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JOSE MENDOZA

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

JOSE MENDOZA, individually, and on behalf of
other members of the general public similarly
situated,

Plaintiffs,

vs.

WESTERN WATER FEATURES, INC., a
California corporation; and DOES 1 through 25,
inclusive,

Defendants.

Case No. 23CV003977

*Assigned to Judge Christopher E. Krueger for
Law & Motion, Dept. 54 and Judge Kenneth C.
Mennemeier for Case Management Program,
Dept. 38*

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR DAMAGES AND
ENFORCEMENT ACTION UNDER THE
PRIVATE ATTORNEYS GENERAL ACT,
CALIFORNIA LABOR CODE §§ 2698 ET
SEQ.**

1. Violation of California Labor Code Sections 510 and 1198 (Unpaid Overtime);
2. Violation of California Labor Code Sections 1194, 1197, and 1197.1 (Unpaid Minimum Wages);
3. Violation of California Labor Code Sections 226.7 and 512 (Unpaid Meal Period Premiums);
4. Violation of California Labor Code Section 226.7 (Unpaid Rest Period Premiums);

5. Violation of California Labor Code Sections 226(a) (Failure to Provide Accurate Wage Statements);
6. Violation of California Labor Code Sections 201, 202, and 203 (Final Wages Not Timely Paid);
7. Violation of California Labor Code Sections 2800 and 2802 (Failure to Reimburse Necessary Business Expenses);
8. Violation of California Business and Professions Code Sections 17200 et seq. (Unfair and Unlawful Business Practices); and
9. Violation of Cal. Labor Code § 2699, et seq. (Private Attorneys General Act)

DEMAND FOR JURY TRIAL

COMES NOW, Plaintiff JOSE MENDOZA (“Plaintiff”), individually and on behalf of all members of the general public similarly situated, and on behalf of other aggrieved employees pursuant California Labor Code Private Attorneys General Act, and alleges as follow:

JURISDICTION AND VENUE

1. Plaintiff brings this action against Defendants WESTERN WATER FEATURES, INC. and DOES 1 through 25 (hereinafter also collectively referred to as “Defendants”) for California Labor Code violations, unfair business practices, and civil penalties stemming from Defendants’ failure to pay overtime compensation, failure to provide meal periods, failure to authorize and permit rest periods, failure to pay minimum wage, failure to timely pay wages during and upon termination of employment, failure to provide accurate wage statements, failure to maintain accurate time and payroll records, and failure to reimburse necessary business-related expenses.

2. Plaintiff’s First through Eighth Causes of Action are brought as a class action on behalf of himself and similarly situated current and former employees of Defendants (hereinafter collectively referred to as the “Class” or “Class Members”) pursuant to California Code of Civil Procedure section 382. The monetary damages and restitution sought by Plaintiff exceeds the minimal jurisdiction limits of the Superior Court and will be established according to proof at trial.

3. Plaintiff’s Ninth Cause of Action is brought as a representative action on behalf of himself and certain other current and former employees of Defendants against whom one or more of the alleged violations was committed (hereinafter collectively referred to as the “Aggrieved Employees”) pursuant to California Labor Code sections 2698, *et seq.* Plaintiff is an aggrieved employee against whom one or more of the alleged violations occurred. The civil penalties sought by Plaintiff exceed the minimal jurisdiction limits of the Superior Court and will be established according to proof at trial.

4. This Court has jurisdiction over this action pursuant to the California Constitution, Article VI, Section 10, which grants the superior court “original jurisdiction in all other causes” except those given by statute to other courts. The statutes under which this action is brought do not specify any other basis for jurisdiction.

5. This Court has jurisdiction over all Defendants because, upon information and belief,

1 Defendants are either citizens of California, have sufficient minimum contacts in California, or
2 otherwise intentionally avail themselves of the California market so as to render the exercise of
3 jurisdiction over them by the California courts consistent with traditional notions of fair play and
4 substantial justice. Further, no federal question is at issue because the claims asserted herein are based
5 solely on California law.

6 6. Venue is proper in this Court because, upon information and belief, Defendants
7 maintain offices, have agents, employ individuals, and/or transact business in the State of California,
8 County of Sacramento.

9 **THE PARTIES**

10 7. At all times herein mentioned, Plaintiff JOSE MENDOZA was and is a resident of
11 Sacramento County in the State of California.

12 8. At all times herein mentioned, Defendant WESTERN WATER FEATURES, INC.,
13 was and is, upon information and belief, a California corporation, and at all times hereinafter
14 mentioned, an employer whose employees are engaged throughout Sacramento County and the State
15 of California.

16 9. Plaintiff is unaware of the true names or capacities of the Defendants sued herein under
17 the fictitious names DOES 1 through 25 but will seek leave of this Court to amend the complaint and
18 serve such fictitiously named Defendants once their names and capacities become known.

19 10. Plaintiff is informed and believes, and thereon alleges, that each and all of the acts and
20 omissions alleged herein were performed by, or are attributable to, WESTERN WATER FEATURES,
21 INC. and/or DOES 1 through 25 (collectively "Defendants"), each acting as the agent, employee, alter
22 ego, and/or joint venturer of, or working in concert with, each of the other co-Defendants and within
23 the course and scope of such agency, employment, joint venture, or concerted activity with legal
24 authority to act on the others' behalf. The acts of any and all Defendants represent and were in
25 accordance with Defendants' official policy.

26 11. At all relevant times, Defendants were the employers of Plaintiff within the meaning
27 of all applicable state laws and statutes. Defendants directly or indirectly controlled or affected the
28 working conditions, wages, working hours, and conditions of employment of Plaintiff so as to make

each of said Defendants employers and employers liable under the statutory provisions set forth herein.

12. Defendants had the authority to hire and terminate Plaintiff, the other class members, and aggrieved employees, to set work rules and conditions governing Plaintiff and the other class members' employment, and to supervise their daily employment activities.

13. Defendants exercised sufficient authority over the terms and conditions of Plaintiff, the other class members, and aggrieved employees' employment for them to be their joint employers.

14. Defendants directly hired and paid wages and benefits to Plaintiff and the other class members.

15. Defendants continue to employ hourly paid and/or non-exempt employees within the State of California.

16. At all relevant times, Defendants, and each of them, ratified each and every act or omission complained of herein. At all relevant times, Defendants, and each of them, aided and abetted the acts and omissions of each and all the other Defendants in proximately causing the damages herein alleged.

17. Plaintiff is informed and believes, and thereon alleges, that each of said Defendants is in some manner intentionally, negligently, or otherwise responsible for the acts, omissions, occurrences, and transactions alleged herein.

CLASS ACTION ALLEGATIONS

18. Plaintiff brings this lawsuit as a class action on behalf of himself and all others similarly situated, as members of a proposed class pursuant to California Code of Civil Procedure section 382. The class satisfies the numerosity, commonality, typicality, adequacy, predominance, and superiority requirements under California Code of Civil Procedure section 382.

19. The proposed class is defined as follows:

All current and former hourly-paid and/or non-exempt employees who worked for Defendants in the State of California at any time during the period from four years prior to the date of the filing of this Complaint until final judgment.

20. Plaintiff reserves the right to establish additional subclasses as appropriate.

1 21. There is a well-defined community of interest in the litigation and the Class is easily
2 ascertainable.

3 22. The Class is so numerous that the individual joinder of all its members is impracticable.
4 While the exact number and identities of class members are unknown to Plaintiff at this time, the exact
5 numbers of class members and their identities can be ascertained through appropriate discovery from
6 records maintained by Defendants and their agents.

7 23. Common questions of fact and law exist as to all class members, which predominate
8 over any questions affecting only individual members of the Class. The common legal and factual
9 questions which do not vary from class member to class member and which may be determined
10 without reference to the individual circumstances of any class member include, but are not limited to,
11 the following:

- 12 i. Whether Defendants had a policy and practice of failing to pay overtime wages to
13 Plaintiff and the other class members for all overtime hours worked;
- 14 ii. Whether Defendants had a policy and practice of failing to pay minimum wages to
15 Plaintiff and the other class members for all hours worked;
- 16 iii. Whether Defendants had a policy and practice of failing to provide meal periods to
17 Plaintiff and the other class members;
- 18 iv. Whether Defendants had a policy and practice of failing to provide rest periods to
19 Plaintiff and the other class members;
- 20 v. Whether Defendants failed to pay their hourly-paid and/or non-exempt employees in
21 the State of California for all hours worked, and for all missed, short, late, and/or
22 interrupted meal periods and rest breaks;
- 23 vi. Whether Defendants' failure to pay wages, without abatement or reduction, in
24 accordance with the California Labor Code, was willful;
- 25 vii. Whether Defendants failed to pay all wages due to Plaintiff and the other class members
26 within the required time upon their discharge or resignation;
- 27 viii. Whether Defendants failed to comply with wage reporting as required by the California
28 Labor Code; including, *inter alia*, section 226;

- ix. Whether Defendants failed to reimburse Plaintiff and the other class members for necessary business-related expenses and costs;
- x. Whether Defendants' conduct was willful or reckless;
- xi. Whether Defendants engaged in unfair business practices in violation of California Business & Professions Code section 17200, et seq.;
- xii. The appropriate amount of damages, restitution, and/or monetary penalties resulting from Defendants' violation of California law; and
- xiii. Whether Plaintiff and the other class members are entitled to compensatory damages pursuant to the California Labor Code.

24. Plaintiff's claims are typical of the claims of the Class, and Plaintiff's interests are coincident with and not antagonistic to those of the other class members they seek to represent. Plaintiff will fairly and adequately protect the interests of the members of the Class. Plaintiff has retained attorneys experienced in the prosecution of class actions and Plaintiff intends to prosecute this action vigorously.

25. A class action is superior to other available methods for the fair and efficient adjudication of this controversy, since individual litigation of the claims of all class members is impracticable. Even if every class member could afford individual litigation, the court system could not. It would be unduly burdensome on the courts in which individual litigation of numerous cases would proceed. Individualized litigation would also present the potential for varying, inconsistent or contradictory judgments and would magnify the delay and expense to all parties and to the court system resulting from multiple trials of the same complex factual issues. By contrast, the conduct of this action as a class action, with respect to some or all of the issues presented in this Complaint, presents fewer management difficulties, conserves the resources of the parties and of the court system, and protects the rights of each class member.

26. Certification of this lawsuit as a class action will advance public policy objectives. Employers of this great state violate employment and labor laws every day. Current employees are often afraid to assert their rights out of fear of direct or indirect retaliation. However, class actions provide the class members who are not named in the complaint anonymity that allows

1 for the vindication of their rights.

2 **PAGA ALLEGATIONS**

3 27. At all times set forth herein, PAGA was applicable to Plaintiff's employment by
4 Defendants.

5 28. At all times set forth herein, PAGA provides that any provision of law under the
6 California Labor Code that provides for a civil penalty, including unpaid wages and premium wages,
7 to be assessed and collected by the California Labor & Workforce Development Agency ("LWDA")
8 for violations of the California Labor Code may, as an alternative, be recovered through a civil action
9 brought by an aggrieved employee on behalf of himself and other current or former employees
10 pursuant to procedures outlined in California Labor Code section 2699.3.

11 29. Pursuant to PAGA, a civil action may be brought by an "aggrieved employee," who is
12 any person that was employed by the alleged violator and against whom one or more of the alleged
13 violations was committed.

14 30. Plaintiff was employed by Defendants and the alleged violations were committed
15 against him during his time of employment and he is, therefore, an aggrieved employee. Plaintiff and
16 the other employees are "aggrieved employees" as defined by California Labor Code section 2699(c)
17 in that they are current or former employees of Defendants and one of more of the alleged violations
18 were committed against them.

19 31. Pursuant to California Labor Code sections 2699.3 and 2699.5, an aggrieved employee,
20 including Plaintiff, may pursue a civil action arising under PAGA after the following requirements
21 have been met:

22 (a) The aggrieved employee shall give written notice by certified mail (hereinafter
23 "Employee's Notice") to the LWDA and the employer of the specific provisions of the
24 Labor Code alleged to have been violated, including the facts and theories to support the
25 alleged violations.

26 (b) The LWDA shall provide notice (hereinafter "LWDA Notice") to the employer and the
27 aggrieved employee by certified mail that it does not intend to investigate the alleged
28 violation within sixty (60) calendar days of the postmark date of the Employee's Notice.

1 Upon receipt of the LWDA Notice, or if the LWDA Notice is not provided within sixty
2 five (65) calendar days of the postmark date of the Employee's Notice, the aggrieved
3 employee may commence a civil action pursuant to California Labor Code section 2699
4 to recover civil penalties in addition to any other penalties to which the employee may be
5 entitled.

6 32. On June 30, 2023, Plaintiff provided notice by electronic submission to the LWDA and
7 by certified mail to Defendants regarding the specific provisions of the Labor Code alleged to have
8 been violated, including the facts and theories to support the alleged violations, pursuant to Labor
9 Code section 2699.3. Plaintiff did not receive an LWDA Notice within sixty-five calendar days of
10 providing the Employee's Notice.

11 33. Therefore, the administrative prerequisites under California Labor Code section
12 2699.3(a) to recover civil penalties against Defendants, in addition to other remedies for violations of
13 California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197,
14 1197.1, 1198, 2800 and 2802 have been satisfied.

15 **GENERAL ALLEGATIONS**

16 34. Defendants, jointly and severally, employed Plaintiff JOSE MENDOZA from
17 approximately December 2021 to August 2022 as a non-exempt, hourly-paid employee. During his
18 employment with Defendants, Plaintiff was employed as a Laborer at job sites throughout Sacramento,
19 California to which he was assigned by Defendants.

20 35. Defendants hired Plaintiff, the other class members, and aggrieved employees but
21 failed to properly pay them all overtime wages and minimum wages for all hours worked, failed to
22 provide all meal and rest breaks to which they were entitled, failed to timely pay all wages upon
23 termination of employment, failed to provide accurate wage statements, failed to reimburse necessary
24 business-related expenses, and failed to adhere to other related protections afforded by the California
25 Labor Code and applicable Industrial Welfare Commission Wage Order.

26 36. Plaintiff, the other class members, and aggrieved employees worked over eight (8)
27 hours in a day, and/or forty (40) hours in a week during their employment with Defendants.

28 37. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or

1 should have known that pursuant to California Labor Code sections 510 and 1198, and the applicable
2 IWC Wage Order, Plaintiff, the other class members, and aggrieved employees were entitled to receive
3 certain wages for overtime compensation and that they were not receiving certain wages for overtime
4 compensation.

5 38. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or
6 should have known that pursuant to California Labor Code sections 1194, 1197, 1197.1, and the
7 applicable IWC Wage Order, Plaintiff, the other class members, and aggrieved employees were
8 entitled to receive at least minimum wages for all hours worked and that they were not receiving
9 minimum wages for all hours worked.

10 39. Plaintiff is informed and believes, and based thereon alleges, that Defendants
11 implemented time rounding practices that at times resulted in the underpayment of wages to Plaintiff,
12 the other class members, and aggrieved employees, including minimum and overtime wages.
13 Defendants employed a time rounding policy that was not neutral and designed to round time in
14 Defendants' favor, ensuring that Plaintiff, the other class members, and aggrieved employees were at
15 times not paid for all time worked.

16 40. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or
17 should have known that pursuant to California Labor Code sections 226.7, 512, and the applicable
18 IWC Wage Order, Plaintiff, the other class members, and aggrieved employees were entitled to receive
19 a meal period or payment of one (1) additional hour of pay at their regular rate of compensation when
20 they were not provided with an uninterrupted meal period of no less than thirty (30) minutes for a
21 work period of more than five hours per day and that Plaintiff, the other class members, and aggrieved
22 employees were entitled to receive a second meal period or payment of one (1) additional hour of pay
23 at their regular rate of compensation when they were not provided with an uninterrupted second meal
24 period of no less than thirty (30) minutes for a work period of more than ten (10) hours per day.
25 However, Plaintiff, the other class members, and aggrieved employees did not receive all meal periods
26 or payment of one (1) additional hour of pay at their regular rate of compensation when a meal period
27 was missed, shortened, taken late, and/or interrupted.

28 41. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or

1 should have known that pursuant to California Labor Code section 226.7 and the applicable IWC
2 Wage Order, Plaintiff, the other class members, and aggrieved employees were entitled to receive all
3 rest periods or payment of one (1) additional hour of pay at their regular rate of compensation when
4 they were not provided with an uninterrupted rest period of no less than ten (10) minutes for every
5 four hours, or major fraction thereof, worked. However, Plaintiff, the other class members, and
6 aggrieved employees did not receive all rest periods or payment of one (1) additional hour of pay at
7 their regular rate of compensation when a rest period was missed, shortened, taken late, and/or
8 interrupted.

9 42. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew
10 or should have known that they were required to provide Plaintiff, the other class members, and
11 aggrieved employees with complete and accurate itemized wage statements pursuant to California
12 Labor Code section 226, but failed to do so.

13 43. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew
14 or should have known pursuant to California Labor Code sections 2800 and 2802 that Plaintiff, the
15 other class members, and aggrieved employees were entitled to reimbursement for necessary
16 business-related expenses, but, in fact, did not reimburse them for necessary business-related
17 expenses.

18 44. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or
19 should have known that Plaintiff, the other class members, and aggrieved employees were entitled to
20 receive all wages upon termination of employment, including, without limitation, overtime wages,
21 minimum wages, meal period premium wages, and rest period premium wages, and that they did not
22 receive payment of all wages upon termination of employment in violation of California Labor Code
23 sections 201 and 202.

24 **FIRST CAUSE OF ACTION**

25 **VIOLATION OF LABOR CODE SECTIONS 510 AND 1198**

26 **(Against All Defendants and DOES 1-25)**

27 45. Plaintiff incorporates herein by specific reference, as though fully set forth, the
28 allegations in all preceding paragraphs.

1 46. California Labor Code section 1198 and the applicable Industrial Welfare Commission
2 (“IWC”) Wage Order provide that it is unlawful to employ persons without compensating them at a
3 rate of pay either time-and-one-half or two-times that person’s regular rate of pay, depending on the
4 number of hours worked by the person on a daily or weekly basis.

5 47. Specifically, the applicable IWC Wage Order provides that Defendants were required
6 to pay Plaintiff and the other class members at the rate of time-and-one-half for all hours worked in
7 excess of eight (8) hours in a day or more than forty (40) hours in a workweek.

8 48. The applicable IWC Wage Order further provides that Defendants were required to pay
9 Plaintiff and the other class members overtime compensation at a rate of two (2) times their regular
10 rate of pay for all hours worked in excess of twelve (12) hours in a day.

11 49. California Labor Code section 510 codifies the right to overtime compensation at one-
12 and-one half times the regular hourly rate for hours worked in excess of eight (8) hours in a day or
13 forty (40) hours in a week or for the first eight (8) hours worked on the seventh day of work, and to
14 overtime compensation at twice the regular hourly rate for hours worked in excess of twelve (12) hours
15 in a day or in excess of eight (8) hours in a day on the seventh day of work.

16 50. During the relevant time period, Plaintiff and the other class members regularly worked
17 in excess of eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty
18 (40) hours in a week. However, Defendants did not record Plaintiff and the other class members’
19 actual hours worked and intentionally and willfully failed to pay all overtime wages owed to Plaintiff
20 and the other class members and failed to pay one-and-one half times the regular hourly rate for
21 overtime hours. Defendants’ failure to pay overtime wages included, *inter alia*, amongst other things,
22 requiring Plaintiff and the other class members to perform work off-the-clock – i.e., during purported
23 meal periods. This off-the-clock work included, amongst other things, requiring Plaintiff and the other
24 class members to perform tasks such as put down rebars, conduct demolitions, operate machinery, and
25 plaster, concrete, and irrigate pools.

26 51. Defendants’ failure to pay Plaintiff and the other class members as outlined above
27 violates California Labor Code sections 510 and 1198, and is therefore unlawful.

28 52. Pursuant to California Labor Code section 1194, Plaintiff and the other class members

1 are entitled to recover their unpaid overtime compensation, as well as interest, costs, and attorneys'
2 fees.

3 **SECOND CAUSE OF ACTION**

4 **VIOLATION OF LABOR CODE SECTIONS 1194, 1197, AND 1197.1**

5 **(Against All Defendants and DOES 1-25)**

6 53. Plaintiff incorporates herein by specific reference, as though fully set forth, the
7 allegations in all preceding paragraphs.

8 54. At all relevant times, California Labor Code sections 1194, 1197 and 1197.1 provide
9 that the minimum wage for employees fixed by the Industrial Welfare Commission is the minimum
10 wage to be paid to employees, and the payment of a wage less than the minimum so fixed is unlawful.
11 Plaintiff and the other class members were not paid the appropriate minimum wage for all of the hours
12 they worked. Plaintiff and the other class members were not paid the minimum wage for work
13 performed beyond their scheduled shifts, and the wages paid to them were not sufficient to compensate
14 them for all hours they worked at a minimum wage rate on a cumulative basis. Defendants failed to
15 pay Plaintiff and the other class members for time spent working "off-the-clock" performing duties
16 including, but not limited to, amongst other things, requiring Plaintiff and the other class members to
17 perform tasks such as put down rebars, conduct demolitions, operate machinery, and plaster, concrete,
18 and irrigate pools. Accordingly, Defendants regularly failed to pay at least minimum wages to Plaintiff
19 and the other class members for all hours he worked in violation of California Labor Code sections
20 1194, 1197, and 1197.1.

21 55. Defendants' failure to pay Plaintiff and the other class members the minimum wage as
22 required violates California Labor Code sections 1194, 1197 and 1197.1. Pursuant to those sections,
23 Plaintiff and the other class members are entitled to recover the unpaid balance of their minimum wage
24 compensation, as well as interest, costs, and attorney's fees.

25 56. Pursuant to California Labor Code section 1194.2, Plaintiff and the other class
26 members are entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid
27 and interest thereon.

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THIRD CAUSE OF ACTION

VIOLATION OF LABOR CODE SECTIONS 226.7 AND 512

(Against All Defendants and DOES 1-25)

57. Plaintiff incorporates herein by specific reference, as though fully set forth, the allegations in all preceding paragraphs.

58. At all relevant times herein set forth, the applicable IWC Wage Order(s) and California Labor Code sections 226.7 and 512(a) were applicable to Plaintiff and the other class members' employment by Defendants.

59. At all relevant times herein set forth, California Labor Code section 226.7 provides that no employer shall require an employee to work during any meal period mandated by an applicable IWC Order.

60. At all relevant times herein set forth, California Labor Code section 512(a) provides that an employer may not require, cause, or permit an employee to work for a period of more than five (5) hours per day without providing the employee with a meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee.

61. During the relevant time period, Plaintiff and the other class members who were scheduled to work for a period of time no longer than six (6) hours, and who did not waive their legally-mandated meal periods by mutual consent, were required to work for periods longer than five (5) hours without an uninterrupted meal period of not less than thirty (30) minutes.

62. During the relevant time period, Plaintiff and the other class members who were scheduled to work for a period of time in excess of six (6) hours, were required to work for periods longer than five (5) hours without an uninterrupted meal period of not less than thirty (30) minutes.

63. During the relevant time period, Plaintiff and the other class members, who were scheduled to work for a period of time in excess of ten (10) hours but no longer than twelve (12) hours, and who did not waive their legally-mandated meal periods by mutual consent, were required to work in excess of ten (10) hours without receiving a second uninterrupted meal period of

1 not less than thirty (30) minutes.

2 64. During the relevant time period, Plaintiff and the other class members,
3 who were scheduled to work for a period of time in excess of twelve (12) hours, were required to work
4 for periods longer than ten (10) hours without a second uninterrupted meal period of not less than
5 thirty (30) minutes.

6 65. During the relevant time period, Defendants willfully required Plaintiff and the other
7 class members to work during meal periods and failed to compensate Plaintiff and the other class
8 members for work performed during meal periods. As a result, Plaintiff worked through meal periods,
9 took late meal periods, took interrupted meal periods, or took short meal periods, if at all.

10 66. During the relevant time period, Defendants failed to pay Plaintiff and the other class
11 members all meal period premiums due pursuant to California Labor Code section 226.7 and
12 512. Defendants' conduct violates applicable IWC Wage Order(s), and California Labor Code
13 sections 226.7 and 512(a).

14 67. Pursuant to the applicable IWC Wage Order and California Labor Code section
15 226.7(b), Plaintiff and the other class members are entitled to recover from Defendants one additional
16 hour of pay at their regular rate of compensation for each work day that a meal period was not
17 provided.

18 **FOURTH CAUSE OF ACTION**

19 **VIOLATION OF LABOR CODE SECTION 226.7**

20 **(Against All Defendants and DOES 1-25)**

21 68. Plaintiff incorporates herein by specific reference, as though fully set forth, the
22 allegations in all preceding paragraphs.

23 69. At all relevant times herein set forth, the applicable IWC Wage Order and California
24 Labor Code section 226.7 were applicable to Plaintiff and the other class members' employment by
25 Defendants.

26 70. At all relevant times, California Labor Code section 226.7 provides that no employer
27 shall require an employee to work during any rest period mandated by an applicable order of the
28 California IWC.

1 71. At all relevant times, the applicable IWC Wage Order provides that “[e]very employer
2 shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in
3 the middle of each work period” and that the “rest period time shall be based on the total hours worked
4 daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof unless the
5 total daily work time is less than three and one-half (3½) hours.

6 72. Pursuant to the applicable IWC Wage Order and California Labor Code section
7 226.7(b), Plaintiff and the other class members were entitled to recover from Defendants one (1)
8 additional hour of pay at their regular hourly rate of compensation for each workday that the rest period
9 was not provided.

10 73. During the relevant time period, Defendants required Plaintiff and the other class
11 members to work three and one-half (3 ½) or more hours without authorizing or permitting a ten (10)
12 minute rest period per each four (4) hour period, or major fraction thereof, worked.

13 74. During the relevant time period, Defendants willfully required Plaintiff and the other
14 class members to work during rest periods. Defendants failed to relieve Plaintiff and the other class
15 members of all duties such that they could take compliant rest breaks. As a result, Plaintiff worked
16 through rest periods, took late rest periods, took interrupted rest periods, or took short rest periods, if
17 at all.

18 75. Defendants also had no policy and/or practice to pay a premium when rest periods were
19 missed, short, late, and/or interrupted and thus failed to pay Plaintiff and the other class members the
20 full rest period premium due in violation of California Labor Code section 226.7.

21 76. Defendants’ conduct violates the applicable IWC Wage Orders and California Labor
22 Code section 226.7.

23 77. Pursuant to the applicable IWC Wage Orders and California Labor Code section
24 226.7(c), Plaintiff and the other class members are entitled to recover from Defendants one additional
25 hour of pay at their regular rate of compensation for each work day that a rest period was not
26 provided.

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28 ///

1 **FIFTH CAUSE OF ACTION**

2 **VIOLATION OF LABOR CODE SECTION 226(a)**

3 **(Against All Defendants and DOES 1-25)**

4 78. Plaintiff incorporates herein by specific reference, as though fully set forth, the
5 allegations in all preceding paragraphs.

6 79. At all material times set forth herein, California Labor Code section 226(a) provides
7 that every employer shall furnish each of his or her employees an accurate itemized wage statement
8 in writing, including, but not limited to, the name and address of the legal entity that is the employer,
9 total hours worked, and all applicable hourly rates.

10 80. Defendants have intentionally and willfully failed to provide Plaintiff and the other
11 class members with complete and accurate wage statements. The deficiencies include, among other
12 things, the failure to state all hours worked and the failure to state all hourly rates.

13 81. As a result of Defendants' violation of California Labor Code section 226(a), Plaintiff
14 and the other class members have suffered injury and damage to their statutorily protected rights.

15 82. Specifically, Plaintiff and the other class members have been injured by Defendants'
16 intentional violation of California Labor Code section 226(a) because they were denied both their legal
17 right to receive, and their protected interest in receiving, accurate, itemized wage statements under
18 California Labor Code section 226(a). In addition, because Defendants failed to provide the accurate
19 number of total hours worked on wage statements, Plaintiff and the other class members been
20 prevented by Defendants from determining if all hours worked were paid and the extent of the
21 underpayment. Plaintiff had to file this lawsuit, and will further have to conduct discovery, reconstruct
22 time records, and perform computations in order to analyze whether in fact Plaintiff and the other class
23 members were paid correctly and the extent of the underpayment, thereby causing Plaintiff to incur
24 expenses and lost time. Plaintiff would not have had to engage in these efforts and incur these costs
25 had Defendants provided the accurate number of total hours worked. This has also delayed Plaintiff's
26 ability to demand and recover the underpayment of wages from Defendants.

27 83. Plaintiff and the other class members are entitled to recover from Defendants the
28 greater of their actual damages caused by Defendants' failure to comply with California Labor Code

1 section 226(a), or an aggregate penalty not exceeding four thousand dollars (\$4,000).

2 **SIXTH CAUSE OF ACTION**

3 **VIOLATION OF LABOR CODE SECTIONS 201, 202, AND 203**

4 **(Against All Defendants and DOES 1-25)**

5 84. Plaintiff incorporates herein by specific reference, as though fully set forth, the
6 allegations in all preceding paragraphs.

7 85. Pursuant to California Labor Code sections 201, 202, and 203, Defendants are required
8 to pay all earned and unpaid wages to an employee who is discharged. California Labor Code section
9 201 mandates that if an employer discharges an employee, the employee's wages accrued and unpaid
10 at the time of discharge are due and payable immediately. California Labor Code section 202
11 mandates that if an employee quits, his or her wages shall become due and payable not later than
12 seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours notice of his
13 or her intention to quit, in which case the employee is entitled to his or her wages at the time of
14 quitting.

15 86. California Labor Code section 203 provides that if an employer willfully fails to pay,
16 in accordance with California Labor Code sections 201 and 202, any wages of an employee who is
17 discharged or who quits, the wages of the employee shall continue as a penalty from the due date
18 thereof at the same rate until paid or until an action therefore is commenced; but the wages shall not
19 continue for more than thirty (30) days.

20 87. At the time that Plaintiff and the other class members' employment with Defendants
21 ended, Defendants knowingly and willfully failed to pay Plaintiff and the other class members all
22 wages owed to them pursuant to California Labor Code sections 201 and 202, including, without
23 limitation, overtime wages, minimum wages, meal period premium wages, and rest period premium
24 wages.

25 88. As a result, Plaintiff and the other class members are entitled to all available
26 statutory penalties, including the waiting time penalties provided in California Labor Code section
27 203, together with interest thereon, as well as other available remedies.

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1 **SEVENTH CAUSE OF ACTION**

2 **VIOLATION OF LABOR CODE SECTIONS 2800 AND 2802**

3 **(Against All Defendants and DOES 1-25)**

4 89. Plaintiff incorporates herein by specific reference, as though fully set forth, the
5 allegations in all preceding paragraphs.

6 90. Pursuant to California Labor Code sections 2800 and 2802, an employer must
7 reimburse its employees for all necessary expenditures incurred by the employee in direct consequence
8 of the discharge of his or her job duties or in direct consequence of his or her job duties or in direct
9 consequence of his or her obedience to the directions of the employer.

10 91. Plaintiff and the other class members incurred necessary business-related expenses and
11 costs that were not fully reimbursed by Defendants, including, but not limited to, the purchase of
12 uniforms, usage of personal cell phones, and expenses related to usage of personal vehicles for work-
13 related purposes.

14 92. Defendants intentionally and willfully failed to reimburse Plaintiff and the other class
15 members for all necessary business-related expenses and costs. Plaintiff and the other class members
16 are entitled to recover from Defendants their business-related expenses and costs incurred during the
17 course and scope of his employment, plus interest accrued from the date on which Plaintiff and the
18 other class members incurred the necessary expenditures at the same rate as judgments in civil actions
19 in the State of California.

20 **EIGHTH CAUSE OF ACTION**

21 **UNFAIR AND UNLAWFUL BUSINESS PRACTICES IN**

22 **VIOLATION OF CAL. BUS. & PROF. CODE §§ 17200 ET. SEQ.**

23 **(Against All Defendants and DOES 1-25)**

24 93. Plaintiff incorporates herein by specific reference, as though fully set forth, the
25 allegations in all preceding paragraphs.

26 94. Each and every one of Defendants' acts and omissions in violation of the California
27 Labor Code and/or the applicable IWC Wage Order as alleged herein, including but not limited to
28 Defendant's failure and refusal to pay overtime compensation, Defendant's failure and refusal to pay

1 minimum wages, Defendants' failure and refusal to provide required meal periods, Defendants' failure
2 and refusal to provide required rest periods, Defendants' failure and refusal to furnish accurate
3 itemized wage statements, Defendants' failure and refusal to reimburse business-related expenses, and
4 Defendants' failure to timely pay wages upon termination constitutes an unfair and unlawful business
5 practice under California Business and Professions Code § 17200 et seq.

6 95. Defendants' violations of California wage and hour laws constitute an unfair and
7 unlawful business practice because Defendants' aforementioned acts and omissions were done
8 repeatedly over a significant period of time, and in a systematic manner, to the detriment of Plaintiff
9 and the other class members.

10 96. Defendants have avoided payment of overtime wages, minimum wages, meal period
11 premiums, rest period premiums, and other benefits as required by the California Labor Code, the
12 California Code of Regulations, and the applicable IWC Wage Order. Further, Defendants have failed
13 to record, report, and pay the correct sums of assessment to the state authorities under the California
14 Labor Code and other applicable regulations.

15 97. As a result of Defendants' unfair and unlawful business practices, Defendants have
16 reaped unfair and illegal profits during Plaintiff and the other class members' tenure at the expense of
17 Plaintiff, the other class members, and members of the public. Defendants should be made to disgorge
18 its ill-gotten gains and to restore them to Plaintiff and the other class members.

19 98. Defendants' unfair and unlawful business practices entitle Plaintiff and the other class
20 members to seek preliminary and permanent injunctive relief, including but not limited to orders that
21 Defendants account for, disgorge, and restore to Plaintiff and the other class members the wages and
22 other compensation unlawfully withheld from them. Plaintiff and the other class members are entitled
23 to restitution of all monies to be disgorged from Defendants in an amount according to proof at the
24 time of trial.

25 **NINTH CAUSE OF ACTION**

26 **VIOLATION OF CALIFORNIA LABOR CODE §§ 2699, ET SEQ.**

27 **(Against All Defendants and DOES 1-25)**

28 99. Plaintiff incorporates herein by specific reference, as though fully set forth, the

1 allegations in all preceding paragraphs.

2 100. PAGA expressly establishes that any provision of the California labor Code which
3 provides for a civil penalty to be assessed and collected by the LWDA, or any of its departments,
4 divisions, commissions, boards, agencies or employees for a violation of the California Labor Code,
5 may be recovered through a civil action brought by an aggrieved employee on behalf of himself or
6 herself, and other current or former employees.

7 101. Whenever the LWDA, or any of its departments, divisions, commissions, boards,
8 agencies, or employees has discretion to assess a civil penalty, a court in a civil action is authorized to
9 exercise the same discretion, subject to the same limitations and conditions, to assess a civil penalty.

10 102. Plaintiff and the other hourly-paid, non-exempt employees are “aggrieved employees”
11 as defined by California Labor Code section 2699(c) in that they are all current or former employees
12 of Defendants, and one or more of the alleged violations were committed against them.

13 103. Defendants’ conduct, as alleged herein, violates numerous sections of the California
14 Labor Code, including, but not limited to, the following:

- 15 (a) Violation of California Labor Code sections 510 and 1198 for failure to pay
16 overtime wages, as set forth more fully below;
- 17 (b) Violation of California Labor Code sections 1194, 1197, and 1197.1 for failure to
18 pay minimum wages, as set forth more fully below;
- 19 (c) Violation of California Labor Code sections 226.7 and 512(a) for failure to provide
20 legally required meal periods, as set forth more fully below;
- 21 (d) Violation of California Labor Code section 226.7 for failure to provide legally
22 required rest periods, as set forth more fully below;
- 23 (e) Violation of California Labor Code section 204 for failure to timely pay wages to
24 Plaintiff and aggrieved employees during employment, as set forth more fully
25 before;
- 26 (f) Violation of California Labor Code sections 201, 202, and 203 for failure to pay all
27 wages at time of discharge from employment, as set forth more fully below;
- 28 (g) Violation of California Labor Code section 226(a) for failure to provide accurate

wage statements to Plaintiff and aggrieved employees, as set forth more fully below;

(h) Violation of California Labor Code section 1174(d) for failure to keep complete and accurate payroll records relating to Plaintiff and aggrieved employees, as set forth more fully below; and

(i) Violation of California Labor Code sections 2800 and 2802 for failure to reimburse Plaintiff and aggrieved employees for necessary business-related expenses, as set forth more fully below.

104. Pursuant to PAGA, and in particular Labor Code sections 2699(a), 2699.3, and 2699.5, Plaintiff, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for Plaintiff, all aggrieved employees, and the State of California against Defendants, in addition to other remedies, for violations of Labor Code sections set forth herein. Pursuant to California Labor Code section 2699(i), civil penalties recovered by aggrieved employees shall be distributed as follows: seventy-five percent (75%) to the LWDA for the enforcement of labor laws and education of employers and employees about their rights and responsibilities and twenty-five (25%) to the aggrieved employees. Further, and as authorized by the California Labor Code sections 210, 218.5, and 2699, Plaintiff seeks recovery of his attorneys' fees and costs.

Failure to Pay Overtime Wages

105. California Labor Code section 1198 and the applicable IWC Wage Order have provided that it is unlawful to employ persons without compensating them at a rate of pay either time-and-one-half or two-times that person's regular rate of pay, depending on the number of hours worked by the person on a daily or weekly basis.

106. Specifically, the applicable IWC Wage Order provides that Defendants are and were required to pay Plaintiff and aggrieved employees employed by Defendants, and working more than eight (8) hours in a day or more than forty (40) hours in a workweek, at the rate of time-and-one-half for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek.

107. The applicable IWC Wage Order further provides that Defendants are and were required to pay Plaintiff and aggrieved employees employed by Defendants, and working more than

1 twelve (12) hours in a day, overtime compensation at a rate of two (2) times their regular rate of pay.

2 108. California Labor Code section 510 codifies the right to overtime compensation at one-
3 and-one half times the regular hourly rate for hours worked in excess of eight (8) hours in a day or
4 forty (40) hours in a week or for the first eight (8) hours worked on the seventh day of work, and to
5 overtime compensation at twice the regular hourly rate for hours worked in excess of twelve (12) hours
6 in a day or in excess of eight (8) hours in a day on the seventh day of work.

7 109. During the relevant time period, Plaintiff and aggrieved employees regularly worked
8 in excess of eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty
9 (40) hours in a week performing work duties “off-the-clock.” This off-the-clock work included,
10 amongst other things, requiring Plaintiff and the other aggrieved employees to perform tasks such as
11 put down rebars, conduct demolitions, operate machinery, and plaster, concrete, and irrigate pools.

12 110. Defendants’ failure to pay Plaintiff and aggrieved employees the unpaid balance of
13 overtime compensation, as required by California law, violates the provisions of California Labor
14 Code sections 510 and 1198, and is therefore unlawful.

15 **Failure to Pay Minimum Wages**

16 111. At all relevant times, California Labor Code sections 1194, 1197 and 1197.1 have
17 provided that the minimum wage for employees fixed by the IWC is the minimum wage to be paid to
18 employees, and the payment of a wage less than the minimum so fixed is unlawful. Defendants’ failure
19 to pay minimum wages included, *inter alia*, Defendants’ failure to pay Plaintiff and the aggrieved
20 employees any wages for time spent working “off-the-clock.” This off-the-clock work included,
21 amongst other things, requiring Plaintiff and the other aggrieved employees to perform tasks such as
22 put down rebars, conduct demolitions, operate machinery, and plaster, concrete, and irrigate pools.
23 Accordingly, Defendants regularly failed to pay at least minimum wages to Plaintiff and aggrieved
24 employees for all of the hours they worked in violation of California Labor Code sections 1194, 1197
25 and 1197.1.

26 112. Defendants’ failure to pay Plaintiff and aggrieved employees the minimum wage as
27 required violates California Labor Code sections 1194, 1197 and 1197.1.

28 ///

Failure to Provide Meal Periods

113. At all relevant times herein set forth, California Labor Code section 226.7 has provided that no employer shall require an employee to work during any meal period mandated by an applicable IWC Order.

114. At all relevant times herein set forth, California Labor Code section 512(a) has provided that an employer may not require, cause, or permit an employee to work for a period of more than five (5) hours per day without providing the employee with a meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee.

115. During the relevant time period, Plaintiff and aggrieved employees who were scheduled to work for a period of time no longer than six (6) hours, and who did not waive their legally mandated meal periods by mutual consent, were required to work for periods longer than five (5) hours without a meal period of not less than thirty (30) minutes.

116. During the relevant time period, Plaintiff and the aggrieved employees, who were scheduled to work for a period of time in excess of six (6) hours, were required to work for periods longer than five (5) hours without an uninterrupted meal period of not less than thirty (30) minutes.

117. During the relevant time period, Plaintiff and the aggrieved employees, who were scheduled to work for a period of time in excess of ten (10) hours but no longer than twelve (12) hours, and who did not waive their legally-mandated meal periods by mutual consent, were required to work in excess of ten (10) hours without receiving a second uninterrupted meal period of not less than thirty (30) minutes.

118. During the relevant time period, Plaintiff and the aggrieved employees, who were scheduled to work for a period of time in excess of twelve (12) hours, were required to work for periods longer than ten (10) hours without a second uninterrupted meal period of not less than thirty (30) minutes.

119. During the relevant time period, Defendants willfully required Plaintiff and the aggrieved employees to work during meal periods and failed to compensate Plaintiff and aggrieved

1 employees for work performed during meal periods. By way of example, Defendants failed to relieve
2 Plaintiff of all duties such that Plaintiff could take compliant meal periods. As a result, Plaintiff
3 worked through mandated meal periods.

4 120. Defendants failed to pay Plaintiff and the aggrieved employees the full meal period
5 premium due in violation of California Labor Code sections 226.7 and 512 on each occasion when a
6 timely, uninterrupted meal period of at least thirty (30) minutes was not provided. Defendants failed
7 to incorporate all nondiscretionary payments for work performed by Plaintiff and the aggrieved
8 employees in the regular rate of compensation.

9 121. Defendants' conduct violates applicable IWC Wage Order(s), and California Labor
10 Code sections 226.7 and 512(a).

11 **Failure to Provide Rest Periods**

12 122. At all relevant times, California Labor Code section 226.7 has provided that no
13 employer shall require an employee to work during any rest period mandated by an applicable order
14 of the California IWC.

15 123. At all relevant times, the applicable IWC Wage Order provides that "[e]very employer
16 shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in
17 the middle of each work period" and that the "rest period time shall be based on the total hours worked
18 daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof" unless
19 the total daily work time is less than three and one-half (3½) hours.

20 124. Pursuant to the applicable IWC Wage Order and California Labor Code section
21 226.7(b), Plaintiff and the aggrieved employees are entitled to recover from Defendants one (1)
22 additional hour of pay at the employee's regular hourly rate of compensation for each work day that
23 the rest period was not provided.

24 125. During the relevant time period, Defendants required Plaintiff and the aggrieved
25 employees to work four (4) or more hours without authorizing or permitting a ten (10) minute rest
26 period per each four (4) hour period, or major fraction thereof worked. During the relevant time
27 period, Defendants willfully required Plaintiff and the aggrieved employees to work during rest
28

1 periods. By way of example, Defendants failed to relieve Plaintiff of all duties such that Plaintiff
2 could take compliant rest periods. As a result, Plaintiff worked through mandated rest periods.

3 126. Defendants failed to pay Plaintiff and aggrieved employees the full rest period premium
4 due in violation of California Labor Code sections 226.7 and 512 on each occasion when a timely,
5 uninterrupted rest period of at least ten (10) minutes was not provided. Defendants failed to
6 incorporate all nondiscretionary payments for work performed by Plaintiff and the aggrieved
7 employees in the regular rate of compensation.

8 127. Defendants' conduct violates the applicable IWC Wage Orders and California Labor
9 Code section 226.7.

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

11 128. At all relevant times herein set forth, California Labor Code section 204 has provided
12 that all wages earned by any person in any employment between the 1st and 15th days, inclusive, of
13 any calendar month, other than those wages due upon termination of an employee, are due and payable
14 between the 16th and the 26th day of the month during which the labor was performed.

15 129. At all times herein set forth, California Labor Code section 204 has provided that all
16 wages earned by any person in any employment between the 16th and the last day, inclusive, of any
17 calendar month, other than those wages due upon termination of an employee, are due and payable
18 between the 1st and the 10th day of the following month.

19 130. At all times herein set forth, California Labor Code section 204 has provided that all
20 wages earned for labor in excess of the normal work period shall be paid no later than the payday for
21 the next regular payroll period.

22 131. During the relevant time period, Defendants intentionally and willfully failed to pay
23 Plaintiff and the aggrieved employees all wages due to them, within any time period permissible under
24 California Labor Code section 204, including wages for overtime compensation, minimum wage
25 compensation, meal period premiums, and rest period premiums.

26 **Failure to Timely Pay Wages Upon Termination**

27 132. Pursuant to California Labor Code sections 201, 202, and 203, Defendants are required
28 to pay all earned and unpaid wages to an employee who is discharged. California Labor Code section

201 mandates that if an employer discharges an employee, the employee's wages accrued and unpaid at the time of discharge are due and payable immediately. California Labor Code section 202 mandates that if an employee quits, 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 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.

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

134. At the time that Plaintiff and the aggrieved employees' employment with Defendants ended, Defendants knowingly and willfully failed to pay Plaintiff and the aggrieved employees all wages owed to them pursuant to California Labor Code sections 201 and 202, including, without limitation, overtime wages, minimum wages, meal period premium wages, and rest period premium wages.

Failure to Provide Compliant Wage Statements

135. At all relevant times set forth herein, California Labor Code section 226(a) provides that every employer shall furnish each of its employees an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and his or her social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. The deductions made from payments of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement or a record of the

1 deductions shall be kept on file by the employer for at least three years at the place of employment or
2 at a central location within the State of California.

3 136. Defendants have intentionally and willfully failed to provide employees with complete
4 and accurate wage statements. The deficiencies include, among other things, the failure to state all
5 correct rates of pay, all hours worked, all meal period premium wages earned, and all rest period
6 premium wages earned.

7 **Failure to Keep Requisite Payroll Records**

8 137. At all relevant times set forth herein, California Labor Code section 1174(d) has
9 required an employer to keep, at a central location in the state or at the plants or establishments at
10 which employees are employed, payroll records showing the hours worked daily by and the wages
11 paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees
12 employed at the respective plants or establishments. These records shall be kept in accordance with
13 rules established for this purpose by the commission, but in any case shall be kept on file for not less
14 than two years.

15 138. Defendants have intentionally and willfully failed to keep accurate and complete
16 payroll records showing the hours worked daily and the wages paid, to Plaintiff and the aggrieved
17 employees.

18 139. As a result of Defendants' violation of California Labor Code section 1174(d), Plaintiff
19 and the aggrieved employees have suffered injury and damage to their statutorily-protected rights.

20 140. More specifically, Plaintiff and the aggrieved employees have been injured by
21 Defendants' intentional and willful violation of California Labor Code section 1174(d) because they
22 were denied both their legal right and protected interest, in having available, accurate and complete
23 payroll records pursuant to California Labor Code section 1174(d).

24 **Failure to Reimburse Necessary Business Expenses**

25 141. Pursuant to California Labor Code sections 2800 and 2802, an employer must
26 reimburse its employees for all necessary expenditures incurred by the employee in direct consequence
27 of the discharge of his or her job duties or in direct consequence of his or her job duties or in direct
28 consequence of his or her obedience to the directions of the employer.

1 142. Plaintiff and the aggrieved employees incurred necessary business-related expenses
2 and costs that were not fully reimbursed by Defendants, including, but not limited to, the purchase of
3 uniforms, usage of personal cell phones, and expenses related to usage of personal vehicles for work-
4 related purposes.

5 143. Defendants intentionally and willfully failed to reimburse Plaintiff and the aggrieved
6 employees for all necessary business-related expenses and costs.

7 **DEMAND FOR JURY TRIAL**

8 Plaintiff hereby demands a jury trial with respect to all issues triable of right by jury.

9 **PRAYER FOR RELIEF**

10 Plaintiff prays for relief and judgment against Defendants, jointly and severally, as follows:

11 **Class Certification**

- 12 1. That this action be certified as a class action;
13 2. That Plaintiff be appointed as the representative of the Class;
14 3. That counsel for Plaintiff be appointed as Class Counsel; and
15 4. That Defendants provide to Class Counsel immediately the names and most current/last
16 known contact information (address, e-mail and telephone numbers) of all class members.

17 **As to the First Cause of Action**

- 18 5. That the Court declare, adjudge and decree that Defendants violated California Labor
19 Code sections 510 and 1198 and applicable IWC Wage Orders by willfully failing to pay all overtime
20 wages due to Plaintiff and the other class members;

- 21 6. For general unpaid wages at overtime wage rates and such general and special damages
22 as may be appropriate;

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

- 25 8. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California
26 Labor Code section 1194;

- 27 9. For such other and further relief as the Court may deem just and proper.

28 ///

As to the Second Cause of Action

10. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 1194, 1197, and 1197.1 by willfully failing to pay minimum wages to Plaintiff and the other class members;

11. For general unpaid wages and such general and special damages as may be appropriate;

12. For statutory wage penalties pursuant to California Labor Code section 1197.1 for Plaintiff and the other class members in the amount as may be established according to proof at trial;

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

14. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California Labor Code section 1194(a);

15. For liquidated damages pursuant to California Labor Code section 1194.2;

16. For such other and further relief as the Court may deem just and proper.

As to the Third Cause of Action

17. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 226.7 and 512 and applicable IWC Wage Orders by willfully failing to provide all meal periods, (including second meal periods, to Plaintiff and the other class members;

18. That the Court make an award to Plaintiff and the other class members of one (1) hour of pay at each employee's regular rate of compensation for each workday that a meal period was not provided;

19. For all actual, consequential, and incidental losses and damages, according to proof;

20. For premium wages pursuant to California Labor Code section 226.7(c);

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

22. For reasonable attorneys' fees and costs of suit incurred herein;

23. For such other and further relief as the Court may deem just and proper.

As to the Fourth Cause of Action

24. That the Court declare, adjudge and decree that Defendants violated California Labor Code section 226.7 and applicable IWC Wage Orders by willfully failing to provide all rest periods to

1 Plaintiff and the other class members;

2 25. That the Court make an award to Plaintiff and the other class members of one (1) hour
3 of pay at each employee's regular rate of compensation for each workday that a rest period was not
4 provided;

5 26. For all actual, consequential, and incidental losses and damages, according to proof;

6 27. For premium wages pursuant to California Labor Code section 226.7(c);

7 28. For pre-judgment interest on any unpaid wages from the date such amounts were due;

8 29. For such other and further relief as the Court may deem just and proper.

9 **As to the Fifth Cause of Action**

10 30. That the Court declare, adjudge and decree that Defendants violated the record keeping
11 provisions of California Labor Code section 226(a) and applicable IWC Wage Orders as to Plaintiff
12 and the other class members, and willfully failed to provide accurate itemized wage statements thereto;

13 31. For actual, consequential and incidental losses and damages, according to proof;

14 32. For statutory penalties pursuant to California Labor Code section 226(e);

15 33. For injunctive relief to ensure compliance with this section, pursuant to California
16 Labor Code section 226(g);

17 34. For such other and further relief as the Court may deem just and proper.

18 **As to the Sixth Cause of Action**

19 35. That the Court declare, adjudge and decree that Defendants violated California Labor
20 Code sections 201, 202, and 203 by willfully failing to pay all compensation owed at the time of
21 termination of the employment of Plaintiff and the other class members no longer employed by
22 Defendants;

23 36. For all actual, consequential, and incidental losses and damages, according to proof;

24 37. For statutory wage penalties pursuant to California Labor Code section 203 for Plaintiff
25 and the other class members who have left Defendants' employ;

26 38. For pre-judgment interest on any unpaid compensation from the date such amounts
27 were due;

28 39. For such other and further relief as the Court may deem just and proper.

1 **As to the Seventh Cause of Action**

2 40. That the Court declare, adjudge, and decree that Defendants violated California Labor
3 Code sections 2800 and 2802 by willfully failing to reimburse Plaintiff and the other class members
4 for all necessary business-related expenses as required by California Labor Code sections 2800 and
5 2802;

6 41. For actual, consequential and incidental losses and damages, according to proof;

7 42. For the imposition of civil penalties and/or statutory penalties;

8 43. For reasonable attorneys' fees and costs of suit incurred herein; and

9 44. For such other and further relief as the Court may deem just and proper.

10 **As to the Eighth Cause of Action**

11 45. That the Court declare, adjudge and decree that Defendants violated the
12 following California Labor Code sections as to Plaintiff and the other class members: 510 and 1198
13 (by failing to pay overtime wages); 1194, 1197, and 1197.1 (by failing to pay minimum wages); 226.7
14 and 512(a) (by failing to provide meal and rest periods or compensation in lieu thereof); 226(a) (by
15 failing to provide accurate wage statements); and 201, 202, and 203 (by failing to pay all wages owed
16 upon termination); and 2800 and 2802 (by failing to reimburse business-related expenses)

17 46. For restitution of unpaid wages to Plaintiff and all the other class members and all pre-
18 judgment interest from the day such amounts were due and payable;

19 47. For the appointment of a receiver to receive, manage and distribute any and all funds
20 disgorged from Defendants and determined to have been wrongfully acquired by Defendants as a
21 result of violation of California Business and Professions Code sections 17200, et seq.;

22 48. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California
23 Code of Civil Procedure section 1021.5; and

24 49. For injunctive relief to ensure compliance with this section, pursuant to California
25 Business and Professions Code sections 17200, et seq.

26 **As to the Ninth Cause of Action**

27 50. For civil penalties pursuant to California Labor Code sections 2699(a), (f), and (g), plus
28 costs and attorneys' fees for violation of California Labor Code sections 201, 202, 203, 204, 226(a),

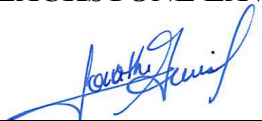
1 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802; and

2 51. For such other and further relief as the Court may deem proper.

3
4 DATED: September 5, 2023

BLACKSTONE LAW, APC

5
6 By:



Jonathan M. Genish, Esq.
Attorneys for Plaintiff
JOSE MENDOZA