

November 12, 2025

VIA ON-LINE SUBMISSION ONLY TO:
(copy by certified mail to all Defendants)

Private Attorneys General Act
Attn. PAGA Administrator
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102

DISCO HI-TEC AMERICA, INC.

Agent for Service of Process

Koji Watanabe

5921 Optical Ct.

San Jose, CA 95138

Certified Mail Tracking Number: 9414 8111 0549 5848 2626 55

DISCO HI-TEC AMERICA

5921 Optical Ct.

San Jose, CA 95138

Certified Mail Tracking Number: 9414 8111 0549 5848 2621 36

DISCO

5921 Optical Ct.

San Jose, CA 95138

Certified Mail Tracking Number: 9414 8111 0549 5848 2623 72

Re: Labor Code § 2698, et seq. Penalties – PAGA Notice Letter to the LWDA
Joseph Ray Llanes v. Disco Hi-Tec America, Inc., et al.
LWDA Case No.:

Gentlepersons:

This office represents Plaintiff Joseph Ray Llanes (“Plaintiff”) and other similarly situated aggrieved non-exempt, hourly employees aggrieved employees (collectively “Aggrieved Employees”) for violations of California Labor Code §§ 201, 202, 203, 204, 210, 218.6, 226, 226.7, 248.1, 248.2, 248.5, 351, 354, 510, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1199, 2810.5, 2698, and 2699, et seq.; provisions of the Industrial Welfare Commission (IWC) Wage Order(s); and California Business & Professions Code § 17200 et seq.

The purpose of this letter is to comply with the Private Attorneys General Act of 2004, pursuant to California Labor Code § 2698 et. seq. (“the Act”). Plaintiff would like to bring a representative action, pursuant to the Act, on behalf of himself and all other similarly situated Aggrieved Employees, and the State of California, against Defendants, DISCO Hi-Tec America ,Inc.; DISCO; DISCO Hi-Tec America; and DOES 1 through 50 inclusive (all defendants being referred to herein collectively as “Defendants”).



Additionally, this correspondence will serve to satisfy the notice requirements under the Act, along with a copy of Plaintiff's Class Action Complaint, which is attached to this Notice letter. The Complaint is being concurrently filed in Santa Clara Superior Court and will be assigned a local case number. The Complaint allegations and claims are incorporated into this Notice Letter.

We also set forth herein the facts and theories and the California Labor Code violations which Defendants engaged in with respect to Plaintiff and all of their Aggrieved Employees in California. The attached Class Action Complaint provides the details of Plaintiff's class-wide claims and claims under the Act, and the applicable California law governing them. It, along with this Notice Letter, addresses in detail numerous violations that subject Defendants to civil and statutory penalties under the Act.

Relevant Facts

The Aggrieved Employees, including Plaintiff, is a nonexempt employee pursuant to the applicable Wage Order of the IWC. Defendants hired Employees and deliberately misclassified them as salaried exempt employees, for a portion of their employment. Defendants employed Employees who work in nonexempt positions at the direction of Defendants in the State of California. Plaintiff and the Aggrieved Employees were either not paid by Defendants for all hours worked or were not paid at the appropriate minimum, regular and overtime rates. Specifically, Plaintiff contends that Defendants, by improperly classifying Aggrieved Employees, during a portion of their employment, as salaried exempt employees, failed to pay Plaintiff and the Aggrieved Employees all wages due and owing, including for off the clock work, made unlawful deductions from their pay, failed to provide meal and rest breaks, and failed to furnish accurate wage statements, all in violation of various provisions of the California Labor Code and applicable Wage Orders, where applicable. Additionally, employees were required to perform their regular job duties before and after clocking in. Plaintiff also contends that Defendants failed to pay Plaintiff, and the Aggrieved Employees all wages due and owing, failed to provide meal and rest breaks, and failed to furnish accurate wage statements, all in violation of various provisions of the California Labor Code and applicable Wage Orders. Additionally, Defendants paid Plaintiffs and Employees shift differentials, nondiscretionary commissions, incentive pay, and/or nondiscretionary bonuses.

However, upon information and belief, Defendants failed to incorporate all remunerations, including shift differentials, nondiscretionary commissions, incentive pay, and/or nondiscretionary bonuses, into the calculation of the regular rate of pay for purposes of calculating the overtime wage rate. Therefore, during times when Plaintiffs and Employees worked overtime and received shift differentials, nondiscretionary commissions, incentive pay, and/or nondiscretionary bonuses, Defendants failed to pay all overtime wages by paying a lower overtime rate than required.

During the course of Plaintiff and the Aggrieved Employees' employment with Defendants, they were not paid all wages they were owed, including for all work performed and for all overtime hours worked and were forced to work during their meal and rest breaks to keep labor budgets



low.

As a matter of Company culture, Plaintiff and the Aggrieved Employees were required to work during their meal breaks which were not compensated by Defendants in violation of the California Labor Code. Plaintiff and the Aggrieved Employees were also not paid regular wages and overtime for the time they were required to comply with other requirements imposed upon them, which they had to complete while working through their meal breaks and without compensation. As a result Plaintiff and the Aggrieved Employees worked shifts over eight (8) hours in a day and over forty (40) hours in a work week, but they were not paid at the appropriate overtime rate for all such hours, including by being required to perform work duties and tasks without pay and while off-the-clock which caused overtime to begin accruing before it did in Defendants' timekeeping and payroll systems. As a result, Plaintiff and the Aggrieved Employees worked substantial overtime hours during their employment with Defendants for which they were not compensated, in violation of the California Labor Code, applicable IWC Wage Orders.

As a result of the above described daily work demands and pressures to work through breaks, and the other wage violations they endured at Defendants' hands, Plaintiff and the Aggrieved Employees were not properly paid for all wages earned and for all wages owed to them by Defendants, including when working more than eight (8) hours in any given day and/or more than forty (40) hours in any given week. As a result of Defendants' unlawful policies and practices, Plaintiff and Aggrieved Employees incurred overtime hours worked for which they were not adequately and completely compensated. To the extent applicable, Defendants also failed to pay Plaintiff and the Aggrieved Employees at an overtime rate of 1.5 times the regular rate for the first eight hours of the seventh consecutive work day in a week and overtime payments at the rate of 2 times the regular rate for hours worked over eight (8) on the seventh consecutive work day, as required under the Labor Code, applicable IWC Wage Orders.

Additionally, Defendants paid Plaintiffs and Employees nondiscretionary commissions, incentive pay, shift differentials, and/or nondiscretionary bonuses. However, upon information and belief, Defendants failed to incorporate all remunerations, including nondiscretionary commissions, incentive pay, shift differentials, and/or nondiscretionary bonuses, into the calculation of the regular rate of pay for purposes of calculating the overtime wage rate. Therefore, during times when Plaintiffs and Employees worked overtime and received nondiscretionary commissions, incentive pay, shift differentials, and/or nondiscretionary bonuses, Defendants failed to pay all overtime wages by paying a lower overtime rate than required.

Therefore, from at least four (4) years prior to the filing of this lawsuit and continuing to the present, Defendants had a consistent policy or practice of failing to pay Employees for all hours worked, and failing to pay minimum wage for all time worked as required by California Law.

Additionally from at least four (4) years prior to the filing of this lawsuit and continuing to the present, Defendants had a consistent policy or practice of failing to pay Employees overtime compensation at premium overtime rates for all hours worked in excess of eight (8) hours a day



and/or forty (40) hours a week, and double-time rates for all hours worked in excess of twelve (12) hours a day, in violation of Labor Code § 510 and the corresponding sections of IWC Wage Orders.

Defendants have consistently failed to provide Employees with paid rest breaks of not less than ten (10) minutes for every work period of four (4) or more consecutive hours; nor did Defendant pay Employees premium pay for each day on which requisite rest breaks were not provided or were deficiently provided at one hour of wages at each Employee's effective regular rate of pay, for each rest period that Defendants failed to provide or deficiently provided.

From at least four (4) years prior to the filing of this lawsuit and continuing to the present, Defendants paid Plaintiff and Employees shift differentials, nondiscretionary commissions, incentive pay, and/or nondiscretionary bonuses. However, upon information and belief, Defendants failed to incorporate all remunerations, including shift differentials, nondiscretionary commissions, incentive pay, and/or nondiscretionary bonuses, into the calculation of the regular rate of pay for purposes of calculating vacation pay. Therefore, during times when Plaintiff and Employees worked overtime and received shift differentials, nondiscretionary commissions, incentive pay, and/or nondiscretionary bonuses, Defendants failed to pay all vacation pay by paying a lower overtime rate than required.

Defendants have consistently failed to provide Employees with timely, accurate, and itemized wage statements as required by California wage-and-hour laws. Specifically, the wage statements given to Employees by Defendants failed to accurately account for wages, overtime, and premium pay for deficient meal periods and rest breaks, all of which Defendants knew or reasonably should have known were owed to Employees, as alleged hereinabove. The wage statements provided to Employees were confusing and required Employees to engage in discovery and refer to outside sources to verify whether their pay was correct and potentially resulting in a miscalculation by the Employees.

Defendants have consistently failed to provide Employees with timely, accurate, and itemized wage statements, in writing, as required by California wage-and-hour laws.

Defendants have consistently failed to keep accurate time and wage records as required by California wage-and-hour laws.

Defendants have had a consistent policy of failing to pay all wages due and owed to Employees at the time of their termination or within seventy-two (72) hours of their resignation, as required by California wage-and-hour laws.

From at least four (4) years prior to the filing of this lawsuit and continuing to the present, Defendants have failed to reimburse Employees for expenses necessarily incurred in the performance of their job duties for Defendants including, but not limited to the purchase of a mobile telephone and internet usage and other costs associated with using a personal cell phone for work purposes; the cost of mileage for driving deliveries to postal centers; and office supplies,



which were necessary to perform their duties under Defendants' employ which was used throughout the course of Employees' duties under Defendants' employ in violation of Labor Code § 2802.

PAGA Claim Details, Legal Bases for Violations and Penalties:

As addressed above and in further detail in the attached Class Action Complaint, Plaintiff and the Aggrieved Employees complain of the following violations committed by Defendants:

Failure to Pay Minimum Wages

Defendants failed to pay Employees minimum wages for all hours worked. Defendants purposely misclassified Plaintiff and Class Members, in violation of Labor Code § 515, as salaried exempt employees, during a portion of their employment, to avoid paying minimum wages and overtime. Defendants violated the law by failing to pay Aggrieved Employees minimum wages for all hours worked. California Labor Code § 1197, entitled "Pay of Less Than Minimum Wage" states, "[t]he minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a less wage than the minimum so fixed is unlawful." The applicable minimum wages fixed by the commission for work during the relevant period is found in the Wage Orders.

In California, employees must be paid at least the then applicable state minimum wage for all hours worked, including under Labor Code § 1197, IWC Wage Order MW-2014, and paragraphs 2(K), 2(S), and 4(A)-4(C) of the applicable IWC Wage Orders. Paragraph 2(H) of the applicable IWC Wage Orders defines "Hours Worked" as "the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so." Additionally, pursuant to Labor Code § 204, other applicable laws and regulations, and public policy, an employer must timely pay its employees for all hours worked. Defendants failed to do so.

California Labor Code § 1197, entitled "Pay of Less Than Minimum Wage" states: "The minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a less wage than the minimum so fixed is unlawful." The minimum wage provisions of California Labor Code are enforceable by private civil action pursuant to Labor Code § 1194(a) which states: "Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees and costs of suit."

As described in California Labor Code §§ 1185 and 1194.2, any action for wages incorporates the applicable Wage Order of the California Industrial Welfare Commission. Also, California Labor Code §§ 1194, 1197, 1197.1 and those Industrial Welfare Commission Wage Orders entitle non-exempt employees to an amount equal to or greater than the minimum wage for all hours worked. All hours must be paid at the statutory or agreed rate, or at the minimum rate in the



absence of a contractually agreed upon one. The underpayment of wages to Aggrieved Employees is and has been a direct consequence of Defendants' unlawful compensation policies and practices, which applied uniformly to the Aggrieved Employees working at locations and work sites throughout California.

During the course of Aggrieved Employees' employment with Defendants, they were not paid all wages they were owed, including for all work performed resulting in off the clock work. Defendants had a common policy and practice of misstating Employees time records and failing to pay Employees for all hours worked. Employees would work hours and not receive wages, including as alleged above in connection with working during meal periods, and time off the clock Employees without compensation.

Employees were required to perform their regular job duties before and after clocking in. Furthermore, the uncompensated time included the time Employees worked off-the-clock during meal periods as a result of Defendants' high demand from customers. Additionally, Defendants had a consistent policy of failing to pay Employees for hours worked during alleged meal and rest periods for which Employees were consistently denied, as also addressed herein. During the relevant time period, Defendants did not pay Plaintiff and Employees at the applicable minimum wage for all hours worked. Defendants' uniform pattern of unlawful wage and hour practices manifested, without limitation, applicable to the Aggrieved Employees as a whole, as a result of implementing a uniform policy and practice that denied accurate compensation to Plaintiff and the other Aggrieved Employees as to minimum wage pay.

Plaintiff and Aggrieved Employees were required to endure bag checks after they clocked out after the end of their shifts. Moreover, all employees were required to remain on then premises and under the control of the Defendants until all employees in a given facility completed their work, even after employees had clocked out. Additionally, Plaintiff, and upon information and belief, Aggrieved Employees were required to complete over 12 hours of training while off the clock and were not paid for these hours worked. This work occurred off the clock and the Plaintiff and Aggrieved Employees are entitled to be paid overtime for these unpaid hours.

In light of the forgoing, the Aggrieved Employees seek to recover wages and penalties. Aggrieved Employees are entitled to recover the unpaid minimum wages (including double minimum wages), liquidated damages in an amount equal to the minimum wages unlawfully unpaid, interest thereon and reasonable attorney's fees and costs of suit pursuant to California Labor Code § 1194(a). Plaintiff and the other Aggrieved Employees further request recovery of all unpaid wages, according to proof, interest, statutory costs, as well as the assessment of any statutory and civil penalties against Defendants, in a sum as provided by the California Labor Code and/or other applicable statutes, including pursuant to Labor Code § 558, and Wage Order provisions. To the extent minimum wage compensation is determined to be owed to the Aggrieved Employees who have terminated their employment, Defendants' conduct also violates Labor Code §§ 201 and/or 202, and therefore these individuals are also be entitled to waiting time penalties under California Labor Code § 203, which penalties are sought herein on behalf of



these Aggrieved Employees. Defendants' failure to timely pay all wages owed also violated Labor Code § 204 and resulted in violations of Labor Code § 226 because they resulted in the issuance of inaccurate wage statements. Defendants' conduct as alleged herein was willful, intentional and not in good faith. Further, Plaintiff and other Aggrieved Employees are entitled to seek and recover statutory costs.

Under the PAGA, and following exhaustion of the notice period, Plaintiff is seeking all civil and statutory penalties available and applicable under Labor Code §§ 510, 558, 1194.2, 1197.1, 1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Failure to Pay Wages and Overtime in Violation of Labor Code § 510

Defendants violated the law by failing to pay Aggrieved Employees earned wages and overtime and double time. Specifically, Defendants had a consistent policy of not paying Employees wages for all hours worked, including hours at their required regular, overtime, and double-time rates, or of miscalculating them by not including all forms of remuneration in the regular rate of compensation. Defendants, and each of them, have intentionally and improperly changed, adjusted and/or modified certain employees' hours, including Plaintiff's, or required Aggrieved Employees to do so, or otherwise caused them to work off the clock to avoid paying Aggrieved Employees all earned and owed straight time and overtime wages and other benefits.

Defendants had a common policy and practice of requiring Plaintiff and Employees to perform work, off the clock for which they were not paid wages. Additionally, Employees were required to perform their regular job duties before and after clocking in on occasion. Furthermore, the uncompensated time included the time Employees worked off-the-clock during meal periods as a result of Defendants' high demand from clients. All the forgoing work was performed by Employees and under the direction and control of Defendants, for which no wages were paid.

Additionally, Defendants purposely misclassified Plaintiff and Aggrieved Employees, in violation of Labor Code § 515, as salaried exempt employees, during a portion of their employment, to avoid paying minimum wages and overtime.

Defendants had a common policy and practice of requiring Plaintiff and Employees to perform work, off the clock for which they were not paid wages. Plaintiff and Aggrieved Employees were required to endure bag checks after they clocked out after the end of their shifts. Moreover, all employees were required to remain on then premises and under the control of the Defendants until all employees in a given facility completed their work, even after employees had clocked out. Additionally, Plaintiff, and upon information and belief, Aggrieved Employees were required to complete over 12 hours of training while off the clock and were not paid for these hours worked.

The forgoing uncompensated work caused Plaintiff and Employees to work in excess of eight (8), ten (10), and twelve (12) hours a day, and/or forty (40) hours a week, entitling them to overtime and double-time wages which were systemically denied.



Defendants have violated Labor Code § 1194 and Labor Code § 510 (and paragraphs 2(K), 2(S), 3(A) and 4(A)-4(B) of the relevant orders of the Industrial Welfare Commission) by failing to pay Employees: (a) time and one-half their regular hourly rates for hours worked in excess of eight hours in a workday or in excess of forty hours in any workweek or for the first eight hours worked on the seventh day of work in any one workweek; or (b) twice their regular rate of pay for hours worked in excess of twelve hours in any one day or for hours worked in excess of eight hours on any seventh day of work in a workweek. Defendants had a consistent policy of not paying Employees wages for all hours worked, including by requiring off the clock work as addressed above and by under-reporting actual hours worked. With work shifts generally requiring eight hours or more of work on a given day, this unpaid off the clock work resulted in Aggrieved Employees working past eight hours on a shift or more than forty hours in a week, which required that they be paid at the correct overtime rate of 1.5 times their regular rate.

When considered in combination with the other wage violations addressed above, Aggrieved Employees were not properly compensated, nor were they paid overtime and double time rates for hours worked in excess of eight hours or twelve hours in a given day, and/or forty hours in a given week. Defendants did not make available to Employees a reasonable protocol for correcting time records when Employees worked overtime hours or to fix incorrect time entries or those that Defendants unlawfully under-recorded to the Employee's detriment. Defendants have also violated these provisions by requiring Plaintiff and other similarly situated Aggrieved Employees to work through meal periods when they were required to be clocked out or to otherwise work off the clock to complete their daily job duties.

In light of the forgoing, Aggrieved Employees seek to recover wages and penalties pursuant to the California Labor Code, including Labor Code §§ 204, 510, 558, 1174, 1194, 1198, 1199, and the relevant paragraphs of the IWC Wage Orders, including paragraphs 2(K), 2(S), 3(A), 4, and 20. Defendants are liable to Employees for the full amount of all their unpaid wages and overtime compensation, with interest, plus their reasonable attorneys' fees and costs, as well as the assessment of any statutory penalties against Defendants, and each of them, and any additional sums as provided by the Labor Code and/or other statutes and Wage Order provisions.

Under the PAGA, and following exhaustion of the notice period, Plaintiff is seeking all civil and statutory penalties available and applicable under Labor Code §§ 510, 558, 1194.2, 1197.1, 1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Meal-Period Liability Under Labor Code §§ 226.7 and 512 and Penalties

Defendants have regularly required Aggrieved Employees to work shifts in excess of five hours without providing them with uninterrupted meal periods of not less than thirty minutes as required under Labor Code §§ 226.7, 512, and paragraph 11 of the applicable Wage Orders. Specifically, Aggrieved Employees were forced to incur shortened meal periods, were provided with breaks late and well after the fifth hour of work, could not be relieved to take breaks, or



were required to remain on-duty at all times and were unable to take off-duty breaks or were otherwise not provided with the opportunity to take required breaks.

On the occasions when Aggrieved Employees were provided with a meal period, it was often untimely or interrupted by having to respond to work demands or remain under Defendant's control, in violation of the Labor Code and applicable Wage Orders. On shifts over ten hours, second meal periods were not provided. Defendants also failed to pay Aggrieved Employees "premium pay," i.e. one hour of wages at each Aggrieved Employee's effective regular rate of pay, for each meal period that Defendants failed to provide or deficiently provided, including by miscalculating any premium payments they did make. Therefore, pursuant to Labor Code § 226.7 and paragraphs 11 and 20 of the applicable IWC Wage Order, Aggrieved Employees are entitled to damages in an amount equal to one hour of wages at their correctly calculated regular rate of compensation for each meal period not provided or deficiently provided, as well as the assessment of any statutory penalties against the Defendants, and each of them, in a sum as provided by the Labor Code, including Labor Code § 558 and other applicable statutes and Wage Order provisions. Defendants also miscalculated the rate at which they paid any meal period or rest period premiums when Defendant did attempt to pay them, resulting in further violations of section 226.7.

Additionally, Defendants purposely misclassified Plaintiff and Aggrieved Employees, in violation of Labor Code § 515, as salaried exempt employees, during a portion of their employment, to avoid providing meal and rest periods and the premium penalties incurred therein.

Under the PAGA, and following exhaustion of the notice period, Plaintiff is seeking all civil and statutory penalties and wages as available and applicable under Labor Code §§ 226.7, 512, 558, including sections 558(a)(1)-(3), 1199, 2699(f)(2) and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Rest-Break Liability Under Labor Code § 226.7 and Penalties

Defendants have consistently failed to provide Aggrieved Employees with paid rest breaks of not less than ten minutes for every work period of four or more consecutive hours, as required under Labor Code § 226.7. Specifically, Defendants provided rest periods untimely or for shortened durations, and Defendants' policies and procedures required Aggrieved Employees to remain under Defendants' control during breaks to respond to job requirements.

Defendants also failed to pay Aggrieved Employees premium pay for each day on which requisite rest breaks were not provided or were deficiently provided, or miscalculated any premiums paid. Therefore, pursuant to Labor Code § 226.7 and paragraphs 12 and 20 of the applicable IWC Wage Order, Aggrieved Employees are entitled to damages in an amount equal to one hour of wages at their correctly calculated regular rate of compensation for each rest period not provided or deficiently provided, as well as the assessment of any statutory penalties against the Defendants, and each of them, in a sum as provided by the Labor Code, including Labor Code § 558 and other applicable statutes and Wage Order provisions.



Additionally, Defendants purposely misclassified Plaintiff and Aggrieved Employees, in violation of Labor Code § 515, as salaried exempt employees, during a portion of their employment, to avoid providing meal and rest periods and the premium penalties incurred therein.

Under the PAGA, and following exhaustion of the notice period, Plaintiff is seeking all civil and statutory penalties and wages as available and applicable under Labor Code §§ 226.7, 512, 558, including sections 558(a)(1)-(3), 1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Failure to Pay Vacation Wages in Violation of Labor Code § 227.3

Cal. Labor Code § 227.3 requires that employers who provide employees with vacation time must pay employees for all unused vacation at the time of termination of employment. Defendants violated Cal. Labor Code § 227.3 by failing to pay Plaintiff and Aggrieved Employees the vacation time due and owing to them at the time of termination of their employment. Under the PAGA, and following exhaustion of the notice period, Plaintiff is seeking all civil and statutory penalties available and applicable under Labor Code §§ 203, 558, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Failure to Issue Accurate and Itemized Wage Statements in Violation of Labor Code § 226

California Labor Code § 226(a) requires an employer to furnish each employee with an accurate, itemized wage statements in writing. These statements must be appended to the detachable part of the check, draft, voucher, or whatever else serves to pay the employee's wages; or, if wages are paid by cash or personal check, these statements may be given to the employee separately from the payment of wages; in either case the employer must give the employee these statements twice a month or each time wages are paid. As a direct and proximate cause of Defendants' violation of Labor Code § 226(a), Aggrieved Employees suffered injuries, including among other things confusion over whether they received all wages owed them, the difficulty and expense involved in reconstructing pay records, and forcing them to make mathematical computations to analyze whether the wages paid in fact compensated them correctly for all hours worked. Specifically, by example, Defendants failed to list employee rates and hours for "Wages in Lieu of Notice-Reg" listed on the wage statements.

Defendants failed to provide accurate itemized wage statements in writing, as required by the Labor Code and paragraph 7 of the applicable IWC Wage Orders. Any wage statements given to Employees by Defendants necessarily failed to accurately account for wages, overtime, and premium pay, including by failing to pay for all hours worked, failure to pay for all overtime hours worked or at the correct rate of pay and for providing deficient meal and rest breaks, all of which Defendants knew or reasonably should have known were owed to the Employees, as alleged above.



In light of these violations, and pursuant to Labor Code §§ 226(a) and 226(e) and paragraphs 4(b), 7, and 20 of the applicable IWC Wage Orders, Aggrieved Employees are entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000). They are also entitled to an award of costs and reasonable attorneys' fees.

Under the PAGA, and following exhaustion of the notice period, Plaintiff asserts PAGA claims for failure to provide Aggrieved Employees with accurate, itemized wage statements and failure to maintain employment records for Plaintiff and Aggrieved Employees under Labor Code §§ 226, 1174, and 1198.5, and Sections 7(A), 7(B), and 7(C) of the applicable IWC Wage Order(s) seeking all civil and statutory penalties and wages available and applicable under Labor Code §§ 226(e), 226.3, 558, 1174.5, 1199, and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Order, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1). More specifically, by providing inaccurate wage statements and failing to maintain records as required under Labor Code § 226(a), Defendants committed ongoing violations giving rise to civil penalties under Labor Code § 226.3, which in addition to other penalties provided by law, subjects Defendants to "a penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation, ..."

Failure to Issue Semimonthly Payments in Violation of Labor Code § 204

In failing to pay Aggrieved Employees wages, overtime, premium pay, etc., and failing to provide them with checks and wage statements, Defendants failed to timely pay Aggrieved Employees wages on a semimonthly basis as required under Labor Code § 204. Defendants failed to maintain records showing accurate hours worked daily and the wages paid to Aggrieved Employees, as well as the meal and rest periods taken by Aggrieved Employees, as required by Labor Code § 1174 and the applicable IWC wage orders.

Defendants also required Aggrieved Employees to work hours off the clock for which they were not compensated, including during interrupted or otherwise on-duty meal and rest periods. Defendants also failed to pay all overtime premium wages owed for work conducted on a work shift and a workday, or miscalculated these premiums by not including all forms of remuneration in the regular rate, as addressed above. Therefore, when Aggrieved Employees received wage statements and pay checks, they did not compensate all hours worked on a timely basis, resulting in Defendants' systematic failure to pay all wages owed to Aggrieved Employees twice monthly in accordance with the requirements of Labor Code § 204. Additionally, by not providing wage statements as required under section 204, Defendants systematically violated Labor Code § 204 and § 226.

Given the above described off the clock work and deductions from hours worked perpetrated by Defendants' management, Plaintiff was not paid at the correct overtime rate for all hours she worked after eight hours into a shift or over forty in a work week and that she was not paid all double time owed either. Defendants' uniformly applied payroll policies and practices thus



resulted in further systematic and ongoing violations of the requirements of Labor Code § 204.

In light of the foregoing, Plaintiff and Aggrieved Employees seek to recover wages and penalties, interest, fees and costs pursuant to Labor Code §§ 201.3, 210, 218.5, 558, and 1194. In failing to pay Aggrieved Employees minimum wages and overtime, and off the clock work, by not providing proper meal and rest periods, failing to provide accurate itemized wage statements, and failing to pay Employees wages upon termination or timely upon resignation, all discussed above, Defendants failed to timely pay Aggrieved Employees wages on a semimonthly basis as required under Labor Code § 204. Defendants also failed to maintain records showing accurate hours worked daily and the wages paid to Aggrieved Employees, as required by Labor Code § 1174 and paragraph 7 of the applicable IWC Wage Orders, entitling Aggrieved Employees to recover penalties pursuant to paragraph 20 of the applicable IWC Wage Orders.

Under the PAGA, and following exhaustion of the notice period, Plaintiff asserts PAGA claims for failure to timely pay all wages owed, including at least semi-monthly and upon separation or termination, under Labor Code §§ 203, 204, 2926, 2927, and 2699.5 seeking all civil penalties available and applicable under Labor Code §§ 204, 210, 558, 1197, 1198, 1199 and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Orders, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Failure to Keep Records In Accordance With Labor Code § 1174

Labor Code § 1174 requires employers to keep records showing payroll data and the hours worked daily by and the wages paid to employees. By failing to pay Aggrieved Employees proper wages, overtime, double time, premium pay, and by not recording meal period start and end times, all discussed herein, Defendants failed to maintain proper employment records in accordance with Section 1174. In light of the forgoing, Plaintiff and Aggrieved Employees seek to recover penalties pursuant to Labor Code §§ 1174.5 and 2699, *et seq.* Defendants have also failed to comply with paragraph 7 of the applicable California IWC Wage Orders by failing to maintain time records showing when the employee begins and ends each work period, meal period, wages earned pursuant to Labor Code § 226.7, and total daily hours worked by itemizing in wage statements all deductions from payment of wages and accurately reporting total hours worked by the Aggrieved Employees, and they are entitled to recover penalties pursuant to paragraph 20 of the applicable IWC Wage Orders.

Under the PAGA, and following exhaustion of the notice period, Plaintiff asserts PAGA claims for failure to provide Plaintiff and the Aggrieved Employees with accurate, itemized wage statements and failure to maintain employment records for Plaintiff and Aggrieved Employees under Labor Code §§ 226, 1174, 1198, and 1198.5, and Sections 7(A), 7(B), and 7(C) of the applicable IWC Wage Order(s) seeking all civil and statutory penalties and wages available and applicable under Labor Code §§ 558, 1174.5, 1199, and 2699(f)(2), 2699.5, and paragraph 20 of the applicable IWC Wage Order, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Waiting Time Penalties Pursuant to Labor Code § 203



Some Aggrieved Employees no longer work for Defendants; they either resigned or were terminated from Defendants' employ. Based on the forgoing, Defendants have had a consistent policy of failing to pay all wages and tips earned by and owed to Aggrieved Employees at the time of their termination of within seventy-two hours of their resignation, as required by California under Labor Code § 203. In light of the forgoing, Plaintiff and Aggrieved Employees seek to recover wages and penalties pursuant to Labor Code § 558 and further specifically seek penalties and wages under Labor Code § 203, which provides that an employee's wages shall continue until paid for up to thirty (30) days from the date they were due.

Under the PAGA, and following exhaustion of the notice period, Plaintiff asserts PAGA claims for failure to timely pay all wages owed, including at least semi-monthly and upon separation or termination, under Labor Code §§ 201, 201, 203, 204, 1197.5, 2926, and 2927 seeking all civil penalties available and applicable under Labor Code §§ 201, 202, 203, 210, 558, 1197, 1198, 1199, 2699(f)(2), 2699.5, and paragraph 20 of the applicable IWC Wage Orders, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Failure to Reimburse for Necessary Business Expenditures in Violation of Labor Code § 2802

Defendants required Plaintiff and the Aggrieved Employees to pay for necessary work related expenses they incurred. Defendants required Aggrieved Employees to incur necessary expenditures in the performance of their job duties for Defendants, including but not limited to **the** purchase of a mobile telephone and internet usage and other costs associated with using a personal cell phone for work purposes; the cost of mileage for driving deliveries to postal centers; and office supplies, which were necessary to perform their duties under Defendants' employ. However, Defendants failed to reimburse Plaintiff, and upon information and belief the other Aggrieved Employees.

Defendants systematically and uniformly failed to reimburse those lawful and necessary work related expenses or losses incurred in direct discharge of their job duties during employment with Defendants and at the direction of the Defendants pursuant to Labor Code § 2802(a) and the applicable IWC Wage Orders, paragraph 9. Defendants are liable for PAGA penalties resulting from their failure to reimburse necessary business expenses incurred by the Aggrieved Employees. Accordingly, Aggrieved Employees are entitled to recover, and hereby seek through this Representative Action, all civil and statutory penalties authorized for violations of California Labor Code §§ 1198 and 2802, and Section 9(B) of the applicable IWC Wage Orders, and Plaintiff seeks all civil and statutory penalties available and applicable under Labor Code §§ 2802 and 2699(f)(2), and also attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Unfair Competition Under Business and Professions Code § 17200, et seq.

Consequently, Defendants' conduct has been and continues to be unfair, unlawful, and harmful to Plaintiff and Aggrieved Employees and the general public in violation of Business & Professions Code § 17200 et seq.



Plaintiff's PAGA Claim under Labor Code § 2698 et seq. and Recovery Bases:

After complying with the notice procedures of Labor Code § 2699.3 and the running of the notice period after the filing of the attached Class Action Complaint, Plaintiff will file an amended Complaint asserting, as a representative action on behalf of the California Attorney General and the other similarly Aggrieved Employees, a PAGA claim for violations of the above addressed underlying claims and seeking penalties as specified by the applicable corresponding provisions.

Plaintiff and the Aggrieved Employees seek penalties under Labor Code §§ 2698 and 2699 for Defendants' violation of Labor Code provisions included under Labor Code § 2699.5, including the penalty provisions, without limitation, based, *inter alia*, on the following California Labor Code sections: §§ 201, 202, 203, 204, 210, 226, 226.3, 226.7, 246, 248, 510, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1199, 2698, and 2699, *et seq.*, including as follows:

(a) Wage Claims: For failure to provide Plaintiff and the Aggrieved Employees all earned regular pay and minimum wages for regular hours worked and for failure to pay overtime premium wages for overtime hours worked under Labor Code §§ 510, 1194(a), 1197, and 1198, and paragraphs 2(K), 3(A), 4(A), 4(B) and 20 of the applicable IWC Wage Order(s) seeking all civil and statutory penalties available and applicable under Labor Code §§ 510, 558, 1194.2, 1197.1, 1198, 1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1);

(b) Meal and Rest Period Claims: For failure to provide Plaintiff and the Aggrieved Employees off-duty, timely, and unpaid meal periods and failure to authorize and permit them to take off-duty, timely, and paid rest periods, or pay one hour of regular pay in lieu thereof, under Labor Code §§ 512, 1198, and 226.7, and Sections 11, 12(A), and 12(B) of the applicable IWC Wage Order(s) seeking all civil and statutory penalties available and applicable, including under paragraph 20 of the applicable IWC Wage Orders, and wages under Labor Code §§ 226.7, 512, 558, including sections 558(a)(1)-(3), 1199 and 2699(f)(2), and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1);

(c) Inaccurate Wage Statements and Failure to Maintain Records: For failure to provide Plaintiff and the Aggrieved Employees with wage statements or with accurate, itemized wage statements and failure to maintain employment records for Plaintiff and Aggrieved Employees under Labor Code §§ 226, 1174, and 1198.5, and Sections 7(A), 7(B), and 7(C) of the applicable IWC Wage Order(s) seeking all civil and statutory penalties and wages available and applicable under Labor Code §§ 226(e), 226.3, 558, 1174.5, 1199, and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Order, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1). More specifically, by providing inaccurate wage statements and failing to maintain records as required under Labor Code § 226(a), Defendants committed ongoing violations giving rise to civil penalties under Labor Code § 226.3, which in addition to other penalties provided by law, subjects Defendants to "a penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and one thousand dollars (\$1,000)



per employee for each violation in a subsequent citation, ...”;

(d) Failure to Timely Pay Wages: For failure to timely pay all wages owed, including at least semi-monthly and upon separation or termination, under Labor Code §§ 201, 201, 203, 204, 1197.5, 2926, and 2927 seeking all civil penalties available and applicable under Labor Code §§ 201, 202, 203, 210, 558, 1197, 1198, 1199 and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Orders, and also for attorneys’ fees and costs pursuant to Labor Code § 2699(g)(1);

(e) Failure to Reimburse Business Expenses: For Defendants’ failure to reimburse the necessary work related expenses incurred under Labor Code §§ 1197, 1197.1, 1198, and 2802, and Sections 2(K), 4, 9, and 20 of the applicable IWC Wage Order(s), seeking civil penalties available and applicable under Labor Code §§ 1197, 1197.1, 1198, 2802, 2699.5, and 2699(f)(2) and paragraph 9 and 20 of the IWC Wage Orders, and also attorneys’ fees and costs pursuant to Labor Code § 2699(g)(1);

(f) Failure to Provide Paid Sick Days: For Defendants’ failure to provide Employees with all their required and earned sick days in violation of Labor Code §§ 245 *et seq.* and 246 the civil and statutory penalties available and applicable under Labor Code §§ 245 *et seq.* and 246, 1194.2, 1197.1, 1198, 1199, 2699.3(b), and 2699(f)(2), and also for attorneys’ fees and costs pursuant to Labor Code § 2699(g)(1); and

(g) All Alleged Violations of the IWC Wage Orders: For any above addressed violation of the applicable provisions of the IWC Wage Orders constituting violations of Labor Code § 1198 and Labor Code § 2699.5, and seeking penalties available and applicable under Labor Code § 2699(f)(2) and paragraph 20 of the applicable IWC Wage Orders, and for attorneys’ fees and costs pursuant to Labor Code § 2699(g)(1).

We have been constrained to initially move forward with the filing of this Complaint, alleging the causes of action discussed herein, without the PAGA claim. Thus, any action by the LWDA would not resolve the entirety of the case, and the interest of judicial economy will be served by allowing the case to proceed as a cohesive whole.

This letter and the attached Complaint therefore provide the requisite notice under the Act to the LWDA and Defendants by setting forth the specific provisions of the Labor Code and related provisions Plaintiff alleges have been violated, including the facts and relevant theories alleged against DISCO Hi-Tec America ,Inc.; DISCO Hi-Tec America; DISCO; and any other named Defendants and joint employers. To prevent the violations described in the Complaint and herein from occurring, and to remedy past violations, Plaintiff respectfully requests that the LWDA conduct an investigation into Defendants’ employment practices in accordance with the Act.

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Wherefore we request that you advise us, by certified mail within sixty days of the postmark on this letter, whether you intend to proceed with these claims or whether Plaintiff and the Aggrieved Employees should include them in an amended Labor Code § 2698 *et seq.* claim under the Act in an amended Complaint.

Regards,

D.LAW, INC.

Roman Shkodnik
Jean Hopkins Power

Cc: DISCO Hi-Tec America ,Inc.; DISCO Hi-Tec America and DISCO by Certified Mail

D.LAW, INC.
Roman Shkodnik (SBN 285152)
r.shkodnik@d.law
Jean Hopkins Power (SBN 326509)
j.power@d.law
450 N. Brand Blvd., Suite 840
Glendale, CA 91202
Telephone: (818) 962-6465
Facsimile: (818) 962-6469

Attorneys for Plaintiff JOSEPH RAY LLANES,
on behalf of himself and others similarly situated

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA COUNTY**

JOSEPH RAY LLANES, on behalf of
himself and others similarly situated,

Plaintiff,

vs.

DISCO HI-TEC AMERICA, INC., a
California Corporation; DISCO, an entity of
unknown form; DISCO HI-TEC AMERICA,
an entity of unknown form; and DOES 1
through 50, inclusive

Defendants.

Case No.

CLASS ACTION

Assigned for All Purposes To:

Hon.

Dept.:

CLASS ACTION COMPLAINT FOR:

1. Failure to Pay Minimum Wages;
2. Failure to Pay Wages and Overtime Under Labor Code § 510;
3. Meal-Period Liability Under Labor Code § 226.7;
4. Rest-Break Liability Under Labor Code § 226.7;
5. Failure to Comply with Labor Code § 245 *et seq.* and 246;
6. Failure to pay Vacation Wages;
7. Violation of Labor Code § 226(a);
8. Failure to Keep Required Payroll Records Under Labor Code §§ 1174 and 1174.5;
9. Violation of Labor Code § 221;
10. Reimbursement of Necessary Expenditures Under Labor Code § 2802;
11. Penalties Pursuant to Labor Code § 203; and
12. Violation of Business & Professions Code § 17200 *et seq.*

DEMAND FOR JURY TRIAL

1 Plaintiff JOSEPH RAY LLANES, (hereinafter “Plaintiff”) on behalf of himself and all
2 others similarly situated (collectively, “Employees”; individually, “Employee”) complains of
3 Defendants, and each of them, as follows:

4 INTRODUCTION

5 1. Plaintiff brings this action on behalf of himself and all similarly situated current and former
6 employees within the State of California who, at any time four (4) years prior to the filing of this
7 lawsuit, are or were employed by Defendants DISCO HI-TEC AMERICA, INC., DISCO, DISCO
8 HI-TEC AMERICA, and DOES 1 through 50 (all defendants being collectively referred to herein
9 as “Defendants”) including those employees who were misclassified as salaried exempt employees.
10 Plaintiff alleges that Defendants, and each of them, violated various provisions of the California
11 Labor Code, relevant orders of the Industrial Welfare Commission (IWC), and California Business
12 & Professions Code, and seeks redress therefore.

13 2. Plaintiff is a resident of California and during the time period relevant to this Complaint was
14 employed by Defendants within the State of California at Defendants’ facilities and offices in San
15 Jose, as a non-exempt hourly employee, who early during his employment was unlawfully
16 misclassified as an exempt employee. Plaintiff and the other Class members worked for Defendants
17 in Santa Clara County and/or throughout California, and consistently worked at Defendants’ behest
18 without being paid all wages due. More specifically, Plaintiff and the other similarly situated Class
19 members were employed by Defendants and worked at Defendants’ offices and other facilities
20 where the conduct giving rise to the allegations in this Class Action Complaint occurred. Upon
21 information and belief, Plaintiff was employed by Defendants and (1) shared similar job duties and
22 responsibilities, (2) was subjected to the same policies and practices, and (3) endured similar
23 violations at the hands of Defendants as the other Employee Class members who served in similar
24 and related positions.

25 3. Defendants required Plaintiff and the Employees in the Class to perform work while
26 remaining under Defendants’ control before and after being on the clock for their daily work shift.
27 Defendants failed to provide Plaintiff and the Class with lawful meal and rest periods, as employees
28 were not provided with the opportunity to take timely, uninterrupted, and duty-free meal and rest

1 periods as required by the Labor Code.

2 THE PARTIES

3 A. The Plaintiff

4 4. Plaintiff JOSEPH RAY LLANES has resided in California and during the time period
5 relevant to this Complaint was employed by Defendants as a non-exempt hourly employee and for
6 part of his employment was misclassified an exempt salaried employee. In actuality because of the
7 work he performed and duties he had, he should have been classified as a non-exempt hourly
8 employee during his entire employment with the Defendants within the State of California at
9 Defendants' facilities and offices in San Jose, California.

10 B. The Defendants

11 5. Defendant DISCO HI-TEC AMERICA, INC., ("DISCO HI-TEC INC.") a California
12 corporation. The California Secretary of State lists its principal address in San Jose, California. The
13 name "DISCO HI-TEC" has been listed as the employer on Plaintiff's wage statements during the
14 relevant time period. Upon information and belief, employs Plaintiff and the Class Members in
15 Santa Clara County, including at Defendants' offices and facilities in San Jose, California, and
16 throughout California and conducts business throughout California.

17 6. Defendant DISCO ("DISCO") is an entity of unknown form. The name and company logo
18 of DISCO is listed on Plaintiff's termination letter from the Defendants. Plaintiff and the Employees
19 in Santa Clara County, including at Defendants' offices and facilities in Santa Clara , California,
20 and throughout California and Defendants conduct business throughout California.

21 7. Defendant DISCO HI-TEC AMERICA ("DISCO HI-TEC") is an entity of unknown form.
22 The name DISCO HI-TEC AMERICA is listed on Plaintiff's wage statement. Plaintiff and the
23 Employees in Santa Clara County, including at Defendants' offices and facilities in Santa Clara,
24 California, and throughout California and Defendants conduct business throughout California.

25 8. The true names and capacities, whether individual, corporate, associate, or whatever else, of
26 the Defendants sued herein as Does 1 through 50, inclusive, are currently unknown to Plaintiff, who
27 therefore sues these Defendants by such fictitious names under Code of Civil Procedure § 474.
28 Plaintiff is informed and believes and thereon alleges that Defendants designated herein as Does 1

1 through 50, inclusive, and each of them, are legally responsible in some manner for the unlawful
2 acts referred to herein. Plaintiff will seek leave of court to amend this Complaint to reflect the true
3 names and capacities of the Defendants designated herein as Does 1 through 50 when their identities
4 become known.

5 9. Plaintiff is informed and believes and thereon alleges that each Defendant acted in all
6 respects pertinent to this action as the agent of the other Defendants, that Defendants carried out a
7 joint scheme, business plan, or policy in all respects pertinent hereto, and that the acts of each
8 Defendant are legally attributable to the other Defendants. Furthermore, Defendants acted in all
9 respects as the employers or joint employers of Employees. Defendants, and each of them, exercised
10 control over the wages, hours or working conditions of Employees, or suffered or permitted
11 Employees to work, or engaged, thereby creating a common law employment relationship, with
12 Employees. Therefore, Defendants, and each of them, employed or jointly employed Employees.

13 JURISDICTION AND VENUE

14 10. This Court has jurisdiction over this Action pursuant to California Code of Civil Procedure
15 § 410.10 and California Business & Professions Code § 17203. This Action is brought as a Class
16 Action on behalf of similarly situated Employees of Defendants pursuant to California Code of Civil
17 Procedure § 382. Venue as to Defendants is also proper in this judicial district pursuant to California
18 Code of Civil Procedure § 395 *et seq.* Upon information and belief, the obligations and liabilities
19 giving rise to this lawsuit occurred at least in part in Santa Clara County and Defendants maintain
20 and operate company offices and facilities in Santa Clara County and employ Plaintiff and other
21 Class members in Santa Clara County and throughout California.

22 FACTUAL BACKGROUND

23 11. The Employees who comprise the Class and Collective, including Plaintiff, are
24 nonexempt employees pursuant to the applicable Wage Order of the IWC. Defendants hired
25 Employees and deliberately misclassified them as salaried exempt employees, for a portion of their
26 employment. Defendants employed Employees to work in non-exempt positions at the direction of
27 Defendants in the State of California. Plaintiff and the Class members were either not paid by
28 Defendants for all hours worked or were not paid at the appropriate minimum, regular and overtime

1 rates. Specifically, Plaintiff contends that Defendants, by improperly classifying Class members,
2 during a portion of their employment, as salaried exempt employees, failed to pay Plaintiff and the
3 Class members all wages due and owing, including for off the clock work, made unlawful
4 deductions from their pay, failed to provide meal and rest breaks, and failed to furnish accurate wage
5 statements, all in violation of various provisions of the California Labor Code and applicable Wage
6 Orders, where applicable. Additionally, Defendants paid Plaintiffs and Employees shift
7 differentials, nondiscretionary commissions, incentive pay, and/or nondiscretionary bonuses.
8 However, upon information and belief, Defendants failed to incorporate all remunerations, including
9 shift differentials, nondiscretionary commissions, incentive pay, and/or nondiscretionary bonuses,
10 into the calculation of the regular rate of pay for purposes of calculating the overtime wage rate.
11 Therefore, during times when Plaintiffs and Employees worked overtime and received shift
12 differentials, nondiscretionary commissions, incentive pay, and/or nondiscretionary bonuses,
13 Defendants failed to pay all overtime wages by paying a lower overtime rate than required.

14 12. Defendants, and each of them, were systematically misclassified Employees as
15 salaried exempt employees imposing upon them unilateral, unlawful, and unconscionable purported
16 work hours without appropriate pay. Defendants' business arrangement is a knowing and unlawful
17 scheme designed to defraud its workers of fair pay, to avoid its legal obligations to the public, and
18 constitutes unfair competition against law-abiding business in violation of California law.

19 13. Moreover, Plaintiff contends that Defendants failed to pay Plaintiff and the Class
20 members all wages due and owing, by failing to provide meal and rest breaks, and failed to furnish
21 accurate wage statements, all in violation of various provisions of the California Labor Code and
22 applicable Wage Order provisions.

23 14. During the course of Plaintiff and the Class members' employment with Defendants,
24 they were not paid all wages they were owed, including for all work performed and for all overtime
25 hours worked.

26 15. As a matter of uniform Company policy, Plaintiff and the Class members were
27 required to work during their meal and rest breaks which were not compensated by Defendants in
28 violation of the California Labor Code. Plaintiff and the Class members were also not paid regular

1 wages and overtime for the time they were required to comply with other requirements imposed
2 upon them, which they had to complete while working through their meal and rest breaks and
3 without compensation. As a result Plaintiff and the Class members worked shifts over eight (8)
4 hours in a day and over forty (40) hours in a work week, but they were not paid at the appropriate
5 overtime rate for all such hours, including by being required to perform work duties and tasks
6 without pay and while off-the-clock which caused overtime to begin accruing before it did in
7 Defendants' timekeeping and payroll systems. As a result, Plaintiff and the Class members worked
8 substantial overtime hours during their employment with Defendants for which they were not
9 compensated, in violation of the California Labor Code, applicable IWC Wage Orders.

10 16. As a result of the above described daily work demands and pressures to work through
11 breaks, and the other wage violations they endured at Defendants' hands, Plaintiff and the Class
12 members were not properly paid for all wages earned and for all wages owed to them by Defendants,
13 including when working more than eight (8) hours in any given day and/or more than forty (40)
14 hours in any given week. As a result of Defendants' unlawful policies and practices, Plaintiff and
15 Class members incurred overtime hours worked for which they were not adequately and completely
16 compensated, in addition to the hours they were required to work off the clock. To the extent
17 applicable, Defendants also failed to pay Plaintiff and the Class members at an overtime rate of 1.5
18 times the regular rate for the first eight hours of the seventh consecutive work day in a week and
19 overtime payments at the rate of 2 times the regular rate for hours worked over eight (8) on the
20 seventh consecutive work day, as required under the Labor Code, applicable IWC Wage Orders.

21 17. Therefore, from at least four (4) years prior to the filing of this lawsuit and continuing
22 to the present, Defendants had a consistent policy or practice of failing to pay Employees for all
23 hours worked, and failing to pay minimum wage for all time worked as required by California Law.

24 18. Additionally from at least four (4) years prior to the filing of this lawsuit and
25 continuing to the present, Defendants had a consistent policy or practice of failing to pay Employees
26 overtime compensation at premium overtime rates for all hours worked in excess of eight (8) hours
27 a day and/or forty (40) hours a week, and double-time rates for all hours worked in excess of twelve
28 (12) hours a day, in violation of Labor Code § 510 and the corresponding sections of IWC Wage

1 Orders.

2 19. Additionally, from at least four (4) years prior to the filing of this lawsuit and
3 continuing to the present, Defendants have regularly required Employees to work shifts in excess of
4 five (5) hours without providing them with uninterrupted meal periods of not less than thirty (30)
5 minutes, and shifts in excess of ten (10) hours without providing them with second meal periods of
6 not less than thirty minutes; nor did Defendants pay Employees “premium pay,” i.e. one hour of
7 wages at each Employee’s effective hourly rate of pay, for each meal period that Defendants failed
8 to provide or deficiently provided.

9 20. From at least four (4) years prior to the filing of this lawsuit and continuing to the
10 present, Defendants paid Plaintiff and Employees shift differentials, nondiscretionary commissions,
11 incentive pay, and/or nondiscretionary bonuses. However, upon information and belief, Defendants
12 failed to incorporate all remunerations, including shift differentials, nondiscretionary commissions,
13 incentive pay, and/or nondiscretionary bonuses, into the calculation of the regular rate of pay for
14 purposes of calculating sick pay. Therefore, during times when Plaintiff and Employees worked
15 overtime and received shift differentials, nondiscretionary commissions, incentive pay, and/or
16 nondiscretionary bonuses, Defendants failed to pay all sick pay by paying a lower overtime rate than
17 required. Additionally, Employees were not paid all of their sick pay.

18 21. From at least four (4) years prior to the filing of this lawsuit and continuing to the present,
19 Defendants paid Plaintiff and Employees shift differentials, nondiscretionary commissions,
20 incentive pay, and/or nondiscretionary bonuses. However, upon information and belief, Defendants
21 failed to incorporate all remunerations, including shift differentials, nondiscretionary commissions,
22 incentive pay, and/or nondiscretionary bonuses, into the calculation of the regular rate of pay for
23 purposes of calculating vacation pay. Therefore, during times when Plaintiff and Employees worked
24 overtime and received shift differentials, nondiscretionary commissions, incentive pay, and/or
25 nondiscretionary bonuses, Defendants failed to pay all vacation pay by paying a lower overtime rate
26 than required.

27 22. From at least four (4) years prior to the filing of this lawsuit and continuing to the present,
28 Defendants have consistently failed to provide Employees with paid duty-free rest breaks of not less

1 than ten (10) minutes for every work period of four (4) or more consecutive hours; nor did Defendant
2 pay Employees premium pay for each day on which requisite rest breaks were not provided or were
3 deficiently provided at one hour of wages at each Employee's effective regular rate of pay, for each
4 rest period that Defendants failed to provide or deficiently provided.

5 23. Additionally, from at least four (4) years prior to the filing of this lawsuit, and continuing to
6 the present, Defendants have consistently failed to provide Employees with timely, accurate, and
7 itemized wage statements as required by California wage-and-hour laws. Specifically, Defendants
8 failed in their affirmative obligation to keep accurate records of the correct overtime wages based
9 on proper regular rate calculations that included shift differentials, nondiscretionary commissions,
10 incentive pay, and/or nondiscretionary bonuses earned, and the total amount of compensation of
11 their Employees. Moreover, the wage statements given to Employees by Defendants failed to
12 accurately account for wages, overtime, and premium pay for deficient meal periods and rest breaks,
13 all of which Defendants knew or reasonably should have known were owed to Employees, as alleged
14 hereinabove. The wage statements provided to Employees were confusing and required Employees
15 to engage in discovery and refer to outside sources to verify whether their pay was correct and
16 potentially resulting in a miscalculation by the Employees.

17 24. Additionally, from at least four (4) years prior to the filing of this lawsuit, and continuing to
18 the present, Defendants have consistently failed to provide Employees with timely, accurate, and
19 itemized wage statements, in writing, as required by California wage-and-hour laws.

20 25. Additionally, from at least three (3) years prior to the filing of this lawsuit, and continuing
21 to the present, Defendants have consistently failed to keep accurate time and wage records as
22 required by California wage-and-hour laws.

23 26. From at least four (4) years prior to the filing of this lawsuit and continuing to the present,
24 Defendants have consistently and unlawfully collected or received wages from Employees.
25 Defendants unlawfully removed wages for miscellaneous deductions that Employees never agreed
26 to in violation of Labor Code § 221.

27 27. From at least four (4) years prior to the filing of this lawsuit and continuing to the present,
28 Defendants have failed to reimburse Employees for expenses necessarily incurred in the

1 performance of their job duties for Defendants including, but not limited to the purchase of a mobile
2 telephone and internet usage and other costs associated with using a personal cell phone for work
3 purposes; the cost of mileage for driving deliveries to postal centers; and office supplies, which were
4 necessary to perform their duties under Defendants' employ which was used throughout the course
5 of Employees' duties under Defendants' employ in violation of Labor Code § 2802.

6 28. Additionally, from at least three (3) years prior to the filing of this lawsuit, and continuing
7 to the present, Defendants have consistently failed to keep accurate time and wage records as
8 required by California wage-and-hour laws.

9 29. From at least four (4) years prior to filing this lawsuit and continuing to the present,
10 Defendants have had a consistent policy of failing to pay all wages fur and owed to Employees at
11 the time of their termination of within seventy-two (72) hours of their resignation, as required by
12 California wage-and-hour laws.

13 30. In light of the foregoing, Employees bring this action pursuant to, inter alia, Labor Code §§
14 201, 202, 203, 204, 210, 218.5, 218.6, 221, 223, 226, 226.3, 226.4, 226.7, 226.8, 227.3, 245 *et seq*,
15 246, 510, 512, 558, 558.1, 1174, 1174.5, 1182.12 1185, 1194, 1194.2, 1197, 1198, 1199, 1670.5,
16 and 2802, and applicable provisions of the IWC Wage Orders.

17 31. Furthermore, pursuant to Business and Professions Code §§ 17200-17208, Employees seek
18 injunctive relief, restitution, and disgorgement of all benefits Defendants have enjoyed from their
19 violations of Labor Code.

20 CLASS ALLEGATIONS

21 32. Plaintiff brings this class action on behalf of himself and all others similarly situated
22 pursuant to Code of Civil Procedure § 382. Plaintiff seeks to represent a class defined as follows:
23 "All individuals employed by Defendants, at any time within four (4) years of the filing of this
24 lawsuit, as non-exempt, hourly employees within the State of California.

25 33. Further, plaintiff seeks to represent the following Subclasses composed of and
26 defined as follows:

27 a. Subclass 1. Misclassification Subclass. All Class members who were misclassified
28 as salaried exempt employees.

1 b. Subclass 2. Minimum Wages Subclass. All Class members who were not
2 compensated for all hours worked for Defendants at the applicable minimum wage.

3 c. Subclass 3. Wages and Overtime Subclass. All Class members who were not
4 compensated for all hours worked for Defendants at the required rates of pay, including for all hours
5 worked in excess of eight in a day and/or forty in a week.

6 d. Subclass 4. Meal Period Subclass. All Class members who were subject to
7 Defendants' policy and/or practice of failing to provide unpaid 30-minute uninterrupted and duty
8 free meal periods or one hour of pay at the Employee's regular rate of pay in lieu thereof.

9 e. Subclass 5. Rest Break Subclass. All Class members who were subject to
10 Defendants' policy and/or practice of failing to authorize and permit Employees to take
11 uninterrupted, duty-free, 10-minute rest periods for every four hours worked, or major fraction
12 thereof, and failing to pay one hour of pay at the Employee's regular rate of pay in lieu thereof.

13 f. Subclass 6. Sick Pay Subclass. All Class members who were not compensated at the
14 Employee's regular rate of pay for their sick pay wage.

15 g. Subclass 10. Vacation Wages Subclass. All Class members who were not
16 compensated at the Employee's regular rate of pay for their vacation wages.

17 h. Subclass 7. Wage Statement Subclass. All Class members who, within the applicable
18 limitations period, were not provided with accurate itemized wage statements.

19 i. Subclass 8. Payroll Records Subclass. All Class members who were subject to
20 Defendants' policy and/or practice of failing to keep accurate time and wage records as required by
21 California wage-and-hour laws.

22 j. Subclass 9. Unauthorized Deductions from Wages Subclass. All Class members who
23 were subject to Defendants' policy and/or practice of automatically deducting wages from
24 Employees' bank accounts.

25 k. Subclass 10. Failure to Reimburse for Necessary Business Expenditures. All Class
26 members who were subject to Defendants failing to reimburse for expenses necessarily incurred in
27 the performance of Employees job duties for Defendants which were necessary to perform their
28 duties under Defendants' employ.

1 1. Subclass 11. Termination Pay Subclass. All Class members who, within the
2 applicable limitations period, either voluntarily or involuntarily separated from their employment
3 and were subject to Defendants' policy and/or practice of failing to timely pay wages upon
4 termination.

5 m. Subclass 12. UCL Subclass. All Class members who are owed restitution as a
6 result of Defendants' business acts and practices, to the extent such acts and practices are found to
7 be unlawful, deceptive, and/or unfair.

8 34. Plaintiff reserves the right under California Rule of Court 3.765 to amend or modify
9 the class description with greater particularity or further division into subclasses or limitation to
10 particular issues.

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

14 **A. Numerosity**

15 36. The potential members of the class as defined are so numerous that joinder of all the
16 member of the class is impracticable. While the precise number of class member has not been
17 determined at this time, Plaintiff is informed and believes that, during the time period relevant to
18 this lawsuit, Defendants employed more than 100 individuals within the State of California.

19 37. Accounting for employee turnover during the relevant time period increases this
20 number substantially. Plaintiff alleges that Defendants' employment records will provide
21 information as to the number and location of all class members.

22 **B. Commonality**

23 38. There are questions of law and fact common to the class that predominate over any
24 questions affecting only individual class members. These common questions of law and fact include:

- 25 a. Whether Defendants misclassified Employees as salaried exempt employees;
- 26 b. Whether Defendants failed to pay Employees minimum wages;
- 27 b. Whether Defendants failed to pay Employees wages for all hours worked;
- 28 c. Whether Defendants failed to pay Employees overtime as required under Labor Code

§ 510;

d. Whether Defendants failed to pay Employees sick pay as required under Labor Code § 245;

e. Whether Defendants failed to pay Employees vacation wages as required under Labor Code § 227.3;

f. Whether Defendants violated Labor Code §§ 226.7 and 512, and the applicable IWC Wage Orders, by failing to provide Employees with requisite meal periods or premium pay in lieu thereof;

g. Whether Defendants violated Labor Code §§ 226.7, and the applicable IWC Wage Orders, by failing to provide Employees with requisite rest breaks or premium pay in lieu thereof;

h. Whether Defendants violated Labor Code § 226(a);

i. Whether Defendants violated Labor Code §§ 1174 and 1174.5;

j. Whether Defendants violated Labor Code §221;

k. Whether Defendants failed to keep accurate time and wage records;

l. Whether Defendants violated Labor Code §§ 201, 202, and 203 by failing to pay wages and compensation due and owing at the time of termination of employment;

m. Whether Defendants violated Business and Professions Code § 17200 *et seq.*; and

n. Whether Employees are entitled to equitable relief pursuant to Business and Professions Code § 17200 *et seq.*

C. Typicality

39. The claims of the named plaintiff are typical of those of the other Employees. Employees all sustained injuries and damages arising out of and caused by Defendant's common course of conducts in violation of statutes, as well as regulations that have the force and effect of law, as alleged herein.

D. Adequacy of Representation

40. Plaintiff will fairly and adequately represent and protect the interest of Employees. Counsel who represents Employees are experienced and competent in litigating employment class

actions.

E. Superiority of Class Action

41. A class action is superior to other available means for the fair and efficient adjudication of this controversy. Individual joinder of all Employees is not practicable, and questions of law and fact common to all Employees predominate over any questions affecting only individual Employees. Each Employee has been damaged and is entitled to recovery by reason of Defendants' illegal policies or practices of failing to compensate Employees properly.

42. Class action treatment will allow those persons similarly situated to litigate their claims in the manner that is most efficient and economical for the parties and the judicial system. Plaintiff is unaware of any difficulties in managing this case that should preclude class action.

FIRST CAUSE OF ACTION

FAILURE TO PAY MINIMUM WAGES

(Against All Defendants)

43. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

44. Defendants failed to pay Employees minimum wages for all hours worked. Defendants purposely misclassified Plaintiff and Class Members, in violation of Labor Code § 515, as salaried exempt employees, during a portion of their employment, to avoid paying minimum wages and overtime. Defendants had a consistent policy of misstating Employees time records and failing to pay Employees for all hours worked. Moreover, Defendants did not pay Plaintiff and Employees at the applicable minimum wage for all hours worked including during meal breaks. Defendants' uniform pattern of unlawful wage and hour practices manifested, without limitation, applicable to the Class as a whole, as a result of implementing a uniform policy and practice that denied accurate compensation to Plaintiff and the other members of the Class as to minimum wage pay.

45. California Labor Code § 1197, entitled "Pay of Less Than Minimum Wage" states: The minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a less wage than the minimum so fixed is unlawful.

1 46. The applicable minimum wages fixed by the commission for work during the
2 relevant period is found in the Wage Orders. Pursuant to the Wage Orders, Employees are therefore
3 entitled to double the minimum wage during the relevant period.

4 47. The minimum wage provisions of California Labor Code are enforceable by private
5 civil action pursuant to California Labor Code § 1194(a) which states:

6 Notwithstanding any agreement to work for a lesser wage, any
7 employee receiving less than the legal minimum wage or the legal
8 overtime compensation applicable to the employee is entitled to
9 recover in a civil action the unpaid balance of the full amount of this
minimum wage or overtime compensation, including interest
thereon, reasonable attorney's fees and costs of suit.

10 48. As described in California Labor Code §§ 1185 and 1194.2, any action for wages
11 incorporates the applicable Wage Order of the California Industrial Welfare Commission.

12 California Labor Code § 1194.2 also provides for the following remedies:
13 In any action under Section 1194 . . . to recover wages because of
14 the payment of a wage less than the minimum wages fixed by an
15 order of the commission, an employee shall be entitled to recover
liquidated damages in an amount equal to the wages unlawfully
unpaid and interest thereon.

16 49. Defendants have the ability to pay minimum wages for all time worked and have
17 willfully refused to pay such wages with the intent to secure for Defendants a discount upon this
18 indebtedness with the intent to annoy, harass, oppress, hinder, delay, or defraud Employees.

19 50. Wherefore, Employees are entitled to recover the unpaid minimum wages (including
20 double minimum wages), liquidated damages in an amount equal to the minimum wages unlawfully
21 unpaid, interest thereon and reasonable attorney's fees and costs of suit pursuant to California Labor
22 Code § 1194(a).

23 **SECOND CAUSE OF ACTION**

24 **FAILURE TO PAY WAGES AND OVERTIME UNDER LABOR CODE § 510**

25 **(Against All Defendants)**

26 51. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
27 full herein.

28 52. By their conduct, as set forth herein, Defendants violated California Labor Code §

1 510 (and the relevant orders of the Industrial Welfare Commission) by failing to pay Employees:
2 (a) time and one-half their regular hourly rates for hours worked in excess of eight (8) hours in a
3 workday or in excess of forty (40) hours in any workweek or for the first eight (8) hours worked
4 on the seventh day of work in any one workweek; or (b) twice their regular rate of pay for hours
5 worked in excess of twelve (12) hours in any one (1) day or for hours worked in excess of eight
6 (8) hours on any seventh day of work in a workweek. Defendants had a consistent policy of not
7 paying Employees wages for all hours worked including time off the clock. Employees regularly
8 worked over 8 hours on a given day without receiving overtime compensation.

9 53. Furthermore, on information and belief, Defendants did not pay Plaintiff and Employees the
10 correct overtime rate for the recorded overtime hours that they generated. In addition to an hourly
11 wage, Defendants paid Plaintiff and Employees shift differentials, nondiscretionary commissions,
12 incentive pay, and/or nondiscretionary bonuses. However, upon information and belief, Defendants
13 failed to incorporate all remunerations, including shift differentials, nondiscretionary commissions,
14 incentive pay, and/or nondiscretionary bonuses, into the calculation of the regular rate of pay for
15 purposes of calculating the overtime wage rate.

16 54. Additionally, Defendants purposely misclassified Plaintiff and Class Members, in violation
17 of Labor Code § 515, as salaried exempt employees, during a portion of their employment, to avoid
18 paying minimum wages and overtime.

19 55. Therefore, during times when Plaintiff and Employees worked overtime and received shift
20 differentials, nondiscretionary commissions, incentive pay, and/or nondiscretionary bonuses,
21 Defendants failed to pay all overtime wages by paying a lower overtime rate than required.

22 56. Employees have been damaged by these violations of California Labor Code §§ 204 and 510
23 (and the relevant orders of the Industrial Welfare Commission)

24 57. Consequently, pursuant to California Labor Code §§ 204, 510, and 1194 (and the relevant
25 orders of the Industrial Welfare Commission), Defendants are liable to Employees for the full
26 amount of all their unpaid wages and overtime compensation, with interest, plus their reasonable
27 attorneys' fees and costs.

28 58. The forgoing uncompensated work caused Plaintiff and Employees to work in excess of

1 eight (8), ten (10), and twelve (12) hours a day, and/or forty (40) hours a week, entitling them to
2 overtime and double-time wages which were systemically denied.

3 59. Defendants' failure to pay compensation in a timely fashion also constituted a violation of
4 California Labor Code § 204, which requires that all wages shall be paid semimonthly. From four
5 (4) years prior to the filing of this lawsuit to the present, in direct violation of that provision of the
6 California Labor Code, Defendants have failed to pay all wages and overtime compensation earned
7 by Employees. Each such failure to make a timely payment of compensation to Employees
8 constitutes a separate violation of California Labor Code § 204. Employees have been damaged by
9 these violations of California Labor Code §§ 204 and 510 (and the relevant orders of the Industrial
10 Welfare Commission).

11 60. Consequently, pursuant to California Labor Code §§ 204, 510, and 1194 (and the
12 relevant orders of the Industrial Welfare Commission), Defendants are liable to Employees for the
13 full amount of all their unpaid wages and overtime compensation, with interest, plus their
14 reasonable attorneys' fees and costs.

15 **THIRD CAUSE OF ACTION**

16 **MEAL-PERIOD LIABILITY UNDER LABOR CODE § 226.7**

17 **(Against All Defendants)**

18 61. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
19 full herein.

20 62. Employees regularly worked shifts greater than five (5) hours and greater than ten
21 (10) hours. Pursuant to Labor Code § 512 an employer may not employ someone for a shift of more
22 than five (5) hours without providing him or her with a meal period of not less than thirty (30)
23 minutes or for a shift of more than ten (10) hours without providing him or her with a second meal
24 period of not less than thirty (30) minutes.

25 63. Defendants failed to provide Employees with meal periods as required under the Labor
26 Code. Employees were consistently required to work through their meal periods which they were
27 consistently denied. Employees were also required to take meal periods after working well beyond
28 the five (5) hour shifts. Furthermore, Employees were regularly required to work for more than 10

1 hours in a given shift without receiving a second uninterrupted thirty (30) minute meal period as
2 required by law.

3 64. Moreover, Defendants failed to compensate Employees for each meal period not provided
4 or inadequately provided, as required under Labor Code § 226.7. Additionally, Defendants also paid
5 shift differentials, nondiscretionary commissions, incentive pay, and/or nondiscretionary bonuses to
6 Employees but Defendants failed to include these forms of remuneration in the regular rate of pay
7 from which premium pay was calculated and paid.

8 65. Additionally, Defendants purposely misclassified Plaintiff and Class Members, in violation
9 of Labor Code § 515, as salaried exempt employees, during a portion of their employment, to avoid
10 providing meal and rest periods and the premium penalties incurred therein.

11 66. Therefore, pursuant to Labor Code § 226.7, Employees are entitled to damages in an amount
12 equal to one (1) hour of wages at their effective regular rates of pay for each meal period not
13 provided or deficiently provided, a sum to be proven at trial.

14 **FOURTH CAUSE OF ACTION**

15 **REST-BREAK LIABILITY UNDER LABOR CODE § 226.7**

16 **(Against All Defendants)**

17 67. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
18 full herein.

19 68. Employees consistently worked consecutive four (4) hour shifts. Pursuant to the
20 Labor Code and the applicable IWC Wage Order, Employees were entitled to paid rest breaks of
21 not less than ten (10) minutes for each consecutive four (4) hour shift.

22 69. Defendants failed to provide Employees with timely rest breaks of not less than ten
23 (10) minutes for each consecutive four (4) hour shift.

24 70. Additionally, under *Augustus v. ABM Security Services, Inc.*, 2 Cal.5th 257, 260
25 (2016) “[D]uring required rest periods, employers must relieve their employees of all duties and
26 relinquish any control over how employees spend their time.” Defendants did not allow Employees
27 to leave the Defendants’ location and this is directly at odds with *Augustus*, as it “tethered
28 [employees] by time and policy to a particular location” and therefore fails to relieve employees of

1 all work duties and employer control during rest periods. *Augusts*, 2 Cal.5th at 269.

2 71. Moreover, Defendants did not compensate Employees with an additional hour of pay
3 at each Employee's effective hourly rate for each day that Defendants failed to provide them with
4 adequate rest breaks, as required under Labor Code § 226.7. Additionally, Defendants also paid shift
5 differentials, nondiscretionary commissions, incentive pay, and/or nondiscretionary bonuses to
6 Employees but Defendants failed to include these forms of remuneration in the regular rate of pay
7 from which premium pay was calculated and paid.

8 72. Additionally, Defendants purposely misclassified Plaintiff and Class Members, in violation
9 of Labor Code § 515, as salaried exempt employees, during a portion of their employment, to avoid
10 providing meal and rest periods and the premium penalties incurred therein.

11 73. Therefore, pursuant to Labor Code § 226.7, Employees are entitled to damages in an
12 amount equal to one (1) hour of wages at their effective regular rates of pay for each day worked
13 without the required rest breaks, a sum to be proven at trial.

14 **FIFTH CAUSE OF ACTION**

15 **FAILURE TO COMPLY WITH LABOR CODE § 245 *ET SEQ.* AND 246**

16 **(Against All Defendants)**

17 74. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full
18 herein.

19 75. California Labor Code § 245 *et seq.* requires that Defendants provide paid sick time to
20 Employees, including at the amount, terms, and rate of compensation set forth in said law. At times
21 relevant, Defendants have failed compute the amount due for paid sick time in conformance with
22 the pay calculation under California Labor Code § 246(1).

23 76. Defendants paid shift differentials, nondiscretionary commissions, incentive pay, and/or
24 nondiscretionary bonuses to Employees but Defendants failed to include these forms of
25 remuneration in the regular rate of pay upon which sick pay was calculated and paid. Rather than
26 calculating the amount of paid sick time due when sick time is used according to the requirements
27 set forth in California Labor Code § 246(1), Defendants paid sick leave to Employees at a lower
28 rate, in violation of the law. Additionally, Employees were not paid all of their sick pay.

1 77. Therefore, Plaintiff and Employees seek to recover penalties pursuant to Labor Code § 245
2 *et seq.* and §§ 245 *et seq.* and 246.

3 **SIXTH CAUSE OF ACTION**
4 **FAILURE TO PAY VACATION WAGES**
5 **(Against All Defendants)**

6 78. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full
7 herein.

8 79. Pursuant to California Labor Code § 227.3, whenever a contract of employment or
9 employment policy provides for paid vacation and an employee is terminated without having taken
10 off his vested vacation time, all vested vacation shall be paid to him as wages at his final rate in
11 accordance with said contract of employment or policy respecting eligibility or time served.

12 80. Defendants paid shift differentials, nondiscretionary commissions, shift differentials,
13 incentive pay, and/or nondiscretionary bonuses to Employees but Defendants failed to include these
14 forms of remuneration in the regular rate of pay upon which vacation wages were calculated and
15 paid.

16 81. Therefore, pursuant to, Plaintiff and Employees seek to recover penalties pursuant to Labor
17 Code § 227.3.

18 **SEVENTH CAUSE OF ACTION**
19 **VIOLATION OF LABOR CODE § 226(a)**
20 **(Against All Defendants)**

21 82. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
22 full herein.

23 83. California Labor Code § 226(a) requires an employer to furnish each of his or her
24 employees with an accurate, itemized statement in writing showing the gross and net earnings, total
25 hours worked, and the corresponding number of hours worked at each hourly rate; these statements
26 must be appended to the detachable part of the check, draft, voucher, or whatever else serves to pay
27 the employee's wages; or, if wages are paid by cash or personal check, these statements may be
28 given to the employee separately from the payment of wages; in either case the employer must give

1 the employee these statements twice a month or each time wages are paid.

2 84. Defendants failed to provide Employees with accurate itemized wage statements in
3 writing, as required by the Labor Code. Specifically, Employees' wage statements did not include:
4 the total hours worked in violation of Labor Code § 226(a)(2) and failed to accurately set forth all
5 applicable hourly rates in effect during the pay period and the corresponding number of hours
6 worked at each such rate in violation of Labor Code § 226 (a)(9). Moreover, the wage statements
7 given to Employees failed to accurately account for unpaid wages and overtime because their actual
8 hours worked were under-reported due to off the clock work, proper regular rate calculations that
9 included shift differentials, nondiscretionary commissions, incentive pay, and/or nondiscretionary
10 bonuses earned, and the total amount of compensation of Employees. Additionally, the wage
11 statements given to Employees failed to accurately account for premium pay for deficiently provided
12 meal periods and rest breaks. Lastly, the wage statements given to Employees failed to accurately
13 specify the name and address of the employer as required under the law as the wage statements
14 provided to Employees name an entity that is not registered with the California Secretary of State's
15 Office despite the fact all businesses that wish to conduct business in California need to register
16 with the California Secretary of State's Office.

17 85. As a direct and proximate cause of Defendants' violation of Labor Code § 226(a),
18 Employees suffered injuries, including among other things confusion over whether they received all
19 wages owed them, the difficulty and expense involved in reconstructing pay records, and forcing
20 them to make mathematical computations to analyze whether the wages paid in fact compensated
21 them correctly for all hours worked.

22 86. Pursuant to Labor Code §§ 226(a) and 226(e), Employees are entitled to recover the
23 greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation
24 occurs and one hundred dollars (\$100) for each violation in a subsequent pay period, not exceeding
25 an aggregate penalty of four thousand dollars (\$4,000). They are also entitled to an award of costs
26 and reasonable attorneys' fees.

27 87. With respect to violations of Labor Code § 226, Labor Code § 226.3 imposes a civil
28 penalty of two hundred and fifty dollars (\$250) for initial violations for each employee for each pay

1 period, and one thousand dollars (\$1000) for each subsequent violation for each employee for each
2 pay period.

3 88. Plaintiff is seeking penalties against Defendants under Labor Code § 226.3, and any
4 other applicable statute allowing recovery of penalties as alleged herein in an amount to be shown
5 according to proof.

6 **EIGHTH CAUSE OF ACTION**
7 **FAILURE TO KEEP REQUIRED PAYROLL RECORDS UNDER LABOR CODE § 1174**
8 **AND 1174.5**
9 **(Against All Defendants)**

10 89. Plaintiffs re-allege and incorporate all preceding paragraphs, as though set forth in full
11 herein.

12 90. California Labor Code § 1174 requires that all employers shall keep accurate time and wage
13 records for all employees. California Labor Code § 1174.5 further requires that any employee
14 suffering injury due to a willful violation of the aforementioned obligations may seek damages,
15 including civil penalties, from the employer.

16 91. During the course of Plaintiff's and Employees' employment, Defendants consistently failed
17 to maintain accurate time and wage records for Plaintiff and Employees as required by California
18 Labor Code § 1174 by failing to pay Plaintiff and Employees proper wages, overtime, and premium
19 pay as discussed above.

20 92. Accordingly, Defendants are liable for civil penalties pursuant to the California Labor Code
21 §§ 1174.5. for the three (3) years prior to the filing of this Complaint.

22 **EIGHTH CAUSE OF ACTION**
23 **VIOLATION OF LABOR CODE § 221**
24 **(Against All Defendants)**

25 93. Plaintiffs re-allege and incorporate all preceding paragraphs, as though set forth in full
26 herein.

27 94. Labor Code § 221 provides, "It shall be unlawful for any employer to collect or receive from
28 an employee any party of wages theretofore paid by said employer to said employee."

1 95. Defendants unlawfully received and/or collected wages from employees. Defendants
2 unlawfully removed wages for miscellaneous deductions that Employees never agreed to in
3 violation of Labor Code § 221.

4 96. As a direct and proximate cause of the unauthorized deductions, Employees have been
5 damaged, in an amount to be determined at trial.

6 **NINTH CAUSE OF ACTION**
7 **FAILURE TO REIMBURSE FOR NECESSARY BUSINESS EXPENDITURES**
8 **IN VIOLATION OF LABOR CODE § 2802**
9 **(Against All Defendants)**

10 97. Plaintiffs re-allege and incorporate all preceding paragraphs, as though set forth in full
11 herein.

12 98. Under Labor Code § 2802(a) an employer must indemnify its employees for all
13 necessary expenditures or losses incurred by the employee in direct consequence of the discharge
14 of his or her duties, or of his or her obedience to the directions of the employer.

15 99. Employees incurred necessary expenditures in the performance of their job duties for
16 Defendants, including but not limited to the purchase of a mobile telephone and internet usage
17 and other costs associated with using a personal cell phone for work purposes; the cost of
18 mileage for driving deliveries to postal centers; and office supplies, which were necessary to
19 perform their duties under Defendants' employ. From four (4) years prior to the original filing of
20 this lawsuit and continuing to the present, Defendants consistently failed to reimburse Employees
21 for these necessarily incurred business expenses.

22 100. As a result of the unlawful acts of Defendants, Employees have been deprived of
23 reimbursement in amounts to be determined at trial; they are entitled to recovery of such amounts,
24 plus interest and penalties thereon, attorneys' fees, and costs.

25 **TENTH CAUSE OF ACTION**
26 **VIOLATION OF LABOR CODE § 203**
27 **(Against All Defendants)**

28 101. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in

1 full herein.

2 102. Numerous Employees are no longer employed by Defendants; they either quit
3 Defendants' employ or were fired therefrom.

4 103. Defendants failed to pay these Employees all wages due and certain at the time of
5 termination or within seventy-two (72) hours of resignation.

6 104. The wages withheld from these Employees by Defendants remained due and owing
7 for more than thirty (30) days from the date of separation of employment.

8 105. Defendants' failure to pay wages, as alleged above, was willful in that Defendants
9 knew wages to be due but failed to pay them; this violation entitles these Employees to penalties
10 under Labor Code § 203, which provides that an employee's wages shall continue until paid for up
11 to thirty (30) days from the date they were due.

12 **ELEVENTH CAUSE OF ACTION**

13 **VIOLATION OF BUSINESS & PROFESSIONS CODE § 17200 ET SEQ.**

14 **(Against All Defendants)**

15 106. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
16 full herein.

17 107. Plaintiff, on behalf of himself, Employees, and the general public, brings this claim
18 pursuant to Business & Professions Code § 17200 *et seq.* The conduct of Defendants as alleged in
19 this Complaint has been and continues to be unfair, unlawful, and harmful to Employees and the
20 general public. Plaintiff seeks to enforce important rights affecting the public interest within the
21 meaning of Code of Civil Procedure § 1021.5.

22 108. Plaintiff is a "person" within the meaning of Business & Professions Code
23 § 17204, has suffered injury, and therefore has standing to bring this cause of action for injunctive
24 relief, restitution, and other appropriate equitable relief.

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

27 110. Wage-and-hour laws express fundamental public policies. Paying employees their
28 wages and overtime, providing them with meal periods and rest breaks, etc., are fundamental public

1 policies of California. Labor Code § 90.5(a) articulates the public policies of this State vigorously
2 to enforce minimum labor standards, to ensure that employees are not required or permitted to work
3 under substandard and unlawful conditions, and to protect law-abiding employers and their
4 employees from competitors who lower costs to themselves by failing to comply with minimum
5 labor standards.

6 111. Defendants have violated statutes and public policies. Through the conduct alleged
7 in this Complaint Defendants have acted contrary to these public policies, have violated specific
8 provisions of the Labor Code, and have engaged in other unlawful and unfair business practices in
9 violation of Business & Professions Code § 17200 *et seq.*; which conduct has deprived Plaintiff, and
10 all persons similarly situated, and all interested persons, of the rights, benefits, and privileges
11 guaranteed to all employees under the law.

12 112. Defendants' conduct, as alleged hereinabove, constitutes unfair competition in
13 violation of the Business & Professions Code § 17200 *et seq.*

14 113. Defendants, by engaging in the conduct herein alleged, by failing to pay wages and
15 overtime, failing to provide meal periods and rest breaks, etc., either knew or in the exercise of
16 reasonable care should have known that their conduct was unlawful; therefore their conduct violates
17 the Business & Professions Code § 17200 *et seq.*

18 114. As a proximate result of the above-mentioned acts of Defendants, Employees have
19 been damaged, in a sum to be proven at trial.

20 115. Unless restrained by this Court Defendants will continue to engage in such unlawful
21 conduct as alleged above. Pursuant to the Business & Professions Code this Court should make such
22 orders or judgments, including the appointment of a receiver, as may be necessary to prevent the
23 use by Defendants or their agents or employees of any unlawful or deceptive practice prohibited by
24 the Business & Professions Code, including but not limited to the disgorgement of such profits as
25 may be necessary to restore Employees to the money Defendants have unlawfully failed to pay.

26 **RELIEF REQUESTED**

27 WHEREFORE, Plaintiff prays for the following relief:

- 28 1. For an order certifying this action as a class action;

2. For civil penalties pursuant to Labor Code § 226.8;
3. For compensatory damages in the amount of the unpaid minimum wages for work performed by Employees and unpaid overtime compensation from at least four (4) years prior to the filing of this action, as may be proven;
4. For liquidated damages in the amount equal to the unpaid minimum wage and interest thereon, from at least four (4) years prior to the filing of this action, according to proof;
5. For compensatory damages in the amount of all unpaid wages, including overtime and double-time pay, as may be proven;
6. For compensatory damages in the amount of the hourly wage made by Employees for each missed or deficient meal period where no premium pay was paid therefor from four (4) years prior to the filing of this action, as may be proven;
7. For compensatory damages in the amount of the hourly wage made by Employees for each day requisite rest breaks were not provided or were deficiently provided where no premium pay was paid therefor from at least four (4) years prior to the filing of this action, as may be proven;
8. For penalties pursuant to Labor Code § 226(e) for Employees, as may be proven;
9. For restitution and/or damages for all amounts unlawfully withheld from the wages for all class members in violation of Labor Code § 221, as may be proven;
10. For penalties pursuant to Labor Code § 226.3, as may be proven;
11. For penalties pursuant to Labor Code § 203 for all Employees who quit or were fired in an amount equal to their daily wage times thirty (30) days, as may be proven;
12. For penalties pursuant to Labor Code § 1174.5, as may be proven;
13. For penalties pursuant to Labor Code § 227.3, as may be proven;
14. For penalties pursuant to Labor Code §§ 245 and 246, as may be proven
15. For restitution for unfair competition pursuant to Business & Professions Code § 17200 *et seq.*, including disgorgement or profits, as may be proven;
16. For compensatory damages in the amount of all previously unreimbursed business expenditures necessarily incurred by Employees in the discharge of their job duties for Defendants

1 from four (4) years prior to the original filing of this action, as may be proven;

2 17. For an order enjoining Defendants and their agents, servants, and employees, and
3 all persons acting under, in concert with, or for them, from acting in derogation of any rights or
4 duties adumbrated in this Complaint;

5 18. For all general, special, and incidental damages as may be proven;

6 19. For an award of pre-judgment and post-judgment interest;

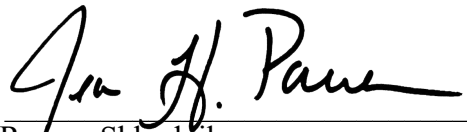
7 20. For an award providing for the payment of the costs of this suit;

8 21. For an award of attorneys' fees; and

9 22. For such other and further relief as this Court may deem proper and just.

10
11 DATED: November 12, 2025

D.LAW, INC.

12
13 By 
14 Roman Shkodnik
15 Jean Hopkins Power
16 Attorneys for Plaintiff
17 JOSEPH RAY LLANES
18 and the putative class
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DATED: November 12, 2025

By

Roman Shkovich
Jean Hopkins Power
Attorneys for Plaintiff
JOSEPH RAY LLANES
and the putative class