

FILED
Superior Court Of California,
Sacramento
12/30/2022
Watters
By **Deputy**
Case Number:
34-2022-00332284

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

15 EDGAR JESUS LARA and MARK SEXTON,
16 individually, and on behalf of all others similarly
17 situated,

18 *Plaintiffs,*

19 v.

20 EMERALD SITE SERVICES, INC., a California
21 corporation, and DOES 1 through 10, inclusive,

22 *Defendants.*

Case No.:

CLASS ACTION COMPLAINT:

1. Failure to Pay Minimum and Straight Time Wages (Cal. Lab. Code §§ 204, 1194, 1194.2, and 1197);
2. Failure to Pay Overtime Wages (Cal. Lab. Code §§ 1194 and 1198);
3. Failure to Provide Meal Periods (Cal. Lab. Code §§ 226.7, 512);
4. Failure to Authorize and Permit Rest Periods (Cal. Lab. Code §§ 226.7);
5. Failure to Timely Pay Final Wages at Termination (Cal. Lab. Code §§ 201-203);
6. Failure to Provide Accurate Itemized Wage Statements (Cal. Lab. Code § 226);
7. Failure to Indemnify Employees for Expenditures (Cal. Lab. Code § 2802), and;
8. Unfair Business Practices (Cal. Bus. & Prof. Code §§ 17200, *et seq.*).

DEMAND FOR JURY TRIAL

1 Plaintiffs EDGAR JESUS LARA and MARK SEXTON ("Plaintiffs"), on information and
2 belief, allege as follows:

3 **INTRODUCTION & PRELIMINARY STATEMENT**

4 1. Plaintiffs bring this action against Defendant EMERALD SITE SERVICES, INC.,
5 and DOES 1 through 10 (hereinafter collectively referred to as "Defendants") for California Labor
6 Code violations and unfair business practices stemming from Defendant's failure to pay for all
7 hours worked (minimum, straight time, and overtime wages), failure to provide meal periods,
8 failure to authorize and permit rest periods, failure to timely pay final wages, failure to furnish
9 accurate wage statements, and failure to indemnify employees for expenditures..

10 2. Plaintiffs bring the First through Eight Causes of Action individually and as a class
11 action on behalf of themselves and certain current and former employees of Defendant (hereinafter
12 collectively referred to as the "Class" or "Class Members," and defined more fully below). The
13 Class consists of Plaintiffs and all other persons who have been employed by any Defendant in
14 California as an hourly-paid or non-exempt employee during the statute of limitations period
15 applicable to the claims pleaded here.

16 3. Defendant own/owned and operate/operated an industry, business, and
17 establishment within the State of California, including Sacramento County. As such, and based
18 upon all the facts and circumstances incident to Defendant's business in California, Defendant is
19 subject to the California Labor Code, Wage Orders issued by the Industrial Welfare Commission
20 ("IWC"), and the California Business & Professions Code.

21 4. Despite these requirements, throughout the statutory period, Defendant maintained
22 a systematic, company-wide pattern and practice of:

- 23 (a) Failing to pay employees for all hours worked, including all minimum,
24 straight time, and overtime in compliance with the California Labor Code
25 and IWC Wage Orders;
- 26 (b) Failing to provide employees with timely and duty-free meal periods in
27 compliance with the California Labor Code and IWC Wage Orders, failing
28 to maintain accurate records of all meal periods taken or missed, and failing

1 to pay an additional hour's pay for each workday a meal period violation
2 occurred;

3 (c) Failing to authorize and permit employees to take timely and duty-free rest
4 periods in compliance with the California Labor Code and IWC Wage
5 Orders, and failing to pay an additional hour's pay for each workday a rest
6 period violation occurred;

7 (d) Willfully failing to pay employees all minimum, straight time, overtime,
8 meal period premium, and rest period premium wages due within the time
9 period specified by California law when employment terminates;

10 (e) Failing to provide employees with accurate, itemized wage statements
11 containing all the information required by the California Labor Code and
12 IWC Wage Orders; and,

13 (f) Failing to indemnify employees for expenditures incurred in direct discharge
14 of duties of employment;

15 5. On information and belief, Defendants, and each of them were on actual and
16 constructive notice of the improprieties alleged herein and intentionally refused to rectify their
17 unlawful policies. Defendant's violations, as alleged above, during all relevant times herein were
18 willful and deliberate.

19 6. At all relevant times, Defendant was and is legally responsible for all of the unlawful
20 conduct, policies, practices, acts and omissions as described in each and all of the foregoing
21 paragraphs as the employer of Plaintiffs and the Class. Further, Defendant is responsible for each
22 of the unlawful acts or omissions complained of herein under the doctrine of "respondeat superior."

23 **THE PARTIES**

24 **A. Plaintiffs**

25 7. Plaintiff EDGAR JESUS LARA is a resident of Sacramento County, California who
26 worked for Defendant in Sacramento County, California as an hourly-paid, non-exempt employee
27 from approximately April 2021 to approximately September 2022.

28 8. Plaintiff MARK SEXTON worked for Defendant in Sacramento County, California

1 as an hourly-paid, non-exempt employee from approximately September 2021 to approximately
2 September 2022.

3 9. Plaintiffs reserve the right to seek leave to amend this complaint to add new
4 Plaintiffs, if necessary, in order to establish suitable representative(s) pursuant to *La Sala v.*
5 *American Savings and Loan Association* (1971) 5 Cal.3d 864, 872, and other applicable law.

6 **B. Defendants**

7 10. Plaintiffs are informed and believes, and based upon that information and belief
8 alleges, that Defendant EMERALD SITE SERVICES, INC. is, and at all times herein mentioned,
9 was:

10 (a) A business entity conducting business in numerous counties throughout the
11 State of California, including Sacramento County; and,

12 (b) The former employer of Plaintiffs, and the current and/or former employer
13 of the putative Class because Defendant EMERALD SITE SERVICES, INC.
14 suffered and permitted Plaintiffs and the Class to work, and/or controlled
15 their wages, hours, or working conditions.

16 11. Plaintiffs do not know the true names or capacities of the persons or entities sued
17 herein as Does 1-10, inclusive, and therefore sue said Defendants by such fictitious names. Each
18 of the Doe Defendants was in some manner legally responsible for the damages suffered by
19 Plaintiffs and the Class as alleged herein. Plaintiffs will amend this complaint to set forth the true
20 names and capacities of these Defendants when they have been ascertained, together with
21 appropriate charging allegations, as may be necessary.

22 12. At all times mentioned herein, the Defendants named as Does 1-10, inclusive, and
23 each of them, were residents of, doing business in, availed themselves of the jurisdiction of, and/or
24 injured a significant number of the Plaintiffs and the Class in the State of California.

25 13. Plaintiffs are informed and believes and thereon allege that at all relevant times each
26 Defendant, directly or indirectly, or through agents or other persons, employed Plaintiffs and the
27 other employees described in the class definitions below, and exercised control over their wages,
28 hours, and working conditions. Plaintiffs are informed and believes and thereon alleges that, at all

relevant times, each Defendant was the principal, agent, partner, joint venturer, officer, director, controlling shareholder, subsidiary, affiliate, parent corporation, successor in interest and/or predecessor in interest of some or all of the other Defendants, and was engaged with some or all of the other Defendants in a joint enterprise for profit, and bore such other relationships to some or all of the other Defendants so as to be liable for their conduct with respect to the matters alleged below. Plaintiffs are informed and believes and thereon alleges that each Defendant acted pursuant to and within the scope of the relationships alleged above, that each Defendant knew or should have known about, and authorized, ratified, adopted, approved, controlled, aided and abetted the conduct of all other Defendants and/or all Defendants were joint employers.

ALLEGATIONS COMMON TO ALL CAUSES OF ACTION

14. Plaintiff EDGAR JESUS LARA worked for Defendant in Sacramento County, California as an hourly-paid, non-exempt employee from approximately April 2021 to approximately September 2022.

15. Plaintiff MARK SEXTON worked for Defendant in Sacramento County, California as an hourly-paid, non-exempt employee from approximately September 2021 to approximately September 2022.

16. During Plaintiffs' employment for Defendant, Defendant paid Plaintiffs an hourly wage and classified them as non-exempt from overtime. Defendant typically scheduled Plaintiffs to work at least five days in a workweek and at least eight hours per day, but Plaintiffs also worked more than eight hours in a workday and more than forty (40) hours in a workweek.

17. Throughout Plaintiffs' employment, Defendant failed to pay for all hours worked (including minimum, straight time, and overtime wages), failed to provide Plaintiffs with legally compliant meal periods, failed to authorize and permit Plaintiffs to take rest periods, failed to timely pay all final wages to Plaintiffs when Defendant terminated their employment, failed to furnish accurate wage statements to Plaintiffs, failed to indemnify Plaintiffs for expenditures, and failed to produce requested employment records. As discussed below, Plaintiffs' experience working for Defendant was typical and illustrative.

///

18. Throughout the statutory period, Defendant maintained a pattern and practice of not paying Plaintiffs and the Class for all hours worked, including minimum, straight time, and overtime wages. Defendant required Plaintiffs and the Class to work "off-the-clock," uncompensated, by, for example, requiring Plaintiffs and the Class to perform work during uncompensated meal periods and rest periods. Some of this unpaid work should have been paid at the overtime rate. In failing to pay for all hours worked, Defendant also failed to maintain accurate records of the hours Plaintiffs and the Class worked.

19. Throughout the statutory period, Defendant wrongfully failed to provide Plaintiffs and the Class with their legally mandated 30-minute, uninterrupted, and duty-free meal period in a manner required by law (and also including but not limited to failing to provide Plaintiffs and the Class the opportunity to leave the work premises to take meal periods). Defendant also continued to assert control over Plaintiffs and the Class by, among other things, requiring, pressuring, or encouraging them to perform work tasks which could not be completed without working in lieu of taking mandatory meal periods, or by denying Plaintiffs and the Class permission to take a meal period under the conditions required by law, and without properly compensating Plaintiffs and the Class for meal periods that were not provided as required by law. Defendant also never informed Plaintiffs of their right to, nor permitted them to take, a second meal period when Plaintiffs worked at least ten hours of work in a workday and otherwise unlawfully pressured them to waive such breaks. Accordingly, Defendant's pattern and practice was not to provide meal periods to Plaintiffs and the Class in compliance with California law.

20. Throughout the statutory period, Defendant has wrongfully failed to authorize and permit Plaintiffs and the Class to take legally compliant rest periods in a manner required by law (and also including but not limited to failing to authorize and permit Plaintiffs and the Class the opportunity to leave the work premises to take rest periods). Defendant regularly required Plaintiffs and the Class to work in excess of four consecutive hours a day without Defendant authorizing and permitting them to take a 10-minute, uninterrupted, duty-free rest period for every four hours of work (or major fraction of four hours), or without compensating Plaintiffs and the Class for rest periods that were not authorized or permitted. Instead, Defendant continued to assert control over

1 Plaintiffs and the Class by requiring, pressuring, or encouraging them to perform work tasks which
2 could not be completed without working in lieu of taking mandatory rest periods, or by denying
3 Plaintiffs and the Class permission to take a rest period. Accordingly, Defendant's pattern and
4 practice was to not authorize and permit Plaintiffs and the Class to take rest periods in compliance
5 with California law.

6 21. Throughout the statutory period, Defendant willfully failed and refused to timely
7 pay Plaintiffs and the Class all final wages due at their termination of employment. In addition,
8 Plaintiffs' final paychecks did not include payment for all expenditures, minimum wages, straight
9 time wages, overtime wages, meal period premium wages, and rest period premium wages owed
10 to them by Defendant at the conclusion of their employment. On information and belief,
11 Defendant's failure to timely pay Plaintiffs' final wages when their employment terminated was
12 not a single, isolated incident, but was instead consistent with Defendant's pattern and practice that
13 applied to Plaintiffs and the Class.

14 22. Throughout the statutory period, Defendant failed to furnish Plaintiffs and the Class
15 with accurate, itemized wage statements showing all applicable hourly rates, and all gross and net
16 wages earned (including correct hours worked, correct wages for meal periods that were not
17 provided in accordance with California law, and correct wages for rest periods that were not
18 authorized and permitted to take in accordance with California law). As a result of these violations
19 of California Labor Code § 226(a), the Plaintiffs and the Class suffered injury because, among
20 other things:

- 21 (a) the violations led them to believe that they were not entitled to be paid
22 minimum, straight time, overtime, meal period premium, and rest period
23 premium wages, even though they were entitled;
- 24 (b) the violations led them to believe that they had been paid the minimum,
25 straight time, overtime, meal period premium, and rest period premium
26 wages, even though they had not been;
- 27 (c) the violations led them to believe they were not entitled to be paid minimum,
28 straight time, overtime, meal period premium, and rest period premium

wages at the correct California rate even though they were entitled;

(d) the violations led them to believe they had been paid minimum, straight time, overtime, meal period premium, and rest period premium wages at the correct California rate even though they had not been;

(e) the violations hindered them from determining the amounts of minimum, straight time, overtime, meal period premium, and rest period premium wages owed to them;

(f) in connection with their employment before and during this action, and in connection with prosecuting this action, the violations caused them to have to perform mathematical computations to determine the amounts of wages owed to them, computations they would not have to make if the wage statements contained the required accurate information;

(g) by understating the wages truly due to them, the violations caused them to lose entitlement and/or accrual of the full amount of Social Security, disability, unemployment, and other governmental benefits;

(h) the wage statements inaccurately understated the wages, hours, and wage rates to which Plaintiffs and the Class were entitled, and Plaintiffs and the Class were paid less than the wages and wage rates to which they were entitled.

Thus, Plaintiffs and the Class are owed the amounts provided for in California Labor Code § 226(e).

23. Throughout the statutory period, Defendant has wrongfully required Plaintiffs and the Class to pay expenses that they incurred in direct discharge of their duties for Defendant. Plaintiffs and the Class regularly paid out-of-pocket for necessary employment-related expenses, including, without limitation, work attire and use of personal cell phone.

24. Plaintiffs and the Class incurred substantial expenses as a direct result of performing their job duties for Defendant, but Defendant failed to indemnify Plaintiffs and the Class for these employment-related expenses.

CLASS ACTION ALLEGATIONS

25. Plaintiffs bring certain claims individually, as well as on behalf of each and all other persons similarly situated, and thus, seeks class certification under California Code of Civil Procedure § 382.

26. All claims alleged herein arise under California law for which Plaintiffs seek relief authorized by California law.

27. The proposed Class consists of and is defined as:

All persons who worked for any Defendant in California as an hourly-paid or non-exempt employee at any time during the period beginning four years and 178 days before the filing of the initial complaint in this action and ending when notice to the Class is sent.¹

28. At all material times, Plaintiffs were members of the Class.

29. Plaintiffs undertake this concerted activity to improve the wages and working conditions of all Class Members.

30. There is a well-defined community of interest in the litigation and the Class is readily ascertainable:

(a) **Numerosity**: The members of the Class (and each subclass, if any) are so numerous that joinder of all members would be unfeasible and impractical.

The membership of the entire Class is unknown to Plaintiffs at this time; however, the Class is estimated to be greater than forty (40) individuals and the identity of such membership is readily ascertainable by inspection of Defendant's records.

(b) **Typicality**: Plaintiffs are qualified to, and will, fairly and adequately protect the interests of each Class Member with whom there is a shared, well-defined community of interest, and Plaintiffs' claims (or defenses, if any) are typical of all Class Members' claims as demonstrated herein.

(c) **Adequacy**: Plaintiffs are qualified to, and will, fairly and adequately protect

¹ In response to the COVID-19 pandemic, the Judicial Council of California adopted Emergency Rule 9(a) (California Rules of Court), whereby "statutes of limitations and repose for civil causes of action that exceed 180 days are tolled from April 6, 2020 to October 1, 2020."

the interests of each Class Member with whom there is a shared, well-defined community of interest and typicality of claims, as demonstrated herein. Plaintiffs have no conflicts with or interests antagonistic to any Class Member. Plaintiffs' attorneys, the proposed class counsel, are versed in the rules governing class action discovery, certification, and settlement. Plaintiffs have incurred, and throughout the duration of this action, will continue to incur costs and attorneys' fees that have been, are, and will be necessarily expended for the prosecution of this action for the substantial benefit of each class member.

(d) Superiority: A Class Action is superior to other available methods for the fair and efficient adjudication of the controversy, including consideration of:

- 1) The interests of the members of the Class in individually controlling the prosecution or defense of separate actions;
- 2) The extent and nature of any litigation concerning the controversy already commenced by or against members of the Class;
- 3) The desirability or undesirability of concentrating the litigation of the claims in the particular forum; and,
- 4) The difficulties likely to be encountered in the management of a class action.

(e) Public Policy Considerations: The public policy of the State of California is to resolve the California Labor Code claims of many employees through a class action. Indeed, current employees are often afraid to assert their rights out of fear of direct or indirect retaliation. Former employees are also fearful of bringing actions because they believe their former employers might damage their future endeavors through negative references and/or other means. Class actions provide the class members who are not named in the complaint with a type of anonymity that allows for the vindication of their rights at the same time as their privacy is protected.

1 31. There are common questions of law and fact as to the Class (and each subclass, if
2 any) that predominate over questions affecting only individual members, including without
3 limitation, whether, as alleged herein, Defendant has:

- 4 (a) Failed to pay Class Members for all hours worked, including minimum,
5 straight time, and overtime wages;
- 6 (b) Failed to provide meal periods and pay meal period premium wages to Class
7 Members;
- 8 (c) Failed to authorize and permit rest periods and pay rest period premium
9 wages to Class Members;
- 10 (d) Failed to provide Class Members with timely final wages;
- 11 (e) Failed to provide Class Members with accurate wage statements;
- 12 (f) Failed to indemnify Class Members for expenditures; and
- 13 (g) Violated California Business & Professions Code §§ 17200 *et. seq.* as a
14 result of their illegal conduct as described above.

15 32. This Court should permit this action to be maintained as a class action pursuant to
16 California Code of Civil Procedure § 382 because:

- 17 (a) The questions of law and fact common to the Class predominate over any
18 question affecting only individual members;
- 19 (b) A class action is superior to any other available method for the fair and
20 efficient adjudication of the claims of the members of the Class;
- 21 (c) The members of the Class are so numerous that it is impractical to bring all
22 members of the class before the Court;
- 23 (d) Plaintiffs, and the other members of the Class, will not be able to obtain
24 effective and economic legal redress unless the action is maintained as a
25 class action;
- 26 (e) There is a community of interest in obtaining appropriate legal and equitable
27 relief for the statutory violations, and in obtaining adequate compensation
28 for the damages and injuries for which Defendant is responsible in an

amount sufficient to adequately compensate the members of the Class for the injuries sustained;

(f) Without class certification, the prosecution of separate actions by individual members of the class would create a risk of:

1) Inconsistent or varying adjudications with respect to individual members of the Class which would establish incompatible standards of conduct for Defendant; and/or,

2) Adjudications with respect to the individual members which would, as a practical matter, be dispositive of the interests of other members not parties to the adjudications, or would substantially impair or impede their ability to protect their interests, including but not limited to the potential for exhausting the funds available from those parties who are, or may be, responsible Defendants; and,

(g) Defendant has acted or refused to act on grounds generally applicable to the Class, thereby making final injunctive relief appropriate with respect to the class as a whole.

33. Plaintiffs contemplate the eventual issuance of notice to the proposed members of the Class that would set forth the subject and nature of the instant action. The Defendant's own business records may be utilized for assistance in the preparation and issuance of the contemplated notices. To the extent that any further notices may be required, Plaintiffs contemplates the use of additional techniques and forms commonly used in class actions, such as published notice, e-mail notice, website notice, first-class mail, or combinations thereof, or by other methods suitable to the Class and deemed necessary and/or appropriate by the Court.

FIRST CAUSE OF ACTION

(By All Plaintiffs Against All Defendants for Failure to Pay Minimum and Straight Time Wages for All Hours Worked)

34. Plaintiffs incorporate by reference and re-alleges as if fully stated herein paragraphs 1 through 24 in this Complaint.

1 35. "Hours worked" is the time during which an employee is subject to the control of
2 an employer, and includes all the time the employee is suffered or permitted to work, whether or
3 not required to do so.

4 36. At all relevant times herein mentioned, Defendant knowingly failed to pay to
5 Plaintiffs and the Class compensation for all hours they worked. By their failure to pay
6 compensation for each hour worked as alleged above, Defendant willfully violated the provisions
7 of California Labor Code § 1194, and any additional applicable Wage Orders, which require such
8 compensation to non-exempt employees.

9 37. Accordingly, Plaintiffs and the Class are entitled to recover minimum and straight
10 time wages for all non-overtime hours worked for Defendant.

11 38. By and through the conduct described above, Plaintiffs and the Class have been
12 deprived of their rights to be paid wages earned by virtue of their employment with Defendant.

13 39. By virtue of the Defendant's unlawful failure to pay additional compensation to
14 Plaintiffs and the Class for their non-overtime hours worked without pay, Plaintiffs and the Class
15 suffered, and will continue to suffer, damages in amounts which are presently unknown to
16 Plaintiffs and the Class and which will be ascertained according to proof at trial.

17 40. By failing to keep adequate time records required by California Labor Code §
18 1174(d), Defendant has made it difficult to calculate the full extent of minimum wage
19 compensation due Plaintiffs and the Class.

20 41. Pursuant to California Labor Code § 1194.2, Plaintiffs and the Class are entitled to
21 recover liquidated damages (double damages) for Defendant's failure to pay minimum wages.

22 42. California Labor Code § 204 requires employers to provide employees with all
23 wages due and payable twice a month. Throughout the statute of limitations period applicable to
24 this cause of action, Plaintiffs and the Class were entitled to be paid twice a month at rates required
25 by law, including minimum and straight time wages. However, during all such times, Defendant
26 systematically failed and refused to pay Plaintiffs and the Class all such wages due and failed to
27 pay those wages twice a month.

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43. Plaintiffs and the Class are also entitled to seek recovery of all unpaid minimum and straight time wages, interest, and reasonable attorneys' fees and costs pursuant to California Labor Code §§ 218.5, 218.6, and 1194(a).

SECOND CAUSE OF ACTION

(By All Plaintiffs Against All Defendants for Failure to Pay Overtime Wages)

44. Plaintiffs incorporate by reference and re-alleges as if fully stated herein paragraphs 1 through 24 in this Complaint.

45. California Labor Code § 510 provides that employees in California shall not be employed more than eight hours in any workday or forty (40) hours in a workweek unless they receive additional compensation beyond their regular wages in amounts specified by law.

46. California Labor Code §§ 1194 and 1198 provide that employees in California shall not be employed more than eight hours in any workday unless they receive additional compensation beyond their regular wages in amounts specified by law. Additionally, California Labor Code § 1198 states that the employment of an employee for longer hours than those fixed by the IWC is unlawful.

47. At all times relevant hereto, Plaintiffs and the Class have worked more than eight hours in a workday and/or more than forty (40) hours in a workweek, as employees of Defendant.

48. At all times relevant hereto, Defendant failed to pay Plaintiffs and the Class overtime compensation for the hours they have worked in excess of the maximum hours permissible by law as required by California Labor Code §§ 510 and 1198.

49. By virtue of Defendant's unlawful failure to pay additional premium rate compensation to the Plaintiffs and the Class for their overtime hours worked, Plaintiffs and the Class have suffered, and will continue to suffer, damages in amounts which are presently unknown to them but which exceed the jurisdictional minimum of this Court and which will be ascertained according to proof at trial.

50. By failing to keep adequate time records required by Labor Code § 1174(d), Defendant has made it difficult to calculate the full extent of overtime compensation due to Plaintiffs and the Class.

51. Plaintiffs and the Class also request recovery of overtime compensation according to proof, interest, attorneys' fees and costs pursuant to California Labor Code § 1194(a), as well as the assessment of any statutory penalties against Defendant, in a sum as provided by the California Labor Code and/or other statutes.

THIRD CAUSE OF ACTION

53. Plaintiffs incorporate by reference and re-alleges as if fully stated herein paragraphs 1 through 24 in this Complaint.

55. Despite these legal requirements, Defendant regularly failed to provide Plaintiffs and the Class with both meal periods as required by California law. By its failure to permit and authorize Plaintiffs and the Class to take all meal periods as alleged above (or due to the fact that Defendant made it impossible or impracticable to take these uninterrupted meal periods), Defendant willfully violated the provisions of California Labor Code § 226.7 and the applicable Wage Orders.

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1 56. Under California law, Plaintiffs and the Class are entitled to be paid one hour of
2 additional wages for each workday he or she was not provided with all required meal period(s),
3 plus interest thereon.

4 **FOURTH CAUSE OF ACTION**

5 **(By All Plaintiffs Against All Defendants for Failure to Authorize and Permit Rest Periods)**

6 57. Plaintiffs incorporate by reference and re-alleges as if fully stated herein paragraphs
7 1 through 24 in this Complaint.

8 58. Defendants are required by California law to authorize and permit breaks of ten
9 uninterrupted minutes for each four hours of work or major fraction of four hours (i.e. more than
10 two hours). California Labor Code § 512, the applicable Wage Orders require that the employer
11 permit and authorize all employees to take paid rest periods of ten minutes each for each 4-hour
12 period worked. Thus, for example, if an employee's work time is six hours and ten minutes, the
13 employee is entitled to two rest breaks. Each failure to authorize rest breaks as so required is itself
14 a violation of California's rest break laws. It is a violation of California Labor Code § 226.7 for
15 an employer to require any employee to work during any rest period mandated under any Wage
16 Order.

17 59. Despite these legal requirements, Defendant failed to authorize Plaintiffs and the
18 Class to take rest breaks, regardless of whether employees worked more than four hours in a
19 workday. By its failure to permit and authorize Plaintiffs and the Class to take rest periods as
20 alleged above (or due to the fact that Defendant made it impossible or impracticable to take these
21 uninterrupted rest periods), Defendant willfully violated the provisions of California Labor Code
22 § 226.7 and the applicable Wage Orders.

23 60. Under California law, Plaintiffs and the Class are entitled to be paid one hour of
24 premium wages rate for each workday he or she was not provided with all required rest break(s),
25 plus interest thereon.

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FIFTH CAUSE OF ACTION

(By All Plaintiffs Against All Defendants for Failure to Pay Wages of Discharged Employees – Waiting Time Penalties)

61. Plaintiffs incorporate by reference and re-alleges as if fully stated herein paragraphs 1 through 24 in this Complaint.

62. At all times herein set forth, California Labor Code §§ 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.

63. Within the applicable statute of limitations, the employment of many other members of the Class ended, i.e. was terminated by quitting or discharge, and the employment of others will be. However, during the relevant time period, Defendant failed, and continues to fail to pay terminated Class Members, without abatement, all wages required to be paid by California Labor Code §§ 201 and 202 either at the time of discharge, or within seventy-two (72) hours of their leaving Defendant's employ.

64. Defendant's failure to pay those Class members who are no longer employed by Defendant their wages earned and unpaid at the time of discharge, or within seventy-two (72) hours of their leaving Defendant's employ, is in violation of California Labor Code §§ 201 and 202.

65. California Labor Code § 203 provides that if an employer willfully fails to pay wages owed, in accordance with §§ 201 and 202, then the wages of the employee shall continue as a penalty wage from the due date, and at the same rate until paid or until an action is commenced; but the wages shall not continue for more than thirty (30) days.

66. The Class is entitled to recover from Defendant their additionally accruing wages for each day they were not paid, at their regular hourly rate of pay, up to thirty (30) days maximum pursuant to California Labor Code § 203.

67. Pursuant to California Labor Code §§ 218.5, 218.6 and 1194, the Class is also entitled to an award of reasonable attorneys' fees, interest, expenses, and costs incurred in this action.

SIXTH CAUSE OF ACTION

(By All Plaintiffs Against All Defendants for Failure to Provide and Maintain Accurate and Compliant Wage Records)

68. Plaintiffs incorporate by reference and re-alleges as if fully stated herein paragraphs 1 through 24 in this Complaint.

69. At all material times set forth herein, California Labor Code § 226(a) provides that every employer shall furnish each of his or her employees an accurate itemized wage statement in writing showing nine pieces of information, including: (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

70. Defendant has intentionally and willfully failed to provide employees with complete and accurate wage statements. The deficiencies include, among other things, the failure to correctly identify the gross wages earned by Plaintiffs and the Class, the failure to list the true "total hours worked by the employee," and the failure to list the true net wages earned.

71. As a result of Defendant's violation of California Labor Code § 226(a), Plaintiffs and the Class have suffered injury and damage to their statutorily protected rights.

72. Specifically, Plaintiffs and the members of the Class have been injured by Defendant's intentional violation of California Labor Code § 226(a) because they were denied both their legal right to receive, and their protected interest in receiving, accurate, itemized wage

statements under California Labor Code § 226(a).

73. Calculation of the true wage entitlement for Plaintiffs and the Class is difficult and time consuming. As a result of this unlawful burden, Plaintiffs and the Class were also injured as a result of having to bring this action to attempt to obtain correct wage information following Defendant's refusal to comply with many of the mandates of California's Labor Code and related laws and regulations.

74. Plaintiffs and the Class are entitled to recover from Defendant the greater of their actual damages caused by Defendant's failure to comply with California Labor Code § 226(a), or an aggregate penalty not exceeding four thousand dollars (\$4,000) per employee.

75. Plaintiffs and the Class are also entitled to injunctive relief, as well as an award of attorney's fees and costs to ensure compliance with this section, pursuant to California Labor Code § 226(h).

SEVENTH CAUSE OF ACTION

(By All Plaintiffs Against All Defendants for Failure to Indemnify Employees for Expenditures)

76. Plaintiffs incorporate by reference and re-alleges as if fully stated herein paragraphs 1 through 24 in this Complaint.

77. As set forth above, Plaintiffs and the Class were required to incur substantial necessary expenditures and losses in direct consequence of the discharge of their duties or of their obedience to directions of Defendant.

78. Defendant violated California Labor Code § 2802, by failing to pay and indemnify Plaintiffs and the Class for necessary expenditures and losses incurred in direct consequence of the discharge of their duties or of their obedience to directions of Defendant.

79. As a result, Plaintiffs and the Class were damaged at least in the amounts of the expenses they paid, or which were deducted by Defendant from their wages.

80. Plaintiffs and the Class are entitled to reasonable attorney's fees, expenses, and costs of suit pursuant to California Labor Code § 2802(c) and interest pursuant to California Labor Code § 2802(b).

EIGHTH CAUSE OF ACTION

(By All Plaintiffs Against All Defendants for Violation of California Business & Professions Code §§ 17200, et seq.)

81. Plaintiffs incorporate by reference and re-alleges as if fully stated herein paragraphs 1 through 24 in this Complaint.

82. Defendants, and each of them, are "persons" as defined under California Business & Professions Code § 17201.

83. Defendant's conduct, as alleged herein, has been, and continues to be, unfair, unlawful, and harmful to Plaintiffs, other Class members, and to the general public. Plaintiffs seeks to enforce important rights affecting the public interest within the meaning of Code of Civil Procedure § 1021.5.

84. Defendant's activities, as alleged herein, are violations of California law, and constitute unlawful business acts and practices in violation of California Business & Professions Code §§ 17200, *et seq.*

85. A violation of California Business & Professions Code §§ 17200, *et seq.* may be predicated on the violation of any state or federal law. All of the acts described herein as violations of, among other things, the California Labor Code, are unlawful and in violation of public policy; and in addition are immoral, unethical, oppressive, fraudulent and unscrupulous, and thereby constitute unfair, unlawful and/or fraudulent business practices in violation of California Business & Professions Code §§ 17200, *et seq.*

Failure to Pay Minimum and Straight Time Wages

86. Defendant's failure to pay minimum and straight time wages, and other benefits in violation of the California Labor Code constitutes unlawful and/or unfair activity prohibited by California Business & Professions Code §§ 17200, *et seq.*

Failure to Pay Overtime Wages

87. Defendant's failure to pay overtime compensation and other benefits in violation of California Labor Code §§ 510, 1194, and 1198 constitutes unlawful and/or unfair activity prohibited by California Business & Professions Code §§ 17200, *et seq.*

Failure to Provide Meal Periods

88. Defendant's failure to provide meal periods in accordance with California Labor Code §§ 226.7 and 512, and the IWC Wage Orders, as alleged above, constitutes unlawful and/or unfair activity prohibited by California Business & Professions Code §§ 17200, *et seq.*

Failure to Authorize and Permit Rest Periods

89. Defendant's failure to authorize and permit rest periods in accordance with California Labor Code § 226.7 and the IWC Wage Orders, as alleged above, constitutes unlawful and/or unfair activity prohibited by Business and Professions Code §§ 17200, *et seq.*

Failure to Indemnify Business Expenses

90. Defendant's failure to reimburse expenses incurred in accordance with California Labor Code § 2802, as alleged above, constitutes unlawful and/or unfair activity prohibited by California Business & Professions Code §§ 17200 *et seq.*

91. By and through their unfair, unlawful and/or fraudulent business practices described herein, the Defendant, has obtained valuable property, money and services from Plaintiffs, and all persons similarly situated, and have deprived Plaintiffs, and all persons similarly situated, of valuable rights and benefits guaranteed by law, all to their detriment.

92. Plaintiffs and the Class Members suffered monetary injury as a direct result of Defendant's wrongful conduct.

93. Plaintiffs, individually, and on behalf of members of the putative Class, is entitled to, and does, seek such relief as may be necessary to disgorge money and/or property which the Defendant has wrongfully acquired, or of which Plaintiffs and the Class have been deprived, by means of the above-described unfair, unlawful and/or fraudulent business practices. Plaintiffs and the Class are not obligated to establish individual knowledge of the wrongful practices of Defendant in order to recover restitution.

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1 94. Plaintiffs, individually, and on behalf of members of the putative class, are further
2 entitled to and do seek a declaration that the above-described business practices are unfair,
3 unlawful and/or fraudulent, and injunctive relief restraining the Defendant, and each of them, from
4 engaging in any of the above-described unfair, unlawful and/or fraudulent business practices in the
5 future.

6 95. Plaintiffs, individually, and on behalf of members of the putative class, has no plain,
7 speedy, and/or adequate remedy at law to redress the injuries which the Class Members suffered
8 as a consequence of the Defendant's unfair, unlawful and/or fraudulent business practices. As a
9 result of the unfair, unlawful and/or fraudulent business practices described above, Plaintiffs,
10 individually, and on behalf of members of the putative Class, have suffered and will continue to
11 suffer irreparable harm unless the Defendant is restrained from continuing to engage in said unfair,
12 unlawful and/or fraudulent business practices.

13 96. Plaintiffs also allege that if Defendant is not enjoined from the conduct set forth
14 herein above, Defendant will continue to avoid paying the appropriate taxes, insurance and other
15 withholdings.

16 97. Pursuant to California Business & Professions Code §§ 17200, *et seq.*, Plaintiffs and
17 putative Class Members are entitled to restitution of the wages withheld and retained by Defendant
18 during a period that commences four years and 178 days prior to the filing of this complaint; a
19 permanent injunction requiring Defendant to pay all outstanding wages due to Plaintiffs and Class
20 Members; an award of attorneys' fees pursuant to California Code of Civil Procedure § 1021.5 and
21 other applicable laws; and an award of costs.

22 **PRAYER FOR RELIEF**

23 Plaintiffs, individually, and on behalf of all others similarly situated only with respect to
24 the class claims, prays for relief and judgment against Defendants, jointly and severally, as follows:

25 **Class Certification**

26 1. That this action be certified as a class action with respect to the First, Second, Third,
27 Fourth, Fifth, Sixth, Seventh, and Eighth Causes of Action;

28 2. That Plaintiffs be appointed as the representative of the Class; and,

1 3. That counsel for Plaintiffs be appointed as Class Counsel.

2 As to the First Cause of Action

3 4. That the Court declare, adjudge, and decree that Defendant violated California
4 Labor Code §§ 204 and 1194 and applicable IWC Wage Orders by willfully failing to pay all
5 minimum and straight time wages due;

6 5. For unpaid wages as may be appropriate;

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

9 7. For liquidated damages;

10 8. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to
11 California Labor Code § 1194(a); and,

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

13 As to the Second Cause of Action

14 10. That the Court declare, adjudge, and decree that Defendant violated California
15 Labor Code §§ 510 and 1198 and applicable IWC Wage Orders by willfully failing to pay all
16 overtime wages due;

17 11. For unpaid wages at overtime wage rates as may be appropriate;

18 12. For pre-judgment interest on any unpaid overtime compensation commencing from
19 the date such amounts were due;

20 13. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to
21 California Labor Code § 1194(a); and,

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

23 As to the Third Cause of Action

24 15. That the Court declare, adjudge, and decree that Defendant violated California
25 Labor Code §§ 226.7 and 512, and the IWC Wage Orders;

26 16. For unpaid meal period premium wages as may be appropriate;

27 17. For pre-judgment interest on any unpaid compensation commencing from the date
28 such amounts were due;

1 18. For reasonable attorneys' fees under California Code of Civil Procedure § 1021.5,
2 and for costs of suit incurred herein; and,

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

4 As to the Fourth Cause of Action

5 20. That the Court declare, adjudge, and decree that Defendant violated California
6 Labor Code §§ 226.7 and 512, and the IWC Wage Orders;

7 21. For unpaid rest period premium wages as may be appropriate;

8 22. For pre-judgment interest on any unpaid compensation commencing from the date
9 such amounts were due;

10 23. For reasonable attorneys' fees under California Code of Civil Procedure § 1021.5,
11 and for costs of suit incurred herein; and,

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

13 As to the Fifth Cause of Action

14 25. That the Court declare, adjudge and decree that Defendant violated California Labor
15 Code §§ 201, 202, and 203 by willfully failing to pay all compensation owed at the time of
16 termination of the employment;

17 26. For statutory wage penalties pursuant to California Labor Code § 203 for former
18 employees who have left Defendant's employ;

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

21 28. For reasonable attorneys' fees and for costs of suit incurred herein; and,

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

23 As to the Sixth Cause of Action

24 30. That the Court declare, adjudge, and decree that Defendant violated the record
25 keeping provisions of California Labor Code § 226(a) and applicable IWC Wage Orders, and
26 willfully failed to provide accurate itemized wage statements thereto;

27 31. For all actual damages, according to proof;

28 32. For statutory penalties pursuant to California Labor Code § 226(e);

1 33. For injunctive relief to ensure compliance with this section, pursuant to California
2 Labor Code § 226(h);

3 34. For reasonable attorneys' fees and for costs of suit incurred herein; and,

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

5 As to the Seventh Cause of Action

6 36. That the Court declare, adjudge, and decree that Defendant violated California Labor
7 Code § 2802 by willfully failing to indemnify employees for expenditures;

8 37. For unpaid wages or unreimbursed business expenses as may be appropriate;

9 38. For pre-judgment interest on any unpaid compensation commencing from the date
10 such amounts were due;

11 39. For reasonable attorneys' fees and for costs of suit incurred herein; and,

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

13 As to the Eighth Cause of Action

14 41. That the Court declare, adjudge, and decree that Defendant violated California
15 Business & Professions Code §§ 17200, *et seq.* by failing to pay for all hours worked (minimum,
16 straight-time, and overtime wages), failing to provide meal periods, failing to authorize and permit
17 rest periods, and failing to indemnify employees for expenditures;

18 42. For restitution of unpaid wages to Plaintiffs and all Class Members and prejudgment
19 interest from the day such amounts were due and payable;

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

23 44. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
24 California Code of Civil Procedure § 1021.5;

25 45. For injunctive relief to ensure compliance with this section, pursuant to California
26 Business & Professions Code §§ 17200, *et seq.*; and,

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

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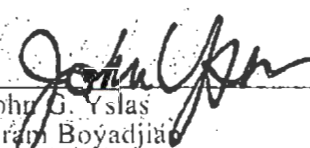
As to all Causes of Action

47. For any additional relief that the Court deems just and proper.

Respectfully submitted,

Dated: December 30, 2022

WILSHIRE LAW FIRM

By: 

John G. Yslas
Aram Boyadjian
Andrew Sandoval

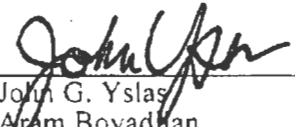
Attorneys for Plaintiffs

DEMAND FOR JURY TRIAL

Plaintiffs demand a trial by jury as to all causes of action triable by jury.

Dated: December 30, 2022

WILSHIRE LAW FIRM

By: 

John G. Yslas
Aram Boyadjian
Andrew Sandoval

Attorneys for Plaintiffs

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