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Electronically FILED by
Superior Court of California,
County of Los Angeles
5/26/2023 6:59 PM
David W. Slayton,
Executive Officer/Clerk of Court,
By D. Jackson Aubry, Deputy Clerk

SUPERIOR COURT OF CALIFORNIA

COUNTY OF LOS ANGELES

ROBEL TULU, individually and on behalf
of all individuals similarly situated,

Plaintiff,

vs.

FIRST RESCUE AMBULANCE, INC., a
California corporation; BABAK
MOGHADAM, an individual; and DOES 1
through 50, inclusive,

Defendants.

CASE NO.

CLASS ACTION COMPLAINT

- 1. FAILURE TO COMPENSATE ALL HOURS WORKED IN VIOLATION OF INDUSTRIAL WELFARE COMMISSION ORDER NO. 4 AND CAL. LABOR CODE §§ 200, 226, 500, 510, 1194, 1197, AND 1198;**
- 2. FAILURE TO PAY MINIMUM WAGES IN VIOLATION OF LABOR CODE §§ 1182.12, 1194, 1194.2, 1197;**
- 3. FAILURE TO PAY OVERTIME COMPENSATION IN VIOLATION OF CAL. LABOR CODE § 1194, *ET SEQ.*;**
- 4. FAILURE TO PROVIDE PROPER WAGE STATEMENT IN VIOLATION OF CAL. LABOR CODE § 226;**
- 5. MISSED MEAL AND REST BREAKS IN VIOLATION OF LABOR CODE §§ 200, 226.7, 512, AND 12 CALIFORNIA CODE OF CIVIL REGULATIONS § 11050**
- 6. FAILURE TO REIMBURSE BUSINESS EXPENSES IN VIOLATION OF CAL. LABOR CODE § 2802**
- 7. FAILURE TO PAY COMPENSATION UPON SEPERATION OF EMPLOYMENT IN VIOLATION OF CAL. LABOR CODE § 201-203;**

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- 8. VIOLATION OF LABOR CODE §§ 2698, ET SEQ. (“PAGA”); AND
- 9. VIOLATIONS OF CAL. B&P CODE §§ 17200, *ET SEQ.*;
- 10. FAILURE TO PERMIT INSPECTION OF PERSONNEL AND PAYROLL RECORDS IN VIOLATION OF CAL. LABOR CODE § 1198.5

DEMAND FOR JURY TRIAL

1 Plaintiff ROBEL TULU, an individual and on behalf of all individuals similarly situated
2 (“Plaintiff”), hereby brings this Class Action Complaint for Damages against Defendants FIRST
3 RESCUE AMBULANCE INC. (“RESCUE”), a California corporation; BABAK MOGHADAM
4 (“MOGHADAM”), an individual, and DOES 1 through 50, inclusive, (collectively, “Defendants”) and
5 states and alleges as follows:

6 **THE PARTIES**

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

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

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

16 4. Plaintiff is informed and believes, and thereon alleges, that DOES 1–50 are the partners,
17 agents, owners, shareholders, managers, principals or employees of Defendants and/or were acting on
18 behalf of Defendants.

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

23 6. At all times herein mentioned, Defendants, and each of them, ratified each and every
24 act or omission complained of herein. At all times herein mentioned, Defendants, and each of them,
25 aided and abetted the acts and omissions of each and all of the other Defendants in proximately causing
26 the damages herein alleged.

27 7. Plaintiff is informed and believes, and thereon alleges, that each of said Defendants is
28 in some manner intentionally, negligently or otherwise responsible for the acts, omissions, occurrences

1 and transactions alleged herein.

2 **JURISDICTION**

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

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

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

10 10. MOGHADAM owned and/or controlled the businesses operated by RESCUE, and
11 furthermore, MOGHADAM exercised control over the labor practices of each and every one of the
12 employees (inclusive of Plaintiff) of each and every one of their said interests, and caused the violations
13 at issue in this Complaint.

14 11. Based on the foregoing allegations, MOGHADAM, in fact, caused violations at-issue
15 in this Complaint, thereby creating individual liability under Labor Code § 558.1.

16 12. Pursuant to the provisions of Labor Code § 558, the liability of MOGHADAM would
17 include any and all amounts sufficient to recover any and all missed meal and rest break premiums,
18 unpaid wages, and failure to reimburse necessary business expenses to Plaintiff and the Class Members.

19 13. As further referenced hereinbelow, the viability of obtaining liability of individuals by
20 this method was discussed by the California Supreme Court in *Reynolds v. Bement* (2005) 36 Cal.4th
21 1075, 1089 where the court noted that individual liability against non-employers could be obtained
22 through the use of § 558.

23 14. PLAINTIFF is informed and believes, and based thereon alleges, that there exists such
24 a unity of interest and ownership between RESCUE, MOGHADAM, and DOES 1-50 that the
25 individuality and separateness of defendants have ceased to exist.

26 15. PLAINTIFF is informed and believes, and based thereon alleges, that despite the
27 formation of purported corporate existence, RESCUE, MOGHADAM, and DOES 1-50 are, in reality,
28 one and the same, including, but not limited to because:

1 a. RESCUE is or was completely dominated and controlled by MOGHADAM and DOES
2 1-50, who personally committed the frauds and violated the laws as set forth in this complaint,
3 and who have hidden and currently hide behind RESCUE to perpetrate frauds, circumvent
4 statutes, or accomplish some other wrongful or inequitable purpose.

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

9 c. MOGHADAM and DOES 1-50 have acted on behalf of RESCUE, who violate, or cause
10 to be violated, the provisions regulating meal and rest breaks in any order of the Industrial
11 Welfare Commission, or violate, or cause to be violated, California Labor Code Sections 226.7,
12 and 512.

13 d. MOGHADAM and DOES 1-50 have acted on behalf of RESCUE, who violate, or cause
14 to be violated, the provisions regulating reimbursement of necessary business expenses in any
15 order of the Industrial Welfare Commission, or violate, or cause to be violated, California Labor
16 Code Sections 2802.

17 e. MOGHADAM and DOES 1-50 derive actual and significant monetary benefits by and
18 through RESCUE as the funding source for their own personal expenditures.

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

23 g. Plaintiff is informed and believes that RESCUE does not or did not comply with all
24 requisite corporate formalities to maintain a legal and separate corporate existence.

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

i. RESCUE is, and at all times relevant hereto was, used by MOGHADAM and DOES 1-50 as a mere shell and conduit for the conduct of certain of Defendants' affairs, and is, and was, the alter ego of MOGHADAM and DOES 1-50. The recognition of the separate existence of RESCUE, and/or MOGHADAM would not promote justice, in that it would permit Defendants to insulate themselves from liability to Plaintiffs for violations of the Labor Code. The corporate existence of MOGHADAM, RESCUE, and DOES 1-50 should be disregarded in equity and for the ends of justice because such disregard is necessary to avoid fraud and injustice to Plaintiff herein.

16. Accordingly, RESCUE constitutes the alter egos of MOGHADAM and DOES 1-50, and the fiction of their separate corporate existence must be disregarded.

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

FACTUAL ALLEGATIONS

18. Plaintiff worked for Defendants as an hourly, non-exempt employee in the position of "Emergency Medical Technician" since on or around December 1, 2022, until March 2023. Plaintiff worked at Defendants' workplace located at 15705 Arrow Hwy # 2, Irwindale, CA 91706.

19. Plaintiff's job duties included patient care and transporting patients to and from different locations within Los Angeles County. Plaintiff regularly worked from 5 p.m. to 3 a.m., or longer, Monday through Thursday.

20. Since the beginning of his employment, Plaintiff and the Class Members were regularly required to work outside of their normal scheduled shifts in order to cover other employees' shifts. Plaintiff has worked as many as 119 hours in a two-week period, and regularly worked around 84 hours every two weeks.

1 21. Despite the fact that these events would push Plaintiff and the Class Members' total
2 working hours for the week over 40 hours and more than eight (8) hours a day, Defendants did not
3 always compensate Plaintiff and the Class Members with overtime rates. Specifically, despite Plaintiff
4 working ten (10) hour shifts, Defendants would pay Plaintiff's regular wages for those ten hours
5 worked and only pay overtime if Plaintiff worked more than the ten hours.

6 22. In or around the middle of January 2023, Defendants began to pay Plaintiff and the
7 Class Members proper overtime wages for workdays longer than (8) hours a day. However, Defendants
8 refused to compensate Plaintiff for the missed overtime payments he was previously due and cut his
9 hours so that all shifts would be ten (10) hours.

10 23. Moreover, throughout their employment with Defendants, Plaintiff and the Class
11 Members routinely worked for Defendants without being provided with a timely, off-duty ten-minute
12 paid rest period for every four (4) hours worked or major fraction thereof, as well as without being
13 provided with all thirty-minute timely and uninterrupted, duty-free meal periods. Plaintiff and the Class
14 Members would have to call and ask if they could take a meal break, which could be approved or
15 denied by the dispatcher, Sidney, last name unknown (hereinafter "Sidney"). Due to Plaintiff and the
16 Class Members' busy schedule, it was common for Sidney to deny meal break requests. As a result,
17 Plaintiff and the Class Members regularly went over five (5) hours without being provided a meal
18 break.

19 24. Additionally, when Plaintiff and the Class Members were able to take a meal break, it
20 was regularly interrupted before 30 minutes had passed by Defendants telling them to resume working.
21 Furthermore, Defendants forced Plaintiff and the Class Members to sign a form saying they received
22 their full breaks even when they did not. Plaintiff complained to his supervisors, Patrick Gains and
23 Daniel, last name unknown (hereinafter "Daniel"), about not being allowed to rest, but Defendants
24 failed to address the situation.

25 25. Despite the aforementioned, during their employment with Defendants, Plaintiff and the
26 Class Members were not paid one (1) hour of pay at their regular rate of compensation for each work
27 day where a legally compliant meal period was not provided, as well as one (1) hour of pay at their
28 regular rate of compensation for each work day where a legally compliant rest period was not provided.

26. As a result of Defendants' failure to pay all hours worked and overtime wages and failure to pay all meal and rest premiums, Defendants maintained inaccurate payroll records, and issued inaccurate wage statements to Plaintiff and the Class Members.

27. Furthermore, Defendants failed to reimburse Plaintiff and the Class Members for their necessary business expenses. Specifically, Plaintiff and the Class Members must use their phones while working for Defendants in order to make calls and navigate while driving. As noted above, once Defendants started paying proper overtime wages to Plaintiff and the Class Members, they stopped compensating Plaintiff and the Class Members for their business expenses relating to their phone usage.

28. Defendants have engaged in, and continue to engage in, unfair business practices in California by practicing, employing, and utilizing the employment practices and policies outlined above. Defendants' utilization of such unfair business practices constitutes unfair competition and provides an unfair advantage over Defendants' competitors. Defendants' utilization of such unfair business practices deprives Plaintiff and the Class Members of the general minimum working standards and entitlements due to them under California law and the Industrial Welfare Commission wage orders as described herein.

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

CLASS ACTION ALLEGATIONS

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

31. “Class Period” is defined as the time from May 26, 2019, through the date that judgment is entered, based upon information and belief that the violations, as described more fully hereinafter, began long before May 26, 2019, and are continuing. Plaintiff and members of Class herein reserve the right to amend this Complaint to reflect a different Class Period as discovery in this matter proceeds.

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

6 33. Commonality: Common questions of law, in fact, exist as to all members of the
7 Plaintiffs' Class *and predominate over any questions affecting solely individual members of the*
8 *Plaintiffs' Class. Among the questions of law and fact, that are relevant to the adjudication of Class*
9 *members claims are as follows:*

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

12 (b) Whether Defendants unlawfully failed to properly calculate and pay overtime
13 compensation due and owing to the Plaintiff and members of the Class in violation of Labor
14 Code § 1194;

15 (c) Whether Defendants' policy and/or practice of failing to accurately pay overtime to
16 Plaintiff and members of the Class violates applicable provisions of California Law, including
17 Labor Code sections, applicable Industrial Welfare Commission Orders, and applicable State
18 Regulations;

19 (d) Whether Defendants had/have a policy and/or practice that results in the presentation of
20 inaccurate wage statements to Plaintiff and the Class;

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

24 (f) Whether Defendants unlawfully and/or willfully failed to promptly reimburse Plaintiff
25 and members of the Class all reasonable and necessary business expenditures in violation of
26 Labor Code § 2802;

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

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

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

34. Typicality: Plaintiff's claims are typical of the members of the Plaintiff's Class. Plaintiff, like other members of the Class working for Defendants in California, was subjected to Defendants' policies and/or practices set forth above. Plaintiff's job duties were, and are, typical of those of other Class members.

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

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

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

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

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

FIRST CAUSE OF ACTION

**FAILURE TO COMPENSATE ALL HOURS WORKED IN VIOLATION OF
INDUSTRIAL WELFARE COMMISSION ORDER NO. 9 AND LABOR CODE §§200, 226,
500, 510, 1194, 1197, AND 1198
(BY PLAINTIFF AGAINST ALL DEFENDANTS)**

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

41. At all times relevant herein, Defendants were required to compensate its non-exempt employees for all hours worked, pursuant to Industrial Welfare Commission Order 9, and Labor Code §§ 200, 226, 500, 510, 1197, 1194 and 1198.

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

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

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

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

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

47. Defendants' conduct described herein violates Industrial Welfare Commission Order 9, and Labor Code §§ 200, 203, 218.5, 226, 558, 1194, and 1198. Therefore, pursuant to 12 CCR § 11040 and Labor Code §§ 203, 218.5, 226, 558, 1194 and 1198, Plaintiff and the Class are entitled to recover damages for the nonpayment of wages of all hours worked that were improperly deducted and/or not counted as a result of Defendants' policies, liquidated damages for underpayment of minimum wages, penalties, reasonable attorneys' fees, expenses, and costs of suit.

48. WHEREFORE, Plaintiff requests relief as hereinafter provided.

SECOND CAUSE OF ACTION

FAILURE TO PAY MINIMUM WAGES IN VIOLATION OF

LABOR CODE §§ 1182.12, 1194, 1194.2, 1197

(By PLAINTIFF AGAINST ALL DEFENDANTS)

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

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

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

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

53. As a direct result, Plaintiff and the Class have suffered, and continue to suffer, substantial losses related to the use and enjoyment of such wages, lost interest on such wages, and expenses and attorneys' fees in seeking to compel Defendants to fully perform their obligations under

1 state law, all to his damage in amounts according to proof at time of trial, but in amounts in excess of
2 the minimum jurisdiction of this Court.

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

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

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

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

14 **THIRD CAUSE OF ACTION**

15 **FAILURE TO PAY FULL OVERTIME COMPENSATION**

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

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

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

20 59. Pursuant to the applicable Industrial Welfare Commission Order and Labor Code
21 §§ 200, 226, 500, 510, 1194, and 1198, Defendants were required to compensate Plaintiff and the Class
22 for all overtime work performed for the benefit of Defendants, which is calculated at one and one-half
23 (1-1/2) times the regular rate of pay for hours worked in excess of eight (8) hours per day and/or forty
24 (40) hours per week, and for the first eight (8) hours on the seventh consecutive work day.

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

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

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

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

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

65. WHEREFORE, Plaintiff requests relief as hereinafter provided.

FOURTH CAUSE OF ACTION

FAILURE TO PROVIDE PROPER WAGE STATEMENTS

IN VIOLATION OF CAL. LABOR CODE §226

(BY PLAINTIFF AGAINST ALL DEFENDANTS)

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

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

"Every employer shall . . . at the time of each payment of wages, furnish his or her employees

1 . . . an itemized statement in writing showing (1) gross wages earned; (2) total hours worked by the
2 employee . . . (8) the name and address of the legal entity that is the employer..."

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

9 68. Defendants failed to accurately record the regular and overtime hours worked by
10 Plaintiff and the Class, and total wages due.

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

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

17 71. WHEREFORE, Plaintiff requests relief as hereinafter provided.

18 **FIFTH CAUSE OF ACTION**

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

20 **512, AND 12 CALIFORNIA CODE OF CIVIL REGULATIONS § 11050**

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

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

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

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

28 75. Plaintiff and the Class are entitled to recover additional compensation for all meal and

1 rest periods that were missed, but not paid for during his employment, plus penalties pursuant to Labor
2 Code §§ 226.7 and 558.

3 76. Defendants' conduct described herein violates the Industrial Welfare Commission
4 Order 9-2001 sections 10 and 11, and Labor Code §§ 200, 226, 226.7, 512, 558, and 1198, and
5 California Code of Regulations § 11040.

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

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

13 **SIXTH CAUSE OF ACTION**

14 **FAILURE TO REIMBURSE BUSINESS EXPENSES IN VIOLATION OF**

15 **CAL. LABOR CODE § 2802**

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

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

19 80. Labor Code § 2802 provides that "[a]n employer shall indemnify his or her employee
20 for all necessary expenditures or losses incurred by the employee in direct consequences of the
21 discharge of his or her duties."

22 81. Plaintiff and the Class Members have incurred reasonable and necessary expenses in
23 the course of completing their job duties, including using their personal cellphones for work, which
24 were not fully reimbursed by Defendants.

25 82. An employer that knows or has reason to know that an employee has incurred work-
26 related expenses must reimburse the employee, even if the employee does not request reimbursement.

27 83. Plaintiff and the Class Members are entitled to reimbursement for these necessary
28 expenditures, plus interest and attorneys' fees and costs, under Labor Code § 2802.

1 84. WHEREFORE, Plaintiff requests relied as hereinafter provided.

2 **SEVENTH CAUSE OF ACTION**

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

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

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

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

15 88. Pursuant to Labor Code § 201, upon Plaintiff’s and Class members’ separations,
16 Defendants were required to pay all earned wages.

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

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

24 91. WHEREFORE, Plaintiff requests relied as hereinafter provided.

25 **EIGHTH CAUSE OF ACTION**

26 **VIOLATION OF LABOR CODE §§ 2698, ET SEQ. (“PAGA”)**
27 **(BY PLAINTIFF AGAINST ALL DEFENDANTS)**

28 92. Plaintiff hereby re-alleges, and incorporates by reference as though set forth fully

1 herein, the allegations contained in all preceding paragraphs.

2 93. On March 3, 2023, Plaintiff filed a notice with the Labor Workforce and Development
3 Agency (“LWDA”) at their website pursuant to the Private Attorney General Act, California Labor
4 Code §§ 2698, et seq. (“PAGA”) regarding Defendants. This notice was also sent to the Defendants
5 that same day via certified mail. PAGA permits Plaintiffs to recover civil penalties for the
6 violation(s) of the Labor Code sections enumerated in Labor Code section 2699.5.

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

10 95. Defendants’ conduct, as alleged herein, violates numerous sections of the California
11 Labor Code including, but not limited to, the following:

12 a. Defendants violated Labor Code §§ 510, 558, 1194, 1194.2, 1197, 1198 by failing to
13 pay minimum wages and overtime hours to Plaintiff and other similarly aggrieved employees;

14 b. Defendants violated Labor Code § 226 by failing to provide Plaintiff and similarly
15 aggrieved employees with accurate and compliant itemized wage statements;

16 c. Defendants violated Industrial Welfare Commission Order No. 9 and Labor Code §§
17 226.7 and 512, 516, 558 and 1198 by failing to provide all legally required meal and rest period
18 premiums to Plaintiff and similarly aggrieved employees;

19 d. Defendants violated Labor Code § 2802 by failing to reimburse costs of phone usage
20 to Plaintiff and similarly aggrieved employees.

21 96. California Labor Code section 1174 provides that “[e]very person employing labor in
22 this state shall ... [k]eep a record showing the names and addresses of all employees employed and
23 the ages of all minors” and “[keep, at a central location in the state or at the plants or establishments
24 at which employees are employed, payroll records showing the hours worked daily by and the wages
25 paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees
26 employed at the respective plants or establishments...”

27 97. Labor Code section 558(a) provides “[a]ny employer or other person acting on behalf
28 of an employer who violates, or causes to be violated, a section of this chapter or any provision

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

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

15 99. Pursuant to PAGA, and in particular California Labor Code sections 2699(a), 2699.3,
16 2699.5, Plaintiff, acting in the public interest as a private attorney general, seeks assessment and
17 collection of unpaid wages and civil penalties for Plaintiff, all other aggrieved employees, and the
18 State of California against Defendant, in addition to other remedies, for violations of California Labor
19 Code sections 200, 201, 202, 203, 210, 226(a), 226.7, 510, 558, 1194, 1194.2, 1197, 1197.1, 1198,
20 and 2802.

21 100. WHEREFORE, Plaintiff requests relied as hereinafter provided.

22 **EIGHTH CAUSE OF ACTION**

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

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

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

27 102. Section 17200 of the California Business and Professions Code prohibits any unlawful,
28 unfair or fraudulent business act or practice.

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

5 104. Defendants' conduct as herein alleged has damaged Plaintiff by denying his wages due
6 and payable, by failing to reimburse for business expenses, by failing to provide meal and/or rest
7 periods, and by failing to provide proper wage statements. Defendants' actions are thus substantially
8 injurious to Plaintiff causing him injury in fact and loss of money.

9 105. As a result of such conduct, Defendants have unlawfully and unfairly obtained monies
10 due to Plaintiff.

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

14 107. Defendants' course of conduct, acts, and practices in violation of the California law as
15 mentioned in each paragraph above constitutes a separate and independent violation of §17200 etc. of
16 the Business and Professions Code.

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

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

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

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

112. WHEREFORE, Plaintiff requests relied as hereinafter provided.

TENTH CAUSE OF ACTION

**FAILURE TO PERMIT INSPECTION OF PERSONNEL AND PAYROLL RECORDS IN
VIOLATION OF CAL. LABOR CODE § 1198.5
(By PLAINTIFF AGAINST ALL DEFENDANTS)**

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

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

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

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

117. Defendants demonstrated a consistent policy of discouraging and ultimately preventing Plaintiff from accessing his employment records and reviewing their personnel files. Plaintiff sent a letter demanding his wage records via USPS certified mail on February 28, 2023. To date, Plaintiff has not received his payroll records or personnel file. Defendants thereby violated Labor Code §§ 226, 432 and 1198.5.

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

119. WHEREFORE, Plaintiff requests relied as hereinafter provided.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment as follows:

1. For nominal damages;
2. For compensatory damages;
3. For equitable relief in the nature of declaratory relief, restitution of all monies due to Plaintiffs, and disgorgement of profits from the unlawful business practices of Defendants, and accounting;
4. For penalties permitted by Labor Code §§ 200, 201, 202, 203, 210, 226, 226.7, 510, 512, 558, 1194, 1197, 1197.1, 1198, 2802, and 2698 et seq. and all other applicable sections;
5. For interest accrued to date;
6. For costs of suit and expenses incurred herein pursuant to Labor Code §§ 226, 1194, and 2698;
7. For reasonable attorneys' fees pursuant to Labor Code §§ 218.6, 226, 226.7, 1194, and 2698; and
8. For all such other and further relief that the Court may deem just and proper.

DATED: May 26, 2023

LOYR, APC

By: _____



Young W. Ryu, Esq.
Joshua Park, Esq.
Kee Seok Mah, Esq.
Attorneys for Plaintiff
ROBEL TULU

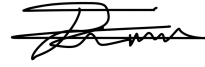
DEMAND FOR JURY TRIAL

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

DATED: May 26, 2023

LOYR, APC

By: _____



Young W. Ryu, Esq.
Joshua Park, Esq.
Kee Seok Mah, Esq.
Attorneys for Plaintiff
ROBEL TULU