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Superior Court of California,
County of San Diego

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Clerk of the Superior Court
By Gabriel Lopez, Deputy Clerk

Attorneys for Plaintiffs Rick Jaramillo and Walter Sinnott, on behalf of themselves, all others similarly situated, the general public, and all "aggrieved employees" pursuant to Labor Code § 2698 *et seq.*

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO

RICK JARAMILLO, WALTER SINNOTT,
on behalf of themselves and all others similarly
situated and on behalf of the general public,

Plaintiffs,

v.

PAPPY'S BARBER SHOPS, INC., a
California corporation, PAPPY'S BARBER
SHOP POWAY, INC., a California
corporation, MARC BENNETT, an individual,
and DOES 1 through 10, inclusive,

Defendants.

CASE NO: 37-2023-00028619-CU-OE-CTL

**CLASS AND REPRESENTATIVE ACTION
COMPLAINT FOR:**

**1. FAILURE TO PAY ALL MINIMUM
AND OVERTIME WAGES EARNED
(LABOR CODE §§ 226.8, 510, 1174, 1174.5,
1194, AND 1194.2)**

**2. FAILURE TO PROVIDE MEAL
PERIODS OR COMPENSATION IN LIEU
THEREOF (LABOR CODE §§ 226.7, 510,
512, 1174, 1174.5, AND 1194; IWC WAGE
ORDER 4-2001)**

**3. FAILURE TO PROVIDE REST
PERIODS OR COMPENSATION IN LIEU
THEREOF (LABOR CODE § 226.7; IWC
WAGE ORDER 4-2001)**

**4. FAILURE TO COMPLY WITH
ITEMIZED EMPLOYEE WAGE
STATEMENT PROVISIONS (LABOR
CODE § 226(a), (e))**

**5. FAILURE TO TIMELY PAY WAGES
DUE AT SEPARATION OF
EMPLOYMENT (LABOR CODE §§ 201-
203)**

**6. VIOLATION OF BUSINESS AND
PROFESSIONS CODE § 17200 ET SEQ.**

**7. CIVIL PENALTIES PURSUANT TO
LABOR CODE § 2699(f) FOR**

**VIOLATIONS OF LABOR CODE §§ 201,
202, 226(a), 226.7, 226.8, 510, 512, 1174,
1174.5, AND 1194 AND PURSUANT TO
LABOR CODE § 2699(a) FOR
VIOLATIONS OF LABOR CODE §§ 226.3,
558, AND 558.1**

DEMAND FOR JURY TRIAL

1 Plaintiffs RICK JARAMILLO (“Plaintiff Jaramillo”) and WALTER SINNOTT (“Plaintiff
2 Sinnott”) (collectively referred to as the “Plaintiffs”), individually and on behalf of all similarly
3 situated individuals (the “Class”), on behalf of the general public, and as “aggrieved employees”
4 under the Labor Code Private Attorneys General Act of 2004, codified as Labor Code §§ 2698 *et seq.*,
5 complain of PAPPY’S BARBER SHOPS, INC., a California corporation, PAPPY’S BARBER SHOP
6 POWAY, INC., a California corporation, MARC BENNETT, an individual, and/or any subsidiaries
7 or affiliated companies (hereinafter referred to as “Defendants”), as follows:

8 **I.**

9 **INTRODUCTION AND FACTUAL BACKGROUND**

10 1. This is a Class and Representative Action, pursuant to Code of Civil Procedure § 382
11 and Labor Code § 2698 *et seq.*, on behalf of Plaintiffs and all other independent contractors who
12 currently work or formerly worked for Defendants within the State of California.

13 2. For at least four (4) years prior to the filing of this action and continuing to the present
14 (the “liability period”), Defendants have had consistent policies of misclassifying Plaintiffs and Class
15 Members (as defined below) as Independent Contractors; failing to pay Plaintiffs and Class Members
16 all minimum and overtime wages earned; failing to provide Plaintiff and Class Members with legally
17 compliant meal and rest periods, or compensation in lieu thereof; failing to provide Plaintiffs and
18 Class Members accurately itemized wage statements; and failing to timely pay Plaintiffs’ and Class
19 Members’ wages upon separation of employment.

20 3. Plaintiffs, on behalf of themselves and Class Members, bring this action pursuant to
21 Labor Code §§ 201-203, 226(a), 226.3, 226.7, 226.8, 510, 512, 558, 558.1, 1174, 1174.5, 1194, and
22 1194.2 seeking compensation for all unpaid wages, liquidated damages, unpaid meal and rest period
23 premium wages, statutory penalties, injunctive and other equitable relief, and reasonable attorneys’
24 fees and costs.

25 4. Plaintiffs, on behalf of themselves and Class Members, and pursuant to Business &
26 Professions Code §§ 17200-17208, seek injunctive relief, restitution, and disgorgement of all benefits
27 Defendants enjoyed from their failure to pay all wages due to Class Members.

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5. Plaintiffs, on behalf of themselves and all Aggrieved Employees pursuant to Labor Code § 2698 *et seq.*, seek civil penalties for Defendants' violations of the California Labor Code.

6. Venue is proper in this judicial district, pursuant to Code of Civil Procedure § 395 because Defendants contracted with Plaintiffs and Class Members in San Diego County, California.

II.

PARTIES

A. Plaintiffs

7. Plaintiff RICK JARAMILLO contracted with Defendants from April 2022 to March 2023 in San Diego County, California.

8. Plaintiff WALTER SINNOTT contracted with Defendants from August 2019 to August 2021 in San Diego County, California.

9. During their work with Defendants, Plaintiffs were:

a. Willfully misclassified as Independent Contractors, rather than non-exempt employees;

b. Willfully denied the payment of all minimum and overtime wages earned;

c. Willfully denied meal periods, or compensation in lieu thereof;

d. Willfully denied rest periods, or compensation in lieu thereof;

e. Willfully denied accurately itemized wage statements; and

f. Willfully denied timely payment of all wages due at the separation of their employment.

B. Defendants

10. Defendant PAPPY’S BARBER SHOPS, INC. is a California corporation that contracted with Plaintiffs, Class Members, and Aggrieved Employees in San Diego County, California.

11. Defendant PAPPY’S BARBER SHOP POWAY, INC. is a California corporation that contracted with Plaintiffs, Class Members, and Aggrieved Employees in San Diego County, California.

1 12. Defendant MARC BENNETT is an individual and managing member of PAPPY'S
2 BARBER SHOPS, INC. and PAPPY'S BARBER SHOP POWAY, INC. As an owner, director,
3 officer, and/or managing agent of PAPPY'S BARBER SHOPS, INC. and PAPPY'S BARBER SHOP
4 POWAY, INC., who directly and/or indirectly, or through an agent or some other person, engaged,
5 suffered, and/or permitted Plaintiffs and Class Members to work and exercised control over their
6 wages, hours, and working conditions, MARC BENNETT is personally liable for the violations
7 alleged herein pursuant to *Martinez v. Combs* (2010) 49 Cal.4th 35 and pursuant to Labor Code §
8 558.1 for all claims pursuant to PAGA.

9 13. The true names and capacities, whether individual, corporate, associate, or otherwise,
10 of Defendants sued herein as DOES 1 to 10, inclusive, are currently unknown to Plaintiffs, who
11 therefore sue Defendants by such fictitious names under Code of Civil Procedure § 474. Plaintiffs
12 are informed and believe, and based thereon allege, that each of the Defendants designated herein as
13 a DOE is legally responsible in some manner for the unlawful acts referred to herein. Plaintiffs will
14 seek leave of court to amend this Complaint to reflect the true names and capacities of the Defendants
15 designated hereinafter as DOES when such identities become known.

16 14. Plaintiffs are informed and believe, and based thereon allege, that each Defendant
17 acted in all respects pertinent to this action as the agent of the other Defendants, carried out a joint
18 scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendant is
19 legally attributable to the other Defendants.

20 15. The Defendants named herein as DOE 1 through DOE 10 are and were persons acting
21 on behalf of, or acting jointly with, Defendants, who violated, or caused to be violated, one or more
22 provisions of the California Labor Code as alleged herein.

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1 **III.**

2 **CLASS ACTION ALLEGATIONS**

3 16. Plaintiffs bring this action on behalf of themselves, and all others similarly situated as
4 a Class Action pursuant to § 382 of the Code of Civil Procedure. Plaintiffs seek to represent the
5 following Class composed of and defined as follows:

6 **THE CLASS**

7 All barbers classified as independent contractors who currently work
8 or formerly worked in California for Defendants at any time since the
9 date four years preceding the filing of this Action, plus any additional
10 time tolled by the California State Judicial Council pursuant to
11 Emergency Rule 9 in response to the COVID-19 pandemic, and
12 continuing through the present.

13 17. Plaintiffs reserve the right under Rule 3.765, California Rules of Court, to amend or
14 modify this class description with greater specificity or further division into subclasses or limitation
15 to particular issues.

16 18. This action has been brought and may properly be maintained as a class action under
17 the provisions of § 382 of the Code of Civil Procedure because there is a well-defined community of
18 interest in the litigation and the proposed Class are easily ascertainable.

19 **A. Numerosity**

20 19. The potential Class Members as defined are so numerous that joinder of all Class
21 Members is impracticable. While the precise number of Class Members has not been ascertained at
22 this time, Plaintiffs are informed and believe, and based thereon allege, that Defendants currently
23 contract with, and during the relevant time periods contracted with, over 50 persons in the State of
24 California who fall within the Class definition.

25 20. Accounting for turnover during the relevant period necessarily increases this number.
26 Plaintiffs allege Defendants' employment records would provide information as to the number and
27 location of Class Members. Joinder of Class Members is not practicable.

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B. Commonality

21. There are questions of law and fact common to the Class that predominate over any questions affecting only individual Class Members. These common questions of law and fact include, without limitation:

- a. Whether Defendants misclassified Plaintiffs and Class Members as Independent Contractors, in violation of Labor Code § 226.8;
- b. Whether Defendants failed to pay all minimum and overtime wages earned to Plaintiffs and Class Members, in violation of Labor Code §§ 510, 1174, 1174.5, 1194, and 1194.2;
- c. Whether Defendants failed to properly provide meal periods or compensation in lieu thereof to Plaintiffs and Class Members, in violation of Labor Code §§ 226.7, 510, 512, 1174, 1174.5, and 1194 and IWC Wage Order 4-2001;
- d. Whether Defendants failed to properly provide rest periods or compensation in lieu thereof to Plaintiffs and Class Members, in violation of Labor Code § 226.7 and IWC Wage Order 4-2001;
- e. Whether Defendants failed to provide Plaintiffs and Class Members with accurately itemized wage statements, in accordance with Labor Code § 226(a), (e);
- f. Whether Defendants failed to timely pay Plaintiffs and Class Members all wages due and owing at the separation of their employment, in violation of Labor Code §§ 201-203; and
- g. Whether Plaintiffs and Class Members are entitled to equitable relief pursuant to Business & Professions Code § 17200 *et seq.*

C. Typicality

22. The claims of the named Plaintiffs are typical of the claims of Class Members. Plaintiffs and Class Members sustained injuries and damages arising out of and caused by Defendants' common course of conduct in violation of laws, regulations that have the force and effect of law, and statutes as alleged herein.

1 **D. Adequacy of Representation**

2 23. Plaintiffs will fairly and adequately represent and protect the interests of Class
3 Members. Counsel who represents Plaintiffs are competent and experienced in litigating large
4 employment class actions.

5 **E. Superiority of Class Action**

6 24. A class action is superior to other available means for the fair and efficient adjudication
7 of this controversy. Individual joinder of all proposed Class Members is not practicable, and
8 questions of law and fact common to the proposed Class predominate over any questions affecting
9 only individual members of the proposed Class. Each member of the proposed Class has been
10 damaged and is entitled to recovery by reason of Defendants' illegal policies and/or practices.

11 25. Class action treatment will allow those similarly situated persons to litigate their
12 claims in the manner that is most efficient and economical for the parties and the judicial system.
13 Plaintiffs is unaware of any difficulties that are likely to be encountered in the management of this
14 action that would preclude its maintenance as a class action.

15 **IV.**

16 **CAUSES OF ACTION**

17 **FIRST CAUSE OF ACTION**

18 **PLAINTIFFS AND THE CLASS AGAINST ALL DEFENDANTS**

19 **FAILURE TO PAY ALL MINIMUM AND OVERTIME WAGES EARNED**

20 **(LABOR CODE §§ 226.8, 510, 1174, 1174.5, 1194, AND 1194.2)**

21 26. Plaintiffs incorporate paragraphs 1 through 25 of this Complaint as though fully set
22 forth herein.

23 27. During the liability period, Defendants misclassified Plaintiffs and Class Members as
24 independent contractors, instead of non-exempt employees, in violation of Labor Code §
25 226.8. Defendants controlled their wages, hours, and working conditions. Because the provisions of
26 Labor Code § 2750.3(c)(2)(B)(xi) do not apply to Plaintiffs and Class Members, California uses the
27 ABC Test to determine if an employee is properly classified as an independent contractor. Under the
28 ABC Test, a worker is considered an employee and not an independent contractor unless the hiring

1 entity establishes all of the following conditions: (A) that the worker is free from the control and
2 direction of the hiring entity in connection with the performance of the work, both under the contract
3 for the performance of the work and in fact; (B) that the worker performs work that is outside the
4 usual course of the hiring entity's business; and (C) that the worker is customarily engaged in an
5 independently established trade, occupation, or business of the same nature as that involved in the
6 work performed. None of the elements of the ABC Test are satisfied here and Plaintiffs and Class
7 Members should have been classified as non-exempt employees.

8 28. Defendants also failed to compensate Plaintiffs and Class Members with all minimum
9 and overtime wages earned, in violation of Labor Code §§ 510, 1194, and 1194.2. Plaintiffs and Class
10 Members were paid piece-rate wages for time spent cutting hair. However, Plaintiffs and Class
11 Members were not paid for non-productive time when they were not cutting hair or performing tasks
12 for which no piece rate was associated, or for their rest periods, even though they were under the
13 control of Defendants and entitled to be paid at least the minimum wage for all hours worked.
14 Defendants also failed to pay for all overtime hours worked at the correct rates or at all. This violates
15 Labor Code §§ 510, 1194, and 1194.2. Defendants also failed to track the hours worked by Plaintiffs
16 and Class Members, in violation of Labor Code §§ 1174 and 1174.5.

17 29. As a result of the unlawful acts of Defendants in willfully failing to pay all minimum
18 and overtime wages earned, Plaintiffs and Class Members have been deprived of wages in amounts
19 to be determined at trial, and are entitled to restitution and recovery of such amounts, plus interest
20 thereon, attorneys' fees, and costs, pursuant to Labor Code § 1194, and liquidated damages pursuant
21 to Labor Code § 1194.2.

22 Wherefore, Plaintiffs and the Class they seek to represent request relief as described below.

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V.

SECOND CAUSE OF ACTION

PLAINTIFFS AND THE CLASS AGAINST ALL DEFENDANTS

**FAILURE TO PROVIDE MEAL PERIODS OR COMPENSATION IN LIEU THEREOF
(LABOR CODE §§ 226.7, 510, 512, 1174, 1174.5, AND 1194 AND IWC WAGE ORDER 4-
2001)**

30. Plaintiffs incorporate paragraphs 1 through 29 of this Complaint as though fully set forth herein.

31. Plaintiffs and Class Members are entitled to one hour of pay for each day that Defendants failed to properly provide one or more compliant meal periods as set forth in Labor Code §§ 226.7 and 512 and IWC Wage Order 4-2001.

32. Defendants fail to pay premium wages to Plaintiffs and Class Members who are denied meal periods, in violation of Labor Code §§ 226.7 and 512 and IWC Wage Order 4-2001. Plaintiffs and Class Members were routinely denied, and not authorized to take, a proper, timely, uninterrupted, 30-minute meal period for every shift worked that exceeded five hours, or a second proper, timely, uninterrupted, 30-minute meal period for every shift worked that exceeded ten hours, but were not paid premium wages of one hour's pay for each missed first or second meal period. When they were able to take a meal period, they were cut short, late or they would have to work through them. Defendants also failed to maintain accurate meal period records showing the start and stop time of meal periods. This violates Labor Code §§ 226.7, 510, 512, 1174, 1174.5, and 1194 and IWC Wage Order 4-2001.

33. Pursuant to Labor Code §§ 226.7 and 512 and IWC Wage Order 4-2001, Plaintiffs seek the payment of all unpaid meal period compensation which they and Class Members are owed, according to proof.

Wherefore, Plaintiffs and the Class they seek to represent request relief as described below.

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1 VI.

2 THIRD CAUSE OF ACTION

3 PLAINTIFFS AND THE CLASS AGAINST ALL DEFENDANTS

4 FAILURE TO PROVIDE REST PERIODS OR COMPENSATION IN LIEU THEREOF

5 (LABOR CODE § 226.7 AND IWC WAGE ORDER 4-2001)

6 34. Plaintiffs incorporate paragraphs 1 through 33 of this Complaint as though fully set
7 forth herein.

8 35. Plaintiffs and Class Members are entitled to one hour of pay for each day that
9 Defendants failed to properly provide one or more rest periods as set forth in Labor Code § 226.7
10 IWC Wage Order 4-2001.

11 36. Defendants fail to pay premium wages to Plaintiffs and Class Members who were
12 denied on-the-clock rest periods, in violation of Labor Code § 226.7 and IWC Wage Order No. 4-
13 2001. Plaintiffs and Class Members were routinely unable to take a 10-minute rest period for every
14 four (4) hours of work or major fraction thereof, but were not paid premium wages of one hour's pay
15 for each missed rest period. When Plaintiffs and Class Members were able to take a rest period, they
16 were oftentimes on-duty as they would be required to assist customers even if they were on their rest
17 period, in violation of Labor Code § 226.7 and IWC Wage Order No. 4-2001, and all rest periods
18 were impermissibly uncompensated and off-the-clock, as discussed above.

19 37. Pursuant to Labor Code § 226.7 and IWC Wage Order 4-2001, Plaintiffs seek the
20 payment of all rest period compensation which they and Class Members are owed, according to proof.

21 Wherefore, Plaintiffs and the Class they seek to represent request relief as described below.

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VII.
FOURTH CAUSE OF ACTION
PLAINTIFFS AND THE CLASS AGAINST ALL DEFENDANTS
FAILURE TO COMPLY WITH ITEMIZED EMPLOYEE WAGE STATEMENT
PROVISIONS
(LABOR CODE § 226(a), (e))

38. Plaintiffs incorporate paragraphs 1 through 37 of this Complaint as though fully set forth herein.

39. Section 226(a) of the California Labor Code requires Defendants to provide wage statements to employees. In those wage statements, Defendants must provide an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee..., (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer . . . , and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. Defendants have failed to comply with Labor Code § 226(a).

40. Defendants failed to issue Plaintiffs and Class Members any wage statements.

41. As a consequence of Defendants' willful conduct in failing to provide Class Members with wage statements, Plaintiffs and Class Members have been injured because they are not able to ascertain any of the information required by Labor Code § 226(a). As a result, Plaintiffs and Class Members are entitled to penalties pursuant to Labor Code § 226(e) to recover the greater of all actual damages or \$50 for the initial pay period in which a violation occurs and \$100 per employee for each violation in a subsequent pay period, not exceeding an aggregate penalty of \$4,000 per employee, and are entitled to an award of costs and reasonable attorneys' fees pursuant to Labor Code § 226(h).

Wherefore, Plaintiffs and the Class they seek to represent request relief as described below.

VIII.

FIFTH CAUSE OF ACTION

PLAINTIFFS AND THE CLASS AGAINST ALL DEFENDANTS

FAILURE TO TIMELY PAY WAGES DUE AT SEPARATION OF EMPLOYMENT

(LABOR CODE §§ 201-203)

42. Plaintiffs incorporate paragraphs 1 through 41 of this Complaint as though fully set forth herein.

43. California Labor Code § 201 and § 202 require Defendants to pay employees all wages due within 72 hours after resignation of employment or the day of termination of employment. Labor Code § 203 provides that if an employer willfully fails to timely pay such wages, the employer must, as a penalty, continue to pay the subject employee's daily wages until the back wages are paid in full or an action is commenced. The penalty cannot exceed 30 days of wages.

44. Defendants paid Plaintiffs and Class Members their final wages beyond the time frames set forth in Labor Code §§ 201 and 202, in violation of Labor Code § 203. Plaintiffs and Class Members were not paid all wages due and owing throughout the course of their employment, as detailed above. Consequently, at the time of their separation from employment with Defendants, they were not paid all final wages due and owing for the entirety of their employment. This violates Labor Code §§ 201-203 and is alleged on behalf of Plaintiffs and certain Class Members no longer employed by Defendants.

45. More than 30 days have passed since Plaintiffs and Class Members have left Defendants' employ.

46. As a consequence of Defendants' willful conduct in not paying wages owed timely upon separation of employment, Plaintiffs and Class Members are entitled to up to 30 days' wages as a penalty under Labor Code § 203 for Defendants' failure to timely pay legal wages at separation of employment.

Wherefore, Plaintiffs and the Class they seek to represent request relief as described below.

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IX.

SIXTH CAUSE OF ACTION

PLAINTIFFS AND THE CLASS AGAINST ALL DEFENDANTS

UNFAIR COMPETITION PURSUANT TO

BUSINESS & PROFESSIONS CODE § 17200 ET SEQ.

47. Plaintiffs incorporate paragraphs 1 through 46 of this Complaint as though fully set forth herein.

48. This is a Class Action for Unfair Business Practices. Plaintiffs, on their own behalf and on behalf of the general public, and on behalf of others similarly situated, bring this claim pursuant to Business & Professions Code § 17200 *et seq.* The conduct of all Defendants as alleged in this Complaint has been and continues to be unfair, unlawful, and harmful to Plaintiffs, the general public, and all Class Members. Plaintiffs seek to enforce important rights affecting the public interest within the meaning of Code of Civil Procedure § 1021.5.

49. Plaintiffs are each a “person” within the meaning of Business & Professions Code § 17204, and therefore have standing to bring this cause of action for injunctive relief, restitution, and other appropriate equitable relief.

50. Business & Professions Code § 17200 *et seq.* prohibits unlawful and unfair business practices.

51. Wage and hour laws express fundamental public policies. Properly providing employees with all wages due is a fundamental public policy of this State and of the United States. Labor Code § 90.5(a) articulates the public policies of this State to enforce vigorously minimum labor standards, to ensure that employees are not required or permitted to work under substandard and unlawful conditions, and to protect law-abiding employers and its employees from competitors who lower their costs by failing to comply with minimum labor standards.

52. Defendants have violated statutes and public policies. Through the conduct alleged in this Complaint, Defendants, and each of them, have acted contrary to these public policies, have violated specific provisions of the Labor Code, and have engaged in other unlawful and unfair business practices in violation of Business & Professions Code § 17200 *et seq.* depriving Plaintiffs,

1 and all persons similarly situated, and all interested persons of rights, benefits, and privileges
2 guaranteed to all employees under law.

3 53. Defendants' conduct, as alleged herein, constitutes unfair competition in violation of
4 §17200 *et seq.* of the Business & Professions Code.

5 54. Defendants, by engaging in the conduct herein alleged, either knew or in the exercise
6 of reasonable care should have known that the conduct was unlawful. As such, it is a violation of §
7 17200 *et seq.* of the Business & Professions Code.

8 55. As a proximate result of the above-mentioned acts of Defendants, Plaintiffs and others
9 similarly situated have been damaged in a sum as may be proven.

10 56. Unless restrained by this Court, Defendants will continue to engage in the unlawful
11 conduct, as alleged above. Pursuant to Business & Professions Code § 17200 *et seq.*, this Court
12 should make such orders or judgments, including the appointment of a receiver, as may be necessary
13 to prevent the use or employment, by Defendants, its agents, or employees, of any unlawful or
14 deceptive practice prohibited by the Business & Professions Code, and/or, including but not limited
15 to, disgorgement of profits which may be necessary to restore Plaintiffs and all Class Members to the
16 money Defendants have unlawfully failed to pay.

17 **X.**

18 **SEVENTH CAUSE OF ACTION**

19 **PLAINTIFF JARAMILLO AND ALL AGGRIEVED EMPLOYEES AGAINST ALL**
20 **DEFENDANTS**

21 **CIVIL PENALTIES PURSUANT TO LABOR CODE § 2699(f) FOR VIOLATIONS OF**
22 **LABOR CODE §§ 201, 202, 226(a), 226.7, 226.8, 510, 512, 1174, 1174.5, AND 1194 AND**
23 **PURSUANT TO LABOR CODE § 2699(a) FOR VIOLATIONS OF LABOR CODE §§ 226.3,**
24 **558, AND 558.1**

25 57. Plaintiffs incorporate paragraphs 1 through 56 of this Complaint as though fully set
26 forth herein.

27 58. As a result of the acts alleged above, including the Labor Code violations set forth
28 herein, Plaintiff Jaramillo seeks penalties pursuant to Labor Code § 2698 *et seq.*

59. For each such violation, Plaintiff Jaramillo and all other Aggrieved Employees are entitled to penalties in an amount to be shown at the time of trial subject to the following formula:

- a. Pursuant to Labor Code § 2699(f), \$100 for each initial violation and \$200 for each subsequent violation of Labor Code §§ 201, 202, 226(a), 226.7, 226.8, 510, 512, 1174, 1174.5, and 1194; and
- b. Pursuant to Labor Code § 2699(f), the penalties as authorized by Labor Code §§ 226.3, 558, and 558.1.

60. Penalties recovered will be allocated 75% to the Labor and Workforce Development Agency, and 25% to the affected employees.

61. On April 4, 2023, Plaintiff Jaramillo sent a letter, by online submission to the LWDA and by certified mail, return receipt requested, to Defendants setting forth the facts and theories of the violations alleged against Defendants, as prescribed by Labor Code § 2698 *et seq.* Pursuant to Labor Code § 2699.3(a)(2)(A), no notice was received by Plaintiff Jaramillo from the LWDA within sixty-five (65) calendar days of April 4, 2023. Plaintiff Jaramillo may therefore commence this action to seek civil penalties pursuant to Labor Code § 2698 *et seq.*

Wherefore, Plaintiffs and the Aggrieved Employees they seek to represent request relief as described below.

XII.

RELIEF REQUESTED

WHEREFORE, Plaintiffs pray for the following relief:

1. For compensatory damages and liquidated damages pursuant to Labor Code §§ 1194 and 1194.2, respectively, in the amount of all unpaid wages due to Plaintiffs and Class Members;
2. For compensatory damages in the amount of one hour of wages for each day on which a rest period was not properly provided to Plaintiffs and Class Members pursuant to Labor Code § 226.7;

3. For compensatory damages in the amount of one hour of wages for each day on which a meal period was not properly provided to Plaintiffs and Class Members pursuant to Labor Code §§ 226.7 and 512;
4. For penalties pursuant to Labor Code § 226(e) for Plaintiffs and Class Members;
5. For penalties pursuant to Labor Code § 203 for Plaintiffs and Class Members;
6. For restitution for unfair competition pursuant to Business & Professions Code § 17200 *et seq.* for Plaintiffs and Class Members;
7. For civil penalties pursuant to Labor Code § 2698 *et seq.* for Plaintiff Jaramillo and all other Aggrieved Employees;
8. An award of prejudgment and post-judgment interest;
9. An award providing for payment of costs of suit pursuant to Labor Code §§ 226(h), 1194, 2699(g)(1), and other applicable law;
10. An award of attorneys' fees pursuant to Labor Code §§ 226(h), 1194, 2699(g)(1), and other applicable law; and
11. Such other and further relief as this Court may deem just and proper.

Dated: June 26, 2023

Respectfully submitted,

GAINES & GAINES
A Professional Law Corporation

By: Daniel F. Gaines
DANIEL F. GAINES
ALEX P. KATOFISKY
Attorney for Plaintiffs

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a trial of their claims by jury to the extent authorized by law.

Dated: June 26, 2023

Respectfully submitted,

GAINES & GAINES
A Professional Law Corporation

By: Daniel F. Gaines
DANIEL F. GAINES
ALEX P. KATOFISKY
Attorney for Plaintiffs