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Superior Court of California,
Sacramento
07/20/2023
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By _____, Deputy
23CV005096

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SACRAMENTO**

ADRIAN ANGEL, an individual;

Plaintiff,

vs.

FIBERCO GENERAL ENGINEERING
CONTRACTORS, INC., a California
corporation; BARRETT BUSINESS
SERVICES, INC., a Maryland corporation;
DAVID ZUNIGA, an individual; and DOES 1
through 20, inclusive.

Defendants.

) Case No.:

) **COMPLAINT FOR:**

BY FAX

-) **1. Failure to Timely Pay Earned Wages in**
) **Violation of Cal. Lab. Code § 204;**
) **2. Failure to Pay Overtime Compensation**
) **in Violation of Cal. Lab Code §§ 510,**
) **1194;**
) **3. Failure to Provide Meal Periods in**
) **Violation of Cal. Lab. Code § 226.7;**
) **4. Failure to Provide Rest Periods in**
) **Violation of Cal. Lab. Code § 226.7;**
) **5. Failure to Provide Accurate Wage**
) **Statements in Violation of Cal. Lab.**
) **Code § 226;**
) **6. Waiting Time Penalties in Violation of**
) **Cal. Labor Code § 203;**
) **7. Failure to Provide Reporting Time Pay;**
) **8. Retaliation in Violation of Cal. Lab.**
) **Code § 1102.5;**
) **9. Wrongful Termination in Violation of**
) **Public Policy;**

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-) **10. Unlawful Business Practices in Violation**
-) **of Bus. And Prof. Code Section 17200 et**
-) **seq.**
-) **11. PAGA Civil Penalties for Failure to**
-) **Timely Pay Earned Wages in Violation**
-) **of Cal. Lab. Code §§ 204, 210, 558, and**
-) **2698 et seq.**
-) **12. PAGA Civil Penalties for Failure to Pay**
-) **Overtime Compensation in Violation of**
-) **Cal. Lab. Code §§ 510, 1194, 1198, 558**
-) **and 2698 et seq.**
-) **13. PAGA Civil Penalties for Failure to Pay**
-) **Provide Meal Periods in Violation of**
-) **Cal. Lab. Code §§ 226.7 and 2698 et seq.**
-) **14. PAGA Civil Penalties for Failure to**
-) **Provide Rest Periods in Violation of Cal.**
-) **Lab. Code §§ 226.7 and 2698 et seq.**
-) **15. PAGA Civil Penalties for Failure to**
-) **Provide Accurate Wage Statements in**
-) **Violation of Cal. Lab. Code §§ 226,**
-) **226.3, 558, and 2698 et seq.**
-) **16. PAGA Civil Penalties for Failure to**
-) **Provide Reporting Time Pay in**
-) **Violation of IWC Wage Order 16-2001**
-) **§5(B);**
-) **17. PAGA Civil Penalties for Failure to Pay**
-) **all Earned Wages in Violation of Cal.**
-) **Lab. Code §§ 202, 203, 256, 558, and**
-) **2698 et seq.;**
-) **18. PAGA Civil Penalties for Failure to**
-) **Provide Paid Sick Leave in Violation of**
-) **Cal. Lab. Code §§ 245 et seq. and 2698**
-) **et seq.;**
-) **19. PAGA Civil Penalties for Failure to**
-) **Comply with Cal. Lab. Code §§ 1174**
-) **and 2698 et seq.; and**
-) **20. PAGA Civil Penalties for Failure to**
-) **Comply with Cal. Lab. Code §§ 1197,**
-) **1198, 1199 and 2698 et seq.**
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1 Plaintiff alleges:

2 **PARTIES**

3 1. Plaintiff, Adrian Angel (“Plaintiff” herein), is, and at all relevant times was, a
4 resident of the State of California, County of Yuba.

5 2. Plaintiff is informed and believes, and based thereon alleges, that Defendant
6 Fiberco General Engineering Contractors, Inc. (“Fiberco”) is, and at all relevant times was, a
7 corporation organized and existing under the laws of the state of California, qualified to do
8 business in the state of California, with its principal place of business located at 12155 Magnolia
9 Ave., Unit 3B, Riverside, CA 92503. At all relevant times herein, Plaintiff’s work was based out
10 of Fiberco’s facility located in Sacramento, CA (the “Facility”).

11 3. Plaintiff is informed and believes, and based thereon alleges, that Defendant
12 David Zuniga (“Zuniga”) is, and at all relevant times was, the owner and manager of Fiberco,
13 who controlled the wage, hours, and working conditions of Plaintiff. Zuniga is responsible for
14 the occurrences herein alleged, and Plaintiff’s damages as herein alleged were directly and
15 proximately caused by Zuniga.

16 4. Plaintiff is informed and believes, and based thereon alleges, that Defendant
17 Barrett Business Services, Inc. (“BBSI”) is, and at all relevant times was, a corporation
18 organized and existing under the laws of the state of Maryland, qualified to do business in the
19 state of California, with its principal place of business located at 8100 NE Parkway Drive, Suite
20 200, Vancouver, WA 98662.

21 5. Plaintiff is ignorant of the true names and capacities of the defendants sued herein
22 as DOES 1 through 20, inclusive, and therefore sues these defendants by such fictitious names.
23 Plaintiff will amend this Complaint to allege the true names and capacities of said defendants
24 when ascertained. Plaintiff is informed and believes, and based thereon allege that each of the
25 fictitiously named defendants is responsible in some manner for the occurrences herein alleged,
26 and that Plaintiff’s damages as herein alleged were proximately caused by said defendants.
27 (Fiberco, Zuniga, BBSI, and DOES 1 through 20 shall collectively herein be referred to as
28 “Defendants”).

6. Unless otherwise alleged in this Complaint, Plaintiff is informed and believes, and based thereon alleges, that each of the Defendants sued herein was, at all relevant times hereto, the employer, owner, principal, franchisee, proxy, agent, employee, supervisor, representative, manager, managing agent, joint employer, and/or alter ego of the remaining Defendants, and was acting, at least in part, within the course and scope of such employment and agency, with express and implied permission, consent, and knowledge. The above Defendants, managing agents, and supervisors aided, abetted, condoned, permitted, willfully ignored, approved, authorized, and/or ratified the unlawful acts described herein, and each and every one of the acts and omissions alleged herein were performed by, and/or are attributable to all Defendants.

JURISDICTION

7. Plaintiff is informed and believe, and based thereon allege, that at all times herein mentioned, Defendants, and each of them, were doing business in the State of California such that the exercise of jurisdiction by this Court would not be inconsistent with the Constitution of the State of California and/or the United States of America.

8. This Court has jurisdiction over this action pursuant to California Code of Civil Procedure Section 410.10.

9. The total amount in controversy for claims of Plaintiff is more than Twenty-Five Thousand Dollars (\$25,000). In addition, Plaintiff asserts no claims under federal law, with all causes of action named herein being based exclusively under California law.

VENUE

10. Plaintiff is informed and believe, and based thereon allege, that venue is proper in Sacramento County because Defendants, and each of them, have conducted business within the County of Sacramento and a substantial portion of the wrongful acts complained of occurred therein.

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Defendants Fiberco and BBSI:

13. Fiberco is owned and operated by David Zuniga. At all relevant times herein, Zuniga was the owner and operator of Fiberco who sets and manages employee schedules, assigns job duties/tasks, assigns employees to work locations, and also handles complaints brought by employees, such as the complaints made by Plaintiff to Zuniga as set forth in detail herein below.

15. Hence, in conjunction with BBSI, at all relevant times herein Fiberco and Zuniga also managed the wages, hours and working conditions for Plaintiff and similarly aggrieved employees.

Plaintiff Adrian Angel:

17. Defendants employed Plaintiff from in or about July 2022 through on or about January 2, 2023 (the “Employment Period”). Defendants hired Plaintiff to the position of traffic control lead. Plaintiff was onboarded by both Fiberco and BBSI.

1 18. Plaintiff's day-to-day tasks included, but were not limited to, coordinating with
2 various foreman and subcontractors to secure the worksite, ensure safety, coordinate traffic
3 sections to be closed off in and around the worksite and how traffic would be routed, drilling and
4 other manual labor as required for each specific job. Plaintiff's job duties were in furtherance of
5 the very services that Fiberco offers to its clients.

6 ***Defendants' Wage and Hour Violations:***

7 19. Throughout his employment, Plaintiff was a full-time, non-exempt employee
8 compensated on an hourly basis. Despite this, Plaintiff was required to work ten (10) to twelve
9 (12) hour days for a majority of his employment but did not receive overtime pay for any work
10 under forty (40) hours per week, regardless of the fact that he worked in excess of eight (8) hours
11 per day. In fact, Defendants regularly instructed Plaintiff and similarly aggrieved employees to
12 record ten (10) hours per day as regular pay. Even when Plaintiff and similarly aggrieved
13 employees worked in excess of ten (10) hours per day, he did not receive any overtime pay.

14 20. Throughout the Employment Period, Plaintiff and similarly aggrieved employees
15 were over-inundated with work and deprived of a thirty (30) minute off-duty meal period.
16 Plaintiff and similarly aggrieved employees also never received a second meal period when
17 working in excess of ten (10) hours per day. At no time did Plaintiff and similarly aggrieved
18 employees sign an on-duty meal period waiver, or any meal period waivers whatsoever. Plaintiff
19 and similarly aggrieved employees were further deprived of and refused a rest period for every
20 four (4) hours of work.

21 21. Furthermore, there were a number of occasions throughout the Employment
22 Period where Plaintiff and similarly aggrieved employees would arrive to work, only to be sent
23 home by Defendants due to an alleged lack of work. When this occurred, Defendants failed to
24 provide Plaintiff and similarly aggrieved employees with any reporting time pay. Instead,
25 Defendants unilaterally chose to apply accrued sick leave pay instead of providing reporting time
26 pay.

Defendants' OSHA Violations, Retaliation, and Wrongful Termination of Plaintiff:

22. Throughout the Employment Period, Plaintiff reported to Fiberco's Facility in Sacramento, CA. However, this Facility was essentially an empty lot for employees to park and for Defendants to store their machinery. The Facility contained no buildings, structures, or restrooms. Hence, Plaintiff and similarly aggrieved employees did not have a restroom to use during the workday. Plaintiff complained about the lack of bathroom facilities to Defendants, but Defendants failed to remediate by constructing restrooms or obtaining portable restrooms.

23. Therefore, in or about December 2022, Plaintiff made a complaint to the Occupational Safety and Health Administration ("OSHA") concerning the lack of restrooms at the Facility. Defendants retaliated against Plaintiff shortly thereafter. That same month, Plaintiff was contacted by Defendants and told not to report to work. Defendants informed Plaintiff that there was suddenly no work available and that the Facility was closed for a holiday moratorium. However, Plaintiff spoke with a representative from OSHA who informed him that the Facility was still open and in operation.

24. On or about January 1, 2023, Plaintiff contacted his direct supervisor, Ceasar, and informed him that his last paycheck was short, only compensating him for two of the three days he had worked during that pay period. Plaintiff further requested his personnel file and asked when he would be allowed to return to work.

25. Caesar took issue with Plaintiff's request for his file, and responded by asking Plaintiff "U had issues with me? I don't do anything to u." Plaintiff went on to explain that his issue was not with Caesar, but due to the fact that Plaintiff and similarly aggrieved employees did not receive meal and rest breaks, paychecks were short, and accrued sick pay was being used without employee consent.

26. Plaintiff then received a call from Zuniga, who proceeded to argue with Plaintiff regarding whether he was owed unpaid wages and was not provided with proper breaks. At the end of the call, Plaintiff once again asked when he would be allowed to return to work. Zuniga did not provide a response.

1 27. The next day on or about January 2, 2023, Caesar contacted Plaintiff and
2 instructed him to file for unemployment, effectively terminating Plaintiff's employment.

3 ***Exhaustion of Administrative Remedies:***

4 28. Plaintiff, by virtue of his employment with Defendants, is an "aggrieved
5 employees" within the meaning of California Labor Code § 2699(c), with standing to bring an
6 action under PAGA and has suffered one or more of the Labor Code violations set forth herein.
7 Accordingly, Plaintiff seeks to recover on behalf of himself and all other current and former
8 aggrieved employees of Defendants, the civil penalties provided by PAGA.

9 29. Plaintiff seeks to recover the civil penalties through a representative action
10 permitted by PAGA, therefore class certification of the PAGA claims is not required.

11 30. Plaintiff is informed and believes, and based thereon alleges that Defendants have
12 violated, and continue to violate, provisions of the California Labor Code and applicable Wage
13 Orders.

14 31. Plaintiff has exhausted his administrative remedies by timely filing PAGA
15 administrative charges in strict accordance with the PAGA statute, and for the purposes of
16 exhausting his administrative remedies, on or about May 4, 2023. More than sixty-five days
17 elapsed, and neither the LWDA nor Defendants responded to the exhaustion. As such, Plaintiff
18 may file his PAGA claims as asserted in this complaint.

19
20 **FIRST CAUSE OF ACTION**

21 (Failure to Timely Pay Earned Wages in Violation of California Labor Code §§ 204, 210
22 by Plaintiff against Defendants and DOES 1-20)

23 32. Plaintiff alleges and incorporates herein by this reference each and every
24 allegation set forth in all previous paragraphs of this Complaint.

25 33. California Labor Code § 204 provides, in pertinent part:

26 "All wages, other than those mentioned in Section 201, 202, 204.1, or 204.2, earned by any
27 person in any employment are due and payable twice during each calendar month, on days
28 designated in advance by the employer as the regular paydays. Labor performed between

1 the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th
2 and the 26th day of the month during which the labor was performed, and labor performed
3 between the 16th and the last day, inclusive, of any calendar month, shall be paid for
4 between the 1st and 10th day of the following month. ... Notwithstanding any other
5 provision of this section, all wages earned for labor in excess of the normal work period
6 shall be paid no later than the payday for the next regular payroll period.”

7 34. California Labor Code § 210 provides, in pertinent part:

8 “In addition to, and entirely independent and apart from, any other penalty provided in this
9 article, every person who fails to pay the wages of each employee as provided in Sections
10 204, 204b, 204.1, 204.2, 205, 205.5, and 1197.5, shall be subject to a civil penalty as
11 follows: (a) For any initial violation, one hundred dollars (\$100) for each failure to pay
12 each employee. (b) For each subsequent violation, or any willful or intentional violation,
13 two hundred dollars (\$200) for each failure to pay each employee, plus 25 percent of the
14 amount unlawfully withheld.”

15 35. As set forth herein, there were multiple instances throughout the Employment
16 Period where Plaintiff worked more than eight (8) hours in a day, or more than forty (40) hours
17 in a week. However, Plaintiff was only compensated at his regular rate of pay regardless of the
18 hours worked, never receiving time and a half or double pay compensation for working more
19 than eight (8) hours in a day, or more than forty (40) hours in a week. There were also some
20 occasions where Plaintiff did not receive any pay for all of his hours worked. Defendants further
21 failed to pay Plaintiff an additional hour of pay for each day he did not receive a rest period, did
22 not receive a meal period, or did not receive his meal period until after the fifth hour of work.

23 36. As a result, at all relevant times herein, Defendants willfully failed to pay Plaintiff
24 for all wages earned on the regular payday for each pay period in which these amounts first
25 became due and payable, as required by Labor Code § 204.

26 37. Pursuant to Labor Code § 218, Plaintiff is entitled to, and hereby requests, the
27 unpaid balance of the full amounts of wages earned and currently owed.
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1 38. Pursuant to Labor Code §§ 218.6, Plaintiff requests prejudgment interest at the
2 legal rate of ten percent (10.00%) per annum on all unpaid wages from the date such wages were
3 due.

4 39. Pursuant to Labor Code § 210, Plaintiff is entitled to, and hereby requests,
5 penalties of \$100.00 for the initial violation, and \$200.00 for each subsequent violation, plus
6 twenty-five percent (25%) of the amount unlawfully withheld.

7 40. Plaintiff has incurred and will continue to incur expenses for attorney's fees and
8 costs in prosecuting this action. Pursuant to Labor Code § 218.5, Plaintiff requests an award of
9 reasonable attorney's fees and costs.

10 41. Pursuant to Labor Code § 558.1, Zuniga is personally liable to Plaintiff for the
11 damages set forth in this cause of action since, at all relevant times herein, Zuniga acted on
12 behalf of the remaining Defendants as an owner, director, officer or managing agent of
13 Defendants, who violated, or caused to be violated, and provision regulating minimum wages or
14 hours and days of work in any order of the Industrial Wage Commission, and/or §§ 203, 226,
15 226.7 or 1194 of the California Labor Code.

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17 **SECOND CAUSE OF ACTION**

18 (Failure to Pay Overtime Compensation in Violation of Labor Code § 510
19 by Plaintiff against Defendants and DOES 1-20)

20 42. Plaintiff alleges and incorporates herein by this reference each and every
21 allegation set forth in all previous paragraphs of this Complaint.

22 43. IWC Wage Order No. 16-2001, which regulates the wages, hours, and working
23 conditions of professional, technical, clerical, mechanical and similar occupations, was
24 applicable and controlled Plaintiff's employment with Defendants.

25 44. At all relevant times herein, Plaintiff was a non-exempt employee and was paid
26 on an hourly basis. Plaintiff was not primarily engaged in duties that meet any of the tests for
27 exemption.

28 45. California Labor Code § 510 requires employees be compensated for overtime for
those hours worked in excess of eight (8) hours in a workday and more than forty (40) hours in a

workweek. The employee must be compensated at one and one-half times the employee's regular rate of pay for hours worked (a) in excess of eight (8) hours up to and including twelve (12) hours in a workday; and (b) for the first eight (8) hours worked on the seventh consecutive day. The employee must be compensated at two times the employee's regular rate of pay for hours worked (a) in excess of twelve (12) hours in any workday; and (b) for all hours worked in excess of eight (8) hours on the seventh day of work.

46. Plaintiff regularly worked more than eight (8) hours in a workday and/or more than forty (40) hours in a workweek during the Employment Period.

47. Defendants wholly failed to compensate Plaintiff for overtime hours worked with premium overtime pay as required under the aforementioned labor regulations. Pay which remains outstanding as of the date of this Complaint.

48. Labor Code § 1194(a) states "Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to an employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees and costs of suit."

49. Under the aforementioned wage order, statutes and regulations, Plaintiff is entitled to and thereby requests one and one-half times and/or double his regular rate of pay for overtime work performed during the Employment Period, in an amount to be determined at trial.

50. Pursuant to Labor Code §§ 218.6 and 1194(a), Plaintiff requests prejudgment interest at the legal rate of ten percent (10.00%) per annum on all unpaid wages from the date such wages were due.

51. Plaintiff has incurred and will continue to incur expenses for attorney's fees and costs in prosecuting this action. Pursuant to Labor Code §§ 218.5 and 1194(a), Plaintiff requests an award of reasonable attorney's fees and costs.

52. Pursuant to Labor Code § 558.1, Zuniga is personally liable to Plaintiff for the damages set forth in this cause of action since, at all relevant times herein, Zuniga acted on behalf of the remaining Defendants as an owner, director, officer or managing agent of

1 Defendants, who violated, or caused to be violated, and provision regulating minimum wages or
2 hours and days of work in any order of the Industrial Wage Commission, and/or §§ 203, 226,
3 226.7 or 1194 of the California Labor Code.

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5 **THIRD CAUSE OF ACTION**

6 (Failure to Provide Compensation to Employee Not Provided with Meal Periods in Violation of
7 California Labor Code §§ 226.7 and 512 by Plaintiff against Defendants and DOES 1-20)

8 53. Plaintiff alleges and incorporates herein by this reference each and every
9 allegation set forth in all previous paragraphs of this Complaint.

10 54. Defendants failed to provide Plaintiff with thirty (30) minute “duty free” meal
11 periods as required by Labor Code §§ 226.7, 512 and Section 10 of IWC Wage Order No. 16-
12 2001.

13 55. Pursuant to Labor Code § 512, no employer shall employ an employee for a work
14 period of more than five (5) hours without providing a meal period of not less than thirty (30)
15 minutes in which the employee is relieved of all of his or her duties. An employer may not
16 employ an employee for a work period of more than ten (10) hours per day without providing the
17 employee a second meal period of not less than thirty (30) minutes, except that if the total hours
18 worked is no more than twelve (12) hours in a day, the second meal period may be waived by
19 mutual consent of the employer and the employee only if the first period was not waived.

20 56. Pursuant to IWC Wage Order No. 16-2001, in order for an “on duty” meal period
21 to be permissible, the nature of the work done by Plaintiff must have prevented him from being
22 relieved of all duties relating to his work for such employers and Plaintiff must consent in writing
23 to the “on duty” meal period.

24 57. Plaintiff did not consent in writing to an “on duty” meal period. Furthermore, the
25 nature of the work that Plaintiff did was not such that he was prevented from being relieved of all
26 duties. Despite said requirements of IWC Wage Order 16-2001 and Labor Code §§ 512 and
27 226.7, Plaintiff was not provided with meal periods and was not relieved of all duties during all
28 workdays during the Employment Periods.

1 58. There is no applicable exemption that would permit Defendants to fail or refuse to
2 provide Plaintiff with the required meal periods.

3 59. Under the aforementioned wage order, statutes and regulations, Plaintiff is entitled
4 to, and thereby requests one hour of pay at his regular rates of pay for each workday that a meal
5 period was not provided consistent with applicable law for the Employment Period, in an amount
6 to be determined at trial.

7 60. Pursuant to Labor Code § 218.6, Plaintiff requests prejudgment interest at the
8 legal rate of ten percent (10.00%) per annum on all unpaid wages from the date such wages were
9 due.

10 61. Plaintiff has incurred and will continue to incur expenses for attorney's fees and
11 costs in prosecuting this action. Pursuant to Labor Code § 218.5, Plaintiff requests an award of
12 reasonable attorney's fees and costs.

13 62. Pursuant to Labor Code § 558.1, Zuniga is personally liable to Plaintiff for the
14 damages set forth in this cause of action since, at all relevant times herein, Zuniga acted on
15 behalf of the remaining Defendants as an owner, director, officer or managing agent of
16 Defendants, who violated, or caused to be violated, and provision regulating minimum wages or
17 hours and days of work in any order of the Industrial Wage Commission, and/or §§ 203, 226,
18 226.7 or 1194 of the California Labor Code.

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20 **FOURTH CAUSE OF ACTION**

21 (Failure to Provide Compensation to Employee Not Provided with Rest Periods in Violation of
22 California Labor Code § 226.7 by Plaintiff against Defendants and DOES 1-20)

23 63. Plaintiff alleges and incorporates herein by this reference each and every
24 allegation set forth in all previous paragraphs of this Complaint.

25 64. Section 11 of IWC Wage Order No. 16-2001, provides, in pertinent part: "(A)
26 Every employer shall authorize and permit all employees to take rest periods, which insofar as
27 practicable shall be in the middle of each work period. The authorized rest period time shall be
28 based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4)
hours or major fraction thereof. However, a rest period need not be authorized for employees

1 whose total daily work time is less than three and one-half (3½) hours. Authorized rest period
2 time shall be counted as hours worked for which there shall be no deduction from wages. (B) If
3 an employer fails to provide an employee a rest period in accordance with the applicable
4 provisions of this order, the employer shall pay the employee one (1) hour of pay at the
5 employee's regular rate of compensation for each workday that the rest period is not provided."

6 65. At all relevant times hereto, Defendants failed to comply with Section 11 of Order
7 16-2001, by failing to authorize and permit Plaintiff to take required rest periods.

8 66. Defendants further violated these IWC wage orders and violated Labor Code §
9 226.7 by failing to pay Plaintiff, who was not authorized or permitted to take rest breaks as
10 required under these orders, an additional one hour of compensation at Plaintiff's regular rate of
11 pay for each day Plaintiff was not authorized or permitted to take a required rest period.

12 67. Under the aforementioned wage order, statutes and regulations, Plaintiff is entitled
13 to, and hereby requests one hour of pay at his regular rate of pay for each workday that a rest
14 period was not provided consistent with applicable law for the Employment Period, in an amount
15 to be determined at trial.

16 68. Pursuant to Labor Code § 218.6, Plaintiff requests prejudgment interest at the
17 legal rate of ten percent (10.00%) per annum on all unpaid wages from the date such wages were
18 due.

19 69. Plaintiff has incurred and will continue to incur expenses for attorney's fees and
20 costs in prosecuting this action. Pursuant to Labor Code § 218.5, Plaintiff requests an award of
21 reasonable attorney's fees and costs.

22 70. Pursuant to Labor Code § 558.1, Zuniga is personally liable to Plaintiff for the
23 damages set forth in this cause of action since, at all relevant times herein, Zuniga acted on
24 behalf of the remaining Defendants as an owner, director, officer or managing agent of
25 Defendants, who violated, or caused to be violated, and provision regulating minimum wages or
26 hours and days of work in any order of the Industrial Wage Commission, and/or §§ 203, 226,
27 226.7 or 1194 of the California Labor Code.

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FIFTH CAUSE OF ACTION

(Failure to Provide Accurate Wage Statements in Violation of California Labor Code § 226 by Plaintiff against Defendants and DOES 1-20)

71. Plaintiff alleges and incorporates herein by this reference each and every allegation set forth in all previous paragraphs of this Complaint.

72. During the entirety of the Employment Period, and in violation of Labor Code § 226(a), Defendants failed to provide Plaintiff with accurate itemized written statements showing the following: gross wages earned, total hours worked by the employee, all deductions, net wages earned, inclusive dates of the period for which the employee is paid, last four digits of the social security number or employee identification number, address of the legal entity that is the employer, and all applicable rates of pay. These itemized wage statements are required to be kept on file by the employer for at least three years at the place of employment.

73. As a result of Defendant's willful failure to provide Plaintiff with accurate wage statements as required by Labor Code § 226(a), Plaintiff was deprived of documentation helpful for verifying and calculating the amount of wages owed. Thus, Plaintiff has been damaged because he will be required to expend more time and expense in proving his claim for unpaid wages, unpaid overtime compensation, and calculating the premium payments owed for meal and rest period violations.

74. Pursuant to Labor Code § 226(e), Plaintiff is entitled to, and request penalties of \$50.00 for the initial violation and \$100.00 for each subsequent violation, not exceeding an aggregate penalty of \$4,000.00.

75. Pursuant to Labor Code § 558.1, Zuniga is personally liable to Plaintiff for the damages set forth in this cause of action since, at all relevant times herein, Zuniga acted on behalf of the remaining Defendants as an owner, director, officer or managing agent of Defendants, who violated, or caused to be violated, and provision regulating minimum wages or hours and days of work in any order of the Industrial Wage Commission, and/or §§ 203, 226, 226.7 or 1194 of the California Labor Code.

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SIXTH CAUSE OF ACTION

(Waiting Time Penalties in Violation of California Labor Code § 203
by Plaintiff Against Defendants and DOES 1-20)

76. Plaintiff alleges and incorporates herein by this reference each and every allegation set forth in all previous paragraphs of this Complaint.

77. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew California law required that Plaintiff be paid wages for all hours worked at his hourly rate of pay, that Plaintiff be paid an overtime premium for all overtime hours worked, and that Plaintiff be paid an additional hour of pay for each day that a meal period or rest period was not provided. Despite having the financial ability to pay, Defendants intentionally refused to pay Plaintiff his lawfully earned compensation.

78. Defendants willfully failed to pay Plaintiff all wages due, without abatement or reduction, immediately upon the termination of Plaintiff's employment as required by Labor Code § 201. Labor Code § 203 states that an employee's wage shall continue as a penalty at the same rate until paid or for a period of up to thirty days from the time they were due, whichever period is shorter. Pursuant to Labor Code § 203, Plaintiff is entitled to, and requests waiting time penalties according to proof at time of trial but believed to be in excess of the jurisdiction of this Court.

79. Each of the Defendants willfully failed and refused and continue to willfully fail and refuse to pay earned wages to Plaintiff, with reference to the end of Plaintiff's employment period. These wages include unpaid wages for hours worked, overtime premium for all overtime hours worked and unpaid, and unpaid wages for missed meal and rest periods. These statutory penalties, in a sum to be proven at trial, are owed and unpaid. Plaintiff further seeks an award of reasonable attorney's fees and costs, consistent with California Labor Code § 218.5.

80. Pursuant to Labor Code § 558.1, Zuniga is personally liable to Plaintiff for the damages set forth in this cause of action since, at all relevant times herein, Zuniga acted on behalf of the remaining Defendants as an owner, director, officer or managing agent of Defendants, who violated, or caused to be violated, and provision regulating minimum wages or

1 hours and days of work in any order of the Industrial Wage Commission, and/or §§ 203, 226,
2 226.7 or 1194 of the California Labor Code.

3
4 **SEVENTH CAUSE OF ACTION**

(Failure to Provide Reporting Time Pay by Plaintiff Against Defendants and DOES 1-20)

5 81. Plaintiff alleges and incorporates herein by this reference each and every
6 allegation set forth in all previous paragraphs of this Complaint.

7 82. Section 5(B) of IWC Wage Order No. 16-2001, provides, in pertinent part: “ Each
8 workday that an employee is required to report to the work site and does report, but is not put to
9 work or is furnished less than half of his/her usual or scheduled day’s work, the employer shall
10 pay him/her for half the usual or scheduled day’s work, but in no event for less than two (2)
11 hours nor more than four (4) hours at the employee’s regular rate of pay, which shall not be less
12 than the minimum wage.”

13 83. At all relevant times herein, Defendants failed to comply with Section 5(B) of
14 IWC Wage Order No. 16-2001, by having Plaintiff report to work, not putting Plaintiff to work,
15 and failing to pay Plaintiff for half of his scheduled day’s work, up to four (4) hours of pay at
16 Plaintiff’s regular rate of pay.

17 84. Under the aforementioned wage order, Plaintiff is entitled to, and hereby requests
18 all unpaid reporting time pay consistent with applicable law for the Employment Period, in an
19 amount to be determined at trial.

20 85. Pursuant to Labor Code § 218.6, Plaintiff requests prejudgment interest at the
21 legal rate of ten percent (10.00%) per annum on all unpaid wages from the date such wages were
22 due.

23 86. Plaintiff has incurred and will continue to incur expenses for attorney’s fees and
24 costs in prosecuting this action. Pursuant to Labor Code § 218.5, Plaintiff requests an award of
25 reasonable attorney’s fees and costs.

26 87. Pursuant to Labor Code § 558.1, Zuniga is personally liable to Plaintiff for the
27 damages set forth in this cause of action since, at all relevant times herein, Zuniga acted on
28 behalf of the remaining Defendants as an owner, director, officer or managing agent of

1 Defendants, who violated, or caused to be violated, and provision regulating minimum wages or
2 hours and days of work in any order of the Industrial Wage Commission, and/or §§ 203, 226,
3 226.7 or 1194 of the California Labor Code.

4
5 **EIGHTH CAUSE OF ACTION**

6 (Retaliation in Violation of Cal. Labor Code §1102.5 by Plaintiff Against Defendants and
7 DOES 1-20)

8 88. Plaintiff alleges and incorporates herein by this reference each and every
9 allegation set forth in all previous paragraphs of this Complaint.

10 89. There existed an employer-employee relationship between Plaintiff and
11 Defendants during the Employment Period and, at all times herein, Plaintiff was duly qualified
12 and performed his employment duties in a satisfactory manner.

13 90. Labor Code § 1102.5 provides protection for complainants such as Plaintiff.
14 Defendants are prohibited from discriminating against, retaliating against and/or discharging an
15 employee for disclosing information to a government agency, to a person with authority over the
16 employee or another employee who has the authority to investigate, discover, or correct the
17 violation or noncompliance, where the employee has reasonable cause to believe that the
18 information disclosed a violation of or noncompliance with a local, state, or federal rule or
19 regulation.

20 91. As alleged herein above, in or about December 2022, Plaintiff engaged in the
21 protected activity of making a complaint to the Occupational Safety and Health Administration
22 (“OSHA”) concerning the lack of restrooms at the Facility. Defendants retaliated against
23 Plaintiff shortly thereafter. That same month, Plaintiff was contacted by Defendants and told not
24 to report to work. Defendants informed Plaintiff that there was suddenly no work available and
25 that the Facility was closed for a holiday moratorium. However, Plaintiff spoke with a
26 representative from OSHA who informed him that the Facility was still open and in operation.

27 92. On or about January 1, 2023, Plaintiff contacted his direct supervisor, Ceasar, and
28 engaged in another protected activity of complaining about lost wages, being denied meal and

1 rest periods, and Defendant's unilateral use of Plaintiff's accrued sick leave instead of providing
2 reporting time pay. Plaintiff made a similar complaint this same day to Defendant Zuniga.

3 93. Defendants retaliated against Plaintiff the very next day on or about January 2,
4 2023, when Caesar contacted Plaintiff and instructed him to file for unemployment, effectively
5 terminating Plaintiff's employment.

6 94. At all relevant times herein, Caesar and Zuniga were agents of Defendants, with
7 authority over Plaintiff who had the authority to investigate, discover, or correct the violation or
8 noncompliance,

9 95. Plaintiff's OSHA complaint and his complaints of unpaid wages, meal and rest
10 period violations were a substantial motivating reason for the adverse employment actions taken
11 against Plaintiff by Defendants as set forth herein.

12 96. As a direct, foreseeable, and proximate result of Defendants' actions, Plaintiff has
13 suffered and continues to suffer aggravation of his injuries, substantial losses in earnings and job
14 benefits, humiliation, emotional distress, and physical and mental pain and anguish all to his
15 damage in a sum according to proof at the time of trial.

16 97. Plaintiff is further entitled to and hereby requests back pay and benefits pursuant
17 to Cal. Lab. Code § 98.6(b); actual damages pursuant to Cal. Lab. Code § 1105; civil penalties
18 pursuant to Cal. Lab. Code § 1102.5(f); and an award of reasonable attorneys' fees pursuant to
19 Cal. Lab. Code § 1102.5(j).

20 98. Defendants' conduct was willful, knowing, malicious, intentional, and done in
21 reckless disregard of the damaging consequences to Plaintiff. Defendants' conduct evidenced a
22 conscious disregard of Plaintiff's rights. Plaintiff is thus entitled to recover actual, compensatory,
23 punitive, and exemplary damages in amounts according to proof at time of trial.

24
25 **NINTH CAUSE OF ACTION**

26 (Wrongful Termination in Violation of Public Policy by Plaintiff Against Defendants and
DOES 1-20)

27 99. Plaintiff alleges and incorporates herein by this reference each and every
28 allegation set forth in all previous paragraphs of this Complaint.

1 100. At all relevant times, there existed an employer-employee relationship between
2 Plaintiff and Defendants. At all relevant times, Plaintiff was duly qualified and performed his
3 employment duties in a satisfactory manner.

4 101. Defendants' termination of Plaintiff's employment was in violation of
5 fundamental public policies articulated in California Labor Code § 1102.5. Specifically, it is
6 wrongful to terminate an employee in retaliation for disclosing information to a person with
7 authority over the employee or another employee who has the authority to investigate, discover,
8 or correct the violation or noncompliance, where the employee has reasonable cause to believe
9 that the information disclosed a violation of or noncompliance with a local, state, or federal rule
10 or regulation. (Cal. Lab. Code § 1102.5).

11 102. At all relevant times, California Labor Code § 1102.5 was in full force and effect
12 and binding upon Defendants.

13 103. Plaintiff's OSHA complaint and his complaints of unpaid wages, meal and rest
14 period violations were a substantial motivating reason for the adverse employment actions taken
15 against Plaintiff by Defendants as set forth herein.

16 104. As a direct and proximate result of Defendants' actions, Plaintiff has suffered, and
17 continues to suffer, substantial losses in earnings and other job benefits, and will for a period of
18 time in the future be unable to obtain gainful employment, as Plaintiff's ability to obtain such
19 employment and earning capacity has been diminished. The exact amount of such expenses and
20 losses is presently unknown, and Plaintiff will seek leave to amend this Complaint to the exact
21 amount when it is ascertained.

22 105. As a direct and proximate result of Defendants' conduct, Plaintiff has suffered
23 general damages, as Plaintiff was psychologically injured. Such injuries have caused and
24 continue to cause Plaintiff great mental pain and suffering, humiliation, grief, and anxiety, in an
25 amount more than the jurisdictional limits of this Court.

26 106. Plaintiff is informed and believes, and based thereon alleges, that Defendants'
27 (including employees, officers, directors, and/or managing agents of Defendants) conduct was
28 willful, knowing, malicious, and intentional and done in reckless disregard of the damaging

1 consequences to Plaintiff. Defendants' conduct evidenced a conscious disregard of Plaintiff's
2 rights. Plaintiff is thus entitled to recover actual, compensatory, punitive, and exemplary
3 damages in amounts according to proof.

4 107. Plaintiff is informed and believes, and based thereon alleges, that the actions of
5 Defendants' employees, officers, directors, and/or managing agents were undertaken with the
6 prior approval, consent, and authorization of Defendants and were subsequently authorized and
7 ratified by it as well as by and through its officers, directors, and/or managing agents.

8
9 **TENTH CAUSE OF ACTION**

10 (Unfair Business Practices in Violation of Bus. and Prof. Code § 17200 *et seq.* by Plaintiff
Against Defendants and DOES 1-20)

11 108. Plaintiff alleges and incorporates herein by this reference each and every
12 allegation set forth in all previous paragraphs of this Complaint.

13 109. Defendants' acts constitute a continuing and ongoing unlawful, unfair, and
14 fraudulent activity prohibited by the Unfair Competition Law ("UCL") and justify the issuance
15 of an injunction, restitution, and other equitable relief pursuant to Bus. and Prof. Code § 17203.

16 110. Labor Code § 90.5(a) states that it is the public policy of California to vigorously
17 enforce minimum labor standards to ensure employees are not required to work under
18 substandard and unlawful conditions, and to protect employers who comply with the law from
19 those who attempt to gain competitive advantage at the expense of their workers by failing to
20 comply with minimum labor standards.

21 111. Labor Code § 1198 renders unlawful any violation or any Labor Code or Wage
22 Order Provisions. As set forth herein, Defendants violated a number of Labor Code sections and
23 various provisions of IWC Wage Order 16-2001.

24 112. By violating the aforementioned statutes and regulations, including California
25 Labor Code §§ 201, 203, 204, 210, 226, 226.7, 510, 512 and 1194, and sections of IWC Wage
26 Order 16-2001, as alleged above, the acts of Defendants constitute unfair and unlawful business
27 practice pursuant to Labor Code § 1198, and within the meaning of California Business and
28 Professions Code § 17200 *et seq.*, including, but not limited to, (i) the failure to pay earned

1 wages, (ii) failure to pay earned overtime wages, (iii) failure to timely pay all earned wages upon
2 termination, (iv) failure to provide meal periods, or premium compensation in lieu thereof, (v)
3 failure to provide rest periods, or premium compensation in lieu thereof, and (vi) failure to issue
4 accurate wage statements.

5 113. Defendants' violations of sections of the California Labor Code and as alleged
6 above constitute an unfair business practice because these were done repeatedly over a
7 significant period of time and in a systematic manner to the detriment of Plaintiff. All of the
8 foregoing harmed Plaintiff and continues to harm Plaintiff.

9 114. Defendants' course of conduct, act, and practice in violation of the California
10 laws mentioned herein above constitutes separate and independent unfair business practices and
11 violations of California Business and Professions Code § 17200 *et seq.*

12 115. Pursuant to Business and Professions Code § 17200, *et seq.*, Plaintiff seeks
13 restitution of all unlawfully withheld earned wages, and equitable relief in the form of disgorged
14 profits from Defendant's unlawful acts, for a period beginning from four (4) years prior to the
15 filing of this action until judgment, all in an amount according to proof at time of trial.

16
17 **ELEVENTH CAUSE OF ACTION**

18 (PAGA Civil Penalties for Violation of Labor Code §§ 204, 210, 558, and 2698 *et seq.*
19 by Plaintiff Against Defendants and DOES 1-20)

20 116. Plaintiff alleges and incorporates herein each and every allegation set forth in all
21 previous paragraphs of this Complaint.

22 117. During the period preceding the filing of the initial complaint in this action,
23 Defendants violated Labor Code §§ 204, 210, 558, and all applicable Wage Orders. These
24 violations subject Defendants to civil penalties as set forth in (1) the foregoing statutes, (2) or the
25 default penalties as set forth in Labor Code § 2698 *et seq.*

26 118. Plaintiff exhausted his LWDA administrative remedies as required by the PAGA
27 statute, complying with all exhaustion procedures.

28 119. Specifically, Defendants have failed to pay all wages earned on a bi-weekly basis.
Defendants failed to pay all wages and all overtime wages due and owing for all hours worked as

1 required by California law, and failed to pay an additional hour of compensation for each day a
2 rest period or meal period was not provided, on a timely basis as strictly required under Labor
3 Code § 204, making Defendants liable for civil penalties under Labor Code §§ 204, 210, and
4 2699.

5 120. Labor Code §§ 2699, subdivisions (a) and (g) authorize an aggrieved employee,
6 on behalf of himself/herself and other current or former employees, to bring a civil action to
7 recover civil penalties against all Defendants pursuant to the procedures specified in Labor Code
8 §§ 2699.3 and 2699.5.

9 121. Plaintiff has complied with the procedures for bringing suit specified in Labor
10 Code §§ 2699.3 and 2699.5.

11 122. Pursuant to Labor Code § 2699(g), Plaintiff is entitled to an award of reasonable
12 attorney's fees and costs in connection with his claim and that of other aggrieved employees for
13 civil penalties.

14
15 **TWELFTH CAUSE OF ACTION**

16 (PAGA Civil Penalties for Violation of Labor Code §§ 510, 1194, 1198, 558 and 2698 et seq.
by Plaintiff Against Defendants and DOES 1-20)

17 123. Plaintiff alleges and incorporates herein each and every allegation set forth in all
18 previous paragraphs of this Complaint.

19 124. During the period preceding the filing of the initial complaint in this action,
20 Defendants violated Labor Code §§ 510, 1194, 1198, 558 and all applicable Wage Orders. These
21 violations subject Defendants to civil penalties as set forth in (1) the foregoing statutes, (2) or the
22 default penalties as set forth in Labor Code § 2698 et seq.

23 125. Plaintiff exhausted his LWDA administrative remedies as required by the PAGA
24 statute, complying with all exhaustion procedures.

25 126. Specifically, Defendants have failed to pay all overtime wages due and owing for
26 hours worked in excess of eight (8) hours in a workday and/or more than forty (40) hours in a
27 workweek as required by the enumerated labor code sections. Plaintiff frequently worked more
28

1 than eight (8) hours in a workday and/or more than forty (40) hours in a workweek without
2 receiving any additional compensation, let alone overtime pay.

3 127. Labor Code §§ 2699, subdivisions (a) and (g) authorize an aggrieved employee,
4 on behalf of himself/herself and other current or former employees, to bring a civil action to
5 recover civil penalties against all Defendants pursuant to the procedures specified in Labor Code
6 §§ 2699.3 and 2699.5.

7 128. Plaintiff has complied with the procedures for bringing suit specified in Labor
8 Code §§ 2699.3 and 2699.5.

9 129. Pursuant to Labor Code § 2699(g), Plaintiff is entitled to an award of reasonable
10 attorney's fees and costs in connection with his claim and that of other aggrieved employees for
11 civil penalties.

12
13 **THIRTEENTH CAUSE OF ACTION**

14 (PAGA Civil Penalties for Failure to Provide Meal Periods by Plaintiff Against Defendants and
DOES 1-20)

15 130. Plaintiff alleges and incorporates herein each and every allegation set forth in all
16 previous paragraphs of this Complaint.

17 131. During the period preceding the filing of the initial complaint in this action,
18 Defendants violated Labor Code §§ 226.7, 512, 558 and all applicable Wage Orders. These
19 violations subject Defendants to civil penalties as set forth in (1) the foregoing statutes, (2) or the
20 default penalties as set forth in Labor Code § 2698 et seq.

21 132. Plaintiff exhausted his LWDA administrative remedies as required by the PAGA
22 statute, complying with all exhaustion procedures.

23 133. Specifically, Defendants have failed to provide all required meal breaks, and/or to
24 provide one additional hour of pay at the employee's regular rate of pay in lieu of any missed
25 meal breaks in accordance with California law. Defendants further failed to maintain a company
26 meal period policy and/or practice compliant with California law. This in turn caused violations
27 of Labor Code §§ 226.7, 512, and Wage Order 16-2001, § 10.
28

1 134. Labor Code §§ 2699, subdivisions (a) and (g) authorize an aggrieved employee,
2 on behalf of himself/herself and other current or former employees, to bring a civil action to
3 recover civil penalties against all Defendants pursuant to the procedures specified in Labor Code
4 §§ 2699.3 and 2699.5.

5 135. Plaintiff has complied with the procedures for bringing suit specified in Labor
6 Code §§ 2699.3 and 2699.5.

7 136. Pursuant to Labor Code § 2699(g), Plaintiff is entitled to an award of reasonable
8 attorney's fees and costs in connection with his claim and that of other aggrieved employees for
9 civil penalties.

10
11 **FOURTEENTH CAUSE OF ACTION**

12 (PAGA Civil Penalties for Failure to Provide Rest Periods by Plaintiff Against Defendants and
13 DOES 1-20)

14 137. Plaintiff alleges and incorporates herein each and every allegation set forth in all
15 previous paragraphs of this Complaint.

16 138. During the period preceding the filing of the initial complaint in this action,
17 Defendants violated Labor Code §§ 226.7, 558 and all applicable Wage Orders. These violations
18 subject Defendants to civil penalties as set forth in (1) the foregoing statutes, (2) or the default
19 penalties as set forth in Labor Code § 2698 et seq.

20 139. Plaintiff exhausted his LWDA administrative remedies as required by the PAGA
21 statute, complying with all exhaustion procedures.

22 140. Specifically, Defendants have failed to provide all required rest breaks, and/or to
23 provide one additional hour of pay at the employee's regular rate of pay in lieu of any missed
24 rest breaks in accordance with California law. Defendants further failed to maintain a company
25 rest period policy and/or practice compliant with California law. This in turn caused violations of
26 Labor Code §§ 226.7 and Wage Order 16-2001, § 11.

27 141. Labor Code §§ 2699, subdivisions (a) and (g) authorize an aggrieved employee,
28 on behalf of himself/herself and other current or former employees, to bring a civil action to

1 recover civil penalties against all Defendants pursuant to the procedures specified in Labor Code
2 §§ 2699.3 and 2699.5.

3 142. Plaintiff has complied with the procedures for bringing suit specified in Labor
4 Code §§ 2699.3 and 2699.5.

5 143. Pursuant to Labor Code § 2699(g), Plaintiff is entitled to an award of reasonable
6 attorney's fees and costs in connection with his claim and that of other aggrieved employees for
7 civil penalties.

8
9 **FIFTEENTH CAUSE OF ACTION**

10 (PAGA Civil Penalties for Violation of Labor Code §§ 226, 226.3, 558, and 2698 et seq.
by Plaintiff Against Defendants and DOES 1-20)

11 144. Plaintiff alleges and incorporates herein each and every allegation set forth in all
12 previous paragraphs of this Complaint.

13 145. During the period preceding the filing of the initial complaint in this action,
14 Defendants violated Labor Code §§ 226, 226.3, 558, and all applicable Wage Orders. These
15 violations subject Defendants to civil penalties as set forth in (1) the foregoing statutes, (2) or the
16 default penalties as set forth in Labor Code § 2698 et seq.

17 146. Plaintiff exhausted his LWDA administrative remedies as required by the PAGA
18 statute, complying with all exhaustion procedures.

19 147. Specifically, Defendants have failed to provide Plaintiff and all aggrieved
20 employees with itemized wage statements which provided complete and accurate information as
21 per Labor Code § 226(a) as a result of its misclassification of Plaintiff and all aggrieved
22 employees, due to Defendant's failure to pay all daily regular and overtime worked and earned,
23 and due to Defendant's failure to pay an additional hour of compensation for each day a meal
24 and rest period was not provided. Because of Defendant's willful and intentional failure to pay
25 all earned wages, in turn, Defendant failed to provide the required categories of information as
26 strictly required by Labor Code §§ 226 and 226.3.

27 148. Labor Code §§ 2699, subdivisions (a) and (g) authorize an aggrieved employee,
28 on behalf of himself/herself and other current or former employees, to bring a civil action to

1 recover civil penalties against all Defendants pursuant to the procedures specified in Labor Code
2 §§ 2699.3 and 2699.5.

3 149. Plaintiff has complied with the procedures for bringing suit specified in Labor
4 Code §§ 2699.3 and 2699.5.

5 150. Pursuant to Labor Code § 2699(g), Plaintiff is entitled to an award of reasonable
6 attorney's fees and costs in connection with his claim and that of other aggrieved employees for
7 civil penalties.

8
9 **SIXTEENTH CAUSE OF ACTION**

10 (PAGA Civil Penalties for Violation of IWC Wage Order 16-2001 §5(B) by Plaintiff Against
11 Defendants and DOES 1-20)

12 151. Plaintiff alleges and incorporates herein each and every allegation set forth in all
13 previous paragraphs of this Complaint.

14 152. During the period preceding the filing of the initial complaint in this action,
15 Defendants violated IWC Order 16-2001 §5(B). These violations subject Defendants to civil
16 penalties as set forth in (1) the foregoing statutes, (2) or the default penalties as set forth in Labor
17 Code § 2698 et seq.

18 153. Plaintiff exhausted his LWDA administrative remedies as required by the PAGA
19 statute, complying with all exhaustion procedures.

20 154. Specifically, Defendants failed to comply with Section 5(B) of IWC Wage Order
21 No. 16-2001, by having Plaintiff and similarly aggrieved employees report to work, not being
22 put to work and sent home, and failing to pay Plaintiff and similarly aggrieved employees for
23 half of their scheduled day's work, up to four (4) hours of pay at Plaintiff's regular rate of pay.

24 155. Labor Code §§ 2699, subdivisions (a) and (g) authorize an aggrieved employee,
25 on behalf of himself/herself and other current or former employees, to bring a civil action to
26 recover civil penalties against all Defendants pursuant to the procedures specified in Labor Code
27 §§ 2699.3 and 2699.5.

28 156. Plaintiff has complied with the procedures for bringing suit specified in Labor
Code §§ 2699.3 and 2699.5.

1 157. Pursuant to Labor Code § 2699(g), Plaintiff is entitled to an award of reasonable
2 attorney's fees and costs in connection with his claim and that of other aggrieved employees for
3 civil penalties.

4
5 **SEVENTEENTH CAUSE OF ACTION**

6 (PAGA Civil Penalties for Violation of Labor Code §§ 201, 202, 203, 256, 558 and 2698 et seq.
7 by Plaintiff Against Defendants and DOES 1-20)

8 158. Plaintiff alleges and incorporates herein each and every allegation set forth in all
9 previous paragraphs of this Complaint.

10 159. During the period preceding the filing of the initial complaint in this action,
11 Defendants violated Labor Code §§ 201, 202, 203, 256, 558, and all applicable Wage Orders.
12 These violations subject Defendants to civil penalties as set forth in (1) the foregoing statutes, (2)
13 or the default penalties as set forth in Labor Code § 2698 et seq.

14 160. Plaintiff exhausted his LWDA administrative remedies as required by the PAGA
15 statute, complying with all exhaustion procedures.

16 161. Specifically, Defendants have committed the following violations of California
17 Labor Code: At all times relevant to this Complaint, California Labor Code §§ 201 and 202
18 required that an employer promptly pay all wages due to employees at the time of separation of
19 their employment. Labor Code § 201 required “[i]mmediate payment of wages due upon
20 discharge or layoff.” Labor Code § 202 requires that an employee who quits his or her
21 employment is paid all wages due “not later than 72 hours thereafter, unless the employee has
22 given 72 hours previous notice of his or her intention to quit, in which case the employee is
23 entitled to his or her wages at the time of quitting.”

24 162. At all times relevant to this Complaint, California Labor Code § 203 provided
25 that, for the willful violation of Labor Code §§ 201 and/or 202, “the wages of the employee shall
26 continue as a penalty from the due date thereof at the same rate until paid or until an action
27 therefor is commenced; but the wages shall not continue for more than 30 days.” This is also
28 provided as an additional penalty under Labor Code § 256.

1 163. Defendants willfully failed to pay all wages due to Plaintiff and other aggrieved
2 employees upon termination and/or separation with Defendants, and therefore, Defendants are
3 liable for civil penalties as a result thereof.

4 164. Labor Code §§ 2699, subdivisions (a) and (g) authorize an aggrieved employee,
5 on behalf of himself/herself and other current or former employees, to bring a civil action to
6 recover civil penalties against all Defendants pursuant to the procedures specified in Labor Code
7 §§ 2699.3 and 2699.5.

8 165. Plaintiff has complied with the procedures for bringing suit specified in Labor
9 Code §§ 2699.3 and 2699.5.

10 166. Pursuant to Labor Code § 2699(g), Plaintiff is entitled to an award of reasonable
11 attorney's fees and costs in connection with his claim and that of other aggrieved employees for
12 civil penalties.

13
14 **EIGHTEENTH CAUSE OF ACTION**

15 (PAGA Civil Penalties for Violation of Labor Code §§ 245 et seq. and 2698 et seq.
16 by Plaintiff Against Fiberco, BBSI, and DOES 1-20)

17 167. Plaintiff alleges and incorporates herein each and every allegation set forth in all
18 previous paragraphs of this Complaint.

19 168. During the period preceding the filing of the initial complaint in this action,
20 Defendants violated Labor Code § 245 et seq. and all applicable Wage Orders. These violations
21 subject Defendants to civil penalties as set forth in (1) the foregoing statutes, (2) or the default
22 penalties as set forth in Labor Code § 2698 et seq.

23 169. Plaintiff exhausted his LWDA administrative remedies as required by the PAGA
24 statute, complying with all exhaustion procedures.

25 170. Labor Code § 245 et seq. requires employers to provide paid sick leave to
26 employees who, on or after July 1, 2015, work for the same employer for more than 30 days
27 within a year from the commencement of employment. (Labor Code § 246(a)(1)).

28 171. Defendants violated this Labor Code section because they wholly failed to
provide Plaintiff and aggrieved employees with paid sick leave due to Defendant's unilateral

1 decision to use the accrued sick leave of Plaintiff and aggrieved employees in lieu of providing
2 reporting time pay. Thus, when Plaintiff and similarly aggrieved employees requested to use
3 accrued paid sick leave, Defendant's informed them that there was no accrued sick leave
4 available, thereby willfully failing to provide paid sick leave constitutes a violation of Labor
5 Code § 245 et seq.

6 172. Labor Code §§ 2699, subdivisions (a) and (g) authorize an aggrieved employee,
7 on behalf of himself/herself and other current or former employees, to bring a civil action to
8 recover civil penalties against all Defendants pursuant to the procedures specified in Labor Code
9 §§ 2699.3 and 2699.5.

10 173. Plaintiff has complied with the procedures for bringing suit specified in Labor
11 Code §§ 2699.3 and 2699.5.

12 174. Pursuant to Labor Code § 2699(g), Plaintiff is entitled to an award of reasonable
13 attorney's fees and costs in connection with his claim and that of other aggrieved employees for
14 civil penalties.

15
16 **NINETEENTH CAUSE OF ACTION**

17 (PAGA Civil Penalties for Violation of Labor Code §§ 1174 and 2698 et seq.
18 by Plaintiff Against Fiberco, BBSI, and DOES 1-20)

19 175. Plaintiff alleges and incorporates herein each and every allegation set forth in all
20 previous paragraphs of this Complaint.

21 176. During the period preceding the filing of the initial complaint in this action,
22 Defendants violated Labor Code § 1174 and all applicable Wage Orders. These violations
23 subject Defendants to civil penalties as set forth in (1) the foregoing statutes, (2) the penalties as
24 set forth in Labor Code § 1174.5, (3) or the default penalties as set forth in Labor Code § 2698 et
25 seq.

26 177. Plaintiff exhausted his LWDA administrative remedies as required by the PAGA
27 statute, complying with all exhaustion procedures.

28 178. Labor Code § 1174 requires employers to keep "accurate and complete" payroll
records showing, among other things, the hours worked daily by all non-exempt employees.

1 Section 6 of IWC Wage Order 16-2001 similarly requires employers to keep time records
2 showing when the employees begin and end each work period and reflecting the time during
3 which a meal and/or rest period was provided each day.

4 179. Defendants violated this Labor Code section because they wholly failed to
5 maintain accurate and complete payroll records. More specifically, Defendants did not provide
6 and/or record Plaintiff and aggrieved employees' actual daily and weekly earned wages,
7 including, but not limited to, hours worked, overtime hours and wages, and meal and rest period
8 premiums due and owing. In addition, Defendants failed to keep accurate daily records of
9 Plaintiff and other aggrieved employees' earnings for the bi-weekly pay period.

10 180. Labor Code §§ 2699, subdivisions (a) and (g) authorize an aggrieved employee,
11 on behalf of himself/herself and other current or former employees, to bring a civil action to
12 recover civil penalties against all Defendants pursuant to the procedures specified in Labor Code
13 §§ 2699.3 and 2699.5.

14 181. Plaintiff has complied with the procedures for bringing suit specified in Labor
15 Code §§ 2699.3 and 2699.5.

16 182. Pursuant to Labor Code § 2699(g), Plaintiff is entitled to an award of reasonable
17 attorney's fees and costs in connection with his claim and that of other aggrieved employees for
18 civil penalties.

19
20 **TWENTIETH CAUSE OF ACTION**

21 (PAGA Civil Penalties for Violation of Labor Code §§ 1197, 1198, 1199 and 2698 et seq.
22 by Plaintiff Against Defendants and DOES 1-20)

23 183. Plaintiff alleges and incorporates herein each and every allegation set forth in all
24 previous paragraphs of this Complaint.

25 184. During the period preceding the filing of the initial complaint in this action,
26 Defendants violated Labor Code §§ 1197, 1198, 1199 and all applicable Wage Orders. These
27 violations subject Defendants to civil penalties as set forth in (1) the foregoing statutes, (2) the
28 penalties as set forth in Labor Code § 1197.1, (3) or the default penalties as set forth in Labor
Code § 2698 et seq.

1 185. Plaintiff exhausted his LWDA administrative remedies as required by the PAGA
2 statute, complying with all exhaustion procedures.

3 186. Labor Code §§ 1198 and 1199 make unlawful the employment of any employee
4 under conditions of labor prohibited by the Wage Orders, and any violation, refusal, or neglect to
5 comply with any provision within Part 4, Chapter 1 of the Labor Code, including §§ 1174, 1197,
6 1198, or order or ruling of the commission.

7 187. Defendants violated the aforementioned Labor Code sections. More specifically,
8 Defendant's violations with respect to meal periods, rest periods, unpaid wages, overtime wages,
9 wage statements, and failure to keep accurate time records result in separate violations of Labor
10 Code §§ 1174, 1198, and 1199.

11 188. Labor Code §§ 2699, subdivisions (a) and (g) authorize an aggrieved employee,
12 on behalf of himself/herself and other current or former employees, to bring a civil action to
13 recover civil penalties against all Defendants pursuant to the procedures specified in Labor Code
14 §§ 2699.3 and 2699.5.

15 189. Plaintiff has complied with the procedures for bringing suit specified in Labor
16 Code §§ 2699.3 and 2699.5.

17 190. Pursuant to Labor Code 1197.1, Plaintiff is entitled to the restitution of wages
18 owed, liquidated damages, and any applicable penalties imposed pursuant to Labor Code § 203.

19 191. Pursuant to Labor Code § 2699(g), Plaintiff is entitled to an award of reasonable
20 attorney's fees and costs in connection with his claim and that of other aggrieved employees for
21 civil penalties.

22
23 **PRAYER FOR RELIEF**

24 WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

25
26 **UNDER THE FIRST CAUSE OF ACTION**

- 27 1. For compensatory, consequential, general, and special damages for all unpaid wages,
28 subject to proof;

2. For civil penalties in an amount according to proof at trial, and consistent with Labor Code § 210;
3. For interest on all due and unpaid wages pursuant to Labor Code § 218.6;
4. For attorney's fees and costs pursuant to Labor Code § 218.5;
5. For costs of suit incurred herein; and
6. For such other relief that the Court may deem just and proper.

UNDER THE SECOND CAUSE OF ACTION

1. For compensatory, consequential, general, and special damages for all unpaid overtime wages, subject to proof;
2. For interest on all due and unpaid wages pursuant to Labor Code §§ 218.6 and 1194(a);
3. For attorney's fees and costs pursuant to Labor Code §§ 218.5 and 1194(a);
4. For costs of suit incurred herein; and
5. For such other and further relief that the Court may deem just and proper.

UNDER THE THIRD CAUSE OF ACTION

1. For one (1) hour of premium pay for each missed meal period that was not provided, subject to proof;
2. For costs of suit incurred herein; and
3. For such other and further relief that the Court may deem just and proper.

UNDER THE FOURTH CAUSE OF ACTION

1. For one (1) hour of premium pay for each missed rest period that was not provided, subject to proof;
2. For costs of suit incurred herein; and
3. For such other and further relief that the Court may deem just and proper.

1 **UNDER THE FIFTH CAUSE OF ACTION**

- 2 1. For the assessment of actual damages or a statutory penalty in an amount not to
3 exceed Four Thousand Dollars (\$4,000), subject to proof and consistent with Labor
4 Code § 226(e);
5 2. For attorney's fees and costs pursuant to Labor Code § 226(e);
6 3. For costs of suit incurred herein; and
7 4. For such other and further relief that the Court may deem just and proper.
8

9 **UNDER THE SIXTH CAUSE OF ACTION**

- 10 1. For reimbursement for all expenditures permitted under Labor Code § 2802,
11 including all available penalties;
12 2. For interest on all unpaid and owed reimbursement of expenditures pursuant to Labor
13 Code § 2802(b);
14 3. For attorney's fees and costs pursuant to Labor Code § 2802(c);
15 4. For costs of suit incurred; and
16 5. For such further relief that the Court determines to be just and proper.
17

18 **UNDER THE SEVENTH CAUSE OF ACTION**

- 19 1. For waiting time penalties pursuant to Labor Code § 203;
20 2. For attorney's fees and costs pursuant to Labor Code § 218.5;
21 3. For costs of suit incurred herein; and
22 4. For such other and further relief that the Court may deem just and proper.
23

24 **UNDER THE EIGHTH CAUSE OF ACTION**

- 25 1. For compensatory, consequential, general, and special damages, subject to proof;
26 2. Back pay and benefits pursuant to Labor Code § 98.6(b), actual damages pursuant to
27 Labor Code § 1105; and civil penalty(s) pursuant to Labor Code § 1102.5(f), subject
28 to proof;

3. For an award of reasonable attorneys' fees pursuant to Labor Code § 1102.5(j);
4. For punitive damages in an amount to be determined by the Court to be reasonable under the circumstances of this case;
5. For interest according to law;
6. For costs of suit incurred herein; and
7. For such other and further relief that the Court may deem just and proper.

UNDER THE NINTH CAUSE OF ACTION

1. For all compensatory, consequential, general, and special damages, subject to proof;
2. For punitive damages in an amount to be determined by the Court to be reasonable under the circumstances of this case;
3. For interest according to law;
4. For costs of suit incurred herein; and
5. For such other and further relief that the Court determines to be just and proper.

UNDER THE TENTH CAUSE OF ACTION

1. For restitution of all unpaid wages and monies due to Plaintiff and the disgorgement of profits from the unlawful business practices of Defendants, subject to proof;
2. Interest according to law;
3. For costs of suit incurred herein; and
4. For such other and further relief that the Court may deem just and proper.

UNDER THE ELEVENTH CAUSE OF ACTION

1. For PAGA civil penalties;
2. For reasonable attorneys' fees and costs pursuant to Labor Code § 2699(g).

1 **UNDER THE TWELFTH CAUSE OF ACTION**

- 2 1. For PAGA civil penalties;
- 3 2. For reasonable attorneys' fees and costs pursuant to Labor Code § 2699(g).
- 4

5 **UNDER THE THIRTEENTH CAUSE OF ACTION**

- 6 1. For PAGA civil penalties;
- 7 2. For reasonable attorneys' fees and costs pursuant to Labor Code § 2699(g).
- 8

9 **UNDER THE FOURTEENTH CAUSE OF ACTION**

- 10 1. For PAGA civil penalties;
- 11 2. For reasonable attorneys' fees and costs pursuant to Labor Code § 2699(g).
- 12

13 **UNDER THE FIFTEENTH CAUSE OF ACTION**

- 14 1. For PAGA civil penalties;
- 15 2. For reasonable attorneys' fees and costs pursuant to Labor Code § 2699(g).
- 16

17 **UNDER THE SIXTEENTH CAUSE OF ACTION**

- 18 1. For PAGA civil penalties;
- 19 2. For reasonable attorneys' fees and costs pursuant to Labor Code § 2699(g).
- 20

21 **UNDER THE SEVENTEENTH CAUSE OF ACTION**

- 22 1. For PAGA civil penalties;
- 23 2. For reasonable attorneys' fees and costs pursuant to Labor Code § 2699(g).
- 24

25 **UNDER THE EIGHTEENTH CAUSE OF ACTION**

- 26 1. For PAGA civil penalties;
- 27 2. For reasonable attorneys' fees and costs pursuant to Labor Code § 2699(g).
- 28

1 **UNDER THE NINETEENTH CAUSE OF ACTION**

- 2 1. For PAGA civil penalties;
- 3 2. For reasonable attorneys' fees and costs pursuant to Labor Code § 2699(g).
- 4

5 **UNDER THE TWENTIETH CAUSE OF ACTION**

- 6 1. For PAGA civil penalties;
- 7 2. For reasonable attorneys' fees and costs pursuant to Labor Code § 2699(g).
- 8
- 9

10 Dated: July 19, 2023

MARQUEE LAW GROUP, APC

11

12

13 By:  _____

14 Gary S. Brotman, Esq.

15 Attorneys for Plaintiff

16 Adrian Angel

17 **DEMAND FOR JURY TRIAL**

18 Plaintiff hereby demands a jury trial with respect to all issues triable in the complaint.

19

20 Dated: July 19, 2023

MARQUEE LAW GROUP, APC

21

22

23 By:  _____

24 Gary S. Brotman, Esq.

25 Attorneys for Plaintiff

26 Adrian Angel

27

28