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and on behalf of all others similarly situated

*(Additional Counsel on following page)*

**SUPERIOR COURT FOR THE STATE OF CALIFORNIA**

**COUNTY OF ORANGE**

CARLOS VASQUEZ, individually and on  
behalf of other individuals similarly situated,

Plaintiff,

v.

ADT COMMERCIAL LLC; and DOES 1  
through 10,

Defendants.

**CASE NO. 30-2023-01333710-CU-OE-CXC**  
**Assigned to Hon. William Claster Dept. CX104**

**FIRST AMENDED CLASS ACTION  
COMPLAINT FOR:**

- (1) Failure to Pay for All Hours Worked  
(Labor Code §§ 1198, 1197);**
- (2) Failure to Provide Compliant Meal Periods  
(Labor Code §§ 226.7, 512);**
- (3) Failure to Provide Compliant Rest Periods  
(Labor Code §§ 226.7, 512);**
- (4) Failure to Provide Accurate, Itemized Wage  
Statements (Labor Code § 226(a));**
- (5) Failure to Reimburse Expenses (Labor Code  
§ 2802);**
- (6) Failure to Pay All Wages in a Timely  
Manner at Time of Termination (Labor  
Code § 203); and**
- (7) Violations of California Business and  
Professions Code §§17200, et seq.; and**
- (8) Civil Penalties Pursuant to PAGA Labor  
Code §§ 2698, et seq.**

**DEMAND FOR JURY TRIAL**

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1 Plaintiff Carlos Vasquez, (hereinafter referred to as “Plaintiff”), hereby submits this First  
2 Amended Class Action and Representative Action Complaint against Defendants ADT  
3 COMMERCIAL, LLC and DOES 1 through 10 (hereinafter referred to as “Defendants”) on behalf of  
4 himself and a proposed class of all other similarly situated current employees of Defendants and  
5 alleges as follows:

6 **NATURE OF THE CASE**

7 1. This is a putative class action arising out of Defendants’ failure to compensate its non-  
8 exempt hourly employees for all hours worked; failure to provide compliant meal breaks; failure to  
9 provide accurate, itemized wage statements; failure to reimburse expenses; failure to pay final wages  
10 in a timely manner; and for unfair competition in violation of Business and Professions Code §§17200,  
11 *et seq.*

12 2. ADT LLC is a company specializing in integrated security firm that services  
13 commercial customers<sup>1</sup>.

14 3. Plaintiff was employed by Defendant ADT COMMERCIAL, LLC. From 1997 to  
15 January 27, 2023 as a warehouse supervisor.

16 4. Plaintiff was responsible for ordering parts via email and assisting in shipping and  
17 receiving.

18 5. During the course of his employment, Defendants ordered Plaintiff to travel to other  
19 warehouse locations, including Cypress and Chatsworth locations.

20 6. Defendant also failed to provide Plaintiff with compliant meal and rest breaks, which  
21 were often missed, short or late.

22 7. As a result of Defendants’ policies and practices, Plaintiff alleges that Defendants have  
23 failed to pay him and the class members for all hours worked, have failed to reimburse expenses, and  
24 have violated the wage statement requirements, recordkeeping and other requirements of the Labor  
25 Code and the IWC Wage Order.

26 8. Plaintiff seeks relief on behalf of himself and all others similarly situated as a result of  
27

28 <sup>1</sup> <https://www.adt.com/commercial> (last accessed June 24, 2023).

Defendants' employment policies, practices and procedures more specifically described below, which violate California Labor Code and the orders and standards promulgated by the California Department of Industrial Relations, Industrial Welfare Commission, and Division of Labor Standards.

9. Plaintiff brings Causes of Action One through Seven (the "class claims") as a class action on behalf of himself and other similarly situated individuals who have worked for Defendants in California, at any time from four-years prior to the filing of this complaint, through the resolution of this action. Plaintiff's class claims are brought under California wage and hour laws stemming from Defendants' failure to pay all wages/overtime; failure to provide meal and rest periods in compliance with the applicable Wage Order; failure to provide accurate itemized wage statements; failure to reimburse expenses; and failure to pay final wages in a timely manner.

10. Plaintiff, on his own behalf and on behalf of all Class Members, brings the class claims pursuant to California Labor Code §§ 226, 226.7, 510, 512, 1182.11-1182.12, 1194, 1194.2, 1197, 2802, the applicable wage order, and under Business & Professions Code §§ 17200-17208, for unfair competition due to Defendants' unlawful, unfair and fraudulent business acts and practices.

11. Plaintiff brings Cause of Action Eight as a proxy of the State of California on behalf of other aggrieved employees for penalties under the Private Attorneys General Act (PAGA). PAGA provides that any civil penalty assessed and collected by the Labor and Workforce Development Agency (LWDA) for violations of applicable provisions of the California Labor Code may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of and other current or former employees pursuant to procedures outlined in California Labor Code § 2699.3. PAGA also provides that an aggrieved employee can bring a civil action on behalf of other aggrieved employees for violation of any other Labor Code provision that does not itself contain a civil penalty, in which case the civil penalties are assessed at \$100 for each aggrieved employee per pay period for the initial violation and \$200 for each aggrieved employee per pay period for each subsequent violation.

12. On June 27, 2023, Plaintiff provided written notice to the LWDA and by certified mail to Defendants of the specific provisions of the California Labor Code alleged to have been violated, including the facts and theories to support the alleged violations. More than 65 calendar days have

1 passed since the date notice was provided to the LWDA and Defendant. Accordingly, Plaintiff has satisfied  
2 the administrative prerequisites under California Labor Code Section 2699.3(a) to recover civil penalties  
3 against Defendants for violations of California Labor Code identified in this First Amended Complaint.

4 13. Plaintiff is informed and believes, and based thereon alleges, Defendants have engaged in,  
5 among other things a system of willful violations of the California Labor Code and the applicable IWC  
6 wage orders by creating and maintaining policies, practices and customs that knowingly deny employees  
7 the above stated rights and benefits.

#### 8 **JURISDICTION AND VENUE**

9 14. The Court has jurisdiction over this class action pursuant to Article 6, § 10 of the California  
10 Constitution and California Code of Civil Procedure § 410.10.

11 15. Additionally, this Court has jurisdiction over Plaintiff's and the Class's claims for  
12 injunctive relief, including restitution of earned wages, arising from Defendants' unfair competition under  
13 Business & Professions Code §§ 17203 and 17204. The Court has jurisdiction over Defendants because  
14 they are corporations authorized to do business in the State of California and are registered with the  
15 California Secretary of State. Defendants do sufficient business with sufficient minimum contacts in  
16 California, and/or otherwise intentionally avails itself of the California market through the advertising,  
17 marketing and sale of goods and services, to render the exercise of jurisdiction over Defendants by the  
18 California court consistent with traditional notions of fair play and substantial justice.

19 16. Venue is proper in Orange County because the acts which give rise to this litigation  
20 occurred in this county and because Defendants have employed class members in this county and transacts  
21 business in this county.

#### 22 **THE PARTIES**

23 17. Plaintiff Carlos Vasquez ("Plaintiff") is a resident of Los Angeles County, in the State of  
24 California. Plaintiff was employed by Defendants in Orange, California, from approximately December  
25 1, 1997 through January 27, 2023. Plaintiff worked as a Warehouse supervisor.

26 18. ADT Commercial, LLC is a company formed in Colorado and headquartered in Florida  
27 specializing in commercial security solutions.

28 19. Plaintiff does not know the true names or capacities, whether individual, partner or

1 corporate, of the Defendants sued herein as DOES 1 through 10, inclusive, and for that reason, said  
2 Defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this complaint  
3 when the true names and capacities are known. Plaintiff is informed and believes, and based thereon  
4 alleges, that each of said fictitious Defendants were responsible in some way for the matters alleged herein  
5 and proximately caused Plaintiff and members of the general public and class to be subject to the illegal  
6 employment practices, wrongs and injuries complained of herein.

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

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

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

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

27 24. The members of the Plaintiff Class, including the representative Plaintiff named herein,  
28 have been employed during the Class Period in California. The practices and policies which are

complained of by way of this Complaint are enforced throughout the State of California.

### **FACTUAL ALLEGATIONS**

25. During the relevant time period of this action, Defendants have employed Plaintiff and others similarly situated individuals in California in remote positions. These positions are not exempt from the wage and hour provisions of the California Labor Code.

26. As a matter of policy and/or practice, Defendants failed to pay wages to Plaintiff and similarly situated employees for all hours worked.

27. Further, as a matter of policy and/or practice, Defendants failed to provide compliant meal and rest breaks. Additionally, Plaintiff was not paid for premium pay for non-compliant meal and rest breaks.

28. Defendants have also failed to reimburse Plaintiff and others similarly situated from all expenses. Specifically, Plaintiff alleges that Defendants required employees to use their own cell phones or drive on behalf of ADT. Plaintiff was not reimbursed for these business expenses.

29. Defendants also failed to pay Plaintiff her final wages in a timely manner as a result of the violations above.

30. Plaintiff is informed and believes, and based thereon alleges, that Defendants are and were advised by skilled lawyers, other professionals, employees with human resources background and advisors with knowledge of the requirements of California wage and hour laws.

31. Plaintiff is informed and believes, and based thereon alleges, that at all relevant times, Defendants had a consistent policy or practice of failing to compensate its non-exempt employees for all hours worked and under Defendants' control.

32. Accordingly, Plaintiff and the members of the class have been denied the wages and other benefits to which they are entitled under California law.

33. Defendants have engaged in, and continue to engage in, unfair business practices in California by practicing, employing and utilizing the employment practices and policies outlined above.

34. Defendants' utilization of such unfair business practices constitutes unfair competition and provides an unfair advantage over Defendants' competitors.

35. Defendants' utilization of such unfair business practices deprives Plaintiff and Class Members of the general minimum working standards and entitlements due them under California law and the Industrial Welfare Commission wage orders as described herein.

36. As a direct result of the wage and hour violations herein alleged, Plaintiff and members of the Plaintiff Class have suffered, and continue to suffer substantial losses related to the use and enjoyment of wages, lost interest on such wages, and expenses and attorneys' fees in seeking to compel Defendants to fully perform its obligations under state law, all to Plaintiff's respective damage in amounts according to proof at the time of trial.

***Plaintiff's Exhaustion of Administrative Remedies***

37. Plaintiff has complied with the procedures for bringing suit specified in Labor Code section 2699.3.

38. By letter dated June 27, 2023, required notice was provided to the Labor and Workforce Development Agency ("LWDA") and Defendant, of the specific provisions of the Labor Code alleged to have been violated, including the facts and theories to support the alleged violations.

39. More than sixty-five (65) days have passed since the date the notice was mailed to Defendant and the LWDA, and Plaintiff has received no response from the LWDA indicating that it plans to investigate.

40. Accordingly, Plaintiff has satisfied the administrative prerequisites under California Labor Code Section 2699.3(a) to recover civil penalties against Defendant for violations of California Labor Code identified in this First Amended Complaint.

**CLASS ACTION ALLEGATIONS**

41. Plaintiff incorporates all preceding paragraphs as though fully set forth herein.

42. Plaintiff brings this action on behalf of himself and all others similarly situated as a class action, pursuant to California *Code of Civil Procedure* §382. The class which Plaintiff seeks to represent is composed of, and defined as follows:

**Plaintiff Class:** All persons who have been, or currently are, employed by Defendants and who held, job positions in warehouses and to which Defendants have classified as "non-exempt" employees in the State of California.

**Terminated Sub Class** All members of the Plaintiff Class whose employment ended during the Class Period.

(collectively “Plaintiff Class” or “Class Members”)

43. Numerosity. Defendants have employed thousands of non-exempt employees in California from 2019 through the present. Class members are therefore far too numerous to be individually joined in this lawsuit.

44. Common Questions of Law and/or Fact. Common questions of law and/or fact exist as to the members of the Class and, in addition, common questions of law and/or fact predominate over questions affecting only individual members of the Class. The common questions include the following:

- a. Whether Plaintiff and members of the Plaintiff Class are subject to and entitled to the benefits of California wage and hour statutes;
- b. Whether Defendants failed to compensate Plaintiff and members of the Plaintiff Class for all hours worked in violation of the Labor Code and Wage Orders;
- c. Whether Defendants unlawfully and/or willfully failed to provide Plaintiff and members of the Plaintiff Class with compliant meal breaks;
- d. Whether Defendants unlawfully and/or willfully failed to provide Plaintiff and members of the Plaintiff Class with compliant rest breaks;
- e. Whether Defendants unlawfully and/or willfully failed to reimburse Plaintiff and members of the Plaintiff Class for expenses, including but not limited to mileage;
- f. Whether Defendants unlawfully and/or willfully failed to provide Plaintiff and members of the Plaintiff Class with compliant wage statements;
- g. Whether Defendants unlawfully and/or unwillingly failed to provide Plaintiff and members of the Plaintiff Class with their final wages in a timely manner upon termination; and
- h. Whether Plaintiff and members of the Plaintiff Class sustained damages, and if so, the proper measure of such damages, as well as interest, penalties, costs, attorneys’ fees, and equitable relief.

45. Typicality. The claims of the named Plaintiff are typical of the claims of the members of the Plaintiff Class. Plaintiff and the Class members have sustained the same or similar injuries and damages. Plaintiff's claims are thereby representative of and co-extensive with the claims of the proposed Class.

46. Adequacy of Representation. Plaintiff is an adequate representative of the proposed classes because he is a member of the classes, and his interests do not conflict with the interests of the class members he seeks to represent. Plaintiff has retained competent counsel, experienced in the prosecution of complex class actions, and together Plaintiff and his counsel intend to prosecute this action vigorously for the benefit of the classes. The interests of the Class Members will fairly and adequately be protected by Plaintiff and his attorneys.

47. Superiority of Class Action. The class action is superior to other available means for the fair and efficient adjudication of this dispute. The injury suffered by each member of the Class, while meaningful on an individual basis, is not of such magnitude as to make the prosecution of individual actions against Defendants economically feasible. Furthermore, individualized litigation increases the delay and expense to all parties and the court system presented by the legal and factual issues of the case. In contrast, the class action device presents far fewer management difficulties and provides the benefits of single adjudication, economy of scale, and comprehensive supervision by a single court, and avoids the problem of inconsistent judgments.

48. Appropriateness of Injunctive or Declaratory Relief. Final injunctive relief or corresponding declaratory relief is appropriate respecting the Class as a whole. Defendants have acted or refused to act on grounds that apply generally to the Class, such that final injunctive relief or corresponding declaratory relief may be properly applied to the Class as a whole.

### FIRST CAUSE OF ACTION

## Failure to Pay for All Hours Worked

**California Labor Code §§ 1182.11, 1182.12, 1194, 1197, and 1197.1**

**(On Behalf of Plaintiff and the Members of the Plaintiff Class)**

49. Plaintiff hereby realleges and incorporates by reference the allegations set forth above as if fully set forth herein.

1           50.     At all times relevant hereto, California Labor Code §§1182.11, 1182.12 and 1197 and  
2 the Minimum Wage Order were in full force and effect and required that the members of the Plaintiff  
3 Class receive at least the minimum wage for all hours worked.

4           51.     “Hours worked” is the time during which an employee is subject to the control of an  
5 employer, and includes all the time the employee is suffered or permitted to work, whether or not  
6 required to do so.

7           52.     The right to minimum wage cannot be waived. California Labor Code §1194 states:  
8 Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal  
9 minimum wage or the legal overtime compensation applicable to the employee is entitled to recover  
10 in a civil action the unpaid balance of the full amount of this minimum wage or overtime  
11 compensation, including interest thereon, reasonable attorney’s fees, and costs of suit.

12          53.     Defendants willfully engaged in and continue to engage in a policy and practice of not  
13 compensating Plaintiff and members of the Plaintiff Class for all hours worked or spent in its control.

14          54.     As set forth above, Plaintiff alleges that Defendants, as a matter of policy and/or  
15 practice, required Plaintiff and the members of the Plaintiff Class, to work off the clock. This includes  
16 time spent commuting to and from other warehouse locations, working while on meal periods, and  
17 performing pre-shift or closing duties.

18          55.     Defendants’ failure to compensate Plaintiff and the members of the Plaintiff Class at  
19 all for this time results in the denial of the Class Members’ statutorily mandated minimum wages for  
20 those periods of work, in violation of the Labor Code provisions cited herein.

21          56.     Because of Defendants’ policies and practices with regard to compensating Plaintiff  
22 and the members of the Plaintiff Class, Defendants have failed to pay minimum wages as required by  
23 law. Plaintiff and members of the Plaintiff Class frequently work time for which they are compensated  
24 below the statutory minimum, as determined by the Industrial Welfare Commission.

25          57.     Labor Code §1194.2 provides that, in any action under §1194 to recover wages because  
26 of the payment of a wage less than minimum wage fixed by an order of the commission, an employee  
27 shall be entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and  
28 interest thereon.

58. Pursuant to Labor Code §218.6 or Civil Code §3287(a), Plaintiff and other members of the Class are entitled to recover pre-judgment interest on wages earned, but not paid every pay period.

59. As a direct and proximate result of the unlawful acts and/or omissions of Defendants, Plaintiff and members of the Plaintiff Class have been deprived of minimum wages in an amount to be determined at trial, and are entitled to a recovery of such amount, plus liquidated damages, plus interest thereon, attorneys' fees, and costs of suit pursuant to Labor Code §§ 1194, 1194.2 and 1197.1.

60. Wherefore, Plaintiff and the members of the Plaintiff Class request relief as hereinafter provided.

## **SECOND CAUSE OF ACTION**

## Failure to Provide Compliant Meal Breaks

**In Violation of Cal. *Labor Code* Sections 200, 226.7, 512**

**(On Behalf of Plaintiff and Members of the Plaintiff Class)**

61. Plaintiff hereby re-alleges and incorporates by reference as though set fully forth herein, the allegations contained above.

62. For at least the four (4) years preceding the filing of this action, Defendants failed to provide meal breaks as required by law.

63. California *Labor Code* § 226.7(a) provides that: “No employer shall require any employee to work during any meal or rest period mandated by an applicable order of the Industrial Welfare Commission.”

64. California *Labor Code* § 512 provides that: “An employee may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes, except that if the total work period per day of the employee is no more than six hours, the meal period may be waived by mutual consent of both the employer and employee.”

65. Additionally, when an employee works for a work period of more than five hours, a meal period must be provided no later than the end of the employee's fifth hour of work (in other words, no later than the start of the employee's sixth hour of work).

66. Plaintiff alleges that as a result of Defendant's practices and procedures, he often worked during his meal period while off the clock. Additionally, his meal periods were cut short or late.

67. Due to Defendants' policies, Defendants routinely failed to provide meal periods in compliance with California law and failed to pay Plaintiff and the Class members the full statutory penalty, of one hour of pay at the regular rate, for all missed meal periods.

68. The applicable Wage Order Section 11(D) states “If an employer fails to provide an employee a meal period in the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee’s regular rate of compensation each day that the meal period is not provided.”

69. Defendants' conduct described herein violates the Industrial Welfare Commission Order and California *Labor Code* §§ 226, 226.7, 512, and 1198.

70. As a proximate result of the aforementioned violations, Plaintiff and the Class Members have been damaged in an amount according to proof at time of trial and have suffered, and continue to suffer, substantial losses related to the use and enjoyment of such monies, lost interest on such monies, and expenses and attorneys' fees in seeking to compel Defendants to fully perform its obligations under state law. Plaintiff and the Class Members are thus entitled to recover nominal, actual, compensatory and exemplary damages in amount according to proof at time of trial.

### THIRD CAUSE OF ACTION

## MISSED REST BREAKS IN VIOLATION OF

**CAL. LABOR CODE §§200, 226.7, 512**

**(By Plaintiff and the Members of the Plaintiff Class Against Defendant)**

71. Plaintiff incorporates herein by reference the allegations set forth above

72. For at least the four (4) years preceding the filing of this action, Defendants failed to provide proper rest breaks as required by law.

73. The applicable Wage Order Section 12(A) states “Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate

1 of ten (10) minutes net rest time per four (4) hours or major fraction thereof.”

2 74. The applicable Wage Order Section 12(B) states “If an employer fails to provide an  
3 employee a rest period in accordance with the applicable provisions of this order, the employer shall  
4 pay the employee one (1) hour of pay at the employee’s regular rate of compensation for each work  
5 day that the rest period is not provided.”

6 75. Plaintiff and the Class Members are entitled to recover additional compensation for all  
7 rest periods that were missed, but not paid for, during the four (4) years preceding the filing of this  
8 Complaint, plus reasonable attorneys’ fees and costs of suit pursuant to California *Labor Code* § 218.5  
9 and penalties pursuant to California *Labor Code* § 226.7.

10 76. Defendants failed to provide Plaintiff and Class Members the full ten (10) minutes of  
11 uninterrupted rest time prescribed by law, as rest breaks were typically not given at all.

12 77. As a proximate result of the aforementioned violations, Plaintiff and the Class  
13 Members have been damaged in an amount according to proof at time of trial and have suffered, and  
14 continue to suffer, substantial losses related to the use and enjoyment of such monies, lost interest on  
15 such monies, and expenses and attorneys’ fees in seeking to compel Defendants to fully perform its  
16 obligations under state law. Plaintiff and the Class Members are thus entitled to recover nominal,  
17 actual, compensatory and exemplary damages in amount according to proof at time of trial.

18 **FOURTH CAUSE OF ACTION**

19 **Failure to Provide Accurate, Itemized Wage Statements**

20 **California Labor Code § 226(a)**

21 **(On Behalf of Plaintiff and the Members of the Plaintiff Class)**

22 78. Plaintiff hereby realleges and incorporates by reference the allegations set forth above  
23 as if fully set forth herein.

24 79. California Labor Code §226(a) provides that every employer must furnish each  
25 employee with an accurate itemized wage statement, in writing, showing nine pieces of information,  
26 including: 1) gross wages earned; 2) total hours worked by the employee; 3) the number of piece-rate  
27 units earned and any applicable piece rate if the employee is paid on a piece rate basis; 4) all  
28 deductions, provided that all deductions made on written orders of the employee may be aggregated

1 and shown as one item; 5) net wages earned; 6) the inclusive dates of the period for which the  
2 employee is paid; 7) the name of the employee and the last four digits of his or her social security  
3 number or an employee identification number other than a social security number; 8) the name and  
4 address of the legal entity that is the employer; and 9) all applicable hourly rates in effect during the  
5 pay period and the corresponding number of hours worked at each hourly rate by the employee.  
6 California Labor Code §226(e) provides that if an employer knowingly and intentionally fails to  
7 provide a statement itemizing, *inter alia*, the total hours worked by the employee, then the employee  
8 is entitled to recover the greater of all actual damages or fifty-dollars (\$50.00) for the initial violation  
9 and one-hundred dollars (\$100.00) for each subsequent violation, up to a maximum of four-thousand  
10 dollars (\$4,000.00).

11 80. Defendants knowingly, intentionally, and willfully failed to furnish Plaintiff and  
12 Plaintiff Class with timely, accurate, itemized statements required by California Labor Code §226(a).

13 81. Plaintiff alleges that Defendants' wage statement failed to reflect all wages owed to her  
14 and the Plaintiff Class.

15 82. Plaintiff and the Plaintiff Class have been injured by Defendants' violation of  
16 California Labor Code §226(a) because they have been denied their legal right to receive and their  
17 protected interest in receiving, accurate, itemized wage statements, and could not promptly and easily  
18 ascertain the total number of hours worked, and the hourly rates in effect during each pay period,  
19 among other required information.

20 83. Plaintiff and the Plaintiff Class have also been injured because of having to bring this  
21 action to obtain correct wage information following Defendants' refusal to comply with many  
22 requirements of the California Labor Code. As a result, Defendants are liable to Plaintiff and Class  
23 Members, for the amounts, penalties, attorneys' fees, and costs of suit provided by California Labor  
24 Code §226(e) and California Labor Code §2699(a).

25 84. Plaintiff, on behalf of himself and the proposed Class, requests an assessment of  
26 penalties as stated herein and other relief as described below.

27 ///

28 ///

1 **FIFTH CAUSE OF ACTION**

2 **Failure to Reimburse Business Expenses (Labor Code § 2802)**

3 **(On Behalf of Plaintiff and the Members of the Plaintiff Class)**

4 85. Plaintiff hereby incorporates and realleges each and every paragraph of this Complaint  
5 as if the same were set forth herein.

6 86. California Labor Code § 2802 provides “An employer shall indemnify his or her  
7 employee for all necessary expenditures or losses incurred by the employee in direct consequence of  
8 the discharge of his or her duties, or of his or her obedience to the directions of the employer, even  
9 though unlawful, unless the employee, at the time of obeying the directions, believed them to be  
10 unlawful.”

11 87. During the applicable statutory period, Plaintiff and the Class members incurred  
12 necessary expenditures and losses in direct consequence of the discharge of their employment duties  
13 and in obedience to the directions of Defendants, for which Defendants did not reimburse Plaintiff  
14 and Class members, including but not limited to: mileage for driving on behalf of Defendant and cell  
15 phone usage.

16 88. Thus, Defendants have engaged in illegal expense-shifting practices by failing to fully  
17 reimburse Plaintiff and the members of the Class for necessary business-related expenses and costs.

18 89. Under California Labor Code §§ 2802 and 2804 Cal. Code Civ. Proc. §1021.5, Plaintiff  
19 and Class Members are entitled to recover their unreimbursed expenditures and losses, as well as  
20 interest thereon, attorney’s fees, and costs of suit, in an amount to be proven at trial.

21 **SIXTH CAUSE OF ACTION**

22 **Failure to Pay Wages at Time of Termination (Labor Code §§ 201-203)**

23 **(On Behalf of Plaintiff and the Members of the Plaintiff Class)**

24 90. Plaintiff re-alleges and incorporates all preceding paragraphs as though fully set forth  
25 herein.

26 91. At all times, relevant herein, Defendants were required to pay its employees all wages  
27 owed in a timely fashion during and at the end of their employment, pursuant to California *Labor*  
28 *Code* §§ 201-203.

92. As a pattern and practice, Defendants regularly failed to pay Plaintiff and the members of the Terminated Sub Class their final wages pursuant to California *Labor Code* §§ 201-203, and accordingly owe waiting time penalties pursuant to California *Labor Code* § 203.

93. These payments should include worked hours that were not accounted for due to the Defendants' policies of failing to pay Plaintiff and members of the Terminated Sub Class for all time worked.

94. Further, the Plaintiff and the Terminated Sub Class were entitled to receive premiums for late and short meal breaks. The conduct of Defendants and its agents and managerial employees as described herein was willful, and in violation of the rights of Plaintiff and the individual members of the Terminated Sub Class.

95. Plaintiff is informed and believes, and based thereon alleges, that Defendants' willful failure to pay wages due and owing upon separation from employment results in a continued payment of wages up to thirty (30) days from the time the wages were due. Therefore, Plaintiff and members of the Terminated Sub Class who have separated from employment are entitled to compensation pursuant to California *Labor Code* § 203.

### EIGHTH CAUSE OF ACTION

## Unfair Competition and Unlawful Business Practices

**California Business and Professions Code §§ 17200, et seq.**

**(On Behalf of Plaintiff and the Members of the Plaintiff Class)**

96. Plaintiff hereby realleges and incorporates by reference the allegations set forth above as if fully set forth herein.

97. California Business and Professions Code §17200 defines unfair competition to include, “unlawful, unfair or fraudulent business practices.”

98. Plaintiff and all proposed Class members are “persons” within the meaning of Business and Professions Code §17204, who have suffered injury in fact and have lost money or property as a result of Defendants’ unfair competition.

99. Defendants have been committing, and continue to commit, acts of unfair competition by engaging in the unlawful, unfair and fraudulent business practices and acts described in this

1 Complaint, including, but not limited to:

- 2 a. violations of California Labor Code §§ 1197, 1197.1, 1198;
- 3 b. violations of California Labor Code §§ 226.7, 512;
- 4 c. violations of California Labor Code §§ 1174 and 1174.5;
- 5 d. violations of California Labor Code § 2802;
- 6 e. violations of California Labor Code §226;
- 7 f. violations of California Labor Code §§ 1198; and
- 8 g. violations of California Labor Code §§ 201-203.

9 100. Plaintiff reserves the right to identify additional unfair and unlawful practices by  
10 Defendants as further investigation and discovery warrants.

11 101. As a result of its unlawful and/or unfair acts, Defendants have reaped and continue to  
12 reap unfair benefits and illegal profits at the expense of Plaintiff and proposed Class members.  
13 Defendants' unlawful and/or unfair conduct has also enabled Defendants to gain an unfair competitive  
14 advantage over law-abiding employers and competitors. Defendants must be enjoined from this  
15 activity and made to restore to Plaintiff and proposed Class members their wrongfully withheld wages,  
16 interest thereon, and related statutory penalties, pursuant to Business and Professions Code §§ 17202  
17 and 17203.

18 102. Business and Professions Code §17203 provides that the Court may restore to an  
19 aggrieved party any money or property acquired by means of unlawful and unfair business practices.

20 103. Plaintiff seeks a court order requiring an audit and accounting of the payroll records to  
21 determine the amount of restitution of all unpaid wages owed to himself and members of the proposed  
22 Class, according to proof, as well as a determination of the amount of funds to be paid to current and  
23 former employees that can be identified and located pursuant to a court order and supervision.

24 104. Plaintiff, on behalf of himself and the proposed Class, requests restitution of unpaid  
25 wages, injunctive relief and other relief as described below.

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1 **EIGHTH CAUSE OF ACTION**

2 **Civil Penalties Pursuant to PAGA (Labor Code §§ 2698, et seq.)**

3 **(On Behalf of All Aggrieved Employees Against Defendants)**

4 105. Plaintiff re-alleges and incorporates all preceding paragraphs as though  
5 fully set forth herein.

6 106. At all times set forth herein, the Private Attorneys General Act of 2004 (PAGA,  
7 California Labor Code §§ 2698-99) applied to Defendant's employment of Plaintiff and the proposed  
8 Class Members.

9 107. At all times set forth herein, California Labor Code § 2699(a) has provided that any  
10 provision of law under the California Labor Code that provides for a civil penalty to be assessed and  
11 collected by the Labor and Workforce Development Agency (LWDA) for violations of the California  
12 Labor Code may, as an alternative, be recovered through a civil action brought by an aggrieved  
13 employee on behalf of himself and other current or former employees pursuant to procedures outlined  
14 in California Labor Code § 2699.3.

15 108. At all times set forth herein, the PAGA has also provided that for the violation of any  
16 Labor Code provision that does not itself contain a civil penalty, there are established civil penalties  
17 of \$100 for each aggrieved employee per pay period for the initial violation and \$200 for each  
18 aggrieved employee per pay period for each subsequent violation. Cal. Lab. C. § 2699(f).

19 109. A civil action under PAGA may be brought by an "aggrieved employee," any person  
20 that was employed by the alleged violator and against whom one or more of the alleged violations was  
21 committed.

22 110. Defendants have been committing, and continue to commit, violations of the California  
23 Labor Code, including, but not limited to:

- 24 a. violations of California Labor Code §§ 1197, 1197.1, 1198;  
25 b. violations of California Labor Code §§ 226.7, 512;  
26 c. violations of California Labor Code §§ 1174 and 1174.5;  
27 d. violations of California Labor Code § 2802;  
28 e. violations of California Labor Code § 226;

1 f. violations of California Labor Code §§ 1198; and

2 g. violations of California Labor Code §§ 201-203.

3 111. Plaintiff was employed by Defendants and the alleged violations have been committed  
4 against her during her time of employment and she is, therefore, an aggrieved employee. Plaintiff and  
5 other employees are “aggrieved employees” as defined by California Labor Code §2699(c) in that  
6 they are all current or former employees of Defendants, and one or more of the alleged violations were  
7 committed against them.

8 112. Pursuant to California Labor Code § 2699.3, aggrieved employees, including Plaintiff,  
9 may pursue a civil action arising under the PAGA after the following requirements have been met:

10 a. The aggrieved employee shall give written notice (hereinafter “Employee’s  
11 Notice”) to the LWDA and the employer of the specific provisions of the California  
12 Labor Code alleged to have been violated, including the facts and theories to  
13 support the alleged violations;

14 b. The LWDA shall provide notice (hereinafter “LWDA Notice”) to the employer and  
15 the aggrieved employee by certified mail that it does not intend to investigate the  
16 alleged violations sixty (60) calendar days of the postmark date of the Employee’s  
17 Notice. Upon receipt of the LWDA Notice, or if the LWDA Notice is not provided  
18 within sixty-five (65) calendar days of the postmark date of the Employee’s Notice,  
19 the aggrieved employee may commence a civil action pursuant to California Labor  
20 Code §2699 to recover civil penalties in addition to any other penalties to which  
21 the employee may be entitled.

22 113. On June 27, 2023, Plaintiff provided written notice to the LWDA and by certified mail  
23 to Defendants of the specific provisions of the California Labor Code alleged to have been violated,  
24 including the facts and theories to support the alleged violations.

25 114. More than 65 calendar days have passed since the date notice was provided to the  
26 LWDA and Defendants. Accordingly, Plaintiff has satisfied the administrative prerequisites under  
27 California Labor Code Section 2699.3(a) to recover civil penalties against Defendants for violations  
28 of California Labor Code identified in this First Amended Complaint.

1 115. Accordingly, Plaintiff and the other aggrieved employees are entitled to and seek to  
2 recover civil penalties for Defendants' violations of the Labor Code during the applicable limitations  
3 period.

4 116. Pursuant to California Labor Code Section 2699(g), Plaintiff, on behalf of himself and  
5 the other aggrieved employees, is entitled to an award of reasonable attorneys' fees and costs.

6 **PRAYER FOR RELIEF**

7 WHEREFORE, Plaintiff and Class Members pray for judgment as follows:

- 8 a. For an order certifying the proposed Plaintiff Class and the Former Employee Sub  
9 Class;
- 10 b. For an order awarding Plaintiff and the class members compensatory damages,  
11 statutory penalties, including lost wages, earnings, liquidated damages, penalties, and  
12 other employee benefits, recovery of all money/property, actual damages, and all other  
13 sums of money owed to Plaintiff and class members, together with interest on these  
14 amounts according to proof;
- 15 c. That the Court find that Defendants have been in violation of applicable provisions of  
16 the California Labor Code and IWC Wage Order by failing to pay each member of the  
17 proposed Class for all hours worked;
- 18 d. That the Court find that Defendants have been in violation of California Labor Code §  
19 226 by failing to timely furnish Plaintiff and members of the Class with itemized  
20 statements;
- 21 e. That the Court find that Defendants have been in violation of California Labor Code  
22 §§ 1182.11, 1182.12, 1194, 1197, 1197.1, 1198 for failing to pay all wages;
- 23 f. That the Court find that Defendants have been in violation of California Labor Code §  
24 2802 for failing to reimburse expenses;
- 25 g. That the Court find that Defendants have been in violation of California Labor Code  
26 §§ 226.7 and 512 for failing to provide compliant meal and rest breaks;
- 27 h. That the Court find that Defendants have been in violation of California Labor Code  
28 §§ 201-203 for failing to timely pay final wages upon termination;

- i. That the Court find that Defendants have committed unfair and unlawful business practices, in violation of California Business and Professions Code §17200, *et seq.*, by its violations of the Labor Code and Wage Orders as described above;
- j. That the Court order an accounting of the payroll records to determine what restitution is owed and to whom, pursuant to California Business and Professions Code §17203;
- k. That the Court award to Plaintiff and the proposed Class members compensation and restitution for all wages owed, including minimum wages, wages at the designated rate, and overtime;
- l. Prejudgment and post judgment interest on all sums awarded;
- m. For costs of suit and expenses incurred herein pursuant to California Labor Code §§ 1194, 2699(g)(1);
- n. Attorneys' fees and litigation expenses in an amount the Court determines to be reasonable, pursuant to California Labor Code §§ 218.5, 1194(a), 2699(g)(1) Cal. Code of Civil Procedure §1021.5, and any other such provision as may be applicable; and
- o. For all such other and further relief that the Court may deem just and proper.

DATED: January 30, 2024

**BRADLEY/GROMBACHER, LLP**  
**MAJARIAN LAW GROUP APC**

By: 

Marcus J. Bradley, Esq.  
Kiley Lynn Grombacher, Esq.  
Lirit A. King, Esq.  
Emilie Maclean, Esq.  
Garen Majarian, Esq.  
Sahag Majarian, II, Esq.  
*Attorneys for Plaintiff*

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**JURY DEMAND**

Plaintiff demands a trial by jury on all issues so triable as a matter of right.

DATED: January 30, 2024

**BRADLEY/GROMBACHER, LLP**  
**MAJARIAN LAW GROUP APC**

By: \_\_\_\_\_



Marcus J. Bradley, Esq.  
Kiley Lynn Grombacher, Esq.  
Lirit A. King, Esq.  
Emilie MacLean, Esq.  
Garen Majarian, Esq.  
Sahag Majarian, II, Esq.  
*Attorneys for Plaintiff*

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I am employed in the County of Los Angeles, State of California. I am over the age of eighteen and not a party to the within action; my business address 31365 Oak Crest Drive, Suite 240, Westlake Village, CA 91361.

on all interested parties in this action as follows: **SEE ATTACHED SERVICE LIST**

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Suzette Decker

Suzette Boucher

*Carlos Vasquez v. ADT Commercial LLC*  
Orange County Superior Court  
Case No. 30-2023-01333710-CU-OE-CXC

Service List

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------|
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|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------|