

David Alami (State Bar No. 314628)
david@alamilawgroup.com
Shaheen Etemadi (State Bar No. 319138)
shawn@alamilawgroup.com
ALAMI LAW GROUP
620 Newport Center Drive, Suite 1100
Newport Beach, CA 92660
Telephone: 949-287-3594

Attorneys for Plaintiff ARTURO MARRON

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

ARTURO MARRON, an individual, on
behalf of himself, all others similarly
situated, other aggrieved employees, and
the State of California

Plaintiff,

v.

IMPERIAL CFS, INC.; ITI RESOURCE,
INC.; BARONHR WEST, INC.; and
DOES 1 through 50, inclusive,

Defendants.

Case No.: 23STCV08329

Assigned for All Purposes to:
Hon. David S. Cunningham III, Dept. 11

**FIRST AMENDED CLASS ACTION AND
REPRESENTATIVE COMPLAINT**

1. Failure to Pay All Wages;
2. Failure to Provide Meal Periods or Compensation in Lieu Thereof;
3. Failure to Permit Rest Periods or Provide Compensation in Lieu Thereof;
4. Knowing and Intentional Failure to Provide Accurate Itemized Wage Statements;
5. Waiting Time Penalties;
6. Failure to Reimburse Business Expenses;
7. Violations of the Unfair Competition Law; and
8. Violation of the Private Attorneys General Act of 2004

JURY TRIAL DEMANDED

Action Filed: April 14, 2023
Trial Date: None Set

1 Plaintiff ARTURO MARRON (“Plaintiff”), on an individual, on behalf of himself, all
2 others similarly situated, other aggrieved employees, and the State of California, hereby brings this
3 First Amended Class and Representative Action Complaint (“FAC”) against Defendants
4 IMPERIAL CFS, INC., ITI RESOURCE, INC., BARONHR WEST, INC., and DOES 1 through
5 50, inclusive (collectively “Defendants”), and alleges with knowledge with respect to his own acts
6 and on information and belief as to other matters as follows:

7 **INTRODUCTION**

8 1. This proposed class action, pursuant to California Code of Civil Procedure section
9 382, is brought by Plaintiff individually and on behalf of all current and former non-exempt
10 employees employed by Defendants in California during the Class Period (collectively the “Class”
11 or “Class Members”). The term Class Period is defined as four years prior to the filing of this action
12 to the date of class certification.

13 2. This proposed class action seeks, *inter alia*, unpaid wages (including minimum,
14 regular, overtime, and double time wages), compensation for non-compliant meal periods and rest
15 breaks, waiting time penalties, itemized wage statement penalties, business expense
16 reimbursements, liquidated damages, interest, reasonable attorneys’ fees, and costs. Plaintiff’s class
17 action is brought under, *inter alia*, the California Industrial Welfare Commission (“IWC”) Wage
18 Orders and applicable provisions of the California Code of Regulations, California Business &
19 Professions Code sections 17200 *et seq.*, California Civil Code section 3289, California Code of
20 Civil Procedure section 1021.5, and California Labor Code (“Labor Code”) sections 201-204, 206,
21 218.6, 223, 226, 226.7, 510, 512, 1182.12, 1194, 1194.2, 1197, 1198, 2800, and 2802.

22 3. Under the California Unfair Competition Law, Business and Professions Code
23 sections 17200 *et seq.* (“UCL”), and pursuant to the class action procedures provided for in this
24 statute, Plaintiff, on behalf of himself and the proposed Class, seeks declaratory relief, injunctive
25 relief, and restitution of all benefits Defendants have received from their employees due to their
26 unlawful business practices, including but not limited to, their failure to timely provide minimum,
27 regular, overtime, and double time compensation due for all hours worked, failure to reimburse
28 business expenses, failure to provide compliant meal periods and rest breaks to their employees or

1 compensation in lieu thereof, and failure to provide accurate itemized wage statements.

2 4. Plaintiff also brings this representative action pursuant to the Private Attorneys
3 General Act of 2004, Labor Code sections 2698 *et seq.* (“PAGA”), against Defendants, on behalf
4 of himself individually and other aggrieved employees who are and were employed by Defendants
5 as non-exempt employees in California during the PAGA Period. The term PAGA Period is defined
6 as one (1) year prior to Plaintiff’s notice of Labor Code violations to the Labor and Workforce
7 Development Agency (“LWDA”) and Defendants until judgment.

8 **JURISDICTION AND VENUE**

9 5. This Court has jurisdiction over all causes of action asserted herein pursuant to the
10 California Constitution, Article VI, section 10, which grants the Superior Court original jurisdiction
11 in all cases except those given to other trial courts. All claims alleged herein arise under California
12 law for which Plaintiff seeks relief authorized by California law. Further, this is a class action
13 pursuant to California Code of Civil Procedure section 382 and a representative action under
14 PAGA. As such, the monetary damages, restitution, penalties, and other amounts sought by Plaintiff
15 exceeds the minimal jurisdictional limits of the Superior Court and will be established according to
16 proof at trial. The Court also has jurisdiction over certain causes of action pursuant to California
17 Business & Professions Code sections 17203 and 17204, which provide for exclusive jurisdiction
18 for enforcement of this statute in any court of competent jurisdiction.

19 6. This Court has jurisdiction over all Defendants because each Defendant is a citizen
20 of California, a corporation or association organized under the laws of the State of California, an
21 association authorized to do business in California and registered with the California Secretary of
22 State, does sufficient business in California, has sufficient minimum contacts with California,
23 and/or intentionally avails itself of the laws and markets of California through the promotion, sale,
24 marketing and distribution of its products and/or services in California to render the exercise of
25 jurisdiction by the California courts permissible.

26 7. Venue in Los Angeles County is proper under Code of Civil Procedure sections
27 395(a) and 395.5 because upon information and belief a substantial part of Defendants’ unlawful
28 conduct, acts, and omissions alleged herein occurred in this County, Defendants had and have

1 ongoing projects in this County, Defendants conduct substantial business in this County,
2 Defendants' liability arose in this County, and/or Defendants reside, transact business, maintain
3 offices, and/or have an agent or agents in this County. The relief requested is within the jurisdiction
4 of this Court.

5 8. Any purported arbitration agreement between Plaintiff and Class Members, on the
6 one hand, and Defendants, on the other hand, is expressly exempt from the FAA because Plaintiff
7 and Class Members were employed by Defendants to load and unload cargo from freight containers
8 shipped from across the United States and abroad and therefore were at all times relevant to this
9 FAC part of a "class of workers engaged in foreign or interstate commerce." 9 U.S.C. § 1; *Sw.*
10 *Airlines Co. v. Saxon*, 213 L. Ed. 2d 27, 142 S. Ct. 1783, 1789 (2022) (holding cargo loaders are a
11 class of workers directly involved in transporting goods across state or international borders and
12 thus fall within Section 1's exemption).

13 PARTIES

14 9. Plaintiff is a California citizen who resides in Los Angeles County, California. In or
15 around September 2018, Defendants hired Plaintiff as a non-exempt hourly employee during the
16 Class Period. Plaintiff's employment with Defendants ended within one (1) year of the filing of this
17 action. Plaintiff's job duties included, *inter alia*, unloading shipping containers at Defendants'
18 worksite in Los Angeles, California.

19 10. Plaintiff is informed, believes and thereon alleges that, at all relevant times,
20 IMPERIAL CFS, INC. ("IMPERIAL") was and is a California corporation with its principal place
21 of business located at 1000 Francisco Street, Torrance, CA 90502. IMPERIAL owns and operates
22 a company that is in the business of shipping and unloading freight containers. Plaintiff is further
23 informed, believes and thereon alleges that, at all relevant times, IMPERIAL regularly conducted
24 and conducts business within the State of California and derives substantial revenues from services
25 performed in California. In addition, Plaintiff is informed, believes and thereon alleges that, at all
26 relevant times, IMPERIAL was and is an employer subject to California state wage and hour laws.

27 11. Plaintiff is informed, believes and thereon alleges that, at all relevant times, ITI
28 RESOURCE, INC. ("ITI RESOURCE") was and is a California corporation doing business in

1 California. Plaintiff is further informed, believes and thereon alleges that, at all relevant times, ITI
2 RESOURCE regularly conducted and conducts business within the State of California and derives
3 substantial revenues from services performed in California. In addition, Plaintiff is informed,
4 believes and thereon alleges that, at all relevant times, ITI RESOURCE was and is an employer
5 subject to California state wage and hour laws.

6 12. Plaintiff is informed, believes and thereon alleges that, at all relevant times,
7 BARONHR WEST, INC. ("BARONHR WEST") was and is a Delaware corporation doing
8 business in California. Plaintiff is further informed, believes and thereon alleges that, at all relevant
9 times, BARONHR WEST regularly conducted and conducts business within the State of California
10 and derives substantial revenues from services performed in California. In addition, Plaintiff is
11 informed, believes and thereon alleges that, at all relevant times, BARONHR WEST was and is an
12 employer subject to California state wage and hour laws.

13 13. Plaintiff is informed, believes and based thereon alleges that Defendants suffered
14 and permitted Plaintiff and Class Members to work, and/or jointly exercised control over the wages,
15 hours, and/or working conditions of Plaintiff and the Class Members.

16 14. Defendants continue to employ non-exempt employees within California.

17 15. Plaintiff is unaware of the true names and capacities of those defendants identified
18 as DOES 1 through 50. Therefore, Plaintiff identifies those defendants fictitiously. Plaintiff is
19 informed, believes and thereon alleges that at all relevant times each DOE defendant was a parent,
20 sister, or related corporate entity of defendants, or an owner, employee or agent of defendants, and
21 each related entity, and was acting with the knowledge and authorization of each of the other
22 defendants. Plaintiff will seek to amend this FAC to allege the true names and capacities of each
23 DOE defendant when their names have been ascertained and identified. Plaintiff is informed,
24 believes and thereon alleges that each of the defendants sued as DOES 1 through 50 participated
25 in, received the benefit of, or was in some way responsible for one or more of the wrongful acts
26 and omissions and some portion of the damages alleged herein.

27 16. Plaintiff is informed, believes and thereon alleges that at all times material hereto,
28 each defendant acted in all respects pertinent to this action as the agent of the other defendant,

1 carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of
2 each defendant are legally attributable to the other defendant. Furthermore, defendants in all
3 respects acted as the employer and/or joint employer of Plaintiff and the Class Members.

4 17. Plaintiff is informed, believes and thereon alleges that defendants, each and all of
5 them, at all times material hereto, were the joint employers, parent companies, successor
6 companies, predecessors in interest, affiliates, agents, employees, servants, joint venturers,
7 directors, fiduciaries, representatives, and/or co-conspirators of each of the remaining defendants.
8 Defendants, unless otherwise alleged, at all times material hereto, performed all acts and omissions
9 alleged herein within the course and scope of said relationship(s), and are a proximate cause of
10 Plaintiff's damages as herein alleged.

11 18. Plaintiff is informed, believes and thereon alleges, that there exists a unity of interest
12 in ownership between Defendants and DOES 1 through 50, inclusive, such that any individuality
13 and separateness between the individual and the corporation does not exist, as Defendants, and
14 DOES 1 through 50, inclusive, are alter egos, in that: (1) Defendants are and at all times mentioned
15 herein were mere shells, instrumentalities and conduits through which DOES 1 through 50,
16 inclusive, carried out their business in the business name, exercising complete control and
17 dominance over such business; (2) that Defendants were conceived, intended and used by DOES 1
18 through 50, inclusive, as devices to avoid individual liability and in place of Defendants, and DOES
19 1 through 50, inclusive, and were without the financial solvency and responsibility required by law;
20 and (3) that all of the assets of the Defendants have been transferred to DOES 1 through 50,
21 inclusive, or some other individual or entity which he or she owns or controls, with the intent to
22 hinder, delay or defraud creditors of Defendants, leaving Defendants with no assets. Further,
23 Plaintiff is informed, believes and thereon alleges, that there exists a principal-agency relationship
24 between and among Defendants.

25 19. At all relevant times herein, Defendants were agents of each other and acting within
26 the course and scope of their agency.

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

1 occurrences, and transactions alleged herein.

2 **CLASS ACTION ALLEGATIONS AND FACTUAL BACKGROUND**

3 21. Plaintiff brings this class action pursuant to Code of Civil Procedure section 382 on
4 behalf of himself and all others similarly situated who were injured by Defendants' violations of
5 the Labor Code, Business and Professions Code sections 17200, *et seq.*, and IWC Wage Orders
6 during the Class Period.

7 22. Plaintiff's proposed Class consists of and is defined as follows:

8 Class:

9 All current and former non-exempt employees employed by Defendants in the State
10 of California within four (4) years prior to the commencement of this action to the
11 date of class certification.

12 23. The Class is also comprised of the following Subclass:

13 Waiting Time Sub-Class:

14 Those members of the Class who separated from their employment with Defendants
15 within three years prior to the commencement of this action to the date of class
16 certification.

17 24. Plaintiff reserves the right pursuant to California Rules of Court, Rule 3.764 and
18 3.765, to amend or modify the respective definitions of the Class and/or Subclasses to provide
19 greater specificity and/or further division into subclasses or limitation to particular issues based on
20 further investigation and discovery.

21 25. This action is brought, and may properly be maintained, as a class action pursuant
22 to California Code of Civil Procedure section 382 because there is a well-defined community of
23 interest in the litigation, and the proposed class is easily ascertainable. This action presents
24 questions of common interest and satisfies the numerosity, commonality, typicality, adequacy,
25 predominance, and superiority requirements of this provision.

26 26. Through this action, Plaintiff alleges Defendants have consistently maintained and
27 enforced against Plaintiff and Class Members unlawful employment practices and policies which
28 violate the Labor Code and IWC Wage Orders.

1 27. Plaintiff is informed, believes, and thereon alleges that during the Class Period,
2 Defendants failed to pay Plaintiff and Class Members all minimum, regular, overtime, and double
3 time wages for all hours worked in violation of the Labor Code and IWC Wage Orders. During the
4 PAGA Period, Plaintiff and Class Members regularly worked more than eight (8) hours and/or 10
5 hours per workday, over 40 hours per workweek, and/or over eight (8) hours per workday on the
6 seventh consecutive day of work. Specifically, Employers failed to accurately record all time
7 worked, engaged in time shaving, and failed to pay all wages earned to Plaintiff and Class Members.
8 In addition, Defendants required Plaintiff and Class Members to complete work-related tasks off
9 the clock. Defendants also rounded Plaintiff's and Class Members' hours worked, including meal
10 periods, thereby depriving them of work performed before and after their scheduled shifts or meal
11 periods. Defendants' rounding practice systematically undercompensated Plaintiff and Class
12 Members and favored the employer rather than the employee. Defendants also failed to accurately
13 calculate the regular rate of pay, and thereby the proper overtime rate of pay, for Plaintiff and Class
14 Members. As such, Defendants failed to pay Plaintiff and Class Members minimum, regular,
15 overtime, and double time wages for all hours worked, in violation of the Labor Code and
16 applicable IWC Wage Orders.

17 28. Plaintiff is informed, believes, and thereon alleges that during the Class Period,
18 Defendants deprived Plaintiff and Class Members of the opportunity to take all of their statutorily
19 entitled meal periods within the appropriate time intervals or provide compensation in lieu thereof
20 in violation of the Labor Code and IWC Wage Orders. During the Class Period, Defendants failed
21 to provide timely off-duty 30-minute meal periods within the appropriate time intervals to Plaintiff
22 and other Class Members as required by Labor Code section 512 and section 11 of the applicable
23 Wage Order. Specifically, Plaintiff and Class Members regularly had their meal periods missed,
24 interrupted, shortened, restricted to the worksite, and/or late. Specifically, Employers rounded
25 Plaintiff's and Class Members' meal periods. For example, despite providing meal periods of less
26 than 30-minutes to Plaintiff and Class Members, Employers rounded meal periods to 30 minutes.
27 Employers also failed to adopt and implement a policy authorizing a second 30-minute meal period
28 when Plaintiff and other Class Members worked in excess of 10 hours per workday. Despite these

1 meal period violations and Plaintiff's and Class Members' complaints, Defendants failed to
2 compensate Plaintiff and Class Members with an additional hour of pay at their regular rate for
3 every day in which they suffered a meal period violation. Accordingly, Defendants failed to provide
4 Plaintiff and Class Members with timely, uninterrupted off-duty meal periods for at least 30
5 minutes when they worked more than five (5) hours and/or 10 hours in a workday, and failed to
6 compensate Plaintiff and Class Members with an additional hour of pay at their regular rate of pay
7 for every day in which they were denied a compliant meal period in violation of the Labor Code
8 and applicable IWC Wage Orders.

9 29. Plaintiff is informed, believes, and thereon alleges that during the Class Period,
10 Defendants failed to permit Plaintiff and Class Members to take all of their statutorily entitled 10-
11 minute rest periods for every four (4) hours worked or major fraction thereof or provide
12 compensation in lieu thereof in violation of the Labor Code and IWC Wage Orders. Specifically,
13 Employers failed to provide uninterrupted, 10-minute rest breaks due to the same understaffing and
14 busy workload explained above. As such, Plaintiff and Class Members regularly had their rest
15 breaks missed, interrupted, shortened, and/or restricted to the worksite. Specifically, Employers
16 regularly failed to provide second rest breaks and failed to adopt and implement a policy authorizing
17 a third 10-minute rest period when Plaintiff and other Class Members worked in excess of 10 hours
18 per workday. Notwithstanding these rest break violations, Defendants failed to compensate Plaintiff
19 and Class Members with an additional hour of pay at their regular rate for every day in which they
20 suffered a rest period violation. Accordingly, Defendants violated the Labor Code and applicable
21 IWC Wage Orders.

22 30. Plaintiff is informed, believes, and thereon alleges that during the Class Period,
23 Defendants failed to reimburse Plaintiff and Class Members for necessary business expenses
24 incurred in the performance of their duties in violation of the Labor Code and IWC Wage Orders.
25 During the Class Period, Defendants failed to reimburse Plaintiff and Class Members for all
26 business expenses incurred for Defendants' benefit. Specifically, Plaintiff and Class Members were
27 required to use their personal cell phones to communicate with Employers and to perform their job
28 duties without reimbursement. Further, Plaintiff and Class Members were required to clean, wash,

1 and iron their uniforms (which were Defendants' property) without reimbursement after they
2 became heavily soiled as a direct result of their job duties. Finally, Plaintiff and Class Members
3 were required to purchase tools to complete their job duties without reimbursement. Accordingly,
4 Defendants violated the Labor Code and applicable IWC Wage Orders.

5 31. Plaintiff is informed, believes, and thereon alleges that during the Class Period,
6 Defendants willfully failed to timely pay all wages due to Plaintiff and the Waiting Time Subclass
7 upon separation of employment in violation of the Labor Code and IWC Wage Orders. Plaintiff
8 and Waiting Time Subclass Members were not paid all wages (including minimum, regular,
9 overtime, and double time wages), reimbursements, meal period premiums, and/or rest period
10 premiums within the required time period in violation of the Labor Code and applicable IWC Wage
11 Orders.

12 32. Plaintiff is informed, believes, and thereon alleges that during the Class Period,
13 Defendants failed to furnish Plaintiff and Class Members with accurate and complete wage
14 statements in violation of the Labor Code and IWC Wage Orders. Plaintiff and Class Members
15 received wage statements which did not accurately reflect the gross and net wages earned, total
16 hours worked, all applicable rates of pay and the corresponding number of hours worked at each
17 pay rate, and correct entity name and address on wage statements issued to Plaintiff and Class
18 Members, among other things in violation of the Labor Code and IWC Wage Orders.

19 33. Plaintiff is informed, believes, and thereon alleges that Defendants' actions as
20 described throughout this Complaint were willful.

21 NUMEROSITY

22 34. The Class is so numerous that joinder of all of its members is impracticable. While
23 the exact number and identities of Class Members are unknown to Plaintiff at this time and can
24 only be ascertained through appropriate discovery, Plaintiff is informed, believes and thereon
25 alleges that the Class consists of more than 100 persons.

26 35. A class action is the only available method for the fair and efficient adjudication of
27 this controversy. The members of the Class are so numerous that joinder of all members is
28 impractical, if not impossible. The identity of Class Members can be ascertained by analysis of

1 Defendants' employee and payroll records.

2 **COMMONALITY**

3 36. Common questions of fact and law exist as to all members of the Class that
4 predominate over any questions affecting only individual Class Members. These common legal
5 and factual questions include, but are not limited to, the following:

6 (a) Whether Defendants failed to pay Plaintiff and Class Members all minimum,
7 regular, overtime, and double time wages for all hours worked by Plaintiff and Class Members;

8 (b) Whether Defendants rounded the time worked by Plaintiff and Class
9 Members to Defendants' advantage;

10 (c) Whether Defendants included all remunerations when calculating Plaintiff's
11 and Class Members' regular rate of pay for purposes of paying overtime, meal and rest premiums,
12 vacation pay, and sick pay;

13 (d) Whether Defendants failed to provide timely, uninterrupted, off-duty 30-
14 minute meal periods to Plaintiff and Class Members without compensation in lieu thereof;

15 (e) Whether Defendants auto-deducted 30-minute meal periods for missed or
16 short meal periods;

17 (f) Whether Defendants failed to permit timely, uninterrupted, off-duty 10-
18 minute rest breaks for every four (4) hours or major fraction thereof worked by Plaintiff and Class
19 Members without compensation in lieu thereof;

20 (g) Whether Defendants failed to timely pay Plaintiff and Waiting Time
21 Subclass Members all wages due either immediately upon termination or within 72 hours after
22 resignation;

23 (h) Whether Defendants' conduct was willful;

24 (i) Whether Defendants failed to issue accurate itemized wage statements to
25 Plaintiff and Class Members;

26 (j) Whether Defendants failed to reimburse Plaintiff and Class Members for
27 necessary business expenditures;

28 (k) Whether Defendants engaged in unfair business practices in violation of

1 California Business & Professions Code sections 17200 *et seq.*; and

2 (l) Additional common questions of law and fact that may develop as the
3 litigation progresses.

4 **TYPICALITY**

5 37. Plaintiff is informed, believes, and thereon alleges that Plaintiff's claims are typical
6 of the claims of the Class because: Plaintiff and the Class sustained injuries and damages arising
7 out of and caused by Defendants' unlawful policies and practices; the claims arise out of the same
8 course of conduct by Defendants; Plaintiff's claims are based upon the same legal theories as the
9 claims of the Class; and the legal issues raised under California state law as a result of Defendants'
10 conduct apply equally to Plaintiff and the Class Members.

11 **ADEQUACY OF REPRESENTATION**

12 38. Plaintiff is an adequate representative of the Class, in that his claims (and defenses,
13 if any) are typical of those of the Class. Plaintiff has no conflicts of interest with his fellow Class
14 Members and will be able to fairly and adequately protect the interests of the Class. Plaintiff has
15 the same interests in the litigation of this case as the Class Members; and is committed to vigorous
16 prosecution of this case and has retained competent counsel experienced in class action and wage
17 and hour litigation of this nature.

18 **PREDOMINANCE**

19 39. Defendants have engaged in a common course of wage and hour abuse toward
20 Plaintiff and Class Members. The common issues arising from this conduct that affect Plaintiff and
21 Class Members predominate over any individual issues. Adjudication of these common issues in a
22 single action has important and desirable advantages of judicial economy.

23 **SUPERIORITY OF CLASS ACTION**

24 40. A class action is superior to other available methods for the fair and efficient
25 adjudication of this controversy because individual litigation of the claims of all Class Members is
26 impracticable. Even if every Class Member could afford individual litigation, the court system
27 could not. It would be unduly burdensome to the courts in which individual litigation of numerous
28 cases would proceed. Individualized litigation would also present the potential for varying,

1 inconsistent, or contradictory judgments and would magnify the delay and expense to all parties
2 and to the court system resulting from multiple trials of the same complex factual issues. Moreover,
3 individual actions by Class Members may establish inconsistent standards of conduct for
4 Defendants. By contrast, the conduct of this action as a class action, with respect to some or all of
5 the issues presented herein, presents fewer management difficulties, conserves the resources of the
6 parties and the court system, and protects the rights of each Class Member.

7 41. Defendants have acted or refused to act in respects generally applicable to the Class,
8 thereby making appropriate relief with regard to the members of the Class as a whole, as requested
9 herein.

10 **PUBLIC POLICY CONSIDERATIONS**

11 42. Employers in the State of California violate employment and labor laws every day.
12 Current employees are often afraid to assert their rights out of fear of direct or indirect retaliation.
13 Former employees are fearful of bringing actions because they believe their former employers
14 might damage their future endeavors through negative references and/or other means. Class actions
15 provide Class Members who are not named in the action with a type of anonymity that allows for
16 the vindication of their rights while affording them privacy protections.

17 **FIRST CAUSE OF ACTION**

18 **(FAILURE TO PAY ALL WAGES)**

19 **(Against All Defendants)**

20 43. Plaintiff incorporates by reference all previous paragraphs of this Complaint as
21 though fully set forth herein.

22 44. At all relevant times, Defendants had a duty to comply with Labor Code sections
23 204, 206, 223, 510, 1182.12, 1194, 1194.2, 1197, 1198, and the applicable IWC Wage Orders and
24 California Code of Regulations.

25 45. Labor Code section 204 and the IWC Wage Orders require timely payment of all
26 wages owed on regularly scheduled paydays at least twice during each calendar month, on days
27 designated in advance by the employer as the regular paydays. All wages earned in excess of the
28 normal work period must be paid no later than the payday for the next regular payroll period.

1 46. Labor Code section 206 provides that in case of a dispute over wages, the employer
2 shall pay, without condition and promptly under the Labor Code all wages conceded due, leaving
3 to the employee all remedies he/she is otherwise entitled to as to any balance claimed.

4 47. Labor Code section 223 provides “[w]here any statute or contract requires an
5 employer to maintain the designated wage scale, it shall be unlawful to secretly pay a lower wage
6 while purporting to pay the wage designated by statute or by contract.”

7 48. At all times relevant, Labor Code section 510, and applicable sections of the
8 California Code of Regulations and the IWC Wage Orders applied to Plaintiff’s work with
9 Defendants and continue to apply to Class Members’ employment with Defendants. Labor Code
10 section 510 and applicable provisions of the California Code of Regulations and IWC Wage Orders
11 state that any work performed in excess of eight hours in a workday and/or 40 hours in a workweek
12 must be paid at one and one-half times the employee's regular rate of pay. Any work performed in
13 excess of 12 hours in a workday must be compensated at the rate of no less than twice the regular
14 rate of pay for an employee.

15 49. Labor Code section 1182.12 sets forth the minimum hourly wage that must be paid
16 to all employees in California for all hours worked. Local minimum wage ordinances may provide
17 for higher minimum wage rates that must be paid to employees for all hours worked in those locales
18 where each local ordinance is in effect. Labor Code section 1197 affirms that it is unlawful to pay
19 less than the state or local minimum wage, whichever is higher, for any hour of work.

20 50. Labor Code section 1194 provides that any employee receiving less than the legal
21 minimum wage or the legal overtime compensation applicable to the employee is entitled to recover
22 in a civil action the unpaid balance of the full amount of the minimum wage or overtime
23 compensation, including interest thereon, reasonable attorney's fees, and costs of suit.

24 51. Labor Code section 1194.2 authorizes the recovery of liquidated damages in an
25 amount equal to the wages unlawfully unpaid and interest thereon for unpaid wage violations.

26 52. Labor Code section 1198 prohibits employers from employing for longer hours or
27 less favorable conditions than those set forth in the Labor Code, IWC Wage Orders, or as otherwise
28 set by the Labor Commissioner.

53. Plaintiff is informed, believes, and thereon alleges that during the Class Period, Plaintiff and Class Members regularly worked over eight (8) hours and/or 10 hours per workday, and/or over 40 hours per workweek. Plaintiff and other Class Members also worked over eight (8) hours on the seventh consecutive day of work.

54. Plaintiff is informed, believes, and thereon alleges that during the Class Period, Defendants failed to pay Plaintiff and Class Members all wages for hours worked (including minimum, regular, overtime, and double time wages) by failing to accurately record all time worked, time shaving, rounding time, auto-deducting missed or short meal periods, and requiring off-the-clock work without compensation, among other things.

55. As a direct and proximate result of Defendants' unlawful conduct, as set forth herein, Plaintiff and Class Members have sustained and continue to sustain damages, including loss of earnings from minimum, regular, overtime, and double time compensation due, in an amount to be established at trial, plus prejudgment interest, attorneys' fees, and costs pursuant to statute.

56. WHEREFORE, Plaintiff and the Class Members he seeks to represent request relief as described herein and below.

SECOND CAUSE OF ACTION

(FAILURE TO PROVIDE MEAL PERIODS OR COMPENSATION IN LIEU

THEREOF)

(Against All Defendants)

57. Plaintiff incorporates by reference all previous paragraphs of this Complaint as though fully set forth herein.

58. At all relevant times, Defendants had a duty to comply with Labor Code sections 226.7 and 512, and the applicable IWC Wage Orders and California Code of Regulations.

59. Labor Code section 512 and Section 11 of the IWC Wage Orders prohibit an employer from employing any person for a work period of more than 5 hours per day without providing the employee with a meal period of not less than 30 minutes (commencing before the employee's fifth hour of work), except that if the total work period per day is no more than 6 hours, the meal period may be waived by mutual consent of the employer and employee. A second meal

1 period of not less than 30 minutes is required if an employee works more than 10 hours per day and
2 must begin before the employee's tenth hour of work, except if the total hours worked is no more
3 than 12 hours, the second meal period may be waived by mutual consent of the employer and
4 employee, but only if the first meal period was not waived.

5 60. Section 11 of the applicable IWC Wage Orders state that "[u]nless the employee is
6 relieved of all duty during a 30-minute meal period, the meal period shall be considered an 'on
7 duty' meal period and counted as time worked."

8 61. Labor Code section 226.7(b) and the IWC Wage Orders prohibit an employer from
9 requiring any employee to work during a meal period mandated by any California statute,
10 regulation, standard or order. If an employer fails to provide an employee with a meal period in
11 accordance with state law, Labor Code section 226.7(c) and the IWC Wage Orders require that the
12 employer pay the employee one additional hour of pay at the employee's regular rate of
13 compensation for each workday that the meal period is noncompliant.

14 62. Throughout the Class Period, Plaintiff and Class Members did not receive compliant
15 meal periods when working more than five (5) hours and/or 10 hours per workday because their
16 first and second meal periods were missed, late, interrupted, short, and/or not free of all duties. In
17 addition, Defendants rounded Plaintiff's and Class Members' meal periods and meal periods were
18 restricted to the worksite.

19 63. During the Class Period, Defendants failed to pay Plaintiff and Class Members meal
20 period premiums for noncompliant meal periods pursuant to Labor Code section 226.7(b) and the
21 applicable IWC Wage Order and California Code of Regulations.

22 64. Plaintiff is informed, believes, and thereon alleges that Class Members did not
23 voluntarily waive their meal periods.

24 65. As a direct and proximate result of Defendants' unlawful conduct, as set forth
25 herein, Plaintiff and Class Members have sustained and continue to sustain damages, including loss
26 of premium pay for meal period violations and earnings, in an amount to be established at trial, plus
27 prejudgment interest pursuant to statute. To the extent such unpaid premiums or meal period
28 violations are deemed unpaid wages, Plaintiff will also seek attorneys' fees and costs pursuant to

1 statute.

2 66. WHEREFORE, Plaintiff and the Class Members he seeks to represent request relief
3 as described herein and below.

4 **THIRD CAUSE OF ACTION**

5 **(FAILURE TO PERMIT REST PERIODS OR PROVIDE COMPENSATION IN LIEU**
6 **THEREOF)**

7 **(Against All Defendants)**

8 67. Plaintiff incorporates by reference all previous paragraphs of this Complaint as
9 though fully set forth herein.

10 68. At all relevant times, Defendants had a duty to comply with Labor Code section
11 226.7 and the applicable IWC Wage Orders and California Code of Regulations.

12 69. Labor Code section 226.7(a) states “No employer shall require any employee to
13 work during any meal or rest period mandated by an applicable order of the Industrial Welfare
14 Commission.”

15 70. Section 12 of the applicable IWC Wage Order provides in relevant part that:

16 (A) Every employer shall authorize and permit all employees to
17 take rest periods, which insofar as practicable shall be in the middle
18 of each work period. The authorized rest period time shall be based
19 on the total hours worked daily at the rate of ten (10) minutes net rest
20 time per four (4) hours or major fraction thereof. However, a rest
21 period need not be authorized for employees whose total daily work
22 time is less than three and one-half (3 1/2) hours. Authorized rest
23 period time shall be counted as hours worked for which there shall be
24 no deduction from wages.

25 (B) If an employer fails to provide an employee a rest period in
26 accordance with the applicable provisions of this order, the employer
27 shall pay the employee one (1) hour of pay at the employee’s regular
28 rate of compensation for each work day that the rest period is not
provided.

29 71. Plaintiff is informed, believes, and thereon alleges that during the Class Period,
30 Plaintiff and Class Members worked in excess of three-and-a-half (3.5) hours, six (6) hours, and/or
31 10 hours per workday.

32 72. During the Class Period, Plaintiff and Class Members did not receive compliant 10-

1 minute rest periods for every four hours worked or major fraction thereof because rest breaks were
2 missed, interrupted, shortened, restricted to the worksite, and/or not free of all duties.

3 73. During the Class Period, Defendants failed to pay Plaintiff and Class Members rest
4 period premiums for noncompliant rest periods pursuant to Labor Code section 226.7(b) and the
5 applicable IWC Wage Order.

6 74. As a direct and proximate result of Defendants' unlawful conduct, as set forth
7 herein, Plaintiff and Class Members have sustained and continue to sustain damages, including loss
8 of earnings, in an amount to be established at trial plus prejudgment interest pursuant to statute. To
9 the extent such unpaid premiums or rest period violations are deemed unpaid wages, Plaintiff will
10 also seek attorneys' fees and costs pursuant to statute.

11 75. WHEREFORE, Plaintiff and the Class Members he seeks to represent request relief
12 as described herein and below.

13 **FOURTH CAUSE OF ACTION**

14 **(FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS)**

15 **(Against All Defendants)**

16 76. Plaintiff incorporates by reference all previous paragraphs of this Complaint as
17 though fully set forth herein.

18 77. At all relevant times, Defendants had a duty to comply with Labor Code section 226
19 and the applicable IWC Wage Orders and California Code of Regulations.

20 78. Labor Code section 226(a) requires that, semimonthly or at the time of each payment
21 of wages, employers must furnish each employee with an accurate itemized wage statement in
22 writing that accurately shows (1) gross wages earned, (2) total number of hours worked, (3) the
23 number of any piece-rate units earned and all applicable piece rates, (4) all deductions made from
24 wages, (5) net wages earned, (6) the inclusive dates of the pay period, (7) the name and last four
25 digits or employment identification number of the employee, (8) the name and address of the legal
26 entity that is the employer, and (9) all applicable hourly rates in effect and the corresponding
27 number of hours worked at each hourly rate.

28 79. Labor Code section 226(e)(1) authorizes an employee suffering injury as a result of

1 a knowing and intentional failure by an employer to provide an accurate itemized wage statement
2 to recover the greater of all actual damages or \$50 for the initial pay violation and \$100 for each
3 violation in a subsequent pay period, not to exceed an aggregate penalty of \$4,000 per employee,
4 in addition to an award of costs and attorneys' fees.

5 80. Section 7 of the IWC Wage Orders requires Defendants to maintain time records
6 showing, among other things, when the employee begins and ends each work period, meal periods
7 taken, and total daily hours worked in an itemized wage statement, and must show all deductions
8 and reimbursements from payment of wages, and accurately report total hours worked by Plaintiff
9 and Class Members. Plaintiff is informed, believes, and thereon alleges that Defendants have
10 knowingly and intentionally failed to comply with the IWC Wage Orders.

11 81. Throughout the Class Period, Defendants provided wage statements that did not
12 accurately reflect the total number of hours worked by Plaintiff and Class Members at each
13 corresponding pay rate, the gross and net wages earned, and the correct entity name and address on
14 wage statements, among other things, making it difficult for Plaintiff and Class Members to
15 determine whether they were paid correctly for all hours worked, which deductions were made, and
16 the extent of any underpayment. Plaintiff has had to file this lawsuit in order to determine the
17 extent of the underpayment of wages, thereby causing Plaintiff to incur expenses and lost time.
18 Plaintiff would not have had to engage in these efforts and incur these costs had Defendants
19 provided the accurate wages earned. This has also delayed Plaintiff's ability to demand and recover
20 the underpayment of wages from Defendants. Defendants' violations of Labor Code section 226(a)
21 prevented Plaintiff and Class Members from knowing, understanding and disputing the wages paid
22 to them, and resulted in an unjustified economic enrichment to Defendants.

23 82. Defendants knowingly and intentionally failed to provide accurate, itemized wage
24 statements to Plaintiff and Class Members, and as such Plaintiff and Class Members are deemed to
25 have suffered injury in accordance with Labor Code section 226. Plaintiff and the Class are
26 therefore entitled to the damages and penalties provided for under Labor Code section 226(e).

27 83. Plaintiff and Class Members are also entitled to injunctive relief under Labor Code
28 section 226(h), compelling Defendants to comply with Labor Code section 226, and seek the

1 recovery of attorneys' fees and costs incurred in obtaining this injunctive relief.

2 84. WHEREFORE, Plaintiff and the Class Members he seeks to represent request relief
3 as described herein and below.

4 **FIFTH CAUSE OF ACTION**
5 **(WAITING TIME PENALTIES)**
6 **(Against All Defendants)**

7 85. Plaintiff incorporates by reference all previous paragraphs of this Complaint as
8 though fully set forth herein.

9 86. At all relevant times, Defendants had a duty to comply with Labor Code
10 sections 201, 202, and 203, and the applicable IWC Wage Orders and California Code of
11 Regulations. Defendants failed to comply with these final paycheck requirements with respect to
12 Plaintiff and Waiting Time Subclass Members.

13 87. Labor Code section 201 requires that if an employer discharges an employee, the
14 wages earned and unpaid at the time of discharge are due and payable immediately.

15 88. Labor Code section 202 requires that if "an employee not having a written contract
16 for a definite period" quits, the employee's wages shall become due and payable no later than
17 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention
18 to quit, in which case the employee is entitled to his or her wages at the time of quitting.

19 89. Labor Code section 203 provides that if an employer willfully fails to pay, without
20 abatement or reduction, any wages of an employee who is discharged or quits, the wages of the
21 employee shall continue as a penalty from the due date thereof at the same rate until paid or until
22 an action therefor is commenced, but that the wages shall not continue for more than 30 days per
23 employee.

24 90. Plaintiff is informed, believes, and thereon alleges, that at all relevant times,
25 Defendants willfully failed to timely pay Plaintiff and Waiting Time Subclass Members all of their
26 unpaid wages earned, including, but not limited to, minimum, regular, overtime, and double time
27 wages, compensation for non-compliant meal periods and rest periods, and unpaid expense
28 reimbursements upon separation of employment. Plaintiff and Waiting Time Subclass Members

1 are entitled to timely compensation upon separation of their employment for any outstanding
2 unpaid wages, reimbursements, and premiums but to date have not received such compensation
3 from Defendants, therefore entitling them to penalties pursuant to Labor Code section 203.

4 91. As a consequence of Defendants' willful conduct in failing to pay all earned wages,
5 Plaintiff and Waiting Time Subclass Members are entitled to up to 30 days' wages as a penalty for
6 Defendants' failure to timely pay wages upon separation of employment, in addition to prejudgment
7 interest, attorneys' fees, and costs in amounts that will be established at trial.

8 92. WHEREFORE, Plaintiff and the Class Members he seeks to represent request relief
9 as described herein and below.

10 **SIXTH CAUSE OF ACTION**

11 **(FAILURE TO REIMBURSE BUSINESS EXPENSES)**

12 **(Against All Defendants)**

13 93. Plaintiff incorporates by reference all previous paragraphs of this Complaint as
14 though fully set forth herein.

15 94. At all relevant times, Defendants had a duty to comply with Labor Code
16 sections 2800 and 2802 and the applicable IWC Wage Orders and California Code of Regulations.

17 95. Labor Code section 2800 requires employers to indemnify employees for losses
18 caused by the employer's want of ordinary care. To the extent Defendants claim that Plaintiff and
19 Class Members failed to request, demand, notify or otherwise seek reimbursement for their
20 expenses and losses, Defendants were obligated to nevertheless indemnify Plaintiff and Class
21 Members due to their own negligence.

22 96. Labor Code section 2802(a) requires that employers indemnify and reimburse
23 employees for all business expenses, which are defined as all necessary expenditures or losses
24 incurred by the employee in direct consequence of the discharge of the employee's duties or
25 otherwise incurred based on the employee's obedience to the employer's directions. Labor Code
26 section 2802(b) authorizes employees to recover in a court action interest which shall accrue from
27 the date on which the employee incurred the necessary expenditure or loss. Labor Code
28 section 2802(c) authorizes employees, who to enforce their right to reimbursements under Labor

1 Code section 2802, to also recover attorneys' fees and costs.

2 97. During the Class Period, Plaintiff and Class Members were required to use their
3 personal cell phones to communicate with Employers and navigate to worksites, vehicles to
4 purchase additional tools and materials at the hardware store, and tools (e.g., drills, hammers,
5 gloves, etc.) to perform their job duties without reimbursement.

6 98. Defendants have unfairly and unlawfully violated Labor Code sections 2800 and
7 2802, and the applicable IWC Wage Orders by failing to reimburse Plaintiff and Class Members
8 for all of their out-of-pocket business expenses incurred in the discharge of their job duties.

9 99. As a consequence of Defendants' willful conduct, Plaintiff and Class Members have
10 sustained damages for unreimbursed out-of-pocket business expenses, due in an amount to be
11 established at trial, plus prejudgment interest, attorney's fees, and costs pursuant to statute.

12 100. WHEREFORE, Plaintiff and the Class Members he seeks to represent request relief
13 as described herein and below.

14 **SEVENTH CAUSE OF ACTION**

15 **(UNFAIR BUSINESS PRACTICES)**

16 **(Against All Defendants)**

17 101. Plaintiff incorporates by reference all previous paragraphs of this Complaint as
18 though fully set forth herein.

19 102. California Business & Professions Code Section 17200, *et seq.* prohibits unfair
20 competition by prohibiting unlawful, unfair, or fraudulent business practices or acts.

21 103. Defendants' conduct, as alleged herein, has been and continues to be unfair,
22 unlawful and harmful to Plaintiff, Class Members, and Defendants' competitors. Plaintiff seeks to
23 enforce important rights affecting the public interest within the meaning of California Code of Civil
24 Procedure section 1021.5.

25 104. Defendants' activities, as alleged herein, violate California law and constitute
26 unlawful business acts or practices in violation of California Business and Professions Code
27 sections 17200, *et seq.*

28 105. A violation of Business and Professions Code sections 17200, *et seq.* may be

1 predicated on the violation of any state or federal law.

2 106. Plaintiff brings this action on behalf of himself and all members of the general
3 public, including the Class Members, pursuant to the UCL. Defendants' conduct alleged below
4 constitutes false, fraudulent, unlawful, unfair, and/or deceptive business practices, in violation of
5 the UCL. Defendants' policies and practices have violated state law in at least the following
6 respects:

7 (a) Failing to pay all minimum, regular, overtime, and double time wages due
8 to Plaintiff and Class Members in violation of Labor Code sections 204, 206, 223, 510, 1182.12,
9 1194, 1194.2, 1197, and 1198;

10 (b) Failing to provide compliant meal periods or compensation in lieu thereof in
11 violation of Labor Code sections 226.7 and 512;

12 (c) Failing to authorize or permit rest breaks or provide compensation in lieu
13 thereof in violation of Labor Code section 226.7;

14 (d) Intentionally failing to provide Plaintiff and Class Members with accurate
15 itemized wage statements in violation of Labor Code section 226;

16 (e) Failing to timely pay all earned wages to Plaintiff and Waiting Time
17 Subclass Members upon separation of employment in violation of Labor Code sections 201, 202,
18 and 203;

19 (f) Failing to reimburse Plaintiff and Class Members all necessary business
20 expenses in violation of Labor Code sections 2800 and 2802; and

21 (g) Violations of the IWC Wage Orders for the same conduct above.

22 107. Defendants' course of conduct, acts, and practices in violation of California law
23 mentioned above each constitute a separate and independent violation of the UCL. Defendants'
24 conduct described herein violates the policy or spirit of such laws or otherwise significantly
25 threatens or harms competition. The substantial harm to Plaintiff and Class Members in being
26 wrongfully denied earned wages, meal and rest periods, premium pay, and reimbursements
27 outweighs the utility, if any, of Defendants' policies or practices and, therefore, Defendants' actions
28 described herein constitute an unfair business practices or acts within the meaning of the UCL.

1 108. Plaintiff further brings this cause of action on behalf of the proposed Class, seeking
2 statutory and injunctive relief to stop the misconduct of Defendants, as complained herein, and to
3 compel restitution and disgorgement of all profits (i.e., unpaid wages, reimbursements, and
4 premiums, etc.) obtained by Defendants through the unfair and unlawful business practices
5 described herein pursuant to, *inter alia*, Business and Professions Code sections 17202, 17203, and
6 17208. Under the circumstances alleged, it would be inequitable and result in a miscarriage of
7 justice for Defendants to continue to retain the property of Plaintiff and Class Members.

8 109. Defendants' failure to adopt and implement policies in accordance with and/or
9 adhere to these laws, all of which are binding upon and burdensome to Defendants' competitors,
10 engenders an unfair competitive advantage for Defendants against its competitors, thereby
11 constituting an unfair business practice, as set forth in the UCL.

12 110. Pursuant to California Business and Professions Code section 17203, as a direct and
13 proximate result of the unfair business practices of Defendants, Plaintiff, individually, and on behalf
14 of all employees similarly situated, is entitled to equitable and injunctive relief, against such
15 unlawful practices in order to prevent future damage, for which there is no adequate remedy at law,
16 and to avoid a multiplicity of lawsuits. Plaintiff also seeks an order enjoining Defendants to cease
17 and desist from engaging in the practices described herein.

18 111. Plaintiff and Class Members also request any other such legal and equitable relief
19 from Defendants' unlawful and willful conduct as the Court deems just and proper, including an
20 injunction prohibiting Defendants from engaging in the unfair, unlawful, and/or fraudulent
21 practices alleged in this Complaint.

22 112. As a result of Defendants' unlawful and unfair business practices, Plaintiff and Class
23 Members are entitled to and seek other appropriate relief available under California Business &
24 Professions Code sections 17200 *et seq.* Plaintiff, on behalf of himself and the Class, also seeks
25 recovery of attorneys' fees and costs of this action to be paid by Defendants as provided by
26 California Code of Civil Procedure section 1021.5.

27 113. WHEREFORE, Plaintiff and the Class Members he seeks to represent request relief
28 as described herein and below.

1 **EIGHTH CAUSE OF ACTION**

2 **VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT OF 2004**

3 **(AGAINST ALL DEFENDANTS)**

4 114. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as
5 though fully set forth herein.

6 115. Under Labor Code section 2699.3(a), a plaintiff may bring a cause of action under
7 PAGA only after giving the LWDA and the employer notice of the Labor Code sections alleged
8 to have been violated, and after receiving notice from the LWDA of its intention not to investigate
9 or after 65 days have passed without notice from the LWDA.

10 116. On April 14, 2023, Plaintiff gave written notice of the specified provisions alleged
11 to have been violated, including the facts and theories to support the alleged violations, as required
12 by Labor Code Section 2699.3. This written notice was provided via certified mail to Defendants
13 and to the LWDA by electronically filing the notice via the Department of Industrial Relations'
14 website. On May 3, 2023, Plaintiff gave supplemental written notice of the specified provisions
15 alleged to have been violated, including the facts and theories to support the alleged violations, as
16 required by Labor Code Section 2699.3. This supplemental written notice was provided via
17 certified mail to Defendants and to the LWDA by electronically filing the notice via the Department
18 of Industrial Relations' website. More than 65 days have passed since Plaintiff submitted his
19 supplemental PAGA notice to the LWDA without notice from the LWDA. Accordingly, Plaintiff
20 has exhausted the procedural requirements under Labor Code Section 2699.3 as to Defendants and
21 is therefore able to pursue a claim for penalties on behalf of himself and all other aggrieved
22 employees under PAGA.

23 117. Pursuant to Labor Code section 2699(a), any provision of the Labor Code that
24 provides for a civil penalty to be assessed and collected by the LWDA or any of its departments,
25 divisions, commissions, boards, agencies or employees for violation of the code may, as an
26 alternative, be recovered through a civil action brought by an aggrieved employee on behalf of
27 himself and other current or former employees pursuant to the procedures specified in Labor Code
28 section 2699.3.

1 118. For all provisions of the Labor Code except those for which a civil penalty is
2 specifically provided, Labor Code section 2699(f) imposes upon Defendants a penalty of one
3 hundred dollars (\$100.00) for each aggrieved employee per pay period for the initial violation and
4 two hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent
5 pay period in which Defendants violated these provisions of the Labor Code.

6 119. Pursuant to Labor Code Sections 2699.3 and 2699.5, Plaintiff may seek civil
7 penalties for any alleged violation of the following provisions: subdivision (k) of Section 96,
8 Sections 98.6, 201, 201.3, 201.5, 201.7, 202, 203, 203.1, 203.5, 204, 204a, 204b, 204.1, 204.2, 205,
9 205.5, 206, 206.5, 208, 209, and 212, subdivision (d) of Section 213, Sections 221, 222, 222.5, 223,
10 and 224, paragraphs (1) to (5), inclusive, (7), and (9) of subdivision (a) of Section 226, Sections
11 226.7, 227, 227.3, 230, 230.1, 230.2, 230.3, 230.4, 230.7, 230.8, and 231, subdivision (c) of Section
12 232, subdivision (c) of Section 232.5, Sections 233, 234, 351, 353, and 403, subdivision (b) of
13 Section 404, Sections 432.2, 432.5, 432.7, 435, 450, 510, 511, 512, 513, 551, 552, 601, 602, 603,
14 604, 750, 751.8, 800, 850, 851, 851.5, 852, 921, 922, 923, 970, 973, 976, 1021, 1021.5, 1025, 1026,
15 1101, 1102, 1102.5, and 1153, subdivisions (c) and (d) of Section 1174, Sections 1194, 1197,
16 1197.1, 1197.5, and 1198, subdivision (b) of Section 1198.3, Sections 1199, 1199.5, 1290, 1292,
17 1293, 1293.1, 1294, 1294.1, 1294.5, 1296, 1297, 1298, 1301, 1308, 1308.1, 1308.7, 1309, 1309.5,
18 1391, 1391.1, 1391.2, 1392, 1683, and 1695, subdivision (a) of Section 1695.5, Sections 1695.55,
19 1695.6, 1695.7, 1695.8, 1695.9, 1696, 1696.5, 1696.6, 1697.1, 1700.25, 1700.26, 1700.31,
20 1700.32, 1700.40, and 1700.47, Sections 1735, 1771, 1774, 1776, 1777.5, 1811, 1815, 2651, and
21 2673, subdivision (a) of Section 2673.1, Sections 2695.2, 2800, 2801, 2802, 2806, and 2810,
22 subdivision (b) of Section 2929, and Sections 3073.6, 6310, 6311, and 6399.7.

23 120. Defendants' conduct violates numerous Labor Code sections, including, but not
24 limited to, the following:

25 (a) Violation of Labor Code Sections 201-204, 206, 210, 510, 558, 1194, 1197,
26 1197.1, and 1198 for failure to timely pay all earned sick pay, vacation pay, wages (including
27 minimum, regular, overtime, and double time wages as well as commissions) owed to Plaintiff and
28 other aggrieved employees during employment and upon separation of employment;

1 (b) Violation of Labor Code Sections 226.7 and 512 for failure to provide meal
2 periods to Plaintiff and/or other Aggrieved Employees and failure to pay premium wages for missed
3 meal periods;

4 (c) Violation of Labor Code Sections 226.7 for failure to permit rest breaks to
5 Plaintiff and/or other Aggrieved Employees and failure to pay premium wages for missed rest
6 periods;

7 (d) Violation of Labor Code Sections 226 and 226.3 for failure to provide
8 accurate itemized wage statements to Plaintiff and/or other Aggrieved Employees;

9 (e) Violation of Labor Code Sections 226, 226.3, 1174, and 1174.5 for failure
10 to calculate sick pay at the regular rate of pay for the workweek in which Plaintiff and/or other
11 Aggrieved Employees used paid sick time, or by dividing the Plaintiff and/or other Aggrieved
12 Employees' total wages, not including overtime premium pay, by the Plaintiff and/or other
13 Aggrieved Employees' total hours worked in the full pay periods of the prior 90 days of
14 employment, in violation of Labor Code Sections 246, 246.5, 247, 247.5, and 248.5 and the Healthy
15 Workplaces, Healthy Families Act of 2014;

16 (f) Violation of Labor Code Section 227.3 for failure to provide to Plaintiff
17 and/or Aggrieved Employees accrual of vacation wages and failure to pay to Plaintiff and/or
18 Aggrieved Employees vested vacation wages;

19 (g) Violation of Labor Code Sections 221 and 223 for secretly paying Plaintiff
20 and/or Aggrieved Employees less than the statutory or contractual rate;

21 (h) Violation of Labor Code Sections 1174 and 1174.5 for failure to maintain
22 accurate records regarding the employment of Plaintiff and/or other Aggrieved Employees;

23 (i) Violation of Labor Code Sections 2800 and 2802 for failure to reimburse
24 business expenses to Plaintiff and other Aggrieved Employees; and

25 (j) Violation of Labor Code Section 1199 for each of the foregoing Labor Code
26 violations.

27 121. Labor Code Section 226.3 provides: "[a]ny employer who violates subdivision (a)
28 of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250)

1 per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for
2 each violation in a subsequent citation, for which the employer fails to provide the employee a
3 wage deduction statement or fails to keep the records required in subdivision (a) of Section 226.
4 The civil penalties provided for in this section are in addition to any other penalty provided by law.”

5 122. Labor Code Section 226.8 provides that it is unlawful for any person or employer to
6 engage in the willful misclassification of an individual as an independent contractor and provides
7 for penalties up to \$25,000 for each violation, in addition to any other penalties permitted by law.

8 123. Labor Code section 558(a) provides “[a]ny employer or other person acting on
9 behalf of an employer who violates, or causes to be violated, a section of this chapter or any
10 provision regulating hours and days of work in any order of the Industrial Welfare Commission
11 shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each
12 underpaid employee for each pay period for which the employee was underpaid . . . (2) For each
13 subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period
14 for which the employee was underpaid.”

15 124. Labor Code Section 1174.5 provides a \$500 penalty for an employer’s failure to
16 maintain accurate and complete payroll records showing the hours worked daily by and the wages
17 paid to employees.

18 125. Labor Code section 1197.1 also provides “[a]ny employer or other person acting
19 either individually or as an officer, agent, or employee of another person, who pays or causes to be
20 paid to any employee a wage less than the minimum fixed by an applicable state or local law, or by
21 an order of the commission shall be subject to a civil penalty . . . as follows: (1) For any initial
22 violation that is intentionally committed, one hundred dollars (\$100) for each underpaid employee
23 for each pay period for which the employee is underpaid . . . (2) For each subsequent violation for
24 the same specific offense, two hundred fifty dollars (\$250) for each underpaid employee for each
25 pay period for which the employee is underpaid regardless of whether the initial violation is
26 intentionally committed.

27 126. As set forth above, Defendants have violated numerous provisions of the Labor
28 Code regulating hours and days of work as well as the IWC Wage Orders. Accordingly, Plaintiff

1 also seeks the civil penalties set forth in Labor Code sections 226.3, 226.8, 558, 1174.5, and 1197.1
2 for himself, the underpaid employees, and the State of California.

3 127. Plaintiff is an “aggrieved employee” because he was employed by the alleged
4 violators and had one or more of the alleged violations committed against him, and therefore is
5 properly suited to represent the interests of all other aggrieved employees.

6 128. Plaintiff has exhausted the procedural requirements under Labor Code section
7 2699.3 as to Defendants and is therefore able to pursue a claim for penalties on behalf of himself
8 and all other aggrieved employees under the PAGA.

9 129. Pursuant to Labor Code sections 2699(a), 2699.3 and 2699.5, Plaintiff is entitled to
10 recover civil penalties, in addition to other remedies, for violations of the Labor Code sections cited
11 above.

12 130. For bringing this action, Plaintiff is entitled to attorney’s fees and costs incurred
13 herein

14 **PRAYER FOR RELIEF**

15 **WHEREFORE**, Plaintiff, on behalf of himself and the proposed Class, prays for judgment
16 and the following specific relief against Defendants, jointly and severally, as follows:

17 1. That the Court certify the proposed Class and Subclasses, and any other class or
18 subclasses as appropriate under California Code of Civil Procedure section 382;

19 2. That Plaintiff be appointed as the Class Representative;

20 3. That Alami Law Group be appointed as Class Counsel for all purposes;

21 4. For compensatory damages in an amount according to proof with interest thereon;

22 5. For such general, economic, and/or special damages in an amount according to proof
23 with interest thereon;

24 6. For damages, monetary relief, wages, premiums, reimbursements, benefits and
25 penalties, including interest thereon;

26 7. For treble damages pursuant to Penal Code section 496(c) for violation of Penal
27 Code section 487m;

28 8. For waiting time penalties pursuant to Labor Code section 203;

1 9. For statutory penalties to the extent permitted by law, including those pursuant to
2 the Labor Code and IWC Wage Orders;

3 10. For the amounts provided for in Labor Code section 226.7;

4 11. For attorney's fees, costs of suit, including expert fees, and interest pursuant to
5 Labor Code sections 218.6, 226, 1194, 2802, 2698 *et seq.* and California Code of Civil Procedure
6 section 1021.5;

7 12. For restitution to Plaintiff and Class Members of all money and property unlawfully
8 acquired by Defendants through unfair or unlawful business practices pursuant to Business and
9 Professions Code sections 17200 *et seq.*;

10 13. For an order requiring Defendants to restore and disgorge all funds to each employee
11 acquired by means of any act or practice declared by this Court to be unlawful, unfair or fraudulent
12 and, therefore, constituting unfair competition under Business and Professions Code sections
13 17200, *et seq.*;

14 14. For liquidated damages pursuant to Labor Code section 1194.2;

15 15. For permanent injunctive relief described in the UCL cause of action;

16 16. For prejudgment interest on all sums recovered pursuant to Labor Code
17 section 218.6, California Civil Code sections 3287 and 3289, and applicable law;

18 17. For post judgment interest on all amounts awarded to Plaintiff and Class Members
19 as provided by law;

20 18. A declaratory judgment that the practices complained of herein are unlawful under
21 California law;

22 19. For PAGA penalties; and

23 20. Such other equitable relief as the Court may deem proper; and
24
25
26

27 //

28 //

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

21. An award of such other and further relief as this Court may deem appropriate.

Dated: July 18, 2023

ALAMI LAW GROUP

By: 
David Alami
Shaheen Etemadi
Attorneys for Plaintiff ARTURO MARRON

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

Dated: July 18, 2023

By: _____

David Alami

Shaheen Etemadi

Attorneys for Plaintiff ARTURO MARRON

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28