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11 *situated*

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12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **FOR THE COUNTY OF LOS ANGELES**
14 **STANLEY MOSK COURTHOUSE**

15 RAMON VALLE CASTRO, individually, and
16 on behalf of all others similarly situated,

17 Plaintiff,

18 v.

19 QUALITY AUTO BODY REPAIR, INC., a
20 California corporation; and DOES 1 through
21 50, inclusive,

22 Defendants.

CASE NUMBER: 26STCV01280

23 **CLASS AND REPRESENTATIVE**
24 **ACTION COMPLAINT**

- 25 1. Willful Misclassification of Non-Exempt
Employees as Independent Contractors
- 26 2. Failure to Provide Meal Periods
- 27 3. Failure to Provide Rest Breaks
- 28 4. Failure to Provide Recovery Periods
5. Failure to Pay Overtime Wages
6. Failure to Pay Minimum Wages
7. Failure to Pay Timely Wages
8. Failure to Pay All Wages Due to
Discharged and Quitting Employees
9. Failure to Maintain Required Records
10. Failure to Furnish Accurate Itemized
Statements
11. Failure to Indemnify Employees for
Necessary Expenditures
12. Unfair and Unlawful Business Practices

REPRESENTATIVE ACTION

13. Penalties Under the Labor Code Private
Attorneys General Act

DEMAND FOR JURY TRIAL

1 **INTRODUCTION**

2 This is a class action brought by Plaintiff Ramon Castro Valle (“Plaintiff”), on behalf of himself
3 and all other similarly situated individuals, against his former employer, Quality Auto Body Repair,
4 Inc. (“Defendant”), in order to hold Defendant accountable for its willful misclassification of
5 employees as independent contractors and its corresponding wage theft and violations of California
6 wage and hour laws. Plaintiff makes the following allegations on information and belief, except as to
7 allegations pertaining to Plaintiff individually, which are based on his personal knowledge.

8 1. Defendant operates auto body repair shops in southern California doing business as
9 CarVive Collision Centers specializing in auto repair and collision services. Defendant markets itself
10 as a company “built on honesty, precision and customer satisfaction.”

11 2. At all relevant times herein, Defendant has implemented a common policy and practice
12 of willfully misclassifying employees as independent contractors. It does this for one reason: to avoid
13 compliance with California wage and hours and thereby maximize profits at the expense of its workers.
14 Numerous violations, including *inter alia*, failure to provide meal and rest breaks, failure to pay
15 minimum and overtime wages, failure to maintain required records, etc., have resulted from this
16 misclassification.

17 3. Plaintiff seeks declaratory, compensatory and other statutorily available relief for
18 himself and a Class of all current and former non-exempt employees of Defendant during the applicable
19 statute of limitations period to compensate these workers for the wages Defendant has stolen from them
20 and to protect current and future workers from being subjected to similar unlawful working conditions
21 perpetrated by Defendant.

22 **JURISDICTION AND VENUE**

23 4. The Superior Court of the State of California has jurisdiction in this matter because
24 Plaintiffs are residents and citizens of California and Defendant is a California corporation that is
25 qualified to do business in California and regularly conducts business in California. All Class members
26 are residents and citizens of California. No federal question is at issue because Plaintiffs’ claims are
27 based solely on California law.

28 5. Venue is proper in this judicial district and the County of Los Angeles because

1 Plaintiffs, and other persons similarly situated, performed work for Defendant in the County of Los
2 Angeles, Defendant ran its business through its corporate headquarters and facilities that were located
3 in Northridge, and Defendant's unlawful payroll policies and practices, which are the subject of this
4 action were applied, at least in part, to Plaintiffs, and other persons similarly situated, in the County of
5 Los Angeles.

6 **THE PARTIES**

7 6. Plaintiff is a resident and citizen of the State of California and a former employee of
8 Defendant. Plaintiff was employed by Defendant as an auto-body Preparation Technician during the
9 statute of limitations period. At all times during his employment, Defendant willfully misclassified
10 Plaintiff as an independent contractor.

11 7. Plaintiff, on behalf of himself and all other similarly situated individuals, brings this
12 class action to recover, among other things, penalties for willful misclassification of employees as
13 independent contractors, wages and penalties from unpaid wages earned and due, including *inter alia*,
14 Defendant's failure to provide legally compliant meal, recovery and rest periods and failure to provide
15 proper compensation for missed and otherwise unlawful meal, recovery and rest breaks, unpaid and
16 illegally calculated overtime compensation, unpaid minimum wages, Defendant's failure to timely pay
17 wages, Defendant's failure to pay all wages due to discharged or quitting non-exempt employees,
18 Defendant's failure to maintain required records and failure to provide accurate itemized wage
19 statements, Defendant's failure to reimburse employees for necessary expenditures incurred in the
20 discharge of their job duties, and Defendant's failure to produce required employment records.

21 8. Defendant is, and at all times relevant herein was, a corporation organized and existing
22 under the laws of the State of California. Defendant conducts business as a collision repair center
23 operating at least two (2) facilities in the State of California.

24 9. The true names and capacities of DOES 1 through 50, inclusive, are unknown to
25 Plaintiff at this time, and Plaintiff therefore sue such DOE defendants under fictitious names. Upon
26 information and belief, each Defendant designated as a DOE is in some manner highly responsible for
27 the occurrences alleged herein, and Plaintiff and Class members' injuries and damages, as alleged
28 herein, were proximately caused by the conduct of such DOE defendants. Plaintiff will seek leave of

1 the Court to amend this Complaint to allege the true names and capacities of such DOE defendants
2 when ascertained.

3 10. As a direct and proximate result of the unlawful actions of Defendant, Plaintiff and Class
4 members have suffered, and continue to suffer, from loss of earnings in amounts as yet unascertained,
5 but subject to proof at trial, and within the jurisdiction of this Court.

6 **CLASS ACTION ALLEGATIONS**

7 11. Pursuant to Cal. Code of Civ. P. § 382, Plaintiffs bring this action on behalf of
8 themselves and the following Class:

9 All current and former non-exempt employees of Defendant who performed
10 work for Defendant in the State of California at any time during the relevant
11 statute of limitations period (four years from the date of the filing of this
action).

12 12. Plaintiff reserves the right to name additional Class representatives as may be necessary
13 and appropriate. Plaintiff also reserves the right to modify or amend the definition of the proposed
14 Class and/or add subclasses before the Court determines whether certification is appropriate

15 13. This action is appropriately suited for a class action because:

16 A. The proposed Class is a significant number. Plaintiff is informed and believe that the
17 proposed Class consists of at least 75 non-exempt employees, rendering joinder impractical.

18 B. This action involves common questions of law and fact to the proposed Class because
19 the action focuses on the Defendant's systematic course of illegal payroll practices and policies, which
20 was applied to all non-exempt employees in uniform violation of the California Labor Code, IWC
21 Wage Orders, and the California Business and Professions Code, which prohibits unfair business
22 practices arising from such violations. Here are a few common questions of law and fact that will drive
23 resolution of this action:

- 24 1. Whether Defendant misclassified employees as independent contractors;
25 2. Whether Defendant failed to provide non-exempt employees with legally compliant
26 meal periods, recovery periods and rest breaks, and whether Defendant properly
27 paid premium pay as a result of missed and non-compliant meal periods and rest
28 breaks;

3. Whether Defendant failed to properly pay overtime to non-exempt employees in compliance with California law;
4. Whether Defendant failed to properly pay minimum wages to non-exempt employees in compliance with California law
5. Whether Defendant failed to timely pay wages to non-exempt employees in compliance with California law;
6. Whether Defendant failed to reimburse non-exempt employees for employment-related expenses in compliance with California law;
7. Whether Defendant failed to maintain required records and accurate wage statements for non-exempt employees; and
8. Whether Defendant engaged in unfair and/or unlawful business practices.

C. Plaintiff's claims are typical of the proposed Class because Defendant subjected all of its non-exempt employees to the similar and overlapping violations of the California Labor Code, the applicable IWC wage order, and the California Business and Professions Code. All of these violations stemmed from the same willful misclassification.

D. Plaintiff is able to fairly and adequately protect the interests of all members of the proposed Class because it is in his best interest to prosecute the claims alleged herein to obtain full compensation due to the proposed Class for all services rendered and hours worked. Plaintiff has also retained counsel that is experienced in wage and hour class action litigation.

FIRST CAUSE OF ACTION
Willful Misclassification of Employees as Independent Contractors
[Cal. Labor Code § 226.8, 2750.3]
(On Behalf of Plaintiffs and the Class against all Defendants)

14. Plaintiff incorporates herein by specific reference, as though fully set forth, the allegations in paragraphs 1 through 13 (A - D).

15. During the statute of limitations period, and contrary to California law, Defendant misclassified Plaintiff and the other Class members as independent contractors as a subterfuge to avoid treating them as employees. Defendant, as a matter of established and uniform company policy and procedure, controlled, among other things, the job duties and responsibilities of Plaintiff and Class

1 members; the payment of wages to Plaintiff and Class members; the work schedule and time in which
2 Plaintiff and Class members were suffered and permitted to work; the way Plaintiff and Class members
3 dressed and presented themselves to customers; the manner and/or means in which the work was
4 performed by Plaintiff and Class members; and what could be discussed by Plaintiff and Class members
5 regarding their compensation and wages. In addition, Plaintiff and Class members had no other means
6 of profiting through self-management, as the only compensation they received for the work they
7 performed on behalf of Defendant was based upon a flat fee payment per inspection

8 16. California Labor Code § 226.8 provides that it is unlawful for any person or employer
9 to engage in the “willful misclassification” of an individual as an independent contractor. “Willful
10 misclassification” is defined as “avoiding employee status for an individual by voluntarily and
11 knowingly misclassifying that individual as an independent contractor.” California Labor Code §
12 226.8(i)(4).

13 17. During the Class Period, Plaintiff and Class Members worked for Defendant and were
14 employees of Defendant, as defined by Labor Code §2750 and §2 applicable IWC Wage Order, which
15 defines “employ” as meaning to engage, suffer, or permit to work and that a contract for employment
16 is “a contract by which one, who is called the employer, engages another, who is called the employee,
17 to do something for the benefits of the employer or a third person.” California Labor Code §
18 2750.3(a)(3) and the factors enunciated in *S.G. Borello & Sons, Inc. v. Department of Industrial*
19 *Relations* (1989) 48 Cal. 3d 341, apply which demonstrate Plaintiff and the Class Members were
20 employees and not independent contractors as follows:

21 18. Plaintiff and the Class Members were under the direction and control of Defendant with
22 regard to the entire working relationship. Among other things, Defendant dictated the prices charged
23 for services, collected the proceeds and required Plaintiff and Class members to wear shirts with
24 Defendant’s name printed on the shirt. Plaintiff and Class members were mandated what time to sjow
25 up for work and if they did not arrive timely, they would be removed from the schedule or be terminated
26 by Defendant. Plaintiff and the other Class members were instructed that if they discussed their payroll
27 worksheet/compensation they could be terminated. Further, Defendant told Plaintiffs and Class
28 members how to perform their work, how to conduct their work, how to sell and upsell services to

1 Defendant's customers. Plaintiff and Class members were directed to attend training meetings at the
2 office of Defendant. Plaintiff and Class members were threatened with termination or removal from
3 the schedule if they failed to attend.

4 19. Defendant was and is in the same business as Plaintiff and the other Class members.
5 Defendant hired some individuals as employees and many other individuals as independent or sub-
6 contractors. The individuals hired by Defendant as employees performed the same or similar duties as
7 Plaintiff and Class members – who are and have been misclassified as independent contractors.
8 Defendant's business and that of Plaintiff and the other Class members was and is virtually the same.

9 20. The length of service of Plaintiffs and the Class Members was continuous in nature and
10 not isolated events so long as Plaintiff and the other Class Members followed Defendant's policies and
11 procedures, the relationship was continuous.

12 21. By violating *Borello*, California Labor Code §§ 226.8 and 2750.3 (a) (3) through the
13 willful misclassification of Plaintiff and Class members as independent contractors, Defendant lowered
14 its cost of doing business, by among other things:

- 15 a. Avoiding the payment of wages and minimum wages, failing to pay overtime
16 compensation and illegally calculating overtime compensation, failing to
17 provide meal periods and rest breaks, failing to pay all wages due to
18 discharged or quitting employees, failing to maintain required records, failing
19 to provide accurate itemized wage statements, and failing to indemnify
20 employees for necessary expenditures and/or losses incurred in discharging
21 their duties;
- 22 b. Not reporting or paying the employer's share of federal or state payroll taxes
23 with respect to any of the funds paid to Plaintiff and Class members, as
24 required by law;
- 25 c. Not providing or paying for Workers' Compensation insurance for Plaintiff
26 and Class members;
- 27 d. Not providing or paying for State Disability insurance for Plaintiffs and Class
28 member; and

1 e. Not providing or paying for benefits to Plaintiffs and Class member that other
2 employees of Defendant may have received and/or should have received.

3 22. As a proximate result of the aforementioned violations of California law committed by
4 Defendant, Plaintiff and Class members have suffered, and continue to suffer, substantial losses related
5 to, among other things, the loss of the employer's share of payroll taxes, the use and enjoyment of such
6 employee benefits, lost wages in the form of failing to receive overtime pay and minimum wage,
7 premium payments owed and due for missed meal periods and rest breaks, reimbursements owed and
8 due for expenditures incurred in the discharge of their job duties, all associated penalties, and expenses
9 and attorneys' fees in seeking to compel Defendant to fully perform their obligations under state law.

10 23. Plaintiff and Class members seek to recover reimbursement of all damages proximately
11 resulting from such misclassification and/or unlawful reductions in compensation and expense
12 reimbursement, as well as the appropriate withholding of federal, state, and local income taxes based
13 upon a flat withholding rate for supplemental wage payments in accordance with Treas. Reg. §
14 31.3402(g)-1(a)(2) as amended or supplemented, and any corresponding state or local law, and the Class
15 Members' share of FICA, Medicare, and state and local employment taxes that was improperly not
16 paid by Defendant as a result of the unlawful independent contractor classification.

17 24. Defendant's failure to classify Plaintiff and the other Class members as employees, in
18 violation of California law, was knowing and intentional. The decision to misclassify Plaintiff and
19 Class members as independent contractors was made, maintained, and enforced by Defendant, and was
20 done willfully, maliciously, oppressively, and fraudulently, with the wrongful and deliberate intention
21 of injuring Plaintiffs and Class members, and with a conscious disregard for the rights of Plaintiff and
22 Class members under California law, all of which has deprived Plaintiff and Class members of their
23 property and legal rights. Therefore, in addition to all other types of relief requested herein, Plaintiff
24 and Class members are entitled to recover punitive and exemplary damages in amounts according to
25 proof at time of trial.

26 25. Pursuant to California Labor Code § 226.8, Defendant is subject to a civil penalty and
27 damages of not less than five thousand dollars (\$5,000), and up to fifteen thousand dollars (\$15,000),
28 for each willful misclassification of Plaintiff and Class members as independent contractors.

1 Additionally, Plaintiff alleges that Defendant engaged in a pattern and practice of willfully
2 misclassifying employees as independent contractors, and therefore, Plaintiff seeks penalties and
3 damages of not less than ten thousand dollars (\$10,000) and up to twenty-five thousand dollars
4 (\$25,000) for each violation, in addition to any other penalties, damages, or fines permitted by law.

5 **SECOND CAUSE OF ACTION**

6 **Failure to Provide Required Meal Periods**

7 **[Cal. Lab. Code §§ 226.7, 510, 512, 1194, 1197; IWC Wage Order No. 4-2001, § 11,**

8 **and all Applicable IWC Wage Orders]**

9 ***(On Behalf of Plaintiff and the Class against all Defendants)***

10 26. Plaintiff incorporates herein by specific reference, as though fully set forth, the
11 allegations in paragraphs 1 through 25.

12 27. During the statute of limitations period, as part of Defendant's unlawful policies and
13 practices to deprive its non-exempt employees of all wages earned and due, Defendant required,
14 permitted or otherwise suffered Plaintiff and Class members to perform work during their meal periods,
15 to completely skip their meal periods, to take late and short meal periods, and Defendant has otherwise
16 failed to provide the required meal periods to Plaintiff and Class members as required under California
17 Labor Code §§ 226.7, 512, and § 11 of the applicable IWC Order.

18 28. Plaintiff and Class members were denied meal periods due to the fact that, among other
19 reasons, Defendant never informed them of their rights under California law to take meal periods. On
20 information and belief, Defendant maintained and implemented a common policy and practice of
21 providing no meal periods to non-exempt employees and/or misclassified independent contractors. To
22 the extent Plaintiff and Class members were even aware that they were entitled to take meal periods,
23 Defendant further implemented a common policy and practice of failing to authorize and permit
24 uninterrupted meal periods of at least thirty (30) minutes within the first five (5) hours of the shift. For
25 example, Plaintiff and Class members are and have been forced to skip meal periods altogether, to take
26 them after working longer than five (5) hours, to perform work during their meal periods, or return to
27 work after taking less than a thirty (30) minute meal period, as a direct consequence of being given too
28 much work to complete within their scheduled shifts.

29 29. Further, Defendant had no policy to provide second meal periods to non-exempt

1 employees and/or misclassified independent contractors during shifts of ten (10) hours or longer.

2 30. Defendant has violated California Labor Code §§ 226.7 and IWC Wage Order No. 4-
3 2001, § 11, and all other applicable IWC Wage Orders by failing to compensate Plaintiff and Class
4 members who were not authorized and permitted to take a timely, uninterrupted meal period, in
5 accordance with the applicable wage order, one additional hour of compensation at the proper regular
6 rate of pay for each workday that such a meal period was not authorized or permitted.

7 31. Defendant further violated California Labor Code §§ 226.7, 510, 1194, 1197, and IWC
8 Wage Order No. 4-2001 § 11, and all other applicable IWC Wage Orders by failing to compensate
9 Plaintiffs and Class members for all hours worked during their meal periods.

10 32. As a proximate result of the aforementioned violations, Plaintiff and Class members
11 have been damaged in an amount according to proof at trial, and seek all wages earned and due, interest,
12 penalties, expenses, and costs of suit.

13 **THIRD CAUSE OF ACTION**

14 **Failure to Provide Required Rest Breaks**
15 **[Cal. Lab. Code §§ 226.7, 512; IWC Wage Order No. 4-2001, § 12,**
16 **and all other applicable IWC Wage Orders]**
17 ***(On Behalf of Plaintiffs and the Class against all Defendants)***

18 33. Plaintiff incorporates herein by specific reference, as though fully set forth, the
19 allegations in paragraphs 1 through 32.

20 34. During the statute of limitations period, as part of Defendant's illegal policies and
21 practices to deprive its non-exempt employees of all wages earned and due, Defendant failed to permit
22 Plaintiff and Class members to take rest breaks as required under California Labor Code §§ 226.7 and
23 512, and § 12 of the applicable IWC Wage Order.

24 35. Defendant utterly failed to permit non-exempt employees and/or misclassified
25 independent contractors to take rest breaks during any shifts, even though Plaintiff and Class members
26 regularly worked shifts of at least eight hours. Plaintiff and the other Class members were never
27 informed of their rights under California law to take any ten-minute rest breaks.

28 36. To the extent Defendant had a policy to provide any rest breaks, Defendant implemented
a common policy and practice of failing to authorize and permit a ten-minute rest break for each four-

1 hour period worked, or major fraction thereof. Defendant maintained and implemented a common
2 policy of not authorizing or permitting second ten-minute rest breaks during shifts of six hours or
3 longer. Additionally, Defendant implemented a common policy and practice of failing to permit
4 Plaintiff and the other Class members from taking third ten-minute rest breaks during shifts of 10 hours
5 or longer, and so forth.

6 37. Further, Plaintiff and other Class members were compensated based on a flat rate paid
7 per job completion. This piece-rate method of compensation did not and does not provide for
8 compensation to Plaintiff and the other Class members for their rest breaks as required under California
9 law because it did not and does not include rest breaks that could be reported by Plaintiff and Class
10 members and for which compensation could be provided.

11 38. Defendant further violated California Labor Code § 226.7 and IWC Wage Order No. 4-
12 2001, § 11, and all other applicable IWC Wage Orders by failing to pay Plaintiff and Class members
13 who were not provided with a rest break, in accordance with the applicable wage order, one additional
14 hour of compensation at the proper regular rate of pay for each workday that a rest break was not
15 provided.

16 39. As a proximate result of the aforementioned violations, Plaintiff and Class members
17 have been damaged in an amount according to proof at trial, and seek all wages earned and due, interest,
18 penalties, expenses, and costs of suit.

19 **FOURTH CAUSE OF ACTION**
20 **Failure to Provide Required Recovery Periods**
21 **[Cal. Lab. Code §§ 226.7; California Code of Regulations, Title 8, Section 3395]**
(On Behalf of Plaintiff and the Class against all Defendants)

22 40. Plaintiff incorporates herein by specific reference, as though fully set forth, the
23 allegations in paragraphs 1 through 39.

24 41. At all times relevant herein, as part of Defendant's illegal payroll policies and
25 practices to deprive its non-exempt employees and/or misclassified independent contractors of all
26 wages earned and due, Defendant failed to permit Plaintiff and Class members to take recovery
27 periods as required under Cal. Lab. Code § 226.7 and California Code of Regulations, Title 8, Section
28 3395. Defendant was and is required to provide recovery or "cooldown" periods to non-exempt

1 employees and/or misclassified independent contractors like Plaintiff and the Class members while
2 performing manual labor in order to prevent heat illness.

3 42. Plaintiff and Class members performing intense manual labor. This work is performed
4 over the course of many hours in temperatures regularly exceeding 82 degrees Fahrenheit. Despite
5 these work conditions, Defendant failed to implement an adequate policy or practice of providing
6 recovery periods to its non-exempt, hourly employees and/or those misclassified as independent
7 contractors. Defendant has similarly failed to make efforts to comply with heat illness prevention
8 regulations by providing times to stop working and rest or by supplying sufficient amounts of
9 drinking water. For example, there are times when Defendant does not provide Plaintiff and Class
10 members with drinking water. As with meal and rest breaks, Defendant did not provide Plaintiff and
11 Class members with any written documents informing them of their rights to take recovery periods,
12 and thus they did not take them.

13 43. Defendant further violated Cal. Lab. Code §226.7, and the California Unfair
14 Competition Law, Cal. Bus. & Prof. Code §§ 17200 *et. seq.*, by failing to pay Plaintiff and Class
15 members who were not provided with a recovery period, one additional hour of compensation at the
16 proper regular rate of pay for each workday that a recovery period was not provided.

17 44. As a proximate result of the aforementioned violations, Plaintiff and Class members
18 have been damaged in an amount according to proof at trial, and seek all wages earned and due,
19 interest, penalties, expenses and cost of suit.

20 **FIFTH CAUSE OF ACTION**
21 **Failure to Pay Overtime Wages**
22 **[Cal. Lab. Code §§ 510, 1194, 1198; IWC Wage Order No. 4-2001, § 3,**
23 **and All Other Applicable IWC Wage Orders]**
24 ***(On Behalf of Plaintiff and the Class against all Defendants)***

25 45. Plaintiff incorporates herein by specific reference, as though fully set forth, the
26 allegations in paragraphs 1 through 44.

27 46. Pursuant to California Labor Code §§ 510, 1194, and § 3 of the applicable IWC Wage
28 Order, Defendant is required to compensate Plaintiff and Class members for all overtime, which is
calculated at one and one-half (1 ½) times the regular rate of pay for all hours worked in excess of eight

(8) hours per day and/or forty (40) hours per week, and for the first eight (8) hours on the seventh consecutive workday, with double time for all hours worked in excess of twelve (12) hours in any workday and for all hours worked in excess of eight (8) hours on the seventh consecutive day of work in any workweek.

47. During the statute of limitations period, Defendant failed to compensate Plaintiff and Class members for all overtime hours worked as required under California Labor Code §§ 510, 1194, and the applicable IWC Wage Order, by, among other methods: failing to pay overtime at one and one-half (1 ½) or double the regular rate of pay, improperly calculating the regular rate of pay by failing to include the value of non-discretionary bonuses and commissions, requiring, permitting or suffering Plaintiff and Class members to work off-the-clock, and to work through meal and rest breaks, but not compensating them for this time, failing to accurately record the time worked by Plaintiff and Class members, and other methods to be discovered.

48. In violation of California law, Defendant has knowingly and willfully refused to perform its obligations to compensate Plaintiff and Class members for all wages earned and all hours worked at the legally required rates of pay. As a proximate result, Plaintiffs and Class members 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 Defendant to fully perform its obligations under state law, all to their respective damages in amounts according to proof at time of trial, and within the jurisdiction of this Court.

49. Defendant's conduct described herein violates California Labor Code §§ 510, 1194, 1198 and § 3 of the applicable IWC Wage Order. Therefore, pursuant to California Labor Code §§ 200, 203, 226, 558, 1194, 1197.1, and other applicable provisions under the California Labor Code and IWC Wage Orders, Plaintiffs and Class members are entitled to recover the unpaid balance of wages owed to them by Defendant, plus interest, penalties, attorneys' fees, expenses, and costs of suit.

FIFTH CAUSE OF ACTION

Failure to Pay Minimum and Straight Time Wages

**[Cal. Lab. Code §§ 1194, 1197; All Applicable IWC Wage Orders and Applicable Sections]
(On Behalf of Plaintiff and the Class against all Defendants)**

50. Plaintiff incorporates herein by specific reference, as though fully set forth, the

1 allegations in paragraphs 1 through 49.

2 51. Defendant is obligated to pay Plaintiff and the Class members wages for all hours
3 worked. “Hours worked” is the time during which an employee is subject to the control of an
4 employer, and includes all the time the employee is suffered or permitted to work, whether or not
5 required to do so.

6 52. Pursuant to Cal. Lab. Code §§ 1194, 1197, and all applicable IWC Wage Orders and
7 applicable sections, payment to an employee of less than the applicable minimum wage for all hours
8 worked in a payroll period is unlawful.

9 53. Defendant knowingly failed to pay to Plaintiff and the Class members for all wages
10 hours worked during all times alleged herein in violation of Labor Code § 1194, and all applicable
11 IWC Wage Orders.

12 54. Plaintiff and the Class members are owed wages in the form of minimum and straight
13 time wages for all hours worked, excluding overtime or double time wages.

14 55. During the statute of limitations period, Defendant failed to pay Plaintiff and Class
15 members minimum wages for all hours worked by, among other things: willfully misclassifying
16 Plaintiff and Class members as independent contractors; requiring, permitting or suffering Plaintiffs
17 and Class members to work off-the-clock (to the extent they were even instructed to record their
18 actual work times); requiring, permitting or suffering Plaintiff and Class members to work through
19 meal periods and rest breaks; failing to pay overtime wages and failing to properly calculate overtime
20 based on the regular rate of pay; illegally and inaccurately recording time in which Plaintiff and Class
21 members worked; failing to properly maintain Plaintiff’s and Class members’ records; failing to
22 provide accurate itemized wage statements to Plaintiff and Class members for each pay period;
23 failing to reimburse Plaintiff and Class members for necessary expenditures incurred in the discharge
24 of their job duties; paying Plaintiff and Class members on a piece-rate system; and other methods to
25 be discovered.

26 56. Defendant’s conduct described herein violates Labor Code §§ 1194, 1197, and all
27 applicable IWC Wage Orders and applicable sections. Based upon Defendant’s failure to pay
28 minimum and straight-time wages, Defendant further violated the provisions of Labor Code § 1194,

1 and any and all applicable IWC Wage Orders.

2 57. As a proximate result of the aforementioned violations, Plaintiff and other Class
3 members have been damaged in an amount according to proof at trial. Therefore, pursuant to
4 California Labor Code §§ 200, 203, 226, 558, 1194, 1197.1, and any other applicable law, Plaintiff
5 and other Class members are entitled to recover the unpaid balance of wages owed to them by
6 Defendant, plus interest, penalties, attorneys' fees, expenses, and costs of suit.

7 **SIXTH CAUSE OF ACTION**
8 **Failure to Pay Timely Wages**
9 **[Cal. Lab. Code §§200, 204, 210]**
(On Behalf of Plaintiffs and the Class against all Defendants)

10 58. Plaintiff incorporates herein by specific reference, as though fully set forth, the
11 allegations in paragraphs 1 through 57.

12 59. California Labor Code § 204 provides that all wages earned by any person in any
13 employment between the 1st and 15th days, inclusive, of any calendar month, other than those wages
14 due upon termination of an employee, are due and payable between the 16th and 26th day of the month
15 during which the labor was performed. California Labor Code § 204 further provides that all wages
16 earned by any person in any employment between the 16th and the last day, inclusive, of any calendar
17 month, other than those wages due upon termination of an employee, are due and payable between the
18 1st and the 10th day of the following month. California Labor Code § 204 further provides that all
19 wages eared for labor in excess of the normal work period shall be paid no later than the payday for
20 the next regular payroll period.

21 60. During the statute of limitations period, Defendant, among other things, willfully failed
22 to pay Plaintiff and Class members all wages earned and due to them, including but not limited to, meal
23 and rest break premiums, overtime and minimum wages, and payment for work performed off-the-
24 clock, within any time period permissible under California Labor Code § 204.

25 61. As a proximate result of Defendant's unlawful actions and omissions, Plaintiffs and
26 Class members are entitled to all available statutory penalties, including but not limited to, civil
27 penalties pursuant to California Labor Code §§ 200, 210, 558, 1194, 1197.1, 2699(a), and other
28 applicable provisions under the California Labor Code and IWC Wage Orders, and an award of costs,

1 expenses, and reasonable attorneys' fees.

2 **SEVENTH CAUSE OF ACTION**
3 **Failure to Pay All Wages Due to Discharged and Quitting Employees**
4 **[Cal. Lab. Code §§ 201, 202, 203]**
5 ***(On Behalf of Plaintiff and the Class against all Defendants)***

6 62. Plaintiffs incorporate herein by specific reference, as though fully set forth, the
7 allegations in paragraphs 1 through 61.

8 63. Pursuant to California Labor Code §§ 201, 202, and 203, Defendant is required to pay
9 all earned and unpaid wages to an employee who is discharged. California Labor Code § 201 mandates
10 that if an employer discharges an employee, the employee's wages accrued and unpaid at the time of
11 discharge are due and payable immediately.

12 64. Furthermore, pursuant to California Labor Code § 202, Defendant is required to pay all
13 accrued wages due to an employee no later than seventy-two (72) hours after the employee quits his or
14 her employment, unless the employee provided seventy-two (72) hours previous notice of his or her
15 intention to quit, in which case the employee is entitled to his or wages at the time of quitting.

16 65. California Labor Code § 203 provides that if an employer willfully fails to pay, in
17 accordance with California Labor Code §§ 201 and 202, any wages of an employee who is discharged
18 or who quits, the employer is liable for waiting time penalties in the form of continued compensation
19 to the employee at the same rate for up to thirty (30) workdays.

20 66. During the statute of limitations period, Defendant has willfully failed to pay accrued
21 wages and other compensation to Plaintiff and Class members in accordance with California Labor
22 Code §§ 201 and 202. Because Defendant has failed and continues to fail to properly compensate
23 Plaintiffs and Class members for all hours worked when due, overtime wages, and compensation for
24 non-compliant meal and rest breaks, Defendant has also willfully failed and continues to fail to pay
25 accrued wages and other compensation to Plaintiffs and Class members in accordance with California
26 Labor Code §§ 201 and 202.

27 67. As a result, Plaintiff and Class members are entitled to all available statutory penalties,
28 including the waiting time penalties provided in California Labor Code § 203, together with interest
thereon, as well as other available remedies.

EIGHTH CAUSE OF ACTION
Failure to Maintain Required Records
[Cal. Lab. Code §§ 226, 1174; IWC Wage Order No. 4-2001, § 7,
and All Applicable IWC Wage Orders]
(On Behalf of Plaintiff and the Class against all Defendants)

68. Plaintiffs incorporate herein by specific reference, as though fully set forth, the allegations in paragraphs 1 through 67.

69. During the statute of limitations period, as part of Defendant's illegal payroll policies and practices to deprive Plaintiff and Class members of all wages earned and due, Defendant knowingly and intentionally failed to maintain records as required under California Labor Code §§ 226, 1174, and § 7 of the applicable IWC Wage Order, including but not limited to, the following records: total daily hours worked by each non-exempt employee; applicable rates of pay; all deductions; meal periods; time records showing when each non-exempt employee and/or misclassified independent contractors begins and ends each workday; and accurate itemized wage statements.

70. As a proximate result of Defendant's unlawful actions and omissions, Plaintiff and Class members have been damaged in an amount according to proof at trial, and are entitled to all wages earned and due, plus interest thereon. Additionally, Plaintiffs and Class members are entitled to all available penalties, including but not limited to, penalties pursuant to California Labor Code §§ 226(e), 226.3, and 1174.5, and an award of costs, expenses, and reasonable attorneys' fees, including but not limited to those provided in California Labor Code § 226(e), as well as other available remedies.

NINTH CAUSE OF ACTION
Failure to Furnish Accurate Itemized Wage Statements
[Cal. Lab. Code §§ 226; IWC Wage Order No. 4-2001, § 7,
and All Applicable IWC Wage Orders]
(On Behalf of Plaintiff and the Class against all Defendants)

71. Plaintiff incorporates herein by specific reference, as though fully set forth, the allegations in paragraphs 1 through 70.

72. During the statute of limitations period, Defendant routinely failed to provide Plaintiff and Class members with timely, accurate, and itemized wage statements in writing showing each employee's gross wages earned, total hours worked, all deductions made, net wages earned, and all applicable hourly rates in effect during each pay period and the corresponding number of hours worked

1 at each hourly rate, in violation of California Labor Code § 226 and § 7 of the applicable IWC Wage
2 Order.

3 73. Defendant's pay stubs violate California Labor Code § 226 because Defendant failed to
4 provide Plaintiff and Class members with proper meal and rest periods and failed to include in their
5 wage statements one (1) additional hour of compensation at their regular rates of pay for each non-
6 compliant meal or rest period. In addition, Defendant required Plaintiffs and Class members to work
7 off the clock without compensation and did not pay Plaintiff and Class members the correct amount of
8 their overtime wages, which was not reflected in their wage statements. Plaintiff and Class members
9 were also not compensated for commuting between inspections. Defendant also has not accurately
10 recorded the time worked by Plaintiff and Class members, resulting in an inaccurate listing of the
11 number of hours worked at each hourly rate. These unlawful practices have also resulted in inaccurate
12 wage statements to the extent the wage statements do not reflect the actual time worked by Plaintiff
13 and Class members. The wage statements of Plaintiff and Class members also do not list their hours
14 worked, their hourly rates, or any piece-rate compensation, in violation of California Labor Code §
15 226(a)(2), (3), and (9). Instead, the wage statements just list gross pay and hours worked.

16 74. Defendant knowingly and intentionally failed to provide Plaintiff and Class members
17 with timely, accurate, and itemized wage statements in accordance with California Labor Code § 226(a)
18 so as to prevent Plaintiff and Class members from being able to determine whether they were being
19 paid for, among other things, all of the hours they worked and at the proper rates of pay.

20 75. As a proximate result of Defendant's unlawful actions and omissions, Plaintiff and Class
21 members have been damaged in an amount according to proof at trial, and seek all wages earned and
22 due, plus interest thereon. Additionally, Plaintiff and Class members are entitled to all available
23 penalties, including but not limited to penalties pursuant to California Labor Code §§ 226(e), 226.3,
24 and 1174.5, and an award of costs, expenses, and reasonable attorneys' fees, including but not limited
25 to those provided in California Labor Code § 226(e), as well as other available remedies.

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TENTH CAUSE OF ACTION
Failure to Indemnify for Necessary Expenditures Incurred in Discharge of Duties
[Cal. Lab. Code § 2802]
(On Behalf of Plaintiff and the Class against all Defendants)

76. Plaintiff incorporates herein by specific reference, as though fully set forth, the allegations in paragraphs 1 through 75.

77. California Labor Code § 2802(a) requires an employer to indemnify an employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of her his or her duties, or of his or her obedience to the directions of the employer.

78. During the statute of limitations period, Defendant knowingly and willfully failed to indemnify Plaintiff and Class members for business expenses and/or losses incurred in direct consequence of the discharge of their duties while working under the direction of Defendant, including but not limited to, expenses for tools, work boots, cellular phone usage, gas reimbursement and insurance coverage when Plaintiff and Class members were required to use their own personal vehicles for work related purposes, and other employment-related expenses in violation of California Labor Code § 2802.

79. As a proximate result of Defendant's unlawful actions and omissions, Plaintiff and Class members have been damaged in an amount according to proof at trial, and seek reimbursement of all necessary expenditures, plus interest thereon pursuant to California Labor Code § 2802(b). Additionally, Plaintiffs and Class members are entitled to all available statutory penalties and an award of costs, expenses, and reasonable attorneys' fees, including those provided in California Labor Code § 2802(c), as well as other available remedies.

ELEVENTH CAUSE OF ACTION
Unfair and Unlawful Business Practices
[Cal. Bus. & Prof. Code § 17200 *et. seq.*]
(On Behalf of Plaintiff and the Class against all Defendants)

80. Plaintiff incorporate herein by specific reference, as though fully set forth, the allegations in paragraphs 1 through 79.

81. Each and every one of Defendant's acts and omissions in violation of the California Labor Code and/or the applicable IWC Wage Order as alleged herein, including but not limited to,

1 Defendant's failure to provide required meal and rest breaks, failure to pay proper overtime
2 compensation, failure to pay bonuses promised and owed, unlawful rounding and requiring off-the-
3 clock work, failure to pay all wages due to discharged or quitting employees or to pay timely wages,
4 failure to furnish accurate itemized wage statements or to maintain required records, and failure
5 indemnify Plaintiff and Class members for necessary expenditures and/or losses incurred in discharging
6 their duties, constitute an unfair and unlawful business practice under California Business and
7 Professions Code § 17200 *et seq.*

8 82. Defendant's violations of California wage and hour laws constitute a business practice
9 because Defendant's aforementioned acts and omissions were done repeatedly over a significant period
10 of time, and in a systematic manner, to the detriment of Plaintiff and Class members.

11 83. Defendant has avoided payment of wages, overtime wages, the provision of meal and
12 rest breaks, and other benefits as required by the California Labor Code, the California Code of
13 Regulations, and the applicable IWC Wage Order. Further, Defendant has failed to record, report, and
14 pay the correct sums of assessment to the state authorities under the California Labor Code and other
15 applicable regulations.

16 84. As a result of these unfair and unlawful business practices, Defendant has reaped unfair
17 and illegal profits during the Class period at the expense of Plaintiff and Class members, and members
18 of the public. Defendant should be made to disgorge its ill-gotten gains and to restore them to Plaintiff
19 and Class members.

20 85. Defendant's unfair and unlawful business practices entitle Plaintiff and Class members
21 to seek preliminary and permanent injunctive relief, including but not limited to orders that Defendant
22 account for, disgorge, and restore to Plaintiff and Class members the wages and other compensation
23 unlawfully withheld from them. Plaintiff and Class members are entitled to restitution of all monies to
24 be disgorged from Defendant in an amount according to proof at the time of trial.

25 **TWELFTH CAUSE OF ACTION**
26 **Representative Action for Civil Penalties**
 [Cal. Lab. Code §§ 2698- 2699.5]

27 ***(On Behalf of Plaintiff and Other Aggrieved Employees against all Defendants)***

28 86. Plaintiff incorporates herein by specific reference as though fully set forth the

1 allegations in paragraphs 1 through 10, with exception of the allegations in Paragraphs 11 through 13
2 (A-D).

3 87. Plaintiff is an “aggrieved employee” within the meaning of California Labor Code §
4 2699(c), and is a proper representative to bring a civil action on behalf of himself, and other non-
5 exempt employees of Defendant who are California citizens, pursuant to the procedures specified in
6 California Labor Code § 2699.3, because Plaintiff was employed by Defendant and the alleged
7 violations of the California Labor Code were committed against Plaintiff.

8 88. Plaintiff seeks to recover civil penalties through a representative action permitted by
9 PAGA and the California Supreme Court in *Arias v. Superior Court* (2009) 46 Cal.4th 969. Thus,
10 class certification is not required.

11 89. Pursuant to the California Private Attorneys General Act of 2004 (“PAGA”), Labor
12 Code §§ 2698-2699.5, Plaintiff seeks to recover civil penalties, including but not limited to penalties
13 under California Labor Code §§ 2699, 210, 225.5, 226.3, 558, 1174.5, 1197.1, 1775, 1199, and all
14 applicable IWC wage order penalties, from Defendant in a representative action for the violations set
15 forth above, including but not limited to violations of California Labor Code §§ 201, 202, 203, 203.1,
16 226, 226.7, 246, 510, 512, 1174, 1194, 1197, 1198, 1774, 6401.7, 6401.9, 6428, 6429 and California
17 Code of Regulations, Title 8, Sections 3395 and 3396. Defendant also failed to comply with
18 Occupational Safety and Health Standards Board approved California Code of Regulations, Title 8,
19 section 3396, “Heat Illness Prevention in Indoor Places of Employment” and implement a Heat
20 Illness Prevention Policy, in violation of Labor Code §§6401.7 and 6401.9. Plaintiff is also entitled to
21 an award of reasonable attorneys’ fees and costs pursuant to California Labor Code § 2699(g)(1).

22 90. Pursuant to California Labor Code §§ 2699.3, on October 8, 2025, Plaintiff gave
23 written notice by certified mail to the California Labor and Workforce Development Agency
24 (“LWDA”) and Defendant of the specific provisions of the California Labor Code and IWC Wage
25 Orders alleged to have been violated, including the facts and theories to support the alleged
26 violations. Within sixty-five (65) calendar of the postmark date of Plaintiff’s notice letter, the LWDA
27 did not provide notice to Plaintiff that it intends to investigate the alleged violations. Therefore,
28

1 Plaintiff has complied with all of the requirements set forth in California Labor Code § 2699.3 to
2 commence a representative action under PAGA.

3 91. California Labor Code § 2699(f) provides that for all California Labor Code violations
4 for which a civil penalty is not specifically provided, the following civil penalties are established: one
5 hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and two
6 hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation.

7 92. Plaintiff seeks to recover such civil penalties under California Labor Code § 2699(f)
8 for Defendant's violations of California Labor Code provisions for which a civil penalty is not
9 specifically provided, including but not limited to, California Labor Code §§ 201, 202, 203, 204,
10 226.7, 1197, 2802, and for the violations of the applicable IWC Wage Order alleged above.

11 93. All civil penalties sought and recovered under this action will be allocated as follows:
12 sixty-five (65) percent to the State of California and thirty-five (35) percent to Plaintiff and aggrieved
13 employees.

14 94. Plaintiff additionally seeks reasonable attorneys' fees and costs pursuant to California
15 Labor Code § 2699(g)(1) and California Code of Civil Procedure § 1021.5.

16 **PRAYER FOR RELIEF**

17 **WHEREFORE**, Plaintiff, individually and on behalf of all other persons similarly situated,
18 respectfully prays for relief against Defendant and DOES 1 through 50, inclusive, and each of them,
19 as follows:

- 20 1. For compensatory damages in an amount to be ascertained at trial;
- 21 2. For restitution of all monies due to Plaintiff and Class Members, as well as disgorged
22 profits from the unfair and unlawful business practices of Defendant;
- 23 3. For meal and rest break compensation pursuant to California Labor Code § 226.7 and
24 IWC Wage Order No. 4-2001 and all applicable IWC Wage Orders and pertinent sections;
- 25 4. For liquidated damages pursuant to California Labor Code § 1194.2;
- 26 5. For preliminary and permanent injunctive relief enjoining Defendant from violating
27 the relevant provisions of the California Labor Code and the IWC Wager Orders, and from engaging
28 in the unlawful business practices complained of herein;

- 1 6. For civil penalties under California Labor Code § 2699(f);
- 2 7. For waiting time penalties pursuant to California Labor Code § 203;
- 3 8. For statutory penalties according to proof, including but not limited to, all penalties
- 4 authorized by the California Labor Code §§ 210, 225.5, 226(e), 226.3, 226.8, 558, 354, 1174.5, 1775,
- 5 1197.1, 2699, and 2750.3;
- 6 9. An award of actual, statutory, and/or punitive damages to Plaintiff and the Class
- 7 pursuant to California Civil Code §§ 1785.31 and 1786.50, in an amount subject to proof at trial;
- 8 10. For interest on the unpaid wages at 10 percent per annum pursuant to California Labor
- 9 Code §§ 218.6, 1194, 2802 and California Civil Code §§ 3287, 3288, and/or any other applicable
- 10 provision providing for pre-judgment interest;
- 11 11. For reasonable attorneys' fees and costs pursuant to California Labor Code §§ 218.5,
- 12 226, 1194, 2802, 2699 and California Code of Civil Procedure § 1021.5, California Civil Code §
- 13 1786.50(a)(2), California Civil Code § 1785.31(a), and/or any other applicable provisions providing
- 14 for attorneys' fees and costs;
- 15 12. For declaratory relief;
- 16 13. For an order requiring and certifying the First through Eleventh Causes of Action as a
- 17 class action;
- 18 14. For an order appointing Plaintiff as Class representative and Plaintiff's counsel as
- 19 Class counsel; and
- 20 15. For such further relief that the Court may deem just and proper.

21 DATED: January 7, 2026

THE WHEELER LAW FIRM, APC

22 

23 By: _____

24 Scott Ernest Wheeler
 Justin A. Wheeler

25 *Attorney for Plaintiff and all others similarly*
26 *situated*

1 **DEMAND FOR JURY TRIAL**

2 Plaintiff, on behalf of himself and all others similarly situated, hereby demands a jury trial
3 with respect to all issues triable of right by jury.

4 DATED: January 7, 2026

THE WHEELER LAW FIRM, APC

5 

6 By: _____

7 Scott Ernest Wheeler
8 Justin A. Wheeler

9 *Attorney for Plaintiff and all others similarly*
10 *situated*