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Clerk of the Superior Court
By Pierce Jeffreys, Deputy Clerk

MARALLE MESSRELIAN (SBN 316974)

maralle@mmlawapc.com

MM LAW, APC

500 N. Central Ave., Ste 840

Glendale, CA 91203

Telephone (818) 810-7747

Facsimile (818) 230-9018

Attorneys for Plaintiff,

JOEL CASTANEDA

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO – CENTRAL DIVISION
(UNLIMITED JURISDICTION)

JOEL CASTANEDA,

Plaintiff,

vs.

LUCID ENTERPRISES LLC, a California
limited liability company; JASON
SYDLOWSKI, an individual; ETHAN
COHEN, an individual; and DOES 1 to 50,
inclusive,

Defendant(s).

Case No.: 37-2023-00038741-CU-OE-CTL

COMPLAINT FOR DAMAGES FOR:

- 1) Failure to Pay All Wages Earned for All Hours Worked (Lab. Code §§ 510, 1194, 1197, and 1198);
- 2) Failure to Provide Rest Breaks (Lab. Code §§ 226.7 and 1198);
- 3) Failure to Provide Meal Periods (Lab. Code §§ 226.7, 512 and 1198);
- 4) Failure to Indemnify (Lab. Code § 2802);
- 5) Failure to Provide Accurate Itemized Wage Statements (Lab. Code § 226);
- 6) Failure To Pay Wages When Employment Ends (Lab. Code §§ 201–203);
- 7) Failure to Pay Wages Owed Every Pay Period (Lab. Code § 204);
- 8) Retaliation Under Labor Code § 1102.5;
- 9) Retaliation Under Labor Code § 98.6;
- 10) Civil Penalties (Lab. Code §§ 2698, *et seq.*);
- 11) Wrongful Termination in Violation of Public Policy; and
- 12) Unfair Competition (Bus. & Prof. Code, § 17200 *et seq.*)

JURY TRIAL DEMANDED

COMES NOW Plaintiff, JOEL CASTANEDA (hereafter “Plaintiff”), and complains and alleges as follows:

INTRODUCTION

1. Plaintiff brings this action based on alleged violations of the California Labor Code, Industrial Welfare Commission Order No. 4-2001 (hereafter “the Wage Order”), the Business and Professions Code, and public policy against LUCID ENTERPRISES LLC, a California limited liability company; JASON SYDLOWSKI, an individual; ETHAN COHEN, an individual; and DOES 1 to 50, inclusive (collectively “LUCID” or “Defendants”).

JURISDICTION AND VENUE

2. Jurisdiction and venue are proper in this Court and this action is properly filed in the County of San Diego – Central Division because Defendants LUCID ENTERPRISES LLC, JASON SYDLOWSKI, ETHAN COHEN, and DOES 1 to 50, inclusive, do business in the County of San Diego and because Defendants’ obligations and liabilities arise therein, and because the work that was performed by Plaintiff in the County of San Diego is the subject of this action. Moreover, Plaintiff’s damages sought herein exceed \$25,000.

THE PARTIES

3. Plaintiff Joel Castaneda is a resident of San Diego County. At all relevant times, Plaintiff was an “employee” within the meaning of Title 8 California Code of Regulations Section 11040 and an “Aggrieved Employee” within the meaning of Labor Code Section 2699(c).

4. Defendant LUCID ENTERPRISES LLC is a limited liability company organized and existing under the laws of California and a citizen of California based on Plaintiff’s information and belief.

5. Defendant JASON SYDLOWSKI is a citizen of California based on Plaintiff’s information and belief.

6. Defendant ETHAN COHEN is a citizen of California based on Plaintiff’s information and belief.

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1 7. In relevant part, Labor Code section 558.1 states:

2 (a) Any employer or other person acting on behalf of an employer, who violates,
3 or causes to be violated, any provision regulating minimum wages or hours and
4 days of work in any order of the Industrial Welfare Commission, or violates, or
5 causes to be violated, Sections 203, 226, 226.7, 1193.6, 1194, or 2802, may be
6 held liable as the employer for such violation.

7 (b) For purposes of this section, the term “other person acting on behalf of an
8 employer” is limited to a natural person who is an owner, director, officer, or
9 managing agent of the employer, and the term “managing agent” has the same
10 meaning as in subdivision (b) of Section 3294 of the Civil Code.

11 8. Based on Plaintiff’s information and belief, Defendant JASON SYDLOWSKI is
12 a natural person, and an owner, director, officer, and/or managing agent of LUCID
13 ENTERPRISES LLC, who directly or indirectly, or through his agent, employed or exercised
14 control over the wages, hours, or working conditions of Plaintiff and the Aggrieved Employees
15 (defined below). Therefore, he is liable to Plaintiff and the Aggrieved Employees for his
16 violations of, or causing Defendants to violate, Labor Code sections 203, 226, 226.7, 1194, and
17 2802 pursuant to Labor Code section 558.1.

18 9. Based on Plaintiff’s information and belief, Defendant ETHAN COHEN is a
19 natural person, and an owner, director, officer, and/or managing agent of LUCID
20 ENTERPRISES LLC, who directly or indirectly, or through an agent or any other person,
21 employed or exercised control over the wages, hours, or working conditions of Plaintiff and the
22 Aggrieved Employees (defined below). Therefore, he is liable to Plaintiff and the Aggrieved
23 Employees for his violations of, or causing Defendants to violate, Labor Code sections 203,
24 226, 226.7, 1194, and 2802 pursuant to Labor Code section 558.1.

25 10. The “Aggrieved Employees” are all current and former non-exempt or hourly
26 paid employees who worked for Defendants in California during the relevant time period
27 pursuant to California Labor Code section 2698, et. seq., the Labor Code Private Attorneys
28 General Act of 2004 (“PAGA”).

 11. Plaintiff is ignorant of the true names, capacities, relationships, and extents of
 participation in the conduct alleged herein, of the defendants sued as DOES 1-50, inclusive, but
 is informed and believes and thereon alleges that said defendants are legally responsible for the

1 wrongful conduct alleged herein and therefore sues these defendants by such fictitious names.
2 Plaintiff will amend the Complaint to allege the true names and capacities of the DOE
3 defendants when ascertained.

4 12. Plaintiff is informed and believes and thereon alleges that, at all relevant times
5 herein, all Defendants were the agents, employees and/or servants, masters or employers of the
6 remaining Defendants, and in doing the things hereinafter alleged, were acting within the
7 course and scope of such agency or employment, and with the approval and ratification of each
8 of the other Defendants.

9 13. Plaintiff is informed and believes and thereon alleges that each and every one of
10 the acts and omissions alleged herein were performed by, and/or are attributable to, all
11 Defendants, each acting as agents and/or employees, and/or under the direction and control of
12 each of the other Defendants, and that said acts and failures to act were within the course and
13 scope of said agency, employment, and/or direction and control.

14 14. At all relevant times, in perpetrating the acts and omissions alleged herein,
15 Defendants, and each of them, acted pursuant to and in furtherance of a policy, practice, or a
16 lack of a practice which resulted in Defendants not paying Plaintiff and the Aggrieved
17 Employees in accordance with applicable California labor laws as alleged herein.

18 **GENERAL ALLEGATIONS**

19 15. LUCID first began to employ Plaintiff in or around February 22, 2023 in the
20 position of hourly, non-exempt Fryer Oil Service Technician for Filta Environmental Kitchen
21 Solutions. LUCID continuously employed Plaintiff in that capacity until on or about April 27,
22 2023 when his employment ended.

23 16. At all relevant times, LUCID issued wages to Plaintiff and all of the other
24 Aggrieved Employees on a biweekly basis and paid them by the hour. At all relevant times,
25 LUCID classified Plaintiff and all of the other Aggrieved Employees as non-exempt
26 employees entitled to the protections of the Labor Code and the Wage Order. LUCID
27 employed Plaintiff and all of the Aggrieved Employees more than six, eight, and ten hours per
28 day. During his tenure, Plaintiff generally worked five days a week, Wednesday through

1 Sunday from approximately 10:00 p.m. to 6:00 a.m. or 12:00 a.m. to 8:00 a.m., and his latest
2 rate of pay was approximately \$20.50 per hour.

3 17. LUCID failed to pay Plaintiff and other Aggrieved Employees for all time
4 worked or subject to its control. Plaintiff and the other Aggrieved Employees were not paid for
5 all hours worked and consistently worked “off the clock” in that the company had a policy and
6 practice of rounding down work hours to the detriment of employees, which is akin to a
7 minimum wage violation. Moreover, LUCID staff, including supervisors Sam Arredondo,
8 “Baez”, and “Moises”, would text Plaintiff and others about work-related matters, including
9 which trucks to use and scheduling/coverage before they had clocked in for the start of their
10 shifts or after they had clocked out at the end of their shifts.

11 18. Due to the above “off the clock” violations, LUCID failed to pay Plaintiff and
12 the Aggrieved Employees properly-calculated overtime wages. The Aggrieved Employees’
13 actual work hours, which included the “off the clock” work as described above, entitled them
14 to overtime, however, it was not company policy to keep accurate track of all hours worked
15 and to pay employees the accurate amount of overtime, especially since the “off the clock”
16 work was not factored into the equation. Furthermore, any incentive payments and/or bonus
17 payments were not factored into employees’ regular rate of pay for purposes of deciphering
18 the correct overtime rate of pay. In addition, any bonus and/or incentive payments were not
19 factored into the correct meal and rest break premium pay per *Ferra v. Loews Hollywood*
20 *Hotel, LLC* (2021) 11 Cal. 5th 858, 863.

21 19. LUCID failed to provide all compliant meal periods and authorize and permit
22 all compliant rest periods to which Plaintiff and the other Aggrieved Employees were entitled.
23 Plaintiff and other Aggrieved Employees were entitled to take off-duty, uninterrupted 30-
24 minute meal periods before the fifth and tenth hours of work and to take uninterrupted 10-
25 minute rest periods for every four hours or major fraction thereof worked. Due to the
26 workload, Plaintiff and the Aggrieved Employees would not be able to take timely,
27 uninterrupted meal periods before the 5th or 10th hour worked. On information and belief,
28 LUCID did not keep track of Plaintiff’s and the Aggrieved Employees’ meal periods. Per

1 *Donohue v. AMN Services, LLC*, (2021) 11 Cal.5th 58, where time records do not facially
2 show an employee took a compliant meal period, a rebuttable presumption arises that the
3 employer failed to provide it, giving rise to a meal period violation. Plaintiff did not take a
4 meal period at all due to the heavy workload and the time constraints and pressure placed on
5 him by management. Plaintiff's supervisors, including Sam Arredondo (hereafter Arredondo),
6 required Plaintiff and the other Aggrieved Employees to finish cleaning a specific number of
7 fryers (twelve or more) within a specific amount of time (usually six hours). This was
8 impossible to do if Plaintiff and the other Aggrieved Employees took their statutory breaks. If
9 Plaintiff and the Aggrieved Employees tried to take their breaks, Arredondo would get mad
10 because it would lead to the work not being completed within the time frame management
11 required. Similarly, Plaintiff and the other Aggrieved Employees were not able to take their 10
12 minute rest breaks due to the work load and pressure from management to finish cleaning the
13 required number of fryers per shift. In fact, Arredondo instructed Plaintiff to take his rest
14 breaks while driving from site to site. Plaintiff objected to this practice and told Arredondo
15 that this isn't right as he has to pay attention to the road while driving and monitor the GPS to
16 get from one site to the next on his route. LUCID took no action to resolve Plaintiff's
17 complaints. In fact, LUCID retaliated against Plaintiff for his complaints about LUCID's
18 noncompliance with the California Labor Code (discussed below) and terminated his
19 employment. On information and belief, LUCID did not provide premium wages for these
20 meal and rest break violations; if LUCID did provide premium wages, they were not paid at
21 the correct rate, as explained above. If LUCID had Plaintiff sign a meal period waiver, it
22 would not be valid and enforceable since Plaintiff and the Aggrieved Employees generally
23 worked more than a 6-hour shift. If LUCID had Plaintiff sign an on-duty meal period
24 agreement, it would also be invalid and unenforceable because the nature of Plaintiff's job
25 does not prevent him from taking a meal period.

26 20. LUCID failed to reimburse Plaintiff and the other Aggrieved Employees for
27 business expenses they incurred in direct consequence of the discharge of their duties. On
28 information and belief, although LUCID provided certain employees with company phones, it

1 still required Plaintiff and others to use their own personal cell phones to communicate with
2 management concerning scheduling and work matters. In fact, LUCID had included Plaintiff's
3 personal mobile phone number as well as the company phone number in their "Whats App"
4 group chat communications with Plaintiff. LUCID did not reimburse Plaintiff and the other
5 Aggrieved Employees for these mobile phone expenses. Accordingly, LUCID was in violation
6 of California Labor Code sections 2800 and 2802.

7 21. LUCID failed to pay its employees all wages due to them within any time
8 period specified by California Labor Code section 204, including the minimum wages and
9 overtime as described above as well as meal/rest break premiums. LUCID did not provide
10 Plaintiff and other Aggrieved Employees accurate, itemized wage statements. Wage
11 statements must include, among other things, total hours worked by the employee. Labor Code
12 § 226(a)(2). LUCID issued wage statements that inaccurately reflected total hours worked,
13 gross and net wages earned, and the number of hours worked at each hourly rate because of
14 LUCID's failure to properly pay wages as explained herein. Labor Code §§ 226(a)(1), (2), (5),
15 (9). LUCID's failure to maintain accurate records as to the hours worked daily by employees
16 also constitutes a violation of Labor Code section 1174(d).

17 22. Finally, because LUCID did not properly pay all wages earned as explained
18 herein, LUCID also failed to pay final wages owed to Plaintiff and other Aggrieved
19 Employees in violation of Labor Code section 203. These earned but unpaid wages include
20 minimum wages and compensation for all hours worked, overtime compensation, premium
21 pay for missed meal and rest breaks, and business expense reimbursement, among others.

22 23. Moreover, Plaintiff would also have individual claims against LUCID for
23 retaliation in violation of Labor Code sections 98.6 and 1102.5 and wrongful termination in
24 violation of public policy. Throughout his employment tenure, Plaintiff voiced his concerns
25 about not receiving proper statutory meal and rest breaks and complained to management,
26 specifically to his supervisors Arredondo and Baez. On or around April 22, 2023, Plaintiff
27 once again complained to his supervisors about not being able to take his breaks. During a text
28 exchange between Plaintiff and one of his supervisors, Plaintiff stated: "Ni modo de sacrificar

1 mi Descanso legal por sacar el jale” (I shouldn’t sacrifice my legal rest to finish all the route).
2 LUCID retaliated against Plaintiff for his complaints regarding LUCID’s noncompliance with
3 the Labor Code and terminated his employment on or around April 27, 2023 in violation of
4 Labor Code sections 98.6 and 1102.5.

5 **FIRST CAUSE OF ACTION**

6 **FAILURE TO PAY ALL WAGES EARNED FOR ALL HOURS WORKED**

7 **(Lab. Code §§ 510, 1194, 1197, and 1198)**

8 **(By Plaintiff against all Defendants)**

9 24. Plaintiff incorporates all paragraphs of the Complaint as if fully alleged herein.

10 25. At all relevant times, Plaintiff was a non-exempt employee of Defendants and
11 entitled to the benefits and protections of California Labor Code §§ 510, 1194, 1197, and 1198,
12 and the Wage Order.

13 26. Section 2(K) of the Wage Order defines “hours worked” as “the time during
14 which an employee is subject to the control of an employer, and includes all the time the
15 employee is suffered or permitted to work, whether or not required to do so.”

16 27. Section 3 of the Wage Order states:

17 **(A) Daily Overtime - General Provisions**

18 (1) The following overtime provisions are applicable to
19 employees 18 years of age or over and to employees 16 or
20 17 years of age who are not required by law to attend
21 school and are not otherwise prohibited by law from
22 engaging in the subject work. Such employees shall not
23 be employed more than eight (8) hours in any workday or
24 more than 40 hours in any workweek unless the employee
25 receives one and one-half (1 ½) times such employee’s
26 regular rate of pay for all hours worked over 40 hours in
27 the workweek. Eight (8) hours of labor constitutes a day’s
28 work. Employment beyond eight (8) hours in any
workday or more than six (6) days in any workweek is
permissible provided the employee is compensated for
such overtime at not less than:

(a) One and one-half (1 ½) times the employee’s
regular rate of pay for all hours worked in excess
of eight (8) hours up to and including 12 hours in

any workday, and for the first eight (8) hours worked on the seventh (7th) consecutive day of work in a workweek.

(b) Double the employee's regular rate of pay for all hours worked in excess of 12 hours in any workday and for all hours worked in excess of eight (8) hours on the seventh (7th) consecutive day of work in a workweek.

(c) The overtime rate of compensation required to be paid to a nonexempt full-time salaried employee shall be computed by using the employee's regular hourly salary as one-fortieth (1/40) of the employee's weekly salary.

28. Section 4 of the Wage Order requires an employer to pay non-exempt employees at least the minimum wage set forth therein for all hours worked, which consist of all hours that an employer has actual or constructive knowledge that employees are working.

29. Labor Code section 510 states:

Eight hours of labor constitutes a day's work. Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee. Nothing in this section requires an employer to combine more than one rate of overtime compensation in order to calculate the amount to be paid to an employee for any hour of overtime work.

30. California Labor Code § 1194 invalidates any agreement between an employer and an employee to work for less than the minimum wage required under the applicable Wage Order.

31. California Labor Code § 1197 makes it unlawful for an employer to pay an employee less than the minimum wage required under the applicable Wage Order for all hours

1 worked during a payroll period.

2 32. California Labor Code § 1198 makes it unlawful for an employer to employ an
3 employee under conditions that violate the Wage Order.

4 33. In conjunction, these provisions of the California Labor Code require employers
5 to pay non-exempt employees no less than their agreed-upon or statutorily mandated wage rates
6 for all hours worked, including unrecorded hours when the employer knew or reasonably should
7 have known that employees were working during those hours. (*See Morillion v. Royal Packing*
8 *Co.* (2000) 22 Cal.4th 575, 585.)

9 34. Defendants required Plaintiff to work in excess of eight (8) hours in one workday
10 and forty (40) hours in one workweek without compensating him for such time worked at the
11 premium rates required by California law.

12 35. As described more fully above, Defendants failed to pay all minimum, regular,
13 overtime, and double time wages to Plaintiff because Defendants paid wages based on rounded
14 times, did not pay for off-the-clock work, and failed to pay overtime and double time wages
15 based on correct regular rates of pay.

16 36. As a result of Defendants' unlawful conduct, Plaintiff has suffered damages in an
17 amount, subject to proof, to the extent that he was not paid the full amount of wages earned
18 during each pay period during the applicable limitations period, including minimum, overtime,
19 and double-time wages.

20 37. As a result of Defendants' conduct, Plaintiff seeks damages and/or restitution for
21 unpaid wages which Defendants failed to pay him at the rates set forth herein, interest thereon,
22 and costs of suit and reasonable attorney's fees pursuant to California Labor Code §§ 1194.

23 **SECOND CAUSE OF ACTION**

24 **FAILURE TO PROVIDE REST BREAKS**

25 **(Lab. Code §§ 226.7 and 1198)**

26 **(By Plaintiff against all Defendants)**

27 38. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

28 39. At all relevant times during the applicable limitations period, Plaintiff was a

1 non-exempt employee of Defendants and entitled to the benefits and protections of California
2 Labor Code §§ 226.7, 1198, and the Wage Order.

3 40. Labor Code § 1198 states,

4 “The maximum hours of work and the standard conditions of labor
5 fixed by the commission shall be the maximum hours of work and the
6 standard conditions of labor for employees. The employment of any
employee for longer hours than those fixed by the order or under
conditions of labor prohibited by the order is unlawful.”

7 41. In relevant part, Section 12 of the Wage Order states:

8 Rest Periods:

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

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

19 42. In addition, Labor Code Section 226.7 states

20 (b) An employer shall not require an employee to work during a
21 meal or rest or recovery period mandated pursuant to an applicable
22 statute, or applicable regulation, standard, or order of the Industrial
Welfare Commission, the Occupational Safety and Health Standards
Board, or the Division of Occupational Safety and Health.

23 (c) If an employer fails to provide an employee a meal or rest or
24 recovery period in accordance with a state law, including, but not
25 limited to, an applicable statute or applicable regulation, standard, or
26 order of the Industrial Welfare Commission, the Occupational Safety
and Health Standards Board, or the Division of Occupational Safety and
27 Health, the employer shall pay the employee one additional hour of pay
at the employee's regular rate of compensation for each workday that
28 the meal or rest or recovery period is not provided.

43. Pursuant to the Wage Order, Plaintiff was entitled to be provided with net rest breaks of at least ten minutes for each four-hour period of work, or major fraction thereof.

44. Defendants failed to authorize and permit Plaintiff to take compliant rest periods and failed to pay one hour of correctly-calculated premium pay for each day such a rest period was not provided.

45. As a result of Defendants' unlawful conduct, Plaintiff has suffered damages in an amount subject to proof to the extent he was not paid additional wages owed for all rest breaks not provided to him.

46. By reason of the above, Plaintiff is entitled to premium wages for workdays in which one or more rest breaks were not provided to him pursuant to California Labor Code § 226.7, plus interest and costs.

THIRD CAUSE OF ACTION

FAILURE TO PROVIDE MEAL PERIODS

(Lab. Code §§ 226.7, 512, and 1198)

(By Plaintiff against all Defendants)

47. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

48. At all relevant times during the applicable limitations period, Plaintiff was a non-exempt employee of Defendants and entitled to the benefits and protections of California Labor Code §§ 226.7, 512 and 1198, and the Wage Order.

49. Labor Code § 1198 states,

“The maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.”

50. In relevant part, Labor Code Section 512 states

“An employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes, except that if the total work period per day of the employee is no more than six hours, the meal period may be waived by mutual consent of both the employer and employee. An employer may not employ an employee for a work period of more than

1 10 hours per day without providing the employee with a second meal
2 period of not less than 30 minutes, except that if the total hours worked
3 is no more than 12 hours, the second meal period may be waived by
mutual consent of the employer and the employee only if the first meal
period was not waived.”

4 51. In relevant part, Section 11 of the Wage Order states:

5 Meal Periods:

6 (A) No employer shall employ any person for a work period of more
7 than five (5) hours without a meal period of not less than 30
8 minutes, except that when a work period of not more than six (6)
9 hours will complete the day’s work the meal period may be
waived by mutual consent of the employer and the employee...

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

14 52. Pursuant to California Labor Code § 512 and the Wage Order, Plaintiff was
15 entitled to be provided with uninterrupted meal periods of at least 30 minutes for each day he
16 worked five or more hours. Pursuant to California Labor Code § 512, Plaintiff was also
17 entitled to a second 30-minute meal period when he worked more than ten (10) hours in a
18 workday.

19 53. During the relevant time period, Defendants failed to provide Plaintiff with
20 compliant meal periods before the fifth hour of work and failed to pay one hour of correctly-
21 calculated premium pay for each day such a meal period was not provided.

22 54. As a result of Defendants’ unlawful conduct, Plaintiff has suffered damages in
23 an amount subject to proof to the extent he was not paid additional wages owed for all meal
24 periods not provided to him.

25 55. By reason of the above, Plaintiff is entitled to premium wages for workdays in
26 which one or more meal periods were not provided to him pursuant to California Labor Code
27 § 226.7, plus interest and costs.

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1 **FOURTH CAUSE OF ACTION**

2 **FAILURE TO INDEMNIFY**

3 **(Lab. Code §§ 1198 & 2802)**

4 **(By Plaintiff against all Defendants)**

5 56. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

6 57. At all relevant times, Plaintiff was a non-exempt employee of Defendants and
7 entitled to the benefits and protections of the California Labor Code §§ 1198 and 2802, and the
8 Wage Order.

9 58. In pertinent part, California Labor Code § 2802(a) states:

10 An employer shall indemnify his or her employee[s] for all necessary
11 expenditures incurred by the employee in direct consequence of the
12 discharge of his or her duties.

13 59. Section 9(B) of the Wage Order states:

14 When tools or equipment are required by the employer or are necessary to
15 the performance of a job, such tools and equipment shall be provided and
16 maintained by the employer, except that an employee whose wages are at
17 least two (2) times the minimum wage provided herein may be required to
provide and maintain hand tools and equipment customarily required by
the trade or craft.

18 60. California Labor Code § 1198 prohibits employers from employing their
19 employees under conditions prohibited by the Wage Order.

20 61. At all relevant times during the applicable limitations period, Defendants
21 communicated with Plaintiff both on his personal mobile phone and the company phone
22 regarding scheduling and work matters. However, Defendants did not reimburse Plaintiff for his
23 mobile phone expenses.

24 62. Plaintiff is informed and believes and thereon alleges that, at all relevant times,
25 Defendants have maintained a policy, practice, or a lack of a policy which resulted in
26 Defendants' failure to indemnify Plaintiff for the reasonable expenses he incurred in the course
27 of performing his duties.

28 63. By reason of the above, Plaintiff is entitled to reimbursement for all necessary

1 expenditures and losses and interest due and owing to within three years (3) of the date of the
2 filing of the Complaint until the date of entry of judgment pursuant to California Labor Code §
3 2802(b). Further, Plaintiff seeks reasonable attorney's fees pursuant to Labor Code § 2802(c).

4 **FIFTH CAUSE OF ACTION**

5 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**

6 **(California Labor Code Section 226)**

7 **(By Plaintiff against all Defendants)**

8 64. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

9 65. Pursuant to California Labor Code Section 226, every employer must furnish
10 each employee an itemized statement of wages and deductions at the time of payment of wages.

11 66. Defendants knowingly and intentionally did not furnish Plaintiff with pay stubs
12 that accurately reflected all information required by Labor Code Section 226, including but not
13 limited to, all hours worked, gross wages earned, including overtime, minimum wages, and
14 premium pay for missed meal and rest breaks, net wages earned, total hours worked by the
15 employee, all deductions, and business expense reimbursement. Therefore, Defendants failed
16 to maintain and provide accurate itemized wage statements to Plaintiff in accordance with
17 California Labor Code Section 226(a).

18 67. Pursuant to California Labor Code Section 226(e), Plaintiff is entitled to recover
19 the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a
20 violation occurs and one hundred dollars (\$100) per employee for each violation in a
21 subsequent pay period, not exceeding an aggregate amount of four thousand dollars (\$4,000),
22 plus costs and reasonable attorney's fees. Plaintiff only claims damages under this cause of
23 action pursuant to the 3-year period immediately preceding the date this lawsuit was filed.

24 68. As a direct and proximate result of Defendants' unlawful conduct, Plaintiff has
25 sustained damages, including loss of earnings, in an amount to be established at trial. As a
26 further direct and proximate result of Defendants' unlawful conduct, as set forth herein,
27 Plaintiff is entitled to recover penalties, in an amount to be established at trial, as well as costs
28 and attorney's fees pursuant to statute.

69. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged along with any allowable interest, penalties, attorney's fees, and costs according to proof at trial.

SIXTH CAUSE OF ACTION

FAILURE TO PAY WAGES WHEN EMPLOYMENT ENDS

(California Labor Code Sections 201-203)

(By Plaintiff against all Defendants)

70. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

71. Pursuant to California Labor Code Section 201(a), an employer who discharges an employee must immediately pay for all compensation due and owing.

72. Pursuant to California Labor Code Section 202, when an employee resigns, the employer must pay all compensation due and owing within 72 hours of resignation, or on the employee's last day of work, if the employee gives more than 72 hours notice of resignation.

73. Pursuant to California Labor Code Section 203, if an employer willfully fails to pay, without abatement or reduction, any wages of an employee whose employment ends, the wages of the employee shall continue as a penalty from the due date at the same rate until paid or until an action is commenced; however, the wages shall not continue for more than 30 days for failure to pay an employee owed wages.

74. After Plaintiff's employment with Defendants ended, Defendants willfully refused and continue to refuse to pay his unpaid wages as required by Labor Code Section 203.

75. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged along with any allowable interest, penalties, attorney's fees, and costs according to proof at trial. Moreover, Plaintiff prays for the above-mentioned money from 3 years immediately preceding the filing of this lawsuit.

76. Under this cause of action, Plaintiff also prays for attorney's fees and costs under California Labor Code Section 218.5 for time spent pursuing the non-payment of wages as set forth herein. Plaintiff also prays for interest under California Labor Code Section 218.6.

77. Under this cause of action, Plaintiff prays for penalties due under the statutes

1 alleged along with any allowable interest, penalties, attorney's fees, and costs according to
2 proof at trial.

3 **SEVENTH CAUSE OF ACTION**

4 **FAILURE TO PAY WAGES OWED EVERY PAY PERIOD**

5 **(California Labor Code Section 204)**

6 **(By Plaintiff against all Defendants)**

7 78. Plaintiff incorporates all paragraphs of this complaint as if fully alleged herein.

8 79. California Labor Code Section 204 establishes the fundamental right of all
9 employees in the State of California to be paid wages in a timely fashion for their work.

10 80. At all times relevant during the liability period, Defendants failed to pay
11 Plaintiff the full amount of all owed wages when due as required by California Labor Code
12 Section 204.

13 81. Defendants failed to pay Plaintiff all wages earned each pay period. Plaintiff is
14 informed, believes, and thereon alleges, that all times relevant during the applicable limitations
15 period, Defendants maintained a policy or practice of not paying Plaintiff wages for all hours
16 worked, including the minimum wage, overtime hours, double time hours, and premium pay
17 for missed meal and rest breaks.

18 82. As a result of Defendants' unlawful conduct, Plaintiff has suffered damages in
19 an amount, subject to proof, to the extent he was not paid all wages each pay period. The
20 precise amount of unpaid wages is not presently known to Plaintiff but can be determined
21 directly from Defendants' records or indirectly based on information from Defendants' records.

22 83. Under this cause of action, Plaintiff prays for penalties due under the statutes
23 alleged along with any allowable interest, penalties, attorney's fees, and costs according to
24 proof at trial.

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1 **EIGHTH CAUSE OF ACTION**

2 **RETALIATION**

3 **(Lab. Code § 1102.5)**

4 **(By Plaintiff against all Defendants)**

5 84. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

6 85. According to Labor Code section 1102.5, subdivision (b),

7 An employer, or any person acting on behalf of the employer, shall not retaliate
8 against an employee for disclosing information, or because the employer
9 believes that the employee disclosed or may disclose information, ... to a
10 person with authority over the employee or another employee who has the
11 authority to investigate, discover, or correct the violation or noncompliance,...
12 if the employee has reasonable cause to believe that the information discloses a
violation of state or federal statute, or a violation of or noncompliance with a
local, state, or federal rule or regulation, regardless of whether disclosing the
information is part of the employee's job duties.

13 86. According to Labor Code section 1102.5, subdivision (c), an employer may not
14 retaliate against an employee for refusing to participate in an activity that would result in a
15 violation of state or federal statute, or a violation or noncompliance with a state or federal rule
16 or regulation.

17 87. This statute reflects the broad public policy interest in encouraging workplace
18 whistleblowers to report unlawful acts without fearing retaliation.

19 88. Defendants were employers for purposes of California law.

20 89. Plaintiff was an employee of Defendants, performing work on behalf of
21 Defendants.

22 90. During his employment tenure, Plaintiff complained to management about not
23 being able to take his statutory breaks. Defendants retaliated against Plaintiff and terminated
24 his employment for disclosing its meal and rest period violations to his supervisors with the
25 expectation that they would investigate and correct the violations.

26 91. As a direct and proximate result of the aforementioned acts and omissions of
27 Defendants, Plaintiff suffered general and compensatory damages, including but not limited
28 to, loss of income (past and future), loss of employment benefits (past and future), general and

1 compensatory damages (past and future), mental pain and anguish and emotional distress (past
2 and future), and will continue to suffer in the future, in an amount to be proved at trial.

3 92. Plaintiff requests all available relief under Labor Code § 1102.5 including
4 damages and the imposition of civil penalties of \$10,000 for each violation as well as
5 attorney's fees.

6 93. The foregoing conduct engaged in by Defendants and each of their directors,
7 officers and/or managing agents, constitutes malice, fraud, and oppression and was authorized,
8 ratified, and carried on with a conscious and willful disregard of their workers' right to work
9 in an environment free of retaliation and labor code violations, so as to justify the imposition
10 of punitive damages to punish and set an example of said Defendants.

11 **NINTH CAUSE OF ACTION**

12 **RETALIATION**

13 **(Lab. Code § 98.6)**

14 **(By Plaintiff against all Defendants)**

15 94. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

16 95. According to Labor Code section 98.6, subdivision (a), a person shall not
17 discharge an employee because the employee has filed a bona fide complaint or claim relating
18 to his or her rights that are under the jurisdiction of the Labor Commissioner, made a written
19 or oral complaint that he or she is owed unpaid wages, or because of the exercise of any right
20 afforded him or her.

21 96. Defendants were employers for purposes of California law.

22 97. Plaintiff was an employee of Defendants, performing work on behalf of
23 Defendants.

24 98. Defendants retaliated against Plaintiff for making oral complaints about not
25 receiving proper statutory meal and rest breaks.

26 99. Pursuant to Labor Code sections 98.6(b), Plaintiff is entitled to reinstatement
27 and reimbursement for lost wages and work benefits in addition to \$10,000 for Defendants'
28 violation.

1 100. The foregoing conduct engaged in by Defendants and each of their directors,
2 officers and/or managing agents, constitutes malice, fraud, and oppression and was authorized,
3 ratified, and carried on with a conscious and willful disregard of their workers' right to work
4 in an environment free of retaliation and labor code violations, so as to justify the imposition
5 of punitive damages to punish and set an example of said Defendants.

6 **TENTH CAUSE OF ACTION**

7 **CIVIL PENALTIES**

8 **(Lab. Code §§ 2698, *et seq.*)**

9 **(By Plaintiff against all Defendants)**

10 101. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

11 102. Plaintiff is an Aggrieved Employee under the Private Attorneys General Act of
12 2004 ("PAGA") because he was employed by Defendants during the applicable statutory
13 period and suffered one or more of the violations of the Labor Code set forth in this Complaint.
14 Plaintiff seeks to recover on his own behalf, on behalf of the State of California, and on behalf
15 of all current and former Aggrieved Employees of Defendants, the civil penalties provided by
16 PAGA, plus reasonable attorney's fees and costs in this representative action.

17 103. During the applicable time period, Defendants violated California Labor Code
18 §§ 98.6, 201, 202, 203, 204, 226, 226.7, 510, 512, 558, 558.1, 1102.5, 1174, 1194, 1197, 1198,
19 and 2802.

20 104. California Labor Code §§ 2699(a) and (g) authorize an aggrieved employee, on
21 behalf of themselves and other current or former employees, to bring a civil action to recover
22 civil penalties pursuant to the procedures specified in California Labor Code § 2699.3.

23 105. Pursuant to California Labor Code §§ 2699(a) and (f), Plaintiff and the
24 Aggrieved Employees are entitled to recover civil penalties for each of the Defendants'
25 violations of California Labor Code §§ 98.6, 201, 202, 203, 204, 226, 226.7, 510, 512, 558,
26 558.1, 1102.5, 1174, 1194, 1197, 1198, and 2802 during the applicable limitations period in the
27 following amounts:

28 A. For violations of California Labor Code § 204, one hundred dollars

1 (\$100.00) for each Aggrieved Employee for each initial violation and two hundred dollars
2 (\$200.00) for each Aggrieved Employee for each subsequent violation (penalty amounts
3 established by California Labor Code § 210).

4 B. For violations of California Labor Code § 226(a), two hundred fifty
5 dollars (\$250.00) for each Aggrieved Employee for initial violation and one thousand dollars
6 (\$1,000.00) for each Aggrieved Employee for each subsequent violation (penalty amounts
7 established by California Labor Code § 226.3).

8 C. For violations of California Labor Code §§ 510, 512, and 558.1, fifty
9 dollars (\$50.00) for each Aggrieved Employee for initial violation and one hundred dollars
10 (\$100.00) for each Aggrieved Employee for each subsequent violation (penalty amounts
11 established by California Labor Code § 558).

12 D. For violations of California Labor Code § 1174, five hundred dollars
13 (\$500.00) for each Aggrieved Employee for each violation (penalty amounts established by
14 California Labor Code § 1174.5).

15 E. For violations of California Labor Code § 1197, one hundred dollars
16 (\$100.00) for each Aggrieved Employee for each initial and intentional violation and two
17 hundred fifty dollars (\$250.00) for each Aggrieved Employee for each subsequent violation,
18 per pay period (regardless of whether the initial violations were intentionally committed)
19 (penalty amounts established by California Labor Code § 1197.1).

20 F. For violations of California Labor Code §§ 201, 202, 203, 226.7, 1194,
21 1198, and 2802, one hundred dollars (\$100.00) for each Aggrieved Employee per pay period
22 for each initial violation and two hundred dollars (\$200.00) for each Aggrieved Employee per
23 pay period for each subsequent violation (penalty amounts established by California Labor
24 Code § 2699(f)(2)).

25 G. Pursuant to California Labor Code §§ 2699(a) and (f), Plaintiff individually
26 is entitled to recover civil penalties for each of the Defendants' violations of California Labor
27 Code §§ 98.6 and 1102.5 during the applicable limitations period in the following amounts:

28 1) For violations of California Labor Code § 98.6, an amount not to

1 exceed \$10,000 for each violation by Defendants of California Labor Code § 98.6(a), as well as
2 attorney's fees and costs under Labor Code § 2699(g) (penalty amounts established by
3 California Labor Code § 98.6(b)(3)).

4 2) For violations of California Labor Code § 1102.5, an amount not
5 to exceed \$10,000 for each violation by Defendants of California Labor Code § 1102.5(c), as
6 well as attorney's fees and costs under Labor Code § 2699(g) (penalty amounts established by
7 California Labor Code § 1102.5(f)).

8 106. Plaintiff has complied with the procedures for bringing suit specified in
9 California Labor Code § 2699.3. By letter dated May 18, 2023, Plaintiff filed written notice
10 online with the Labor and Workforce Development Agency (“LWDA”) and gave written notice
11 by certified mail to Defendants of the specific provisions of the California Labor Code alleged
12 to have been violated, including the facts and theories to support the alleged violations. Plaintiff
13 accompanied his LWDA notice with a fee in the amount of \$75.00. The LWDA has failed to
14 take action in response within 65 calendar days of the date of Plaintiff’s notice, but Plaintiff
15 anticipates that the LWDA will provide written notice to Plaintiff informing him that it does
16 not intend to investigate these allegations.

17 107. Pursuant to California Labor Code § 2699(g), Plaintiff and the Aggrieved
18 Employees are entitled to an award of civil penalties and reasonable attorney’s fees and costs in
19 connection with their claims for civil penalties.

20 **ELEVENTH CAUSE OF ACTION**

21 **WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY**

22 **(By Plaintiff against all Defendants except Jason Sydlowski and Ethan Cohen)**

23 108. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

24 109. Plaintiff was employed by Defendants.

25 110. At all times during his employment with Defendants, Plaintiff performed his
26 duties with the utmost diligence and competence.

27 111. The state statutes recited below embody fundamental, substantial, and well-
28 established public policies of the United States and State of California. By terminating

1 Plaintiff, Defendants violated these fundamental, substantial, and well-established public
2 policies.

3 (A) According to Labor Code section 1102.5, subdivision (b), an employer
4 shall not retaliate against an employee for disclosing information to a person with authority
5 over the employee who has the authority to correct the violation if the employee has
6 reasonable cause to believe that the information “discloses a violation of state or federal
7 statute, or a violation of or noncompliance with a local, state, or federal rule or regulation.”

8 (B) According to Labor Code section 98.6, subdivision (a), a person shall
9 not discharge an employee because the employee has made a written or oral complaint that he
10 or she is owed unpaid wages or because of the exercise of any right afforded him or her.

11 (C) In *Franklin v. Monadnock Co.* (2007) 151 Cal.App.4th 252, 260 the Court
12 stated, “An employer may not discharge an at will employee for a reason that violates
13 fundamental public policy. This exception is enforced through tort law by permitting the
14 discharged employee to assert against the employer a cause of action for wrongful discharge in
15 violation of fundamental public policy.

16 112. Plaintiff complained to management, including supervisors Arredondo and
17 Baez, about not receiving proper statutory breaks. Defendants retaliated against Plaintiff for his
18 complaints about LUCID’s noncompliance with the California Labor Code and terminated his
19 employment on or around April 27, 2023.

20 113. Moreover, Plaintiff was forced to hire an attorney to assist him to end these
21 illegal activities.

22 114. As set forth above, said actions by Defendants were wrongful and in violation
23 of the fundamental principles of the public policy of the State of California as reflected in its
24 laws, objectives and policies. Said statutes and constitutional expressions of public policy
25 include, but are not limited to, the California Labor Code, and the California Constitution,
26 Article 1 section 8. These laws inure to the benefit of the public at large, and not just the
27 private interests of the employers and employees whom they govern or protect.

28 115. As a direct and proximate result of the aforementioned acts and omissions of

1 Defendants, Plaintiff suffered general and compensatory damages, including but not limited to,
2 loss of income (past and future), loss of employment benefits (past and future), general and
3 compensatory damages (past and future), mental pain and anguish and emotional distress (past
4 and future), and will continue to suffer in the future, in an amount to be proved at trial.

5 116. The foregoing conduct engaged in by Defendants and each of their directors,
6 officers and/or managing agents, constitutes malice, fraud, and oppression and was authorized,
7 ratified, and carried on with a conscious and willful disregard of their workers' right to work in
8 an environment free of retaliation and labor code violations, so as to justify the imposition of
9 punitive damages to punish and set an example of said Defendants.

10 **TWELFTH CAUSE OF ACTION**

11 **UNFAIR COMPETITION**

12 **(Bus. & Prof. Code §§ 17200, *et seq.*)**

13 **(By Plaintiff against all Defendants except Jason Sydlowski and Ethan Cohen)**

14 117. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

15 118. At all relevant times during the applicable limitations period, Plaintiff has been
16 an employee of Defendants and entitled to the benefits and protections of the Business and
17 Professions Code §§ 17200, *et seq.*

18 119. Defendants engaged in unfair competition by failing to 1) pay employees for all
19 hours worked at the correct rates of pay and 2) pay their employees premium wages for
20 workdays during which one or more meal or rest periods were not provided, and 3) reimburse
21 employees for necessary business expenses incurred in the course of performing their duties.

22 120. The unlawful conduct of Defendants alleged herein amounts to and constitutes
23 unfair competition within the meaning of California Business & Professions Code §§ 17200,
24 *et seq.* Due to their unfair and unlawful business practices alleged herein, Defendants have
25 unfairly gained a competitive advantage over other comparable companies doing business in
26 California that comply with their legal obligations to, among other things, refrain from
27 retaliatory practices and prevent retaliation, pay their employees premium wages for workdays
28 in which they did not provide employees with one or more meal and rest periods, indemnify

1 them for all business expenses incurred during the course of performing their duties, including,
2 but not limited to, mobile phone expenses, and pay them all wages earned.

3 121. As a result of Defendants' unfair competition as alleged herein, Plaintiff has
4 suffered injuries in fact and lost money or property. Defendants failed to pay Plaintiff for all
5 hours worked, failed to provide him with premium wages for missed meal and rest periods,
6 and failed to reimburse Plaintiff for all expenses he incurred in the course of performing his
7 duties.

8 122. Pursuant to California Business & Professions Code § 17203, Plaintiff is
9 entitled to restitution of all monies rightfully belonging to him that Defendants did not pay him
10 or otherwise retained by means of their unlawful and unfair business practices.

11 123. Plaintiff is entitled to reasonable attorneys' fees in connection with his unfair
12 competition claims pursuant to California Code of Civil Procedure § 1021.5, the substantial
13 benefit doctrine and/or the common fund doctrine.

14 124. Accordingly, with respect to this cause of action, Plaintiff prays for the herein
15 stated relief, and an award of all reasonable costs and attorneys' fees, including interest
16 thereon, as permitted by law, all in amounts subject to proof.

17 **PRAYER FOR RELIEF**

18 WHEREFORE, Plaintiff prays for relief and judgment against Defendants as follows:

- 19 1. For compensatory damages including lost past and future wages, commissions, and all
20 other sums of money, including employment benefits, together with interest on said
21 amounts, and any other economic injury to Plaintiff, according to proof;
- 22 2. For general damages according to proof;
- 23 3. For special and consequential damages to the extent allowed by law;
- 24 4. For punitive and exemplary damages against Defendant LUCID ENTERPRISES LLC
25 in an amount subject to proof;
- 26 5. For damages and penalties under Labor Code Section 226 for Plaintiff in an amount
27 subject to proof at trial;
- 28 6. For damages and penalties pursuant to Labor Code Section 203 in an amount subject to

- 1 7. proof at trial;
- 2 8. For one hour of wages due to Plaintiff for each work period of more than five (5) hours
- 3 when Plaintiff did not receive an uninterrupted thirty (30) minute meal period;
- 4 9. For one hour of wages due to Plaintiff for each work period of four (4) hours or major
- 5 fraction thereof when Plaintiff did not receive a ten (10) minute rest break;
- 6 10. For maximum civil penalties available under the Labor Code and applicable Wage
- 7 Order against Defendants as described more particularly in the Complaint;
- 8 11. For restitution and disgorgement for all unfair business practices by Defendant LUCID
- 9 ENTERPRISES LLC against Plaintiff in an amount according to proof;
- 10 12. For an order enjoining Defendant LUCID ENTERPRISES LLC from further unfair and
- 11 unlawful business practices in violation of Business and Professions Code Sections
- 12 17200, et seq.;
- 13 13. For all remedies available to Plaintiff under the applicable Wage Order and the Labor
- 14 Code including an award of unpaid wages, attorney's fees, costs, interest, liquidated
- 15 damages, damages, penalties, and waiting time penalties according to proof to the
- 16 extent permitted by law;
- 17 14. For the imposition of civil penalties and/or statutory penalties;
- 18 15. For all interest as allowed by law;
- 19 16. For all costs and disbursements incurred in this suit;
- 20 17. Reasonable attorney's fees where available by law, including but not limited to,
- 21 pursuant to, Code of Civil Procedure section 1021.5, Labor Code section 1102.5(j),
- 22 and/or other applicable laws; and
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18. For such other and further relief as this Court may deem proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial on all issues so triable.

Dated: September 7, 2023

MM LAW, APC

By Maralle Messreliah
Maralle Messreliah, Esq.
Attorney for Plaintiff,
JOEL CASTANEDA