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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA

SAYEDHASIB SADAT, on behalf of himself
and all others similarly situated,

Plaintiff,

vs.

ISLAND AUTO TOWING, INC. f/k/a ISLAND
AUTO REPAIR, INC., a California corporation;
and DOES 1 through 100, Inclusive,

Defendants.

Case No. 23CV036438

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION
COMPLAINT FOR:**

- (1) **FAILURE TO PAY OVERTIME
WAGES (LABOR CODE §§ 204, 510,
558, 1194, 1198);**
- (2) **REST PERIOD VIOLATIONS
(LABOR CODE §§ 226.7, 516, 1198);**
- (3) **WAGE STATEMENT VIOLATIONS
(LABOR CODE § 226, *et seq.*);**
- (4) **WAITING TIME PENALTIES
(LABOR CODE §§ 201-203);**
- (5) **FAILURE TO REIMBURSE
BUSINESS EXPENSES (LABOR
CODE §§ 2802, 2804);**
- (6) **UNFAIR COMPETITION (BUS. &
PROF. CODE § 17200, *et seq.*).**
- (7) **CIVIL PENALTIES UNDER THE
PRIVATE ATTORNEYS GENERAL
ACT (LABOR CODE § 2698, *et seq.*)**

**DEMAND FOR JURY TRIAL
UNLIMITED CIVIL CASE**

1 Plaintiff Sayedhasib Sadat (“Plaintiff”), on behalf of himself and all others similarly
2 situated, hereby bring this Class and Representative Action Complaint against Island Auto
3 Towing, Inc. f/k/a Island Auto Repair, Inc., a California corporation; and Does 1 through 100,
4 inclusive (collectively, “Defendants”), and on information and belief alleges as follows:

5 **JURISDICTION**

6 1. Plaintiff, on behalf of himself and all others similarly situated, hereby brings this
7 class action for recovery of unpaid wages and penalties under California Business and Professions
8 Code section 17200, *et. seq.*; Labor Code §§ 201-204, 226, 226.7, 510, 516, 558, 1194, 1198,
9 2802, 2804, 2698 *et seq*; and Industrial Welfare Commission Wage Order No. 4 (“Wage Order
10 4”), in addition to seeking declaratory relief and restitution. This class action is brought pursuant
11 to Code of Civil Procedure § 382. This Court has jurisdiction over Defendants’ violations of the
12 Labor Code because the amount in controversy exceeds this Court’s jurisdictional minimum.

13 **VENUE**

14 2. Venue is proper in this judicial district pursuant to California Code of Civil
15 Procedure §§ 395(a) and 395.5, as at least some of the acts and omissions complained of herein
16 occurred in Alameda County. Defendants own, maintain offices, transact business, have an agent
17 or agents within Alameda County, and/or otherwise are found within Alameda County, and
18 Defendants are within the jurisdiction of this Court for purposes of service of process.

19 **PARTIES**

20 3. Plaintiff is an individual over the age of eighteen (18). At all relevant times herein,
21 Plaintiff was, and currently is, a California resident. During the four years immediately preceding
22 the filing of this action and within the statute of limitations periods applicable to each cause of
23 action pled herein, Plaintiff was employed by Defendants as a non-exempt employee. Plaintiff
24 was, and is, a victim of Defendants’ policies and/or practices complained of herein, lost money
25 and/or property, and has been deprived of the rights guaranteed by California Labor Code §§ 201-
26 204, 226, 226.7, 510, 516, 558, 1194, 1198, 2802, 2804, 2698 *et seq*; California Business &
27 Professions Code § 17200, *et seq.* (Unfair Competition), and Wage Order 4, which sets
28 employment standards for professional, technical, clerical, mechanical and similar occupations.

1 4. Plaintiff is informed and believes, and based thereon alleges, that during the four
2 years preceding the filing of this lawsuit and continuing to the present, Defendants did (and do)
3 business as an auto repair and towing company, and that they employed Plaintiff and other
4 similarly situated non-exempt employees within Alameda County and the state of California.

5 5. Plaintiff does not know the true names or capacities, whether individual, partner,
6 or corporate, of the defendants sued herein as DOES 1 through 100, and for that reason, said
7 defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to
8 amend this Complaint when such true names and capacities are discovered. Plaintiff is informed
9 and believes, and thereon alleges, that each of said fictitious defendants, whether individual,
10 partners, or corporate, were responsible in some manner for the acts and omissions alleged herein,
11 and proximately caused Plaintiff and the Classes (as defined in Paragraph 16) to be subject to the
12 unlawful employment practices, wrongs, injuries, and damages complained of herein.

13 6. Plaintiff is informed and believes, and based thereon alleges, that at all times
14 mentioned herein, Defendants were and are the employers of Plaintiff and all Class members.

15 7. At all times herein mentioned, each of said Defendants participated in the acts
16 herein alleged to have been done by the named Defendants; and furthermore, the Defendants, and
17 each of them, were the agents, servants, and employees of each of the other Defendants, as well
18 as the agents of all Defendants, and at all times herein mentioned were acting within the course
19 and scope of said agency and employment. Defendants, and each of them, approved of, condoned,
20 and/or otherwise ratified each of the acts or omissions alleged herein.

21 8. At all times mentioned herein, Defendants, and each of them, were members of
22 and engaged in a joint venture, partnership, and common enterprise, and acting within the course
23 and scope of and in pursuance of said joint venture, partnership, and common enterprise. Further,
24 Plaintiff alleges that all Defendants were joint employers for all purposes of Plaintiff and all Class
25 Members (as defined in Paragraph 16).

26 **GENERAL FACTUAL ALLEGATIONS**

27 9. Plaintiff was employed by Defendants as a non-exempt employee from
28 approximately October 2020 until approximately December 2022.

1 10. During Plaintiff’s employment with Defendants, Defendants failed to pay Plaintiff
2 and other non-exempt employees overtime at one and one-half times their “regular rate” of pay.
3 Specifically, Defendants have failed to incorporate non-discretionary bonuses and/or other forms
4 of pay not excludable from the regular rate (collectively, such forms of pay are referred to herein
5 as “Incentive Pay”) when calculating Plaintiff’s and other non-exempt employees’ regular rate of
6 pay, which has caused Defendants to under-pay overtime (and/or double-time) wages. For
7 example, in the workweek of October 28, 2022 to November 10, 2022, Plaintiff’s wage statements
8 reflect that he was paid at a base rate of \$20.00 per hour, and also earned a bonus of \$340.00.
9 Plaintiff’s wage statement for that pay period further reflects 0.87 hours of overtime; Plaintiff,
10 however, was paid for this overtime at one and one-half times his *base* rate of pay (i.e., at
11 \$30.00/hour), which failed to include the value of Plaintiff’s non-discretionary bonus in the
12 calculation of the overtime rate. As another example, during the pay period of September 16-29,
13 2022, Plaintiff’s wage statements reflect that he was paid a base rate of \$20.00 per hour, and also
14 earned a bonus of \$410.00. The wage statements further reflect 1.23 hours of overtime; Plaintiff,
15 however, was paid for this overtime at one and one-half times his *base* rate of pay (i.e.,
16 \$30.00/hour), which failed to include the value of Plaintiff’s bonus, resulting in Plaintiff being
17 underpaid for overtime hours worked. On information and belief, Defendants have likewise failed
18 to incorporate Incentive Pay in other non-exempt employees’ “regular rate” of pay throughout the
19 putative class period, thereby under-paying employees for overtime (and/or double-time) wages.

20 11. In addition to underpaying overtime and double-time wages, Defendants also have
21 failed to reimburse Plaintiff and other employees for expenses they incurred in the course of their
22 employment. Specifically, Defendants required Plaintiff to use his personal cellphone to
23 download and use several apps to carry out his job duties. For example, Plaintiff and other
24 employees downloaded and used an app called Toolbox in order to determine the correct battery
25 for cars they serviced, and an app called Bringg to receive calls from AAA, among other apps.
26 Despite requiring Plaintiff to use his personal property for work-related purposes, Defendants
27 failed to reimburse Plaintiff for any portion of his monthly cell phone bill. As a result of the
28 foregoing, Plaintiff and other employees are entitled to reimbursement pursuant to Labor Code

§2802 and *Cochran v. Schwan's Home Service, Inc.*, 228 Cal.App.4th 1137 (2014) (holding that employer must reimburse employees for “reasonable percentage” of their cell phone bills if employees are required to use their cell phones for work purposes, even if the employees did not incur any specific out-of-pocket expense in doing so).

12. Defendants have also failed to authorize and permit all statutorily mandated rest periods to Plaintiff and other non-exempt employees, due to Defendants’ rest period policies/practices. Specifically, Defendants have failed to authorize and permit a 10-minute net rest period for every 4 hours worked or major fraction thereof, as Plaintiff and other non-exempt employees were frequently unable to take the rest periods to which they were entitled as a result of the workload imposed by Defendants, including having to take back-to-back customer calls. In those instances that Defendants failed to authorize and permit Plaintiff and other non-exempt employees to take a legally compliant rest period, Defendants failed to pay the rest period premiums required by Labor Code § 226.7. Upon information and belief, during at least a portion of the putative class period, Defendants maintained no payroll code or other mechanism for paying rest period premiums when Defendants failed to authorize and permit a legally compliant rest period.

13. As a result of Defendants’ failure to pay all overtime wages, as well as Defendants’ failure to pay rest period premium wages, Defendants failed to timely pay all wages to Plaintiff and other formerly employed non-exempt employees at the separation of their employment.

14. As a further result of Defendants’ failure to pay all overtime wages, as well as Defendants’ failure to pay rest period premium wages, Defendants maintained inaccurate payroll records, and issued inaccurate wage statements to Plaintiff.

15. In addition, Defendants have failed to pay Plaintiff and other non-exempt employees in a timely manner, in violation of Labor Code § 204. Specifically, Section 204 requires that all wages earned between the 1st and 15th days of each month be paid between the 16th and 26th of that month, and requires all wages earned between the 16th day of the month and last day of the month to be paid between the 1st and 10th days of the following month. That section further provides that “[t]he requirements of this section shall be deemed satisfied by the

1 payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more
2 than seven calendar days following the close of the payroll period.” (Labor Code § 204(d)).
3 Defendants, however, consistently paid wages approximately 8 days after the close of the pay
4 period. For example, in the pay period of July 22, 2022 to August 4, 2022, Defendants paid
5 Plaintiff and other employees on August 12, 2022, 8 days after the close of the pay period. This
6 resulted in wages that were earned in the latter half of July (i.e., July 22-31) to be paid after August
7 10, in violation of Labor Code § 204. Likewise, in the pay period of July 8-21, 2022, Defendants
8 paid Plaintiff on July 29 (i.e., 8 days after the end of the pay period), resulting in wages earned
9 from July 8-15 to be paid after July 26. As a result, Defendants have failed to pay Plaintiff and
10 other non-exempt employees timely in accordance with Labor Code § 204.

11 **CLASS ACTION ALLEGATIONS**

12 16. Class Definitions: Plaintiff bring this action on behalf of himself and the following
13 Classes pursuant to Section 382 of the Code of Civil Procedure:

14 a. The Overtime Class consists of all of the Defendants’ current and former non-
15 exempt employees in California who worked more than 8.0 hours in a workday and/or
16 over 40.0 hours in a workweek and earned Incentive Pay in a corresponding pay period,
17 at any time from four years immediately prior to the filing of this action through the
18 present.

19 b. The Rest Period Class consists of all of the Defendants’ current and former non-
20 exempt employees in California who worked at least one shift of 3.5 hours or more, at any
21 time from four years immediately preceding the filing of this action through the present.

22 c. The Wage Statement Class consists of all members of the Overtime Class and/or
23 Rest Period Class who received a wage statement during the one year immediately
24 preceding the filing of this lawsuit through the present.

25 d. The Waiting Time Class consists of all members of the Overtime Class and/or
26 Rest Period Class, who are no longer employed by Defendants and whose employment
27 with Defendants ended at any time from three years immediately preceding the filing of
28 this action through the present.

e. The Expense Reimbursement Class consists of all of Defendants' employees (exempt and non-exempt) who were required to use their personal property, including but not limited to personal cellular phones, for work-related purposes, at any time from four years prior to the filing of this action through the present.

17. **Numerosity/Ascertainability:** The members of the Classes are so numerous that joinder of all members would be unfeasible and impracticable. The membership of the Classes is unknown to Plaintiff at this time; however, it is estimated that the Classes number greater than fifty (50) individuals in each Class. The identity of such membership is readily ascertainable via Defendants' employment records.

18. **Common Questions of Law and Fact Predominate/Well Defined Community of Interest:** There are common questions of law and fact as to Plaintiff and all other similarly situated employees, which predominate over questions affecting only individual members including, without limitation:

- i. Whether Defendants' timekeeping and payroll practices violate the applicable Labor Code provisions including, but not limited to, Sections 510 and 1194 by requiring overtime work and not paying the Overtime Class for said work according to California's overtime laws;
- ii. Whether Defendants authorized and permitted legally compliant rest periods to members of the Rest Period Class;
- iii. Whether Defendants furnished legally compliant wage statements to members of the Wage Statement Class pursuant to Labor Code § 226;
- iv. Whether Defendants paid all wages due to members of the Waiting Time Class at the time of separation of employment; and
- v. Whether Defendants properly reimbursed expenses incurred by members of the Expense Reimbursement Class.

19. **Predominance of Common Questions:** Common questions of law and fact predominate over questions that affect only individual members of the Classes. The common questions of law set forth above are numerous and substantial and stem from Defendants' policies

and/or practices applicable to each individual class member, such as Defendants' payroll, overtime, wage statement, rest period, reimbursement, and final wage policies/practices. As such, the common questions predominate over individual questions concerning each individual class member's showing as to his or her eligibility for recovery or as to the amount of his or her damages.

20. **Typicality:** Plaintiff's claims are typical of the claims of the Classes because Plaintiff was employed by Defendants as a non-exempt employee in California during the statute(s) of limitation applicable to each cause of action pled in the Complaint in this action. As alleged herein, Plaintiff, like the members of the Classes, was deprived of all earned overtime wages, was subject to Defendants' uniform rest period and reimbursement policies/practices, was furnished with inaccurate wage statements, and was deprived of all final wages upon his separation of employment from Defendants.

21. **Adequacy of Representation:** Plaintiff is fully prepared to take all necessary steps to represent fairly and adequately the interests of the members of the Classes. Moreover, Plaintiff's attorneys are ready, willing, and able to fully and adequately represent the members of the Classes and Plaintiff. Plaintiff's attorneys have prosecuted numerous wage-and-hour class actions in state and federal courts in the past and are committed to vigorously prosecuting this action on behalf of the members of the Classes.

22. **Superiority:** The California Labor Code is broadly remedial in nature and serves an important public interest in establishing minimum working conditions and standards in California. These laws and labor standards protect the average working employee from exploitation by employers who have the responsibility to follow the laws and who may seek to take advantage of superior economic and bargaining power in setting onerous terms and conditions of employment. The nature of this action and the format of laws available to Plaintiff and members of the Classes make the class action format a particularly efficient and appropriate procedure to redress the violations alleged herein. If each employee were required to file an individual lawsuit, Defendants would necessarily gain an unfair advantage, as they would be able to exploit and overwhelm the limited resources of each individual plaintiff with their vastly

superior financial and legal resources. Moreover, requiring each member of the Classes to pursue an individual remedy would discourage the assertion of lawful claims by employees who would be disinclined to file an action against their former and/or current employer for real and justifiable fear of retaliation and permanent damages to their careers at subsequent employment. Further, the prosecution of separate actions by individual class members would create a substantial risk of inconsistent or varying verdicts or adjudications with respect to the individual class members against Defendants herein; and which would establish potentially incompatible standards of conduct for Defendants. Further, the claims of the individual members of the Classes are not sufficiently large to warrant vigorous individual prosecution considering all of the concomitant costs and expenses attending thereto. As such, the Classes identified in Paragraph 16 are maintainable under Code Civ. Proc. § 382 of the Code of Civil Procedure.

FIRST CAUSE OF ACTION

FAILURE TO PAY OVERTIME WAGES

(AGAINST ALL DEFENDANTS)

23. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

24. This cause of action is brought pursuant to Labor Code §§ 204, 510, 558, 1194, and 1198, which provide that non-exempt employees are entitled to overtime wages for all overtime hours worked and provide a private right of action for the failure to pay all overtime compensation for overtime work performed.

25. At all relevant times, Defendants were required to pay Plaintiff and Overtime Class members for all overtime hours worked per Labor Code § 1194 and Wage Order 4. Wage Order 4, § 3 requires an employer to pay “one and one-half (1½) times [the] employee’s regular rate of pay” for work in excess of 8 hours per workday and/or in excess of 40 hours in any workweek, and for the first 8 hours on the seventh workday in a workweek. Wage Order 4, § 3 also requires an employer to pay double the employee’s regular rate of pay for work in excess of 12 hours in a workday and/or in excess of 8 hours on the seventh consecutive day of work in the workweek. Defendants caused Plaintiff and Overtime Class members to work overtime hours but did not compensate them at one and one-half times (or two times) their regular rate of pay for such hours.

1 26. The foregoing policies and practices are unlawful and create entitlement to
2 recovery by Plaintiff and the Overtime Class in a civil action for the unpaid amount of overtime
3 wages, interest, statutory penalties, and attorneys' fees and costs of suit according to California
4 Labor Code §§ 204, 218.6, 510, 558, 1194, and 1198, and Code of Civil Procedure § 1021.5.

5 **SECOND CAUSE OF ACTION**

6 **REST PERIOD VIOLATIONS**

7 **(AGAINST ALL DEFENDANTS)**

8 27. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

9 28. Labor Code §§ 226.7 and 516, and Wage Order 4, § 12 establish the right of
10 employees to be authorized and permitted a paid rest period of at least ten (10) minutes for each
11 four (4) hour period worked, or major fraction thereof.

12 29. As alleged herein, Defendants failed to authorize and permit Plaintiff and Rest
13 Period Class members to take their legally entitled rest periods. Defendants also failed to
14 compensate Plaintiff and Rest Period Class members with a rest period premium for each rest
15 period to which they were entitled.

16 30. The foregoing violations create an entitlement to recovery by Plaintiff and Rest
17 Period Class members in a civil action for the unpaid amount of rest period premiums owing,
18 including interest thereon, statutory penalties, civil penalties, and costs of suit according to Labor
19 Code §§ 226.7, 516, 558; Code of Civil Procedure § 1021.5; Civil Code § 3287; and Art. XV, §
20 1 of the California Constitution.

21 **THIRD CAUSE OF ACTION**

22 **WAGE STATEMENT VIOLATIONS**

23 **(AGAINST ALL DEFENDANTS)**

24 31. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

25 32. Plaintiff is informed and believes, and based thereon alleges, that Defendants
26 knowingly and intentionally, as a matter of uniform policy and practice, have failed to furnish
27 Plaintiff and Wage Statement Class members with accurate and complete itemized wage
28 statements that included, among other requirements, all wages earned, including but not limited

1 to all overtime wages earned and all rest period premium wages earned, in violation of Labor
2 Code § 226(a).

3 33. Defendants' failure to furnish Plaintiff and members of the Wage Statement Class
4 with complete and accurate itemized wage statements resulted in injury, as said failures led to,
5 among other things, the non-payment of all their overtime wages and rest period premium wages,
6 and deprived them of the information required under Labor Code § 226(a) and of information
7 necessary to identify the discrepancies in Defendants' reported data.

8 34. Defendants' failures create an entitlement to recovery by Plaintiff and members of
9 the Wage Statement Class in a civil action for all damages and/or penalties pursuant to Labor
10 Code § 226, including statutory penalties, civil penalties, and reasonable attorneys' fees and costs
11 of suit, pursuant to Labor Code §§ 226 and 226.3.

12 **FOURTH CAUSE OF ACTION**

13 **WAITING TIME PENALTIES**

14 **(AGAINST ALL DEFENDANTS)**

15 35. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

16 36. This cause of action is brought pursuant to Labor Code §§ 201-203, which require
17 an employer to pay all wages immediately at the time of separation of employment in the event
18 the employer discharges the employee, or the employee provides at least 72 hours of notice of
19 their intent to quit. In the event the employee provides less than 72 hours of notice of their intent
20 to quit, said employee's wages become due and payable not later than 72 hours upon said
21 employee's last date of employment.

22 37. Plaintiff is informed and believes, and based thereon alleges, that Defendants
23 failed to timely pay Plaintiff and members of the Waiting Time Class all final wages due to them
24 at their separation from employment, including (but not limited to) unpaid overtime wages and
25 unpaid rest period premium wages.

26 38. Further, Plaintiff is informed and believes, and based thereon alleges, that as a
27 matter of uniform policy and practice, Defendants continue to fail to timely pay Plaintiff and
28 Waiting Time Class members their final wages per the requirements of Labor Code §§ 201-203.

39. Defendants' failure to pay all final wages was willful within the meaning of Labor Code § 203. Defendants' willful failure to timely pay Plaintiff and Waiting Time Class members their earned wages upon separation results in a continued payment of daily wages up to thirty days from the time the wages were due. Plaintiff and Waiting Time Class members are entitled to compensation pursuant to Labor Code § 203, plus reasonable attorneys' fees and costs of suit.

FIFTH CAUSE OF ACTION

FAILURE TO REIMBURSE BUSINESS EXPENSES

(AGAINST ALL DEFENDANTS)

40. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

41. Defendants are and were subject to Labor Code § 2802, which states that "an employer shall indemnify his or her employees for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer."

42. Defendants also are and were subject to Labor Code § 2804, which states, "any contract or agreement, express or implied, made by any employee to waive the benefits of this article or any part thereof, is null and void, and this article shall not deprive any employee or his personal representative of any right or remedy to which he is entitled under the laws of this State."

43. Due to Defendants' unlawful policy and practice of requiring employees to use their personal property, including but not limited to personal cell phones, for work purposes, and their failure to reimburse Plaintiff and members of the Employee Expense Class, Defendants have violated Labor Code § 2802.

44. As a proximate result of Defendants' policies and/or practices in violation of Labor Code §§ 2802 and 2804, Plaintiff and members of the Employee Expense Class have suffered damages in sums, which will be shown according to proof.

45. Plaintiff and members of the Employee Expense Class are entitled to attorneys' fees and costs of suit pursuant to Labor Code § 2802(c) for bringing this action.

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46. Pursuant to Labor Code § 2802(b), any action brought for the reimbursement of necessary expenditures carries interest at the same rate as judgments in civil actions. Thus, Plaintiff and members of the Employee Expense Class are entitled to interest, which shall accrue from the date on which they incurred the initial necessary expenditure.

SIXTH CAUSE OF ACTION

UNFAIR COMPETITION

(AGAINST ALL DEFENDANTS)

47. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

48. Defendants have engaged, and continue to engage, in unfair and/or unlawful business practices in violation of Business & Professions Code § 17200, *et seq.*, by failing to pay Plaintiff and the Classes all overtime wages due, failing to authorize and permit rest periods or pay rest period premium wages, failing to furnish accurate and complete itemized wage statements, failing to reimburse business expenses, and failing to pay all earned wages at separation of employment.

49. Defendants' utilization of these unfair and/or unlawful business practices has deprived Plaintiff and members of the Classes of compensation to which they are legally entitled, constitutes unfair and/or unlawful competition, and provides an unfair advantage over Defendants' competitors who have been and/or are currently employing workers and attempting to do so in honest compliance with applicable wage and hour laws.

50. Because Plaintiff is a victim of Defendants' unfair and/or unlawful conduct alleged herein, Plaintiff for himself, and on behalf of the members of the Classes, seeks full restitution of monies as necessary and according to proof, to restore all monies withheld, acquired, and/or converted by Defendants pursuant to Business & Professions Code §§ 17203 and 17208.

51. The acts complained of herein occurred within the four years immediately preceding the filing of this action.

52. Plaintiff was compelled to retain the services of counsel to file this court action to protect his interests and those of the Classes, to obtain restitution and injunctive relief on behalf of Defendants' current non-exempt employees, and to enforce important rights affecting the

1 public interest. Plaintiff has thereby incurred the financial burden of attorneys' fees and costs,
2 which he is entitled to recover under Code of Civil Procedure § 1021.5.

3 **SEVENTH CAUSE OF ACTION**

4 **PRIVATE ATTORNEYS GENERAL ACT**

5 **(AGAINST ALL DEFENDANTS)**

6 53. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

7 54. Defendants have committed several Labor Code violations against Plaintiff and
8 other aggrieved employees. Plaintiff is an "aggrieved employee" within the meaning of Labor
9 Code § 2698 *et seq.* Plaintiff, acting on behalf of himself and other aggrieved employees, brings
10 this representative action against Defendants to recover the civil penalties due to Plaintiff, other
11 aggrieved employees, and the State of California according to proof pursuant to Labor Code §§
12 558 and 2699 (a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for
13 each failure to pay each employee and \$200.00 for each subsequent violation or willful or
14 intentional violation pursuant to Labor Code § 210 for each failure to pay each employee, plus
15 25% of the amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100.00 for each
16 subsequent violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for
17 each initial violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1
18 per employee per pay period; (4) \$250.00 for each initial violation of Labor Code § 226 and
19 \$1,000.00 for each subsequent violation, pursuant to Labor Code § 226.3, per employee per pay
20 period; and/or (5) \$100.00 for each initial violation and \$200.00 for each subsequent violation per
21 employee per pay period for those violations of the Labor Code for which no civil penalty is
22 specifically provided, based on the following Labor Code violations:

- 23 a. Failing to pay Plaintiff and other aggrieved employees all overtime and/or double-time
24 compensation earned, in violation of Labor Code §§ 204, 510, 558, 1194, and 1198;
25 b. Failing to authorize and permit all legally required rest periods and failing to pay rest
26 period premiums to Plaintiff and other aggrieved employees at the employees'
27 respective regular rates of compensation, in violation of Labor Code §§ 226.7, 516,
28 558, and 1198;

- c. Failing to furnish Plaintiff and other aggrieved employees with accurate and complete itemized wage statements, in violation Labor Code §§ 226 and 1198;
- d. Failing to pay all wages owed to Plaintiff and other aggrieved former employees at their separation of employment, in violation of Labor Code §§ 201-203;
- e. Failing to reimburse Plaintiff and other aggrieved employees for all work-related expenses, in violation of Labor Code §§ 2802, 2804, and 1198; and
- f. Failing to maintain accurate records on behalf of Plaintiff and other aggrieved employees, in violation of Labor Code §§ 1174 and 1198.
- g. Failing to timely pay Plaintiff and other aggrieved employees their wages during employment, in violation of Labor Code § 204.

55. On or about June 15, 2023, Plaintiff notified Defendant Island Auto Towing, Inc. f/k/a Island Auto Repair, Inc. via certified mail, and the California Labor and Workforce Development Agency (“LWDA”) via its website, of Defendants’ violations of the California Labor Code and Plaintiff’s intent to bring a claim for civil penalties under California Labor Code § 2698 *et seq.* with respect to the violations of the California Labor Code identified in paragraph 54 (a)-(g) above. Now that sixty-five days have passed from Plaintiff’s notifying Defendants and the LWDA of these violations, Plaintiff has exhausted his administrative requirements for bringing a claim under the Private Attorneys General Act with respect to these violations.

56. Based on the foregoing, Plaintiff seeks to represent himself, the State of California, and all aggrieved employees as defined by Labor Code § 2699(c), which includes all current and former employees who worked for Defendants in California at any time from one year prior to the submission of Plaintiff’s PAGA notice to the present.

57. Plaintiff was compelled to retain the services of counsel to file this court action to protect his interests and the interests of other aggrieved employees, and to assess and collect the civil penalties owed by Defendants. Plaintiff has thereby incurred attorneys’ fees and costs, which he is entitled to recover under California Labor Code § 2699(g).

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1 **PRAYER**

2 WHEREFORE, Plaintiff prays for judgment for himself and for all others on whose behalf
3 this suit is brought against Defendants, as follows:

- 4 1. For an order certifying the proposed Classes;
- 5 2. For an order appointing Plaintiff as representative of the Classes;
- 6 3. For an order appointing counsel for Plaintiff as counsel for the Classes;
- 7 4. Upon the First Cause of Action, for compensatory, consequential, general, and
8 special damages according to proof pursuant to Labor Code §§ 204, 510, 558, 1194, and 1198;
- 9 5. Upon the Second Cause of Action, for compensatory, consequential, general, and
10 special damages according to proof pursuant to Labor Code §§ 226.7, 516, and 1198;
- 11 6. Upon the Third Cause of Action, for statutory penalties pursuant to Labor Code §
12 226, *et seq.*;
- 13 7. Upon the Fourth Cause of Action, for statutory waiting time penalties pursuant to
14 Labor Code §§ 201-203;
- 15 8. Upon the Fifth Cause of Action, for compensatory, consequential, general, and
16 special damages according to proof pursuant to Labor Code §§ 2802 and 2804;
- 17 9. Upon the Sixth Cause of Action, for restitution to Plaintiff and members of the
18 Classes of all money and/or property unlawfully acquired by Defendants by means of any acts or
19 practices declared by this Court to violate Business & Professions Code § 17200, *et seq.*;
- 20 10. Upon the Seventh Cause of Action, for civil penalties due to Plaintiff, other
21 aggrieved employees, and the State of California according to proof pursuant to Labor Code §
22 2699, including, but not limited to: (1) \$100.00 for each initial violation for each failure to pay
23 each employee and \$200.00 for each subsequent violation or willful or intentional violation
24 pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the amount
25 unlawfully withheld; (2) \$50.00 for each initial violation and \$100 for each subsequent violation
26 pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial violation
27 and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per employee per
28 pay period; (4) \$250.00 for each initial violation of Labor Code § 226 and \$1,000.00 for each

subsequent violation, pursuant to Labor Code § 226.3 per employee per pay period; and/or (5) \$100.00 for each initial violation and \$200.00 for each subsequent violation per employee per pay period for those violations of the Labor Code for which no civil penalty is specifically provided, pursuant to Labor Code § 2699(f);

11. Prejudgment interest on all due and unpaid wages and other damages pursuant to California Labor Code §§ 218.6, 1194(a), 2802(b); Civil Code § 3287; and Art. XV, § 1 of the California Constitution;

12. On all causes of action, for attorneys' fees and costs as provided by Labor Code §§ 226(e), 1194 *et seq.*, 2802(c), 2699(g), and Code of Civil Procedure § 1021.5, and all other relevant statutes; and

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

Date: August 21, 2023

Respectfully submitted,
ABRAMSON LABOR GROUP

By:


Tuvia Korobkin
Attorney for Plaintiff

DEMAND FOR JURY TRIAL

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

Dated: August 21, 2023

Respectfully submitted,
ABRAMSON LABOR GROUP

By:


Tuvia Korobkin
Attorney for Plaintiff