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SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

1/25/2024 10:55 AM

By: Shuai Zhou, DEPUTY

9 **SUPERIOR COURT OF CALIFORNIA**

10 **FOR THE COUNTY OF SAN BERNARDINO – CENTRAL JUSTICE CENTER**

11 CLEMENTE GARCIA, individually, and on behalf
of others similarly situated and aggrieved,

12 Plaintiff,

13 v.

14 UNITED PACKAGING GROUP, LLC, a
15 California limited liability company; CHARLES
SODERSTROM, an individual; and DOES 1
16 through 25, inclusive,

17 Defendants.

Case No.: CIVSB2328865

12 **COMPLEX ACTION**

13 **FIRST AMENDED CLASS AND**
14 **REPRESENTATIVE ACTION COMPLAINT**

1. Failure to Pay Minimum and Regular Rate Wages Fixed by IWC Wage Orders and the Labor Code;
2. Failure to Pay Overtime Compensation;
3. Failure to Provide Meal Periods and Pay Wages in Lieu Thereof;
4. Failure to Provide Rest Periods and Pay Wages in Lieu Thereof;
5. Failure to Indemnify Necessary Expenditures or Losses;
6. Failure to Furnish Accurate Itemized Wage Statements and to Maintain Accurate Records;
7. Failure to Pay Wages at Discharge or Quitting;
8. Unfair Competition Law Remedies for Unlawful and Unfair Business Acts; and
9. Labor Code Private Attorneys General Act of 2004 Remedies for IWC Wage Order and Labor Code Violations

24 **DEMAND FOR JURY TRIAL**

25 PAGA Case No.

LWDA-CM-967479-23: July 11, 2023

1 **CLASS AND REPRESENTATIVE ACTION COMPLAINT**

2 1. **Introduction.** Plaintiff CLEMENTE GARCIA (“Plaintiff”) brings this complaint against
3 defendant UNITED PACKAGING GROUP, LLC, a California limited liability company, (“UNITED”)
4 CHARLES SODERSTROM, an individual, (“SODERSTROM”) and DOES 1 through 25, inclusive
5 (collectively, “Defendants”), based on facts that have evidentiary support or are likely to have evidentiary
6 support after a reasonable opportunity for further investigation and discovery, which Plaintiff alleges,
7 including on information and belief, pursuant to the laws of the State of California, for which Plaintiff
8 prays for a judgment against Defendants awarding damages, restitution, interest, statutory penalties, civil
9 penalties, injunctive relief, attorneys’ fees, litigation costs, and all other legal and equitable remedies
10 deemed just under California law.

11 2. **Causes of Action and Remedies.** Defendants employed Plaintiff and other individuals to
12 perform labor under employment policies and practices that failed to comply with Industrial Welfare
13 Commission (“IWC”) Wage Order No. 1-2001 (Regulating Wages, Hours and Working Conditions in the
14 the Manufacturing Industry) or other applicable Wage Orders (collectively, “IWC Wage Order(s)”) and
15 Labor Code provisions fixing the minimum wages, maximum hours, and standard conditions of labor for
16 employees in California, which resulted, and continues to result, in illegal conduct giving rise to a class
17 and representative action based on Defendants’: (1) failure to pay minimum and regular rate wages fixed
18 by IWC Wage Orders and the Labor Code; (2) failure to pay overtime compensation; (3) failure to provide
19 meal periods and pay wages in lieu thereof; (4) failure to provide rest periods and pay wages in lieu
20 thereof; (5) failure to indemnify necessary expenditures or losses; (6) failure to furnish accurate itemized
21 wage statements and to maintain accurate records; (7) failure to pay wages at discharge or quitting; (8)
22 Unfair Competition Law (Business and Professions Code §§ 17200-17210, *et seq.*) remedies for unlawful
23 and unfair business acts; and (9) Labor Code Private Attorneys General Act of 2004 (Labor Code §§ 2698-
24 2699.8, *et. seq.*) remedies for IWC Wage Order and Labor Code violations.

25 3. **First to Eighth Causes of Action as a Class Action.** Plaintiff brings the first through eighth
26 causes of action against Defendants, individually, and as a class action on behalf of similarly situated
27 current and former employees who worked for Defendants during the applicable statutory periods.

28 4. **Ninth Cause of Action as a Representative Action.** Plaintiff brings the ninth cause of action

1 against Defendants, as a deputized PAGA representative, and as a representative action on behalf of the
2 State of California based on at least one (1) violation of IWC Wage Orders or Labor Code provisions,
3 which Plaintiff alleges suffering as a result of Defendants' illegal conduct occurring within the State of
4 California, including as alleged in Plaintiff's July 11, 2023 notice to the Labor and Workforce
5 Development Agency ("LWDA") and Defendants in LWDA, Case No. LWDA-CM-967479-23, as may
6 be amended (sometimes, "07/11/23 PAGA Notice"), which is incorporated by reference.

7 **JURISDICTION & VENUE**

8 5. **Jurisdiction.** The Superior Court of California has jurisdiction over this action because
9 Plaintiff is, or was, a California resident, and at least one of the Defendants regularly conducted business
10 in California when Defendants' acts and omissions caused the losses, which Plaintiff seeks to remedy in
11 amounts yet unascertained, but subject to proof and within the jurisdiction of this Court. Furthermore, no
12 federal question is in controversy because Plaintiff's causes of action are based solely on California law.

13 6. **Venue.** Venue is proper in this judicial district of the County of San Bernardino because
14 Plaintiff and persons similarly aggrieved performed labor or resided in this judicial district while
15 performing labor for Defendants, and Defendants executed their illegal wage, hour, and working condition
16 policies and practices, which are subjects of this action, in this judicial district.

17 **PARTIES**

18 **Plaintiff, Individually, and on Behalf of Others Similarly Situated and Aggrieved.**

19 7. **Plaintiff Clemente Garcia.** Plaintiff worked for Defendants in California as an hourly paid
20 employee for nearly a decade or more until around August 2022 and brings this action against Defendants,
21 individually, as a class action and as a representative action.

22 8. **Class Members.** Plaintiff, an individual, brings class allegations, individually, and on
23 behalf of the following similarly situated persons:

24 All persons who worked for Defendants in California as non-exempt employees at any
25 time during the period beginning four (4) years prior to the filing of this action and ending
on the date the class certified or on a date fixed by the Court ("Class Members").

26 Plaintiff reserves the right to name additional Class representatives.

27 9. **Aggrieved Employees.** Plaintiff, as a deputized PAGA representative, brings PAGA
28 allegations, individually, and on behalf of the State of California with respect to the following persons:

1 All persons who worked for Defendants in California as non-exempt employees at any
2 time during the period beginning one (1) year prior to Plaintiff's July 11, 2023 PAGA
3 Notice to the time ends in a judgment or to a date fixed by the Court ("Aggrieved
4 Employees").

5 Plaintiff reserves the right to name additional PAGA representatives.

6 **Defendants and Does 1 Through 25, Inclusive.**

7 10. Defendant United Packaging Group, LLC. Defendant UNITED PACKAGING GROUP,
8 LLC is a limited liability company formed and existing under the laws of California, who conducted
9 business in California under California Secretary of State file number: 200714310229 including while
10 employing Plaintiff and Class Members.

11 11. Defendant Charles Soderstrom. Defendant CHARLES SODERSTROM is an individual
12 who resides in the state of California and who conducted business in the State of California.

13 12. Does 1 Through 25. Plaintiff does not presently know the true names and capacities of
14 DOES 1 through 25, inclusive ("DOE Defendants"), who are each in some manner highly responsible for,
15 and proximately caused, Plaintiff and Class Members' injuries. Plaintiff therefore sues such DOE
16 Defendants under fictitious names and shall seek leave of court to amend this complaint to allege the true
17 names and capacities of such DOE Defendants when ascertained.

18 **ALTER EGO, AGENCY, AND JOINT EMPLOYER**

19 13. SODERSTROM owned and/or controlled the businesses operated by UNITED, and
20 furthermore, SODERSTROM exercised control over the labor practices of each and every one of the
21 employees (inclusive of Plaintiff) of each and every one of their said interests, and caused the violations
22 at issue in this Complaint.

23 14. Based on the foregoing allegations, SODERSTROM, in fact, caused violations at-issue in
24 this Complaint, thereby creating individual liability under Labor Code § 558.1.

25 15. Pursuant to the provisions of Labor Code § 558, the liability of SODERSTROM would
26 include any and all amounts sufficient to recover any and all missed meal and rest break premiums and
27 unpaid wages to Plaintiff and the Class Members.

28 16. As further referenced hereinbelow, the viability of obtaining liability of individuals by this
method was discussed by the California Supreme Court in *Reynolds v. Bement* (2005) 36 Cal.4th 1075,

1 1089 where the court noted that individual liability against non-employers could be obtained through the
2 use of § 558.

3 17. PLAINTIFF is informed and believe, and based thereon alleges, that there exists such a
4 unity of interest and ownership between UNITED, SODERSTROM, and DOES 1-25 that the individuality
5 and separateness of defendants have ceased to exist.

6 18. PLAINTIFF is informed and believe, and based thereon alleges, that despite the formation
7 of purported corporate existence, SODERSTROM, and DOES 1-25 are, in reality, one and the same,
8 including, but not limited to because:

9 a. UNITED is or was completely dominated and controlled by SODERSTROM and DOES
10 1-25, who personally committed the frauds and violated the laws as set forth in this complaint, and
11 who have hidden and currently hide behind UNITED to perpetrate frauds, circumvent statutes, or
12 accomplish some other wrongful or inequitable purpose.

13 b. SODERSTROM and DOES 1-25 have acted on behalf of UNITED, who violate, or cause
14 to be violated, the provisions regulating minimum wages or hours and days of work in any order
15 of the Industrial Welfare Commission, or violate, or cause to be violated, California Labor Code
16 Sections 203, 226, 226.7, 510, 1194, 1197, or 2802.

17 c. SODERSTROM and DOES 1-25 have acted on behalf of UNITED, who violate, or cause
18 to be violated, the provisions regulating meal and rest breaks in any order of the Industrial Welfare
19 Commission, or violate, or cause to be violated, California Labor Code Sections 226.7, 512, and
20 2802.

21 d. SODERSTROM and DOES 1-25 derive actual and significant monetary benefits by and
22 through UNITED as the funding sources for their own personal expenditures.

23 e. Plaintiff is informed and believes that SODERSTROM, UNITED, and DOES 1-25, while
24 really one and the same, were segregated to appear as though separate and distinct for purposes of
25 perpetrating a fraud, circumventing a statute, or accomplishing some other wrongful or inequitable
26 purpose.

27 f. Plaintiff is informed and believes that UNITED do not or did not comply with all requisite
28 corporate formalities to maintain a legal and separate corporate existence.

g. Plaintiff is informed and believes, and based thereon alleges, that the business affairs of SODERSTROM, and DOES 1-25 are, and at all times relevant were, so mixed and intermingled that the same cannot reasonably be segregated, and the same are in inextricable confusion.

h. UNITED is, and at all times relevant hereto was, used by SODERSTROM and DOES 1-25 as a mere shell and conduit for the conduct of certain of Defendants' affairs, and were, and was, the alter ego of SODERSTROM and DOES 1-25. The recognition of the separate existence of UNITED, and/or SODERSTROM would not promote justice, in that it would permit Defendants to insulate themselves from liability to Plaintiff for violations of the Labor Code. The corporate existence of SODERSTROM and DOES 1-25 should be disregarded in equity and for the ends of justice because such disregard is necessary to avoid fraud and injustice to Plaintiff herein.

19. Accordingly, UNITED constitutes the alter egos of SODERSTROM and DOES 1-25, and the fiction of their separate corporate existence must be disregarded.

20. As a result of the aforementioned facts, Plaintiff is informed and believes, and based thereon alleges that SODERSTROM, and DOES 1-25 are Plaintiff's joint employers by virtue of a joint enterprise, and that Plaintiff was an employee of SODERSTROM, and DOES 1-25. Plaintiff performed services for each and every one of Defendants, and to the mutual benefit of all Defendants, and all Defendants shared control of Plaintiff as employees, either directly or indirectly, and the manner in which Defendants' business was and is conducted.

CLASS AND REPRESENTATIVE ACTION ALLEGATIONS

21. Plaintiff's Work Experiences. Plaintiff worked for Defendants in California as an hourly paid employee for around a decade or more until around August 2022 when Defendants terminated Plaintiff's employment. Plaintiff regularly or occasionally worked shifts over eight hours and over 12 hours a day and performed mechanical, maintenance, cleaning, pick-up and delivery, other duties alongside Class Members, who performed similar duties.

21.1. Failure to Pay All Plaintiff All Wages Earned and Due. Defendants failed to compensate Plaintiff for all hours of work performed, including for minimum and overtime wage hours worked, including because Defendants required Plaintiff to clock out and continue working regularly and blatantly and, hence, made it appear Plaintiff worked fewer hours than Plaintiff worked. Plaintiff worked

1 for over 12 hours on multiple days on some occasions for over 16 hours and aside from working numerous
2 hours after being instructed to clock out, Defendants also failed to provide Plaintiff compliant off-duty
3 meal periods regularly but did not pay Plaintiff minimum and overtime wages for these so-called meal
4 periods that should have been treated as on-duty meal periods and counted as time worked. Defendants
5 knew Plaintiff and Class Members regularly worked while off-the-clock for all hours worked, including
6 minimum wage hours, and for hours Defendants should have paid them at no less than one and one-half
7 times or two times their regular rates.

8 21.2. Failure to Provide Plaintiff Meal Periods and Pay Wages in Lieu Thereof.

9 Defendants failed to provide Plaintiff timely, duty-free meal periods during shifts over five (5) hours.
10 Specifically, Plaintiff and Class Members routinely worked for Defendants without being provided with
11 all timely, 30-minute, duty-free meal periods because Defendants gave them too much work to perform
12 and did not relieve them of all duties before the lapse of each five-hour period of work. Despite failing to
13 provide Plaintiff and Class Members timely, 30-minute, duty-free meal periods, Defendants failed to pay
14 Plaintiff and Plaintiff is informed and believes Defendants failed to pay Class Members one (1) hour of
15 pay at their regular rates of compensation for each workday when a compliant meal period was not
16 provided.

17 21.3. Failure to Provide Plaintiff Rest Periods and Pay Wages in Lieu Thereof.

18 Defendants failed to provide Plaintiff timely, duty-free rest periods during shifts over three and one-half
19 (3 1/2) hours. Specifically, Plaintiff and Class Members routinely worked for Defendants without being
20 provided with all timely, 10-minute, duty-free rest periods because Defendants gave them too much work
21 to perform and did not relieve them of all duties before the lapse of each four (4) hours worked or major
22 fraction thereof. Despite failing to provide Plaintiff and Class Members timely, 10-minute, duty-free rest
23 periods, Defendants failed to pay Plaintiff and Plaintiff is informed and believes Defendants failed to pay
24 Class Members one (1) hour of pay at their regular rates of compensation for each workday when a
25 compliant rest period was not provided.

26 21.4. Failure to Indemnify and Reimburse Plaintiff Rest Periods and Pay Wages in Lieu
27 Thereof. Defendants failed to indemnify and reimburse Plaintiff tools and supplies Defendants knew
28 Plaintiff needed to perform the mechanical and maintenance duties Defendants demanded of Plaintiff.

Defendants also failed to reimburse Plaintiff for mobile data use and personal vehicle use Plaintiff suffered when performing pick-up and delivery duties that required Plaintiff to drive away from and back to Plaintiff's regular workplace at Defendants' direction. Plaintiff and Plaintiff is informed and believes Defendants failed to indemnify Plaintiff and Class Members similarly and unlawfully caused Plaintiff and Class Members to subsidize Defendants business expenses which Defendants should have borne exclusively.

22. Plaintiff's Work Experiences as Common, Typical, and Illustrative. Plaintiff is informed and believes Defendants regularly subjected Plaintiff to employment policies and practices that led to the inaccurate recordkeeping and wage theft, which caused Plaintiff to suffer legal detriment, and Plaintiff's experiences were common, typical, and illustrative of Class Members' experiences including as alleged herein.

22.1. Majority Non-Professional, Non-Executive, Non-Administrative Duties. Plaintiff and Class Members did not perform more than one-half of their work time during any week or pay period engaged in duties utilizing advanced knowledge, specialized intellectual instruction, invention, imagination, originality, or artistic talent that would qualify them as exempt employees under any professional, executive, or administrative exemption provisions of IWC Wage Orders and Labor Code § 515 including because (a) their duties and responsibilities did not involve the management of the enterprise in which they were employed or of a customarily recognized department or subdivision thereof; (b) they were not licensed or certified by the State of California nor were they primarily engaged in the practice of one of the following recognized professions: law, medicine, dentistry, optometry, architecture, engineering, teaching, or accounting, nor were they primarily engaged in an occupation commonly recognized as a learned or artistic profession; and (c) their duties and responsibilities did not involve either the performance of office or non-manual work directly related to management policies or general business operations of their employer or their employer's customers, or the performance of functions in the administration of a school system, or educational establishment or institution, or of a department or subdivision thereof, in work directly related to the academic instruction or training carried on therein.

22.2. No Authority to Hire or Fire, No Customary or Regular Exercise of Discretion or Independent Judgment and No Work Under Only General Supervision or Requiring Special Training.

1 Experience, or Knowledge. Plaintiff and Class Members did not have the authority to hire or fire other
2 employees, nor were their suggestions and recommendations as to the advancement and promotion or any
3 other change of status of other employees given any weight. Plaintiff and Class Members did not
4 customarily and regularly exercise discretion and independent judgment in performing their work duties.
5 Plaintiff and Class Members did not perform under only general supervision or work along specialized or
6 technical lines requiring special training, experience, or knowledge.

7 22.3. Majority Non-Selling Duties. Plaintiff and Class Members did not perform more
8 than one-half of their work time during any week or pay period engaged in duties making sales, obtaining
9 orders, or contracts for services customarily, or predominately away from Defendants' places of business
10 during any week or pay period that would qualify them as exempt employees under the outside salesperson
11 exemption.

12 22.4. No Valid Alternative Workweek Schedule. Plaintiff and Class Members were not
13 subject to an alternative workweek schedule or like exemption because Defendants never conducted a
14 bona fide election and did not report a bona fide election to the Division of Labor Standards Enforcement.

15 23. Defendants' Common, Illegal Policies and Practices. Plaintiff is informed and believes
16 Defendants employed Plaintiff and Class Members pursuant to employment agreements, policies, and
17 practices that were partly written, partly oral, and partly implied which, in sum, failed to adequately
18 conform with and communicate employer-obligations and employee-entitlements under IWC Wage
19 Orders and Labor Code provisions fixing the minimum wages, maximum hours, and standard conditions
20 of labor for employees in California, which directly and proximately caused Plaintiff and Class Members
21 to suffer, and continue to suffer from, losses of earnings and other legal detriments in amounts as yet
22 unascertained including for the common reasons that follow.

23 23.1. Common Failure to Create and Maintain Accurate Records. Plaintiff is informed
24 and believes Defendants failed to create and maintain accurate books, documents, and records of Plaintiff
25 and Class Members' work including those required by Section 6 or 7 ("Records") of any IWC Wage Order
26 and the Labor Code:

27 23.1.1. by failing to create and keep accurate records of Plaintiff and Class
28 Members' hours worked including time records showing when they began and ended each work period;

1 23.1.2. by failing to create and keep accurate records of Plaintiff and Class
2 Members' hours worked including time records showing when they began and ended each meal period,
3 split shift interval, and total daily hours worked;

4 23.1.3. by causing Plaintiff and Class Members to inaccurately report their
5 compensable hours including by adopting illegal, incomplete, misleading, or otherwise inadequate written
6 policies, which Defendants knew would cause them to inaccurately report all their hours worked;

7 23.1.4. by causing Plaintiff and Class Members to refrain from accurately recording
8 and reporting their hours worked outside of scheduled hours including by express prohibition and indirect
9 or implied prohibitions forbidding work outside of scheduled, authorized or pre-approved hours including
10 under threats of discipline;

11 23.1.5. by failing to record and report Plaintiff and Class Members' hours worked
12 in an amount equal to all recorded or reported hours worked by altering, editing, rounding, automatically
13 deducting, disapproving, recording and reporting by scheduled hours, and recording and reporting hours
14 based on recorded or reported hours in certain timekeeping or information management systems while
15 disregarding additional recorded hours of work in other information management systems;

16 23.1.6. by requiring, suffering, and permitting Plaintiff and Class Members to work
17 or to be subject to Defendants' control during times outside of recorded, compensated hours including
18 before shift start times, after shift end times, and during other paid or unpaid time periods including so-
19 called meal periods and rest periods that were noncompliant because they were not authorized, permitted,
20 duty-free, and timely, and then by failing to record and report those times as hours worked;

21 23.1.7. by failing to provide Plaintiff and Class Members itemized wage
22 statements, reporting, recording, and showing their precise, actual number of hours worked for each pay
23 period to avoid paying all wages due and to mislead, defraud, and to deprive Plaintiff and Class Members
24 the information needed to evaluate whether the hours recorded and reported were correct;

25 23.1.8. and by other illegal methods and schemes to be discovered, which are within
26 Defendants' superior, surreptitious knowledge, amounting to policies and practices demonstrating a
27 willful disregard and disobedience of California laws requiring employers to create and maintain accurate
28 books, documents, and records of Plaintiff and Class Members' work.

1 23.2. Common Failure to Pay All Minimum Wages Earned and Due. Plaintiff is informed
2 and believes Defendants routinely deprived Plaintiff and Class Members of all minimum wages earned
3 and due as required by provisions of the IWC Wage Orders and Labor Code:

4 23.2.1. by failing to create and keep accurate records of Plaintiff and Class
5 Members' hours worked and compensating them based on some method of calculation other than the sum
6 of all hours worked;

7 23.2.2. by causing Plaintiff and Class Members to inaccurately report their
8 compensable hours and then adopting and claiming reliance on the inaccurate reports, which Defendants
9 knew would, and did, result in time records amounting to less than all hours worked, to undercompensate
10 them;

11 23.2.3. by causing Plaintiff and Class Members to refrain from accurately recording
12 and reporting their hours worked outside of scheduled hours including by express prohibition and indirect
13 or implied prohibitions forbidding work outside of scheduled, authorized or pre-approved hours including
14 under threats of discipline;

15 23.2.4. by failing to pay Plaintiff and Class Members in an amount equal to all
16 recorded or reported hours worked by altering, editing, rounding, automatically deducting, disapproving,
17 paying by scheduled hours, paying by fixed salary amounts, and calculating compensable hours based on
18 recorded or reported hours in certain timekeeping or information management systems while disregarding
19 additional recorded hours of work in other information management systems;

20 23.2.5. by requiring, suffering, and permitting Plaintiff and Class Members to work
21 or to be subject to Defendants' control during times outside of recorded, compensated hours including
22 before shift start times, after shift end times, and during other paid or unpaid time periods including so-
23 called meal periods and rest periods that were noncompliant because they were not authorized, permitted,
24 duty-free, and timely, and then by failing to compensate for those times as hours worked;

25 23.2.6. by averaging or claiming credits against Plaintiff and Class Members'
26 minimum wages due for work performed on certain days, weeks, and pay periods by collecting or
27 receiving previously paid wages Defendants had already paid or purportedly overpaid for work performed
28 on other days, weeks, and pay periods;

23.2.7. by failing to pay Plaintiff and Class Members based on their regular rates of pay for all minimum wages due on certain days, weeks, and pay periods reflecting, among other things, the per-hour value of any non-hourly compensation they earned;

23.2.8. by failing to provide Plaintiff and Class Members itemized wage statements, reporting, recording, and showing their precise, actual number of hours worked for each pay period to avoid paying all minimum wages due and to mislead, defraud, and to deprive Plaintiff and Class Members the information needed to evaluate whether the payment was correct;

23.2.9. and by other illegal methods and schemes to be discovered, which are within Defendants' superior, surreptitious knowledge, amounting to policies and practices demonstrating a willful disregard and disobedience of California laws requiring employers to pay employees minimum wages for all hours worked, which are still due and owed to Plaintiff and Class Members.

Class Definition

24. Proposed Class Definition. Plaintiff brings causes of action against Defendants, individually, and on behalf of others similarly situated as a class action pursuant to Code of Civil Procedure § 382, and seeks an order certifying this action as a class action for a Class defined, or as later defined in narrowed subclasses, as appropriate, as follows:

All persons who worked for Defendants in California as non-exempt employees at any time during the period beginning four (4) years prior to filing of this action and ending on the date the class certified or on a date fixed by the Court ("Class Members").

25. Suitability as a Class Action. This action is suitable as a class action because: (a) the Class is numerous because it consists of a significant number and joinder of all current and former employees individually would be impractical; (b) Plaintiff's causes of action (and Defendants' defenses, if any) are typical and present predominate common questions of law and fact because the action focuses on Defendants' systematic, illegal recordkeeping and wage payment policies and practices in violation of the applicable IWC Wage Orders, Labor Code, and Business and Professions Code; (c) Plaintiff can adequately represent the Class because Plaintiff has no interests antagonistic to any Class Member, Plaintiff's attorneys are experienced in complex, wage, and hour class action litigation, and it is in their best interests to prosecute the causes of action alleged herein to obtain full compensation due to them for all services rendered and hours worked for the benefit of all; and (d) class adjudication is a superior means

1 of resolution.

2 **FIRST CAUSE OF ACTION**

3 **Failure to Pay Minimum Wages Fixed by IWC Wage Orders and the Labor Code**

4 **(IWC Wage Order § 4 and Lab. Code §§ 1182.11, 1197, and 1198)**

5 **(Against all DEFENDANTS)**

6 26. Plaintiff incorporates and realleges as if fully stated herein all facts and allegations, in any
7 paragraph of this complaint, consistent with this cause of action.

8 27. Pursuant to IWC Wage Order § 4, Labor Code §§ 1182.12, 1197, and 1198, and other
9 California laws, California has fixed minimum wage rates, has required employers in California to timely
10 pay their employees no less than the minimum for all hours worked in the payroll period, has provided
11 that wages for employees fixed by the IWC or by state law, is the minimum wage to be paid to employees,
12 and that payment of a lower wage than the minimum so fixed is unlawful.

13 28. Plaintiff and Class Members are Defendants' current and former non-exempt employees
14 who are and were entitled to the protections of IWC Wage Order § 4, Labor Code §§ 1182.12, 1197, and
15 1198, and other California laws.

16 29. During the applicable statutory period, as part of Defendants' illegal recordkeeping, hours,
17 and wage payment policies and practices, Defendants routinely deprived Plaintiff and Class Members of
18 all minimum wages earned and due by, among other things: requiring, suffering or permitting Plaintiff
19 and Class Members to work off-the-clock; requiring, suffering or permitting Plaintiff and Class Members
20 to work during their purportedly duty-free meal periods but not compensating them for this time; illegally
21 and inaccurately recording time worked by Plaintiff and Class Members; failing to properly maintain
22 Plaintiff and Class Members' records; failing to provide accurate itemized wage statements to Plaintiff
23 and Class Members for each pay period; and by other methods to be discovered, which, as a direct and
24 proximate result, has caused Plaintiff and Class Members to suffer, and continue to suffer, substantial
25 losses related to the use and enjoyment of such entitlements and wages, lost interest on such wages, and
26 expenses and attorneys' fees in seeking to compel Defendants to perform their obligations under state law,
27 all to their respective detriments in amounts according to proof at time of trial, and within the jurisdiction
28 of this Court

30. Defendants have knowingly and willfully refused to perform their obligations to compensate Plaintiff and Class Members for all minimum wages earned and all hours worked in violation of IWC Wage Order § 4, Labor Code §§ 1182.12, 1197, and 1198, and other California laws.

31. As a result, Plaintiff and Class Members are entitled to recover from Defendants the unpaid balance of minimum and regular rate wages as damages, liquidated damages, restitution, interest, statutory penalties, injunctive relief, attorneys' fees, and litigation costs pursuant to Labor Code §§ 1194, 1194.2, 1194.5, and 1197.1, or other Labor Code provisions and California laws, for failing to pay for all hours worked, including minimum wages and regular rate wages.

SECOND CAUSE OF ACTION

Failure to Pay Overtime Compensation

IWC Wage Order § 3 and Lab. Code Code §§ 510 and 1198)

(Against all DEFENDANTS)

32. Plaintiff incorporates and realleges as if fully stated herein all facts and allegations, in any paragraph of this complaint, consistent with this cause of action.

33. Pursuant to IWC Wage Order § 3, Labor Code §§ 510 and 1198, and other California laws, California has required employers to timely pay their employees at a rate of no less than one and one-half (1 1/2) times their regular rates of pay for all hours worked in excess of eight (8) hours in one (1) workday, all hours worked in excess of 40 hours in any one (1) workweek, and for the first eight (8) hours on the seventh consecutive workday, and at a rate of no less than twice their regular rates of pay for all hours worked in excess for all hours worked in excess of 12 hours in any workday and for all hours worked in excess of eight (8) hours on the seventh consecutive day of work in any workweek.

34. Plaintiff and Class Members are Defendants' current and former non-exempt employees who are and were entitled to the protections of IWC Wage Order § 3, Labor Code §§ 510 and 1198, and other California laws.

35. During the applicable statutory period, as part of Defendants' illegal recordkeeping, hours, and wage payment policies and practices, Defendants routinely failed to compensate Plaintiff and Class Members for all overtime hours worked as required under the foregoing provisions of the IWC Wage Order and Labor Code by, among other things: failing to pay overtime at one and one-half (1 1/2) times

1 or twice their regular rates of pay when required; requiring, suffering or permitting Plaintiff and Class
2 Members to work off-the-clock; requiring, suffering or permitting Plaintiff and Class Members to work
3 during their purportedly duty-free meal periods but not compensating them for this time; illegally and
4 inaccurately recording time worked by Plaintiff and Class Members; failing to properly maintain Plaintiff
5 and Class Members' employment records through falsifying hours worked; failing to provide accurate
6 itemized statements to Plaintiff and Class Members for each pay period; and by other methods to be
7 discovered, which, as a direct and proximate result, has caused Plaintiff and Class Members to suffer, and
8 continue to suffer, substantial losses related to the use and enjoyment of such entitlements and wages, lost
9 interest on such wages, and expenses and attorneys' fees in seeking to compel Defendants to perform their
10 obligations under state law, all to their respective detriments in amounts according to proof at time of trial,
11 and within the jurisdiction of this Court

12 36. Defendants have knowingly and willfully refused to perform their obligations to
13 compensate Plaintiff and Class Members for all overtime wages earned and all hours worked in violation
14 of IWC Wage Order § 3, Labor Code §§ 510 and 1198, and other California laws.

15 37. As a result, Plaintiff and Class Members are entitled to recover from Defendants the unpaid
16 balance of overtime wages as damages, restitution, interest, statutory penalties, injunctive relief, attorneys'
17 fees, and litigation costs pursuant to Labor Code §§ 1194, 1194.5, and 1197.1, or other Labor Code
18 provisions and California laws, for failing to pay for all hours worked, including overtime wages.

19 **THIRD CAUSE OF ACTION**

20 **Failure to Provide Meal Periods and Pay Wages in Lieu Thereof**

21 **(IWC Wage Order § 11 and Lab. Code §§ 226.7, 512, and 1198)**

22 **(Against all DEFENDANTS)**

23 38. Plaintiff incorporates and realleges as if fully stated herein all facts and allegations, in any
24 paragraph of this complaint, consistent with this cause of action.

25 39. Pursuant to IWC Wage Order § 11 and Labor Code §§ 226.7, 512, and 1198, and other
26 California laws, California has prohibited employers from employing a person for a work period of more
27 than five (5) hours without a meal period of not less than 30 minutes, except that when a work period of
28 not more than six (6) hours will complete the day's work, the meal period may be waived by mutual

1 consent of the employer and the employee. California has also prohibited employers from employing a
2 person for a work period of more than ten (10) hours per day without providing the employee with a
3 second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12
4 hours, the second meal period may be waived by mutual consent of the employer and the employee only
5 if the first meal period was not waived. California has also required that unless an employee is relieved of
6 all duty during a 30-minute meal period, the meal period shall be considered an “on duty” meal period
7 and counted as time worked. Moreover, if an employer fails to provide an employee a meal period in
8 accordance with the applicable provisions of the relevant IWC Wage Order, then the employer shall pay
9 the employee one (1) hour of pay at the employee’s regular rate of compensation for each workday that
10 the meal period is not provided.

11 40. Plaintiff and Class Members are Defendants’ current and former non-exempt employees
12 who are and were entitled to the protections of IWC Wage Order § 11 and Labor Code §§ 226.7, 512, and
13 1198, and other California laws.

14 41. During the applicable statutory period, as part of Defendants’ illegal recordkeeping, hours,
15 and wage payment policies and practices, Defendants routinely failed to provide Plaintiff and Class
16 Members meal periods and to pay one (1) additional hour of compensation at Plaintiff and Class Members’
17 regular hourly rates of compensation for each workday that a meal period was not provided, as required
18 under the foregoing provisions of the IWC Wage Order and Labor Code by, among other things:
19 requiring, permitting or suffering Plaintiff and Class Members to work in excess of five (5) hours from
20 the starts of their shifts before starting a meal period; requiring, permitting or suffering Plaintiff and Class
21 Members to work in excess of ten (10) hours from the starts of their shifts before starting a second meal
22 period; requiring, permitting or suffering Plaintiff and Class Members to take on-duty meal periods of less
23 than 30 minutes or that were otherwise not duty-free inasmuch as Defendants failed to relieve Plaintiff
24 and Class Members of all of their duties or maintained control over them during that time; failing to count
25 all times that Defendants failed to provide Plaintiff and Class Members duty-free 30-minute meal periods
26 as time worked for the purposes of minimum wage and overtime wage payments; failing to pay Plaintiff
27 and Class Members one (1) hour of pay at their regular hourly rates of compensation for each workday
28 that the meal period was not provided; and by other methods to be discovered.

42. Defendants have knowingly and willfully refused to perform their obligations to provide Plaintiff and Class Members meal periods and to pay all wages in lieu thereof in violation of IWC Wage Order § 11 and Labor Code §§ 226.7, 512, and 1198, and other California laws, which, as a direct and proximate result, has caused Plaintiff and Class Members to suffer, and continue to suffer, substantial losses related to the use and enjoyment of such entitlements and wages, lost interest on such wages, and expenses and attorneys' fees in seeking to compel Defendants to perform their obligations under state law, all to their respective detriments in amounts according to proof at time of trial, and within the jurisdiction of this Court

43. As a result, Plaintiff and Class Members are entitled to recover from Defendants the unpaid balance of meal period premium wages as damages, restitution, interest, statutory penalties, injunctive relief, attorneys' fees, and litigation costs pursuant to Labor Code §§ 1194, 1194.5, and 1197.1, or other Labor Code provisions and California laws, for failing to provide meal periods and pay meal period premium wages.

FOURTH CAUSE OF ACTION

Failure to Provide Rest Periods and Pay Wages in Lieu Thereof

(IWC Wage Order § 12 and Lab. Code §§ 226.7 and 1198)

(Against all DEFENDANTS)

44. Plaintiff incorporates and realleges as if fully stated herein all facts and allegations, in any paragraph of this complaint, consistent with this cause of action.

45. Pursuant to IWC Wage Order § 12, Labor Code §§ 226.7 and 1198, and other California laws, California has required employers to authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period, that rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof, that a rest period need not be authorized for employees whose total daily work time is less than three and one-half (3 1/2) hours, and that authorized rest period time shall be counted as hours worked for which there shall be no deduction from wages. California has also required that if an employer fails to provide an employee a rest period in accordance with the applicable provisions of this order, then the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for

1 each workday that the rest period is not provided.

2 46. Plaintiff and Class Members are Defendants' current and former non-exempt employees
3 who are and were entitled to the protections of IWC Wage Order § 12, Labor Code §§ 226.7 and 1198,
4 and other California laws.

5 47. During the applicable statutory period, as part of Defendants' illegal recordkeeping, hours,
6 and wage payment policies and practices, Defendants routinely failed to provide Plaintiff and Class
7 Members rest periods and to pay one (1) additional hour of compensation at Plaintiff and Class Members'
8 regular hourly rates of compensation for each workday that a rest period was not provided, as required
9 under the foregoing provisions of the IWC Wage Order and Labor Code by, among other things:
10 requiring, permitting or suffering Plaintiff and Class Members to work in excess of three and one-half (3
11 1/2) hours from the starts of their shifts before starting a rest period; requiring, permitting or suffering
12 Plaintiff and Class Members to work in excess of six (6) hours from the starts of their shifts before starting
13 a first or second rest period; requiring, permitting or suffering Plaintiff and Class Members to work in
14 excess of 10 hours from the starts of their shifts before starting a first, second or third rest period; requiring,
15 permitting or suffering Plaintiff and Class Members to take on-duty rest periods of less than 10 minutes
16 or that were otherwise not duty-free inasmuch as Defendants failed to relieve Plaintiff and Class Members
17 of all of their duties or maintained control over them during that time; failing to count all times that
18 Defendants failed to provide Plaintiff and Class Members duty-free 10-minute rest periods as time worked
19 for the purposes of minimum wage and overtime wage payments; failing to pay Plaintiff and Class
20 Members one (1) hour of pay at their regular hourly rates of compensation for each workday that the rest
21 period was not provided; and by other methods to be discovered, which, as a direct and proximate result,
22 has caused Plaintiff and Class Members to suffer, and continue to suffer, substantial losses related to the
23 use and enjoyment of such entitlements and wages, lost interest on such wages, and expenses and
24 attorneys' fees in seeking to compel Defendants to perform their obligations under state law, all to their
25 respective detriments in amounts according to proof at time of trial, and within the jurisdiction of this
26 Court.

27 48. Defendants have knowingly and willfully refused to perform their obligations to provide
28 Plaintiff and Class Members rest periods and to pay all wages in lieu thereof in violation of to IWC Wage

1 Order § 12, Labor Code §§ 226.7 and 1198, and other California laws.

2 49. As a result, Plaintiff and Class Members are entitled to recover from Defendants the unpaid
3 balance of rest period premium wages as damages, restitution, interest, statutory penalties, injunctive
4 relief, attorneys' fees, and litigation costs pursuant to Labor Code §§ 1194, 1194.5, and 1197.1, or other
5 Labor Code provisions and California laws, for failing to provide rest periods and pay rest period premium
6 wages.

7 **FIFTH CAUSE OF ACTION**

8 **Failure to Indemnify Necessary Expenditures or Losses**
9 **(IWC Wage Order § 9 and Lab. Code § 2802(a) and 1198)**
10 **(Against all DEFENDANTS)**

11 50. Plaintiff incorporates and realleges as if fully stated herein all facts and allegations, in any
12 paragraph of this complaint, consistent with this cause of action.

13 51. Pursuant to IWC Wage Order § 9 and Labor Code §§ 2802(a) and 1198, and other
14 California laws, California requires employers to indemnify employees for all necessary expenditures or
15 losses incurred by an employee in direct consequence of the discharge of his or her duties, or of his or her
16 obedience to the directions of the employer, even though unlawful, unless the employee, at the time of
17 obeying the directions, believed them to be unlawful, which includes employee expenditures incurred for
18 provision or maintenance of uniforms, tools, and equipment required by the employer or are necessary to
19 the performance of a job.

20 52. Plaintiff and Class Members are Defendants' current and former non-exempt employees
21 who are and were entitled to the protections to IWC Wage Order § 9 and Labor Code §§ 2802(a) and
22 1198, and other California laws.

23 53. During the applicable statutory periods, Defendants were employers obligated to comply
24 with, and Plaintiff and Class Members were current and former employees entitled to the protections of,
25 IWC Wage Order § 9 and Labor Code §§ 2802(a) and 1198, and other California laws. Defendants
26 routinely, knowingly, and willfully deprived Plaintiff and Class Members of indemnification for necessary
27 expenditures and losses, as alleged herein, and by other methods to be discovered, which, as a direct and
28 proximate result, has caused Plaintiff and Class Members to suffer, and continue to suffer, substantial

1 losses related to the use and enjoyment of such unreimbursed amounts, lost interest on such unreimbursed
2 amounts, and expenses and attorneys' fees in seeking to compel Defendants to perform their obligations
3 under state law, all to their respective detriments in amounts according to proof at time of trial, and within
4 the jurisdiction of this Court.

5 54. Defendants have knowingly and willfully refused to perform their obligations to indemnify
6 Plaintiff and Class Members for all necessary expenditures in violation of IWC Wage Order § 9 and Labor
7 Code §§ 2802(a) and 1198, and other California laws.

8 55. As a result, Plaintiff and Class Members are entitled to recover from Defendants the
9 unreimbursed amounts Defendants owe them, plus interest, penalties, attorneys' fees, expenses, and costs
10 of suit to pursuant to Labor Code §§ 2802(b), 2802(c), and 2802(d), or other Labor Code provisions and
11 California laws, for failing to indemnify for necessary expenditures and losses.

12 **SIXTH CAUSE OF ACTION**

13 **Failure to Furnish Accurate Itemized Wage Statements and to Maintain Accurate Records**

14 **(IWC Wage Order § 7 and Lab. Code §§ 226(a), 226(e)(2)(B), and 1198)**

15 **(Against all DEFENDANTS)**

16 56. Plaintiff incorporates and realleges as if fully stated herein all facts and allegations, in any
17 paragraph of this complaint, consistent with this cause of action.

18 57. Pursuant to IWC Wage Order § 7, Labor Code §§ 226(a), 226(e)(2)(B), 1174(d), and 1198,
19 and other California laws, California has required employers to maintain accurate payroll records showing
20 the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any
21 applicable piece rate paid to, employees employed at the respective plants or establishments, and at
22 minimum semimonthly or at the time of each payment of wages furnish each of its employees an accurate
23 itemized wage statement in writing showing (1) gross wages earned, (2) total hours worked by the
24 employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid
25 on a piece-rate basis, (4) all deductions, (5) net wages earned, (6) the inclusive dates of the period for
26 which the employee is paid, (7) the name of the employee and only the last four digits of his or her social
27 security number or an employee identification number other than a social security number, (8) the name
28 and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the

1 pay period and the corresponding number of hours worked at each hourly rate by the employee. California
2 law has stated that an employee is deemed to suffer injury for purposes of this subdivision if the employer
3 fails to provide accurate and complete information as required by any one or more of items of the foregoing
4 nine (9) enumerated items and the employee cannot promptly and easily determine from the wage
5 statement alone, *inter alia*, the amount of the gross wages or net wages paid to the employee during the
6 pay period or any of the other information required to be provided on the itemized wage statement pursuant
7 to enumerated items (2) to (4), inclusive, (6), and (9).

8 58. Plaintiff and Class Members are Defendants' current and former non-exempt employees
9 who are and were entitled to the protections of IWC Wage Order § 7, Labor Code §§ 226(a), 226(e)(2)(B),
10 1174(d), and 1198, and other California laws.

11 59. During the relevant statutory period, as part of Defendants' illegal recordkeeping and wage
12 payment policies and practices, Defendants routinely deprived Plaintiff and Class Members of their
13 entitlements to timely and accurate itemized wage statements in writing showing each employee's gross
14 wages earned, total hours worked, the number of piece-rate units earned and any applicable piece rate if
15 the employee is paid on a piece-rate basis, all deductions made, net wages earned, the inclusive dates of
16 the period for which the employee is paid, the name of the employee and only the last four digits of his or
17 her social security number or employee identification number, the name and address of the legal entity or
18 entities employing Plaintiff and Class Members, and all applicable hourly rates in effect during each pay
19 period and the corresponding number of hours worked at each hourly rate as required under California
20 law. Defendants have also failed to maintain and to permit inspection of records of Plaintiff and Class
21 Members work required under the foregoing provisions of the IWC Wage Order and Labor Code, which,
22 as a direct and proximate result, has caused Plaintiff and Class Members to suffer, and continue to suffer,
23 injury because they could not promptly and easily determine from the wage statement alone, and without
24 reference to other documents or information, accurate information they were entitled to, and because they
25 have incurred expenses and attorneys' fees in seeking to compel Defendants to perform their obligations
26 under state law, all to their respective detriments in amounts according to proof at time of trial, and within
27 the jurisdiction of this Court.

28 60. Defendants have knowingly and willfully refused to perform their obligations to provide

1 Plaintiff and Class Members with timely and accurate wage statements and to maintain and to permit
2 inspection of records of Plaintiff and Class Members work required in violation of IWC Wage Order § 7
3 and Lab. Code §§ 226(a), 226(e)(2)(B), 1174(d), and 1198, and other California laws.

4 61. As a result, Plaintiff and Class Members are entitled to recover from Defendants greater of
5 all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurred and one
6 hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an
7 aggregate penalty of four thousand dollars (\$4,000), and are entitled to an award of costs and reasonable
8 attorney's fees pursuant to Labor Code §§ 226(e)(1) and 226(h), or other Labor Code provisions and
9 California laws, for failing to furnish accurate itemized wage statements and to maintain accurate records.

10 **SEVENTH CAUSE OF ACTION**

11 **Failure to Pay Wages at Discharge or Quitting**

12 **(Lab. Code §§ 201(a), 201.3, 202, 203)**

13 **(Against all DEFENDANTS)**

14 62. Plaintiff incorporates and realleges as if fully stated herein all facts and allegations, in any
15 paragraph of this complaint, consistent with this cause of action.

16 63. Pursuant to Labor Code §§ 201(a), 201.3, 202, 203, and 1198, and other California laws,
17 California has required employers to pay their employees all wages earned and unpaid at the time of
18 discharge, or if an employee quits, not later than 72 hours thereafter, unless the employee has given 72
19 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her
20 wages at the time of quitting, and that if an employer willfully fails to timely pay any wages of an employee
21 who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date
22 thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not
23 continue for more than 30 days. California has also required that if a temporary services employer assigns
24 an employee to work for a client, then that employee's wages are due and payable no less frequently than
25 weekly, regardless of when the assignment ends, and wages for work performed during any calendar week
26 shall be due and payable not later than the regular payday of the following calendar week unless the
27 employee works for a client on a day-to-day basis while assembling and reporting back to the temporary
28 services employer's location or unless the employee is assigned to work for a client engaged in a trade

1 dispute, in which cases, that employee's wages are due and payable at the end of each day, regardless of
2 when the assignment ends.

3 64. Plaintiff and Class Members are Defendants' current and former non-exempt employees
4 who are and were entitled to the protections of Labor Code §§ 201(a), 201.3, 202, 203, and 1198, and
5 other California laws.

6 65. During the relevant statutory period, as part of Defendants' illegal wage payment policies
7 and practices, Defendants routinely deprived Plaintiff and Class Members of all timely wage payments
8 due to discharged and quitting employees by either failing to compensate Plaintiff and Class Members all
9 earned and unpaid wages immediately at the time of discharge as required under Labor Code § 201 or by
10 failing to pay earned and unpaid wages no later than 72 hours after the employee quit his or her
11 employment, unless the employee provided 72 hours previous notice of his or her intention to quit, in
12 which case the employee was entitled to his or wages at the time of quitting as required under Labor Code
13 § 202, and by failing to pay Plaintiff and Class Members waiting time penalties in the form of continued
14 compensation to the employee at the same rate for up to 30 workdays as required under Labor Code §
15 203, which, as a direct and proximate result, has caused Plaintiff and Class Members to suffer, and
16 continue to suffer, substantial losses related to the use and enjoyment of such unpaid amounts, lost interest
17 on such unreimbursed amounts, and expenses and attorneys' fees in seeking to compel Defendants to
18 perform their obligations under state law, all to their respective detriments in amounts according to proof
19 at time of trial, and within the jurisdiction of this Court.

20 66. Defendants have knowingly and willfully refused to perform their obligations to
21 compensate Plaintiff and Class Members for wage payments due to discharged and quitting employees in
22 violation of Labor Code §§ 201(a), 201.3, 202, 203, and 1198, and other California laws.

23 67. As a result, Plaintiff and Class Members are entitled to recover from Defendants statutory
24 penalties in the amount of wages each for day they were not paid, at their regular hourly rates of pay, up
25 to 30 days maximum pursuant to Labor Code § 203 and the unpaid balance of all wages owed as damages,
26 restitution, interest, statutory penalties, injunctive relief, attorneys' fees, and litigation costs pursuant to
27 Labor Code §§ 1194, 1194.5, and 1197.1, or other Labor Code provisions and California laws, for failing
28 to timely pay all wages at termination.

EIGHTH CAUSE OF ACTION

Unfair Competition Law Remedies for Unlawful and Unfair Business Acts

(Bus. & Prof. Code §§ 17200-17210, *et. seq.*)

(Against all DEFENDANTS)

68. Plaintiff incorporates and realleges as if fully stated herein all facts and allegations, in any paragraph of this complaint, consistent with this cause of action.

69. Pursuant to Business and Professions Code §§ 17200-17210, *et seq.*, sometimes called California's Unfair Competition Law (UCL), California has prohibited employers from engaging in unlawful, unfair or fraudulent business acts or practices, which include an employer's violations of Labor Code provisions that prohibit employers from unlawfully withholding wages from an employee. Pursuant to § 17203, any person who engages, has engaged, or proposes to engage in unfair competition may be enjoined in any court of competent jurisdiction to prevent the use or employment by any person of any practice which constitutes unfair competition, or as may be necessary to restore to any person in interest any money or property, real or personal, which may have been acquired by means of such unfair competition. Furthermore, § 17203 provides any person may pursue representative claims or relief on behalf of others only if the claimant meets the standing requirements of Section 17204 and complies with Section 382 of the Code of Civil Procedure. Finally, § 17205 provides the remedies or penalties provided by the UCL are cumulative to each other and to the remedies or penalties available under all other laws of California, and an action to enforce the UCL may be commenced within four (4) years after the cause of action has accrued pursuant § 17208.

70. Plaintiff, Class Members, and members of the general public were entitled to the protections of the Business and Professions Code §§ 17200-17210, *et seq.*, and other California laws.

71. During the applicable statutory periods, Defendants, and each of them, are and were "persons" as defined under Business & Professions Code § 17201, obligated to comply with, and Plaintiff, Class Members, and members of the general public were entitled to the protections of, UCL provisions prohibiting unlawful, unfair, and fraudulent business acts or practices including Defendants' failures to comply with IWC Wage Order and Labor Code provisions fixing the minimum wages, maximum hours, and standard conditions of labor for employees in California, which constitute a business practice because

1 they were done repeatedly over a significant period of time, in a systematic manner. Defendants routinely,
2 knowingly, and willfully deprived Plaintiff, Class Members, and members of the general public of
3 accurate recording, reporting, and payment of wages, as well as payment of the correct sums of assessment
4 to state authorities, resulting in the loss of entitlements and accruals of the full amounts of social security,
5 disability, unemployment, and other governmental benefits or entitlements, and Defendants' reaping of
6 unfair and illegal profits by way of unfair competition, which, as a direct and proximate result, has caused
7 Plaintiff, Class Members and members of the general public to suffer, and continue to suffer, substantial
8 losses related to the use and enjoyment of such payment of wages and correct sums of assessment to state
9 authorities, lost interest on such amounts, and expenses and attorneys' fees in seeking to compel
10 Defendants to perform their obligations under state law, all to their respective detriments in amounts
11 according to proof at time of trial, and within the jurisdiction of this Court

12 72. Therefore, pursuant Business and Professions Code §§ 17200, 17201, 17203, 17205, and
13 17208, applicable IWC Wage Order and Labor Code provisions, and other California laws, Plaintiff and
14 Class Members are entitled to restitution of the wages withheld and retained by Defendants during a period
15 that commences four years prior to the filing of this complaint; a permanent injunction requiring
16 Defendants to pay all outstanding wages due to Plaintiff and Class Members; an award of attorneys' fees
17 pursuant to California Code of Civil Procedure § 1021.5 and other applicable laws; and an award of costs.

18 **NINTH CAUSE OF ACTION**

19 **Labor Code Private Attorneys General Act of 2004 Remedies for IWC Wage Order and Labor** 20 **Code Violations**

21 **(Lab. Code §§ 2698-2699.8, *et. seq.*)**

22 **(Against all DEFENDANTS)**

23 73. Plaintiff incorporates and realleges as if fully stated herein all facts and allegations, in any
24 paragraph of this complaint, consistent with this cause of action.

25 74. Pursuant to Labor Code §§ 2698-2699.8, *et. seq.*, also known as PAGA, California has
26 stated notwithstanding any other provision of law, any provision of the Labor Code that provides for a
27 civil penalty to be assessed and collected by the Labor and Workforce Development Agency (LWDA) or
28 any of its departments, divisions, commissions, boards, agencies, or employees, for a violation of the

1 Labor Code, may, as an alternative, be recovered through a civil action brought by an aggrieved employee
2 on behalf of himself or herself and other current or former employees pursuant to the procedures specified
3 in §§ 2699¹ and 2699.3. Labor Code § 2699(c) provides that an “aggrieved employee” is any person who
4 was employed by the alleged violator and against whom one or more of the alleged violations was
5 committed. Furthermore, an employee affected by at least one Labor Code violation may pursue penalties
6 on behalf of the state for unrelated violations by the same employer. (*Huff v. Securitas Security Services*
7 *USA, Inc.* (2018) 23 Cal.App.5th 745.)²

8 75. Plaintiff is an “aggrieved employee” within the meaning of Labor Code § 2699(c), and is
9 a proper representative to bring a civil action on behalf of the State of California with respect to Plaintiff
10 and other current and former employees of Defendants pursuant to the procedures specified in Labor Code
11 § 2699.3 because Defendants employed Plaintiff and the alleged violations of the IWC Wage Orders and
12 Labor Code were committed against Plaintiff during the applicable statutory periods. Defendants, at all
13 relevant times alleged in this complaint, were employers or persons acting on behalf of an employer(s)
14 who violated Plaintiff’s rights by violating various provisions of the IWC Wage Orders and Labor Code
15 as set forth above.

16 76. Plaintiff has exhausted administrative remedies pursuant to Labor Code § 2699.3. As
17

18 ¹ Labor Code § 2699(a), provides: “Notwithstanding any other provision of law, any provision of this
19 code that provides for a civil penalty to be assessed and collected by the Labor and Workforce
20 Development Agency or any of its departments, divisions, commissions, boards, agencies, or
21 employees, for a violation of this code, may, as an alternative, be recovered through a civil action
22 brought by an aggrieved employee on behalf of himself or herself and other current or former employees
23 pursuant to the procedures specified in Section 2699.3.”

24 ² Labor Code § 2699.5: “The provisions of subdivision (a) of Section 2699.3 apply to any alleged violation
25 of the following provisions: subdivision (k) of Section 96, Sections 98.6, 201, 201.3, 201.5, 201.7, 202,
26 203, 203.1, 203.5, 204, 204a, 204b, 204.1, 204.2, 205, 205.5, 206, 206.5, 208, 209, and 212, subdivision
27 (d) of Section 213, Sections 221, 222, 222.5, 223, and 224, paragraphs (1) to (5), inclusive, (7), and (9)
28 of subdivision (a) of Section 226, Sections 226.7, 227, 227.3, 230, 230.1, 230.2, 230.3, 230.4, 230.7,
230.8, and 231, subdivision (c) of Section 232, subdivision (c) of Section 232.5, Sections 233, 234, 351,
353, and 403, subdivision (b) of Section 404, Sections 432.2, 432.5, 432.7, 435, 450, 510, 511, 512,
513, 551, 552, 601, 602, 603, 604, 750, 751.8, 800, 850, 851, 851.5, 852, 921, 922, 923, 970, 973, 976,
1021, 1021.5, 1025, 1026, 1101, 1102, 1102.5, and 1153, subdivisions (c) and (d) of Section 1174,
Sections 1194, 1197, 1197.1, 1197.5, and 1198, subdivision (b) of Section 1198.3, Sections 1199,
1199.5, 1290, 1292, 1293, 1293.1, 1294, 1294.1, 1294.5, 1296, 1297, 1298, 1301, 1308, 1308.1, 1308.7,
1309, 1309.5, 1391, 1391.1, 1391.2, 1392, 1683, and 1695, subdivision (a) of Section 1695.5, Sections
1695.55, 1695.6, 1695.7, 1695.8, 1695.9, 1696, 1696.5, 1696.6, 1697.1, 1700.25, 1700.26, 1700.31,
1700.32, 1700.40, and 1700.47, Sections 1735, 1771, 1774, 1776, 1777.5, 1811, 1815, 2651, and 2673,
subdivision (a) of Section 2673.1, Sections 2695.2, 2800, 2801, 2802, 2806, and 2810, subdivision (b)
of Section 2929, and Sections 3073.4, 6310, 6311, and 6399.7.”

1 shown in Plaintiff's 07/11/23 PAGA Notice, Plaintiff gave written notice, by online filing to the LWDA
2 and by certified mail to Defendants, of the facts and theories supporting alleged violations of IWC Wage
3 Order and Labor Code provisions Plaintiff alleges Defendants violated, and Plaintiff paid the required
4 \$75.00 filing fee. Because the LWDA did not provide Plaintiff with notice of its intent to investigate the
5 alleged violations in the 65 calendar days that have lapsed, Plaintiff has complied with the requirements
6 of Labor Code § 2699.3 to commence a representative action against Defendants, as an aggrieved
7 employee, on behalf of the State of California, with respect to other Aggrieved Employees of Defendants.

8 77. Accordingly, Plaintiff brings a cause of action to recover an award of civil penalties,
9 amounts of wages withheld, attorneys' fees, litigation costs, and all other legal and equitable remedies
10 deemed just under California law including, but not limited to, the amount of all civil penalties authorized
11 by Labor Code §§ 210, 225.5, 226.3, 558, 1174.5, 1197.1, 2699(a) and (f) or any other applicable civil
12 penalty provisions authorized under California law including as follows.

13 77.1. Pursuant to Labor Code § 210, for Defendants' violations of IWC Wage Order § 4
14 and Labor Code §§ 201.3 and 204, Plaintiff prays for an award and Defendants' payment of civil penalties
15 "[f]or any initial violation, one hundred dollars (\$100) for each failure to pay each employee" and "[f]or
16 each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for each
17 failure to pay each employee, plus 25 percent of the amount unlawfully withheld."

18 77.2. Pursuant to Labor Code § 225.5, Defendants' violations of Labor Code §§ 221, 222,
19 or 223, Plaintiff prays for an award and Defendants' payment of civil penalties "[f]or any initial violation,
20 one hundred dollars (\$100) for each failure to pay each employee" and "[f]or each subsequent violation,
21 or any willful or intentional violation, two hundred dollars (\$200) for each failure to pay each employee,
22 plus 25 percent of the amount unlawfully withheld."

23 77.3. Pursuant to Labor Code § 226.3, Defendants' violations of IWC Wage Orders and
24 Labor Code § 226(a), Plaintiff prays for an award and Defendants' payment of civil penalties "in the
25 amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and one
26 thousand dollars (\$1,000) per employee for each violation in a subsequent citation, for which the employer
27 fails to provide the employee a wage deduction statement or fails to keep the records required in
28 subdivision (a) of Section 226."

1 77.4. Pursuant to Labor Code § 558(a), for Defendants’ violations of IWC Wage Orders
2 §§ 3, 11, and 12, and Labor Code §§ 226.7, 510, and 512, Plaintiff prays for an award and Defendants’
3 payment of civil penalties “[f]or any initial violation, fifty dollars (\$50) for each underpaid employee for
4 each pay period for which the employee was underpaid” and “[f]or each subsequent violation, one hundred
5 dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in
6 addition to an amount sufficient to recover underpaid wages.”

7 77.5. Pursuant to Labor Code § 1174.5, for Defendants’ violations of Labor Code §
8 1174(d), Plaintiff prays for an award and Defendants’ payment of civil penalties “of five hundred dollars
9 (\$500).”

10 77.6. Pursuant to Labor Code § 1197.1, for Defendants’ violations of IWC Wage Order
11 § 4 and Labor Code §§ 1182.11, 1197, Plaintiff prays for an award and Defendants’ payment of civil
12 penalties “[f]or any initial violation that is intentionally committed, one hundred dollars (\$100) for each
13 underpaid employee for each pay period for which the employee is underpaid” and “[f]or each subsequent
14 violation for the same specific offense, two hundred fifty dollars (\$250) for each underpaid employee for
15 each pay period for which the employee is underpaid regardless of whether the initial violation is
16 intentionally committed.”

17 77.7. In the alternative, pursuant to Labor Code § 2699(f), for Defendants’ violations of
18 IWC Wage Order provisions alleged herein and Labor Code §§ 201, 201.3, 202, 203, 204, 221, 222, 223,
19 226, 226(a), 226(c) 226.7, 510, 512, 1174(d), 1182.11, 1194, 1197, 1198, and 2028, Plaintiff prays for an
20 award and Defendants’ payment of civil penalties of “one hundred dollars (\$100) for each aggrieved
21 employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved
22 employee per pay period for each subsequent violation.”

23 **PRAYER FOR RELIEF**

24 Plaintiff, individually and on behalf of all other persons similarly situated and aggrieved
25 respectfully prays for relief against Defendants, and each of them, as follows:

26 1. For compensatory damages in an amount to be ascertained at trial as alleged herein for
27 unpaid minimum wage compensation, unpaid overtime wage compensation, unpaid meal period and rest
28 period premium wages, failure to indemnify employees for necessary expenditures and/or losses incurred

1 in discharging their duties, failure to furnish accurate itemized wage statements, and failure to pay all
2 wages due to discharged and quitting employees;

3 2. For liquidated damages pursuant to Labor Code §§ 1194.2 and 1197.1;

4 3. For actual and/or statutory damages and/or penalties according to proof including, but not
5 limited to, all penalties authorized by the Labor Code §§ 203 and 226(e);

6 4. For interest on the unpaid wages pursuant to Labor Code §§ 218.6, 1194, 2802, California
7 Civil Code §§ 3287, 3288, and/or any other applicable provision providing for pre-judgment interest;

8 5. For reasonable attorneys' fees and costs pursuant to Labor Code §§ 1194, 2699(g)(1), 2802,
9 Civil Code § 1021.5, and/or any other applicable provisions providing for attorneys' fees and costs;

10 6. For an accounting of all monies due to Plaintiff and Class Members arising from
11 Defendants' unfair and unlawful business practices;

12 7. For restitution of all monies due to Plaintiff and Class Members, as well as disgorged
13 profits arising from Defendants' unfair and unlawful business practices;

14 8. For preliminary and permanent injunctive relief enjoining Defendants from violating the
15 relevant provisions of the IWC Wager Orders and Labor Code cited herein, and from engaging in the
16 unlawful business practices complained of herein;

17 9. For an order requiring and certifying the first through the seventh causes of action as a
18 class action;

19 10. For an order appointing Plaintiff as class representative and Plaintiff's counsel as class
20 counsel;

21 11. For all civil penalties and other recoveries according to proof including, but not limited to,
22 the amount of any all civil penalties or other amounts authorized by California Labor Code §§ 210,
23 226(f), 226.3, 558(a), 1174.5, 1197.1, and 2699, or any other applicable civil penalty provisions authorized
24 under California laws; and

25 12. For such further relief that the Court may deem just and proper.

26 ///

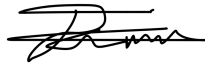
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28 ///

1 DATED: January 25, 2024

Respectfully Submitted,

3 **LOYR, APC**

4
5 By: 
6 YOUNG W. RYU
7 ZACHARIAH E. MOURA
8 KEE SEOK MAH
9 HARLEY PHLEGER

Attorneys for Plaintiff CLEMENTE GARCIA

9 /

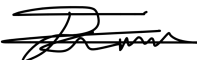
DEMAND FOR JURY TRIAL

PLAINTIFF hereby demands a jury trial with respect to all issues triable of right by jury.

DATED: January 25, 2024

Respectfully Submitted,

LOYR, APC

By: 
YOUNG W. RYU
ZACHARIAH E. MOURA
KEE SEOK MAH
HARLEY PHLEGER

Attorneys for Plaintiff CLEMENTE GARCIA