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Case #23CV428291
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John G. Yslas (SBN 187324)
john.yslas@wilshirelawfirm.com
Diego Aviles (SBN 315533)
diego.aviles@wilshirelawfirm.com
Harry Erganyan (SBN 333091)
harry.erganyan@wilshirelawfirm.com
Mariam Nazaretyan (SBN 334154)
mariam.nazaretyan@wilshirelawfirm.com

WILSHIRE LAW FIRM

660 S. Figueroa St., Sky Lobby
Los Angeles, California 90017
Telephone: (213) 381-9988
Facsimile: (213) 381-9989

Attorneys for Plaintiffs Guadalupe Salinas
and Guadalupe Ramos Marquez

Kane Moon (SBN 249834)
kmoon@moonlawgroup.com
H. Scott Leviant (SBN 200834)
hsleviant@moonlawgroup.com
Mariam Ghazaryan (SBN 341119)
mghazaryan@moonlawgroup.com

MOON LAW GROUP, PC

725 S. Figueroa St., 31st Floor
Los Angeles, California 90017
Telephone: (213) 232-3128
Facsimile: (213) 232-3125

Attorneys for Plaintiff Jose Antonio Ramirez Vecerra

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SANTA CLARA

GUADALUPE SALINAS, individually, and on
behalf of the State of California and other
aggrieved persons; GUADALUPE RAMOS
MARQUEZ, individually, and on behalf of all
others similarly situated; JOSE ANTONIO
RAMIREZ VECERRA, individually, and on
behalf of all others similarly situated, and on
behalf of the State of California and other
aggrieved persons,

Plaintiffs,

v.

GIULIANI CONSTRUCTION &
RESTORATION, INC., a California corporation;
and DOES 1 through 10, inclusive,

Defendants.

Case No.: 23CV428291

**SECOND AMENDED CLASS,
REPRESENTATIVE PAGA, AND
INDIVIDUAL ACTION COMPLAINT:**

1. Failure to Pay Minimum Wages [Cal. Lab. Code §§ 204, 1194, 1194.2, and 1197];
2. Failure to Pay Overtime Compensation [Cal. Lab. Code §§ 1194 and 1198];
3. Failure to Provide Meal Periods [Cal. Lab. Code §§ 226.7, 512];
4. Failure to Authorize and Permit Rest Breaks [Cal. Lab. Code §§ 226.7];
5. Failure to Indemnify Necessary Business Expenses [Cal. Lab. Code § 2802];
6. Failure to Timely Pay Final Wages at Termination [Cal. Lab. Code §§ 201-203];
7. Failure to Provide Accurate Itemized Wage Statements [Cal. Lab. Code § 226];

8. Unfair Business Practices [Cal. Bus. & Prof. Code §§ 17200, et seq.]; and
9. Civil Penalties Under PAGA [Cal. Lab. Code § 2698, et seq.].

SECOND AMENDED INDIVIDUAL ACTION COMPLAINT:

10. Failure to Pay Wages – Unpaid Commissions (Cal. Lab. Code §§ 204, 1194, 1194.2, and 1197);
11. Failure to Timely Pay Final Wages at Termination (Cal. Lab. Code §§ 201-203);
12. Failure to Provide Accurate Itemized Wage Statements (Cal. Lab. Code § 226);
13. Failure to Indemnify Employees for Expenditures (Cal. Lab. Code § 2802);
14. Unfair Business Practices (Cal. Bus. & Prof. Code §§ 17200, et seq.); and
15. Breach of Contract.

DEMAND FOR JURY TRIAL

1 Plaintiffs Guadalupe Salinas (“Plaintiff Salinas), Guadalupe Ramos Marquez (“Plaintiff
2 Ramos), and Jose Antonio Ramirez Vecerra (“Plaintiff Ramirez”) (collectively, the
3 “Plaintiffs”), based upon facts that either have evidentiary support or are likely to have
4 evidentiary support after a reasonable opportunity for further investigation and discovery,
5 alleges as follows:

6 **INTRODUCTION & PRELIMINARY STATEMENT**

7 1. Plaintiffs bring this action against Defendants Giuliani Construction and Restoration,
8 Inc. and Does 1 through 10 (collectively referred to as “Defendants”) for California Labor Code
9 violations and unfair business practices stemming from Defendants’ failure to pay minimum
10 wages, failure to pay overtime wages, failure to provide meal periods, failure to authorize and
11 permit rest periods, failure to maintain accurate records of hours worked and meal periods, failure
12 to timely pay all wages to terminated employees, failure to indemnify necessary business expenses,
13 and failure to furnish accurate wage statements, and for civil penalties under the Private Attorneys
14 General Act of 2004, California Labor Code §§ 2698 *et seq.* (“PAGA”) stemming from violations
15 of the California Labor Code.

16 2. Plaintiff Ramos and Plaintiff Ramirez bring the First through Eighth Causes of
17 Action individually and as a class action on behalf of themselves and certain current and former
18 employees of Defendants (hereinafter collectively referred to as the “Class” or “Class Members”
19 and defined more fully below). The Class consists of Plaintiff Ramos and Plaintiff Ramirez and all
20 other persons who have been employed by any Defendants in California as an hourly-paid, non-
21 exempt employee during the statute of limitations period applicable to the claims pleaded here.

22 3. Plaintiff Salinas and Plaintiff Ramirez bring the Ninth Cause of Action as a
23 representative action under the California Private Attorney General Act (“PAGA”) to recover civil
24 penalties that are owed to Plaintiff Salinas and Plaintiff Ramirez, the State of California, and past
25 and present employees of Defendant (hereinafter referred to as the “Aggrieved Employees”).

26 4. Plaintiff Salinas, and only Plaintiff Salinas, additionally brings the Tenth to
27 Fifteenth Causes of Action individually against Defendants for failure to pay all of his earned
28 commissions, for failing to pay his commissions at least twice per month, for failure to timely pay

1 final wages, failure to furnish accurate wage statements, failure to indemnify Plaintiff for business-
2 related expenditures, for unfair competition, and for breach of contract.

3 5. Defendants own/owned and operate/operated an industry, business, and
4 establishment within the State of California, including San Francisco County. As such, and based
5 upon all the facts and circumstances incident to Defendants' business in California, Defendants are
6 subject to the California Labor Code, Wage Orders issued by the Industrial Welfare Commission
7 ("IWC"), and the California Business & Professions Code.

8 6. Despite these requirements, throughout the statutory period Defendants maintained
9 a systematic, company-wide policy and practice of:

- 10 (a) Failing to pay employees for all hours worked, including all minimum
11 wages, and overtime wages in compliance with the California Labor Code
12 and IWC Wage Orders;
- 13 (b) Failing to provide employees with timely and duty-free meal periods in
14 compliance with the California Labor Code and IWC Wage Orders, failing
15 to maintain accurate records of all meal periods taken or missed, and failing
16 to pay an additional hour's pay for each workday a meal period violation
17 occurred;
- 18 (c) Failing to authorize and permit employees to take timely and duty-free rest
19 periods in compliance with the California Labor Code and IWC Wage
20 Orders, and failing to pay an additional hour's pay for each workday a rest
21 period violation occurred;
- 22 (d) Failing to indemnify employees for necessary business expenses incurred;
- 23 (e) Willfully failing to pay employees all minimum wages, overtime wages,
24 meal period premium wages, and rest period premium wages due within the
25 time period specified by California law when employment terminates; and
- 26 (f) Failing to maintain accurate records of the hours that employees worked.

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(g) Failing to provide employees with accurate, itemized wage statements containing all the information required by the California Labor Code and IWC Wage Orders.

7. On information and belief, Defendants, and each of them were on actual and constructive notice of the improprieties alleged herein and intentionally refused to rectify their unlawful policies. Defendants' violations, as alleged above, during all relevant times herein were willful and deliberate.

8. At all relevant times, Defendants were and are legally responsible for all of the unlawful conduct, policies, practices, acts and omissions as described in each and all of the foregoing paragraphs as the employer of Plaintiffs and the Class. Further, Defendants are responsible for each of the unlawful acts or omissions complained of herein under the doctrine of "respondeat superior".

THE PARTIES

A. Plaintiffs

9. Plaintiff Salinas is a resident of Patterson, California who worked for Defendants in Santa Clara County, California as an hourly-paid, non-exempt employee from approximately June 2014 to approximately January 2023.

10. Plaintiff Ramos is a resident of California who worked for Defendants in Santa Clara County, California as an hourly-paid, non-exempt employee from approximately January 2020 to approximately January 2023.

11. Plaintiff Ramirez is a resident of California who worked for Defendants in San Francisco County, California as an hourly-paid, non-exempt employee from approximately June 2022 to approximately September 2023.

12. Plaintiffs reserve the right to seek leave to amend this complaint to add new plaintiffs, if necessary, in order to establish suitable representative(s) pursuant to *La Sala v. American Savings and Loan Association* (1971) 5 Cal.3d 864, 872, and other applicable law.

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1 **B. Defendants**

2 13. Plaintiffs are informed and believe, and based upon that information and belief
3 allege, that Defendants are:

- 4 (a) Business entities with their principal places of business in San Francisco,
5 California;
- 6 (b) Business entities conducting business in numerous counties throughout the
7 State of California, including in San Francisco County; and
- 8 (c) The former employers of Plaintiffs, and the current and/or former employers
9 of the putative Class. Defendants suffered and permitted Plaintiffs and the
10 Class to work, and/or controlled their wages, hours, or working conditions.

11 14. Plaintiffs do not currently know the true names or capacities of the persons or
12 entities sued herein as Does 1-10, inclusive, and therefore sues said Defendants by such fictitious
13 names. Each of the Doe Defendants was in some manner legally responsible for the damages
14 suffered by Plaintiffs and the Class as alleged herein. Plaintiffs will amend this complaint to set
15 forth the true names and capacities of these Defendants when they have been ascertained, together
16 with appropriate charging allegations, as may be necessary.

17 15. At all times mentioned herein, the Defendants named as Does 1-10, inclusive, and
18 each of them, were residents of, doing business in, availed themselves of the jurisdiction of, and/or
19 injured a significant number of the Plaintiffs and the Class in the State of California.

20 16. Plaintiffs are informed and believes and thereon alleges that at all relevant times
21 each Defendant, directly or indirectly, or through agents or other persons, employed Plaintiffs and
22 the other employees described in the class definitions below, and exercised control over their
23 wages, hours, and working conditions. Plaintiffs are informed and believes and thereon alleges
24 that, at all relevant times, each Defendant was the principal, agent, partner, joint venturer, officer,
25 director, controlling shareholder, subsidiary, affiliate, parent corporation, successor in interest
26 and/or predecessor in interest of some or all of the other Defendants, and was engaged with some
27 or all of the other Defendants in a joint enterprise for profit, and bore such other relationships to
28 some or all of the other Defendants so as to be liable for their conduct with respect to the matters

1 alleged below. Plaintiffs are informed and believes and thereon alleges that each Defendant acted
2 pursuant to and within the scope of the relationships alleged above, that each Defendant knew or
3 should have known about, and authorized, ratified, adopted, approved, controlled, aided and
4 abetted the conduct of all other Defendants.

5 **ALLEGATIONS COMMON TO THE FIRST THROUGH EIGHTH CAUSES OF**
6 **ACTION**

7 17. Plaintiff Ramos is a California resident who worked for Defendants in the County
8 of Santa Clara, State of California during the statutory period. Plaintiff Ramirez is a California
9 resident who worked for Defendants in the County of San Francisco, State of California as a
10 general assistant during the statutory period. During the statutory period, Defendants classified
11 Plaintiffs as a non-exempt employee, and paid Plaintiffs and hourly wage.

12 18. Throughout the statutory period, Defendants failed to pay Plaintiff Ramos and
13 Plaintiff Ramirez for all hours worked (including minimum wages and overtime wages), failed to
14 provide Plaintiff Ramos and Plaintiff Ramirez with uninterrupted meal periods, failed to authorize
15 and permit Plaintiff Ramos and Plaintiff Ramirez to take uninterrupted rest periods, failed to
16 indemnify Plaintiff Ramos and Plaintiff Ramirez for necessary business expenses, failed to timely
17 pay all final wages to Plaintiff Ramos and Plaintiff Ramirez when Defendants terminated Plaintiff
18 Ramos and Plaintiff Ramirez's employment, and failed to furnish accurate wage statements to
19 Plaintiff Ramos and Plaintiff Ramirez. As discussed below, Plaintiff Ramos and Plaintiff
20 Ramirez's experiences working for Defendants were typical and illustrative.

21 19. Throughout the statutory period, Defendants maintained a policy and practice of not
22 paying Plaintiff Ramos, Plaintiff Ramirez, and the Class for all hours worked, including all
23 overtime wages. Throughout the statutory period, Defendants maintained a policy and practice of
24 not paying Plaintiff Ramos and Plaintiff Ramirez and the Class for all hours worked, including all
25 overtime wages. Defendants regularly use a system of time rounding in a manner that resulted,
26 over a period of time, in failing to compensate Plaintiff Ramos, Plaintiff Ramirez, and the Class
27 properly for all the time they have actually worked, even though the realities of Defendants'
28 operations are such that it is possible, practical, and feasible to count and pay for work time to the

1 minute. Also, throughout the statutory period, Plaintiff Ramos, Plaintiff Ramirez, and the Class
2 were required to work off the clock, and uncompensated. For example, Plaintiff Ramirez and the
3 Class were required to wait in line in order to clock into work, uncompensated. Also, Plaintiff
4 Ramos, Plaintiff Ramirez, and the Class were sometimes interrupted during meal breaks, without
5 compensation.

6 20. Throughout the statutory period, Defendants have wrongfully failed to provide
7 Plaintiff Ramos, Plaintiff Ramirez, and the Class with legally compliant meal periods. Defendants
8 sometimes, but not always, required Plaintiff Ramos, Plaintiff Ramirez, and the Class to work in
9 excess of five consecutive hours a day without providing 30-minute, continuous and uninterrupted,
10 duty-free meal period for every five hours of work, or without compensating Plaintiff Ramos,
11 Plaintiff Ramirez, and the Class for meal periods that were not provided by the end of the fifth
12 hour of work or tenth hour of work. Defendants also did not adequately inform Plaintiff Ramos,
13 Plaintiff Ramirez, and the Class of their right to take a meal period by the end of the fifth hour of
14 work, or, for shifts greater than 10 hours, by the end of the tenth hour of work. Defendants also
15 failed to accurately record meal periods. Accordingly, Defendants' policy and practice was to not
16 provide meal periods to Plaintiff Ramos, Plaintiff Ramirez, and the Class in compliance with
17 California law.

18 21. Throughout the statutory period, Defendants have wrongfully failed to authorize
19 and permit Plaintiff Ramos, Plaintiff Ramirez, and the Class to take timely and duty-free rest
20 periods. Defendants sometimes, but not always, required Plaintiff Ramos, Plaintiff Ramirez, and
21 the Class to work in excess of four consecutive hours a day without Defendants authorizing and
22 permitting them to take a 10-minute, continuous and uninterrupted, rest period for every four hours
23 of work (or major fraction of four hours), or without compensating Plaintiff Ramos, Plaintiff
24 Ramirez, and the Class for rest periods that were not authorized or permitted. Defendants also did
25 not adequately inform Plaintiff Ramos, Plaintiff Ramirez, and the Class of their right to take a rest
26 period. Moreover, Defendants did not have adequate policies or practices permitting or authorizing
27 rest periods for Plaintiff Ramos, Plaintiff Ramirez, and the Class, nor did Defendants have adequate
28 policies or practices regarding the timing of rest periods. Defendants also did not have adequate

1 policies or practices to verify whether Plaintiff Ramos, Plaintiff Ramirez, and the Class were taking
2 their required rest periods. Further, Defendants did not maintain accurate records of employee
3 work periods, and therefore Defendants cannot demonstrate that Plaintiff Ramos, Plaintiff
4 Ramirez, and the Class took rest periods during the middle of each work period. Accordingly,
5 Defendants' policy and practice was to not authorize and permit Plaintiff Ramos, Plaintiff Ramirez,
6 and the Class to take rest periods in compliance with California law.

7 22. Throughout the statutory period, Defendants wrongfully required Plaintiff Ramos,
8 Plaintiff Ramirez, and the Class to pay expenses that they incurred in direct discharge of their
9 duties for Defendants without reimbursement, such as the purchase of specific types of shoes, box
10 cutters, tools, and the use of personal cellular telephones for work purposes.

11 23. Throughout the statutory period, Defendants willfully failed and refused to timely
12 pay Plaintiff Ramos, Plaintiff Ramirez, and the Class at the conclusion of their employment all
13 wages for all minimum wages, overtime wages, meal period premium wages, and rest period
14 premium wages.

15 24. Throughout the statutory period, Defendants failed to furnish Plaintiff Ramos,
16 Plaintiff Ramirez, and the Class with accurate, itemized wage statements showing all applicable
17 hourly rates, and all gross and net wages earned (including correct hours worked, correct wages
18 earned for hours worked, correct overtime hours worked, correct wages for meal periods that were
19 not provided in accordance with California law, correct wages for rest periods that were not
20 authorized and permitted to take in accordance with California law, and Defendant's address).
21 Further, the wage statements do not show Defendant's address as required by California law. As a
22 result of these violations of California Labor Code § 226(a), the Plaintiff Ramos, Plaintiff Ramirez,
23 and the Class suffered injury because, among other things:

- 24 (a) the violations led them to believe that they were not entitled to be paid
25 minimum wages, overtime wages, meal period premium wages, and rest
26 period premium wages to which they were entitled, even though they were
27 entitled;

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- 1 (b) the violations led them to believe that they had been paid the minimum,
2 overtime, meal period premium, and rest period premium wages, even
3 though they had not been;
- 4 (c) the violations led them to believe they were not entitled to be paid minimum,
5 overtime, meal period premium, and rest period premium wages at the
6 correct California rate even though they were;
- 7 (d) the violations led them to believe they had been paid minimum, overtime,
8 meal period premium, and rest period premium wages at the correct
9 California rate even though they had not been;
- 10 (e) the violations hindered them from determining the amounts of minimum,
11 overtime, meal period premium, and rest period premium owed to them;
- 12 (f) in connection with their employment before and during this action, and in
13 connection with prosecuting this action, the violations caused them to have
14 to perform mathematical computations to determine the amounts of wages
15 owed to them, computations they would not have to make if the wage
16 statements contained the required accurate information;
- 17 (g) by understating the wages truly due them, the violations caused them to lose
18 entitlement and/or accrual of the full amount of Social Security, disability,
19 unemployment, and other governmental benefits;
- 20 (h) the wage statements inaccurately understated the wages, hours, and wages
21 rates to which Plaintiff Ramos, Plaintiff Ramirez, and the Class were
22 entitled, and Plaintiff Ramos, Plaintiff Ramirez, and the Class were paid less
23 than the wages and wage rates to which they were entitled.

24 Thus, Plaintiff Ramos, Plaintiff Ramirez, and the Class are owed the amounts provided for in
25 California Labor Code § 226(e), including actual damages.

26 **INDIVIDUAL ALLEGATIONS OF PLAINTIFF SALINAS**

27 25. Plaintiff Salinas was hired by Defendants as a Senior Field Specialist sometime in
28 June of 2014. As part of his employment, Defendants agreed to pay Plaintiff Salinas a base salary,

1 plus 3% commissions on losses signed for as well as 6% commissions for all construction jobs
2 solicited, signed and repair services provided, with payment to be made within ten (10) days of
3 Defendants receiving payment from the insurance company or the client/customer.

4 26. Defendant however failed to timely pay Plaintiff Salinas his commission wages, as
5 required by law and pursuant to the written sales commissions agreement. Plaintiff is additionally
6 informed and believes that he is owed commission wages on products sold, pursuant to his
7 commission sales agreement, including by not paying the full amount of commissions owed, or
8 not paying all earned commissions upon termination of his employment, including by failing to
9 pay Plaintiff Salinas his commission sales within 10 days from receiving payment from the
10 insurance or the insured or client, as outlined in the "Sales Commission Agreement" entered into
11 between Plaintiff Salinas and Defendants.

12 27. By failing to pay Plaintiff Salinas all of his commissions owed, Plaintiff Salinas
13 additionally was not paid all of his wages at termination of his employment and additionally
14 received non-compliant wage statements as a result.

15 28. Additionally, Plaintiff Salinas incurred expenses while working for Defendant,
16 including by having to use his own personal cell phone for work-related purposes and by incurring
17 mileage for driving his own personal vehicle, all without reimbursement.

18 29. Following Plaintiff Salinas's separation from employment with Defendant, which
19 occurred sometime in January or February of 2023, Plaintiff Salinas is informed and believes that
20 he is still owed commission wages and/interest on any late paid commissions, as well as any other
21 relief he may be entitled to.

22 **CLASS ACTION ALLEGATIONS**

23 30. Plaintiff Ramos and Plaintiff Ramirez bring certain claims on behalf of each and all
24 other persons similarly situated, and thus, seek class certification under California Code of Civil
25 Procedure § 382.

26 31. All claims alleged herein arise under California law for which Plaintiff Ramos and
27 Plaintiff seek relief authorized by California law.

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32. The proposed Class consists of and is defined as:

All persons who worked for any Defendant in California as an hourly, non-exempt employee at any time during the period beginning four years before the filing of the initial complaint in this action and ending when notice to the Class is sent.

33. At all material times, Plaintiff Ramos and Plaintiff Ramirez were a member of the Class.

34. Plaintiff Ramos and Plaintiff Ramirez undertake this concerted activity to improve the wages and working conditions of all Class Members.

35. There is a well-defined community of interest in the litigation and the Class is readily ascertainable:

(a) Numerosity: The members of the Class (and each subclass, if any) are so numerous that joinder of all members would be unfeasible and impractical. The membership of the entire Class is unknown to Plaintiff Ramos and Plaintiff Ramirez at this time, however, the Class is estimated to be greater than 100 individuals and the identity of such membership is readily ascertainable by inspection of Defendants' records.

(b) Typicality: Plaintiff Ramos and Plaintiff Ramirez are qualified to, and will, fairly and adequately protect the interests of each Class Member with whom there is a shared, well-defined community of interest, and Plaintiff Ramos and Plaintiff Ramirez's claims (or defenses, if any) are typical of all Class Members' claims as demonstrated herein.

(c) Adequacy: Plaintiff Ramos and Plaintiff Ramirez are qualified to, and will, fairly and adequately protect the interests of each Class Member with whom there is a shared, well-defined community of interest and typicality of claims, as demonstrated herein. Plaintiff Ramos and Plaintiff Ramirez have no conflicts with or interests antagonistic to any Class Member. Plaintiff Ramos and Plaintiff Ramirez's attorneys, the proposed class counsel, are versed in the rules governing class action discovery, certification, and

1 settlement. Plaintiff Ramos and Plaintiff Ramirez have incurred, and
2 throughout the duration of this action, will continue to incur costs and
3 attorneys' fees that have been, are, and will be necessarily expended for the
4 prosecution of this action for the substantial benefit of each class member.

5 (d) Superiority: A Class Action is superior to other available methods for the
6 fair and efficient adjudication of the controversy, including consideration of:

- 7 1) The interests of the members of the Class in individually controlling
8 the prosecution or defense of separate actions;
- 9 2) The extent and nature of any litigation concerning the controversy
10 already commenced by or against members of the Class;
- 11 3) The desirability or undesirability of concentrating the litigation of the
12 claims in the particular forum; and
- 13 4) The difficulties likely to be encountered in the management of a class
14 action.

15 (e) Public Policy Considerations: The public policy of the State of California is
16 to resolve the California Labor Code claims of many employees through a
17 class action. Indeed, current employees are often afraid to assert their rights
18 out of fear of direct or indirect retaliation. Former employees are also fearful
19 of bringing actions because they believe their former employers might
20 damage their future endeavors through negative references and/or other
21 means. Class actions provide the class members who are not named in the
22 complaint with a type of anonymity that allows for the vindication of their
23 rights at the same time as their privacy is protected.

24 36. There are common questions of law and fact as to the Class (and each subclass, if
25 any) that predominate over questions affecting only individual members, including without
26 limitation, whether, as alleged herein, Defendants have:

- 27 (a) Failed to pay Class Members for all hours worked, including minimum
28 wages, and overtime wages;

- (b) Failed to provide meal periods and pay meal period premium wages to Class Members;
- (c) Failed to authorize and permit rest periods and pay rest period premium wages to Class Members;
- (d) Failed to promptly pay all wages due to Class Members upon their discharge or resignation;
- (e) Failed to maintain accurate records of all hours Class Members worked, and all meal periods Class Members took or missed;
- (f) Failed to reimburse Class Members for all necessary business expenses; and
- (g) Violated California Business & Professions Code §§ 17200 *et. seq.* as a result of their illegal conduct as described above.

37. This Court should permit this action to be maintained as a class action pursuant to California Code of Civil Procedure § 382 because:

- (a) The questions of law and fact common to the Class predominate over any question affecting only individual members;
- (b) A class action is superior to any other available method for the fair and efficient adjudication of the claims of the members of the Class;
- (c) The members of the Class are so numerous that it is impractical to bring all members of the class before the Court;
- (d) Plaintiff Ramos, Plaintiff Ramirez, and the other members of the Class, will not be able to obtain effective and economic legal redress unless the action is maintained as a class action;
- (e) There is a community of interest in obtaining appropriate legal and equitable relief for the statutory violations, and in obtaining adequate compensation for the damages and injuries for which Defendants are responsible in an amount sufficient to adequately compensate the members of the Class for the injuries sustained;

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1 (f) Without class certification, the prosecution of separate actions by individual
2 members of the class would create a risk of:

3 1) Inconsistent or varying adjudications with respect to individual
4 members of the Class which would establish incompatible standards
5 of conduct for Defendants; and/or

6 2) Adjudications with respect to the individual members which would,
7 as a practical matter, be dispositive of the interests of other members
8 not parties to the adjudications, or would substantially impair or
9 impede their ability to protect their interests, including but not
10 limited to the potential for exhausting the funds available from those
11 parties who are, or may be, responsible Defendants; and,

12 (g) Defendants have acted or refused to act on grounds generally applicable to
13 the Class, thereby making final injunctive relief appropriate with respect to
14 the class as a whole.

15 38. Plaintiff Ramos and Plaintiff Ramirez contemplate the eventual issuance of notice to
16 the proposed members of the Class that would set forth the subject and nature of the instant action.
17 The Defendants' own business records may be utilized for assistance in the preparation and
18 issuance of the contemplated notices. To the extent that any further notices may be required,
19 Plaintiff Ramos and Plaintiff Ramirez would contemplate the use of additional techniques and
20 forms commonly used in class actions, such as published notice, e-mail notice, website notice,
21 first-class mail, or combinations thereof, or by other methods suitable to the Class and deemed
22 necessary and/or appropriate by the Court.

23 **FIRST CAUSE OF ACTION**

24 **(Against all Defendants for Failure to Pay Minimum Wages for All Hours Worked)**

25 39. Plaintiff Ramos and Plaintiff Ramirez incorporate by reference and re-allege as if
26 fully stated herein paragraphs 1-2, 5-24, and 30-38 in this Second Amended Complaint.

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1 40. “Hours worked” is the time during which an employee is subject to the control of an
2 employer, and includes all the time the employee is suffered or permitted to work, whether or not
3 required to do so.

4 41. At all relevant times herein mentioned, Defendants knowingly failed to pay to
5 Plaintiff Ramos, Plaintiff Ramirez, and the Class compensation for all hours they worked. By their
6 failure to pay compensation for each hour worked as alleged above, Defendants willfully violated
7 the provisions of Section 1194 of the California Labor Code, and any additional applicable Wage
8 Orders, which require such compensation to non-exempt employees.

9 42. Accordingly, Plaintiff Ramos, Plaintiff Ramirez, and the Class are entitled to recover
10 minimum wages for all non-overtime hours worked for Defendants.

11 43. By and through the conduct described above, Plaintiff Ramos, Plaintiff Ramirez, and
12 the Class have been deprived of their rights to be paid wages earned by virtue of their employment
13 with Defendants.

14 44. By virtue of the Defendants’ unlawful failure to pay additional compensation to
15 Plaintiff Ramos, Plaintiff Ramirez, and the Class for their non-overtime hours worked without pay,
16 Plaintiff Ramos, Plaintiff Ramirez, and the Class suffered, and will continue to suffer, damages in
17 amounts which are presently unknown to Plaintiff Ramos, Plaintiff Ramirez, and the Class, but
18 which exceed the jurisdictional minimum of this Court, and which will be ascertained according
19 to proof at trial.

20 45. By failing to keep adequate time records required by California Labor Code §
21 1174(d), Defendants have made it difficult to calculate the full extent of minimum wage
22 compensation due Plaintiff Ramos, Plaintiff Ramirez, and the Class.

23 46. Pursuant to California Labor Code section 1194.2, Plaintiff Ramos, Plaintiff
24 Ramirez, and the Class are entitled to recover liquidated damages (double damages) for
25 Defendants’ failure to pay minimum wages.

26 47. California Labor Code section 204 requires employers to provide employees with all
27 wages due and payable twice a month. Throughout the statute of limitations period applicable to
28 this cause of action, Plaintiff Ramos, Plaintiff Ramirez, and the Class were entitled to be paid twice

1 a month at rates required by law, including minimum wages. However, during all such times,
2 Defendants systematically failed and refused to pay Plaintiff Ramos, Plaintiff Ramirez, and the
3 Class all such wages due, and failed to pay those wages twice a month.

4 48. Plaintiff Ramos, Plaintiff Ramirez, and the Class are also entitled to seek recovery
5 of all unpaid minimum wages, interest, and reasonable attorneys' fees and costs pursuant to
6 California Labor Code §§ 218.5, 218.6, and 1194(a).

7 **SECOND CAUSE OF ACTION**

8 **(Against all Defendants for Failure to Pay Overtime Wages)**

9 49. Plaintiff Ramos and Plaintiff Ramirez incorporate by reference and re-allege as if
10 fully stated herein paragraphs 1-2, 5-24, and 30-38 in this Second Amended Complaint.

11 50. California Labor Code § 510 provides that employees in California shall not be
12 employed more than eight (8) hours in any workday or forty (40) hours in a workweek unless they
13 receive additional compensation beyond their regular wages in amounts specified by law.

14 51. California Labor Code §§ 1194 and 1198 provide that employees in California shall
15 not be employed more than eight hours in any workday unless they receive additional
16 compensation beyond their regular wages in amounts specified by law. Additionally, California
17 Labor Code § 1198 states that the employment of an employee for longer hours than those fixed
18 by the Industrial Welfare Commission is unlawful.

19 52. At all times relevant hereto, Plaintiff Ramos, Plaintiff Ramirez, and the Class have
20 worked more than eight hours in a workday, as employees of Defendants.

21 53. At all times relevant hereto, Defendants failed to pay Plaintiff Ramos, Plaintiff
22 Ramirez, and the Class overtime compensation for the hours they have worked in excess of the
23 maximum hours permissible by law as required by California Labor Code § 510 and 1198. Plaintiff
24 Ramos, Plaintiff Ramirez, and the Class are regularly required to work overtime hours.

25 54. By virtue of Defendants' unlawful failure to pay additional premium rate
26 compensation to the Plaintiff Ramos, Plaintiff Ramirez, and the Class for their overtime hours
27 worked, Plaintiff Ramos, Plaintiff Ramirez, and the Class have suffered, and will continue to
28 suffer, damages in amounts which are presently unknown to them but which exceed the

jurisdictional minimum of this Court and which will be ascertained according to proof at trial.

55. By failing to keep adequate time records required by Labor Code § 1174(d), Defendants have made it difficult to calculate the full extent of overtime compensation due to Plaintiff Ramos, Plaintiff Ramirez, and the Class.

56. Plaintiff Ramos, Plaintiff Ramirez, and the Class also request recovery of overtime compensation according to proof, interest, attorneys' fees and costs pursuant to California Labor Code § 1194(a), as well as the assessment of any statutory penalties against Defendants, in a sum as provided by the California Labor Code and/or other statutes.

57. California Labor Code § 204 requires employers to provide employees with all wages due and payable twice a month. The Wage Orders also provide that every employer shall pay to each employee, on the established payday for the period involved, overtime wages for all overtime hours worked in the payroll period. Defendants failed to provide Plaintiff Ramos, Plaintiff Ramirez, and the Class with all compensation due, in violation of California Labor Code § 204.

THIRD CAUSE OF ACTION

(Against All Defendants for Failure to Provide Meal Periods)

58. Plaintiff Ramos and Plaintiff Ramirez incorporate by reference and re-allege as if fully stated herein paragraphs 1-2, 5-24, and 30-38 in this Second Amended Complaint.

59. Under California law, Defendants have an affirmative obligation to relieve the Plaintiff Ramos, Plaintiff Ramirez, and the Class of all duty in order to take their first daily meal periods no later than the start of Plaintiff Ramos, Plaintiff Ramirez, and the Class's sixth hour of work in a workday, and to take their second meal periods no later than the start of the eleventh hour of work in the workday. Section 512 of the California Labor Code, and Section 11 of the applicable Wage Orders require that an employer provide unpaid meal periods of at least 30 minutes for each five-hour period worked. It is a violation of Section 226.7 of the California Labor Code for an employer to require any employee to work during any meal period mandated under any Wage Order.

60. Despite these legal requirements, Defendants regularly failed to provide Plaintiff Ramos, Plaintiff Ramirez, and the Class with both meal periods as required by California law. By

1 their failure to permit and authorize Plaintiff Ramos, Plaintiff Ramirez, and the Class to take all
2 meal periods as alleged above (or due to the fact that Defendants made it impossible or
3 impracticable to take these uninterrupted meal periods), Defendants willfully violated the
4 provisions of Section 226.7 of the California Labor Code and the applicable Wage Orders.

5 61. Under California law, Plaintiff Ramos, Plaintiff Ramirez, and the Class are entitled
6 to be paid one hour of additional wages for each workday he or she was not provided with all
7 required meal period(s), plus interest thereon.

8 **FOURTH CAUSE OF ACTION**

9 **(Against All Defendants for Failure to Authorize and Permit Rest Periods)**

10 62. Plaintiff Ramos and Plaintiff Ramirez incorporate by reference and re-allege as if
11 fully stated herein paragraphs 1-2, 5-24, and 30-38 in this Second Amended Complaint.

12 63. Defendants are required by California law to authorize and permit breaks of 10
13 uninterrupted minutes for each four hours of work or major fraction of four hours (i.e. more than
14 two hours). Section 512 of the California Labor Code, the applicable Wage Orders require that the
15 employer permit and authorize all employees to take paid rest periods of 10 minutes each for each
16 4-hour period worked. Thus, for example, if an employee's work time is 6 hours and ten minutes,
17 the employee is entitled to two rest breaks. Each failure to authorize rest breaks as so required is
18 itself a violation of California's rest break laws. It is a violation of Section 226.7 of the California
19 Labor Code for an employer to require any employee to work during any rest period mandated
20 under any Wage Order.

21 64. Despite these legal requirements, Defendants failed to authorize Plaintiff Ramos,
22 Plaintiff Ramirez, and the Class to take rest breaks, regardless of whether employees worked more
23 than 4 hours in a workday. By their failure to permit and authorize Plaintiff Ramos, Plaintiff
24 Ramirez, and the Class to take rest periods as alleged above (or due to the fact that Defendants
25 made it impossible or impracticable to take these uninterrupted rest periods), Defendants willfully
26 violated the provisions of Section 226.7 of the California Labor Code and the applicable Wage
27 Orders.

28 ///

65. Under California law, Plaintiff Ramos, Plaintiff Ramirez, and the Class are entitled to be paid one hour of premium wages rate for each workday he or she was not provided with all required rest break(s), plus interest thereon.

FIFTH CAUSE OF ACTION

(Against All Defendants for Failure to Indemnify Necessary Business Expenses)

66. Plaintiff Ramos and Plaintiff Ramirez incorporate by reference and re-allege as if fully stated herein paragraphs 1-2, 5-24, and 30-38 in this Second Amended Complaint.

67. Defendants violated Labor Code section 2802 and the IWC Wage Orders, by failing to pay and indemnify the Plaintiff Ramos, Plaintiff Ramirez, and the Class for their necessary expenditures and losses incurred in direct consequence of the discharge of their duties or of their obedience to directions of Defendants.

68. As a result, Plaintiff Ramos, Plaintiff Ramirez, and the Class were damaged at least in the amounts of the expenses they paid, or which were deducted by Defendants from their wages.

69. Plaintiff Ramos, Plaintiff Ramirez, and the class they represent are entitled to attorney's fees, expenses, and costs of suit pursuant to Labor Code section 2802(c) and interest pursuant to Labor Code section 2802(b).

SIXTH CAUSE OF ACTION

(Against all Defendants for Failure to Pay Wages of Discharged Employees – Waiting Time Penalties)

70. Plaintiff Ramos and Plaintiff Ramirez incorporate by reference and re-allege as if fully stated herein paragraphs 1-2, 5-24, and 30-38 in this Second Amended Complaint.

71. At all times herein set forth, California Labor Code §§ 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

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72. Within the applicable statute of limitations, the employment of Plaintiff Ramos, Plaintiff Ramirez, and many other members of the Class ended, i.e. was terminated by quitting or discharge, and the employment of others will be. However, during the relevant time period, Defendants failed, and continue to fail to pay terminated Class Members, without abatement, all wages required to be paid by California Labor Code sections 201 and 202 either at the time of discharge, or within seventy-two (72) hours of their leaving Defendants' employ.

73. Defendants' failure to pay Plaintiff Ramos, Plaintiff Ramirez, and those Class members who are no longer employed by Defendants their wages earned and unpaid at the time of discharge, or within seventy-two (72) hours of their leaving Defendants' employ, is in violation of California Labor Code §§ 201 and 202.

74. California Labor Code § 203 provides that if an employer willfully fails to pay wages owed, in accordance with sections 201 and 202, then the wages of the employee shall continue as a penalty wage from the due date, and at the same rate until paid or until an action is commenced; but the wages shall not continue for more than thirty (30) days.

75. Plaintiff Ramos, Plaintiff Ramirez, and the Class are entitled to recover from Defendants their additionally accruing wages for each day they were not paid, at their regular hourly rate of pay, up to 30 days maximum pursuant to California Labor Code § 203.

76. Pursuant to California Labor Code §§ 218.5, 218.6 and 1194, Plaintiff Ramos, Plaintiff Ramirez, and the Class are also entitled to an award of reasonable attorneys' fees, interest, expenses, and costs incurred in this action.

SEVENTH CAUSE OF ACTION

(Against all Defendants for Failure to Provide and Maintain Accurate and Compliant Wage Records)

77. Plaintiff Ramos and Plaintiff Ramirez incorporate by reference and re-allege as if fully stated herein paragraphs 1-2, 5-24, and 30-38 in this Second Amended Complaint.

78. At all material times set forth herein, California Labor Code § 226(a) provides that every employer shall furnish each of his or her employees an accurate itemized wage statement in writing showing nine pieces of information, including: (1) gross wages earned, (2) total hours

1 worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate
2 if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made
3 on written orders of the employee may be aggregated and shown as one item, (5) net wages earned,
4 (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee
5 and the last four digits of his or her social security number or an employee identification number
6 other than a social security number, (8) the name and address of the legal entity that is the
7 employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding
8 number of hours worked at each hourly rate by the employee.

9 79. Defendants have intentionally and willfully failed to provide employees with
10 complete and accurate wage statements. The deficiencies include, among other things, the failure
11 to correctly identify the gross wages earned by Plaintiff Ramos, Plaintiff Ramirez, and the Class,
12 the failure to list the true “total hours worked by the employee,” and the failure to list the true net
13 wages earned.

14 80. As a result of Defendants’ violation of California Labor Code § 226(a), Plaintiff
15 Ramos, Plaintiff Ramirez, and the Class have suffered injury and damage to their statutorily-
16 protected rights.

17 81. Specifically, Plaintiff Ramos, Plaintiff Ramirez, and the members of the Class have
18 been injured by Defendants’ intentional violation of California Labor Code § 226(a) because they
19 were denied both their legal right to receive, and their protected interest in receiving, accurate,
20 itemized wage statements under California Labor Code § 226(a).

21 82. Calculation of the true wage entitlement for Plaintiff Ramos, Plaintiff Ramirez, and
22 the Class are difficult and time consuming. As a result of this unlawful burden, Plaintiff Ramos,
23 Plaintiff Ramirez, and the Class were also injured as a result of having to bring this action to
24 attempt to obtain correct wage information following Defendants’ refusal to comply with many of
25 the mandates of California’s Labor Code and related laws and regulations.

26 83. Plaintiff Ramos, Plaintiff Ramirez, and the Class are entitled to recover from
27 Defendants their actual damages caused by Defendants’ failure to comply with California Labor
28 Code § 226(a).

84. Plaintiff Ramos, Plaintiff Ramirez, and the Class are also entitled to injunctive relief, as well as an award of attorney's fees and costs to ensure compliance with this section, pursuant to California Labor Code § 226(h).

EIGHTH CAUSE OF ACTION

**(Against all Defendants for Violation of California Business & Professions Code §§ 17200,
et seq.)**

85. Plaintiff Ramos and Plaintiff Ramirez incorporate by reference and re-allege as if fully stated herein paragraphs 1-2, 5-24, and 30-38 in this Second Amended Complaint.

86. Defendants, and each of them, are “persons” as defined under California Business & Professions Code § 17201.

87. Defendants' conduct, as alleged herein, has been, and continues to be, unfair, unlawful, and harmful to Plaintiff Ramos, Plaintiff Ramirez, other Class members, and to the general public. Plaintiff Ramos and Plaintiff Ramirez, seek to enforce important rights affecting the public interest within the meaning of Code of Civil Procedure § 1021.5.

88. Defendants' activities, as alleged herein, are violations of California law, and constitute unlawful business acts and practices in violation of California Business & Professions Code §§ 17200, *et seq.*

89. A violation of California Business & Professions Code §§ 17200, *et seq.* may be predicated on the violation of any state or federal law. All of the acts described herein as violations of, among other things, the California Labor Code, are unlawful and in violation of public policy; and in addition are immoral, unethical, oppressive, fraudulent and unscrupulous, and thereby constitute unfair, unlawful and/or fraudulent business practices in violation of California Business & Professions Code §§ 17200, *et seq.*

Failure to Pay Minimum Wages

90. Defendants' failure to pay minimum wages, and other benefits in violation of the California Labor Code constitutes unlawful and/or unfair activity prohibited by California Business & Professions Code §§ 17200, *et seq.*

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1 **Failure to Pay Overtime Wages**

2 91. Defendants' failure to pay overtime compensation and other benefits in violation of
3 California Labor Code §§ 510, 1194, and 1198 constitutes unlawful and/or unfair activity
4 prohibited by California Business & Professions Code §§ 17200, *et seq.*

5 **Failure to Maintain Accurate Records of All Hours Worked**

6 92. Defendants' failure to maintain accurate records of all hours worked in accordance
7 with California Labor Code § 1174.5 and the IWC Wage Orders constitutes unlawful and/or unfair
8 activity prohibited by California Business & Professions Code §§ 17200, *et seq.*

9 **Failure to Provide Meal Periods**

10 93. Defendants' failure to provide meal periods in accordance with California Labor
11 Code §§ 226.7 and 512, and the IWC Wage Orders, as alleged above, constitutes unlawful and/or
12 unfair activity prohibited by California Business & Professions Code §§ 17200, *et seq.*

13 **Failure to Authorize and Permit Rest Periods**

14 94. Defendants' failure to authorize and permit rest periods in accordance with
15 California Labor Code § 226.7 and the IWC Wage Orders, as alleged above, constitutes unlawful
16 and/or unfair activity prohibited by Business and Professions Code §§ 17200, *et seq.*

17 **Failure to Indemnify Necessary Business Expenses**

18 95. Defendants' failure to indemnify employees for necessary business expenses in
19 accordance with California Labor Code § 2802 and the IWC Wage Orders, as alleged above,
20 constitutes unlawful and/or unfair activity prohibited by Business and Professions Code §§ 17200,
21 *et seq.*

22 **Failure to Provide Accurate Itemized Wage Statements**

23 96. Defendants' failure to provide accurate itemized wage statements in accordance with
24 California Labor Code § 226, as alleged above, constitutes unlawful and/or unfair activity
25 prohibited by California Business & Professions Code §§ 17200, *et seq.*

26 97. By and through their unfair, unlawful and/or fraudulent business practices described
27 herein, the Defendants, have obtained valuable property, money and services from Plaintiff Ramos,
28 Plaintiff Ramirez, and all persons similarly situated, and have deprived Plaintiff Ramos, Plaintiff

1 Ramirez, and all persons similarly situated, of valuable rights and benefits guaranteed by law, all
2 to their detriment.

3 98. Plaintiff Ramos, Plaintiff Ramirez, and the Class Members suffered monetary injury
4 as a direct result of Defendants' wrongful conduct.

5 99. Plaintiff Ramos and Plaintiff Ramirez, individually, and on behalf of members of the
6 putative Class, are entitled to, and do, seek such relief as may be necessary to disgorge money
7 and/or property which the Defendants have wrongfully acquired, or of which Plaintiff Ramos,
8 Plaintiff Ramirez, and the Class have been deprived, by means of the above-described unfair,
9 unlawful and/or fraudulent business practices. Plaintiff Ramos, Plaintiff Ramirez, and the Class
10 are not obligated to establish individual knowledge of the wrongful practices of Defendants in
11 order to recover restitution.

12 100. Plaintiff Ramos and Plaintiff Ramirez, individually, and on behalf of members of the
13 putative class, are further entitled to and do seek a declaration that the above described business
14 practices are unfair, unlawful and/or fraudulent, and injunctive relief restraining the Defendants,
15 and each of them, from engaging in any of the above-described unfair, unlawful and/or fraudulent
16 business practices in the future.

17 101. Plaintiff Ramos and Plaintiff Ramirez, individually, and on behalf of members of the
18 putative class, have no plain, speedy, and/or adequate remedy at law to redress the injuries which
19 the Class Members suffered as a consequence of the Defendants' unfair, unlawful and/or fraudulent
20 business practices. As a result of the unfair, unlawful and/or fraudulent business practices
21 described above, Plaintiff Ramos and Plaintiff Ramirez, individually, and on behalf of members
22 of the putative Class, have suffered and will continue to suffer irreparable harm unless the
23 Defendants, and each of them, are restrained from continuing to engage in said unfair, unlawful
24 and/or fraudulent business practices.

25 102. Plaintiff Ramos and Plaintiff Ramirez also allege that if Defendants are not enjoined
26 from the conduct set forth herein above, they will continue to avoid paying the appropriate taxes,
27 insurance and other withholdings.

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103. Pursuant to California Business & Professions Code §§ 17200, *et seq.*, Plaintiff Ramos, Plaintiff Ramirez, and putative Class Members are entitled to restitution of the wages withheld and retained by Defendants during a period that commences four years prior to the filing of this complaint; a permanent injunction requiring Defendants to pay all outstanding wages due to Plaintiff Ramos, Plaintiff Ramirez, and Class Members; an award of attorneys' fees pursuant to California Code of Civil Procedure § 1021.5 and other applicable laws; and an award of costs.

NINTH CAUSE OF ACTION

**(Against all Defendant for Civil Penalties Under the Private Attorneys General Act of 2004,
Cal. Lab. Code § 2698 et seq.)**

104. Plaintiff Salinas and Plaintiff Ramirez incorporate by reference and re-allege as if fully stated herein paragraphs 3 and 5-16 in this Second Amended Complaint.

105. At all times herein mentioned, Defendants were subject to the Labor Code of the State of California and the applicable Industrial Welfare Commission Orders.

106. California Labor Code § 2699(a) specifically provides for a private right of action to recover penalties for violations of the Labor Code: “Notwithstanding any other provision of law, any provision of this code that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency or any of its departments, divisions, commissions, boards, agencies, or employees, for a violation of this code, may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees pursuant to the procedures specified in Section 2699.3.”

107. Plaintiff Salinas and Plaintiff Ramirez have exhausted their administrative remedies pursuant to California Labor Code § 2699.3. On August 4, 2024, Plaintiff Ramirez gave written notice by online filing to the Labor and Workforce Development Agency and on September 4, 2024 by certified mail to Defendants of the specific provisions of the Labor Code that Defendants have violated against Plaintiff Ramirez and current and former aggrieved employees, including the facts and theories to support the violations (See attached as Exhibit A). Plaintiff Ramirez's PAGA case number is No. LWDA-CM-1043573-24. At the time of this filing, 65 days has elapsed since Plaintiff Ramirez provided notice, but the Labor and Workforce Development Agency has not

1 indicated that it intends to investigate Defendants' Labor Code violations discussed in the notice.
2 Plaintiff Salinas gave written notice by online filing pursuant to California Labor Code § 2699.3
3 to the Labor and Workforce Development Agency and by certified mail to Defendants of the
4 specific provisions of the Labor Code that Defendants have violated against Plaintiff Salinas and
5 current and former aggrieved employees, including the facts and theories to support the violations.
6 Plaintiff Salinas also paid the filing fee. Plaintiff Salinas' PAGA case number is LWDA-CM-
7 953776-23 (*Guadalupe Salinas adv. Giuliani Construction and Restoration, Inc.*). The Labor and
8 Workforce Development Agency has not indicated that it intends to investigate Defendants' Labor
9 Code violations discussed in the notice. Accordingly, Plaintiff Salinas and Plaintiff Ramirez may
10 commence a civil action to recover penalties under Labor Code § 2699 pursuant to § 2699.3 for
11 the violations of the Labor Code described in this Complaint. These penalties include, but are not
12 limited to, penalties under California Labor Code §§ 210, 226.3, 558, 1197.1, and 2699(f)(2).

13 108. In addition, Plaintiff Salinas and Plaintiff Ramirez seek penalties for Defendants'
14 violation of California Labor Code § 1174(d). Pursuant to California Labor Code § 1174.5, any
15 person, including any entity, employing labor who willfully fails to maintain accurate and complete
16 records required by California Labor Code § 1174 is subject to a penalty under § 1174.5. Pursuant
17 to the applicable IWC Order § 7(A)(3), every employer shall keep time records showing when the
18 employee begins and ends each work period. Meal periods, and total hours worked daily shall also
19 be recorded. Additionally, pursuant to the applicable IWC Order § 7(A)(5), every employer shall
20 keep total hours worked in the payroll period and applicable rates of pay.

21 109. During the time period of employment for Plaintiff Salinas, Plaintiff Ramirez, and
22 the Aggrieved Employees, Defendants failed to maintain records pursuant to the Labor Code and
23 IWC Orders by failing to maintain accurate records showing meal periods, and accurate records
24 showing when employees begin and end each work period. Defendants' failure to provide and
25 maintain records required by the Labor Code IWC Wage Orders deprived Plaintiffs and the
26 Aggrieved Employees the ability to know, understand and question the accuracy and frequency of
27 meal periods, and the accuracy of their hours worked stated in Defendants' records. Therefore,
28 Plaintiff Salinas, Plaintiff Ramirez, and the Aggrieved Employees had no way to dispute the

1 resulting failure to pay wages, all of which resulted in an unjustified economic enrichment to
2 Defendants. As a direct result, Plaintiff Salinas, Plaintiff Ramirez, and the Aggrieved Employees
3 have suffered and continue to suffer, substantial losses related to the use and enjoyment of such
4 wages, lost interest on such wages and expenses and attorney's fees in seeking to compel
5 Defendants to fully perform its obligation under state law, all to their respective damage in amounts
6 according to proof at trial. Because of Defendants' knowing failure to comply with the Labor Code
7 and applicable IWC Wage Orders, Plaintiff Salinas, Plaintiff Ramirez, and the Aggrieved
8 Employees have also suffered an injury in that they were prevented from knowing, understanding,
9 and disputing the wage payments paid to them.

10 110. Based on the conduct described in this Second Amended Complaint, Plaintiff Salinas
11 and Plaintiff Ramirez are entitled to an award of civil penalties on behalf of themselves, the State
12 of California, and similarly Aggrieved Employees of Defendants. The exact amount of the
13 applicable penalties, in all, is in an amount to be shown according to proof at trial. These penalties
14 are in addition to all other remedies permitted by law.

15 111. In addition, Plaintiff Salinas and Plaintiff Ramirez seek an award of reasonable
16 attorney's fees and costs pursuant to California Labor Code § 2699(g)(1), which states, "Any
17 employee who prevails in any action shall be entitled to an award of reasonable attorney's fees and
18 costs."

19 **TENTH CAUSE OF ACTION**

20 **(By Plaintiff Salinas Individually Against All Defendants for Failure to Pay All Wages)**

21 112. Plaintiff Salinas incorporates by reference and re-alleges paragraphs 4, 25-29, 104-
22 111 as though fully set forth herein.

23 113. As part of Plaintiff Salinas' employment, Plaintiff Salinas was eligible to receive,
24 and entitled to commission payments for services provided.

25 114. In California, commissions are considered "wages."

26 115. California Labor Code § 204 requires employers to provide employees with all wages
27 due and payable twice a month. Throughout the statute of limitations period applicable to this cause
28 of action, Plaintiff Salinas was entitled to be paid twice a month at rates required by law, including

1 minimum and straight time wages. However, during all such times, Defendants systematically
2 failed and refused to pay Plaintiff Salinas all such wages due and failed to pay those wages twice
3 a month.

4 116. At all relevant times herein mentioned, Defendants knowingly failed to pay to
5 Plaintiff Salinas compensation for all commissions earned and vested. By their failure to pay
6 compensation for each hour worked as alleged above, Defendants willfully violated the provisions
7 of California Labor Code, and any additional applicable Wage Orders, which require such
8 compensation to employees.

9 117. Plaintiff Salinas is also entitled to seek recovery of all unpaid wages, interest, and
10 reasonable attorneys' fees and costs pursuant to California Labor Code §§ 218.5, 218.6, and
11 1194(a).

12 **ELEVENTH CAUSE OF ACTION**

13 **(By Plaintiff Salinas Individually Against All Defendants for Failure to Pay Wages at** 14 **Termination)**

15 118. Plaintiff Salinas incorporates by reference and re-alleges paragraphs 4, 25-29, 104-
16 111 as though fully set forth herein.

17 119. At all times herein set forth, California Labor Code §§ 201 and 202 provide that if
18 an employer discharges an employee, the wages earned and unpaid at the time of discharge are due
19 and payable immediately, and that if an employee voluntarily leaves his or her employment, his or
20 her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless
21 the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in
22 which case the employee is entitled to his or her wages at the time of quitting.

23 120. Within the applicable statute of limitations, the employment of Plaintiff Salinas was
24 terminated by quitting or discharge. However, during the relevant time period, Defendants failed,
25 and continue to fail to pay terminated Plaintiff Salinas, without abatement, all wages (and
26 commissions) required to be paid by California Labor Code either at the time of discharge, or
27 within seventy-two (72) hours of their leaving Defendants' employ.

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1 121. Defendants' failure to pay Plaintiff Salinas who is no longer employed by Defendants
2 their wages earned and unpaid at the time of discharge, or within seventy-two (72) hours of their
3 leaving Defendants' employ, is in violation of California Labor Code §§ 201 and 202.

4 122. California Labor Code § 203 provides that if an employer willfully fails to pay wages
5 owed, in accordance with §§ 201 and 202, then the wages of the employee shall continue as a
6 penalty wage from the due date, and at the same rate until paid or until an action is commenced;
7 but the wages shall not continue for more than thirty (30) days.

8 123. Plaintiff Salinas is entitled to recover from Defendants their additionally accruing
9 wages for each day they were not paid, at their regular hourly rate of pay, up to thirty (30) days
10 maximum pursuant to California Labor Code § 203.

11 124. Pursuant to California Labor Code §§ 218.5, 218.6 and 1194, Plaintiff Salinas is also
12 entitled to an award of reasonable attorneys' fees, interest, expenses, and costs incurred in this
13 action.

14 **TWELFTH CAUSE OF ACTION**

15 **(By Plaintiff Salinas Individually Against All Defendants for Failure Provide Accurate** 16 **Itemized Wage Statements)**

17 125. Plaintiff Salinas incorporates by reference and re-alleges paragraphs 4, 25-29, 104-
18 111 as though fully set forth herein.

19 126. At all material times set forth herein, California Labor Code § 226(a) provides that
20 every employer shall furnish each of his or her employees an accurate itemized wage statement in
21 writing showing nine pieces of information, including: (1) gross wages earned, (2) total hours
22 worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate
23 if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made
24 on written orders of the employee may be aggregated and shown as one item, (5) net wages earned,
25 (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee
26 and the last four digits of his or her social security number or an employee identification number
27 other than a social security number, (8) the name and address of the legal entity that is the
28 employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding

1 number of hours worked at each hourly rate by the employee.

2 127. Defendants have intentionally and willfully failed to provide Plaintiff Salinas with
3 complete and accurate wage statements. The deficiencies include, among other things, the failure
4 to correctly identify the gross wages earned by Plaintiff Salinas, commission wages, the failure to
5 list the true “total hours worked by the employee,” and the failure to list the true net wages earned.

6 128. As a result of Defendants’ violation of California Labor Code § 226(a), Plaintiff
7 Salinas has suffered injury and damage to his statutorily protected rights.

8 129. Specifically, Plaintiff Salinas has been injured by Defendants’ intentional violation
9 of California Labor Code § 226(a) because he was denied both his legal right to receive, and his
10 protected interest in receiving, accurate, itemized wage statements under California Labor Code §
11 226(a).

12 130. Calculation of the true wage entitlement for Plaintiff Salians is difficult and time
13 consuming. As a result of this unlawful burden, Plaintiff Salinas was also injured as a result of
14 having to bring this action to attempt to obtain correct wage information following Defendants’
15 refusal to comply with many of the mandates of California’s Labor Code and related laws and
16 regulations.

17 131. Plaintiff Salinas is entitled to recover from Defendants the greater of their actual
18 damages caused by Defendants’ failure to comply with California Labor Code § 226(a), or an
19 aggregate penalty not exceeding four thousand dollars (\$4,000) per employee.

20 132. Plaintiff Salinas is also entitled to injunctive relief, as well as an award of attorney’s
21 fees and costs to ensure compliance with this section, pursuant to California Labor Code § 226(h).

22 **THIRTEENTH CAUSE OF ACTION**

23 **(By Plaintiff Salinas Individually for Failure to Indemnify Expenditures)**

24 133. Plaintiff Salinas incorporates by reference and re-alleges paragraphs 4, 25-29, 104-
25 111 as though fully set forth herein.

26 134. As set forth above, Plaintiff Salinas was required to incur substantial necessary
27 expenditures and losses in direct consequence of the discharge of his duties or of his obedience to
28 directions of Defendants.

135. Defendants violated California Labor Code § 2802, by failing to pay and indemnify Plaintiff for necessary expenditures and losses incurred in direct consequence of the discharge of his duties or of his obedience to directions of Defendants.

136. As a result, Plaintiff Salinas was damaged at least in the amounts of the expenses he paid, or which were deducted by Defendants from his wages, including unreimbursed mileage and for use of a personal cellular phone.

137. Plaintiff Salians is entitled to reasonable attorney's fees, expenses, and costs of suit pursuant to California Labor Code § 2802(c) and interest pursuant to California Labor Code § 2802(b).

FOURTEENTH CAUSE OF ACTION

**(By Plaintiff Salinas Individually Against All Defendants for Violation of California
Business & Professions Code §§ 17200, et seq.)**

138. Plaintiff Salinas incorporates by reference and re-alleges paragraphs 4, 25-29, 104-111 as though fully set forth herein.

139. Defendants, and each of them, are “persons” as defined under California Business & Professions Code § 17201.

140. Defendants' conduct, as alleged herein, has been, and continues to be, unfair, unlawful, and harmful to Plaintiff Salinas. Plaintiff Salinas seeks to enforce important rights affecting the public interest within the meaning of Code of Civil Procedure § 1021.5.

141. Defendants' violations include failing to pay Plaintiff Salinas all of his commissions owed, failed to issue accurate and itemized wage statements, failed to pay all wages at termination, and failure to reimburse him for all necessary business expenses. Additionally, the Sales Commission Agreement between Plaintiff Salinas and Defendant prohibits Plaintiff Salinas from sharing details of the agreement, which describe his salary and commission wages, with any other employees of Defendant outside of the Accounting department, in violation of Labor Code § 232.

142. Defendants' activities, as alleged herein, are violations of California law, and constitute unlawful business acts and practices in violation of California Business & Professions Code §§ 17200, *et seq.*

1 143. A violation of California Business & Professions Code §§ 17200, *et seq.* may be
2 predicated on the violation of any state or federal law. All of the acts described herein as violations
3 of, among other things, the California Labor Code, are unlawful and in violation of public policy;
4 and in addition are immoral, unethical, oppressive, fraudulent and unscrupulous, and thereby
5 constitute unfair, unlawful and/or fraudulent business practices in violation of California Business
6 & Professions Code §§ 17200, *et seq.*

7 144. By and through their unfair, unlawful and/or fraudulent business practices described
8 herein, the Defendants, have obtained valuable property, money and services from Plaintiff Salinas
9 and have deprived Plaintiff Salinas of valuable rights and benefits guaranteed by law, all to their
10 detriment.

11 145. Plaintiff Salinas suffered monetary injury as a direct result of Defendants' wrongful
12 conduct.

13 146. Plaintiff Salinas is entitled to, and does, seek such relief as may be necessary to
14 disgorge money and/or property which the Defendants have wrongfully acquired, or of which
15 Plaintiff Salinas has been deprived, by means of the above-described unfair, unlawful and/or
16 fraudulent business practices. Plaintiff Salinas is not obligated to establish individual knowledge
17 of the wrongful practices of Defendants in order to recover restitution.

18 147. Plaintiff Salinas is further entitled to and does seek a declaration that the above-
19 described business practices are unfair, unlawful and/or fraudulent, and injunctive relief restraining
20 the Defendants, and each of them, from engaging in any of the above-described unfair, unlawful
21 and/or fraudulent business practices in the future.

22 148. Plaintiff Salinas has no plain, speedy, and/or adequate remedy at law to redress the
23 injuries which Plaintiff Salinas suffered as a consequence of the Defendants' unfair, unlawful
24 and/or fraudulent business practices. As a result of the unfair, unlawful and/or fraudulent business
25 practices described above, Plaintiff Salinas has suffered and will continue to suffer irreparable
26 harm unless the Defendants, and each of them, are restrained from continuing to engage in said
27 unfair, unlawful and/or fraudulent business practices.

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149. Plaintiff Salinas also alleges that if Defendants are not enjoined from the conduct set forth herein above, they will continue to avoid paying the appropriate taxes, insurance and other withholdings.

150. Pursuant to Labor Code § 432.5, “no employer... shall require any employee or applicant for employment to agree, in writing, to any term or condition which is known by such employer ... to be prohibited by law.” Based on information and belief, Defendants at times required Plaintiff Salinas and the Aggrieved Employees to agree in writing to unlawful conditions of employment, including, but not limited to, unlawful non-compete agreements.

151. California Business & Professions Code §§16600.1(c) states that a violation of this section constitutes an act of unfair competition. The chapter additionally states that an employee or former employee may bring a private right of action to enforce this chapter for injunctive relief or the recovery of actual damages, or both, as well as the recovery of reasonable attorneys' fees and costs. Cal. Bus. & Prof. Code § 16600.5(e)(1) and (2).

152. Pursuant to California Business & Professions Code §§ 17200, *et seq.*, Plaintiff Salinas is entitled to restitution of the wages withheld and retained by Defendants during a period that commences four years and 178 days prior to the filing of Plaintiff Salinas' initial complaint on December 28, 2023; a permanent injunction requiring Defendants to pay all outstanding wages due to Plaintiff Salinas; an award of attorneys' fees pursuant to California Code of Civil Procedure § 1021.5 and other applicable laws; and an award of costs.

FIFTEENTH CAUSE OF ACTION

(By Plaintiff Salinas Against Defendants – Breach of Contract)

153. Plaintiff Salinas incorporates by reference and re-alleges paragraphs 4, 25-29, 104-111 as though fully set forth herein.

154. The elements of a breach of contract are: (1) that plaintiff and defendant entered into a contract; (2) plaintiff did all, or substantially all, of the significant thing that the contract required him to do; (3) that defendant failed to do something that the contract required it to do; (4) that plaintiff was harmed; and (5) that defendant's breach of contract was a substantial factor in causing plaintiff's harm.

155. Plaintiff Salinas and Defendants entered into a written Sales Commission Agreement on or about June of 2015, stating that Plaintiff Salinas would be paid his commissions within ten (10) days from Defendant receiving payment under the Sales Commission Agreement.

156. Plaintiff Salinas, throughout his employment, operated under the Sales Commission Agreement. However, Plaintiff Salinas alleges that Defendants not only failed to timely pay his wages pursuant to the agreement, but that Defendants also failed to pay him all of his commissions due following the separation of his employment with Defendants.

157. Defendants have also failed to provide Plaintiff Salinas with an accounting of what commissions he was paid for specific projects, making it difficult for Plaintiff Salinas to determine the exact amounts that he is still owed in commissions. Such amounts are to be determined at trial.

158. Defendants continue to withhold earned commissions until the present day. By Defendant's failure to pay all commissions earned, Defendant has breached the Sales Commission Agreement, causing Plaintiff Salinas' harm.

PRAYER FOR RELIEF

159. Plaintiff Ramos and Plaintiff Ramirez, individually, and on behalf of all others similarly situated only with respect to the class claims, prays for relief and judgment against Defendants, jointly and severally, as follows:

Class Certification

1. That this action be certified as a class action with respect to the First, Second, Third, Fourth, Fifth, Sixth, Seventh, and Eighth Causes of Action;

2. That Plaintiff Ramos and Plaintiff Ramirez be appointed as the representative of the Class; and

3. That counsel for Plaintiff Ramos and Plaintiff Ramirez be appointed as Class Counsel.

As to the First Cause of Action

4. That the Court declare, adjudge and decree that Defendants violated California Labor Code §§ 204 and 1194 and applicable IWC Wage Orders by willfully failing to pay all minimum wages due;

1 5. For general unpaid wages as may be appropriate;

2 6. For pre-judgment interest on any unpaid compensation commencing from the date
3 such amounts were due;

4 7. For liquidated damages;

5 8. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to
6 California Labor Code § 1194(a); and,

7 9. For such other and further relief as the Court may deem equitable and appropriate.

8 As to the Second Cause of Action

9 10. That the Court declare, adjudge and decree that Defendants violated California Labor
10 Code §§ 510 and 1198 and applicable IWC Wage Orders by willfully failing to pay all overtime
11 wages due;

12 11. For general unpaid wages at overtime wage rates as may be appropriate;

13 12. For pre-judgment interest on any unpaid overtime compensation commencing from
14 the date such amounts were due;

15 13. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to
16 California Labor Code § 1194(a); and,

17 14. For such other and further relief as the Court may deem equitable and appropriate.

18 As to the Third Cause of Action

19 15. That the Court declare, adjudge and decree that Defendants violated California Labor
20 Code §§ 226.7 and 512, and the IWC Wage Orders;

21 16. For unpaid meal period premium wages as may be appropriate;

22 17. For pre-judgment interest on any unpaid compensation commencing from the date
23 such amounts were due;

24 18. For reasonable attorneys' fees under California Code of Civil Procedure § 1021.5,
25 and for costs of suit incurred herein; and

26 19. For such other and further relief as the Court may deem equitable and appropriate.

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1 As to the Fourth Cause of Action

2 20. That the Court declare, adjudge and decree that Defendants violated California Labor
3 Code §§ 226.7 and 512, and the IWC Wage Orders;

4 21. For unpaid rest period premium wages as may be appropriate;

5 22. For pre-judgment interest on any unpaid compensation commencing from the date
6 such amounts were due;

7 23. For reasonable attorneys' fees under California Code of Civil Procedure § 1021.5,
8 and for costs of suit incurred herein; and

9 24. For such other and further relief as the Court may deem equitable and appropriate.

10 As to the Fifth Cause of Action

11 25. That the Court declare, adjudge and decree that Defendants violated Labor Code §
12 2802 and the IWC Wage Orders;

13 26. For general unpaid wages and reimbursement of business expenses as may be
14 appropriate;

15 27. For pre-judgment interest on any unpaid compensation commencing from the date
16 such amounts were due;

17 28. For reasonable attorneys' fees and for costs of suit incurred herein; and

18 29. For such other and further relief as the Court may deem equitable and appropriate.

19 As to the Sixth Cause of Action

20 30. That the Court declare, adjudge and decree that Defendants violated California Labor
21 Code §§ 201, 202, and 203 by willfully failing to pay all compensation owed at the time of
22 termination of the employment;

23 31. For statutory wage penalties pursuant to California Labor Code § 203 for former
24 employees who have left Defendants' employ;

25 32. For pre-judgment interest on any unpaid wages from the date such amounts were
26 due;

27 33. For reasonable attorneys' fees and for costs of suit incurred herein; and

28 34. For such other and further relief as the Court may deem equitable and appropriate.

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1 As to the Ninth Cause of Action

2 46. That the Court declare, adjudge and decree that Defendants violated the California
3 Labor Code by failing to pay minimum wages, failure to pay overtime wages, failure to provide
4 meal periods, failure to authorize and permit rest periods, failure to maintain accurate records of
5 hours worked and meal periods, failure to timely pay all wages to terminated employees, failure to
6 indemnify necessary business expenses, and failure to furnish accurate wage statements;

7 47. For all civil penalties pursuant to California Labor Code § 2699, et seq., and all other
8 applicable Labor Code provisions;

9 48. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California
10 Labor Code § 2699;

11 49. For such other and further relief as the Court may deem equitable and appropriate.

12 As to the Tenth Through Fifteenth Causes of Action

13 50. Plaintiff Salinas, individually, and on behalf of the State of California, and on behalf
14 of all similarly aggrieved employees, prays for relief and judgment against Defendants, jointly and
15 severally, as follows:

16 51. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California
17 Labor Code § 2699;

18 52. That the Court declare, adjudge and decree that Defendants violated the California
19 Labor Code by failing to pay for all hours worked (minimum, straight time, and overtime wages),
20 commission wages, failing to provide meal periods, failing to authorize and permit rest periods,
21 failing to pay all earned wages twice per month, failing to maintain accurate records of hours
22 worked and meal periods, failing to timely pay final wages, failing to furnish accurate wage
23 statements, failing to indemnify for necessary expenditures, and failing to produce requested
24 employment records;

25 53. An award of civil penalties on behalf of Plaintiff Salinas, individually, and on behalf
26 of the State of California, and all similarly aggrieved employees pursuant to PAGA;

27 54. Pre-judgment and post-judgment interest at the maximum rate allowed;

28 55. Attorneys' fees and costs reasonably incurred;

56. Injunctive and declaratory relief to the extent allowed by PAGA;

57. An award requiring Defendants to pay Plaintiff Salinas restitution due to Defendant's UCL violations, pursuant to Cal. Bus. & Professions Code §§ 17200-17205 in the amount of unpaid wages and/or commissions and/or withheld wages;

58. An award enjoining Defendants from continuing the wrongful conduct alleged herein and be required to comply with all applicable laws;

59. An award of actual damages, compensatory damages, and specific performance under the Sales Commission Agreement for Defendant's breach of the agreement;

60. An award for damages suffered by Plaintiff Salinas pursuant to Labor Code § 226;

61. An award of waiting time penalties to Plaintiff Salinas under Labor Code § 203;

62. An award of unreimbursed expenses incurred by Plaintiff Salinas pursuant to Labor Code § 2802, *et seq.*

63. Such other and further relief that the Court deems proper.

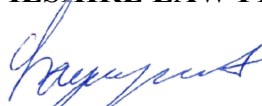
As to all Causes of Action

64. For any additional relief that the Court deems just and proper.

Respectfully submitted,

Dated: October 29, 2025

WILSHIRE LAW FIRM

By: 

John G. Yslas
Diego Aviles
Harry Erganyan
Mariam Nazaretyan

Attorneys for Plaintiffs Guadalupe Salinas
and Guadalupe Ramos Marquez

Dated: October 29, 2025

MOON LAW GROUP, PC

By: /s/ Kane Moon

Kane Moon
H. Scott Leviant
Mariam Ghazaryan

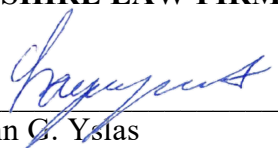
Attorneys for Plaintiff Jose Antonio Ramirez
Vecerra

DEMAND FOR JURY TRIAL

Plaintiffs demands a trial by jury as to all causes of action triable by jury.

Dated: October 29, 2025

WILSHIRE LAW FIRM

By: 

John G. Yslas
Diego Aviles
Harry Erganyan
Mariam Nazaretyan

Attorneys for Plaintiffs Guadalupe Salinas
and Guadalupe Ramos Marquez

Dated: October 29, 2025

MOON LAW GROUP, PC

By: /s/ Kane Moon

Kane Moon
H. Scott Leviant
Mariam Ghazaryan

Attorneys for Plaintiff Jose Antonio Ramirez
Vecerra