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FILED
Superior Court of California
County of Los Angeles
10/19/2023

David W. Slayton, Executive Officer / Clerk of Court
By: M. Arellanes Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

FERNANDO CASTRO, individually, and
on behalf of other members of the general
public similarly situated, and as an aggrieved
employee pursuant to the Private Attorneys
General Act ("PAGA"),

Plaintiff,

vs.

FPI MANAGEMENT, INC., a California
corporation; and DOES 1 through 10,
inclusive,

Defendants.

Case No.: JCCP5050

[Coordinated Case: 23CV001189]

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

- (1) Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime);
- (2) Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 (Unpaid Minimum Wages);
- (3) Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 (Failure to Provide Meal Periods);
- (4) Violation of California Labor Code §§ 226.7, 516, and 1198 (Failure to Authorize and Permit Rest Periods);
- (5) Violation of California Labor Code §§ 226(a), 1174(d), and 1198 (Non-Compliant Wage Statements and Failure to Maintain Accurate Payroll Records);
- (6) Violation of California Labor Code §§ 201 and 202 (Wages Not Timely Paid Upon Termination);
- (7) Violation of California Labor Code § 204 (Failure to Timely Pay Wages During Employment);
- (8) Violation of California Labor Code § 2802 (Unreimbursed Business Expenses);
- (9) Civil Penalties for Violations of California

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Labor Code, Pursuant to PAGA, §§ 2698, *et seq.*;

- (10) Violation of California Business & Professions Code §§ 17200, *et seq.* (Unlawful Business Practices); and
- (11) Violation of California Business & Professions Code §§ 17200, *et seq.* (Unfair Business Practices)

Jury Trial Demanded

1 Plaintiff Fernando Castro, individually and on behalf of all other members of the public
2 similarly situated, and as an aggrieved employee and on behalf of all aggrieved employees,
3 alleges as follows:

4 JURISDICTION AND VENUE

5 1. This class action is brought pursuant to California Code of Civil Procedure
6 section 382 and California Labor Code sections 2698, *et seq.* (“PAGA”) to recover civil
7 penalties and any other available relief on behalf of Plaintiff, the State of California, and other
8 current and former employees who worked for Defendants in California as non-exempt, hourly
9 paid employees and received at least one wage statement and against whom one or more
10 violations of any provision in Division 2 Part 2 Chapter 1 of the Labor Code or any provision
11 regulating hours and days of work in the applicable Industrial Welfare Commission (“IWC”)
12 Wage Order were committed, as set forth in this complaint. The monetary damages, penalties,
13 and restitution sought by Plaintiff exceed the minimal jurisdiction limits of the Superior Court
14 and will be established according to proof at trial. This Court has jurisdiction over this action
15 pursuant to the California Constitution, Article VI, section 10. The statutes under which this
16 action is brought do not specify any other basis for jurisdiction. Plaintiff’s share of damages,
17 penalties, and other relief sought in this action does not exceed \$75,000.

18 2. This Court has jurisdiction over Defendants because Defendants are either
19 citizens of California, have sufficient minimum contacts in California, or otherwise
20 intentionally avail themselves of the California market so as to render the exercise of jurisdiction
21 over them by the California courts consistent with traditional notions of fair play and substantial
22 justice. There is no basis for federal diversity jurisdiction in this action because there is no
23 complete diversity, and this case falls within the statutory exceptions to “minimal diversity”
24 jurisdiction under the Class Action Fairness Act, 28 U.S.C. § 1332(d)(4). Upon information
25 and belief, two-thirds or more of the class members and Defendants are citizens of California
26 and/or (a) two-thirds of the class members and Defendants are citizens of California; (b) the
27 alleged wage and hour violations occurred in California; (c) significant relief is being sought
28 against Defendants whose violations of California wage and hour laws form a significant basis

1 for Plaintiff's claims; and (d) no other class action has been filed within the past three (3) years
2 on behalf of the same proposed class against Defendants asserting the same or similar factual
3 allegations.

4 3. Venue is proper in this Court because Defendants employ persons in this county,
5 and thus a substantial portion of the transactions and occurrences related to this action occurred
6 in this county. Venue is also proper in this Court because Defendants filed a petition to
7 coordinate this case with other cases in this Court, and this Court ordered this case coordinated
8 with Judicial Council Proceeding No. JCCP5050.

9 **THE PARTIES**

10 4. Plaintiff Fernando Castro is a resident of Hayward, in Alameda County,
11 California. Defendants employed Plaintiff as an hourly paid, non-exempt Maintenance
12 Supervisor from approximately October 2020 to February 2023. During his employment,
13 Plaintiff typically worked eight (8) hours or more per day and five (5) days or more per week.
14 Plaintiff's primary job duties included, without limitation, maintaining apartment units,
15 completing work orders, and repairing appliances or fixtures.

16 5. FPI MANAGEMENT, INC. was and is, upon information and belief, a California
17 corporation, and at all times hereinafter mentioned, an employer whose employees are engaged
18 throughout this county and the State of California.

19 6. Plaintiff is unaware of the true names or capacities of the Defendants sued herein
20 under the fictitious names DOES 1 through 10, but will seek leave of this Court to amend the
21 complaint and serve such fictitiously named Defendants once their names and capacities
22 become known.

23 7. Plaintiff is informed and believes, and thereon alleges, that DOES 1 through 10
24 were the partners, agents, owners, or managers of FPI MANAGEMENT, INC. at all relevant
25 times.

26 8. Plaintiff is informed and believes, and thereon alleges, that each and all of the
27 acts and omissions alleged herein was performed by, or is attributable to, FPI MANAGEMENT,
28 INC. and/or DOES 1 through 10 (collectively, "Defendants" or "FPI"), each acting as the agent,

1 employee, alter ego, and/or joint venturer of, or working in concert with, each of the other co-
2 Defendants and was acting within the course and scope of such agency, employment, joint
3 venture, or concerted activity with legal authority to act on the others' behalf. The acts of any
4 and all Defendants were in accordance with, and represent, the official policy of Defendants.

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

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

12 **GENERAL ALLEGATIONS**

13 11. Defendants provide third-party, multifamily property management services to
14 155,000 units in 700 communities across 21 states. Upon information and belief, Defendants
15 maintain a single, centralized Human Resources ("HR") department at their company
16 headquarters in Folsom, California, which is responsible for the recruiting and hiring of new
17 employees, and communicating and implementing Defendants' company-wide policies,
18 including timekeeping policies and meal and rest period policies, to employees throughout
19 California.

20 12. In particular, Plaintiff and class members, on information and belief, received
21 the same standardized documents and/or written policies. Upon information and belief, the
22 usage of standardized documents and/or written policies, including new-hire documents,
23 indicate that Defendants dictated policies at the corporate level and implemented them
24 company-wide, regardless of their employees' assigned locations or positions. Upon
25 information and belief, Defendants set forth uniform policies and procedures in several
26 documents provided at an employee's time of hire.

27 13. Upon information and belief, Defendants maintain a centralized Payroll
28 department at their company headquarters in Folsom, California, which processes payroll for

1 all non-exempt, hourly paid employees working for Defendants at their various locations and
2 jobsites in California, including Plaintiff and class members. Based upon information and
3 belief, Defendants issue the same formatted wage statements to all non-exempt, hourly paid
4 employees in California, irrespective of their work locations. Upon information and belief,
5 Defendants process payroll for departing employees in the same manner throughout the State
6 of California, regardless of the manner in which each employee's employment ends.

7 14. Defendants continue to employ non-exempt or hourly paid employees in
8 California.

9 15. Plaintiff is informed and believes, and thereon alleges, that at all times herein
10 mentioned, Defendants were advised by skilled lawyers and other professionals, employees and
11 advisors knowledgeable about California labor and wage law, employment and personnel
12 practices, and about the requirements of California law.

13 16. Plaintiff is informed and believes, and thereon alleges, that Plaintiff and class
14 members were not paid for all hours worked because all hours worked were not recorded.

15 17. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
16 should have known that Plaintiff and class members were entitled to receive certain wages for
17 overtime compensation and that they were not receiving certain wages for overtime
18 compensation.

19 18. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
20 should have known that Plaintiff and class members were entitled to receive at least minimum
21 wages for compensation and that they were not receiving at least minimum wages for work that
22 was required to be done off-the-clock. In violation of the California Labor Code, Plaintiff and
23 class members were not paid at least minimum wages for work done off-the-clock.

24 19. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
25 should have known that Plaintiff and class members were entitled to meal periods in accordance
26 with the California Labor Code and applicable IWC Wage Order or payment of one (1)
27 additional hour of pay at their regular rates of pay when they were not provided with timely,
28 uninterrupted, thirty (30) minute meal periods and that Plaintiff and class members were not

provided with all meal periods or payment of one (1) additional hour of pay at their regular rates of pay when they did not receive a timely, uninterrupted, thirty (30) minute meal period.

20. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should have known that Plaintiff and class members were entitled to rest periods in accordance with the California Labor Code and applicable IWC Wage Order or payment of one (1) additional hour of pay at their regular rates of pay when they were not authorized and permitted to take a compliant rest period and that Plaintiff and class members were not authorized and permitted to take compliant rest periods or provided with payment of one (1) additional hour of pay at their regular rates of pay when they were not authorized and permitted to take a compliant rest period.

21. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should have known that Plaintiff and class members were entitled to receive complete and accurate wage statements in accordance with California law. In violation of the California Labor Code, Plaintiff and class members were not provided complete and accurate wage statements.

22. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should have known that they had a duty to maintain accurate and complete payroll records in accordance with the California Labor Code and applicable IWC Wage Order, but willfully, knowingly, and intentionally failed to do so.

23. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should have known that Plaintiff and class members were entitled to timely payment of all wages earned upon termination of employment. In violation of the California Labor Code, Plaintiff and class members did not receive payment of all wages due, including, but not limited to, overtime wages, minimum wages, and/or meal and rest period premiums, within permissible time periods.

24. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should have known that Plaintiff and class members were entitled to timely payment of wages during their employment. In violation of the California Labor Code, Plaintiff and class members

1 did not receive payment of all wages, including, but not limited to, overtime wages, minimum
2 wages, and/or meal and rest period premiums, within permissible time periods.

3 25. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
4 should have known that Plaintiff and class members were entitled to receive full reimbursement
5 for all business-related expenses and costs they incurred during the course and scope of their
6 employment and that they did not receive full reimbursement of applicable business-related
7 expenses and costs incurred.

8 26. Plaintiff is informed and believes, and thereon alleges, that at all times herein
9 mentioned, Defendants knew or should have known that they had a duty to compensate Plaintiff
10 and class members for all hours worked, and that Defendants had the financial ability to pay
11 such compensation, but willfully, knowingly, and intentionally failed to do so, and falsely
12 represented to Plaintiff and class members that they were properly denied wages, all in order to
13 increase Defendants' profits.

14 **PAGA REPRESENTATIVE ALLEGATIONS**

15 27. At all times herein set forth, PAGA provides that any provision of law under the
16 Labor Code and applicable IWC Wage Order that provides for a civil penalty to be assessed and
17 collected by the LWDA for violations of the California Labor Code and applicable IWC Wage
18 Order may, as an alternative, be recovered by aggrieved employees in a civil action brought on
19 behalf of themselves and other current or former employees pursuant to procedures outlined in
20 California Labor Code section 2699.3.

21 28. PAGA defines an "aggrieved employee" in Labor Code section 2699(c) as "any
22 person who was employed by the alleged violator and against whom one or more of the alleged
23 violations was committed."

24 29. Plaintiff and other current and former employees of Defendants are "aggrieved
25 employees" as defined by Labor Code section 2699(c) in that they are all Defendants' current
26 or former employees and one or more of the alleged violations were committed against them.

27 30. Pursuant to California Labor Code sections 2699.3 and 2699.5, an aggrieved
28 employee, including Plaintiff, may pursue a civil action arising under PAGA after the following

requirements have been met:

- (a) The aggrieved employee or representative shall give written notice by online filing with the LWDA and by certified mail to the employer of the specific provisions of the California Labor Code alleged to have been violated, including the facts and theories to support the alleged violation.
- (b) An aggrieved employee's notice filed with the LWDA pursuant to 2699.3(a) and any employer response to that notice shall be accompanied by a filing fee of seventy-five dollars (\$75).
- (c) The LWDA shall notify the employer and the aggrieved employee or representative by certified mail that it does not intend to investigate the alleged violation ("LWDA Notice") within sixty (60) calendar days of the postmark date of the aggrieved employee's notice. Upon receipt of the LWDA Notice, or if no LWDA Notice is provided within sixty-five (65) calendar days of the postmark date of the aggrieved employee's notice, the aggrieved employee may commence a civil action pursuant to California Labor Code section 2699 to recover civil penalties.

31. Pursuant to California Labor Code section 2699.3(c), aggrieved employees, through Plaintiff, may pursue a civil action arising under PAGA for violations of any provision other than those listed in Section 2699.5 after the following requirements have been met:

- (a) The aggrieved employee or representative shall give written notice by online filing with the LWDA and by certified mail to the employer of the specific provisions of the California Labor Code alleged to have been violated (other than those listed in Section 2699.5), including the facts and theories to support the alleged violation.
- (b) An aggrieved employee's notice filed with the LWDA pursuant to 2699.3(c) and any employer response to that notice shall be accompanied by a filing fee of seventy-five dollars (\$75).
- (c) The employer may cure the alleged violation within thirty-three (33)

1 calendar days of the postmark date of the notice sent by the aggrieved
2 employee or representative. The employer shall give written notice
3 within that period of time by certified mail to the aggrieved employee or
4 representative and by online filing with the LWDA if the alleged violation
5 is cured, including a description of actions taken, and no civil action
6 pursuant to Section 2699 may commence. If the alleged violation is not
7 cured within the 33-day period, the aggrieved employee may commence
8 a civil action pursuant to Section 2699.

9 32. On June 8, 2023, Plaintiff provided written notice by online filing to the LWDA
10 and by Certified Mail to Defendants of the specific provisions of the California Labor Code
11 alleged to have been violated, including facts and theories to support the alleged violations, in
12 accordance with California Labor Code section 2699.3. Plaintiff's written notice was
13 accompanied with the applicable filing fee of seventy-five dollars (\$75). The LWDA PAGA
14 Administrator confirmed receipt of Plaintiff's written notice and assigned Plaintiff PAGA Case
15 Number LWDA-CM-960705-23. A true and correct copy of Plaintiff's written notice to the
16 LWDA and Defendants is attached hereto as "Exhibit 1."

17 33. As of the filing date of this complaint, over 65 days have passed since Plaintiff
18 sent the notice described above to the LWDA, and the LWDA has not responded that it intends
19 to investigate Plaintiff's claims and Defendants have not cured the violations.

20 34. Thus, Plaintiff has satisfied the administrative prerequisites under California
21 Labor Code section 2699.3(a) and 2699.3(c) to recover civil penalties against Defendants for
22 violations of California Labor Code sections 201, 202, 204, 226(a), 226.7, 510, 512(a), 516,
23 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, and 2802.

24 35. Labor Code section 558(a) provides "[a]ny employer or other person acting on
25 behalf of an employer who violates, or causes to be violated, a section of this chapter or any
26 provision regulating hours and days of work in any order of the Industrial Welfare Commission
27 shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for
28 each underpaid employee for each pay period for which the employee was underpaid. . . . (2)

1 For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for
2 each pay period for which the employee was underpaid. . . .” Labor Code section 558(c)
3 provides “[t]he civil penalties provided for in this section are in addition to any other civil or
4 criminal penalty provided by law.”

5 36. Defendants, at all times relevant to this complaint, were employers or persons
6 acting on behalf of an employer(s) who violated Plaintiff’s and other aggrieved employees’
7 rights by violating various sections of the California Labor Code as set forth above.

8 37. As set forth below, Defendants have violated numerous provisions of both the
9 Labor Code sections regulating hours and days of work as well as the applicable IWC Wage
10 Order.

11 38. Pursuant to PAGA, and in particular, California Labor Code sections 2699(a),
12 2699.3(a), 2699.3(c), and 2699.5, and section 558, Plaintiff, acting in the public interest as a
13 private attorney general, seeks assessment and collection of civil penalties for himself, all other
14 aggrieved employees, and the State of California against Defendants for violations of California
15 Labor Code sections 201, 202, 204, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194,
16 1197, 1197.1, 1198, and 2802.

17 **CLASS ACTION ALLEGATIONS**

18 39. Plaintiff brings this action on his own behalf, as well as on behalf of each and all
19 other persons similarly situated, and thus seeks class certification under California Code of Civil
20 Procedure section 382.

21 40. All claims alleged herein arise under California law for which Plaintiff seeks
22 relief authorized by California law.

23 41. Plaintiff’s proposed class consists of and is defined as follows:

24 All persons who worked for Defendants as non-exempt, hourly
25 paid employees in California, at any time from January 5, 2021,
until the date of trial (“Class”).

26 42. Plaintiff’s proposed subclass consists of and is defined as follows:

27 All persons who worked for Defendants as non-exempt, hourly
28 paid employees in California and who received at least one wage
statement within one (1) year prior to the filing of the initial

complaint until the date of trial (“Subclass”).

43. Members of the Class and Subclass are referred to herein as “class members.”

44. Plaintiff reserves the right to redefine the Class and Subclass and to add additional subclasses as appropriate based on further investigation, discovery, and specific theories of liability.

45. There are common questions of law and fact as to class members that predominate over questions affecting only individual members, including, but not limited to:

- (a) Whether Defendants required Plaintiff and class members to work over eight (8) hours per day, over twelve (12) hours per day, or over forty (40) hours per week and failed to pay all legally required overtime compensation to Plaintiff and class members;
- (b) Whether Defendants failed to pay Plaintiff and class members at least minimum wages for all hours worked;
- (c) Whether Defendants failed to provide Plaintiff and class members with meal periods;
- (d) Whether Defendants failed to authorize and permit Plaintiff and class members to take rest periods;
- (e) Whether Defendants provided Plaintiff and class members with complete and accurate wage statements as required by California Labor Code section 226(a);
- (f) Whether Defendants maintained accurate payroll records as required by California Labor Code section 1174(d);
- (g) Whether Defendants failed to pay earned overtime wages, minimum wages, and/or meal and rest period premiums due to Plaintiff and class members upon their discharge;
- (h) Whether Defendants failed to timely pay overtime wages, minimum wages, and/or meal and rest period premiums due to Plaintiff and class members during their employment;

- 1 (i) Whether Defendants failed to reimburse Plaintiff and class members for
2 necessary and required business-related expenditures and/or losses
3 incurred by them in the scope of their employment;
4 (j) Whether Defendants engaged in unlawful and unfair business practices in
5 violation of California Business & Professions Code sections 17200, *et*
6 *seq.*; and
7 (k) The appropriate amount of damages, restitution, or monetary penalties
8 resulting from Defendants' violations of California law.

9 46. There is a well-defined community of interest in the litigation and the class
10 members are readily ascertainable:

- 11 (a) Numerosity: The class members are so numerous that joinder of all
12 members would be unfeasible and impractical. The membership of the
13 entire class is unknown to Plaintiff at this time; however, the class is
14 estimated to be greater than one hundred (100) individuals and the
15 identity of such membership is readily ascertainable by inspection of
16 Defendants' employment records.
17 (b) Typicality: Plaintiff is qualified to, and will, fairly and adequately protect
18 the interests of each class member with whom he has a well-defined
19 community of interest, and Plaintiff's claims (or defenses, if any) are
20 typical of all class members as demonstrated herein.
21 (c) Adequacy: Plaintiff is qualified to, and will, fairly and adequately protect
22 the interests of each class member with whom he has a well-defined
23 community of interest and typicality of claims, as demonstrated herein.
24 Plaintiff acknowledges that he has an obligation to make known to the
25 Court any relationship, conflicts or differences with any class member.
26 Plaintiff's attorneys, the proposed class counsel, are versed in the rules
27 governing class action discovery, certification, and settlement. Plaintiff
28 has incurred, and throughout the duration of this action, will continue to

1 incur costs and attorneys' fees that have been, are, and will be necessarily
2 expended for the prosecution of this action for the substantial benefit of
3 each class member.

4 (d) Superiority: The nature of this action makes the use of class action
5 adjudication superior to other methods. A class action will achieve
6 economies of time, effort, and expense as compared with separate
7 lawsuits, and will avoid inconsistent outcomes because the same issues
8 can be adjudicated in the same manner and at the same time for the entire
9 class.

10 (e) Public Policy Considerations: Employers in the State of California
11 violate employment and labor laws every day. Current employees are
12 often afraid to assert their rights out of fear of direct or indirect retaliation.
13 Former employees are fearful of bringing actions because they believe
14 their former employers might damage their future endeavors through
15 negative references and/or other means. Class actions provide the class
16 members who are not named in the complaint with a type of anonymity
17 that allows for the vindication of their rights while simultaneously
18 protecting their privacy.

19 **FIRST CAUSE OF ACTION**

20 **Violation of California Labor Code §§ 510 and 1198—Unpaid Overtime**

21 **(Against all Defendants)**

22 47. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
23 and every allegation set forth above.

24 48. Labor Code section 1198 makes it illegal to employ an employee under
25 conditions of labor that are prohibited by the applicable IWC Wage Order. California Labor
26 Code section 1198 requires that "... the standard conditions of labor fixed by the commission
27 shall be the ... standard conditions of labor for employees. The employment of any employee
28 ... under conditions of labor prohibited by the order is unlawful."

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

5 50. Specifically, the applicable IWC Wage Order provides that Defendants are and
6 were required to pay Plaintiff and class members working more than eight (8) hours in a day or
7 more than forty (40) hours in a workweek, at the rate of time and one-half (1 ½) for all hours
8 worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek.

9 51. The applicable IWC Wage Order further provides that Defendants are and were
10 required to pay Plaintiff and class members working more than twelve (12) hours in a day,
11 overtime compensation at a rate of two (2) times their regular rate of pay. An employee's
12 regular rate of pay includes all remuneration for employment paid to, or on behalf of, the
13 employee, including nondiscretionary bonuses and incentive pay.

14 52. California Labor Code section 510 codifies the right to overtime compensation
15 at one and one-half (1 ½) times the regular rate of pay for hours worked in excess of eight (8)
16 hours in a day or forty (40) hours in a week or for the first eight (8) hours worked on the seventh
17 (7th) day of work, and to overtime compensation at twice the employee's regular rate of pay for
18 hours worked in excess of twelve (12) hours in a day or in excess of eight (8) hours in a day on
19 the seventh (7th) day of work.

20 53. During the relevant time period, Defendants willfully failed to pay all overtime
21 wages owed to Plaintiff and class members. During the relevant time period, Plaintiff and class
22 members were not paid overtime premiums for all of the hours they worked in excess of eight
23 (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty (40) hours
24 in a week, because all hours worked were not recorded.

25 54. First, Defendants had, and continue to have, a company-wide policy and/or
26 practice requiring Plaintiff and class members to perform various work-related tasks while off-
27 the-clock before, after, and outside of their scheduled shifts. For example, Defendants required
28 Plaintiff to undergo a daily temperature check before permitting him to clock in for his shift,

1 which took approximately five (5) minutes per instance. Additionally, Defendants required
2 Plaintiff and class members to respond to work-related communications after and outside their
3 scheduled shifts. For example, Defendants' management contacted Plaintiff on his personal
4 cellular phone four (4) times a week for 10 minutes at a time in order to discuss apartment
5 maintenance, work orders, and other work-related tasks while he was off-the-clock, but did not
6 compensate him for this time. Thus, Defendants failed to track all of the time that employees
7 spent performing work-related tasks outside of their scheduled shifts, and Plaintiff and class
8 members received no compensation for this time.

9 55. Second, Defendants had, and continue to have, company-wide policies and/or
10 practices of understaffing their locations, including adopting a single-staffing model for some
11 of their positions, thereby failing to provide adequate meal period coverage to permit those
12 employees to take compliant meal periods. As a result of this lack of meal period coverage,
13 Plaintiff and class members were not always afforded uninterrupted 30-minute meal periods
14 during shifts when they were entitled to receive a meal period. Defendants also had a practice
15 of failing to schedule meal periods, which further caused Plaintiff and class members to not be
16 relieved of their duties for compliant meal periods. For example, Plaintiff worked through his
17 meal periods approximately three (3) times per week to complete appliance repairs and to meet
18 with vendors who would sometimes arrive during his meal periods. As a further example,
19 Defendants' supervisors interrupted Plaintiff's meal periods with phone calls and text messages
20 asking him to complete work orders or other maintenance duties. Defendants did not
21 compensate Plaintiff and class members for the time they spent working off the clock during
22 unpaid meal periods.

23 56. Furthermore, on information and belief, because Defendants frowned upon
24 employees accruing meal period penalties, Defendants adjusted Plaintiff's and class members'
25 time records to reflect compliant meal periods, even when they did not receive a compliant meal
26 period, in order to strictly limit meal penalties that Defendants would otherwise owe. Thus,
27 Plaintiff and class members performed work during meal periods for which they were not paid.

28 57. Defendants knew or should have known that, as a result of these company-wide

1 practices and/or policies, Plaintiff and class members were performing their assigned duties off-
2 the-clock and during meal periods, and were suffered or permitted to perform work for which
3 they were not paid. Because Plaintiff and class members worked shifts of eight (8) hours a day
4 or more, or forty (40) hours a week or more, some of this off-the-clock work qualified for
5 overtime premium pay. Therefore, Plaintiff and class members were not paid overtime wages
6 for all of the overtime hours they actually worked.

7 58. Defendants' failure to pay Plaintiff and class members the balance of overtime
8 compensation, as required by California law, violates the provisions of California Labor Code
9 sections 510 and 1198. Pursuant to California Labor Code section 1194, Plaintiff and class
10 members are entitled to recover from Defendants their unpaid overtime compensation, as well
11 as interest, costs, and attorneys' fees.

12 **SECOND CAUSE OF ACTION**

13 **Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198—Unpaid** 14 **Minimum Wages** 15 **(Against all Defendants)**

16 59. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
17 and every allegation set forth above.

18 60. At all relevant times, California Labor Code sections 1182.12, 1194, 1197,
19 1197.1, and 1198 provide that the minimum wage for employees fixed by the IWC is the
20 minimum wage to be paid to employees, and the payment of a wage less than the minimum so
21 fixed is unlawful. Compensable work time is defined in IWC Wage Order No. 5-2001 as "the
22 time during which an employee is subject to the control of an employer, and includes all the
23 time the employee is suffered or permitted to work, whether or not required to do so." Cal.
24 Code Regs. Tit. 8, § 11050(2)(K) (defining "Hours Worked").

25 61. As set forth above, during the relevant time period, Defendants had a company-
26 wide policy and/or practice requiring Plaintiff and class members to perform work-related tasks
27 while off-the-clock before, after, and outside of their shifts, including undergoing mandatory
28 temperature checks and communicating with management to discuss apartment maintenance,

1 work orders, and other work-related tasks. Because Defendants failed to track this time Plaintiff
2 and class members spent working off-the-clock, Plaintiff and class members received no
3 compensation for this time.

4 62. Further, as set forth above, due to Defendants' policies and/or practices of
5 understaffing and/or single-staffing, and subsequent lack of meal coverage, Plaintiff and class
6 members were forced to work through meal periods, have their meal periods interrupted, and/or
7 were otherwise not relieved of all duties during meal periods. Also, as stated, Defendants had
8 a practice of failing to schedule meal periods, which further caused Plaintiff and class members
9 to not be relieved of their duties for compliant meal periods. Moreover, as stated, on information
10 and belief, in order to limit meal penalties that Defendants would otherwise owe, Defendants
11 adjusted employee time records to reflect compliant meal periods. Thus, Defendants
12 systematically failed to pay Plaintiff and class members for actual hours worked during unpaid
13 meal periods because these hours were not always correctly recorded.

14 63. Thus, Defendants did not pay minimum wages for all hours worked by Plaintiff
15 and class members. To the extent that these off-the-clock hours did not qualify for overtime
16 premium payment, Defendants did not pay at least minimum wages for those hours worked off-
17 the-clock in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198.

18 64. As result, Defendants regularly failed to pay at least minimum wages to Plaintiff
19 and class members for all of the hours they worked in violation of California Labor Code
20 sections 1182.12, 1194, 1197, 1197.1, and 1198. Pursuant to California Labor Code section
21 1194.2, Plaintiff and class members are entitled to recover from Defendants liquidated damages
22 in an amount equal to the wages unlawfully unpaid and interest thereon.

23 **THIRD CAUSE OF ACTION**

24 **Violations of California Labor Code §§ 226.7, 512(a), 516, and 1198—Meal Period**

25 **Violations**

26 **(Against all Defendants)**

27 65. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
28 and every allegation set forth above.

1 66. At all relevant times herein set forth, California Labor Code section 512(a)
2 provides that an employer may not require, cause, or permit an employee to work for a period
3 of more than five (5) hours per day without providing the employee with a meal period of not
4 less than thirty (30) minutes, except that if the total work period per day of the employee is not
5 more than six (6) hours, the meal period may be waived by mutual consent of both the employer
6 and the employee. Under California law, first meal periods must start after no more than five
7 hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (2012).

8 67. At all relevant times herein set forth, California Labor Code sections 226.7,
9 512(a), 516, and 1198 provide that no employer shall require an employee to work during any
10 meal period mandated by an applicable order of the IWC.

11 68. At all relevant times herein set forth, Labor Code sections 226.7 and 512(a) and
12 the applicable IWC Wage Order also require employers to provide a second meal period of not
13 less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an
14 employee one (1) additional hour of pay at the employee's regular rate, except that if the total
15 hours worked is no more than twelve (12) hours, the second meal period may be waived by
16 mutual consent of the employer and the employee only if the first meal period was not waived.

17 69. Under California law, an employer cannot evade meal period requirements via
18 the use of "on-duty" meal agreements because it understaffs its locations. *Abdullah v. U.S. Sec.*
19 *Assocs.*, 731 F.3d 952, 963 (9th Cir. Cal. 2013). In addition, an employee must be provided
20 with the opportunity to eat his or her meal while performing the duties required and any on-duty
21 meal period must, like any off-duty meal period, be at least 30 minutes long. *L'Chaim House,*
22 *Inc., et al. v. Division of Labor Standards Enforcement*, 38 Cal. App. 5th 141 (2019).

23 70. During the relevant time period, Defendants had, and continue to have, a
24 company-wide policy and/or practice of understaffing their locations by adopting a single-
25 staffing model for certain positions, resulting in a failure to provide Plaintiff and class members
26 with adequate meal period coverage. For example, Plaintiff was the only Maintenance
27 Supervisor at his location and Defendants' management failed to provide adequate coverage for
28 him. Plaintiff would be required to complete time-sensitive work orders prior to taking a meal

1 period and meet with appliance vendors who could arrive at any time, including during his meal
2 periods. As a result of Defendants' policy of understaffing and/or single-staffing, combined
3 with a failure to schedule meal periods, Plaintiff and class members were prevented from taking
4 all timely, uninterrupted meal periods to which they were entitled.

5 71. Defendants' practices and policies prevented Plaintiff and class members from
6 taking all compliant meal periods to which they were entitled. As a result, Plaintiff and class
7 members had to work through all or part of their meal periods, had their meal periods
8 interrupted, and/or had to wait extended periods of time before taking meal periods. For
9 example, Plaintiff took his meal periods late, after having worked in excess of five (5) hours
10 into his shift twice a week, in order to adhere to Defendants' policy requiring him to complete
11 certain work orders prior to taking his meal periods. As a further example, approximately three
12 (3) times per week, Plaintiff missed his meal periods in order to complete his assigned work
13 duties, including repairing appliances and preparing apartments for new tenants. In addition,
14 Plaintiff would frequently have his meal periods interrupted and cut short to respond to phone
15 calls and text messages from management wanting to discuss work orders.

16 72. Moreover, as stated, on information and belief, because Defendants frowned
17 upon employees accruing meal period penalties, Defendants' management would adjust
18 Plaintiff's and class members' time records to reflect compliant meal periods, regardless of
19 whether they had received a compliant meal period or not, in order to strictly limit meal penalties
20 that would need to be paid by Defendants. To the extent Defendants required Plaintiff and class
21 members to sign written "on-duty" meal period agreements, such agreements are invalid as the
22 nature of the work performed by Plaintiff and class members and do not necessitate an "on-
23 duty" meal period under California law. As a result of these policies, Plaintiff and class
24 members were not provided timely, uninterrupted 30-minute meal periods during their shifts in
25 which they were entitled to receive a meal period. Plaintiff and class members did not sign
26 valid meal period waivers on days that they were entitled to meal periods and were not relieved
27 of all duties.

28 73. At all times mentioned herein, Defendants knew or should have known that as a

1 result of their policies, Plaintiff and class members were not actually relieved of all duties to
2 take timely, uninterrupted meal periods. Defendants further knew or should have known that
3 they did not pay Plaintiff and class members meal period premiums when meal periods were
4 late, missed, shortened, or interrupted.

5 74. Furthermore, Defendants engaged in a company-wide practice and/or policy of
6 not paying all meal period premiums owed when compliant meal periods are not provided.
7 Because of this practice and/or policy, Plaintiff and class members have not received premium
8 pay for all missed, late, and interrupted meal periods.

9 75. Defendants' conduct violates the applicable IWC Wage Order, and California
10 Labor Code sections 226.7, 512(a), 516, and 1198. Plaintiff and class members are therefore
11 entitled to recover from Defendants one (1) additional hour of pay at the employee's regular
12 rate of compensation for each work day that the meal period was not provided.

13 **FOURTH CAUSE OF ACTION**

14 **Violation of California Labor Code §§ 226.7, 516, and 1198—Rest Period Violations** 15 **(Against all Defendants)**

16 76. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
17 and every allegation set forth above.

18 77. At all relevant times herein set forth, the applicable IWC Wage Order and
19 California Labor Code sections 226.7, 516, and 1198 were applicable to Plaintiff's and class
20 members' employment by Defendants.

21 78. At all relevant times, the applicable IWC Wage Order provides that "[e]very
22 employer shall authorize and permit all employees to take rest periods, which insofar as
23 practicable shall be in the middle of each work period" and that the "rest period time shall be
24 based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4)
25 hours or major fraction thereof" unless the total daily work time is less than three and one-half
26 (3 ½) hours.

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

1 order of the California IWC. To comply with its obligation to authorize and permit rest periods
2 under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer
3 must “relinquish any control over how employees spend their break time, and relieve their
4 employees of all duties—including the obligation that an employee remain on call. A rest
5 period, in short, must be a period of rest.” *Augustus v. ABM Security Services, Inc.*, 2 Cal. 5th
6 257, 273 (2016). Pursuant to the applicable IWC Wage Order and California Labor Code
7 section 226.7(c), Plaintiff and class members are entitled to recover from Defendants one (1)
8 additional hour of pay at their regular rates of pay for each work day that a required rest period
9 was not authorized and permitted.

10 80. During the relevant time period, Defendants regularly failed to authorize and
11 permit Plaintiff and class members to take a ten (10) minute rest period per each four (4) hour
12 period worked or major fraction thereof. As with meal periods, Defendants’ company-wide
13 practices, including understaffing and/or single-staffing, prevented Plaintiff and class members
14 from being relieved of all duty to take rest periods. Defendants also failed to schedule rest
15 periods, which, coupled with Defendants’ failure to provide adequate rest period coverage,
16 further led to Plaintiff and class members not being authorized and permitted to take rest
17 periods.

18 81. Furthermore, upon information and belief, during the relevant time period,
19 Defendants maintained a company-wide on-premises rest period policy, which effectively
20 required that Plaintiff and class members remain on Defendants’ premises during their rest
21 periods. Because Plaintiff and class members were restricted from leaving the premises during
22 rest periods, they were denied the ability to use their rest periods freely for their own purposes,
23 such as running personal errands. Thus, Defendants effectively maintained control over
24 Plaintiff and class members during rest periods.

25 82. As a result of Defendants’ practices and policies, Plaintiff and class members
26 worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without
27 receiving all uninterrupted 10-minute rest periods to which they were entitled. For example,
28 Plaintiff regularly had to forego his rest periods due to the lack of coverage and would have the

1 few rest periods he was able to take interrupted due to Defendants' requirement that he respond
2 to phone calls and text messages regarding work orders from management.

3 83. Defendants have also engaged in a systematic, company-wide practice and/or
4 policy of not paying rest period premiums owed when rest periods are not authorized and
5 permitted. Because of this practice and/or policy, Plaintiff and class members have not received
6 premium pay for all missed rest periods.

7 84. Defendants' conduct violates the applicable IWC Wage Order and California
8 Labor Code sections 226.7, 516, and 1198. Plaintiff and class members are therefore entitled
9 to recover from Defendants one (1) additional hour of pay at the employee's regular rate of
10 compensation for each work day that a compliant rest period was not authorized and permitted.

11 **FIFTH CAUSE OF ACTION**

12 **Violation of California Labor Code §§ 226(a), 1174(d), and 1198—Non-Compliant Wage**

13 **Statements and Failure to Maintain Accurate Payroll Records**

14 **(Against all Defendants)**

15 85. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
16 and every allegation set forth above.

17 86. At all relevant times herein set forth, California Labor Code section 226(a)
18 provides that every employer shall furnish each of his or her employees an accurate and
19 complete itemized wage statement in writing, including, but not limited to, the name and address
20 of the legal entity that is the employer, the inclusive dates of the pay period, total hours worked,
21 and all applicable rates of pay.

22 87. At all relevant times, Defendants have knowingly and intentionally provided
23 Plaintiff and Subclass members with uniform, incomplete, and inaccurate wage statements. For
24 example, Defendants issued uniform wage statements to Plaintiff and Subclass members that
25 fail to correctly list: gross wages earned; total hours worked; net wages earned; and all
26 applicable hourly rates in effect during the pay period, including rates of pay for overtime wages
27 and/or meal and rest period premiums, and the corresponding number of hours worked at each
28 hourly rate. Specifically, Defendants violated sections 226(a)(1), 226(a)(2), 226(a)(5), and

1 226(a)(9).

2 88. Because Defendants did not accurately record the time Plaintiff and Subclass
3 members spent working off-the-clock and deducted time from their records for meal periods
4 that were interrupted and/or missed (and therefore time for which they should have been paid),
5 Defendants did not list the correct amount of gross wages and net wages earned by Plaintiff and
6 Subclass members in compliance with section 226(a)(1) and section 226(a)(5), respectively.
7 For the same reason, Defendants failed to accurately list the total number of hours worked by
8 Plaintiff and Subclass members, in violation of section 226(a)(2), and failed to list the applicable
9 hourly rates of pay in effect during the pay period and the corresponding accurate number of
10 hours worked at each hourly rate, in violation of section 226(a)(9).

11 89. The wage statement deficiencies also include, among other things, failing to list
12 the number of piece-rate units earned and any applicable piece rate if the employee is paid on a
13 piece-rate basis; failing to list all deductions; failing to list the inclusive dates of the period for
14 which employees were paid; failing to list the name of the employee and only the last four digits
15 of his or her social security number or an employee identification number other than a social
16 security number; failing to list the name and address of the legal entity that is the employer;
17 and/or failing to state all hours worked as a result of not recording or stating hours worked off-
18 the-clock.

19 90. California Labor Code section 1174(d) provides that “[e]very person employing
20 labor in this state shall . . . [k]eep a record showing the names and addresses of all employees
21 employed and the ages of all minors” and “[k]eep, at a central location in the state or at the
22 plants or establishments at which employees are employed, payroll records showing the hours
23 worked daily by and the wages paid to, and the number of piece-rate units earned by and any
24 applicable piece rate paid to, employees employed at the respective plants or
25 establishments. . . .” At all relevant times, and in violation of Labor Code section 1174(d),
26 Defendants willfully failed to maintain accurate payroll records for Plaintiff and Subclass
27 members showing the daily hours they worked and the wages paid thereto as a result of failing
28 to record the off-the-clock hours that they worked.

91. California Labor Code section 1198 provides that the maximum hours of work and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the applicable IWC Wage Order. Section 1198 further provides that “[t]he employment of any employees for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.” Pursuant to the applicable IWC Wage Order, employers are required to keep accurate time records showing when the employee begins and ends each work period. During the relevant time period, Defendants engaged in company-wide practices and/or policies of failing to record actual hours worked (including falsifying time records by recording that compliant meal periods were taken regardless of if or when meal periods were actually taken), and thereby failed to keep accurate records of work period and meal period start and stop times for Plaintiff and Subclass members, in violation of section 1198.

92. Plaintiff and Subclass members are entitled to recover from Defendants the greater of their actual damages caused by Defendants' failure to comply with California Labor Code section 226(a), or an aggregate penalty not exceeding four thousand dollars (\$4,000) per employee.

SIXTH CAUSE OF ACTION

Violation of California Labor Code §§ 201 and 202—Wages Not Timely Paid Upon Termination
(Against all Defendants)

93. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every allegation set forth above.

94. This cause of action is dependent upon, and wholly derivative of, the overtime wages, minimum wages, and/or meal and rest period premiums that were not timely paid to Plaintiff and those class members no longer employed by Defendants upon their termination.

95. At all times relevant herein set forth, Labor Code sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72)

1 hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his
2 or her intention to quit, in which case the employee is entitled to his or her wages at the time of
3 quitting.

4 96. Defendants willfully failed to pay Plaintiff and class members who are no longer
5 employed by Defendants the earned and unpaid wages set forth above, including but not limited
6 to, overtime wages, minimum wages, and/or meal and rest period premiums, either at the time
7 of discharge, or within seventy-two (72) hours of their leaving Defendants' employ.

8 97. Defendants' failure to pay Plaintiff and class members who are no longer
9 employed by Defendants their wages earned and unpaid at the time of discharge, or within
10 seventy-two (72) hours of their leaving Defendants' employ, violates Labor Code sections 201
11 and 202. Plaintiff and class members are therefore entitled to recover from Defendants the
12 statutory penalty wages for each day they were not paid, at their regular rate of pay, up to a
13 thirty (30) day maximum pursuant to California Labor Code section 203.

14 **SEVENTH CAUSE OF ACTION**

15 **Violation of California Labor Code § 204—Failure to Timely Pay Wages During** 16 **Employment** 17 **(Against all Defendants)**

18 98. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
19 and every allegation set forth above.

20 99. This cause of action is dependent upon, and wholly derivative of, the overtime
21 wages, minimum wages, and/or meal and rest period premiums that were not timely paid to
22 Plaintiff and class members during their employment.

23 100. At all times relevant herein set forth, Labor Code section 204 provides that all
24 wages earned by any person in any employment between the first (1st) and the fifteenth (15th)
25 days, inclusive, of any calendar month, other than those wages due upon termination of an
26 employee, are due and payable between the sixteenth (16th) and the twenty-sixth (26th) day of
27 the month during which the labor was performed.

28 101. At all times relevant herein, Labor Code section 204 provides that all wages

1 earned by any person in any employment between the sixteenth (16th) and the last day,
2 inclusive, of any calendar month, other than those wages due upon termination of an employee,
3 are due and payable between the first (1st) and the tenth (10th) day of the following month.

4 102. At all times relevant herein, Labor Code section 204 provides that all wages
5 earned for labor in excess of the normal work period shall be paid no later than the payday for
6 the next regular payroll period. Alternatively, at all times relevant herein, Labor Code section
7 204 provides that the requirements of this section are deemed satisfied by the payment of wages
8 for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7)
9 calendar days following the close of the payroll period.

10 103. During the relevant time period, Defendants willfully failed to pay Plaintiff and
11 class members all wages due including, but not limited to, overtime wages, minimum wages,
12 and/or meal and rest period premiums, within the time periods specified by California Labor
13 Code section 204.

14 104. Defendants' failure to timely pay Plaintiff and class members all wages due
15 violates Labor Code section 204. Plaintiff and class members are therefore entitled to recover
16 from Defendants the statutory penalty wages pursuant to California Labor Code section 210.

17 **EIGHTH CAUSE OF ACTION**

18 **Violation of California Labor Code § 2802—Unpaid Business-Related Expenses** 19 **(Against all Defendants)**

20 105. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
21 and every allegation set forth above.

22 106. At all times herein set forth, California Labor Code section 2802 provides that
23 an employer must reimburse employees for all necessary expenditures and losses incurred by
24 the employee in the performance of his or her job. The purpose of Labor Code section 2802 is
25 to prevent employers from passing off their cost of doing business and operating expenses on
26 to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144
27 (2014). The applicable wage order, IWC Wage Order No. 5-2001, provides that: "[w]hen tools
28 or equipment are required by the employer or are necessary to the performance of a job, such

1 tools and equipment shall be provided and maintained by the employer, except that an employee
2 whose wages are at least two (2) times the minimum wage provided herein may be required to
3 provide and maintain hand tools and equipment customarily required by the trade or craft.”
4 IWC Wage Order No. 5-2001 further provides that: “[w]hen uniforms are required by the
5 employer to be worn by the employee as a condition of employment, such uniforms shall be
6 provided and maintained by the employer.”

7 107. During the relevant time period, Defendants had a company-wide policy of
8 requiring Plaintiff and class members to utilize their own personal vehicles or obtain alternate
9 transportation to carry out company business, but failed to reimburse them for all costs of travel,
10 including mileage. For example, Plaintiff and class members were required to drive to various
11 locations to perform maintenance on an as-needed basis. Although Defendants required
12 Plaintiff and class members to utilize their own vehicles or obtain alternate transportation to
13 carry out their work-related responsibilities, Defendants did not reimburse them for their travel
14 expenses.

15 108. Additionally, during the relevant time period, Defendants had a company-wide
16 policy of requiring Plaintiff and class members to follow a “Dress Code Policy,” in order to
17 comply with Defendants’ “professional image” requirement. Plaintiff and class members were
18 required to report to work in clean and presentable uniforms bearing the company logo. Due to
19 the nature of the work they performed, including maintenance or repair work, Plaintiff’s and
20 class members’ uniform items would become stained with grease, soiled, and/or acquire an
21 unpleasant odor such that they were unable to mix these clothes in with other laundry. As a
22 result, Plaintiff had to wash his uniform items separately from his regular clothing, thus
23 incurring additional laundry expenses for the upkeep of his uniforms. Thus, Defendants failed
24 to maintain uniforms they required Plaintiff and class members to wear during their shifts and
25 forced them to incur the cost of maintaining employee uniforms.

26 109. Defendants could have provided Plaintiff and class members with the actual
27 equipment for use on the job, such as company vehicles and access to laundering services. Or,
28 Defendants could have reimbursed employees for the costs of mileage, travel expenses, and

1 laundering expenses or provided a uniform maintenance allowance. Instead, Defendants passed
2 these operating costs off onto Plaintiff and class members.

3 110. Defendants' company-wide policy and/or practice of passing on their operating
4 costs to Plaintiff and class members violates California Labor Code section 2802. Defendants
5 have intentionally and willfully failed to reimburse Plaintiff and class members for necessary
6 business-related expenses and costs.

7 111. Plaintiff and class members are entitled to recover from Defendants their
8 business-related expenses incurred during the course and scope of their employment, plus
9 interest.

10 **NINTH CAUSE OF ACTION**

11 **For Civil Penalties Pursuant to California Labor Code §§ 2698, *et seq.***

12 **(Against all Defendants)**

13 112. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
14 and every allegation set forth above.

15 113. California Labor Code §§ 2698, *et seq.* ("PAGA") permits Plaintiff to recover
16 civil penalties for the violation(s) of the Labor Code sections enumerated in Labor Code section
17 2699.5. Section 2699.5 enumerates Labor Code sections 201, 202, 204, 226(a), 226.7, 510,
18 512(a), 1174(d), 1194, 1197, 1197.1, 1198, and 2802. Labor Code section 2699.3(c) permits
19 aggrieved employees, including Plaintiff, to recover civil penalties for violations of those Labor
20 Code sections not found in section 2699.5, including sections 516 and 1182.12.

21 114. Defendants' conduct, as alleged herein, violates numerous sections of the
22 California Labor Code, including, but not limited to, the following:

- 23 (a) Violation of Labor Code sections 510 and 1198, and the applicable IWC
24 Wage Order for Defendants' failure to compensate Plaintiff and other
25 aggrieved employees with all required overtime pay, as alleged herein;
- 26 (b) Violation of Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198,
27 and the applicable IWC Wage Order for Defendants' failure to
28 compensate Plaintiff and other aggrieved employees with at least

1 minimum wages for all hours worked, as alleged herein;

2 (c) Violation of Labor Code sections 226.7, 512(a), 516, and 1198, and the
3 applicable IWC Wage Order for Defendants' failure to provide Plaintiff
4 and other aggrieved employees with meal periods, as alleged herein;

5 (d) Violation of Labor Code sections 226.7, 516, and 1198, and the applicable
6 IWC Wage Order for Defendants' failure to authorize and permit Plaintiff
7 and other aggrieved employees to take rest periods, as alleged herein;

8 (e) Violation of Labor Code sections 226(a) and 1198, and the applicable
9 IWC Wage Order for failure to provide accurate and complete wage
10 statements to Plaintiff and other aggrieved employees, as alleged herein;

11 (f) Violation of Labor Code sections 1174(d) and 1198, and the applicable
12 IWC Wage Order for failure to maintain payroll records, as alleged
13 herein;

14 (g) Violation of Labor Code sections 201 and 202 for failure to pay all earned
15 wages upon termination, as alleged herein;

16 (h) Violation of Labor Code section 204 for failure to pay all earned wages
17 during employment, as alleged herein; and

18 (i) Violation of Labor Code section 2802 for failure to reimburse Plaintiff
19 and other aggrieved employees for all business expenses necessarily
20 incurred, as alleged herein.

21 115. Therefore, Plaintiff and other aggrieved employees are entitled to recover civil
22 penalties pursuant to Labor Code sections 2699(a), (f), and (g).

23 **TENTH CAUSE OF ACTION**

24 **Violation of California Business & Professions Code §§ 17200, *et seq.* –**

25 **Unlawful Business Practices**

26 **(Against all Defendants)**

27 116. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
28 and every allegation set forth above.

117. Defendants are “persons” as defined by California Business & Professions Code section 17201, as they are corporations, firms, partnerships, joint stock companies, and/or associations.

118. Defendants’ conduct, as alleged herein, has been, and continues to be, unfair, unlawful and harmful to Plaintiff, class members, and to the general public. Plaintiff has suffered injury in fact and has lost money as a result of Defendants’ unlawful business practices. Plaintiff seeks to enforce important rights affecting the public interest within the meaning of Code of Civil Procedure section 1021.5.

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

120. A violation of California Business & Professions Code sections 17200, *et seq.* may be predicated on the violation of any state or federal law. In the instant case, Defendants’ policies and practices have violated state law in at least the following respects:

- (a) Requiring non-exempt, hourly paid employees, including Plaintiff and class members, to work overtime without paying them proper compensation in violation of California Labor Code sections 510 and 1198, and the applicable IWC Wage Order, as alleged herein;
- (b) Failing to pay at least minimum wage to Plaintiff and class members in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198, and the applicable IWC Wage Order, as alleged herein;
- (c) Failing to provide all meal periods to Plaintiff and class members in violation of California Labor Code sections 226.7, 512(a), 516, and 1198, and the applicable IWC Wage Order, as alleged herein;
- (d) Failing to authorize and permit Plaintiff and class members to take all rest periods in violation of California Labor Code sections 226.7, 516, and 1198, and the applicable IWC Wage Order, as alleged herein;
- (e) Failing to provide Plaintiff and class members with accurate wage

1 statements and failing to maintain accurate payroll records in violation of
2 California Labor Code sections 226(a), 1174(d), and 1198, and the
3 applicable IWC Wage Order, as alleged herein;

4 (f) Failing to timely pay all earned wages to Plaintiff and class members in
5 violation of California Labor Code section 204, as alleged herein; and

6 (g) Failing to reimburse Plaintiff and class members for all business expenses
7 necessarily incurred in violation of California Labor Code section 2802,
8 as alleged herein.

9 121. As a result of the violations of California law herein described, Defendants
10 unlawfully gained an unfair advantage over other businesses. Plaintiff and class members have
11 suffered pecuniary loss by Defendants' unlawful business acts and practices alleged herein.

12 122. Pursuant to California Business & Professions Code sections 17200, *et seq.*,
13 Plaintiff and class members are entitled to restitution of the wages withheld and retained by
14 Defendants during a period that commences four years prior to the filing of this complaint; a
15 permanent injunction requiring Defendants to pay all outstanding wages due to Plaintiff and
16 class members; and an award of attorneys' fees pursuant to California Code of Civil Procedure
17 section 1021.5 and other applicable laws; and an award of costs.

18 **ELEVENTH CAUSE OF ACTION**

19 **Violation of California Business & Professions Code §§ 17200, *et seq.* –**

20 **Unfair Business Practices**

21 **(Against all Defendants)**

22 123. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
23 and every allegation set forth above.

24 124. Defendants are "persons" as defined by California Business & Professions Code
25 section 17201, as they are corporations, firms, partnerships, joint stock companies, and/or
26 associations.

27 125. Defendants' conduct, as alleged herein, has been, and continues to be, unfair, and
28 harmful to Plaintiff, class members, and to the general public. Plaintiff has suffered injury in

1 fact and has lost money as a result of Defendants' unfair business practices. Plaintiff seeks to
2 enforce important rights affecting the public interest within the meaning of Code of Civil
3 Procedure section 1021.5.

4 126. Defendants' activities, namely Defendants' company-wide practice and/or policy
5 of not paying Plaintiff and class members all meal and rest period premiums due to them under
6 California Labor Code section 226.7, deprived Plaintiff and class members of the compensation
7 guarantee and enhanced enforcement implemented by section 226.7. The statutory remedy
8 provided by section 226.7 is a "'dual-purpose' remedy intended primarily to compensate
9 employees, and secondarily to shape employer conduct." *Safeway, Inc. v. Superior Court*, 238
10 Cal. App. 4th 1138, 1149 (2015). The statutory benefits of section 226.7 were guaranteed to
11 Plaintiff and class members as part of their employment with Defendants, and thus Defendants'
12 practice and/or policy of denying these statutory benefits constitutes an unfair business practice
13 in violation of California Business & Professions Code sections 17200, *et seq.* (*Id.*)

14 127. A violation of California Business & Professions Code sections 17200, *et seq.*
15 may be predicated on any unfair business practice. In the instant case, Defendants' policies and
16 practices have violated the spirit of California's meal and rest period laws and constitute acts
17 against the public policy behind these laws.

18 128. Pursuant to California Business & Professions Code sections 17200, *et seq.*,
19 Plaintiff and class members are entitled to restitution for the class-wide loss of the statutory
20 benefits implemented by section 226.7 withheld and retained by Defendants during a period that
21 commences four years prior to the filing of this complaint; a permanent injunction requiring
22 Defendants to pay all statutory benefits implemented by section 226.7 due to Plaintiff and class
23 members; an award of attorneys' fees pursuant to California Code of Civil Procedure section
24 1021.5 and other applicable laws; and an award of costs.

25 **REQUEST FOR JURY TRIAL**

26 Plaintiff requests a trial by jury.

27 //

28 **PRAYER FOR RELIEF**

1 Plaintiff, on behalf of all others similarly situated, prays for relief and judgment against
2 Defendants, jointly and severally, as follows:

3 1. For damages, unpaid wages, penalties, injunctive relief, and attorneys' fees in
4 excess of twenty-five thousand dollars (\$25,000), exclusive of interest and costs. Plaintiff
5 reserves the right to amend his prayer for relief to seek a different amount.

6 **Class Certification**

7 2. That this case be certified as a class action;

8 3. That Plaintiff be appointed as the representative of the Class and Subclass;

9 4. That counsel for Plaintiff be appointed as class counsel.

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

11 5. That the Court declare, adjudge, and decree that Defendants violated California
12 Labor Code sections 510 and 1198 and the applicable IWC Wage Order by willfully failing to
13 pay all overtime wages due to Plaintiff and class members;

14 6. For general unpaid wages at overtime wage rates and such general and special
15 damages as may be appropriate;

16 7. For pre-judgment interest on any unpaid overtime compensation commencing
17 from the date such amounts were due, or as otherwise provided by law;

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

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

22 **As to the Second Cause of Action**

23 10. That the Court declare, adjudge and decree that Defendants violated California
24 Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 and the applicable IWC Wage
25 Order by willfully failing to pay minimum wages to Plaintiff and class members;

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

28 12. For pre-judgment interest on any unpaid compensation from the date such

1 amounts were due, or as otherwise provided by law;

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

4 14. For liquidated damages pursuant to California Labor Code section 1194.2; and

5 15. For such other and further relief as the Court may deem equitable and
6 appropriate.

7 **As to the Third Cause of Action**

8 16. That the Court declare, adjudge, and decree that Defendants violated California
9 Labor Code sections 226.7, 512(a), 516, and 1198 and the applicable IWC Wage Order by
10 willfully failing to provide all meal periods to Plaintiff and class members;

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

14 18. For all actual, consequential, and incidental losses and damages, according to
15 proof;

16 19. For premiums pursuant to California Labor Code section 226.7(c);

17 20. For pre-judgment interest on any unpaid meal period premiums from the date
18 such amounts were due, or as otherwise provided by law;

19 21. For attorneys' fees pursuant to California Code of Civil Procedure section
20 1021.5, or as otherwise provided by law; and

21 22. For such other and further relief as the Court may deem equitable and
22 appropriate.

23 **As to the Fourth Cause of Action**

24 23. That the Court declare, adjudge and decree that Defendants violated California
25 Labor Code sections 226.7, 516, and 1198 and the applicable IWC Wage Order by willfully
26 failing to authorize and permit Plaintiff and class members to take all rest periods;

27 24. That the Court make an award to the Plaintiff and class members of one (1) hour
28 of pay at each employee's regular rate of pay for each workday that a rest period was not

1 authorized and permitted;

2 25. For all actual, consequential, and incidental losses and damages, according to
3 proof;

4 26. For premiums pursuant to California Labor Code section 226.7(c);

5 27. For pre-judgment interest on any unpaid rest period premiums from the date such
6 amounts were due, or as otherwise provided by law;

7 28. For attorneys' fees pursuant to California Code of Civil Procedure section
8 1021.5, or as otherwise provided by law; and

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

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

12 30. That the Court declare, adjudge and decree that Defendants violated the
13 recordkeeping provisions of California Labor Code section 226(a) and the applicable IWC
14 Wage Order as to Plaintiff and Subclass members, and willfully failed to provide accurate
15 itemized wage statements thereto;

16 31. For all actual, consequential, and incidental losses and damages, according to
17 proof;

18 32. For injunctive relief pursuant to California Labor Code section 226(h);

19 33. For statutory penalties pursuant to California Labor Code section 226(e);

20 34. For attorneys' fees and costs pursuant to California Labor Code section
21 226(e)(1); and

22 35. For such other and further relief as the Court may deem equitable and
23 appropriate.

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

25 36. That the Court declare, adjudge and decree that Defendants violated California
26 Labor Code sections 201 and 202 by willfully failing to pay overtime wages, minimum wages,
27 and/or meal and rest period premiums owed at the time of termination of the employment of
28 Plaintiff and other terminated class members;

1 37. For all actual, consequential and incidental losses and damages, according to
2 proof;

3 38. For waiting time penalties according to proof pursuant to California Labor Code
4 section 203 for all employees who have left Defendants' employ;

5 39. For pre-judgment interest on any unpaid wages from the date such amounts were
6 due, or as otherwise provided by law;

7 40. For attorneys' fees pursuant to California Code of Civil Procedure section
8 1021.5, or as otherwise provided by law; and

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

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

12 42. That the Court declare, adjudge and decree that Defendants violated California
13 Labor Code section 204 by willfully failing to timely pay Plaintiff and class members overtime
14 wages, minimum wages, and/or meal and rest period premiums during their employment;

15 43. For all actual, consequential and incidental losses and damages, according to
16 proof;

17 44. For statutory penalties according to proof pursuant to California Labor Code
18 section 210;

19 45. For pre-judgment interest on any unpaid wages from the date such amounts were
20 due, or as otherwise provided by law;

21 46. For attorneys' fees pursuant to California Code of Civil Procedure section
22 1021.5, or as otherwise provided by law; and

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

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

26 48. That the Court declare, adjudge and decree that Defendants violated California
27 Labor Code section 2802 by willfully failing to reimburse and/or indemnify all business-related
28 expenses and costs incurred by Plaintiff and class members;

1 49. For unpaid business-related expenses and such general and special damages as
2 may be appropriate;

3 50. For pre-judgment interest on any unpaid business-related expenses from the date
4 such amounts were due, or as otherwise provided by law;

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

7 52. For attorneys' fees and costs pursuant to California Labor Code section 2802(c),
8 or as otherwise provided by law; and

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

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

12 54. That the Court declare, adjudge and decree that Defendants violated the
13 following California Labor Code provisions as to Plaintiff and/or other aggrieved employees:
14 510 and 1198 (by failing to pay all overtime compensation); 1182.12, 1194, 1197, 1197.1, and
15 1198 (by failing to pay at least minimum wages for all hours worked); 226.7, 512(a), 516, and
16 1198 (by failing to provide all meal periods); 226.7, 516, and 1198 (by failing to authorize and
17 permit all rest periods); 226(a), 1174(d), and 1198 (by failing to provide accurate wage
18 statements and maintain accurate payroll records); 201 and 202 (by failing to timely pay all
19 earned wages upon termination); 204 (by failing to timely pay all earned wages during
20 employment); and 2802 (by failing to reimburse business expenses);

21 55. For civil penalties pursuant to the California Labor Code, including sections 210,
22 226.3, 256, 558, 1174.5, 2699(a), (f), and (g), for violations of California Labor Code sections
23 201, 202, 204, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198,
24 and 2802;

25 56. For attorneys' fees and costs pursuant to California Labor Code section
26 2699(g)(1), and any and all other relevant statutes, for Defendants' violations of California
27 Labor Code sections 201, 202, 204, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194,
28 1197, 1197.1, 1198, and 2802;

1 57. For pre-judgment and post-judgment interest as provided by law; and

2 58. For such other and further relief as the Court may deem equitable and
3 appropriate.

4 **As to the Tenth Cause of Action**

5 59. That the Court declare, adjudge and decree that Defendants' conduct of failing
6 to provide Plaintiff and class members all overtime wages due to them, failing to provide
7 Plaintiff and class members all minimum wages due to them, failing to provide Plaintiff and
8 class members all meal periods, failing to authorize and permit Plaintiff and class members to
9 take all rest periods, failing to provide Plaintiff and class members accurate and complete wage
10 statements, failing to maintain accurate payroll records for Plaintiff and class members, failing
11 to timely pay Plaintiff and class members all earned wages during employment, and failing to
12 reimburse Plaintiff and class members for business-related expenses, constitutes an unlawful
13 business practice in violation of California Business and Professions Code sections 17200, *et*
14 *seq.*;

15 60. For restitution of unpaid wages to Plaintiff and all class members and
16 prejudgment interest from the day such amounts were due and payable;

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

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

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

25 **As to the Eleventh Cause of Action**

26 64. That the Court declare, adjudge and decree that Defendants' conduct of denying
27 Plaintiff and class members the statutory benefits guaranteed under California Labor Code
28 section 226.7 constitutes an unfair business practice in violation of California Business and

Professions Code sections 17200, *et seq.*;

65. For restitution of the statutory benefits under California Labor Code section 226.7 unfairly withheld from Plaintiff and class members and prejudgment interest from the day such amounts were due and payable;

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

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

68. For pre-judgment and post-judgment interest as provided by law; and

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

Dated: October 19, 2023

Respectfully submitted,

Capstone Law APC

By: _____

Orlando Villalba
Helga Hakimi
Joseph D. Parsons

Attorneys for Plaintiff Fernando Castro

EXHIBIT “1”



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June 8, 2023

VIA ONLINE SUBMISSION

California Labor & Workforce Development Agency
ATTN: PAGA Administrator
(<https://dir.tfaforms.net/308>)

Subject: *Fernando Castro v. FPI Management Inc.*

Dear PAGA Administrator:

This office represents Fernando Castro in connection with his claims under the California Labor Code. Mr. Castro was an employee of FPI MANAGEMENT, INC. ("FPI").

The employer may be contacted directly at the address below:

FPI MANAGEMENT, INC.
800 IRON POINT ROAD
FOLSOM, CA 95630

Mr. Castro intends to seek civil penalties, attorney's fees, costs, and other available relief for violations of the California Labor Code, which are recoverable under sections 2698, *et seq.*, the Labor Code Private Attorneys General Act of 2004 ("PAGA"). Mr. Castro seeks relief on behalf of himself, the State of California, and other persons who are or were employed by FPI as a non-exempt, hourly paid employee in California and who received at least one wage statement ("aggrieved employees"). This letter is sent in compliance with the notice and reporting requirements of California Labor Code section 2699.3.

FPI employed Mr. Castro as an hourly paid, non-exempt Maintenance Supervisor from approximately October 2020 to February 2023. During his employment, Mr. Castro typically worked eight (8) hours or more per day, and five (5) days or more per week. At the time Mr. Castro's employment with FPI ended, he earned approximately \$30.00 per hour. His job duties included, without limitation, maintaining apartment units, completing work orders, and repairing appliances or fixtures.

FPI committed one or more of the following Labor Code violations against Mr. Castro, the facts and theories of which follow, making him an “aggrieved employee” pursuant to California Labor Code section 2699(c):¹

FPI’s Company-Wide and Uniform Payroll and HR Practices

FPI MANAGEMENT, INC. is a California corporation that provides third-party, multifamily property management services to 155,000 units in 700 communities across 21 states. Upon information and belief, FPI maintains a single, centralized Human Resources (HR) department at its corporate headquarters in Folsom, California, for all non-exempt, hourly paid employees working for FPI in California, including Mr. Castro and other aggrieved employees. At all relevant times, FPI issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in California, including Mr. Castro and other aggrieved employees, regardless of their location or position.

Upon information and belief, FPI maintains a centralized Payroll department at its corporate headquarters in Folsom, California, which processes payroll for all non-exempt, hourly paid employees working for FPI in California, including Mr. Castro and other aggrieved employees. Further, FPI issues the same formatted wage statements in the same manner for all non-exempt, hourly paid employees in California, including Mr. Castro and other aggrieved employees, irrespective of their location, position, or manner in which each employee’s employment ended. In other words, FPI utilized the same methods and formulas when calculating wages due to Mr. Castro and other aggrieved employees in California.

Violation of California Labor Code §§ 510 and 1198 – Unpaid Overtime

California Labor Code sections 510 and 1198 and the applicable Industrial Welfare Commission (“IWC”) Wage Order require employers to pay employees working more than eight (8) hours in day or more than forty (40) hours in a workweek at the rate of time-and-one-half (1 ½) times the regular rate of pay for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek. The applicable IWC Wage Order further provides that employers are required to pay employees working more than twelve (12) hours in a day overtime compensation at a rate of two (2) times their regular rate of pay. An employee’s regular rate of pay includes all remuneration for employment paid to, or on behalf of, the employee, including nondiscretionary bonuses and incentive pay.

FPI willfully failed to pay all overtime wages owed to Mr. Castro and other aggrieved employees. During the relevant time period, Mr. Castro and other aggrieved employees were not paid overtime premiums for all of the hours they worked in excess of eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty (40) hours in a week, because all hours that they worked were not recorded.

¹ These facts, theories, and claims are based on Mr. Castro’s experience and counsel’s review of those records currently available relating to Mr. Castro’s employment. Discovery conducted in litigation of wage and hour claims such as these often reveals additional claims that the aggrieved employee was not initially aware of (because the aggrieved employee was not aware of the law’s requirements, the employer misinformed its employee of the law’s requirements, or because the employer effectively hid the violations). Thus, Mr. Castro reserves the right to supplement this letter with additional facts, theories, and claims if he becomes aware of them subsequent to the submission of this letter.

First, FPI had, and continues to have, a company-wide policy and/or practice requiring Mr. Castro and other aggrieved employees to perform various work-related tasks while off-the-clock before, after, and outside of their scheduled shifts. For example, FPI required Mr. Castro to undergo a daily temperature check before permitting him to clock in for his shift, which took approximately five (5) minutes per instance. Additionally, FPI required Mr. Castro and other aggrieved employees to respond to work-related communications after and outside their scheduled shifts. For example, FPI's management contacted Mr. Castro on his personal cellular phone four (4) times a week for 10 minutes at a time in order to discuss apartment maintenance, work orders, and other work-related tasks while he was off-the-clock, but did not compensate him for this time. Thus, FPI failed to track all of the time that employees spent performing work-related tasks outside of their scheduled shifts, and Mr. Castro and other aggrieved employees received no compensation for this time.

Second, FPI had, and continues to have, company-wide policies and/or practices of understaffing its locations, including adopting a single-staffing model for some of its positions, thereby failing to provide adequate meal period coverage to permit those employees to take compliant meal periods. As a result of this lack of meal period coverage, Mr. Castro and other aggrieved employees were not always afforded uninterrupted 30-minute meal periods during shifts when they were entitled to receive a meal period. FPI also had a practice of failing to schedule meal periods, which further caused Mr. Castro and other aggrieved employees to not be relieved of their duties for compliant meal periods. For example, Mr. Castro worked through his meal periods approximately three (3) times per week to complete appliance repairs and to meet with vendors who would sometimes arrive during his meal periods. As a further example, FPI's supervisors interrupted Mr. Castro's meal periods with phone calls and text messages asking him to complete work orders or other maintenance duties. FPI did not compensate Mr. Castro and other aggrieved employees for the time they spent working off the clock during unpaid meal periods.

Furthermore, on information and belief, because FPI frowned upon employees accruing meal period penalties, FPI adjusted Mr. Castro's and other aggrieved employees' time records to reflect compliant meal periods, even when they did not receive a compliant meal period, in order to strictly limit meal penalties that FPI would otherwise owe. Thus, Mr. Castro and other aggrieved employees performed work during meal periods for which they were not paid.

FPI knew or should have known that, as a result of these company-wide practices and/or policies, Mr. Castro and other aggrieved employees were performing their assigned duties off-the-clock and during meal periods, and were suffered or permitted to perform work for which they were not paid. Because Mr. Castro and other aggrieved employees worked shifts of eight (8) hours a day or more, or forty (40) hours a week or more, some of this off-the-clock work qualified for overtime premium pay. Therefore, Mr. Castro and other aggrieved employees were not paid overtime wages for all of the overtime hours they actually worked.

Furthermore, FPI did not pay other aggrieved employees the correct overtime rate for the recorded overtime hours that they generated. In addition to an hourly wage, on information and belief, FPI paid other aggrieved employees incentive pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the California Labor Code, FPI failed to incorporate all compensation, including incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, into the calculation of the regular rate of pay for purposes of calculating the overtime wage rates. Therefore, during times when other aggrieved employees worked overtime and received these other forms of pay, FPI failed to pay all overtime wages by paying a lower overtime rate than required.

FPI's failure to pay Mr. Castro and other aggrieved employees the balance of overtime compensation, as required by California law, violates the provisions of California Labor Code sections 510 and 1198. Mr. Castro and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 – Unpaid Minimum Wages

California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 require employers to pay employees the minimum wage fixed by the IWC. The payment of a lesser wage than the minimum so fixed is unlawful. Compensable work time is defined in IWC Wage Order No. 5-2001 as "the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so." Cal. Code Regs. tit. 8, § 11050(2)(K) (defining "Hours Worked").

As set forth above, during the relevant time period, FPI had a company-wide policy and/or practice requiring Mr. Castro and other aggrieved employees to perform work-related tasks while off-the-clock before, after, and outside of their shifts, including undergoing mandatory temperature checks and communicating with management to discuss apartment maintenance, work orders, and other work-related tasks. Because FPI failed to track this time Mr. Castro and other aggrieved employees spent working off-the-clock, Mr. Castro and other aggrieved employees received no compensation for this time.

Further, as set forth above, due to FPI's policies and/or practices of understaffing and/or single-staffing, and subsequent lack of meal coverage, Mr. Castro and other aggrieved employees were forced to work through meal periods, have their meal periods interrupted, and/or were otherwise not relieved of all duties during meal periods. Also, as stated, FPI had a practice of failing to schedule meal periods, which further caused Mr. Castro and other aggrieved employees to not be relieved of their duties for compliant meal periods. Moreover, as stated, on information and belief, in order to limit meal penalties that FPI would otherwise owe, FPI adjusted employee time records to reflect compliant meal periods. Thus, FPI systematically failed to pay Mr. Castro and other aggrieved employees for actual hours worked during unpaid meal periods because these hours were not always correctly recorded.

Thus, FPI did not pay at least minimum wages for all hours worked by Mr. Castro and other aggrieved employees. To the extent that these off-the-clock hours did not qualify for overtime premium payment, FPI did not pay at least minimum wages for those hours worked off-the-clock in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198.

Accordingly, FPI regularly failed to pay at least minimum wages to Mr. Castro and other aggrieved employees for all of the hours they worked in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198. Mr. Castro and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 1197.1 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 – Failure to Provide Meal Periods

California Labor Code sections 226.7, 512(a), 516, and 1198, and the applicable IWC Wage Order require employers to provide meal periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. Pursuant to Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order, 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 an uninterrupted 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. Under California law, first meal periods must start after no more than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (2012). Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order also require employers to provide a second meal period of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an employee one (1) additional hour of pay at the employee's regular rate, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

Under California law, an employer cannot evade meal period requirements via the use of "on-duty" meal agreements because it understaffs its locations. *Abdullah v. U.S. Sec. Assocs.*, 731 F.3d 952, 963 (9th Cir. Cal. 2013). In addition, an employee must be provided with the opportunity to eat his or her meal while performing the duties required and any on-duty meal period must, like any off-duty meal period, be at least 30 minutes long. *L'Chaim House, Inc., et al. v. Division of Labor Standards Enforcement*, 38 Cal. App. 5th 141 (2019).

During the relevant time period, FPI had, and continue to have, a company-wide policy and/or practice of understaffing its locations by adopting a single-staffing model for certain positions, resulting in a failure to provide Mr. Castro and other aggrieved employees with adequate meal period coverage. For example, Mr. Castro was the only Maintenance Supervisor at his location and FPI's management failed to provide adequate coverage for him. Mr. Castro would be required to complete time-sensitive work orders prior to taking a meal period and meet with appliance vendors who could arrive at any time, including during his meal periods. As a result of FPI's policy of understaffing and/or single-staffing, combined with a failure to schedule meal periods, Mr. Castro and other aggrieved employees were prevented from taking all timely, uninterrupted meal periods to which they were entitled.

FPI's practices and policies prevented Mr. Castro and other aggrieved employees from taking all compliant meal periods to which they were entitled. As a result, Mr. Castro and other aggrieved employees had to work through all or part of their meal periods, had their meal periods interrupted, and/or had to wait extended periods of time before taking meal periods. For example, Mr. Castro took his meal periods late, after having worked in excess of five (5) hours into his shift twice a week, in order to adhere to FPI's policy requiring him to complete certain work orders prior to taking his meal periods. As a further example, approximately three (3) times per week, Mr. Castro missed his meal periods in order to complete his assigned work duties, including repairing appliances and preparing apartments for new tenants. In addition, Mr. Castro would frequently have his meal periods interrupted and cut short to respond to phone calls and text messages from management wanting to discuss work orders.

Moreover, as stated, on information and belief, because FPI frowned upon employees accruing meal period penalties, FPI's management would adjust Mr. Castro's and other aggrieved employees' time records to reflect compliant meal periods, regardless of whether they had received a compliant meal period or not, in order to strictly limit meal penalties that would need to be paid by FPI. To the extent FPI required Mr. Castro and other aggrieved employees to sign written "on-duty" meal period agreements, such agreements are invalid as the nature of the work performed by Mr. Castro and other aggrieved employees and do not necessitate an "on-duty" meal period under California law. As a result of these policies, Mr. Castro and other aggrieved employees were not provided timely, uninterrupted 30-minute meal periods during their shifts in which they were entitled to receive a meal period.

Furthermore, FPI did not provide other aggrieved employees with second 30-minute meal periods on days that they worked in excess of ten (10) hours in one day. Mr. Castro and other aggrieved employees did not sign valid meal period waivers on days that they were entitled to meal periods and were not relieved of all duties.

At all times mentioned herein, FPI knew or should have known that as a result of its policies, Mr. Castro and other aggrieved employees were not actually relieved of all duties to take timely, uninterrupted meal periods. FPI further knew or should have known that it did not pay Mr. Castro and other aggrieved employees meal period premiums when meal periods were late, missed, shortened, or interrupted.

In addition, FPI engaged in a company-wide practice and/or policy of not paying meal period premiums owed when compliant meal periods are not provided. Because of this practice and/or policy, Mr. Castro and other aggrieved employees have not received premium pay for missed, interrupted, or late meal periods. Alternatively, to the extent that FPI did pay other aggrieved employees premium pay for missed, late, and interrupted meal periods, FPI did not pay other aggrieved employees at the correct rate of pay for premiums because FPI systematically failed to include all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.

Accordingly, FPI failed to provide all meal periods in violation of California Labor Code sections 226.7, 512(a), 516, and 1198. Mr. Castro and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 516, and 1198 – Failure to Authorize and Permit Rest Periods

California Labor Code sections 226.7, 516, and 1198, and the applicable IWC Wage Order require employers to provide rest periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC. The applicable IWC Wage Order provides that "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period" and that the "rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof" unless the total daily work time is less than three and one-half (3 ½) hours.

To comply with its obligation to authorize and permit rest periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer must “relinquish any control over how employees spend their break time, and relieve their employees of all duties—including the obligation that an employee remain on call. A rest period, in short, must be a period of rest.” *Augustus, et al. v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 273 (2016).

During the relevant time period, FPI regularly failed to authorize and permit Mr. Castro and other aggrieved employees to take a ten (10) minute rest period per each four (4) hour period worked or major fraction thereof. As with meal periods, FPI’s company-wide practices, including understaffing and/or single-staffing, prevented Mr. Castro and other aggrieved employees from being relieved of all duty to take rest periods. FPI also failed to schedule rest periods, which, coupled with FPI’s failure to provide adequate rest period coverage, further led to Mr. Castro and other aggrieved employees not being authorized and permitted to take rest periods.

Furthermore, upon information and belief, during the relevant time period, FPI maintained a company-wide on-premises rest period policy, which effectively required that Mr. Castro and other aggrieved employees remain on FPI’s premises during their rest periods. Because Mr. Castro and other aggrieved employees were restricted from leaving the premises during rest periods, they were denied the ability to use their rest periods freely for their own purposes, such as running personal errands. Thus, FPI effectively maintained control over Mr. Castro and other aggrieved employees during rest periods.

As a result of FPI’s practices and policies, Mr. Castro and other aggrieved employees worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without receiving all uninterrupted 10-minute rest periods to which they were entitled. For example, Mr. Castro regularly had to forego his rest periods due to the lack of coverage and would have the few rest periods he was able to take interrupted due to FPI’s requirement that he respond to phone calls and text messages regarding work orders from management.

FPI also has engaged in a company-wide practice and/or policy of not paying rest period premiums owed when compliant rest periods are not authorized and permitted. Because of this practice and/or policy, Mr. Castro and other aggrieved employees have not received all premium pay for missed rest periods. Alternatively, to the extent that FPI did pay other aggrieved employees one (1) additional hour of premium pay for missed rest periods, FPI did not pay other aggrieved employees at the correct rate of pay for premiums because FPI failed to include all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.

Accordingly, FPI failed to authorize and permit all rest periods in violation of California Labor Code sections 226.7, 516, and 1198. Mr. Castro and other aggrieved employees are entitled to recover civil penalties, attorney’s fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226(a), 1174(d), and 1198 – Non-Compliant Wage Statements and Failure to Maintain Accurate Payroll Records

California Labor Code section 226(a) requires employers to make, keep and provide true, accurate, and complete employment records. Labor Code section 226(e) provides that if an employer fails to comply with providing an employee with properly itemized wage statements as set forth in 226(a),

then the employee is entitled to recover the greater of all actual damages or \$50 for the initial pay period in which a violation occurs and \$100 per employee for each violation in a subsequent pay period, not to exceed \$4,000. Further, Labor Code section 226.3 provides that any employer who violates section 226(a) shall be subject to a civil penalty in the amount of \$250 per employee per violation in an initial citation and \$1,000 per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage statement or fails to keep the required records pursuant to Section 226(a).

During the relevant time period, FPI has knowingly and intentionally provided Mr. Castro and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. For example, FPI issued uniform wage statements to Mr. Castro and other aggrieved employees that fail to correctly list: gross wages earned; total hours worked; net wages earned and all applicable hourly rates in effect during the pay period, including rates of pay for overtime wages, meal and rest period premiums, and/or paid sick leave, and the corresponding number of hours worked at each hourly rate. Specifically, FPI violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

Because FPI did not record the time Mr. Castro and other aggrieved employees spent working off-the-clock and deducted time from their records for meal periods that were interrupted and/or missed (and therefore time for which they should have been paid), FPI did not list the correct amount of gross wages and net wages earned by Mr. Castro and other aggrieved employees in compliance with section 226(a)(1) and section 226(a)(5), respectively. For the same reason, FPI failed to accurately list the total number of hours worked by Mr. Castro and other aggrieved employees, in violation of section 226(a)(2), and failed to list the applicable hourly rates of pay in effect during the pay period and the corresponding accurate number of hours worked at each hourly rate, in violation of section 226(a)(9).

Additionally, because FPI did not calculate Mr. Castro's and other aggrieved employees' regular rate of pay correctly for purposes of paying overtime wages, meal and rest period premiums, and/or paid sick leave, FPI did not list the correct amount of gross wages in compliance with section 226(a)(1). For the same reason, FPI also failed to list the correct amount of net wages in violation of section 226(a)(5). FPI also failed to correctly list all applicable hourly rates in effect during the pay period, namely, correct rates of pay for overtime wages, meal and rest period premiums, and/or paid sick leave, in violation of section 226(a)(9).

The wage statement deficiencies also include, among other things, failing to list the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; failing to list all deductions; failing to list the inclusive dates of the period for which aggrieved employees were paid; failing to list the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number; failing to list the name and address of the legal entity that is the employer; and/or failing to state all hours worked as a result of not recording or stating hours worked off-the-clock.

California Labor Code section 1174(d) provides that "[e]very person employing labor in this state shall . . . [k]eep a record showing the names and addresses of all employees employed and the ages of all minors" and "[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. . . ." Labor Code section 1174.5 provides that employers are subject to a \$500 civil penalty if they fail to maintain accurate and complete records as

required by section 1174(d). During the relevant time period, and in violation of Labor Code section 1174(d), FPI willfully failed to maintain accurate payroll records for Mr. Castro and other aggrieved employees showing the daily hours they worked and the wages paid thereto as a result of failing to record the off-the-clock hours that they worked.

California Labor Code section 1198 provides that the maximum hours of work and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the applicable IWC Wage Order. Section 1198 further provides that “[t]he employment of any employees for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.” Pursuant to the applicable IWC Wage Order, employers are required to keep accurate time records showing when the employee begins and ends each work period and meal period. During the relevant time period, FPI engaged in company-wide practices and/or policies of failing to record actual hours worked (including falsifying time records by recording that compliant meal periods were taken regardless of if or when meal periods were actually taken), and thereby failed to keep accurate records of work period and meal period start and end times for Mr. Castro and other aggrieved employees in violation of section 1198. Furthermore, in light of FPI’s failure to provide other aggrieved employees with second 30-minute meal periods to which they were entitled, FPI kept no records of meal start and end times for second meal periods.

Because FPI failed to provide the correct net and gross wages earned, applicable rates of pay, and number of total hours worked on wage statements, Mr. Castro and other aggrieved employees have been prevented from verifying, solely from information on the wage statements themselves, that they were paid correctly and in full. Instead, Mr. Castro and other aggrieved employees have had to look to sources outside of the wage statements themselves and reconstruct time records to determine whether in fact they were paid correctly and the extent of underpayment, thereby causing them injury.

Mr. Castro and other aggrieved employees are entitled to recover civil penalties, attorney’s fees, costs, and interest thereon pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f)-(g).

Violation of California Labor Code § 204 – Failure to Timely Pay Wages During Employment

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. Alternatively, California Labor Code section 204 provides that the requirements of this section are deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of the payroll period.

During the relevant time period, FPI failed to pay Mr. Castro and other aggrieved employees all wages due to them, including, but not limited to, overtime wages, minimum wages, meal and rest period premiums, and/or sick leave pay, within any time period specified by California Labor Code section 204.

Mr. Castro and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 210 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 201 and 202 – Failure to Timely Pay Final Wages Upon Termination

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

FPI willfully failed to pay Mr. Castro and other aggrieved employees who are no longer employed by FPI all their earned wages, including, but not limited to, overtime wages, minimum wages, meal and rest period premiums, and/or sick leave pay, either at the time of discharge, or within seventy-two (72) hours of their leaving FPI's employ.

Mr. Castro and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 256 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 246 and 248.6 – Failure to Properly Calculate Paid Sick Leave

At all relevant times herein, California Labor Code sections 245.5, 246, 246.5, 247, 247.5, 248.5, and 249 provide employees who have worked in California for 30 or more days from the commencement of employment with paid sick days, to be accrued at least one hour for every 30 hours worked. Employers must provide no less than 24 hours or three (3) days of paid sick leave (or equivalent paid leave or paid time off) in each year of the employee's employment. Labor Code section 246(l) provides that an employer shall calculate paid sick leave by using one of two calculations: 1) "[p]aid sick time for nonexempt employees shall be calculated in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually works overtime in that workweek[;]" or 2) "[p]aid sick time for nonexempt employees shall be calculated by dividing the employee's total wages, not including overtime premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days of employment."

At all relevant times herein, California Labor Code section 248.6 provides covered employees with COVID-19 supplemental paid sick leave. California Labor Code section 248.6(b)(3)(A) provides that each hour of COVID-19 supplemental paid sick leave shall be compensated at a rate equal to the following: 1) "[c]alculated in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually works overtime in that workweek[;]" or 2) "[c]alculated by dividing the employee's total wages, not including overtime premium pay, by the employee's total nonovertime hours worked in the full pay periods occurring within the prior 90 days of employment; provided that, for nonexempt employees paid by piece rate, commission or other method that uses all hours to determine the regular rate of pay, total wages, not including overtime premium pay, shall be divided by all hours, to determine the correct amount of COVID-19 supplemental paid sick leave under this subdivision."

During the relevant time period, on information and belief, FPI did not pay other aggrieved employees the correct sick leave rates of pay. In addition to an hourly wage, FPI paid other aggrieved employees incentive pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the California Labor Code, FPI failed to incorporate all remunerations, including incentive pay and/or nondiscretionary bonuses, into the calculation of the regular rate of pay for purposes of calculating the sick leave pay rate. Therefore, during times when other aggrieved employees took sick leave and received these other forms of pay, FPI failed to pay all sick leave benefits by paying a lower sick leave pay rate than required. Specifically, FPI paid other aggrieved employees sick leave based on their hourly rate of pay instead of their regular rate of pay.

FPI's failure to properly calculate the sick leave rates of pay based on all remuneration paid has resulted in an underpayment of sick leave benefits to other aggrieved employees on a company-wide basis in violation of Labor Code sections 246(l) and 248.6(b)(3)(A).

Other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 248.5 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 2802 – Unreimbursed Business Expenses

California Labor Code section 2802 requires employers to pay for all necessary expenditures and losses incurred by the employee in the performance of his or her job. The purpose of Labor Code section 2802 is to prevent employers from passing off their cost of doing business and operating expenses on to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144 (2014). The applicable wage order, IWC Wage Order No. 5-2001, provides that: "[w]hen tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft." IWC Wage Order No. 5-2001 further provides that: "[w]hen uniforms are required by the employer to be worn by the employee as a condition of employment, such uniforms shall be provided and maintained by the employer."

During the relevant time period, FPI had a company-wide policy of requiring Mr. Castro and other aggrieved employees to utilize their own personal vehicles or obtain alternate transportation to carry out company business, but failed to reimburse them for all costs of travel, including mileage. For example, Mr. Castro and other aggrieved employees were required to drive to various locations to perform maintenance on an as-needed basis. Although FPI required Mr. Castro and other aggrieved employees to utilize their own vehicles or obtain alternate transportation to carry out their work-related responsibilities, FPI did not reimburse them for their travel expenses.

Additionally, during the relevant time period, FPI had a company-wide policy of requiring Mr. Castro and other aggrieved employees to follow a "Dress Code Policy," in order to comply with FPI's "professional image" requirement. Mr. Castro and other aggrieved employees were required to report to work in clean and presentable uniforms bearing the company logo. Due to the nature of the work they performed, including maintenance or repair work, Mr. Castro's and other aggrieved employees' uniform items would become stained with grease, soiled, and/or acquire an unpleasant odor such that they were unable to mix these clothes in with other laundry. As a result, Mr. Castro had to wash his uniform items separately from his regular clothing, thus incurring additional laundry expenses for the upkeep of his uniforms. Thus, FPI failed to maintain uniforms it required Mr.

Castro and other aggrieved employees to wear during their shifts and forced them to incur the cost of maintaining employee uniforms.

FPI could have provided Mr. Castro and other aggrieved employees with the actual equipment for use on the job, such as company vehicles and access to laundering services. Or, FPI could have reimbursed employees for the costs of mileage, travel expenses, and laundering expenses or provided a uniform maintenance allowance. Instead, FPI passed these operating costs off onto Mr. Castro and other aggrieved employees.

Thus, FPI had, and continues to have, a company-wide policy and/or practice of not reimbursing employees for expenses necessarily incurred in violation of California Labor Code section 2802. Mr. Castro and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

California Labor Code § 558(a)

California Labor Code section 558(a) provides “[a]ny employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid. . . . (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid. . . .” Labor Code section 558(c) provides that “[t]he civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law.” FPI, at all relevant times, was an employer or person acting on behalf of an employer(s) who violated Mr. Castro’s and other aggrieved employees’ rights by violating various sections of the California Labor Code.

Accordingly, Mr. Castro seeks the remedies set forth in Labor Code section 558 for himself, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 2699(a), 2699.3(a) and 2699.3(c), 2699.5, and 558, Mr. Castro, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for himself, all other aggrieved employees, and the State of California against FPI for violations of California Labor Code sections 201, 202, 204, 226(a), 226.7, 246, 248.6, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, and 2802.

Therefore, on behalf of all aggrieved employees, Mr. Castro seeks all applicable civil penalties related to these violations of the California Labor Code pursuant to PAGA.

Thank you for your attention to this matter. If you have any questions, please contact me at the phone number or address below:

Anthony Castillo
Capstone Law APC
1875 Century Park East, Suite 1000
Los Angeles, CA 90067
(310) 556-4811

Best Regards,


Anthony Castillo

Copy: FPI MANAGEMENT, INC. (via U.S. Certified Mail)

Capstone Law, APC
1875 Century Park, East, 1000
Los Angeles, CA. 90067

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- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
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FOLSOM, CA 95630



2. ADDRESS (Print or type name and address of addressee)

7022 2410 0000 2405 8627

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X
☐ Agent
☐ Addressee

B. Received by (Printed Name)
C. Date of Delivery

3. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

Service Type
Adult Signature
Adult Signature Restricted Delivery
☒ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery
☐ Priority Mail Express®
☐ Registered Mail™
☐ Registered Mail Restricted Delivery
☐ Signature Confirmation™
☐ Signature Confirmation Restricted Delivery

SENDER: COMPLETE THIS SECTION

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- Print your name and address on the reverse so that we can return the card to you.
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800 IRON POINT ROAD
FOLSOM, CA 95630



2. Article Number (Transit from service label)

7022 2410 0000 2405 8627

COMPLETE THIS SECTION ON DELIVERY

A. Signature

[Handwritten Signature]

☐ Agent

☐ Addressee

B. Received by (Printed Name)

Yadira Jasso

C. Date of Delivery

10/18/23

D. Is delivery address different from item 1? ☐ Yes

If YES, enter delivery address below: ☐ No

Service Type

- ☒ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

all Restricted Delivery

PROOF OF SERVICE

I am employed in the State of California, County of Los Angeles. I am over the age of 18 and not a party to the within suit; my business address is 1875 Century Park East, Suite 1000 Los Angeles, California 90067.

On **October 19, 2023**, I served the document described as: **FIRST AMENDED CLASS ACTION COMPLAINT & ENFORCEMENT ACTION UNDER THE PRIVATE ATTORNEYS GENERAL ACT, CALIFORNIA LABOR CODE §§ 2698, ET SEQ.** on the interested parties in this action by sending ☐ the original [or] ☒ a true copy thereof ☒ to interested parties as follows [or] ☐ as stated on the attached service list:

WILLIAM C. SUNG
William.Sung@DaughertyLordan.com
LEO S. SETIAN
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DAUGHERTY LORDAN LLP
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Los Angeles, California 90071
Telephone: (213) 423-6062

Attorney's for Defendant:
FPI MANAGEMENT, INC.

☐ **BY MAIL (ENCLOSED IN A SEALED ENVELOPE):** I deposited the envelope(s) for mailing in the ordinary course of business at Los Angeles, California. I am "readily familiar" with this firm's practice of collection and processing correspondence for mailing. Under that practice, sealed envelopes are deposited with the U.S. Postal Service that same day in the ordinary course of business with postage thereon fully prepaid at Los Angeles, California.

☐ **BY E-MAIL:** I hereby certify that this document was served from Los Angeles, California, by e-mail delivery on the parties listed herein at their most recent known e-mail address or e-mail of record in this action.

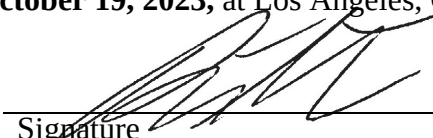
☐ **BY PERSONAL SERVICE:** I delivered the document, enclosed in a sealed envelope, by hand to the counsel for Defendant.

☒ **BY ELECTRONIC SERVICE:** I caused the document(s) to be transmitted electronically via One Legal eService to the individuals listed above, as they exist on that database. This will constitute service of the document(s).

☐ **BY OVERNIGHT DELIVERY:** I am "readily familiar" with this firm's practice of collection and processing correspondence for overnight delivery. Under that practice, overnight packages are enclosed in a sealed envelope with a packing slip attached thereto fully prepaid. The packages are picked up by the carrier at our offices or delivered by our office to a designated collection site.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on **October 19, 2023**, at Los Angeles, California.

Riley McIntire
Type/Print Name


Signature