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David W. Slayton,
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Attorneys for Plaintiff LUIS GARCIA on behalf of
himself and others similarly situated

[Additional counsel on following page]

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES**

LUIS GARCIA, on behalf of himself and all
others similarly situated,

Plaintiff,

v.

WHELAN SECURITY OF CALIFORNIA,
INC. a California corporation; and DOES 1 to
10, inclusive

Defendant.

CASE NO. 23STCV07588

CLASS ACTION COMPLAINT:

1. Failure to Pay Overtime Wages in Violation of Labor Code sections 510 and 1198;
2. Failure to pay all Wages and Minimum Wages in Violation of Labor Code sections 1182, 1194, 1197, 1198;
3. Failure to Provide Meal Periods in Violation of Labor Code sections 226.7, 512, 516 and 1198;
4. Failure to Provide Rest Periods in Violation of Labor Code sections 226.7, 516, 1198;
5. Failure to Provide Suitable Facilities for Meal and Rest Breaks in Violation of Labor Code section 226.7;
6. Failure to Timely Furnish Accurate Itemized Wage Statements in Violation of Labor Code section 226(a);
7. Failure to Timely Pay Wages During Employment in Violation of Labor Code Section 204;
8. Failure to Provide Fresh Drinking Water Pursuant to Labor Code section 2441;
9. Failure to Reimburse Business Expenses in Violation of Labor Code section 2802; and
10. Violations of Business & Professions Code section 17200 et seq.

DEMAND FOR JURY TRIAL

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1 Plaintiff, LUIS GARCIA (hereinafter “Plaintiff”) hereby submits his Complaint against
2 Defendant WHELAN SECURITY OF CALIFORNIA, INC., a California corporation; and DOES 1
3 to 10 (hereinafter referred to as “Defendant”) on behalf of himself and the class of all other
4 similarly situated current and former employees of Defendant as follows:

5 **NATURE OF THE CASE**

6 1. This is a class action arising out of Defendant’s failure to provide their non-exempt
7 employees with all wages, meal and rest periods in compliance with the applicable wage order
8 and/or the California Labor Code, by failing to provide fresh drinking water, by failing to provide
9 suitable facilities for meal and rest breaks, by failing to reimburse business expenses, and by failing
10 to comply with the applicable wage order and/or the Labor Code in regards to the payment of
11 wages.

12 2. Whelan Security of California provides security services throughout the state of
13 California and was acquired by GardaWorld in 2019. At all relevant times, Defendant issued and
14 maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-
15 exempt, hourly paid employees in California, including Plaintiff and others similarly situated,
16 regardless of their location or position.

17 3. Defendant has maintained practices across its locations which have failed and
18 continue to fail to pay Plaintiff and other non-exempt employees all wages. Specifically, Defendant
19 has a company-wide policy of rounding/shaving time off of Plaintiff’s and other non-exempt
20 employees’ hours worked. For example, on 2/25/23 Plaintiff worked 8.12 hours but was only paid
21 for 8.00 hours. Further, on 2/27/23 Plaintiff worked 8.50 hours and was only paid for 8.00 hours.
22 Additionally, on 1/16/23, 1/19/23, and 1/20/23 Plaintiff worked 8.50 hours and was only paid for
23 8.00 hours. Defendant also auto-deducts meal periods, whether a compliant meal break is provided
24 or not. As a result, Plaintiff and other non-exempt employees have not been paid all wages and
25 overtime.

26 4. Defendant also fails to properly pay overtime wages. For example, on Friday 3/3/23,
27 Plaintiff worked a double shift from 3:00 p.m. to 7:00 a.m. the next Saturday. Defendant only paid
28 him one hour of overtime and the seven hours worked on Saturday were paid at the base rate and

1 not overtime rate. Plaintiff alleges this is a regular occurrence.

2 5. Defendant's failure to properly staff its facilities has also resulted in a lack of meal
3 period and rest period coverage and prevented Plaintiff and other non-exempt employees from
4 taking compliant meal and rest periods. Specifically, meal and rest breaks are often missed entirely
5 because there is not enough coverage to cover their post.

6 6. In light of the foregoing, Defendant failed to provide Plaintiff and other non-exempt
7 employees with compliant wage statements and failed to timely pay wages during employment.
8 Further, Defendant issues direct deposits on the seventh day, but depending on when the payroll is
9 actually processed, the balance will not show in Plaintiff's and other non-exempt employees'
10 account until the next day.

11 7. Defendant also had a practice of failing to provide Plaintiff and other non-exempt
12 employees with any drinking water. Rather, Plaintiff would be required to bring his own water.

13 8. Defendant also failed to reimburse Plaintiff and other non-exempt employees for
14 business related expenses, including but not limited to laundry expenses for the uniforms that
15 Plaintiff and other non-exempt employees were required to wear.

16 9. Plaintiff brings Causes of Action One through Ten (the "class claims") as a class
17 action on behalf of himself and other similarly situated individuals who have worked for Defendant
18 in California, at any time from four-years prior to the filing of this complaint, through the resolution
19 of this action. Plaintiff, on his own behalf and on behalf of all Class Members, brings the class
20 claims pursuant to Labor Code sections 204, 221, 223, 226, 226.7, 500, 510, 512, 1174, 1194,
21 1194.2, 1197, 1198, 2350, 2802, and the applicable wage order and under Business & Professions
22 Code sections 17200-17208, for unfair competition due to Defendant's unlawful, unfair and
23 fraudulent business acts and practices.

24 10. Plaintiff is informed and believes, and based thereon alleges, that Defendant has
25 engaged in, among other things a system of willful violations of the Labor Code and the applicable
26 IWC wage orders by creating and maintaining policies, practices and customs that knowingly deny
27 employees the above stated rights and benefits.

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PARTIES

11. Plaintiff, Luis Garcia is an individual over the age of eighteen (18) and is now, and/or at all relevant times mentioned in this Complaint was, a resident and domiciliary of the State of California. During the relevant time period, Plaintiff has worked for Defendant in Gardena, California since approximately May 2021. Plaintiff works as a security guard and earns approximately \$15.75 per hour. Plaintiff is currently stationed at UPS-Gardena.

12. Plaintiff is informed and believes, and based thereon alleges, that Defendant Whelan Security of California Inc. is a California corporation. Plaintiff is further informed and believes that at all times relevant hereto, Defendant has transacted, and continues to transact, business throughout the State of California.

13. Plaintiff is informed and believes, and based upon such information and belief alleges, that Defendant is, now and/or at all times mentioned in this Complaint was in some manner legally responsible for the events, happenings and circumstances alleged in this Complaint.

14. Plaintiff is further informed and believes, and based upon such information and belief alleges, that at all times herein mentioned, Defendant proximately caused Plaintiff, all others similarly situated, and the general public to be subjected to the unlawful practices, wrongs, complaints, injuries and/or damages alleged in this Complaint.

15. Plaintiff is informed and believes and based thereon alleges that at all times herein mentioned Defendant and DOES 1 through 10, are and were corporations, business entities, individuals, and partnerships, licensed to do business and actually doing business in the State of California.

16. Plaintiff does not know the true names or capacities, whether individual, partner or corporate, of the Defendants sued herein as DOES 1 through 10, inclusive, and for that reason, said Defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this complaint when the true names and capacities are known. Plaintiff is informed and believes and based thereon alleges that each of said fictitious Defendants were responsible in some way for the matters alleged herein and proximately caused Plaintiff and members of the general public and class to be subject to the illegal employment practices, wrongs and injuries complained of herein.

1 17. At all times herein mentioned, each of said Defendants participated in the doing of
2 the acts hereinafter alleged to have been done by the named Defendant; and furthermore, the
3 Defendants, and each of them, were the agents, servants and employees of each of the other
4 Defendants, as well as the agents of all Defendants, and at all times herein mentioned, were acting
5 within the course and scope of said agency and employment.

6 18. Plaintiff is informed and believes and based thereon alleges that at all times material
7 hereto, each of the Defendants named herein were the agent, employee, alter ego and/or joint
8 venturer of, or working in concert with each of the other co-Defendants and were acting within the
9 course and scope of such agency, employment, joint venture, or concerted activity. To the extent
10 said acts, conduct, and omissions were perpetrated by certain Defendants, each of the remaining
11 Defendants confirmed and ratified said acts, conduct, and omissions of the acting Defendants.

12 19. At all times herein mentioned, Defendants, and each of them, were members of, and
13 engaged in, a joint venture, partnership and common enterprise, and acting within the course and
14 scope of, and in pursuance of, said joint venture, partnership and common enterprise.

15 20. At all times herein mentioned, the acts and omissions of various Defendants, and
16 each of them, concurred and contributed to the various acts and omissions of each and all of the
17 other Defendants in proximately causing the injuries and damages as herein alleged. At all times
18 herein mentioned, Defendants, and each of them, ratified each and every act or omission
19 complained of herein. At all times herein mentioned, the Defendants, and each of them, aided and
20 abetted the acts and omissions of each and all of the other Defendants in proximately causing the
21 damages as herein alleged.

22 21. The members of the Class (as defined below), including the representative Plaintiff
23 named herein, have been employed during the Class Period in California. The practices and
24 policies which are complained of by way of this Complaint are enforced throughout the State of
25 California.

26 **JURISDICTION AND VENUE**

27 22. The Court has jurisdiction over this class action pursuant to article 6, section 10 of
28 the California Constitution and Code of Civil Procedure section 410.10.

23. Additionally, this Court has jurisdiction over Plaintiff's and the Class' claims for injunctive relief, including restitution of earned wages, arising from Defendant's unfair competition under Business & Professions Code section 17203 and 17204. The Court also has jurisdiction over Plaintiff's and the Class' claims pursuant to the applicable provisions.

24. The Court has jurisdiction over Defendant because they are authorized to do business in the State of California and are registered with the California Secretary of State. Defendant does sufficient business with sufficient minimum contacts in California, and/or otherwise intentionally avails itself of the California market through the advertising, marketing and sale of goods and services, to render the exercise of jurisdiction over Defendant by the California court consistent with traditional notions of fair play and substantial justice.

25. Venue is proper in Los Angeles County because the acts which give rise to this litigation occurred in this county and because Defendant has employed class members in this county and transacts business in this county.

FACTUAL ALLEGATIONS

26. Plaintiff incorporates all preceding paragraphs as though fully set forth herein.

27. Defendant has engaged in, and continue to engage in, unfair business practices in California by practicing, employing and utilizing the employment practices and policies outlined above.

Defendant's Failure to Pay Overtime Wages

28. During the Class Period, upon information and belief, Defendant had, and continues to have, a company-wide policy of shaving/rounding hours worked to limit the amount of overtime employees can accrue. Further, as mentioned above, Defendant fails to correctly pay overtime wages when Plaintiff works a double shift to limit the amount of overtime Defendant needs to pay. Further, as a result of auto-deducting meal periods, Plaintiff and members of the Class are not paid all wages, some of which include overtime wages.

29. Moreover, Defendant's company-wide policy resulted in a failure to provide Plaintiff and class members with adequate meal period coverage. Defendant also failed to adhere to a schedule of meal periods, which further caused Plaintiff and class members to not be relieved of

1 their duties for compliant meal periods. As a result, Plaintiff and class members missed or had meal
2 periods interrupted in order to remain at their posts. Consequently, Plaintiff and class members
3 performed work during meal periods for which they were not paid. Further, on information and
4 belief, because Defendant frowned upon employees accruing meal period penalties, Defendant
5 auto-deducted meal periods. Thus, Plaintiff and class members performed work during meal
6 periods for which they were not paid. Defendant knew or should have known that as a result of
7 these company-wide practices and/or policies, Plaintiff and class members were performing
8 assigned duties off-the-clock during meal periods and were suffered or permitted to perform work
9 for which they were not paid. Because Plaintiff and class members worked shifts of eight (8) hours
10 a day or more or forty (40) hours a week or more, some of this off-the-clock work qualified for
11 overtime premium pay.

12 30. Therefore, Plaintiff and class members were not paid overtime wages for all of the
13 overtime hours they actually worked.

14 ***Defendant's Failure to Pay all Wages and Minimum Wages***

15 31. As stated above, during the relevant time period, as a result of Defendant's policy of
16 limiting the amount of overtime employees could accrue, coupled with understaffing and busy
17 workplaces, Plaintiff and class members were forced to work off-the-clock to complete their work-
18 related tasks. Moreover, due to Defendant's policies and/or practices of understaffing at busy
19 workstations, and failing to adhere to a schedule of meal periods, Plaintiff and class members were
20 forced to forego meal periods.

21 32. Further, as stated, in order to prevent employees from accruing meal period
22 penalties, upon information and belief, Plaintiff and/or members of the class would have their meal
23 periods auto-deducted regardless of whether they had received a compliant meal period. Thus,
24 Defendant did not pay at least minimum wages for all hours worked by Plaintiff and other non-
25 exempt employees. To the extent that these off-the-clock hours did not qualify for overtime
26 premium payment, Defendant did not pay at least minimum wages for those hours worked off-the-
27 clock.

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1 ***Failure to Provide Compliant Meal Periods***

2 33. As stated above, Defendant had, and continue to have, a company-wide policy
3 and/or practice of understaffing, which, combined with busy workstations and failing to adhere to a
4 schedule of meal periods, has resulted in a lack of meal period coverage and prevented Plaintiff
5 and class members from taking all timely, uninterrupted meal periods to which they were entitled.
6 As a result, Plaintiff and class members were forced to work in excess of five (5) hours before
7 taking a meal period and, at times, had to forgo their meal periods altogether.

8 34. For example, on several occasions, Plaintiff was unable to take his meal period at
9 all. Moreover, upon information and belief, because Defendant frowned upon employees accruing
10 meal period penalties, Defendant would auto-deduct meal periods to reflect compliant meal
11 periods, regardless of whether they had received a compliant meal period, in order to strictly limit
12 meal penalties that would need to be paid by Defendant.

13 35. Plaintiff and other non-exempt employees did not sign valid meal period waivers on
14 days that they were entitled to meal periods and were not relieved of all duties.

15 ***Defendant's Failure to Provide Compliant Rest Breaks***

16 36. During the relevant time period, Defendant regularly failed to authorize and permit
17 Plaintiff and other non-exempt employees to take a ten (10) minute rest period per each four (4)
18 hour period worked or major fraction thereof.

19 37. Specifically, Plaintiff alleges that rest breaks are never provided due to lack of
20 coverage.

21 ***Defendant's Failure to Provide Proper Facilities for Meal and Rest Periods***

22 38. As mentioned above, Defendant did not provide proper facilities for meal and rest
23 periods. Specifically, Plaintiff alleges he was required to take his meals in his car.

24 ***Defendant's Failure to Provide Compliant Wage Statements***

25 39. During the relevant time period, Defendant has knowingly and intentionally
26 provided Plaintiff and class members with uniform, incomplete, and inaccurate wage statements.
27 For example, Defendant issued uniform wage statements to Plaintiff and class members that fail to
28 correctly list: gross wages earned; total hours worked; net wages earned; and all applicable hourly

1 rates in effect during the pay period, including rates of pay for overtime wages and/or meal and rest
2 period premiums, and the corresponding number of hours worked at each hourly rate.

3 40. Because Defendant did not record the time Plaintiff and class members spent
4 working off-the-clock and deducted time from their meal periods that were missed (and therefore
5 time for which they should have been paid), Defendant did not list the correct amount of gross
6 wages and net wages earned by Plaintiff and class members in compliance with Labor Code
7 sections 226(a)(1) and 226(a)(5), respectively.

8 41. For the same reason, Defendant failed to accurately list the total number of hours
9 worked by Plaintiff and class members, and failed to list the applicable hourly rates of pay in effect
10 during the pay period and the corresponding accurate number of hours worked at each hourly rate.

11 42. Because Defendant failed to provide the correct net and gross wages earned,
12 applicable rates of pay, and number of total hours worked on wage statements, Plaintiff and class
13 members have been prevented from verifying, solely from information on the wage statements
14 themselves, that they were paid correctly and in full. Instead, Plaintiff and class members have had
15 to look to sources outside of the wage statements themselves and reconstruct time records to
16 determine whether in fact they were paid correctly and the extent of underpayment, thereby causing
17 them injury.

18 ***Defendant's Failure to Timely Pay all Wages During Employment***

19 43. Labor Code section 204 requires that all wages earned by any person in any
20 employment between the 1st and the 15th days, inclusive, of any calendar month, other than those
21 wages due upon termination of an employee, are due and payable between the 16th and the 26th
22 day of the month during which the labor was performed, and that all wages earned by any person in
23 any employment between the 16th and the last day, inclusive, of any calendar month, other than
24 those wages due upon termination of an employee, are due and payable between the 1st and the
25 10th day of the following month.

26 44. Labor Code section 204 also requires that all wages earned for labor in excess of the
27 normal work period shall be paid no later than the payday for the next regular payroll period.
28 Alternatively, Labor Code section 204 provides that the requirements of this section are deemed

1 satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are
2 paid not more than seven (7) calendar days following the close of the payroll period.

3 45. During the class period, Defendant willfully failed to pay Plaintiff and members of
4 the Class all wages due including, but not limited to, minimum wages, and meal period premiums,
5 within the time periods specified by Labor Code section 204. Rather, Defendant issues direct
6 deposits on the seventh day, but depending on when the payroll is actually processed the balance
7 will not show in Plaintiff's and class members' accounts until the next day.

8 ***Defendant's Failure to Provide Drinking Water***

9 46. Defendant failed to provide Plaintiff and class members with any drinking water.
10 Rather, Plaintiff alleges they were required to bring their own water.

11 ***Defendant's Failure to Reimburse Business Expenses***

12 47. During the relevant time period, Defendant had a company-wide policy of requiring
13 Plaintiff and class members to launder their uniforms which were necessary for their jobs, but
14 Defendant failed to reimburse them for these costs.

15 48. Defendant could have provided Plaintiff and class members with a laundry
16 allowance. Instead, Defendant passed these operating costs off onto Plaintiff and other non-exempt
17 employees.

18 ***Facts Regarding Willfulness***

19 49. Plaintiff is informed and believes, and based thereon alleges, that Defendant is and
20 was advised by skilled lawyers, other professionals, employees with human resources background
21 and advisors with knowledge of the requirements of California wage and hour laws and that at all
22 relevant times, Defendant knew or should have known, that the Plaintiff Class Members, including
23 Plaintiff, were entitled to receive one hour of pay at the employee's regular rate of compensation
24 for each day that a meal and/or rest period was not provided and were and are entitled to received
25 pay for all hours worked, accurate itemized wage statements, and final pay in a timely manner.

26 ***Unfair Business Practices***

27 50. Defendant has further engaged in, and continue to engage in, unfair business
28 practices in California by practicing, employing and utilizing the unlawful employment practices

1 and policies outlined above.

2 51. As a direct result of the wage and hour violations herein alleged, Plaintiff and
3 members of the Plaintiff Class have suffered, and continue to suffer substantial losses related to the
4 use and enjoyment of wages, lost interest on such wages, and expenses and attorneys' fees in
5 seeking to compel Defendant to perform their obligations under state law, all to Plaintiff's and the
6 Plaintiff Class members' respective damage in amounts according to proof at the time of trial.

7 ***Plaintiff's Exhaustion of Administrative Remedies***

8 52. Plaintiff is currently complying with the procedures for bringing suit specified in
9 Labor Code section 2699.3.

10 53. By letter dated April 6, 2023, required notice was provided to Labor and Workforce
11 Development Agency ("LWDA") and Defendant, of the specific provisions of the Labor Code
12 alleged to have been violated, including the facts and theories to support the alleged violations.

13 54. This Complaint will be amended when more than sixty-five (65) days have passed
14 since the date the notice was mailed to Defendant and the LWDA, if the LWDA chooses not to
15 investigate the allegations herein.

16 **CLASS ACTION ALLEGATIONS**

17 55. Plaintiff incorporates all preceding paragraphs as though fully set forth herein.

18 56. Pursuant to Code of Civil Procedure section 382, this action is brought and may be
19 properly maintained as a class action. This action satisfies the ascertainability, numerosity,
20 commonality, typicality, adequacy, predominance, and superiority requirements of those
21 provisions.

22 57. Plaintiff brings this suit as a class action on behalf of a class of individuals defined
23 as follows:

24 58. Plaintiff Class: All persons who have been, or currently are, employed by Defendant
25 and who held, or hold, job positions which Defendant has classified as "non-exempt" employees in
26 the State of California, at any time since four years prior to filing this action, through the date
27 judgment is rendered in this action.

28 59. Numerosity: Plaintiff is informed and believes, and on that basis alleges, that during

1 the class period hundreds of class members have been employed by Defendant as non-exempt
2 employees in the State of California. Because so many persons have been employed by Defendant
3 in this capacity, the members of the Plaintiff Class are so numerous that joinder of all members is
4 impossible and/or impracticable.

5 60. Common Questions of Law and/or Fact: Common questions of law and fact exist as
6 to all members of the Plaintiff Class and predominate over any questions affecting solely individual
7 members of the Plaintiff Class. Among the questions of law and fact, that are relevant to the
8 adjudication of Class Members' claims are as follows:

- 9 a. Whether Plaintiff and Class Members are subject to and entitled to the benefits of
10 California wage and hour statutes;
- 11 b. Whether Defendant failed to pay Plaintiff and Class Members for all hours worked;
- 12 c. Whether Defendant failed to pay Plaintiff and Class Members all overtime;
- 13 d. Whether Defendant had a standard policy of not providing compliant meal breaks
14 and premiums to Plaintiff and members of the Plaintiff Class;
- 15 e. Whether Defendant had a standard policy of not providing compliant rest breaks and
16 premiums to Plaintiff and members of the Plaintiff Class;
- 17 f. Whether Defendant failed to provide Plaintiff and the Plaintiff Class proper
18 facilities for meal and rest breaks;
- 19 g. Whether Defendant failed to provide Plaintiff and the Plaintiff Class with drinking
20 water;
- 21 h. Whether Defendant unlawfully and/or willfully failed to provide Plaintiff and
22 members of the Plaintiff Class with true and proper wage statements upon payment
23 of wages, in violation of Labor Code section 226;
- 24 i. Whether Defendant unlawfully and/or willingly failed to timely pay Plaintiff and the
25 class during their employment;
- 26 j. Whether Defendant failed to reimburse Plaintiff and members of the Plaintiff Class
27 for business-related expenses;
- 28 k. Whether Plaintiff and members of the Plaintiff Class sustained damages, and if so,

the proper measure of such damages, as well as interest, penalties, costs, attorneys' fees, and equitable relief;

1. Whether Defendant conduct as alleged herein violates the Unfair Business Practices Act of California (Bus. & Prof. Code, § 17200 et seq.)

61. Typicality: The claims of the named Plaintiff are typical of the claims of the members of the Plaintiff Class. Defendant's common course of conduct in failing to provide their non-exempt employees with meal and rest periods and all wages in compliance with the applicable wage order, or premium compensation at the regular rate in lieu thereof, failing to provide them with drinking water, suitable facilities for meal and rest breaks, and toilets, failing to reimburse them for work related expenses, and failing to provide them with compliant wage statements has caused Plaintiff and the proposed Class to sustain the same or similar injuries and damages. Plaintiff's claims are thereby representative of and co-extensive with the claims of the proposed Class. Plaintiff and the proposed Class sustained the same or similar injuries and damages arising from Defendant's common policies, practices, procedures, protocols, routines, and rules which were applied to other Class Members as well as Plaintiff. Plaintiff seeks recovery for the same type of losses, injuries, and damages as were suffered by other members of the proposed class.

62. Adequacy of Representation: Plaintiff is an adequate representative of the proposed class because he is a member of the class, and his interests do not conflict with the interests of the members he seeks to represent. Plaintiff has retained competent counsel, experienced in the prosecution of complex class actions, and together Plaintiff and his counsel intend to prosecute this action vigorously for the benefit of the class. The interests of the Class Members will fairly and adequately be protected by Plaintiff and his attorneys.

63. Superiority of Class Action: A class action is superior to other available methods for the fair and efficient adjudication of this litigation since individual litigation of the claims of all Class Members is impracticable. It would be unduly burdensome to the courts if these matters were to proceed on an individual basis, because this would potentially result in hundreds of individuals, repetitive lawsuits. Further, individual litigation presents the potential for inconsistent or contradictory judgments, and the prospect of a "race to the courthouse," and an inequitable

1 allocation of recovery among those with equally meritorious claims. By contrast, the class action
2 device presents far fewer management difficulties, and provides the benefit of a single
3 adjudication, economics of scale, and comprehensive supervision by a single court.

4 64. The various claims asserted in this action are additionally or alternatively certifiable
5 under the provisions of the Code of Civil Procedure section 382 because:

6 a. The prosecution of separate actions by hundreds of individual class members would
7 create a risk of varying adjudications with respect to individual class members, thus establishing
8 incompatible standards of conduct for Defendant, and

9 b. The prosecution of separate actions by individual class members would also create
10 the risk of adjudications with respect to them that, as a practical matter, would be dispositive of the
11 interest of the other class members who are not a party to such adjudications and would
12 substantially impair or impede the ability of such non-party class members to protect their interests.

13 **FIRST CAUSE OF ACTION**

14 **Unpaid Overtime**

15 **(By Plaintiff and Members of the Putative Class Against Defendant)**

16 65. Plaintiff incorporates herein by reference the allegations set forth above.

17 66. At all times relevant herein, which comprise the time period not less than four (4)
18 years preceding the filing of this action, Defendant was required to compensate their hourly
19 employees for all overtime hours worked.

20 67. California Labor Code sections 510 and 1198 and the applicable Industrial Welfare
21 Commission ("IWC") wage order require employers to pay employees working more than eight (8)
22 hours in a day or more than forty (40) hours in a workweek at the rate of one-and-one-half (1 ½)
23 times the regular rate of pay for all hours worked in excess of eight (8) hours in a day or more than
24 forty (40) hours in a workweek. The applicable IWC wage order further provides that employers
25 are required to pay employees working more than twelve (12) hours in a day overtime
26 compensation at a rate of two (2) times their regular rate of pay. An employee's regular rate of pay
27 includes all remuneration for employment paid to, or on behalf of, the employee, including
28 nondiscretionary bonuses and incentive pay.

1 68. Defendant willfully failed to pay all overtime wages owed to Plaintiff and members
2 of the Class. During the relevant time period, Plaintiff and members of the Class were not paid
3 overtime premiums for all of the hours they worked in excess of eight (8) hours in a day, in excess
4 of twelve (12) hours in a day, and/or in excess of forty (40) hours in a week, because all hours that
5 they worked were not recorded.

6 69. Defendant knew or should have known that as a result of company-wide practices
7 and/or policies, that prevents Plaintiff and members of the Class from earning overtime, Plaintiff
8 and members of the Class were performing assigned duties off-the-clock during meal periods and
9 were suffered or permitted to perform work for which they were not paid. Because Plaintiff and
10 members of the Class worked shifts of eight (8) hours a day or more or forty (40) hours a week or
11 more, some of this off-the-clock work qualified for overtime premium pay. Therefore, Plaintiff and
12 members of the Class were not paid overtime wages for all of the overtime hours they actually
13 worked.

14 70. Defendant has a company-wide policy of rounding/shaving time off Plaintiff's and
15 class members' hours worked. For example, on 2/25/23 Plaintiff worked 8.12 hours but was only
16 paid for 8.00 hours. Further, on 2/27/23 Plaintiff worked 8.50 hours and was only paid for 8.00
17 hours. Additionally, on 1/16/23, 1/19/23, and 1/20/23 Plaintiff worked 8.50 hours and was only
18 paid for 8.00 hours. Defendant also auto-deducts meal periods, whether a compliant meal break is
19 provided or not. As a result, Plaintiff and class members have not been paid all wages, some of
20 which includes overtime.

21 71. Defendant also fails to properly pay overtime wages. For example, on Friday 3/3/23,
22 Plaintiff worked a double shift from 3:00 p.m. to 7:00 a.m. the next Saturday. Defendant only paid
23 him one hour of overtime and the seven hours worked on Saturday were paid at the base rate and
24 not overtime rate. Plaintiff alleges this is a regular occurrence.

25 72. Moreover, Defendant's company-wide policy and/or practice of understaffing its
26 locations resulted in a failure to provide Plaintiff and class members with adequate meal period
27 coverage. Defendant also failed to adhere to a schedule of meal periods, which further caused
28 Plaintiff and class members to not be relieved of their duties for compliant meal periods. As a

1 result, Plaintiff and other non-exempt employees missed or had meal periods interrupted in order to
2 complete their assigned tasks. Consequently, Plaintiff and class members performed work during
3 meal periods for which they were not paid. Further, on information and belief, because Defendant
4 frowned upon employees accruing meal period penalties, Defendant auto-deducted meal periods
5 whether or not they were taken. Thus, Plaintiff and members of the Class performed work during
6 meal periods for which they were not paid. Defendant knew or should have known that as a result
7 of these company-wide practices and/or policies, Plaintiff and members of the Class were
8 performing assigned duties off-the-clock during meal periods, and were suffered or permitted to
9 perform work for which they were not paid. Because Plaintiff and members of the Class worked
10 shifts of eight (8) hours a day or more or forty (40) hours a week or more, some of this off-the-
11 clock work qualified for overtime premium pay.

12 73. Defendant's failure to pay Plaintiff and members of the Class the balance of
13 overtime compensation, as required by California law, violates the provisions of Labor Code
14 sections 510 and 1198. Plaintiff and members of the Class are entitled to recover civil penalties,
15 attorney's fees, costs, and interest thereon.

16 **SECOND CAUSE OF ACTION**

17 **Failure to Pay All Wages**

18 **(By Plaintiff and Members of the Putative Class Against Defendant)**

19 74. Plaintiff incorporates herein by reference the allegations set forth above.

20 75. At all times relevant herein, which comprise the time period not less than four (4)
21 years preceding the filing of this action, Defendant was required to compensate their hourly
22 employees for all hours worked.

23 76. For at least the four (4) years preceding the filing of this action, Defendant failed to
24 compensate employees for all hours worked. Defendant implemented policies that actively
25 prevented employees from being compensated for all time worked by subjecting Plaintiff and
26 members of the Class to work off-the-clock as mentioned above.

27 77. Under the applicable wage order and state regulations, Plaintiff and the Plaintiff
28 Class are entitled to recover compensation for all hours worked, but not paid, for the four (4) years

1 preceding the filing of this action, in addition to reasonable attorney's fees and costs of suit in
2 accordance with Labor Code section 218.5.

3 78. The applicable IWC wage order section 2(G) defines “hours worked” to mean “the
4 time during which an employee is subject to the control of an employer and includes all the time
5 the employee is suffered or permitted to work, whether or not required to do so.”

6 79. Defendant suffered or permitted Plaintiff and members of the Class to work portions
7 of the day for which Defendant failed to compensate them. This includes time spent under
8 Defendant’s control during meal periods, and for the hours that Defendant shaved/rounded as
9 mentioned above.

10 80. Labor Code section 1194(a) provides in relevant part: “Notwithstanding any
11 agreement to work for a lesser wage, any employee receiving less than the legal minimum wage ...
12 is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage
13 ... including interest thereon, reasonable attorney’s fees, and costs of suit.”

14 81. Labor Code section 1194.2(a) provides in relevant part: “In any action under section
15 1193.6 or section 1194 to recover wages because of the payment of a wage less than the minimum
16 wage fixed by an order of the commission, an employee shall be entitled to recover liquidated
17 damages in an amount equal to the wages unlawfully unpaid and interest thereon.”

18 82. Labor Code section 1197 provides: “The minimum wage for employees fixed by the
19 commission is the minimum wage to be paid to employees, and the payment of a less wage than
20 the minimum so fixed is unlawful.”

21 83. Plaintiff is informed and believes, and therefore alleges, that Defendant’s
22 compensation schemes do not fairly compensate Plaintiff and other Class Members for all hours
23 spent performing their job duties.

24 84. The failure to pay at least minimum wages to Plaintiff and members of the Plaintiff
25 Class for each and every hour worked violates Labor Code sections 1182.11-1182.12, 1194,
26 1194.2, and 1197; IWC wage order No. 16-2001 section 4; and Business & Professions Code.

27 85. The failure to pay designated wages to Plaintiff and members of the Plaintiff Class
28 for each and every hour worked violates Labor Code section 221 and 223; the applicable IWC

1 wage order section 3; and Business & Professions Code.

2 86. During the applicable time period, Defendant has and continues to have a pattern
3 and practice of not providing its employees all wages, by failing to include all compensable time,
4 including time worked off-the-clock.

5 87. As a proximate result of the above-mentioned violations. Plaintiff and the Plaintiff
6 Class have been damaged in an amount according to proof at time of trial.

7 **THIRD CAUSE OF ACTION**

8 **Non-Compliant Meal Breaks**

9 **(By Plaintiff and Members of the Putative Class Against Defendant)**

10 88. Plaintiff hereby incorporates by reference each and every one of the allegations
11 contained in the preceding paragraphs as if the same were fully set forth herein.

12 89. Plaintiff is informed and believes, and thereon alleges, that Plaintiff and the Class
13 Members regularly worked more than five (5) hours per shift and were entitled to a meal period of
14 not less than thirty (30) minutes without duty.

15 90. Nevertheless, Plaintiff is informed and believes, and thereon alleges, that Defendant
16 routinely failed to provide Plaintiff and the members of the Class with such meal periods without
17 duty, notwithstanding the fact that Plaintiff and the members of the Class had not waived their right
18 to the same. Thus, Defendant failed to provide Plaintiff and the members of the Class with meal
19 periods required by Labor Code sections 226.7, 512, 516 and the applicable IWC wage order
20 section 10, and categorically failed to pay any and all meal period wages due.

21 91. Plaintiff and Class Members seek damages pursuant to Labor Code section 226.7(b)
22 and the applicable IWC wage order section 10(F), in the amount of one additional hour of pay at
23 the regular rate for each work day that the meal period is/was not provided to Plaintiff and any
24 member of the Class, the cumulative sum of which is to be determined at trial.

25 92. Under the foregoing, California employers must provide meal periods and authorize
26 and permit rest periods to all employees during their shifts. In *Augustus et al. v. ABM Security*
27 *Services, Inc.* (2016) 2 Cal.5th 257, the California Supreme Court reaffirmed that the required meal
28 and rest periods must be “off-duty,” which means that employees must be relieved of “all work-

1 related duties,” including the duty to remain “on call,” and they must be “free from employer
2 control” over how they “spend their time.” *Id.* at 264, 269. Employees must have the freedom to
3 use meal and rest periods for their own purposes. *Id.* at 270; *Brinker Rest. Corp. v. Superior Court*
4 (2012) 53 Cal.4th 1004, 1038-39.

5 93. When employees must either “remain at the ready and capable of being summoned
6 to action,” “respond when the employer seeks contact with [them],” “perform other work if the
7 employer so requests,” and/or remain “on call” during their meal and rest periods, the employees
8 have not been “relieve[d] ... of all work-related duties and employer control.” *Augustus, supra*, 2
9 Cal.5th at 270. Such a meal or rest period is not “off duty” and therefore is “impermissible.” *Ibid.*

10 94. The Supreme Court’s decision in *Augustus* is just the latest in a series of meal and
11 rest break cases that have affirmed California’s broad, protective standard for employees.¹

12 95. Moreover, as the mere existence of a facially lawful meal and rest break policy is
13 unavailing if there are practical constraints and pressures on employees to perform their duties in
14 ways that omit breaks. See *Brinker, supra*, 53 Cal.4th at 1040.

15 96. Yet Defendant did and does not provide Plaintiff and members of the Class with
16 meal periods during which they are completely relieved of duty for at least thirty (30) minutes by
17 the fifth hour of work and again by the tenth hour of work.

18 97. Rather, Plaintiff and members of the Class’s meal periods were frequently missed
19 due to a lack of coverage, yet Defendant auto-deducted a meal period, whether or not it was taken.
20 Further, Defendant failed to provide second 30-minute meal periods on days worked in excess of
21 ten (10) hours in one day.

22 98. Thus, Defendant has failed to perform its obligations to provide Plaintiff and the
23 members of the Plaintiff Class with off-duty meal periods by the end of the fifth hour of work and
24

25 ¹ See, e.g., *Brinker Rest. Corp. v. Superior Court* (2012) 53 Cal.4th 1004; *Lubin v.*
26 *Wackenhut Corp.* (2016) 5 Cal.App.5th 926 , reh’g. denied (Dec. 14, 2016); *Faulkinbury v. Boyd &*
27 *Assocs., Inc.* (2013) 216 Cal.App.4th 220; *Berlanga v. Equilon Enterprises LLC* (N.D.Cal., Aug.
28 31, 2017, No. 17-CV-00282-MMC) 2017 WL 3782245 at *3 (a policy requiring employees to
“remain in contact with supervisors and other employees working in their units throughout their
shifts... would appear to be unlawful under [*Augustus.*]”)

1 a second meal period by the end of the tenth hour of work. Defendant has also failed to pay
2 Plaintiff and the members of the Plaintiff Class one (1) hour of pay at the regular rate for each off-
3 duty meal period that they have been denied.

4 99. On July 15, 2021, the California Supreme Court issued a decision in *Ferra v. Loews*
5 *Hollywood Hotel, LLC* (2021) 11 Cal.5th 858 where the court unanimously held that employers
6 must pay premium payments to employees for missed meal, rest, and recovery breaks at the
7 employee's "regular rate of pay" instead of their base hourly rate.

8 100. Defendant knew or should have known that as a result of its policies and/or
9 practices, that Plaintiff and members of the Class were not actually relieved of all duties to take
10 timely, uninterrupted meal periods. Defendant further knew or should have known that it did not
11 pay Plaintiff and members of the Class all meal period premiums when meal periods were missed,
12 late, short, and/or interrupted. Furthermore, Defendant has engaged in a company-wide practice
13 and/or policy of not paying meal period premiums owed when compliant meal periods are not
14 provided. Because of this practice and/or policy, Plaintiff and members of the Class have not
15 received all premium pay for missed, interrupted, or late meal periods. Accordingly, Defendant
16 failed to provide all meal periods in violation of Labor Code sections 226.7, 512(a), 516, and 1198.

17 101. Plaintiff and members of the Class are entitled to civil penalties, attorney's fees,
18 costs, and interest thereon.

19 **FOURTH CAUSE OF ACTION**

20 **Non-Compliant Rest Breaks**

21 **(By Plaintiff and Members of the Putative Class Against Defendant)**

22 102. Plaintiff hereby incorporates by reference each and every one of the allegations
23 contained in the preceding paragraphs as if the same were fully set forth herein.

24 103. Labor Code sections 226.7, 516, and 1198, and the applicable IWC wage order
25 require employers to provide rest periods and to pay an employee one (1) additional hour of pay at
26 the employee's regular rate for each work day that a meal or rest period is not provided. Labor
27 Code section 226.7 provides that no employer shall require an employee to work during any rest
28 period mandated by an applicable order of the IWC. The applicable IWC wage order provides that

1 “[e]very employer shall authorize and permit all employees to take rest periods, which insofar as
2 practicable shall be in the middle of each work period” and that the “rest period time shall be based
3 on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or
4 major fraction thereof” unless the total daily work time is less than three and one-half (3 ½) hours.

5 104. Plaintiff is informed and believes, and thereon allege, that Plaintiff and Class
6 Members were entitled to a paid rest period of not less than ten (10) minutes without duty for each
7 and every four (4) hours or major fraction thereof worked during the workday.

8 105. Nevertheless, Plaintiff is informed and believes, and thereon alleges, that Defendant
9 routinely failed to provide Plaintiff and the members of the Class with such paid rest periods
10 without duty, notwithstanding the fact that Plaintiff and the members of the Class had not waived
11 their right to the same. Thus, Defendant failed to provide Plaintiff and Class Members with rest
12 periods required by Labor Code sections 226.7, 512, and 516, the applicable IWC wage order
13 section 11 and categorically failed to pay any and all rest period wages due.

14 106. Plaintiff alleges that he and members of the Class were never provided with rest
15 periods as they are not permitted to leave their post unattended.

16 107. Plaintiff and Class Members seek damages pursuant to Labor section 226.7(b) and
17 the applicable IWC wage order section 11(D), in the amount of one additional hour of pay at the
18 regular rate for each workday that the rest period is/was not provided or provided late to Plaintiff
19 and any member of the Class, the cumulative sum of which is to be determined at trial.

20 108. Therefore, Plaintiff and members of the Plaintiff Class are entitled to compensation
21 for Defendant’s failure to provide rest periods, plus interest, attorneys’ fees, expenses, and costs of
22 suit pursuant to Labor Code section 226.7(b) and the applicable wage order.

23 **FIFTH CAUSE OF ACTION**

24 **Failure to Provide Suitable Facilities for Meal and Rest Breaks**

25 **(By Plaintiff and Members of the Putative Class Against Defendant)**

26 109. Plaintiff hereby incorporates by reference each and every one of the allegations
27 contained in the preceding paragraphs as if the same were fully set forth herein.

28 110. Labor Code section 226.7(c) provides:

1 “If an employer fails to provide an employee a meal or rest or recovery period
2 in accordance with a state law, including, but not limited to, an applicable
3 statute or applicable regulation, standard, or order of the Industrial Welfare
4 Commission, the Occupational Safety and Health Standards Board, or the
5 Division of Occupational Safety and Health, the employer shall pay the
6 employee one additional hour of pay at the employee's regular rate of
7 compensation for each workday that the meal or rest or recovery period is not
8 provided.”

9 111. The applicable IWC Wage Order, sections 11(D) and (E) provide:

10 “(D) If an employer fails to provide an employee a meal period in accordance
11 with the applicable provisions of this order, the employer shall pay the
12 employee one (1) hour of pay at the employee's regular rate of compensation
13 for each work day that the meal period is not provided.

14 (E) In all places of employment where employees are required to eat on the
15 premises, a suitable place for that purpose shall be designated.”

16 112. The applicable IWC Wage Order section 13(B) provides: “[s]uitable resting
17 facilities shall be provided in an area separate from the toilet rooms and shall be available to
18 employees during work hours.”

19 113. Because Plaintiff and members of the Class did not have a facility in which they
20 could take their meal and rest periods, Defendant violated the Labor Code and the wage order by
21 failing to provide a suitable area in which Plaintiff and members of the Class could eat on premises
22 or take breaks in designated areas. Rather, Plaintiff would take his meal break in his car.

23 114. Defendant is therefore liable for one hour of pay as compensation in lieu of a
24 complaint break for each day that a non-compliant meal or rest period was taken outside of a
25 suitable on-premises area designated for the purpose of eating meals.

26 115. Plaintiff will seek sums to account for the unpaid premiums owed to him and the
27 members of the Class in an amount according to proof.

28 ///

1 **SIXTH CAUSE OF ACTION**

2 **Failure to Furnish Accurate Itemized Wage Statements**

3 **(By Plaintiff and Members of the Putative Class Against Defendant)**

4 116. Plaintiff hereby incorporates by reference each and every one of the allegations
5 contained in the preceding paragraphs as if the same were fully set forth herein.

6 117. Labor Code section 226(a) and the applicable IWC wage order section 6(B) requires
7 employers to furnish each employee with a statement itemizing, among other things, the total hours
8 worked by the employee, on a semi-monthly basis or at the time of each payment of wages.

9 118. Labor Code section 226(e) provides that if an employer fails to comply with
10 providing an employee with properly itemized wage statements as set forth in section 226(a), then
11 the employee is entitled to recover the greater of all actual damages or \$50 for the initial pay period
12 in which a violation occurs and \$100 per employee for each violation in a subsequent pay period,
13 not to exceed \$4,000. Further, Labor Code section 226.3 provides that any employer who violates
14 section 226(a) shall be subject to a civil penalty in the amount of \$250 per employee per violation
15 in an initial citation and \$1,000 per employee for each violation in a subsequent citation, for which
16 the employer fails to provide the employee a wage statement or fails to keep the required records
17 pursuant to section 226(a).

18 119. Defendant knowingly and intentionally failed to furnish Plaintiff and the members
19 of the Class with timely, itemized statements in compliance with Labor Code section 226(a) and
20 the applicable IWC Wage order section 6(B).

21 120. Plaintiff is informed and believes, and thereon alleges, that Defendant knowingly
22 and intentionally failed to furnish Plaintiff and members of the Class with timely, itemized
23 statements showing (a) total hours, (b) gross wages earned, (c) all deductions, and/or (d) all
24 applicable hourly rates in effect during each respective pay period and the corresponding number
25 of hours worked at each hourly rate by each respective individual.

26 121. Plaintiff is informed and believes, and thereon alleges, that Defendant did not
27 maintain accurate business records pertaining to the total hours worked for Defendant by Plaintiff
28 and the members of the Class as required under Labor Code section 1174.5. This is a result of

1 missing hours worked, and missed meal and rest-break premiums, as illustrated above.

2 122. As a result of not having kept accurate records, Plaintiff and the Class Members
3 suffered injuries in the form of confusion over whether they received all wages owed to them, and
4 difficulty and expense in reconstructing pay records in addition to other injuries which may come
5 to light during the discovery process.

6 123. Labor Code section 1198 provides that the maximum hours of work and the
7 standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the
8 applicable IWC wage order. Section 1198 further provides that “[t]he employment of any
9 employees for longer hours than those fixed by the order or under conditions of labor prohibited by
10 the order is unlawful.” Pursuant to the applicable IWC Wage order, employers are required to keep
11 accurate time records showing when the employee begins and ends each work period and meal
12 period.

13 124. During the relevant time period, Defendant failed, on a company-wide basis, to keep
14 accurate records of work and meal period start and stop times for Plaintiff and members of the
15 Class, in violation of Labor Code section 1198. Also, as stated, Defendant engaged in a company-
16 wide practice and/or policy of falsifying Plaintiff’s and members of the Class’s time records by
17 recording that compliant meal periods were taken regardless of if or when meal periods were
18 actually taken, and thereby failed to keep accurate records of meal start and end times for Plaintiff
19 and members of the Class. Furthermore, in light of Defendant’s failure to provide Plaintiff and
20 members of the Class with second 30-minute meal periods to which they were entitled, Defendant
21 kept no records of meal start and end times for second meal periods.

22 125. Plaintiff and the members of the Class herein seek damages and penalties pursuant
23 to Labor Code section 226(e) for Defendant’s violations of Labor Code section 226(a).

24 126. Plaintiff and Class Members also seek preliminary and permanent injunctive relief
25 and an award of reasonable attorneys’ fees and costs pursuant to Labor Code section 226(h).

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27 ///

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1 **SEVENTH CAUSE OF ACTION**

2 **Failure to Timely Pay Wages During Employment**

3 **(By Plaintiff and Members of the Putative Class Against Defendant)**

4 127. Plaintiff hereby incorporates by reference each and every one of the allegations
5 contained in the preceding paragraphs as if the same were fully set forth herein.

6 128. Labor Code section 204 requires that all wages earned by any person in any
7 employment between the 1st and the 15th days, inclusive, of any calendar month, other than those
8 wages due upon termination of an employee, are due and payable between the 16th and the 26th
9 day of the month during which the labor was performed, and that all wages earned by any person in
10 any employment between the 16th and the last day, inclusive, of any calendar month, other than
11 those wages due upon termination of an employee, are due and payable between the 1st and the
12 10th day of the following month.

13 129. Labor Code section 204 also requires that all wages earned for labor in excess of the
14 normal work period shall be paid no later than the payday for the next regular payroll period.
15 Alternatively, Labor Code section 204 provides that the requirements of this section are deemed
16 satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are
17 paid not more than seven (7) calendar days following the close of the payroll period.

18 130. During the class period, Defendant willfully failed to pay Plaintiff and members of
19 the Class all wages due including, but not limited to, all wages and/or meal and rest period
20 premiums, within the time periods specified by Labor Code section 204. Further, Defendant issues
21 direct deposits on the seventh day, but depending on when the payroll is actually processed the
22 balance will not show in Plaintiff's and other non-exempt employees' account until the next day.

23 131. As a proximate result of the above-mentioned violations. Plaintiff and the Plaintiff
24 Class have been damaged in an amount according to proof at time of trial.

25 **EIGHTH CAUSE OF ACTION**

26 **Failure to Provide Fresh Drinking Water**

27 **(By Plaintiff and Members of the Putative Class Against Defendant)**

28 132. Plaintiff re-alleges and incorporates by reference all prior paragraphs as though fully

1 set forth herein.

2 133. Plaintiff alleges that Defendant has failed to comply with Labor Code section 2441.

3 134. Defendant has failed to provide fresh and pure drinking water to his or her
4 employees during working hours. Access to water shall be permitted at reasonable and convenient
5 times and places. Yet, Defendant fails to provide any drinking water. Rather, Plaintiff and members
6 of the class are required to bring their own drinking water.

7 135. Any violation of this section is punishable for each offense by a fine of not less than
8 fifty dollars, nor more than two hundred dollars, or by imprisonment for not more than 30 days, or
9 by both the fine and imprisonment.

10 **NINTH CAUSE OF ACTION**

11 **Failure to Reimburse Business Expenses**

12 **(By Plaintiff and Members of the Putative Class Against Defendant)**

13 136. Plaintiff re-alleges and incorporates all preceding paragraphs as though fully set
14 forth herein.

15 137. Labor Code section 2802 requires employers to pay for all necessary expenditures
16 and losses incurred by the employee in the performance of his or her job. The purpose of Labor
17 Code section 2802 is to prevent employers from passing off their cost of doing business and
18 operating expenses on to their employees. *Cochran v. Schwan's Home Service, Inc.* (2014) 228
19 Cal.App.4th 1137, 1144.

20 138. The applicable IWC wage order provides that: “[w]hen tools or equipment are
21 required by the employer or are necessary to the performance of a job, such tools and equipment
22 shall be provided and maintained by the employer, except that an employee whose wages are at
23 least two (2) times the minimum wage provided herein may be required to provide and maintain
24 hand tools and equipment customarily required by the trade or craft.”

25 139. During the Class Period Defendant had a company-wide policy requiring Plaintiff
26 and members of the Class to frequently launder their uniforms. This was a result of Defendant
27 requiring Plaintiff and members of the Class to wear their uniforms during each shift. As a result,
28 Plaintiff and members of the Class needed to frequently wash and iron their uniforms. Defendant

1 failed to reimburse them for this cost. Defendant could have provided Plaintiff and members of the
2 Class with a laundry allowance, but instead, Defendant passed these operating costs off onto
3 Plaintiff and members of the Class.

4 140. Thus, Defendant had, and continues to have, a company-wide policy and/or practice
5 of not reimbursing employees for expenses necessarily incurred in violation of Labor Code section
6 2802.

7 141. Plaintiff and members of the Class are entitled to recover civil penalties, attorney's
8 fees, costs, and interest thereon.

9 **TENTH CAUSE OF ACTION**

10 **Violation of California**

11 **Business and Professions Code Section 17200 et seq.**

12 **(By Plaintiff and the Members of the Plaintiff Class Against Defendant)**

13 142. Plaintiff re-alleges and incorporates all preceding paragraphs as though fully set
14 forth herein.

15 143. Business and Professions Code section 17200 defines unfair competition to include,
16 "unlawful, unfair or fraudulent business practices."

17 144. Plaintiff and all proposed Class Members are "persons within the meaning of
18 Business and Professions Code section 17204, who have suffered injury in fact and have lost
19 money or property as a result of Defendant's unfair competition.

20 145. Defendant has been committing, and continues to commit, acts of unfair
21 competition by engaging in the unlawful, unfair and fraudulent business practices and acts
22 described in this Complaint, including, but not limited to:

- 23 a) violations of Labor Code sections 510, 1198;
24 b) violations of Labor Code sections 1182.11-1182.12, 1194, 1194.2, 1197, 1198;
25 c) violations of Labor Code sections 226.7, 512, 516, and 1198;
26 d) violations of Labor Code sections 226, 1174;
27 e) violations of Labor Code section 223;
28 f) violations of Labor Code section 1198;

- g) violations of Labor Code section 2802;
- h) violations of Labor Code section 204;
- i) violations of Labor Code sections 2441.

146. As a result of its unlawful, unfair, and/or fraudulent business acts and practices, Defendant has reaped and continues to reap unfair benefits and illegal profits at the expense of Plaintiff and proposed Class Members. Defendant's unlawful, unfair, and/or fraudulent conduct has also enabled Defendant to gain an unfair competitive advantage over law-abiding employers and competitors.

147. Business and Professions Code section 17203 provides that the Court may restore to an aggrieved party any money or property acquired by means of the unlawful, unfair, and/or fraudulent business acts or practices.

148. Plaintiff seeks a court order enjoining Defendant from the unlawful, unfair, and/or fraudulent activity alleged herein.

149. Pursuant to Civil Code section 3287(a), Plaintiff and other members of the Plaintiff Class are entitled to recover pre-judgment interest on wages earned, but not paid.

150. Plaintiff further seeks an order requiring an audit and accounting of the payroll records to determine the amount of restitution of all unpaid wages owed to himself and members of the proposed Plaintiff Class, according to proof, as well as a determination of the amount of funds to be paid to current and former employees that can be identified and located pursuant to a court order and supervision.

151. Plaintiff seeks restitution for himself and all others similarly situated of these amounts, including all earned and unpaid wages and attorneys' fees and costs pursuant to Code of Civil Procedure section 1021.5.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, and the Class Members pray for judgment as follows:

1. For an order certifying the proposed Plaintiff Class;
2. For an order that counsel for Plaintiff be appointed class counsel
3. Certification of this class action on behalf of the proposed Plaintiff Class;

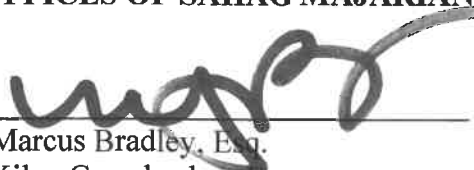
4. Designation of Plaintiff as the class representative of the Plaintiff Class;
5. For restitution of all monies due to Plaintiff and the members of the Plaintiff Class and disgorgement of all profits from the unlawful business practices of Defendant
6. An order appointing Plaintiff's counsel as class counsel;
7. Prejudgment and post judgment interest on all sums awarded;
8. For compensatory damages;
9. For penalties pursuant to Labor Code sections 226, 226.3, 226.7;
10. For interest accrued to date;
11. For costs of suit and expenses incurred herein pursuant to Labor Code sections 226 and 1194;
12. For reasonable attorneys' fees pursuant to Labor Code section 226 and Code of Civil Procedure section 1021.5, and/or other applicable law; and
13. A declaratory judgment that Defendant have knowingly and intentionally violated the following provisions of law;
 - a. Labor Code sections 510, 1198 for failing to pay overtime;
 - b. Labor Code sections 1182.11-1182.12, 1194, 1194.2, 1197, 1198 for failing to pay all wages;
 - c. Labor Code sections 226.7, 512, 516, and 1198 for failing to provide compliant meal and rest breaks;
 - d. Labor Code sections 226.7 for failing to provide suitable facilities for meal and rest breaks;
 - e. Labor Code section 204 for failing to timely pay wages during employment;
 - f. Labor Code sections 226, 1174 for failing to provide compliant wage statements;
 - g. Labor Code section 2441 for failing to provide drinking water;
 - h. Labor Code section 2802 for failing to reimburse business expenses;
 - i. Business & Professions Code sections 17200-08 for violating the

provisions set forth herein above.

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

DATED: April 6, 2023

BRADLEY/GROMBACHER, LLP
LAW OFFICES OF SAHAG MAJARIAN II

By: 

Marcus Bradley, Esq.
Kiley Grombacher, Esq.
Lirit King, Esq.
Sahag Majarian, Esq.

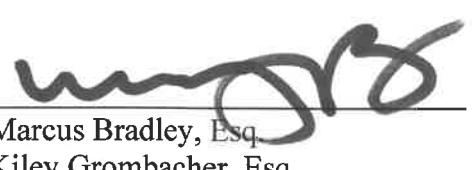
Attorneys for Plaintiff and others similarly
situated

DEMAND FOR JURY TRIAL

Plaintiff hereby demands trial of Plaintiff's and the members of the Class's claims by jury
to the extent authorized by law.

DATED: April 6, 2023

BRADLEY/GROMBACHER, LLP
LAW OFFICES OF SAHAG MAJARIAN II

By: 

Marcus Bradley, Esq.
Kiley Grombacher, Esq.
Lirit King, Esq.
Sahag Majarian, Esq.

Attorneys for Plaintiff and other similarly
situated