15 aggrieved employees routinely worked overtime hours but did not receive overtime compensation
16 equal to one and one-half times their regular rate of pay for all overtime hours worked. For
17 example, after Plaintiff would clock out for the day, he would be required to perform routine
18 maintenance work on his company vehicle or be subject to reprimand from his supervisors.
19 Plaintiff estimates he would spend at least 2 hours performing these duties each shift that he was
20 required to do so, doing work on the company truck such as cleaning it and organizing all of the
21 numerous parts, tools, and other equipment, all without any compensation from Defendants. At
22 any point during the day or night, even if Plaintiff was not working, his supervisors would reach
23 out to him on his cell phone and require him to send a picture of his company vehicle in an effort
24 by Defendants to ensure compliance with this policy. Furthermore, Plaintiff would consistently
25 be badgered with work related calls and communications on his days off but was never provided
26 any sort of compensation for this off-the-clock work. Finally, Plaintiff would be sent to remote
27 worksites during each of his shifts, sometimes hours away from his house. However, Defendants
maintained a strict policy/practice that Plaintiff was not permitted to clock in until he had been

1 driving for at least an hour. For example, if the first job that Plaintiff was assigned to perform
2 work at was in Lakewood, California (about a 15-minute drive from Plaintiff's home in
3 Paramount, California), then he would be permitted to clock in when he arrived at the job site.
4 However, if Plaintiff's first job site assignment was in San Bernardino, for example, he would be
5 off-the-clock driving and only once he had been on the road for an hour would he be permitted to
6 clock in, a policy/practice that resulted in countless hours of work that went wholly
7 uncompensated. Finally, every Wednesday morning while he was driving to his first stop of the
8 shift, Plaintiff would be forced to participate in a mandatory 30-minute Microsoft "Teams"
9 meeting, which as discussed above would have been inherently off-the-clock and which posed a
10 serious safety hazard to Plaintiff and the other members of the putative class that were being
11 forced to participate in a pre-shift meeting while driving. Consequently, due to Defendant's
12 unlawful timekeeping and payment policies and practices that failed to compensate for all hours
13 worked, Plaintiff and other aggrieved employees have been deprived of all required minimum
14 and overtime wages.

15 12. In addition, Plaintiff and other aggrieved employees were not provided all legally
16 compliant meal periods due to Defendants meal period policies and practices which fail to provide
17 a timely 30-minute duty-free first meal period (i.e. a first meal period commencing before the end
18 of the fifth hour of work). Plaintiff estimates that he did not receive a compliant first meal period,
19 whether it be shortened, missed, or interrupted, on at least 75% of the shifts that he worked.
20 Missed, interrupted or shortened meal periods were an exceedingly frequent occurrence as
21 Plaintiff and other aggrieved employees were made to adhere to strict schedules and deadlines
22 that caused them to be pressured to get back to work as soon as possible after beginning their
23 meal periods, if they were able to take them at all. Furthermore, even on those occasions where
24 Plaintiff and other aggrieved employees did receive meal periods, they were always interrupted
25 and/or on-duty. For the vast majority of his employment, though, Plaintiff was not able to take
26 any time to exercise a meal period whatsoever, instead being made to simply eat whatever snacks
27 and food he had with him while driving between job sites to meet Defendants unrealistic
scheduling demands and deadlines. Plaintiff's missed, shortened, late, and on-duty meal periods

1 were a direct result of Defendants' policy/practice. Defendants also failed to provide second meal
2 periods when Plaintiff and other aggrieved employees worked shifts in excess of 10.00 hours.
3 Plaintiff routinely worked in excess of 10 hours during his employment, but he cannot recall
4 receiving a second meal period. In addition, on those occasions when Plaintiff and the other
5 aggrieved employees were not provided with all legally compliant meal periods to which they
6 were entitled, Defendants failed to compensate them with the required meal period premiums, as
7 mandated by Labor Code § 226.7.

8 13. Defendants also failed to authorize and permit Plaintiff and other aggrieved
9 employees to take all statutorily mandated rest periods. Plaintiff and the other employees would
10 be made to work through their rest periods to meet the intense workloads imposed on them by
11 Defendants. Due to the overwhelming workload and the company culture, Plaintiff and the other
12 aggrieved employees were generally not permitted to exercise any compliant duty-free rest
13 periods. Additionally, Defendants' policy/practice prohibited Plaintiff and other aggrieved
14 employees from leaving their trucks unattended during their rest periods, and therefore, failed to
15 authorize and permit Plaintiff and other aggrieved employees to take duty-free paid rest periods
16 for every four-hour period worked, or major fraction thereof. Further, upon information and
17 belief during at least a portion of the relevant time period, Defendants maintained no payroll code
18 or other mechanism for the rest period premium payments under Labor Code § 226.7 in the event
19 that a legally compliant rest period was not authorized or permitted to Plaintiff and the other
20 aggrieved employees.

21 14. Plaintiff and other aggrieved employees routinely worked an excess of 8 hours per
22 workday and/or 40 hours per workweek, but did not receive overtime compensation equal to one
23 and one-half times their regular rate of pay for working overtime hours. Specifically, Defendants
24 paid Plaintiff and other aggrieved employees non-discretionary bonuses, commissions, and other
25 forms of non-discretionary pay that are not excludable from the regular rate of pay (hereinafter
26 the aforementioned forms of pay are referred to as "Incentive Pay"). Despite Defendants'
27 payment of Incentive Pay to Plaintiff and other aggrieved employees, Defendants failed to
properly calculate the regular rate of pay, thereby causing Plaintiff and other aggrieved employees

1 to be underpaid all required overtime wages.

2 15. Defendants also maintained inaccurate payroll records, and issued inaccurate and
3 deficient wage statements, in part due to Defendant's failure to pay all minimum and overtime
4 wages, and meal and rest period premium wages.

5 16. Defendants also failed to pay all wages owed to Plaintiff and the other aggrieved
6 employees upon their separation of employment from Defendants, in part due to Defendants'
7 failure to pay all minimum and overtime wages, and meal and rest period premium wages.

8 17. Defendants failed to adequately reimburse Plaintiff for all reasonable and
9 necessary work expenditures, including failing to reimburse for necessary tools such as saws and
10 other hand tools necessary for the performance of his job duties. In addition, Plaintiff and the
11 putative class would perform the vast majority of their work duties on their personal cellular
12 phones on behalf of Defendants. While at some point in Plaintiff's employment, he began
13 receiving a \$40 per month reimbursement for the use of his personal cellular phone, these
14 payments were not dispersed throughout the entirety of the class period, and to the extent that
15 they represented reimbursement for cellular phone use, it was grossly under representative of the
16 actual expenses incurred by Plaintiff and other aggrieved employees for cellular phone use for
17 business purposes.

18 18. Additionally, Defendants failed to meet its obligations to provide paid sick leave
19 to Plaintiff and other aggrieved employees which requires that employers authorize and permit
20 its employees who worked 30 or more days within a year to accrue paid sick leave, and to allow
21 them to exercise paid sick leave on or after their 90th day of employment. Despite meeting all of
22 the statutory requirements for being able to accrue and utilize paid sick leave, Plaintiff and other
23 aggrieved employees were not provided paid sick leave on those occasions where they needed to
24 take a "sick day" in violation of Labor Code § 245.5(b).

25 19. Finally, Defendants failed to conform to the requirements of Labor Code § 2810.5
26 by failing to provide Plaintiff and other aggrieved employees written notices, in the language
27 normally used to communicate employment related information to the employees, containing
information regarding their: i) rate(s) of pay and the basis thereof; ii) allowances claimed as part

1 of the minimum wage; iii) regular payday designated by the employer; iv) the legal name of the
2 employer; v) the address of the legal entity that is the employer; vi) the telephone number of the
3 employer; vii) identifying information for the employer's workers' compensation insurance
4 carrier; and viii) information informing the employee of their right to accrue and use paid sick
5 leave.
6

7 **CLASS ACTION ALLEGATIONS**

8 20. **Class Definitions:** Plaintiff brings this action on behalf of himself and the
9 following Classes pursuant to § 382 of the Code of Civil Procedure:

- 10 a. The Minimum Wage Class consists of all current and former non-exempt
11 employees of Defendants in California who were subject to Defendants'
12 timekeeping systems and/or practices, during the four years immediately
13 preceding the filing of this lawsuit through the present.
14
- 15 b. The Overtime Wage Class consists of all current and former non-exempt
16 employees of Defendants in California who worked overtime hours and: (i) were
17 subject to Defendants' timekeeping systems and/or practices; and/or (ii) received
18 Incentive Pay and worked overtime during a corresponding pay period, during the
19 four years immediately preceding the filing of the Complaint through the present.
20
- 21 c. The Meal Period Class consists of all current and former non-exempt employees
22 of Defendants in California who worked at least one shift in excess of 5.0 hours
23 without a meal period of at least 30 minutes in duration commencing prior to the
24 conclusion of the fifth hour of work, and who do not have a corresponding meal
25 period premium payment made for such shifts and/or (ii) worked at least one shift
26 in excess of 10.0 hours while performing work for Defendants in California
27

1 without a second meal period of at least 30 minutes in duration commencing prior
2 to the conclusion of the tenth hour of work, and who do not have a corresponding
3 meal period premium payment made for such shifts during the four years
4 preceding the filing of this lawsuit through the present.

5
6 d. The Rest Period Class consists of all current and former non-exempt employees of
7 Defendants in California who worked at least one shift of 3.5 hours or more, during
8 the four years immediately preceding the filing of the Complaint through the
9 present.

10 e. The Wage Statement Class consists of all members of the Minimum Wage Class,
11 Overtime Class, Rest Period Class, and/or Meal Period Class who received a wage
12 statement from Defendants during the one year immediately preceding the filing
13 of this lawsuit through the present.

14
15 f. The Employee Expense Class consists of all Defendants' current and former non-
16 exempt employees in California who: (i) were not reimbursed for necessary tools
17 and equipment; and/or (ii) cellular phone expenses necessarily incurred in the
18 performance of their duties during the four years immediately preceding the filing
19 of the Complaint through the present.

20
21 g. The Waiting Time Class consists of all former non-exempt employees of
22 Defendants in California who were subject to Defendant timekeeping systems
23 and/or practices, during the three years immediately preceding the filing of this
24 lawsuit through the present.

25 21. **Numerosity/Ascertainability:** The members of the Classes are so numerous that
26 joining all members would be unfeasible and not practicable. The membership of the Classes is
27

unknown to Plaintiff at this time; however, it is estimated that the members of the Classes number greater than one hundred. The identity of such membership is readily ascertainable via inspection of Defendants' employment records.

22. **Common Questions of Law and Fact Predominate/Well Defined Community of Interest:** There are common questions of law and fact as to Plaintiff and all other similarly situated employees, which predominate over questions affecting only individual members. Those common questions include, without limitation:

- i. Whether Defendants paid all minimum wages owed for all hours worked to members of the Minimum Wage Class pursuant to Labor Code § 118.2, 1194, 1194.2, and 1197;
- ii. Whether Defendants violated the applicable Labor Code provisions, including, but not limited to, § 510 and 1194 and Wage Order 16 by requiring members of the Overtime Wage Class to perform overtime work and not paying for said work in accordance with the overtime laws of the State of California;
- iii. Whether Defendants' timekeeping policies/practices resulted in the failure to properly compensate members of the Minimum Wage Class and the Overtime Wage Class;
- iv. Whether Defendants provided all legally compliant meal periods to members of the Meal Period Class pursuant to Labor Code § 226.7 and 512;
- v. Whether Defendants provided all legally compliant rest periods to members of the Rest Period Class pursuant to Labor Code § 226.7 and 516;
- vi. Whether Defendants failed to reimburse members of the Employee Expense Class for business expenditures necessarily incurred in the performance of their duties;

vii. Whether Defendants provided accurate, itemized wage statements to members of the Classes; and

viii. Whether Defendants' policies and/or practices for the timing and amount of payment of final wages to members of the Waiting Time Class at the time of separation from employment were lawful.

23. **Predominance of Common Questions:** Common questions of law and fact predominate over questions that affect only individual members of the Classes. The common questions of law set forth above are numerous and substantial and stem from Defendants' policies and/or practices applicable to each individual class member, such as Defendants' uniform, timekeeping policies and practices, meal and rest period policies and practices, wage statement policies and practices, non-reimbursement policies and practices, and the policies and practices regarding the timely payment of final wages. As such, the common questions predominate over individual questions concerning each individual class member's showing as to his or her eligibility for recovery or as to the amount of his or her damages.

24. **Typicality:** The claims of Plaintiff are typical of the claims of the Classes because Plaintiff was employed by Defendants as a non-exempt employee in California during the statute(s) of limitations period applicable to each cause of action pled in the Complaint. As alleged herein, Plaintiff, like the members of the Classes, was subject to Defendants' meal/rest period and timekeeping policies and practices, was provided inaccurate wage statements, was not reimbursed for all business expenses and was not paid all wages earned at the time of his separation of employment.

25. **Adequacy of Representation:** Plaintiff is fully prepared to take all necessary steps to represent fairly and adequately the interests of the members of the Classes. Moreover,

1 Plaintiff's attorneys are ready, willing and able to fully and adequately represent the members of
2 the Classes and Plaintiff. Plaintiff's attorneys have prosecuted and defended numerous wage-and-
3 hour class actions in state and federal courts in the past and are committed to vigorously
4 prosecuting this action on behalf of the members of the Classes.

5
6 26. **Superiority:** The California Labor Code is broadly remedial in nature and serves
7 an important public interest in establishing minimum working conditions and standards in
8 California. These laws and labor standards protect the average working employee from
9 exploitation by employers who have the responsibility to follow the laws and who may seek to
10 take advantage of superior economic and bargaining power in setting onerous terms and
11 conditions of employment. The nature of this action and the format of laws available to Plaintiff
12 and members of the Classes make the class action format a particularly efficient and appropriate
13 procedure to address the violations alleged herein. If each employee were required to file an
14 individual lawsuit, Defendants would necessarily gain an unconscionable advantage since they
15 would be able to exploit and overwhelm the limited resources of each individual Plaintiff with
16 their vastly superior financial and legal resources. Moreover, requiring each member of the
17 Classes to pursue an individual remedy would also discourage the assertion of lawful claims by
18 employees who would be disinclined to file an action against their former and/or current employer
19 for real and justifiable fear of retaliation and permanent damages to their careers at subsequent
20 employment. Further, the prosecution of separate actions by the individual class members, even
21 if possible, would create a substantial risk of inconsistent or varying verdicts or adjudications
22 with respect to the individual class members against Defendants herein; and which would
23 establish potentially incompatible standards of conduct for Defendants; and/or legal
24 determinations with respect to individual class members which would, as a practical matter, be
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dispositive of the interest of the other class members not parties to adjudications or which would substantially impair or impede the ability of the class members to protect their interests. Further, the claims of the individual members of the Classes are not sufficiently large to warrant vigorous individual prosecution considering all of the concomitant costs and expenses attending thereto. As such, the Classes (as defined herein) are maintainable as a Class under § 382 of the Code of Civil Procedure.

FIRST CAUSE OF ACTION
MINIMUM WAGE VIOLATIONS
(AGAINST ALL DEFENDANTS)

27. Plaintiff realleges and incorporates by reference all previous paragraphs.

28. Wage Order 16, § 4 and California Labor Code § 1197 and 1182.12 establish the right of employees to be paid minimum wages for all hours worked in amounts set by state law. Labor Code § 1194(a) and 1194.2(a) provide that an employee who has not been paid the legal minimum wage as required by Labor Code § 1197 may recover the unpaid balance together with attorneys' fees and costs of lawsuit, as well as liquidated damages in an amount equal to the unpaid wages and interest incurred thereon. At all relevant times herein, Defendants failed to conform their pay practices to the requirements of the law by failing to pay Plaintiff and the Minimum Wage Class for all hours actually worked including, but not limited to, all hours he was subject to the control of Defendants and/or suffered or permitted to work under the California Labor Code and Wage Order 16.

29. California Labor Code § 1198 makes unlawful the employment of an employee under conditions that the IWC prohibits. California Labor Code § 1194(a) and 1194.2(a) provides that an employer who has failed to pay its employees the legal minimum wage is liable to pay those employees the balance of the unpaid wages as well as liquidated damages in an amount equal to the wages due and interest thereon.

30. As a direct and proximate result of Defendants' unlawful conduct as alleged herein, Plaintiff and the Minimum Wage Class have sustained economic damages, including but

1 not limited to, unpaid wages and lost interest in an amount to be established at the trial, and are
2 entitled to recover economic and statutory damages and penalties and other appropriate relief as
3 a result of Defendants' violations of the California Labor Code and Wage Order 16.

4 31. Defendants' practice and uniform administration of corporate policy regarding
5 illegal employee compensation is unlawful and creates an entitlement to recovery by Plaintiff and
6 the Minimum Wage Class in a civil action for the unpaid amount of minimum wages, liquidated
7 damages, including interest thereon, statutory penalties, and attorneys' fees and costs of suit
8 according to California Labor Code § 204, 558, 1194, *et seq.*, 1197, 1198 and Code of Civil
9 Procedure § 1021.5.

10 **SECOND CAUSE OF ACTION**

11 **FAILURE TO PAY ALL OVERTIME WAGES**

12 **(AGAINST ALL DEFENDANTS)**

13 32. Plaintiff realleges and incorporates by reference all previous paragraphs.

14 33. This cause of action is brought pursuant to Labor Code § 204, 510, 558, 1194, and
15 1198, which provide that non-exempt employees are entitled to overtime wages for all overtime
16 hours worked, and provide a private right of action for the failure to pay all overtime
17 compensation for overtime work performed.

18 34. At all times relevant herein, Defendants were required to properly compensate
19 Plaintiff and members of the Overtime Class for all overtime hours worked pursuant to California
20 Labor Code § 1194 and Wage Order 16. Wage Order 16, § 3 requires an employer to pay overtime
21 wages when an employee's hours worked cross certain thresholds or meet certain criteria set forth
22 in the Wage Order.

23 35. The foregoing policies and practices are unlawful and create entitlement to
24 recovery by Plaintiff and the Overtime Class in a civil action for the unpaid amount of overtime
25 premiums owing, including interest thereon, statutory penalties, and attorneys' fees and costs of
26 suit according to California Labor Code § 204, 510, 558, 1194, and 1198, Wage Order 16, and
27 Code of Civil Procedure § 1021.5.

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THIRD CAUSE OF ACTION
MEAL PERIOD VIOLATIONS
(AGAINST ALL DEFENDANTS)

36. Plaintiff realleges and incorporates by reference all previous paragraphs.

37. Plaintiff is informed and believe, and based thereon allege, that Defendants failed in their affirmative obligation to provide all of their non-exempt employees in California, including Plaintiff and members of the Meal Period Class with all legally compliant meal periods in accordance with the mandates of the California Labor Code and Wage Order 16, § 11. Despite Defendants' violations, Defendants did not pay an additional hour of pay to Plaintiff and the Meal Period Class and the non-exempt employees at their respective regular rate of pay, in accordance with California Labor Code §§ 204, 210, 226.7, and 512.

38. As a result, Defendants are responsible for paying premium compensation for meal period violations including interest thereon, as well as statutory penalties, civil penalties, and costs of suit, pursuant to Labor Code § 226.7, 512, and 558, Wage Order 16, and Civil Code § 3287(b) and 3289.

FOURTH CAUSE OF ACTION
REST PERIOD VIOLATIONS
(AGAINST ALL DEFENDANTS)

39. Plaintiff realleges and incorporates by reference all previous paragraphs.

40. Wage Order 16, § 12 and California Labor Code § 226.7 and 516 establish the right of employees to be provided with a duty-free rest period of at least ten (10) minutes for each four (4) hour period worked or major fraction thereof.

41. Due to their unlawful rest period policies and/or practices, Defendants did not authorize and permit Plaintiff and the Rest Period Class to take all duty-free rest periods to which they were legally entitled. Despite Defendant's violations, Defendants have not paid an additional hour of pay to Plaintiff and the Rest Period Class at their respective regular rate of pay for each violation in accordance with California Labor Code § 226.7.

42. The foregoing violations create an entitlement to recovery by Plaintiff and the Rest

1 Period Class in a civil action for the unpaid amount of rest period premiums owing, including
2 interest thereon, statutory penalties, and costs of suit pursuant to Wage Order 16, California Labor
3 Code § 226.7, 516, 558, and Civil Code § 3287(b) and 3289.

4 **FIFTH CAUSE OF ACTION**

5 **WAGE STATEMENT VIOLATIONS**

6 **(AGAINST ALL DEFENDANTS)**

7 43. Plaintiff realleges and incorporates by reference all previous paragraphs.

8 44. Plaintiff is informed and believes, and based thereon alleges, that Defendants
9 knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish
10 Plaintiff and the Wage Statement Class with complete and accurate wage statements reflecting
11 the accurate number of hours worked, meal period premiums, and rest period premiums in
12 violation of Labor Code § 226 *et seq.*

13 45. Defendants' failures in furnishing Plaintiff and the Wage Statement Class with
14 incomplete and inaccurate itemized wage statements resulted in actual injury to the
15 Plaintiff, as said failures led to, among other things, the non-payment of all minimum wages,
16 overtime wages, meal and rest period premium wages, and deprived them of the information
17 necessary to identify the discrepancies in Defendants' reported data.

18 46. Defendants' failures create an entitlement to recovery by Plaintiff and the Wage
19 Statement Class in a civil action for all damages and/or penalties pursuant to Labor Code § 226
20 *et seq.*, including statutory penalties, civil penalties, reasonable attorneys' fees, and costs of suit
21 according to California Labor Code § 226 *et seq.*

22 **SIXTH CAUSE OF ACTION**

23 **UNFAIR COMPETITION**

24 **(AGAINST ALL DEFENDANTS)**

25 47. Plaintiff realleges and incorporates by reference all previous paragraphs.

26 48. Defendants have engaged and continue to engage in unfair and/or unlawful
27 business practices in California in violation of California Business and Professions Code § 17200
et seq., by failing to pay Plaintiff and the Classes all minimum and overtime wages, provide all

1 required meal periods and authorize and permit all rest periods, or pay premium payments in lieu
2 thereof, failing to furnish accurate, itemized wage statements, and willfully failing to timely pay
3 Plaintiff and members of the Waiting Time class all final wages due upon separation of
4 employment.

5 49. Defendants' utilization of these unfair and/or unlawful business practices deprived
6 Plaintiff and continues to deprive members of the Classes of compensation to which he is legally
7 entitled, constitutes unfair and/or unlawful competition, and provides an unfair advantage over
8 Defendants' competitors who have been and/or are currently employing workers and attempting
9 to do so in honest compliance with applicable wage and hour laws.

10 50. Because Plaintiff is a victim of Defendants' unfair and/or unlawful conduct alleged
11 herein, Plaintiff for himself and on behalf of the members of the Classes, seek full restitution of
12 monies, as necessary and according to proof, to restore any and all monies withheld, acquired
13 and/or converted by Defendants pursuant to Business and Professions Code §§ 17203 and 17208.

14 51. The acts complained of herein occurred within the last four years immediately
15 preceding the filing of the Complaint in this action.

16 52. Plaintiff is compelled to retain the services of counsel to file this court action to
17 protect his interests and those of the Classes, to obtain restitution and injunctive relief on behalf
18 of Defendants' current non-exempt employees, and to enforce important rights affecting the
19 public interest. Plaintiff has thereby incurred the financial burden of attorneys' fees and costs,
20 which he is entitled to recover under Code of Civil Procedure § 1021.5.

21 **SEVENTH CAUSE OF ACTION**

22 **WAITING TIME PENALTIES**

23 **(AGAINST ALL DEFENDANTS)**

24 53. Plaintiff realleges and incorporates by reference all previous paragraphs.

25 54. This cause of action is brought pursuant to Labor Code § 201-203, which require
26 an employer to pay all wages immediately at the time of termination of employment in the event
27 the employer discharges the employee or the employee provides at least 72 hours of notice of
his/her intent to quit. In the event the employee provides less than 72 hours of notice of his/her

1 intent to quit, said employee's wages become due and payable not later than 72 hours upon said
2 employee's last date of employment.

3 55. Defendants failed to timely pay Plaintiff and members of the Waiting Time Class
4 all final wages due to them at the time of their separation including, among other things, unpaid
5 and/or underpaid overtime and minimum wages owed, and meal and rest period premium wages.
6 Further, Plaintiff is informed and believes, and based thereon alleges, that as a matter of uniform
7 policy and practice, Defendants continue to fail to pay members of the Waiting Time Class all
8 earned wages at the end of employment in a timely manner pursuant to the requirements of Labor
9 Code § 201-203. Defendant's failure to pay all final wages was willful within the meaning of
10 Labor Code § 203.

11 56. Defendants' willful failure to timely pay Plaintiff and the Waiting Time Class their
12 earned wages upon separation from employment results in a continued payment of wages up to
13 thirty (30) days from the time the wages were due. Therefore, Plaintiff and the Waiting Time
14 Class are entitled to compensation pursuant to Labor Code § 203, plus reasonable attorneys' fees
15 and costs of lawsuit.

16 **EIGHTH CAUSE OF ACTION**

17 **FAILURE TO REIMBURSE BUSINESS EXPENSES**

18 **(AGAINST ALL DEFENDANTS)**

19 57. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

20 58. At all relevant times herein, Defendants were subject to Labor Code § 2802, which
21 states that "an employer shall indemnify his or her employees for all necessary expenditures or
22 losses incurred by the employee in direct consequence of the discharge of his or her duties, or of
23 his or her obedience to the directions of the employer..."

24 59. Due to Defendants' unlawful policy and practice of requiring employees to
25 purchase and maintain tools/equipment necessary for the performance of their job duties and
26 requiring them to utilize their personal cellular phones for work purposes, Defendants have
27 violated Labor Code § 2802.

1 60. Plaintiff and members of the Employee Expense Class are entitled to attorneys'
2 fees and costs of suit pursuant to Labor Code § 2802(c) for bringing this action.

3 61. Pursuant to Labor Code §2802(b), any action brought for the reimbursement of
4 necessary expenditures carries interest at the same rate as judgments in civil actions. Thus,
5 Plaintiff and members of the Employee Expense Class are entitled to interest, which shall accrue
6 from the date on which they incurred the initial necessary expenditure.

7 **NINETH CAUSE OF ACTION**
8 **PRIVATE ATTORNEYS GENERAL ACT**
9 **(AGAINST ALL DEFENDANTS)**

10 62. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

11 63. Defendants have committed several Labor Code violations against Plaintiff and
12 other aggrieved employees. Plaintiff, an “aggrieved employee” within the meaning of Labor
13 Code § 2698 *et seq.*, acting on behalf of himself and other aggrieved employees, brings this
14 representative action against Defendants to recover the civil penalties due to Plaintiff, the
15 members of the Classes, other aggrieved employees, and the State of California according to
16 proof pursuant to Labor Code § 558 and § 2699 (a) and (f) including, but not limited to: (1)
17 \$100.00 for each initial violation for each failure to pay each employee and \$200 for each
18 subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for each
19 failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) \$50.00 for each
20 initial violation and \$100 for each subsequent violation pursuant to Labor Code § 558 per
21 employee per pay period; (3) \$100.00 for each initial violation and \$250.00 for each subsequent
22 violation pursuant to Labor Code § 1197.1 per employee per pay period; (4) \$250.00 for each
23 initial violation and \$1,000.00 for each subsequent violation pursuant to Labor Code § 226.3 per
24 employee per pay period; and/or (5) \$100.00 for each initial violation and \$200 for each
25 subsequent violation per employee per pay period for those violations of the Labor Code for
26 which no civil penalty is specifically provided, based on the following Labor Code Sections:

27 a. Failing to pay minimum wages for all hours worked to Plaintiff, the

1 Minimum Wage Class, and other aggrieved employees in violation of Labor Code §§ 558,
2 1182.12, 1194, 1194.2, 1197, and 1198;

3 b. Failing to pay Plaintiff, the Overtime Class, and other aggrieved employees
4 all earned overtime compensation in violation of Labor Code §§ 204, 510, 558, 1194, and
5 1198;

6 c. Failing to provide all legally required meal periods, and failure to pay meal
7 period premium wages, to Plaintiff, the Meal Period Class and other aggrieved employees
8 at the regular rate of compensation in violation of Labor Code §§ 226.7, 512, 558, and
9 1198;

10 d. Failing to authorize and permit all legally required rest periods, and failure
11 to pay rest period premium wages, to Plaintiff, the Rest Period Class, and other aggrieved
12 employees at the regular rate of compensation in violation of Labor Code §§ 226.7, 516,
13 558, and 1198;

14 e. Failing to furnish Plaintiff, the Wage Statement Class, and other aggrieved
15 employees with complete, accurate, itemized wage statements in violation of Labor Code
16 § 226;

17 f. Failing to reimburse Plaintiff, the Employee Expense Class, and other
18 aggrieved employees for all necessary work expenses incurred in violation of Labor Code
19 § 2802;

20 g. Failing to timely pay all final wages and compensation earned by Plaintiff,
21 the Waiting Time Class, and other aggrieved employees at the time of separation in
22 violation of Labor Code §§ 201, 202, and 203;

23 h. Failing to pay non-exempt employees all earned wages at least twice
24 during each calendar month in violation of Labor Code § 204;

25 i. Failing to maintain accurate records on behalf of Plaintiff and other
26 aggrieved employees in violation of Labor Code § 1174;

27 j. Failing to provide paid sick leave to Plaintiff and other aggrieved

1 employees in violation of Labor Code § 245.5 (b); and

2 k. Failing to conform to the requirements of Labor Code § 2810.5 by failing
3 to provide Plaintiff and other aggrieved employees with written notices, in the language
4 normally used to communicate employment related information to employees, containing
5 information regarding their: i) rate(s) of pay and the basis thereof; ii) allowances claimed
6 as part of the minimum wage; iii) regular payday designated by the employer; iv) the legal
7 name of the employer; v) the address of the legal entity that is the employer; vi) the
8 telephone number of the employer; vii) identifying information for the employer's
9 workers' compensation insurance carrier; and viii) information informing the employee
10 of their right to accrue and use paid sick leave.

11 64. On February 28, 2023, Plaintiff notified Defendants via certified mail, and notified
12 the California Labor and Workforce Development Agency ("LWDA") via its website, of
13 Defendants' violations of the California Labor Code and Plaintiff's intent to bring a claim for
14 civil penalties under California Labor Code § 2698 et seq. with respect to violations of the
15 California Labor Code identified in Paragraph 63 (a)-(k). Now that sixty-five days have passed
16 from Plaintiff's notifying Defendants and the LWDA of these violations, and the LWDA has not
17 provided notice that it intends to investigate the violations, Plaintiff has exhausted his
18 administrative requirements for bringing a claim under the Private Attorneys General Act with
19 respect to these violations.

20 65. Plaintiff was compelled to retain the services of counsel to file this court action to
21 protect his interests and the interests of other similarly aggrieved employees, and to assess and
22 collect the civil penalties owed by Defendants. Plaintiff has thereby incurred attorneys' fees and
23 costs, which he is entitled to receive under California Labor Code § 2699(g)

24 **PRAYER**

25 WHEREFORE, Plaintiff orders for judgment for himself and for all others on whose
26 behalf this lawsuit brought against Defendants, as follows:

27 1. For an order certifying the proposed Classes;

2. For an order appointing Plaintiff as representative of the Classes;
3. For an order appointing Counsel for Plaintiff as Counsel for the Classes;
4. Upon the First Cause of Action, for payment of minimum wages, liquidated damages, and penalties according to proof pursuant to Labor Code § 1182.12, 1194, 1194.2, 1198 and Wage Order 16 § 5(A);
5. Upon the Second Cause of Action, for compensatory, consequential, general, and special damages according to proof pursuant to Labor Code §§ 204, 510, 558, 1194, and 1198;
6. Upon the Third Cause of Action, for compensatory, consequential, general and special damages according to proof pursuant to Labor Code § 226.7, 512, and 558;
7. Upon the Fourth Cause of Action, for compensatory, consequential, general, and special damages according to proof pursuant to Labor Code § 226.7, 516, and 558;
8. Upon the Fifth Cause of Action, for statutory penalties pursuant to Labor Code § 226;
9. Upon the Sixth Cause of Action, for restitution to Plaintiff of all money and/or property unlawfully acquired by Defendants by means of any acts or practices declared by this Court to be in violation of Business and Professions Code § 17200 *et seq.*
10. Upon the Seventh Cause of Action, for statutory waiting time penalties pursuant to Labor Code § 201-203;
11. Upon the Eighth Cause of Action, for compensatory, consequential, general and special damages according to proof pursuant to Labor Code § 2802;
12. Upon the Ninth Cause of Action, (1) \$100.00 for each initial violation for each failure to pay each employee and \$200 for each subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100 for each subsequent violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per employee per pay period; (4) \$250.00 for each initial violation and \$1,000.00 for each subsequent violation pursuant to Labor Code § 226.3 per employee per pay period; and/or (5) \$100.00 for

1 each initial violation and \$200 for each subsequent violation per employee per pay period for the
2 violations of the Labor Code Sections cited in Labor Code § 2699.5.

3 13. Prejudgment interest on all due and unpaid wages pursuant to California Labor
4 Code § 218.6 and Civil Code §§ 3287 and 3289;

5 14. On all causes of action, for attorneys' fees and costs as provided by Labor Code
6 §226, and Code of Civil Procedure § 1021.5; and

7 15. For such other and further relief the Court may deem just and proper.

8
9 Dated: May 23, 2023

Respectfully submitted,
STANSBURY BROWN LAW, PC

10
11 By: _____

Daniel J. Brown
Ethan C. Surls
Attorneys for Plaintiff

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14
15 **DEMAND FOR JURY TRIAL**

16 Plaintiff hereby demands a jury trial with respect to all issues triable by jury.

17
18 Dated: May 23, 2023

Respectfully submitted,
STANSBURY BROWN LAW, PC

19
20 By: _____

Daniel J. Brown
Ethan C. Surls
Attorneys for Plaintiff

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On May 23, 2023, I served the document listed below on the parties in this action as follows:

- FIRST AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT

- ☐ (BY MAIL) I placed such envelope on the above date, with postage fully prepaid, for deposit in the U.S. Postal Service at my place of business at Venice, California, following the ordinary business practices of my place of business. I am readily familiar with the business practice at my place of business for collection and processing of correspondence for mail with the U.S. Postal Service. Under that practice, such correspondence is deposited with the U.S. Postal Service the same day it is collected and processed in the ordinary course of business.
- ☐ (BY HAND DELIVERY) I delivered to an authorized courier or driver authorized by _____ to receive documents to be delivered on the same date.
- ☐ (BY FEDERAL EXPRESS) I am readily familiar with the practice of collection and processing of correspondence for overnight delivery and know that the document(s) described herein will be deposited in a box or other facility regularly maintained by Federal Express for overnight delivery.
- X (BY EMAIL) I transmitted said document(s) by electronic mail to the e-mail addresses indicated below pursuant to SB 1146 effective 9/18/20, which codifies parts of Emergency Rules 11 and 12, as amended, and CRC 2.251
- X (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on May 23, 2023 at Redondo Beach, California.


Ethan C. Surls

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