

DIVERSITY LAW GROUP, P.C.
Larry W. Lee (State Bar No. 228175)
lwlee@diversitylaw.com
Simon L. Yang (State Bar No. 260286)
sly@diversitylaw.com
515 South Figueroa Street, Suite 1250
Los Angeles, California 90071
Telephone: (213) 488-6555
Facsimile: (213) 488-6554

William L. Marder, Cal Bar No. 170131
bill@polarislawgroup.com
POLARIS LAW GROUP
501 San Benito Street, Suite 200
Hollister, California 95023
Telephone: 831.531.4214
Facsimile: 831.634.0333

Dennis S. Hyun (State Bar No. 224240)
dhyun@hyunlegal.com
HYUN LEGAL, APC
515 S. Figueroa St., Suite 1250
Los Angeles, CA 90071
(213) 488-6555
(213) 488-6554 facsimile

Attorneys for Plaintiff

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

ROBERT MARSLEK, as a proxy for the
State of California,

Plaintiffs,

v.

SUPERIOR AIR CHARTER, LLC, a
limited liability company; and DOES 1
through 50, inclusive,

Defendants.

CASE NO. 23CV039463

[Assigned for all purposes to the Hon. Joscelyn C.
Jones, Dept. 19]

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

- (1) VIOLATION OF CAL. LABOR CODE §
2698, ET SEQ.;**
- (2) VIOLATION OF LABOR CODE §§ 201-
203, 510, AND 1194;**
- (3) VIOLATION OF LABOR CODE §§ 201-
203, 226.7 AND 512;**
- (4) VIOLATION OF LABOR CODE §§ 201-
203 AND 226.7;**
- (5) VIOLATION OF LABOR CODE § 226;**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**(6) VIOLATION OF BUSINESS &
PROFESSIONS CODE § 17200, *ET SEQ.***
DEMAND EXCEEDS \$25,000.00

1 Plaintiff Robert Marslek ("Plaintiff") hereby submits this First Amended Class and
2 Representative Action Complaint ("Complaint") against Defendants Superior Air Charter, LLC
3 ("Defendant," or the "Company"), and DOES 1-50 (hereinafter collectively referred to as
4 "Defendants"), individually and on behalf of all similarly situated employees, as well as a proxy
5 for the State of California and on behalf of all aggrieved current and former employees of
6 Defendants for unpaid wages, damages and penalties for violations of the California Labor Code
7 as follows:

8 **JURISDICTION AND VENUE**

9 1. This lawsuit is within the Court's jurisdiction under Code of Civil Procedure §
10 382, Labor Code § 204 and the Private Attorneys General Act (the "PAGA"), Labor Code § 2698,
11 *et seq.*

12 2. Venue is proper in Alameda County because Plaintiff performed work for
13 Defendant in this County.

14 **PARTIES**

15 3. On or about April 2, 2023, Plaintiff began employment with Defendant as a non-
16 exempt Airline Mechanic. On or about June 13, 2023, Plaintiff was terminated. Plaintiff worked
17 for Defendant in Oakland, California.

18 4. Defendant is a limited liability company, which operates jet charter services,
19 including in Alameda County.

20 5. Plaintiff is informed and believes, and based thereon alleges, that at all times
21 herein mentioned Defendants and DOES 1 through 50 are and were business entities, individuals,
22 and partnerships, licensed to do business and actually doing business in the State of California.

23 6. As such, and based upon all the facts and circumstances incident to Defendants'
24 business in California, Defendants are subject to the Labor Code.

25 7. Plaintiff does not know the true names or capacities, whether individual, partner or
26 corporate, of the Defendants sued herein as DOES 1 through 50, inclusive, and for that reason,
27 said Defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this
28 complaint when the true names and capacities are known. Plaintiff is informed and believes, and

1 based thereon alleges, that each of said fictitious Defendants was responsible in some way for the
2 matters alleged herein and proximately caused Plaintiff and aggrieved employees to be subject to
3 the illegal employment practices complained of herein.

4 8. At all times herein mentioned, each of said Defendants participated in the doing of
5 the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the
6 Defendants, and each of them, were the agents, servants and employees of each of the other
7 Defendants, as well as the agents of all Defendants, and at all times herein mentioned, were acting
8 within the course and scope of said agency and employment.

9 9. Plaintiff is informed and believes, and based thereon alleges, that at all times
10 material hereto, each of the Defendants named herein was the agent, employee, alter ego and/or
11 joint venturer of, or working in concert with each of the other co- Defendants and was acting
12 within the course and scope of such agency, employment, joint venture, or concerted activity. To
13 the extent said acts, conduct, and omissions were perpetrated by certain Defendants, each of the
14 remaining Defendants confirmed and ratified said acts, conduct, and omissions of the acting
15 Defendants.

16 10. At all times herein mentioned, Defendants, and each of them, were members of,
17 and engaged in, a joint venture, partnership and common enterprise, and acting within the course
18 and scope of, and in pursuance of, said joint venture, partnership and common enterprise.

19 11. At all times herein mentioned, the acts and omissions of various Defendants, and
20 each of them, concurred and contributed to the various acts and omissions of each and all of the
21 other Defendants in proximately causing the violations as herein alleged. At all times herein
22 mentioned, Defendants, and each of them, ratified each and every act or omission complained of
23 herein. At all times herein mentioned, the Defendants, and each of them, aided and abetted the
24 acts and omissions of each and all of the other Defendants in causing the violations herein
25 alleged.

26 CLASS ALLEGATIONS

27 12. **Definition:** Plaintiff seeks class certification, pursuant to California Code of Civil
28 Procedure § 382, of the following classes and subclasses:

- a. All of Defendants' California current and former non-exempt employees

1 Defendants who were paid any overtime wages and earned non-
2 discretionary remuneration, including without limitation, “RON Prem,”
3 covering the same period that overtime wages were paid, at any time from
4 May 15, 2020, through the present (the “Overtime Class”);

5 b. All of Defendants’ current and former non-exempt employees who worked
6 a shift longer than 5 hours in California at any time from May 15, 2020,
7 through the present (the “Meal Period Class”);

8 c. All of Defendants’ current and former non-exempt employees who worked
9 a shift of at least 3.5 hours in California at any time from May 15, 2020,
10 through the present (the “Rest Period Class”);

11 d. All of Defendants’ California current and former non-exempt employees
12 Defendants who were paid any meal period premium payments and earned
13 non-discretionary remuneration, including without limitation, “RON
14 Prem,” covering the same period that meal period premiums were paid, at
15 any time from May 15, 2020, through the present (the “Meal Period
16 Premium Sub-Class”);

17 e. All current and former California non-exempt employees of Defendants
18 who were paid any rest period premium payments and earned non-
19 discretionary remuneration, including without limitation, “RON Prem,”
20 covering the same period that rest period premiums were paid, at any time
21 from May 15, 2020, through the present (the “Rest Period Premium Sub-
22 Class”);

23 f. All current and former California non-exempt employees of Defendants
24 who were paid “RON Prem,” and “RON Prem OT” wages at any time from
25 May 15, 2023, through the present (the “Wage Statement Class”).

26 13. **Numerosity and Ascertainability:** The members of the Class are so numerous
27 that joinder of all members would be impractical, if not impossible. The identity of the members
28 of the Class is readily ascertainable by review of the Company’s records, including payroll
records. Plaintiff is informed and believes and based thereon alleges, that the Company failed to:

1 (a) provide meal and rest periods as required by law; (b) pay overtime, and meal and rest period
2 premium wages at the correct, higher regular rate of pay; and (c) provide accurate itemized wage
3 statements to employees in violation of Labor Code § 226.

4 14. **Adequacy of Representation:** The named Plaintiff is fully prepared to take all
5 necessary steps to represent fairly and adequately the interests of the class defined above.
6 Plaintiff's attorneys are ready, willing and able to fully and adequately represent the class and the
7 named Plaintiff. Plaintiff's attorneys have prosecuted and settled wage-and-hour class actions in
8 the past and currently have a number of wage-and-hour class actions pending in California courts.

9 15. **Common Question of Law and Fact:** There are predominant common questions
10 of law and fact and a community of interest amongst Plaintiffs and the claims of the Class
11 concerning the Company's failure to: (a) provide meal and rest periods as required by law; (b)
12 pay overtime, and meal and rest period premium wages at the correct, higher regular rate of pay;
13 and (c) provide accurate itemized wage statements to employees in violation of Labor Code §
14 226.

15 16. **Typicality:** The claims of the named Plaintiff are typical of the claims of all
16 members of the Class in that Plaintiff has suffered the harm alleged in this Complaint in a similar
17 and typical manner as the Class members. Defendants failed to pay all owed overtime wages
18 based on the correct, higher regular rate of pay by not including all non-discretionary
19 remuneration into the regular rate for purposes of paying overtime wages to Plaintiff and Class
20 Members. For example, Defendants paid Plaintiff and Class Members "RON Prem," or "Return
21 Overnight" wages, which were additional non-discretionary for working overnight shifts.
22 Defendants, however, failed to include said items into the regular rate of pay for purposes of
23 paying overtime to Plaintiff and Class Members. Further, as a result, Defendants violated Labor
24 Code § 226(a) as to Plaintiff and Class Members by not accurately reflecting gross and net wages,
25 hours worked, and hourly rates as a result of this violation. Moreover, Defendants violated Labor
26 Code §§ 201-204 as to all Class Members whose employment have ended by not paying all owed
27 overtime wages within the time requirements set forth in these statutes. =Defendants also
28 violated Labor Code §§ 201-204, 226, 226.3, 510, 558, 1194, 1197, and 1197.1 by failing to pay
minimum and overtime wages to Plaintiff and Class Members for the time spent working during

1 meal periods. Defendants also violated Labor Code § 226 as to Plaintiff and Class Members as a
2 result of these violations, including by not accurately listing the hourly rates of pay, gross wages,
3 and net wages in violation of Labor Code § 226(a). Defendants also violated Labor Code §§ 201-
4 204, 226, 226.7, 512, and 1174 by failing to provide meal periods and authorize and permit rest
5 periods to Plaintiff and Class Members. Plaintiff and Class Members were required to take on-
6 duty meal periods and work during meal periods. Defendants also failed to provide meal periods
7 to Plaintiff and Class Members within the first 5 hours of their shifts longer than 5 hours.
8 Defendants also failed to authorize and permit 10-minute off-duty rest periods for every 3.5 hours
9 worked by Plaintiff and Class Members. Further, whenever Plaintiff and Class Members were
10 not provided with meal and rest periods in compliance with Labor Code §§ 226.7 and 512,
11 Defendants failed to pay meal/rest period premium wages to Plaintiff and Class Members based
12 on the regular rate of pay because Defendants failed to include all non-discretionary remuneration
13 into the regular rate of pay for purposes of paying meal period premium wages, including without
14 limitation, “RON Prem” differentials. As a result, aggrieved employees were not provided
15 compliant meal and rest breaks. Further, as a result of said violations, the wage statements
16 furnished to Plaintiff and Class Members failed to reflect the accurate gross and net wages, hours
17 worked and hourly rates for the missed meal/rest periods and/or the unpaid and/or incorrectly
18 paid meal/rest period premium wages in violation of Labor Code § 226. Moreover, Defendants
19 violated Labor Code §§ 201-204 as to all aggrieved employees whose employment have ended by
20 not paying all owed meal/rest period premium wages within the time requirements set forth in
21 these statutes. Thus, Plaintiff is a member of the Class and has suffered the alleged violations of
22 California Labor Code §§ 201-204, 226, 226.7, 510, 512, 558, 1194, 1197 and 2698, *et seq.*, and
the applicable IWC Wage Orders.

23 17. The California Labor Code and upon which Plaintiff bases these claims is broadly
24 remedial in nature. These laws and labor standards serve an important public interest in
25 establishing minimum working conditions and standards in California. These laws and labor
26 standards protect the average working employee from exploitation by employers who may seek to
27 take advantage of superior economic and bargaining power in setting onerous terms and
28 conditions of employment.

1 18. The nature of this action and the format of laws available to Plaintiff and members
2 of the Class identified herein make the class action format a particularly efficient and appropriate
3 procedure to redress the wrongs alleged herein. If each employee were required to file an
4 individual lawsuit, the corporate Defendant would necessarily gain an unconscionable advantage
5 since it would be able to exploit and overwhelm the limited resources of the individual Plaintiff
6 with Defendants' vastly superior financial and legal resources. Requiring each Class member to
7 pursue an individual remedy would also discourage the assertion of lawful claims by employees
8 who would be disinclined to file an action against their former and/or current employer for real
9 and justifiable fear of retaliation and permanent damage to their careers at subsequent
10 employment.

11 19. The prosecution of separate actions by the individual class members, even if
12 possible, would create a substantial risk of (a) inconsistent or varying adjudications with respect
13 to individual Class members against the Company and which would establish potentially
14 incompatible standards of conduct for the Company, and/or (b) adjudications with respect to
15 individual Class members which would, as a practical matter, be dispositive of the interest of the
16 other Class members not parties to the adjudications or which would substantially impair or
17 impede the ability of the Class members to protect their interests. Further, the claims of the
18 individual members of the Class are not sufficiently large to warrant vigorous individual
19 prosecution considering all of the concomitant costs and expenses.

20 20. Such a pattern, practice and uniform administration of corporate policy regarding
21 illegal employee compensation described herein is unlawful and creates an entitlement to
22 recovery by Plaintiff and the Class identified herein, in a civil action any and all applicable
23 penalties and/or damages, reasonable attorneys' fees, and costs of suit according to the mandate
24 of California Labor Code §§ 218.5, 226, 1194, and 2698, *et seq.*, the applicable IWC Wage
25 Orders, and Code of Civil Procedure § 1021.5.

26 21. Proof of a common business practice or factual pattern, which the named Plaintiffs
27 experienced and are representative of, will establish the right of each of the members of the Class
28 to recovery on the causes of action alleged herein.

 22. The Class is commonly entitled to a specific fund with respect to the compensation

1 illegally and unfairly retained by the Company. The Class is commonly entitled to restitution of
2 those funds being improperly withheld by the Company. This action is brought for the benefit of
3 the entire class and will result in the creation of a common fund.

4 **FIRST CAUSE OF ACTION**

5 **VIOLATION OF LABOR CODE § 2698, *ET SEQ.***

6 **(AGAINST ALL DEFENDANTS BY PLAINTIFF AS A PROXY FOR THE STATE OF**
7 **CALIFORNIA)**

8 23. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as
9 though fully set for herein.

10 24. Plaintiff brings this cause of action as a proxy for the State of California and in this
11 capacity, seeks penalties on behalf of all Aggrieved Employees from June 9, 2022, through the
12 present, for Defendants' violations of Labor Code § 204, arising from Defendants' failure to
13 timely pay wages. Specifically, Labor Code Section 204(d) provides that wages must be paid no
14 later than 7 days following the close of the payroll period. Plaintiff is informed and believes and
15 based thereon alleges that Defendant's company-wide policy and practice in California is to pay
16 employees more than 7 days after the close of the pay period. For example, for the pay period of
17 May 8, 2023, through May 23, 2023, the wages earned during such pay period were not paid until
18 May 31, 2023, which is more than 7 days after the end of the pay period.

19 25. On or about June 9, 2023, Plaintiff sent written notice to the California Labor &
20 Workforce Development Agency ("LWDA") of Defendants' violations of Labor Code § 204,
21 pursuant to Labor Code § 2698, *et seq.*, the Private Attorney General Act ("PAGA"). As of the
22 date of this filing, the LWDA has not informed Plaintiff whether it intends to investigate the
23 violations set forth in Plaintiff's notices. Therefore, Plaintiff may seek all applicable penalties
24 provided by the PAGA.

25 26. As such, pursuant to Labor Code § 2699(a), Plaintiff seeks recovery of any and all
26 applicable civil penalties for Defendants' violation of Labor Code § 204, for the time periods
27 described above, on behalf of himself and other Aggrieved Employees.

28 //

//

SECOND CAUSE OF ACTION

**(BY PLAINTIFF AND THE CLASS AND OVERTIME CLASS AGAINST ALL
DEFENDANTS)**

27. Plaintiff realleges and incorporates by reference the preceding paragraphs as though fully set for herein.

28. Defendants failed to pay all owed overtime wages, including without limitation, based on the correct, higher regular rate of pay by not including all non-discretionary remuneration into the regular rate for purposes of paying overtime wages to Plaintiff and Class Members. For example, Defendants paid Plaintiff and Class Members shift differentials, such as “RON Prem,” which were non-discretionary. Defendants, however, failed to include said items into the regular rate of pay for purposes of paying overtime to Plaintiff and Class Members.

29. Such a pattern, practice and uniform administration of corporate policy regarding illegal employee compensation as described herein is unlawful and creates an entitlement to recovery by Plaintiff and the Class in a civil action, for the unpaid balance of the full amount of overtime premiums owing, including interest thereon, penalties, attorneys’ fees, and costs of suit according to the mandate of California Labor Code §§ 510, 1194, and 1197.

30. Moreover, all owing wages must be paid timely. Section 204 provides that wages are generally due and payable no later than seven days after the end of a pay period or at least twice during each calendar month, on days designated in advance as the regular paydays. Section 201 provides that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately. Section 202 provides that an employee is entitled to receive all unpaid wages no later than 72 hours after an employee quits his or her employment, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting. Section 203 provides that if an employer willfully fails to pay wages owed in accordance with Sections 201 and 202, then the wages of the employee shall continue as a penalty from the due date, and at the same rate until paid, but the wages shall not continue for more than thirty (30) days.

31. Based on Defendants’ failure to pay overtime wages to Plaintiff and Class

1 Members, and as a matter of policy and practice, Defendants also fail to timely pay Plaintiff and
2 the Class Members all due wages. On information and belief, Defendants were advised by skilled
3 lawyers and knew, or should have known, of the mandates of the Labor Code as it relates to
4 Plaintiff's allegations. Because Defendants willfully fail to timely pay Plaintiff and Class
5 Members all wages due, Defendants are subject to applicable penalties pursuant to Sections 203
6 and 210, among other Labor Code provisions.

7 **THIRD CAUSE OF ACTION**

8 **VIOLATION OF LABOR CODE §§ 226.7 AND 512**

9 **(BY PLAINTIFF AND THE MEAL PERIOD AND MEAL PERIOD PREMIUM SUB-
10 CLASSES AGAINST ALL DEFENDANTS)**

11 32. Plaintiff realleges and incorporates by reference the preceding paragraphs as
12 though fully set for herein.

13 33. At all relevant times, Defendants failed in their affirmative obligation to ensure
14 that Plaintiff, and other class members, had the opportunity to take and were provided with off-
15 duty meal periods in accordance with the mandates of the California Labor Code and the
16 applicable IWC Wage Order. Plaintiff and Class Members were suffered and permitted to work
17 through legally required meal breaks and were denied the opportunity to take their full 30-minute
18 off-duty meal breaks. As such, Defendants are responsible for paying premium compensation for
19 missed meal periods pursuant to Labor Code §§ 226.7 and 512 and the applicable IWC Wage
20 Order. Specifically, Labor Code § 226.7(c) provides that "the employer shall pay the employee
21 one additional hour of pay at the employee's regular rate of compensation for each workday the
22 meal or rest or recovery period is not provided. Defendants failed to provide meal periods to
23 Plaintiff and Class Members within the first 5 hours of their shifts longer than 5 hours. Further,
24 whenever Plaintiff and Class Members were not provided with meal periods in compliance with
25 Labor Code §§ 226.7 and 512, Defendants failed to pay meal period premium wages to Plaintiff
26 and Class Members based on the regular rate of pay because Defendants failed to include all non-
27 discretionary remuneration into the regular rate of pay for purposes of paying meal period
28 premium wages, including without limitation, "RON Prem" wages. As a result, Plaintiff and
Class Members were not provided compliant meal breaks.

34. Plaintiff is informed and believe and based thereon alleges that Defendants willfully failed to provide meal periods in compliance with the law, including without limitation, including all remuneration, including non-discretionary remuneration, in the regular rate of pay for purposes of calculating meal period premium pay, as required by Labor Code §§ 226.7 and 512, and the applicable IWC Wage Order. Plaintiff further alleges that Plaintiff and similarly situated employees are owed wages for the meal period violations set forth above.

35. Based on Defendants' failure to pay an additional hour of wages to Plaintiff and Class Members for missed, late, or interrupted meal periods, and as a matter of policy and practice, Defendants also fail to timely pay Plaintiff and Class Members all due wages. On information and belief, Defendants were advised by skilled lawyers and knew, or should have known, of the mandates of the Labor Code as it relates to Plaintiff's allegations. Because Defendants willfully fail to timely pay Plaintiff and Class Members all wages due, Defendants are subject to applicable penalties pursuant to Sections 203 and 210, among other Labor Code provisions.

36. Such a pattern, practice and uniform administration of corporate policy as described herein is unlawful and creates an entitlement to recovery by the Plaintiff and Class Members identified herein, in a civil action, for the unpaid balance of the unpaid premium compensation pursuant to Labor Code §§ 201-204, 210, 226.7 and 512, and the applicable IWC Wage Order, including interest thereon, penalties, and costs of suit.

FOURTH CAUSE OF ACTION

VIOLATION OF LABOR CODE § 226.7

**(BY PLAINTIFF AND THE REST PERIOD AND REST PERIOD PREMIUM SUB-
CLASSES AGAINST ALL DEFENDANTS)**

37. Plaintiff realleges and incorporates by reference the preceding paragraphs as though fully set for herein.

38. At all relevant times, Defendants failed in their affirmative obligation to ensure that Plaintiff, and other class members, were authorized and permitted to take rest periods in accordance with the mandates of the California Labor Code and the applicable IWC Wage Order. Plaintiff and Class Members were suffered and permitted to work through legally required rest

1 breaks and were denied the opportunity to take their full 10-minute off-duty rest breaks for every
2 3.5 hours worked. As such, Defendants are responsible for paying premium compensation for
3 missed rest periods pursuant to Labor Code §§ 226.7 and 512 and the applicable IWC Wage
4 Order. Specifically, Labor Code § 226.7(c) provides that “the employer shall pay the employee
5 one additional hour of pay at the employee’s regular rate of compensation for each workday the
6 meal or rest or recovery period is not provided.” Defendants, as a matter of corporate policy and
7 procedure, regularly failed to pay the rest period premium at the correct rate of pay. Again,
8 Defendants failed to include all non-discretionary remuneration into the regular rate of pay for
9 purposes of paying rest period premium wages, including without limitation, “RON Prem” wages.

10 39. Plaintiff is informed and believe and based thereon alleges that Defendants
11 willfully failed to include all non-discretionary remuneration in the regular rate of pay for
12 purposes of calculating rest period premium pay, as required by Labor Code § 226.7, and the
13 applicable IWC Wage Order. Plaintiff further alleges that Plaintiff and similarly situated
14 employees are owed wages for the rest period violations set forth above.

15 40. Based on Defendants’ failure to pay an additional hour of wages to Plaintiff and
16 Class Members for missed, late, or interrupted rest periods, and as a matter of policy and practice,
17 Defendants also fail to timely pay Plaintiff and Class Members all due wages. On information and
18 belief, Defendants were advised by skilled lawyers and knew, or should have known, of the
19 mandates of the Labor Code as it relates to Plaintiff’s allegations. Because Defendants willfully
20 fail to timely pay Plaintiff and Class Members all wages due, Defendants are subject to applicable
21 penalties pursuant to Sections 203 and 210, among other Labor Code provisions.

22 41. Such a pattern, practice and uniform administration of corporate policy as
23 described herein is unlawful and creates an entitlement to recovery by the Plaintiff and Class
24 Members identified herein, in a civil action, for the unpaid balance of the unpaid premium
25 compensation pursuant to Labor Code §§ 201-204, 210, 226.7 and 512, and the applicable IWC
26 Wage Order, including interest thereon, penalties, and costs of suit.

27 //

28 //

//

1 **FIFTH CAUSE OF ACTION**

2 **UNFAIR OR UNLAWFUL BUSINESS PRACTICES**

3 **(BY PLAINTIFF, THE OVERTIME, MEAL AND REST PERIOD CLASSES AND ALL**
4 **SUBCLASSES AGAINST DEFENDANT)**

5 42. Plaintiff realleges and incorporates by reference the preceding paragraphs as
6 though fully set for herein.

7 43. Defendant has engaged and continue to engage in unfair and unlawful business
8 practices in California by practicing, employing and utilizing the employment practices outlined
9 above, include, to wit, by failing to all overtime and meal and rest period premium wages and
10 engaging in Unfair Business Practices in violation of the UCL, all in violation of the California
11 Labor Code and applicable IWC Wage Orders.

12 44. Defendant's utilization of such unfair and unlawful business practices constitutes
13 unfair, unlawful competition and provides an unfair advantage over Defendant's competitors.

14 45. Plaintiff seeks as an individual and on behalf of other members of the Class
15 similarly situated, full restitution of monies, as necessary and according to proof, to restore any
16 and all monies withheld, acquired and/or converted by the Defendants by means of the unfair
17 practices complained of herein. Plaintiff also seeks injunctive relief to enjoin the unfair business
18 practices alleged herein.

19 46. Plaintiff is informed and believes, and based thereon alleges, that at all times
20 herein mentioned Defendant has engaged in unlawful, deceptive and unfair business practices, as
21 proscribed by California Business and Professions Code § 17200, *et seq.*, including those set forth
22 herein above thereby depriving Plaintiff and other members of the Class the minimum working
23 condition standards and conditions due to them under the California laws and the applicable IWC
24 Wage Orders as specifically described therein.

25 **PRAYER FOR RELIEF**

26 WHEREFORE, Plaintiff prays for judgment on behalf of the State of California and all
27 similarly aggrieved employees against Defendants, jointly and severally, as follows:

28 1. Upon the First Cause of Action, for penalties pursuant to California Labor Code §
2699, and for costs and attorneys' fees;

2. Upon the Second Cause of Action, for unpaid wages, penalties, attorneys' fees and costs pursuant to Labor Code §§ 201-203, 218.5, 226, 510, and 1194;

3. Upon the Third Cause of Action, for unpaid wages, penalties, and costs pursuant to Labor Code §§ 201-203, 226, 226.7 and 512;

4. Upon the Fourth Cause of Action, for unpaid wages, penalties, and costs pursuant to Labor Code §§ 201-203, 226, and 226.7;

5. Upon the Fifth Cause of Action, for restitution in the form of unpaid wages;

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

DATED: May 15, 2024

DIVERSITY LAW GROUP, P.C.

By: 

Larry W. Lee
Simon L. Yang

Attorneys for Plaintiff

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8

STATE OF CALIFORNIA]
]ss.
COUNTY OF LOS ANGELES]

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 515 S. Figueroa Street, Suite 1250, Los Angeles, California 90071.

On June 10, 2024, I served the following document(s) described as: **FIRST AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT** on the interested parties in this action as follows:

Andrew J. Deddeh
Andrew.deddeh@ogletree.com
Tim Johnson
Tim.johnson@ogletreedeakins.com
Spencer C. Skeen
Spencer.skeen@ogletreedeakins.com
Brett R. Tengberg
Brett.tengberg@ogletreedeakins.com
Kristin R. Menchaca
Kristin.menchaca@ogletreedeakins.com
Alicia M. Martinez
Alicia.martinez@ogletreedeakins.com
Ogletree Deakins
4660 La Jolla Village Drive, Suite 900
San Diego, CA 92122

 X BY ELECTRONIC SERVICE: Based on a court order I caused the above-entitled document(s) to be served through the Odyssey eFileCA E-Filing System at the website www.california.tylerhost.net, addressed to all parties appearing on the electronic service list for the above-entitled case. The service transmission was reported as complete and a copy of the filing receipt/confirmation will be filed, deposited, or maintained with the original document(s) in this office.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on June 10, 2024, at Los Angeles, California.


Erika Mejia