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ELECTRONICALLY FILED
Superior Court of California,
County of Alameda
05/12/2026 at 02:04:23 PM
By: Andrel Gospel,
Deputy Clerk

Attorneys for FRANCISCO BERBER, on behalf of himself,
all others similarly situated, and on behalf of the general public

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF ALAMEDA

FRANCISCO BERBER, on behalf of
himself, all others similarly situated, and on
behalf of the general public,

Plaintiffs,

v.

HORN BARBECUE PERALTA LLC;
HORN BARBECUE CEDAR LLC; HORN
BARBECUE MANDELA, LLC; HORN
BARBECUE SF LLC; MATTHEW
HORN; and DOES 1-100,

Defendants.

Case No. **26CV187510**

**PLAINTIFF'S CLASS ACTION
COMPLAINT FOR DAMAGES,
INJUNCTIVE RELIEF, DECLARATORY
RELIEF, AND RESTITUTION**

- 1) Failure to Pay All Straight Time and Minimum Wages Owed;**
- 2) Failure to Pay All Overtime Wages;**
- 3) Failure to Provide Meal Periods (Lab. Code §§ 226.7, 512, IWC Wage Order No. 5-2001(11); Cal. Code Regs., tit. 8 § 11050);**
- 4) Failure to Authorize and Permit Rest Periods (Lab. Code § 226.7; IWC Wage Order No. 5-2001(12); Cal. Code Regs. Title 8 § 11050);**
- 5) Knowing and Intentional Failure to Comply with Itemized Employee Wage Statement Provisions (Lab. Code §§ 226, 1174, 1175);**
- 6) Failure to Pay All Wages Due at the Time of Termination of Employment (Lab. Code §§201-203);**
- 7) Violation of Unfair Competition Law (Bus. & Prof. Code § 17200, et seq.);**
- 8) Violations of the Labor Code Private Attorneys General Act of 2004 ("PAGA").**

DEMAND FOR JURY TRIAL

1 Plaintiff Francisco Berber (“Plaintiff”), on behalf of himself, all others similarly situated, and on
2 behalf of the general public, complains of Defendants HORN BARBECUE PERALTA LLC;
3 HORN BARBECUE CEDAR LLC; HORN BARBECUE MANDELA, LLC; HORN
4 BARBECUE SF LLC; MATTHEW HORN (“Defendants”) and/or DOES and for causes of action
5 and alleges:

6 1. This is a class action pursuant to *California Code of Civil Procedure* section 382 on behalf
7 of Plaintiff and all hourly, non-exempt employees who are presently or were formerly
8 employed by Defendants and/or DOES and/or their subsidiaries or affiliated companies
9 and/or predecessors within the State of California.

10 2. At all times mentioned herein, Defendants and/or DOES have conducted business in
11 Alameda County and elsewhere within California.

12 3. At all times mentioned herein, Defendants and/or DOES, within the State of California,
13 have, among other things, employed current and former hourly, non-exempt employees.

14 4. Throughout the time period that includes the four (4) years prior to filing this action to the
15 present (the “Statutory Period”), Defendants and/or DOES have maintained uniform
16 policies that violate the wage and hour rights of Plaintiff and similarly situated hourly, non-
17 exempt employees in the manner complained of herein.

18 5. Throughout the Statutory Period, Defendants and/or DOES have had a consistent policy
19 and/or practice of not paying Plaintiff and similarly situated hourly, non-exempt employees
20 all wages owed.

21 6. Throughout the Statutory Period, Defendants and/or DOES have had a consistent policy of
22 requiring hourly, non-exempt employees within the State of California, including Plaintiff,
23 to work through meal periods and work at least five (5) hours without a meal period and
24 failing to pay such employees one (1) hour of pay at the employees’ regular rate of
25 compensation for each workday that the meal period is not provided, or other
26 compensation, as required by California’s state wage and hour laws.

27 7. Throughout the Statutory Period, Defendants and/or DOES did not have a policy of
28 allowing Plaintiff and similarly situated hourly, non-exempt employees working shifts of

- 1 ten (10) or more hours in a day to take a second meal period of not less than thirty (30)
2 minutes as required by the applicable Wage Order of the IWC.
- 3 8. Throughout the Statutory Period, Defendants and/or DOES have had a consistent policy of
4 requiring hourly, non-exempt employees within the State of California, including Plaintiff,
5 to work over ten (10) hours without providing an additional, uninterrupted meal period of
6 thirty (30) minutes and failing to pay such employees one (1) hour of pay at the employees'
7 regular rate of compensation for each workday that the meal period is not provided, or
8 other compensation, as required by California's state wage and hour laws.
- 9 9. Throughout the Statutory Period, Defendants and/or DOES have had a consistent policy
10 and/or practice of requiring hourly non-exempt employees within the State of California,
11 including Plaintiff, to work for over four (4) hours, or a major fraction thereof, without a
12 ten (10) minute rest period, and failing to pay such employees one (1) hour of pay at the
13 employees' regular rate of compensation for each workday that the rest period is not
14 provide, or other compensation, as required by California's state wage and hour laws.
- 15 10. Throughout the Statutory Period, Defendants and/or DOES, by failing to lawfully pay
16 Plaintiff and those similarly situated all the wages they are owed, engaged in false, unfair,
17 fraudulent and deceptive business practices within the meaning of the Business and
18 Professions Code section 17200, et seq.
- 19 11. Throughout the Statutory Period, Defendants' and/or DOES' employees, including
20 Plaintiff and those similarly situated were not provided all straight time and wages owed,
21 meal periods and rest periods, or compensation in lieu thereof, as mandated under the
22 California Labor Code, and the implementing rules and regulations of the Industrial
23 Welfare Commissions ("IWC") California Wage Orders.
- 24 12. Throughout the statutory period, Defendants' and/or DOES' hourly non-exempt
25 employees, including Plaintiff, were not provided with accurate and itemized employee
26 wage statements.
- 27 13. Defendants and/or DOES failed to comply with Labor Code section 226, subdivision (a),
28 by itemizing in wage statements all hourly compensation and accurately reporting total

1 hours worked by Plaintiff and the members of the proposed class. Plaintiff and members
2 of the proposed class are entitled to penalties not to exceed \$4,000 for each employee
3 pursuant to Labor Code section 226(b).

4 14. Defendants and/or DOES have failed to comply with IWC Wage Order 5-2001(7) by
5 failing to maintain accurate time records showing hourly compensation, when the
6 employee begins and ends each workday and total daily hours worked by itemizing in wage
7 statements and accurately reporting total hours worked by Plaintiff and members of the
8 proposed class.

9 15. Defendants' and/or DOES' failure to retain accurate records of total hours worked by
10 Plaintiff and the proposed class was willful and deliberate, was a continuous breach of
11 Defendants' and/or DOES' duty owed to Plaintiff and the proposed class.

12 16. Throughout the statutory period, Defendants' and/or DOES' employees, including Plaintiff
13 those similarly situated, were not timely paid all wages owed to them at the time of
14 termination.

15 17. Defendants and/or DOES are and were aware that Plaintiff and members of the proposed
16 class were not paid all straight time and minimum wages owed, nor provided meal and rest
17 periods. Defendants' and/or DOES' denial of wages and other compensation due to
18 Plaintiff and members of the proposed class was willful and deliberate.

19 18. Defendants and/or DOES, each and collectively, controlled the wages, hours, and working
20 conditions of Plaintiff and the proposed class, creating a joint-employer relationship over
21 Plaintiff and the proposed class.

22 19. Plaintiff, on behalf of himself and all of Defendants' and/or DOES' hourly, non-exempt
23 employees employed at any time during the Statutory Period brings this action pursuant to
24 *California Labor Code* sections 201-204, 218, 218.5, 222, 223, 224, 226, 226.3, 226.7,
25 510, 512, 515, 558, 1194, 1194.2, 1197, 1199, 2802 and *California Code of Regulations*,
26 Title 8, sections 11050 and 3395, seeking unpaid wages, overtime, meal and rest period
27 compensation, penalties, injunctive and other equitable relief, relief under the Labor Code
28 Private Attorneys General Act of 2004 ("PAGA"), and reasonable attorneys' fees and

costs.

20. Plaintiff, on behalf of himself and all of Defendants' and/or DOES' hourly, non-exempt employees employed at any time during the Statutory Period, pursuant to *California Business and Professions Code* sections 17200-17208, also seeks injunctive relief, restitution, and disgorgement of all benefits Defendants and/or DOES enjoyed from their failure to pay all straight time wages, overtime wages, and meal and rest period compensation.

I. VENUE

21. Venue as to each Defendants and/or DOES is proper in this judicial district, pursuant to *California Code of Civil Procedure* section 395. Defendants and/or DOES conduct business and commit *California Labor Code* violations within Alameda County, and each Defendants and/or DOE is within California for service of process purposes. The unlawful acts alleged herein have a direct effect on Plaintiff and those similarly situated within the State of California and within Alameda County. Defendants and/or DOES employ numerous hourly, non-exempt employees who perform and/or performed work for Defendants in Alameda County, California during the Statutory Period.

II. PARTIES

A. Plaintiff.

22. Throughout the Statutory Period, Plaintiff is and was a resident of California. During the Statutory Period, Plaintiff was employed by Defendants and/or DOES in California as an hourly, non-exempt employee, with the job title of kitchen manager.

23. Plaintiff and the proposed class of similarly situated hourly, non-exempt employees are covered by, inter alia, California IWC Occupational Wage Order No. 5-2001, and Title 8, *California Code of Regulations*, section 11050.

B. Defendants.

24. At all relevant times herein, Defendants and/or DOES operates restaurant locations throughout California, employing Plaintiff and members of the proposed class to serve Defendants' and/or DOES' customers.

1 25. On information and belief, Defendants and/or DOES exercised control over the wages,
2 hours, and/or working conditions of Plaintiff and members of the proposed class
3 throughout the liability period.

4 26. Defendants and/or DOES have numerous offices and/or contacts in the State of California.
5 On information and belief, California is the operation nerve center of one or more
6 Defendants and/or DOES.

7 27. The true names and capacities, whether individual, corporate, associate, or otherwise, of
8 Defendants DOES 1-100, inclusive, are presently unknown to Plaintiff, who therefore sues
9 these Defendants by such fictitious names under *California Code of Civil Procedure*
10 section 474. Plaintiff is informed and believes, and based thereon alleges, that each of the
11 Defendants designated herein as a DOE is legally responsible in some manner for the
12 unlawful acts referred to herein. Plaintiff will seek leave of court to amend this Complaint
13 to reflect the true names and capacities of the Defendants designated hereinafter as DOES
14 when such identities become known.

15 28. Plaintiff is informed and believes, and based thereon alleges, that each Defendants and/or
16 DOE acted in all respects pertinent to this action as the agent of the other Defendants and/or
17 DOES, carried out a joint scheme, business plan or policy in all respects pertinent hereto,
18 and the acts of each Defendants and/or DOES are legally attributable to the other
19 Defendants and/or DOES.

20 **III. CLASS ACTION ALLEGATIONS**

21 29. Plaintiff brings this action on behalf of himself and all others similarly situated as a class
22 action pursuant to section 382 of the *California Code of Civil Procedure*. Plaintiff seeks to
23 represent a Class composed of and defined as follows:

24
25 All California citizens who are employed or have been employed by
26 Defendants and/or DOES in the State of California as hourly, non-
27 exempt employees at any time during the period of the relevant
28 statute of limitations. ("Class Members")

1
2 Plaintiff also seeks to represent subclasses composed of and defined as follows:
3

4 All Class Members who worked one (1) or more shifts in excess of
5 five (5) hours.
6

7 All Class Members who worked one (1) or more shifts in excess of
8 six (6) hours.
9

10 All Class Members who worked one (1) or more shifts in excess of
11 ten (10) hours.
12

13 All Class Members who worked one (1) or more shifts in excess of
14 twelve (12) hours.
15

16 All Class Members who worked one (1) or more shifts in excess of
17 two (2) hours.
18

19 All Class Members who worked one (1) or more shifts in excess of
20 three and one-half (3.5) hours, but less than or equal to six (6) hours.
21

22 All Class Members who worked one (1) or more shifts in excess of
23 six (6) hours, but less than or equal to ten (10) hours.
24

25 All Class Members who worked one (1) or more shifts in excess of
26 ten (10) hours.
27

28 All Class Members who worked one (1) or more shifts in which they

received a wage statement for the corresponding pay period.

All Class Members who separated their employment from
Defendants and/or DOES.

30. Plaintiff reserves the right under Rule 1855, subdivision (b), *California Rules of Court*, to amend or modify the Class description with greater specificity or further division into subclasses or limitation to particular issues.

31. This action has been brought and may properly be maintained as a class action under the provisions of *California Code of Civil Procedure* section 382 because there is a well-defined community of interest in the litigation and the proposed Class is easily ascertainable.

A. Numerosity.

32. The potential members of the Class as defined are so numerous that joinder of all the members of the Class is impracticable. While the precise number of Class Members has not been determined at this time, Plaintiff is informed and believes that Defendants and/or DOES currently employ, and during the liability period employed, over one hundred (100) Class Members in Alameda County during the liability period and who are or have been affected by Defendants' and/or DOES' policies of failure to pay all straight and overtime wages owed, failure to provide meal and/or rest periods without the appropriate legal compensation, willful failure to pay all wages due at time of separation from employment, knowing and intentional failure to provide accurate and itemized employee wage statements. Accounting for employee turnover during the relevant periods increases this number substantially. Upon information and belief, Plaintiff alleges Defendants' and/or DOES' employment records will provide information as to the number and location of all Class Members. Joinder of all members of the proposed Class is not practicable.

B. Commonality.

33. There are questions of law and fact common to the Class that predominate over any

1 questions affecting only individual Class Members. These common questions of law and
2 fact include, without limitation:

3 (1) Whether Defendants and/or DOES violated the *California*
4 *Labor Code* and/or applicable IWC Wage Orders in failing to pay its
5 employees all earned wages at the regular rate for all hours worked.

6 (2) Whether Defendants' and/or DOES' uniform policies and/or
7 practices whereby employees were pressured and/or incentivized to forego
8 taking meal and/or rest periods.

9 (3) Whether Defendants' and/or DOES' violated *California*
10 *Labor Code* section 226.7, IWC Wage Order No. 5-2001 or other applicable
11 IWC Wage Orders, and/or *California Code of Regulations*, Title 8, section
12 11050, by failing to authorize, permit, and/or provide thirty (30) minute
13 meal periods before the end of the fifth hour worked and/or failing to pay
14 said employees one (1) hour of pay at the employee's regular rate of
15 compensation for each work day that the rest period was not authorized,
16 permitted and/or provided.

17 (4) Whether Defendants and/or DOES violated *California*
18 *Labor Code* section 226.7, IWC Wage Order No. 5-2001 or other applicable
19 IWC Wage Orders, and/or *California Code of Regulations*, Title 8, section
20 11050, by failing to authorize, permit, and/or provide ten (10) minute rest
21 periods to its employees for every four (4) hours or major fraction thereof
22 worked and/or failing to pay said employees one (1) hour of pay at the
23 employee's regular rate of compensation for each work day that the rest
24 period was not authorized, permitted and/or provided.

25 (5) Whether Defendants and/or DOES have uniform policies
26 and/or practices of failing to provide employees accurate and itemized wage
27 statements.

28 (6) Whether Defendants and/or DOES knowingly and

intentionally fail to provide employees accurate and itemized wage statements.

(7) Whether Defendants and/or DOES have uniform policies and/or practices of failing to timely pay all wages owed to employees who left Defendants' and/or DOES' employ or who were terminated.

(8) Whether Defendants and/or DOES willfully fail to pay, in a timely manner, wages owed to members of the proposed Class who left Defendants' and/or DOES' employ or who were terminated.

34. The answer to each of these respective questions will generate a common answer capable of resolving class-wide liability in one stroke.

35. Said common questions predominate over any individualized issues and/or questions affecting only individual members.

C. Typicality.

36. The claims of the named Plaintiff are typical of the claims of the proposed Class. Plaintiff and all members of the proposed Class sustained injuries and damages arising out of and caused by Defendants' and/or DOES' common course of conduct in violation of laws and regulations that have the force and effect of law and statutes as alleged.

37. Plaintiff was subjected to the same uniform policies and/or practices complained of herein that affected all such employees. Thus, as Plaintiff was subjected to the same unlawful policies and practices as all employees, his claims are typical of the class he seeks to represent.

D. Adequacy of Representation.

38. Plaintiff will fairly and adequately represent and protect the interests of the members of the Class.

39. Plaintiff is ready and willing to take the time necessary to help litigate this case.

40. Plaintiff has no conflicts that will disallow him to fairly and adequately represent and protect the interests of the members of the Class.

41. Counsel who represent Plaintiff are competent and experienced in litigating large

- 1 employment class actions.
- 2 42. Specifically, David Mara, Esq., Jill Vecchi, Esq., and Carter Cordura, Esq. of Mara Law
3 Firm, PC are California lawyers in good standing.
- 4 43. Counsel who represent Plaintiff are competent and experienced in litigating large
5 employment class actions.
- 6 44. The lawyers at Mara Law Firm PC have been named class counsel in numerous cases.
- 7 45. Mara Law Firm PC's practice is primarily focused on representing classes, large and small,
8 on the basis of *California Labor Code* and IWC Wage Order Violations similar to those
9 alleged herein. The attorneys at the firm have previously been called upon to author amicus
10 briefs on behalf of the Consumer Attorneys of California on cases in the appellate courts
11 and Supreme Court of California involving important issues relating to those alleged
12 herein.
- 13 46. Mara Law Firm, PC has the resources to take this case to trial and judgment, if necessary.
- 14 47. The lawyers at Mara Law Firm, PC have the experience, ability, and ways and means to
15 vigorously prosecute this case.
- 16 **E. Superiority of Class Action.**
- 17 48. A class action is superior to other available means for the fair and efficient adjudication of
18 this controversy. Individual joinder of all Class Members is not practicable, and questions
19 of law and fact common to the Class predominate over any questions affecting only
20 individual members of the Class. Each member of the Class has been damaged and is
21 entitled to recovery by reason of Defendants' and/or DOES' illegal policies and/or
22 practices of failing to pay all straight time and overtime wages owed, failing to provide
23 meal periods, failing to permit or authorize rest periods, knowingly and intentionally failing
24 to comply with wage statement requirements, failing to pay all wages due at termination.
- 25 49. Class action treatment will allow those similarly situated persons to litigate their claims in
26 the manner that is most efficient and economical for the parties and the judicial system.
27 Plaintiff is unaware of any difficulties that are likely to be encountered in the management
28 of this action that would preclude its maintenance as a class action.

50. Because such common questions predominate over any individualized issues and/or questions affecting only individual members, class resolution is superior to other methods for fair and efficient adjudication.

IV. CAUSES OF ACTION

FIRST CAUSE OF ACTION AGAINST DEFENDANTS AND/OR DOES: Failure to Pay All Straight Time Wages

51. Plaintiff and those similarly situated Class Members hereby incorporate by reference each and every other paragraph in this Complaint herein as if fully plead.

52. Defendants and/or DOES have had a continuous policy of not paying Plaintiff and those similarly situated for all hours worked.

53. It is fundamental that an employer must pay its employees for all time worked. *California Labor Code* sections 218 and 218.5 provides a right of action for nonpayment of wages. *California Labor Code* section 222 prohibits the withholding of part of a wage. *California Labor Code* section 223 prohibits the payment of less than a statutory or contractual wage scale. *California Labor Code* section 1197 prohibits the payment of less than the minimum wage. *California Labor Code* section 1194 states that an employee receiving less than the legal minimum wage is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage. *California Labor Code* section 1194.2 states that an employee receiving less than the legal minimum wage is entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon. *California Labor Code* section 224 only permits deductions from wages when the employer is required or empowered to do so by state or federal law or when the deduction is expressly authorized in writing by the employee for specified purposes that do not have the effect of reducing the agreed upon wage.

54. Plaintiff and those similarly situated Class Members were employed by Defendants and/or DOES at all relevant times. Defendants and/or DOES were required to compensate Plaintiff for all hours worked and were prohibited from making deductions that had the effect of reducing the agreed upon wage.

1 55. Notably, Defendants and/or DOES have a continuous policy of stealing from Plaintiff's
2 and class members' wages by not paying them anything for any of the hours they worked.
3 For example, Plaintiff worked over 110 hours for Defendants and/or DOES without any
4 compensation despite reaching out Defendants and/or DOES on numerous occasions for
5 payment.

6 56. Even when Defendants and/or DOES decide to pay its employees for work, Defendants
7 and/or DOES have a continuous and consistent policy of not paying class members for all
8 of the hours they worked and are subject Defendants' and/or DOES' control. Specifically,
9 Defendants and/or DOES requires employees to work before clocking in, after clocking
10 out, and during meal periods. Plaintiff and class members are not paid for this time.

11 57. Furthermore, when Plaintiff and class members are able to take meal periods, Plaintiff and
12 class members are not relieved of all duties and/or employer control during their meal
13 periods. For example, Plaintiff and class members were routinely forced to work through
14 their meal periods to satisfy their demanding work duties imposed by Defendants and/or
15 DOES, thereby denying them the right to be completely free from employer control under
16 California law. Thus, Defendants and/or DOES shave/steal earned wages from Plaintiff
17 and Class Members every day they work without a lawful meal period and have time
18 deducted for a meal period.

19 58. Plaintiff and Class Members are informed and believe and thereon allege that Defendants
20 and/or DOES breached the legal duty to pay full wages to Plaintiff and Class Members by
21 failing to pay Plaintiff and Class Members for time when Plaintiff and Class Members were
22 not relieved of all duties and/or employer control.

23 59. Defendants and/or DOES committed the acts alleged herein knowingly and willfully, with
24 the wrongful and deliberate intention of injuring Plaintiff and Class Members. Defendants
25 and/or DOES acted with malice or in conscious disregard of Plaintiff's and Class Members'
26 rights.

27 60. Plaintiff and the Class Members are informed and believe and thereon allege that as a direct
28 result of Defendants' and/or DOES' uniform policies and/or practices, Plaintiff and the

1 Class Members have suffered, and continue to suffer, substantial unpaid wages, and lost
2 interest on such wages, and expenses and attorneys' fees in seeking to compel Defendants
3 and/or DOES to fully perform their obligations under state law, all to their respective
4 damage in amounts, according to proof at trial.

5 61. As a direct result of Defendants' and/or DOES' policy of illegal wage theft, Plaintiff and
6 those similarly situated have been damaged in an amount to be proven at trial.

7 62. WHEREFORE, Plaintiff and the Class he seeks to represent request relief as described
8 below.

9 **SECOND CAUSE OF ACTION AGAINST DEFENDANTS AND/OR DOES: Failure to Pay**

10 **All Overtime Wages**

11 63. Plaintiff and those similarly situated Class Members hereby incorporate by reference each
12 and every other paragraph in this Complaint herein as if fully plead.

13 64. It is fundamental that an employer must pay its employees for all time worked. *California*
14 *Labor Code* sections 218 and 218.5 provides a right of action for nonpayment of wages.
15 *California Labor Code* section 222 prohibits the withholding of part of a wage. *California*
16 *Labor Code* section 223 prohibits the payment of less than a statutory or contractual wage
17 scale. *California Labor Code* section 1197 prohibits the payment of less than the minimum
18 wage. *California Labor Code* section 224 only permits deductions from wages when the
19 employer is required or empowered to do so by state or federal law or when the deduction
20 is expressly authorized in writing by the employee for specified purposes that do not have
21 the effect of reducing the agreed upon wage.

22 65. *California Labor Code* section 510 states that eight (8) hours of labor constitutes a day's
23 work. Any work in excess of eight (8) hours in one workday and any work in excess of
24 forty (40) hours in any one workweek and the first eight (8) hours worked on the seventh
25 (7th) day of work in any one workweek shall be compensated at the rate of no less than
26 one and one-half (1.5) times the regular rate of pay for an employee.

27 66. *California Labor Code* section 510 further dictates that any work in excess of twelve (12)
28 hours in one day shall be compensated at the rate of no less than two (2) times the regular

1 rate of pay for an employee. In addition, any work in excess of eight (8) hours on any
2 seventh (7th) day of a workweek shall be compensated at the rate of no less than two (2)
3 times the regular rate of pay of an employee.

4 67. Defendants and/or DOES failed to pay overtime when Plaintiff and Class Members worked
5 over eight (8) hours per day and when employees worked over forty (40) hours per week.

6 68. Plaintiff and Class Members were deprived of wages for overtime hours worked because
7 Defendants and/or DOES failed to pay them overtime wages for all overtime worked. This
8 resulted in Plaintiff and Class Members not being paid all overtime wages owed to them.

9 69. Defendants and/or DOES also failed to pay Plaintiff and Class Members for all hours
10 worked, including hours worked over eight (8) hours in a day and forty (40) hours in a
11 week, thus depriving Plaintiff and Class Members of overtime wages.

12 70. As outlined above, Defendants and/or DOES have a continuous policy of stealing from
13 Plaintiff's and class members' wages by not paying them anything for any of the hours
14 they worked. For example, Plaintiff worked over 110 hours for Defendants and/or DOES
15 without any compensation despite reaching out Defendants and/or DOES on numerous
16 occasions for payment.

17 71. Defendants and/or DOES routinely force class members to work shifts over eight (8) hours
18 and shifts over twelve (12) hours without any compensation whatsoever. For instance,
19 Defendants and/or DOES required Plaintiff to work a shift of twenty-five (25) hours
20 without any straight time, one and one-half (1.5) time, or double-time pay.

21 72. Even when Defendants and/or DOES decide to pay its employees for work, Defendants
22 and/or DOES have a continuous and consistent policy of not paying class members for all
23 of the hours they worked and are subject Defendants' and/or DOES' control. Specifically,
24 Defendants and/or DOES requires employees to work before clocking in, after clocking
25 out, and during meal periods. Plaintiff and class members are not paid for this time. When
26 Plaintiff and Class Members work over eight (8) hours in a shift and forty (40) hours in a
27 week, these unpaid hours must be compensated at an overtime rate. Likewise, when
28 Plaintiff and Class Members work over twelve (12) hours in a shift they must be

1 compensated at a double-time rate.

2 73. Furthermore, when Plaintiff and class members are able to take meal periods, Plaintiff and
3 class members are not relieved of all duties and/or employer control during their meal
4 periods. For example, Plaintiff and class members were routinely forced to work through
5 their meal periods to satisfy their demanding work duties imposed by Defendants and/or
6 DOES, thereby denying them the right to be completely free from employer control under
7 California law. Thus, Defendants and/or DOES shave/steal earned wages from Plaintiff
8 and Class Members every day they work without a lawful meal period and have time
9 deducted for a meal period. When Plaintiff and Class Members work over eight (8) hours
10 in a shift and forty (40) hours in a week, these unpaid hours must be compensated at an
11 overtime rate. Likewise, when Plaintiff and Class Members work over twelve (12) hours
12 in a shift they must be compensated at a double-time rate.

13 74. Plaintiff and Class Members are informed and believe and thereon allege that Defendants
14 and/or DOES breached the legal duty to pay full wages to Plaintiff and Class Members by
15 failing to pay Plaintiff and Class Members for time when Plaintiff and Class Members were
16 not relieved of all duties and/or employer control. When Plaintiff and Class Members work
17 over eight (8) hours in a shift and forty (40) hours in a week, these unpaid hours must be
18 compensated at an overtime rate. Likewise, when Plaintiff and Class Members work over
19 twelve (12) hours in a shift they must be compensated at a double-time rate.

20 75. Plaintiff and Class Members are informed and believe and thereon allege that Defendants
21 and/or DOES breached the legal duty to pay full wages to Plaintiff and Class Members by
22 failing to pay Plaintiff and Class Members for time when Plaintiff and Class Members were
23 not relieved of all duties and/or employer control. By failing to pay for this time when
24 Plaintiff and Class Members work over eight (8) hours in a shift and forty (40) hours in a
25 week, these unpaid hours must be compensated at an overtime rate. Likewise, when
26 Plaintiff and Class Members work over twelve (12) hours in a shift they must be
27 compensated at a double-time rate.

28 76. Defendants' and/or DOES' failure to pay for all hours worked, including hours worked

over eight (8) hours in a day and forty (40) hours in a week, while under Defendants' and/or DOES' control and/or while suffered or permitted to work has resulted in Plaintiff and Class Members being deprived of overtime wages throughout the Statutory Period.

77. Plaintiff and the Class Members are informed and believe and thereon allege that as a direct result of Defendants' and/or DOES' uniform policies and/or practices, Plaintiff and the Class Members have suffered, and continue to suffer, substantial unpaid overtime wages, and lost interest on such overtime wages, and expenses and attorneys' fees in seeking to compel Defendants and/or DOES to fully perform their obligations under state law, all to their respective damage in amounts according to proof at time of trial. Defendants and/or DOES commit the acts alleged herein knowingly and willfully, with the wrongful and deliberate intention on injuring Plaintiff and the Class Members. Defendants and/or DOES act with malice or in conscious disregard of Plaintiff's and the Class Member's rights. In addition to compensation, Plaintiff is also entitled to any penalties allowed by law.

78. WHEREFORE, Plaintiff and the Class he seeks to represent request relief as described below.

THIRD CAUSE OF ACTION AGAINST DEFENDANTS AND/OR DOES: Failure to Provide Meal Periods, or Compensation in Lieu Thereof (Lab. Code §§ 226.7, 512, IWC Wage Order No. 5-2001(11); Cal. Code Regs., tit. 8, § 11050)

79. Plaintiff and those similarly situated Class Members hereby incorporate by reference each and every other paragraph in this Complaint herein as if fully plead.

80. Under *California Labor Code* section 512 and IWC Wage Order No. 5-2001, no employer shall employ any person for a work period of more than five (5) hours without providing a meal period of not less than thirty (30) minutes. During these meal periods of not less than thirty (30) minutes, the employee is to be completely free of the employer's control and must not perform any work for the employer. If the employee does perform work for the employer during the thirty (30) minute meal period, the employee has not been provided a meal period in accordance with the law. Also, the employee is to be compensated for any work performed during the thirty (30) minute meal period.

- 1 81. In addition, an employer may not employ an employee for a work period of more than ten
2 (10) hours per day without providing the employee with another meal period of less than
3 thirty (30) minutes.
- 4 82. Under *California Labor Code* section 226.7, if the employer does not provide an employee
5 a meal period in accordance with the above requirements, the employer shall pay the
6 employee one (1) hour of pay at the employee's regular rate of compensation for each
7 workday that the meal period is not provided.
- 8 83. Defendants and/or DOES breached the legal duty to provide meal periods to employees by
9 failing to provide employees with meal periods within the timeframes outlined by
10 California law. Specifically, Defendants and/or DOES fail to provide Plaintiff and Class
11 Members with meal periods, if at all, within the first five (5) continuous hours of work and
12 fail to provide Plaintiff and Class Members with second meal periods, if at all, within the
13 first ten (10) continuous hours of work.
- 14 84. Furthermore, when Plaintiff and Class Members are able to take meal periods, Plaintiff and
15 Class Members are not relieved of all duties and/or employer control during their meal
16 periods. For example, Plaintiff and Class Members worked through their meal periods to
17 satisfy their demanding work duties imposed by Defendants and/or DOES, thereby denying
18 them the right to be completely free from employer control under California law.
- 19 85. In addition, Defendants and/or DOES fail to keep accurate records of meal periods for
20 Plaintiff and Class Members.
- 21 86. By failing to provide compensation for such unprovided or improperly provided meal
22 periods, as alleged above, Defendants and/or DOES willfully violate the provisions of
23 *California Labor Code* sections 226.7, 512, and IWC Wage Order No. 5-2001.
- 24 87. As a result of the unlawful acts of Defendants and/or DOES, Plaintiff and the Class he
25 seeks to represent have been deprived of premium wages, in amounts to be determined at
26 trial, and are entitled to recovery of such amounts, plus interest and penalties thereon,
27 attorneys' fees and costs, pursuant to *California Labor Code* section 226.7, and IWC Wage
28 Order No. 5-2001. Plaintiff and the Class he seeks to represent did not willfully waive their

1 right to take meal periods through mutual consent with Defendants and/or DOES.

2 88. WHEREFORE, Plaintiff and the Class he seeks to represent request relief as described
3 below.

4 **FOURTH CAUSE OF ACTION AGAINST DEFENDANTS AND/OR DOES: Failure to**
5 **Authorize and Permit Rest Periods (Lab. Code § 226.7; IWC Wage Order No. 5-2001(12);**
6 **Cal. Code Regs. Title 8 § 11050)**

7 89. Plaintiff and those similarly situated Class Members hereby incorporate by reference each
8 and every other paragraph in this Complaint herein, as if fully plead.

9 90. Under IWC Wage Order No. 5-2001, every employer shall authorize and permit all
10 employees to take rest periods, “[t]he authorized rest period time shall be based on the total
11 hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours worked
12 or major fraction thereof.” IWC Wage Order 5-2001(12). The time spent on rest periods
13 “shall be counted as hours worked for which there shall be no deduction from wages.” *Id.*

14 91. Under *California Labor Code* section 226.7, if the employer does not provide an employee
15 a rest period in accordance with the above requirements, the employer shall pay the
16 employee one (1) hour of pay at the employee’s regular rate of compensation for each
17 workday that the rest break is not provided.

18 92. Defendants and/or DOES have had a consistent policy and/or practice of not providing
19 duty free paid ten (10) minute paid rest periods for every four (4) hours worked, or a major
20 fraction thereof, to Plaintiff and Class Members.

21 93. Notably, Defendants and/or DOES have a continuous policy of stealing from Plaintiff’s
22 and class members’ wages by not paying them anything for any of the hours they worked.
23 For example, Plaintiff worked over 110 hours for Defendants and/or DOES without any
24 compensation despite reaching out Defendants and/or DOES on numerous occasions for
25 payment; thus, Plaintiff never received a paid rest period.

26 94. Defendants and/or DOES have a continuous policy and practice that fails to provide
27 Plaintiff and Class Members with rest periods “at the rate of ten (10) minutes net rest time
28 per four (4) hours or major fraction thereof.” Specifically, Defendants and/or DOES

regularly do not provide Plaintiff and Class Members with any rest periods at all, let alone rest periods consisting of ten (10) minutes net rest time per four (4) hours worked or major fraction thereof.

95. Furthermore, when Plaintiff and Class Members are able to take rest periods, Plaintiff and Class Members are not relieved of all duties and/or employer control during their rest periods. For example, Plaintiff and Class Members worked through their rest periods to satisfy their demanding work duties imposed by Defendants and/or DOES, thereby denying them the right to be completely free from employer control under California law.

96. By failing to provide rest periods for every four hours or major fraction thereof worked per day by Plaintiff and Class Members, and by failing to provide compensation for these unprovided rest periods, as alleged above, Defendants and/or DOES willfully violated the provisions of *Labor Code* section 226.7 and Industrial Welfare Commission Order No. 5-2001 section 11(A)

97. As a result of the unlawful acts of Defendants and/or DOES, Plaintiff and the Class he seeks to represent have been deprived of premium wages, in amounts to be determined at trial, and are entitled to recovery of such amounts, plus interest and penalties thereon, attorneys' fees and costs, pursuant to *California Labor Code* section 226.7, and IWC Wage Order No. 5-2001.

98. WHEREFORE, Plaintiff and the Class he seeks to represent request relief as described below.

FIFTH CAUSE OF ACTION AGAINST DEFENDANTS AND/OR DOES: Knowing and Intentional Failure to Comply with Itemized Employee Wage Statement Provisions (Lab. Code §§ 226, 246, 1174, 1175; IWC Wage Order No. 5-2001; Cal. Code Regs., Title 8, § 11050)

99. Plaintiff and those similarly situated Class Members hereby incorporate by reference each and every other paragraph in this Complaint herein as if fully plead.

100. *California Labor Code* section 226(a) requires Defendants and/or DOES to, inter alia, itemize in wage statements and accurately report the total hours worked and total wages earned. Defendants and/or DOES have knowingly and intentionally failed to comply with

1 *California Labor Code* section 226, subdivision (a), on each and every wage statement
2 provided to Plaintiff and members of the proposed Class.

3 101. *California Labor Code* section 1174 requires Defendants and/or DOES to maintain and
4 preserve, in a centralized location, records showing the daily hours worked by and the
5 wages paid to its employees. Defendants and/or DOES have knowingly and intentionally
6 failed to comply with *California Labor Code* section 1174. The failure of Defendants
7 and/or DOES, and each of them, to comply with *California Labor Code* section 1174 is
8 unlawful pursuant to *California Labor Code* section 1175.

9 102. Defendants and/or DOES fail to maintain accurate time records - as required by IWC Wage
10 Order No. 5-2001(7), and *California Code of Regulations* Title 8 section 11050 - showing,
11 among other things, when the employee begins and ends each work period, the total daily
12 hours worked in itemized wage statements, total wages, bonuses and/or incentives earned,
13 and all deductions made.

14 103. Defendants and/or DOES have knowingly and intentionally failed to provide Plaintiff and
15 the Class Members with accurate itemized wage statements which show: “(1) gross wages
16 earned, (2) total hours worked by the employee, . . . (4) all deductions, provided that all
17 deductions made on written orders of the employee may be aggregated and shown as one
18 item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is
19 paid, (7) the name of the employee and only the last four digits of his or her social security
20 number or an employee identification number other than a social security number, (8) the
21 name and address of the legal entity that is the employer and, if the employer is a farm
22 labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the
23 legal entity that secured the services of the employer, and (9) all applicable hourly rates in
24 effect during the pay period and the corresponding number of hours worked at each hourly
25 rate by the employee[.]” Cal. Lab. Code § 226(a).

26 104. In addition, *California Labor Code* section 204(b) requires that “all wages earned for labor
27 in excess of the normal work period shall be paid no later than the payday for the next
28 regular payroll period.” An employer complies with *California Labor Code* section 226(a)

“if hours worked in excess of the normal work period during the current pay period are itemized as corrections on the paystub for the next regular pay period. Any corrections set out in a subsequently issued paystub shall state the inclusive dates of the pay period for which the employer is correcting its initial report of hours worked.”

105. Defendants and/or DOES have knowingly and intentionally failed to comply with *California Labor Code* section 226(a) by failing to list all of the required information on each and every wage statement provided to Plaintiff and Class Members.

106. As outlined above, Defendants and/or DOES have a continuous policy of stealing from Plaintiff's and class members' wages by not paying them anything for any of the hours they worked. For example, Plaintiff worked over 110 hours for Defendants and/or DOES without any compensation despite reaching out Defendants and/or DOES on numerous occasions for payment. In failing to pay Plaintiff and class members, Defendants and/or DOES fail to provide them with wage statements.

107. Even when Defendants and/or DOES does provide wage statements, Defendants and/or DOES fails to include all of the information required by *California Labor Code* section 226(a)(1) through (9) on each and every wage statement.

108. Additionally, by virtue of its failure to pay for all time worked, Defendants and/or DOES knowingly and intentionally did not correctly itemize the gross wages earned, total hours worked, net wages earned, and number of hours worked at each hourly rate on wage statements provided to Plaintiff and Class Members as *California Labor Code* section 226, subsection (a), requires in every pay period during the period of the relevant statute of limitations.

109. Again, Defendants and/or DOES routinely fails to provide class members any compensation for any time worked. Even when Defendants and/or DOES does pay class members, Defendants and/or DOES have a continuous and consistent policy of not paying class members for all of the hours they worked and are subject to Defendants' and/or DOES' control. Specifically, Defendants and/or DOES requires employees to work before clocking in, after clocking out, and during meal periods. Plaintiff and class members are

1 not paid for this time.

2 110. Furthermore, when Plaintiff and Class Members are able to take meal periods, Plaintiff and
3 Class Members are not relieved of all duties and/or employer control during their meal
4 periods. For example, Plaintiff and Class Members worked through their meal periods to
5 satisfy their demanding work duties imposed by Defendants and/or DOES, thereby denying
6 them the right to be completely free from employer control under California law. Thus,
7 Defendants and/or DOES shave/steal earned wages from Plaintiff and Class Members
8 every day they work without a lawful meal period and have time deducted for a meal
9 period.

10 111. Plaintiff and Class Members are informed and believe and thereon allege that Defendants
11 and/or DOES breached the legal duty to pay full wages to Plaintiff and Class Members by
12 failing to pay Plaintiff and Class Members for time when Plaintiff and Class Members were
13 not relieved of all duties and/or employer control.

14 112. In addition, Defendants and/or DOES failed to list all meal and rest period premiums that
15 were owed to Plaintiff and the Class Members on wage statements.

16 113. As a result of the knowing and intentional failure by Defendants and/or DOES to comply
17 with itemized employee wage statement provisions, Plaintiff and the Class Members have
18 been able to reconstruct only a reasonable estimate of the hours worked and have, therefore,
19 not received full compensation.

20 114. As a direct result of Defendants' and/or DOES' unlawful acts, Plaintiff and the Class he
21 intends to represent have been damaged and are entitled to recovery of such amounts, plus
22 interest thereon, attorneys' fees, and costs, pursuant to *California Labor Code* section 226,
23 226.3, and 246.

24 115. WHEREFORE, Plaintiff and the Class he seeks to represent request relief as described
25 below.

26 **SIXTH CAUSE OF ACTION AGAINST DEFENDANTS AND/OR DOES: Failure to Pay**
27 **All Wages Due at the Time of Termination from Employment (Lab. Code §§ 201-203)**

28 116. Plaintiff and those similarly situated Class members hereby incorporate by reference each

- 1 and every other paragraph in this Complaint herein as if fully plead.
- 2 117. Plaintiff's employment with Defendants and/or DOES was terminated on or about
3 February 7, 2025.
- 4 118. Whether Plaintiff voluntarily or involuntarily terminated his employment with Defendants
5 and/or DOES, Defendants and/or DOES did not timely pay his all minimum or straight
6 time wages owed at the time of his termination.
- 7 119. Whether Plaintiff voluntarily or involuntarily terminated his employment with Defendants
8 and/or DOES, Defendants and/or DOES did not timely pay his all overtime wages owed at
9 the time of his termination.
- 10 120. Whether Plaintiff voluntarily or involuntarily terminated his employment with Defendants
11 and/or DOES, Defendants and/or DOES did not timely pay his meal and/or rest period
12 premiums owed at the time of his termination.
- 13 121. Numerous members of the Class are no longer employed by Defendants and/or DOES.
14 They were either fired or they quit Defendants' and/or DOES' employ. Defendants and/or
15 DOES did not pay all timely wages owed at the time of their termination. Defendants and/or
16 DOES did not pay all premium wages owed at the time of their termination.
- 17 122. *California Labor Code* sections 201 and 202 provide that if an employer discharges an
18 employee, the wages earned and unpaid at the time of discharge are due and payable
19 immediately, and if an employee quits his or her employment, his or her wages shall
20 become due and payable no later than seventy-two (72) hours thereafter, unless the
21 employee has given seventy-two (72) hours' notice of his or her intention to quit, in which
22 case the employee is entitled to his or her wages at the time of quitting.
- 23 123. During the relevant time period, Defendants and/or DOES intentionally and willfully failed
24 to pay Plaintiff's and the Class Members' who are no longer employed by Defendants
25 and/or DOES their wages that were earned and unpaid within seventy-two (72) hours of
26 their leaving Defendants' and/or DOES' employ in violation of *California Labor Code*
27 sections 201 and 202.
- 28 124. Defendants and/or DOES have a continuous policy of not providing final wages to

1 employees who are fired at the time of termination or who quit within seventy-two (72)
2 hours of their leaving Defendants' and/or DOES' employ.

3 125. As outlined above, Defendants and/or DOES have a continuous policy of stealing from
4 Plaintiff's and class members' wages by not paying them anything for any of the hours
5 they worked. For example, Plaintiff worked over 110 hours for Defendants and/or DOES
6 without any compensation despite reaching out Defendants and/or DOES on numerous
7 occasions for payment.

8 126. Even when Defendants and/or DOES decide to pay its employees for work, Defendants
9 and/or DOES have a continuous and consistent policy of not paying class members for all
10 of the hours they worked and are subject Defendants' and/or DOES' control. Specifically,
11 Defendants and/or DOES requires employees to work before clocking in, after clocking
12 out, and during meal periods. Plaintiff and class members are not paid for this time.

13 127. Furthermore, when Plaintiff and class members are able to take meal periods, Plaintiff and
14 class members are not relieved of all duties and/or employer control during their meal
15 periods. For example, Plaintiff and class members were routinely forced to work through
16 their meal periods to satisfy their demanding work duties imposed by Defendants and/or
17 DOES, thereby denying them the right to be completely free from employer control under
18 California law. Thus, Defendants and/or DOES shave/steal earned wages from Plaintiff
19 and Class Members every day they work without a lawful meal period and have time
20 deducted for a meal period.

21 128. Plaintiff and Class Members are informed and believe and thereon allege that Defendants
22 and/or DOES breached the legal duty to pay full wages to Plaintiff and Class Members by
23 failing to pay Plaintiff and Class Members for time when Plaintiff and Class Members were
24 not relieved of all duties and/or employer control.

25 129. In addition, through its failure to provide Plaintiff and Class Members with lawful meal
26 and rest periods, Defendants and/or DOES do not pay all meal and rest period premiums
27 owed to Plaintiff and Class Members at the time of termination.

28 130. *California Labor Code* section 203 provides that, if an employer willfully fails to pay,

1 without abatement or reduction, in accordance with *California Labor Code* sections 201,
2 201.5, 202 and 205.5, any wages of an employee who is discharged or who quits, the wages
3 of the employee shall continue at the same rate, for up to thirty (30) days from the due date
4 thereof, until paid or until an action therefore is commenced.

5 131. Defendants and/or DOES fail to pay Plaintiff and Class Members a sum certain at the time
6 of their termination or within seventy-two (72) hours of their resignation and have failed
7 to pay those sums for thirty (30) days thereafter. Pursuant to the provisions of *California*
8 *Labor Code* section 203, Plaintiff and Class Members are entitled to a penalty in the amount
9 of their daily wage, multiplied by thirty (30) days.

10 132. When Plaintiff and those members of the Class who are former employees of Defendants
11 and/or DOES separate from Defendants' and/or DOES' employ, Defendants and/or DOES
12 willfully fail to pay all straight time wages, overtime wages, meal period premiums, and/or
13 rest period premiums owed at the time of termination.

14 133. Defendants' and/or DOES' failure to pay said wages to Plaintiff and members of the Class
15 he seeks to represent, was willful in that Defendants and/or DOES and each of them knew
16 the wages to be due, but failed to pay them.

17 134. As a consequence of Defendants' and/or DOES' willful conduct in not paying wages owed
18 at the time of separation from employment, Plaintiff and members of the proposed Class
19 are entitled to thirty (30) days' worth of wages as a penalty under *California Labor Code*
20 section 203, together with interest thereon and attorneys' fees and costs.

21 135. WHEREFORE, Plaintiff and the Class he seeks to represent request relief as described
22 below.

23 **SEVENTH CAUSE OF ACTION AGAINST DEFENDANTS AND/OR DOES: Violation of**
24 **Unfair Competition Law (California Bus. & Prof. Code, § 17200, et seq.)**

25 136. Plaintiff and those similarly situated Class Members hereby incorporate by reference each
26 and every other paragraph in this Complaint herein as if fully plead.

27 137. Defendants and/or DOES failure to pay all straight time and overtime wages earned, failure
28 to provide compliant meal and/or rest breaks and/or compensation in lieu thereof, failure

1 to itemize and keep accurate records, failure to pay all wages due at time of termination, as
2 alleged herein, constitutes unlawful activity prohibited by *California Business and*
3 *Professions Code* section 17200, et seq.

4 138. The actions of Defendants and/or DOES in failing to pay Plaintiff and members of the
5 proposed Class in a lawful manner, as alleged herein, constitutes false, unfair, fraudulent
6 and deceptive business practices, within the meaning of *California Business and*
7 *Professions Code* section 17200, et seq.

8 139. Plaintiff is entitled to an injunction and other equitable relief against such unlawful
9 practices in order to prevent future damage, for which there is no adequate remedy at law,
10 and to avoid a multiplicity of lawsuits. Plaintiff brings this cause individually and as
11 members of the general public actually harmed and as a representative of all others subject
12 to Defendants and/or DOES unlawful acts and practices.

13 140. As a result of their unlawful acts, Defendants and/or DOES have reaped and continue to
14 reap unfair benefits at the expense of Plaintiff and the proposed Class he seeks to represent.
15 Defendants and/or DOES should be enjoined from this activity and made to disgorge these
16 ill-gotten gains and restore Plaintiff and the members of the proposed Class pursuant to
17 *California Business and Professions Code* section 17203. Plaintiff is informed and
18 believes, and thereon alleges, that Defendants and/or DOES are unjustly enriched through
19 their policy of not all wages owed to Plaintiff and members of the proposed Class.

20 141. Plaintiff is informed and believes, and thereon alleges, that Plaintiff and members of the
21 proposed class are prejudiced Defendants and/or DOES unfair trade practices.

22 142. As a direct and proximate result of the unfair business practices of Defendants and/or
23 DOES, and each of them, Plaintiff, individually and on behalf of all employees similarly
24 situated, are entitled to equitable and injunctive relief, including full restitution and/or
25 disgorgement of all wages and premium pay which have been unlawfully withheld from
26 Plaintiff and members of the proposed Class as a result of the business acts and practices
27 described herein and enjoining Defendants and/or DOES from engaging in the practices
28 described herein.

1 143. The illegal conduct alleged herein is continuing, and there is no indication that Defendants
2 and/or DOES will cease and desist from such activity in the future. Plaintiff alleges that if
3 Defendants and/or DOES are not enjoined from the conduct set forth in this Complaint,
4 they will continue the unlawful activity discussed herein.

5 144. Plaintiff further requests that the Court issue a preliminary and permanent injunction
6 prohibiting Defendants and/or DOES from continuing to not pay Plaintiff and the members
7 of the proposed Class all earned but unpaid wages as discussed herein.

8 145. WHEREFORE, Plaintiff and the Class he seeks to represent request relief as described
9 below.

10 **EIGHTH CAUSE OF ACTION AGAINST DEFENDANTS AND/OR DOES: Violations of**
11 **the Private Attorneys General Act of 2004 (“PAGA”) (Labor Code §2698 et seq.)**

12 146. Plaintiff and those similarly situated Class members hereby incorporate by reference each
13 and every other paragraph in this Complaint herein as if fully plead.

14 147. Plaintiff, by virtue of his employment with Defendants and/or DOES, and Defendants’
15 and/or DOES’ failure to provide meal and rest periods, overtime compensation, all wages
16 for all work performed at the statutory minimum or agreed upon rate, accurate itemized
17 wage statements, all wages due at termination, and all wages owed twice per month, is an
18 aggrieved employee with standing to bring an action under the Private Attorney General
19 Act (“PAGA”).

20 148. Plaintiff, as a representative of the people of the State of California, will seek any and all
21 penalties otherwise capable of being collected by the Labor Commission and/or the
22 Department of Labor Standards Enforcement (DLSE). This includes each of the following,
23 as set forth in Labor Code Section 2699.5, which provides that Section 2699.3(a) applies
24 to any alleged violation of the following provisions: Sections 201 through 204, 226, 226.3,
25 226.7, 510, 512, 1194, 1197, 1197.1, 1199, and 2802.

26 149. Plaintiff is informed and believes that Defendants and/or DOES have violated and
27 continues to violate provisions of the California Labor Code and applicable Wage Orders
28 related to meal and rest periods, overtime compensation, wages for all work performed,

1 accurate itemized wage statements, wages due at termination, and wages due twice per
2 month.

3 150. Plaintiff, as a personal representative of the general public, will and does seek to recover
4 any and all penalties for each and every violation shown to exist or to have occurred during
5 the one-year period prior to the filing of his January 15, 2026 notice to the Labor and
6 Workforce Development Agency (LWDA), in an amount according to proof, as to those
7 penalties that are otherwise only available to public agency enforcement actions. Funds
8 recovered will be distributed in accordance with PAGA, with at least 65% of the penalties
9 recovered being reimbursed to the State of California and the LWDA.

10 151. WHEREFORE, Plaintiff and the Class he seeks to represent request relief as described
11 below.

12 **V. PRAYER FOR RELIEF**

13 WHEREFORE, Plaintiff prays for judgment as follows:

- 14 A. That the Court determine that this action may be maintained as a class action;
15 B. For compensatory damages, in an amount according to proof at trial, with interest
16 thereon;
17 C. For economic and/or special damages in an amount according to proof with interest
18 thereon;
19 D. For unpaid straight time and overtime wages, in an amount according to proof at trial,
20 with interest thereon;
21 E. For compensation for all time worked;
22 F. For compensation for not being provided paid meal periods;
23 G. For compensation for not being provided paid rest breaks;
24 H. For damages and/or monies owed for failure to comply with itemized employee wage
25 statement provisions;
26 I. For all waiting time penalties owed;
27 J. That Defendants and/or DOES be found to have engaged in unfair competition in
28 violation of sections 17200 et seq. of the *California Business and Professions Code*;

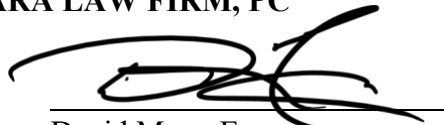
- 1 K. That Defendants and/or DOES be ordered and enjoined to make restitution to the Class
2 due to their unfair competition, including disgorgement of their wrongfully withheld
3 wages pursuant to *California Business and Professions Code* sections 17203 and
4 17204;
- 5 L. That an order of specific performance of all penalties owed be issued under *California*
6 *Business and Professions Code* sections 17202;
- 7 M. That Defendants and/or DOES be enjoined from continuing the illegal course of
8 conduct, alleged herein;
- 9 N. That Defendants and/or DOES further be enjoined to cease and desist from unfair
10 competition in violation of section 17200 et seq. of the *California Business and*
11 *Professions Code*;
- 12 O. That Defendants and/or DOES be enjoined from further acts of restraint of trade or
13 unfair competition;
- 14 P. For penalties for each violation of the Labor Code Private Attorneys General Act of
15 2004 (“PAGA”);
- 16 Q. For attorneys’ fees;
- 17 R. For liquidated damages;
- 18 S. For interest accrued to date;
- 19 T. For costs of suit and expenses incurred herein; and
- 20 U. For any such other and further relief as the Court deems just and proper.

21 **DEMAND FOR JURY TRIAL**

22 Plaintiff demands a jury trial.

23 Dated: May 12, 2026

MARA LAW FIRM, PC

24 

25 David Mara, Esq.

26 Carter Cordura, Esq.

27 Attorneys for Plaintiff FRANCISCO BERBER, on
28 behalf of himself, all others similarly situated, and on
behalf of the general public