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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF RIVERSIDE

ARMANDO AGUILERA, as an individual and
on behalf of all others similarly situated,

Plaintiff,

vs.

PWLC II, INC., a California corporation; and
DOES 1 through 100,

Defendants.

Case No.: CVR12302142

CLASS ACTION COMPLAINT:

- (1) **FAILURE TO PAY ALL OVERTIME WAGES (LABOR CODE §§ 204, 510, 558, 1194, 1198);**
- (2) **MINIMUM WAGE VIOLATIONS (LABOR CODE §§ 1182.12, 1194, 1194.2, 1197);**
- (3) **MEAL PERIOD VIOLATIONS (LABOR CODE §§ 226.7, 512, 558);**
- (4) **REST PERIOD VIOLATIONS (LABOR CODE §§ 226.7, 516, 558);**
- (5) **FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENDITURES (LABOR CODE §§ 2802, 2804);**
- (6) **WAGE STATEMENT VIOLATIONS (LABOR CODE § 226 et seq.);**
- (7) **WAITING TIME PENALTIES (LABOR CODE §§ 201-203); and**
- (8) **UNFAIR COMPETITION (BUS & PROF CODE § 17200 et seq.).**

**DEMAND FOR JURY TRIAL
UNLIMITED CIVIL CASE**

1 Plaintiff Armando Aguilera (“Plaintiff”) on behalf of himself and all others similarly
2 situated, hereby brings this Class Action Complaint against Defendant PWLC II, Inc., a California
3 corporation, and DOES 1 to 100, inclusive (collectively “Defendants”), and on information and
4 belief alleges as follows:

5
6 **JURISDICTION**

7 1. Plaintiff, on behalf of himself and all others similarly situated, hereby brings this
8 action for recovery of unpaid wages and penalties under California Labor Code sections 201-204,
9 226 *et seq.*, 510, 512, 516, 558, 1182.12, 1194, 1194.2, 1197, 1198, 2802 and 2804, California
10 Business and Professions Code section 17200 *et. seq.*, and Industrial Welfare Commission Wage
11 Order 5 (“Wage Order 5”), in addition to seeking declaratory relief and restitution. This action is
12 brought pursuant to California Code of Civil Procedure section 382. This Court has jurisdiction
13 over Defendants’ violations of the California Labor Code because the amount in controversy
14 exceeds this Court’s jurisdictional minimum.

15 **VENUE**

16 2. Venue is proper in this judicial district pursuant to California Code of Civil
17 Procedure sections 395(a) and 395.5, as at least some of the acts and omissions complained of
18 herein occurred in the County of Riverside. Defendants transact business within the County of
19 Orange and/or otherwise are found within the County of Riverside, and Defendants are within the
20 jurisdiction of this Court for purposes of service of process.

21 **PARTIES**

22 3. Plaintiff is an individual over the age of eighteen (18). At all relevant times herein,
23 Plaintiff was and currently is, a California resident living within Riverside County. During the
24 four years immediately preceding the filing of this action and within the statute of limitations
25 periods applicable to each cause of action pled herein, Plaintiff was employed by Defendants as
26 a non-exempt employee. Plaintiff was, and is, a victim of Defendants’ policies and/or practices
27 complained of herein, lost money and/or property, and has been deprived of the rights guaranteed
28 by Labor Code §§ 201-204, 226 *et seq.*, 226.7, 510, 512, 516, 558, 1182.12, 1194, 1194.2, 1197,

1 1198, California Business and Professions Code § 17200 *et seq.* (“Unfair Competition Law”), and
2 Wage Order 5, which sets employment standards for the landscaping industry.

3 4. Plaintiff is informed and believes, and based thereon alleges, that during the four
4 years preceding the filing of this action and continuing to the present, Defendants did (and
5 continue to do) business within the County of Riverside and the State of California by operating
6 a company specializing in landscaping, and therefore, were (and are) doing business in the County
7 of Riverside and the State of California.

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

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

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

26 8. At all times mentioned herein, Defendants, and each of them, were members of
27 and engaged in a joint venture, partnership, and common enterprise, and acting within the course
28 and scope of and in pursuance of said joint venture, partnership, and common enterprise. Further,

1 Plaintiff alleges that all Defendants were joint employers for all purposes of Plaintiff and all
2 members of the Classes.

3 **GENERAL FACTUAL ALLEGATIONS**

4 9. Defendants operate a landscaping company specializing in landscape
5 maintenance. Plaintiff was employed by Defendants as a non-exempt “Laborer” from
6 approximately July or August 2022 until approximately January 6, 2023. Plaintiff’s primary job
7 duties included landscaping and maintenance work, primarily at a golf course.

8 10. During Plaintiff’s employment with Defendants, Defendants failed to compensate
9 Plaintiff and other non-exempt employees for all hours actually worked, resulting in unpaid
10 minimum wages and additional unpaid overtime wages. Specifically, Plaintiff’s direct supervisors
11 recorded Plaintiff’s hours as assumed 8-hour shifts from Monday through Thursday and 4-hour
12 shifts from Friday and Saturday, without checking the actual time Plaintiff arrived at his shift,
13 finished his shift, or if he was provided a 30-minute uninterrupted meal period. For example, on
14 Monday through Thursday, Plaintiff was typically scheduled to work from 5:30 a.m. to 2:00 p.m.
15 with a 30-minute unpaid meal period. From Friday through Saturday, Plaintiff was typically
16 scheduled to work from 5:30 a.m. to 9:30 a.m., without any meal or rest periods. Plaintiff would
17 generally report to work before his scheduled shift time in order to be present for the “roll call”
18 which took place before the scheduled shift start time. Defendants’ failure to accurately record
19 Plaintiff’s hours to include the time Plaintiff arrived to work early for “roll call” resulted in
20 Plaintiff not being compensated for all hours actually worked. As such, Defendants regularly,
21 systematically, and impermissibly rounded and/or shaved the time worked by Plaintiff and other
22 non-exempt employees in Defendants’ favor. This time shaving/rounding practice utilized by
23 Defendants was not-even handed over time and would round and shave in Defendants’ favor such
24 that Plaintiff was routinely underpaid for his time worked. Due to Defendants’ timekeeping
25 policies and practices that fail to compensate for all hours worked, Plaintiff and other non-exempt
26 employees were deprived of all required minimum wages. Further, on occasions when Plaintiff
27 worked over eight hours in a day and/or forty hours in a workweek, this process of time-shaving
28 or rounding also deprived him of all overtime wages owed. As such, Plaintiff and other non-

1 exempt employees were not credited with all hours actually worked and were not paid all
2 minimum and overtime wages earned.

3 11. Defendants also failed to provide Plaintiff and other non-exempt employees with
4 all legally-compliant meal periods due to Defendants' unlawful meal period policies/practices
5 that failed to provide timely, duty-free 30-minute meal periods. As stated, Defendants'
6 supervisors filled out all employee timecards themselves but never recorded meal periods (and in
7 fact the timecards used by Defendants do not even include a space to record a meal period).
8 Instead, Defendants deducted 30 minutes from Plaintiff's hours on all days he worked 8-hour
9 shifts, without verifying if Plaintiff received an uninterrupted and timely 30-minute meal period.
10 Moreover, Defendants frequently interrupted Plaintiff and other non-exempt employees during
11 meal periods with instructions for work-related tasks that were to be completed after their meal
12 periods. As a result, Defendants failed to provide duty-free meal periods. On occasions when
13 Plaintiff and other non-exempt employees were not provided with all lawful meal periods to
14 which they were entitled, Defendants failed to pay Plaintiff and other non-exempt employees an
15 additional hour of premium pay at their respective regular rates of pay for each workday in which
16 a meal period violation occurred, as required by Labor Code section 226.7. Upon information and
17 belief, Defendants failed to maintain pay codes for the payment of meal period premium payments
18 as required by Labor Code section 226.7.
19

20 12. Plaintiff was not authorized and permitted to take a rest period for every 4 hours
21 worked (or major fraction thereof) due to Defendants' rest period policies/practices. Specifically,
22 Defendants did not authorize and permit *any* rest periods when Plaintiff and other non-exempt
23 employees were scheduled for 4-hour shifts. Moreover, when Plaintiff was scheduled for an 8-
24 hour shift, Plaintiff was not authorized and permitted to take separate rest periods throughout the
25 workday. Instead, Plaintiff and other non-exempt employees were only authorized and permitted
26 to combine a 20-minute rest period with a 30-minute meal period, resulting a combined 50-minute
27 meal and rest period, in violation of California law. *See Rodriguez v. E.M.E., Inc.* (2016) 246
28 Cal.App.4th 1027 (holding that in the context of an 8-hour shift with a single meal period, the

1 preferred schedule requires the provision of a rest period in the middle of each “work period”
2 before and after the meal break, and that “a departure from the preferred schedule is permissible
3 only when the departure (1) will not unduly affect employee welfare and (2) is tailored to alleviate
4 a material burden that would be imposed on the employer by implementing the preferred
5 schedule.”). As mentioned, Defendants frequently interrupted Plaintiff and other non-exempt
6 employees during rest periods with instructions for work-related tasks that were to be completed
7 after their rest periods. As a result, Defendants failed to authorize and permit duty-free rest
8 periods. Defendant also failed to provide Plaintiff and other non-exempt employees with an
9 additional hour of premium pay for each workday in which a rest period violation occurred, as
10 required by Labor Code § 226.7.

11 13. Additionally, Defendants required Plaintiff and other non-exempt employees to
12 use their personal cell phones to communicate throughout the day with supervisors about their
13 work duties. Despite requiring Plaintiff and other non-exempt employees to utilize their personal
14 cell phones for work purposes, Defendants failed to reimburse these non-exempt employees for
15 all necessary business expenses associated with using their personal cell phones, in violation of
16 Labor Code section 2802. Upon information and belief, Defendants failed to maintain any policy
17 for reimbursing employees for work-related expenses.

18 14. Moreover, Defendants failed to provide shade during meal and rest periods
19 consistent with industry-wide standards for the nature of the work performed. Specifically,
20 Plaintiff’s job duties required that he work outside in temperatures of over 100 degrees Fahrenheit
21 while performing manual labor. Defendants failed to maintain access to shade during meal and
22 rest periods, in violation of Cal. Code Regs. tit. 8, § 3395(d)(1) and Labor Code § 6721.

23 15. As a result of Defendants’ failure to pay all overtime wages, minimum wages, and
24 meal and rest period premium wages owed, Defendants also maintained inaccurate payroll
25 records and issued inaccurate wage statements to Plaintiff and other non-exempt employees, and
26 failed to pay all final wages owed to Plaintiff and other non-exempt employees upon their
27 respective separations of employment. Further, for a portion of the statutory period, Defendants’
28

wage statements are also facially deficient due to their failure to include the address of the legal entity that is the employer, in violation of Labor Code § 226(a).

CLASS ACTION ALLEGATIONS

16. **Class Definitions:** Plaintiff brings this action on behalf of himself and the following Classes pursuant to section 382 of the Code of Civil Procedure:

- a. The Overtime Class consists of consists of all Defendants' current and former non-exempt employees in California who worked more than 8.0 hours per day and/or 40.0 hours per workweek and were subject to Defendants' timekeeping policies and/or practices for non-exempt employees, during the four years immediately preceding the filing of this action through the present.
- b. The Minimum Wage Class consists of all of Defendants' current and former non-exempt employees in California who were subject to Defendants' timekeeping policies and/or practices for non-exempt employees, during the four years immediately preceding the filing of this action through the present.
- c. The Meal Period Class consists of all Defendants' current and former non-exempt employees in California who worked at least one shift in excess of 5.0 hours during the four years immediately preceding the filing of this action through the present.
- d. The Rest Period Class consists of all Defendants' current and former non-exempt employees in California who worked at least one shift in excess of 3.5 hours, during the four years immediately preceding the filing of this action through the present.
- e. The Reimbursement Class consists of all Defendants' current and former non-exempt employees in California who were required to use a personal cellular phone for work-related purposes without reimbursement, during the four years immediately preceding the filing of this action through the present.
- f. The Wage Statement Class consists of: (i) all members of the Overtime Class, Minimum Wage Class, Meal Period Class, and/or Rest Period Class, who received a wage statement from Defendants; and/or (ii) all of Defendants' current and

former non-exempt employees in California who received a wage statement that failed to list the address of the legal entity that is the employer, during the one year immediately preceding the filing of this action through the present.

- g. The Waiting Time Class consists of all members of the Overtime Class, Minimum Wage Class, Meal Period Class, and/or Rest Period Class, who separated their employment with Defendants during the three years immediately preceding the filing of this action through the present.

17. **Numerosity/Ascertainability:** The members of the Classes are so numerous that joinder of all members would be unfeasible and not practicable. The membership of the Classes is unknown to Plaintiff at this time; however, it is estimated that the members of the Classes number greater than fifty (50) individuals. The identity of such membership is readily ascertainable via inspection of Defendants' employment records.

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

- i. Whether Defendants violated the applicable Labor Code provisions, including, but not limited to, sections 510 and 1194 by requiring members of the Overtime Class to perform overtime work and not paying for said work in accordance with the overtime laws of the State of California;
- ii. Whether Defendants paid all minimum wages owed for all hours worked to members of the Minimum Wage Class pursuant to Labor Code sections 1182.12, 1194, 1194.2 and 1197;
- iii. Whether Defendants' timekeeping policies/practices resulted in the failure to properly compensate members of the Overtime Class and/or Minimum Wage Class;
- iv. Whether Defendants provided all legally compliant meal periods to members of the Meal Period Class pursuant to Labor Code sections 226.7 and 512;

- v. Whether Defendants authorized and permitted all lawful rest periods to members of the Rest Period Class pursuant to Labor Code sections 226.7 and 516;
- vi. Whether Defendants correctly paid meal and/or rest period premium payments for non-compliant meal and/or rest periods pursuant to Labor Code section 226.7;
- vii. Whether Defendants failed to reimburse members of the Reimbursement Class for all necessary business expenses incurred pursuant to Labor Code sections 2802 and 2804;
- viii. Whether Defendants furnished legally compliant wage statements to members of the Wage Statement Class pursuant to Labor Code section 226; and
- ix. Whether Defendants paid all wages/compensation due upon separation to members of the Waiting Time Class pursuant to Labor Code sections 201-203.

19. **Predominance of Common Questions:** Common questions of law and fact predominate over questions that affect only individual members of the Classes. The common questions of law set forth above are numerous and substantial and stem from Defendants' policies and/or practices applicable to each individual class member, such as Defendants' uniform timeclock policies/practices, meal and rest period policies/practices, and reimbursement policies/practices. As such, common questions predominate over individual questions concerning each individual class member's showing as to their eligibility for recovery or as to the amount of their damages.

20. **Typicality:** Plaintiff's claims are typical of the claims of the Classes because Plaintiff was employed by Defendants as a non-exempt employee in California during the statute(s) of limitations period applicable to each cause of action pled in the action. As alleged herein, Plaintiff, like the members of the Classes, was deprived of all overtime and minimum wages owed, was not provided all required meal periods, was not authorized and permitted to take all required rest periods, did not receive meal and rest period premium wages at his regular rate of pay for missed or non-compliant meal and rest periods, was not reimbursed for all necessary business expenses, was not provided with accurate, itemized wage statements, and did not receive all final wages owed at the time of his separation of employment.

1 21. **Adequacy of Representation:** Plaintiff is fully prepared to take all necessary steps
2 to represent fairly and adequately the interests of the members of the Classes. Moreover,
3 Plaintiff's attorneys are ready, willing and able to fully and adequately represent the members of
4 the Classes and Plaintiff. Plaintiff's attorneys have prosecuted and defended numerous wage-
5 and-hour class actions in state and federal courts in the past and are committed to vigorously
6 prosecuting this action on behalf of the members of the Classes.

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

individual prosecution considering all of the concomitant costs and expenses attending thereto. As such, the Classes identified herein are maintainable as a Class under section 382 of the Code of Civil Procedure.

FIRST CAUSE OF ACTION

FAILURE TO PAY ALL OVERTIME WAGES

(AGAINST ALL DEFENDANTS)

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

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

25. At all times relevant herein, Defendants were required to properly pay Plaintiff and members of the Overtime Class for all overtime hours worked pursuant to California Labor Code § 1194 and Wage Order 5. Wage Order 5, § 3 requires an employer to pay an employee “one and one-half (1½) times the employee’s regular rate of pay for all hours worked in excess of eight (8) hours” per work day and/or in excess of 40 hours of work in the workweek. Wage Order 5, § 3 also requires an employer to pay an employee double the employee’s regular rate of pay for work in excess of twelve hours each work day and/or for work in excess of 8 hours on the seventh consecutive day of work in the workweek.

26. At all times relevant herein, Defendants caused Plaintiff and other non-exempt employees to work overtime hours but did not compensate Plaintiff or members of the Overtime Class at one and one-half times their regular rate of pay for such hours. Defendants also caused Plaintiff and the members of the Overtime Class to work in excess of twelve hours in a workday but did not properly compensate Plaintiff and the members of the Overtime Class at double their regular rate of pay for all such hours.

27. The foregoing policies and practices are unlawful and create entitlement to recovery by Plaintiff and the Overtime Class in a civil action for the unpaid amount of overtime premiums owing, including interest thereon, statutory and civil penalties, attorney’s fees, and

costs of suit according to California Labor Code §§ 204, 510, 558, 1194, and 1198, Wage Order 5, and Code of Civil Procedure § 1021.5.

SECOND CAUSE OF ACTION

MINIMUM WAGE VIOLATIONS

(AGAINST ALL DEFENDANTS)

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

29. Wage Order 5, § 4 and California Labor Code §§ 1197 and 1182.12 establish the right of employees to be paid minimum wages for all hours worked, in amounts set by state law. Labor Code §§ 1194(a) and 1194.2(a) provide that an employee who has not been paid the legal minimum wage as required by Labor Code § 1197 may recover the unpaid balance together with attorneys' fees and costs of suit, as well as liquidated damages in an amount equal to the unpaid wages and interest accrued thereon.

30. At all relevant times herein, Defendants failed to conform their pay practices to the requirements of the law by failing to pay Plaintiff and members of the Minimum Wage Class for all hours worked including, but not limited to, all hours they were subject to the control of Defendants and/or suffered or permitted to work under the California Labor Code and Wage Order 5.

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

32. As a direct and proximate result of Defendants' unlawful conduct as alleged herein, Plaintiff and the Minimum Wage Class have sustained economic damages including, but not limited to, unpaid wages and lost interest, in an amount to be established at trial, and are entitled to recover economic and statutory damages and penalties and other appropriate relief as a result of Defendants' violations of the California Labor Code and Wage Order 5.

33. The foregoing practices and policies are unlawful and create an entitlement to

1 recovery by Plaintiff and the members of the Minimum Wage Class in a civil action for the unpaid
2 amount of minimum wages owing, including interest thereon, liquidated damages, statutory and
3 civil penalties, attorney's fees, and costs of suit according to California Labor Code §§ 204, 558,
4 1194, 1197, and 1198, Wage Order 5, and Code of Civil Procedure § 1021.5.

5 **THIRD CAUSE OF ACTION**

6 **MEAL PERIOD VIOLATIONS**

7 **(AGAINST ALL DEFENDANTS)**

8 34. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

9 35. Plaintiff is informed and believes, and based thereon alleges, that Defendants
10 failed in their affirmative obligation to provide all of their non-exempt employees in California,
11 including Plaintiff and members of the Meal Period Class, with all legally compliant meal periods
12 in accordance with the mandates of the California Labor Code and Wage Order 5, § 11, for the
13 reasons set forth in the factual allegations and class definitions sections of this Complaint. Despite
14 Defendants' violations, Defendants did not pay an additional hour of premium pay to Plaintiff
15 and members of the Meal Period Class at their respective regular rates of pay, in accordance with
16 California Labor Code §§ 226.7 and 512.

17 36. As a result, Defendants are responsible for paying premium compensation for meal
18 period violations, including interest thereon, statutory penalties, civil penalties, and costs of suit,
19 pursuant to Labor Code §§ 226.7, 512, and 558, Wage Order 5, and Code of Civil Procedure §
20 1021.5.

21 **FOURTH CAUSE OF ACTION**

22 **REST PERIOD VIOLATIONS**

23 **(AGAINST ALL DEFENDANTS)**

24 37. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

25 38. Wage Order 5, § 12 and Labor Code §§ 226.7 and 516 establish the right of
26 employees to be provided with a rest period of at least ten (10) minutes for each four (4) hour
27 period worked, or major fraction thereof.

28 39. As alleged herein, and due to Defendants' unlawful rest period policies and/or

1 practices, Defendants failed to authorize and permit Plaintiff and members of the Rest Period
2 Class to take all paid rest periods to which they were legally entitled. Despite Defendants'
3 violations, Defendants failed to pay an additional hour of premium pay to Plaintiff and members
4 of the Rest Period Class at their respective regular rates of pay for each violation, as required by
5 California Labor Code § 226.7.

6 40. The foregoing violations create an entitlement to recovery by Plaintiff and
7 members of the Rest Period Class in a civil action for the unpaid amount of rest period premiums
8 owing, including interest thereon, statutory penalties, civil penalties, and costs of suit according
9 to Labor Code §§ 226.7, 516, and 558, Wage Order 5, and Code of Civil Procedure § 1021.5.

10 **FIFTH CAUSE OF ACTION**

11 **FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENSES**

12 **(AGAINST ALL DEFENDANTS)**

13 41. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

14 42. At all relevant times herein, Defendants were subject to Labor Code section 2802,
15 which states that "an employer shall indemnify his or her employees for all necessary
16 expenditures or losses incurred by the employee in direct consequence of the discharge of his or
17 her duties, or of his or her obedience to the directions of the employer."

18 43. At all times relevant herein, Defendants were subject to Labor Code section 2804,
19 which states that "any contract or agreement, express or implied, made by any employee to waive
20 the benefits of this article or any part thereof, is null and void, and this article shall not deprive
21 any employee or his personal representative of any right or remedy to which he is entitled under
22 the laws of this State."

23 44. As alleged herein, due to Defendants' unlawful reimbursement practices,
24 Defendants failed to indemnify Plaintiff and the members of the Reimbursement Class for all
25 necessary business expenses incurred, including, among other things, personal cell phone usage
26 and mandatory purchase of company apparel.

27 45. As a proximate result of Defendants' policies and/or practices in violation of Labor
28 Code sections 2802 and 2804, Plaintiff and members of the Reimbursement Class are entitled to

1 damages, attorneys' fees and costs of suit, and interest thereon, in sums to be shown according to
2 proof at trial, pursuant to Labor Code section 2802.

3 **SIXTH CAUSE OF ACTION**

4 **WAGE STATEMENT VIOLATIONS**

5 **(AGAINST ALL DEFENDANTS)**

6 46. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

7 47. Plaintiff is informed and believes, and based thereon alleges, that Defendants
8 knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Plaintiff
9 and members of the Wage Statement Class with complete and accurate wage statements that
10 included, among other requirements, all hours worked, all overtime and minimum wages earned,
11 total gross wages earned, all rates of pay, total net wages earned, and the address of the legal
12 entity that is the employer and all sick pay accrued, in violation of Labor Code § 226 *et seq.*

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

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

22 **SEVENTH CAUSE OF ACTION**

23 **WAITING TIME PENALTIES**

24 **(AGAINST ALL DEFENDANTS)**

25 50. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

26 51. This cause of action is brought pursuant to Labor Code §§ 201-203, which require
27 an employer to pay all wages earned immediately at the time of separation of employment in the
28 event the employer discharges the employee, or if the employee provides at least 72 hours of

1 notice of his/her intent to quit. In the event the employee provides less than 72 hours of notice of
2 his/her intent to quit, said employee's wages become due and payable not later than 72 hours upon
3 said employee's last date of employment.

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

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

17 **EIGHTH CAUSE OF ACTION**

18 **UNFAIR COMPETITION**

19 **(AGAINST ALL DEFENDANTS)**

20 54. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

21 55. Defendants have engaged and continue to engage in unfair and/or unlawful
22 business practices in California in violation of California Business and Professions Code § 17200
23 *et seq.* by, amongst other things, failing to pay Plaintiff and the Classes all overtime and minimum
24 wages owed; failing to pay all required meal and rest period premium wages owed; failing to
25 reimburse for all necessary business expenses incurred; knowingly failing to furnish complete
26 and accurate, itemized wage statements; and failing to pay all final wages at the time of separation
27 from employment.

28 56. Defendants' utilization of these unfair and/or unlawful business practices deprived

1 Plaintiff, and continues to deprive members of the Classes, of compensation to which they are
2 legally entitled, constitutes unfair and/or unlawful competition, and provides an unfair advantage
3 over Defendants' competitors who have been and/or are currently employing workers and
4 attempting to do so in honest compliance with applicable wage and hour laws.

5 57. Because Plaintiff is a victim of Defendants' unfair and/or unlawful conduct alleged
6 herein, Plaintiff, for himself and on behalf of the members of the Classes, seeks full restitution of
7 monies as necessary and according to proof to restore any and all monies withheld, acquired
8 and/or converted by Defendants pursuant to Business and Professions Code §§ 17203 and 17208.

9 58. The acts complained of herein occurred within the last four years immediately
10 preceding the filing this action.

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

16 **PRAYER**

17 WHEREFORE, Plaintiff prays for judgment for himself and for all others on whose behalf
18 this suit is brought against Defendants, as follows:

- 19 1. For an order certifying the proposed Classes;
- 20 2. For an order appointing Plaintiff as representative of the Classes;
- 21 3. For an order appointing Counsel for Plaintiff as Counsel for the Classes;
- 22 4. Upon the First Cause of Action, for compensatory, consequential, general and
23 special damages according to proof pursuant to Labor Code §§ 204, 510, 558, 1194, and 1198;
- 24 5. Upon the Second Cause of Action, for payment of minimum wages, liquidated
25 damages, and penalties owed according to proof pursuant to Labor Code §§ 1182.12, 1194,
26 1194.2 and 1197;
- 27 6. Upon the Third Cause of Action, for compensatory, consequential, general and
28 special damages according to proof pursuant to Labor Code §§ 226.7, 512 and 558;

7. Upon the Fourth Cause of Action, for compensatory, consequential, general and special damages according to proof pursuant to Labor Code §§ 226.7, 516, and 558;

8. Upon the Fifth Cause of Action, for compensatory, consequential, general and special damages according to proof pursuant to Labor Code sections 2802 and 2804;

9. Upon the Sixth Cause of Action, for statutory penalties pursuant to Labor Code § 226 *et. seq.*;

10. Upon the Seventh Cause of Action, for statutory waiting time penalties pursuant to Labor Code §§ 201-203;

11. Upon the Eighth Cause of Action, for restitution to Plaintiff and members of the Classes of all money and/or property unlawfully acquired by Defendants by means of any acts or practices declared by this Court to be in violation of California Business and Professions Code § 17200 *et seq.*;

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

13. On all causes of action, for attorneys' fees and costs as provided by Labor Code §§ 218.5, 1194 *et seq.*, and 226, and Code of Civil Procedure § 1021.5; and

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

Dated: April 19, 2023

Respectfully submitted,
HAINES LAW GROUP, APC

By: 
Fletcher W. Schmidt
Attorneys for Plaintiff

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2 **DEMAND FOR JURY TRIAL**

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

4 Respectfully submitted,
5 Dated: April 19, 2023 HAINES LAW GROUP, APC

6 By: 
7 Fletcher W. Schmidt
8 Attorneys for Plaintiff
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