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County of Imperial
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Attorneys for Plaintiff Lavester Sturges on behalf of himself and on behalf of all similarly situated individuals

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF IMPERIAL**

LAVESTER STURGES, on behalf of himself
and on behalf of all similarly situated
individuals,

Plaintiff,

v.

GLOBAL SOLUTIONS PLANNING, INC.,
an Illinois corporation, and DOES 1 through
10, inclusive,

Defendants.

CASE NO: ECU003095

*Assigned to the Hon. L. Brooks Anderholt,
Dept. 9*

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION
COMPLAINT FOR:**

**1. KNOWING AND INTENTIONAL
MISCLASSIFICATION AS AN
INDEPENDENT CONTRACTOR (LABOR
CODE § 226.8)**

**2. FAILURE TO PAY ALL MINIMUM
WAGES DUE (LABOR CODE §§ 226.8,
510, 1194, AND 1194.2)**

**3. FAILURE TO REIMBURSE ALL
BUSINESS-RELATED EXPENSES
(LABOR CODE § 2802)**

**4. UNLAWFUL DEDUCTIONS FROM
WAGES (LABOR CODE §§ 221, 224,
225.5, 510, AND 1194)**

**5. KNOWING AND INTENTIONAL
FAILURE TO COMPLY WITH
ITEMIZED EMPLOYEE WAGE
STATEMENT PROVISIONS (LABOR
CODE § 226(a), (e))**

**6. FAILURE TO TIMELY PAY WAGES
DUE AT SEPARATION OF
EMPLOYMENT (LABOR CODE §§ 201-
203)**

**7. INJUNCTIVE RELIEF AND
RESTITUTION FOR THE VIOLATION**

**OF BUSINESS AND PROFESSIONS
CODE § 17200**

**8. CIVIL PENALTIES PURSUANT TO
LABOR CODE § 2699(f) FOR
VIOLATIONS OF LABOR CODE §§ 201,
202, 221, 224, 225.5, 226(a), 226.7, 226.8,
510, 512, 1194, AND 2802 AND
PURSUANT TO LABOR CODE § 2699(a)
FOR VIOLATIONS OF LABOR CODE §§
226.3 AND 558**

DEMAND FOR JURY TRIAL

Complaint Filed: September 5, 2023

Plaintiff LAVESTER STURGES (“Plaintiff”), individually and on behalf of all similarly situated individuals (the “Class” or “Plaintiff’s Class”), on behalf of the general public, and as an “aggrieved employee” under the Labor Code Private Attorneys General Act of California, complains of GLOBAL SOLUTIONS PLANNING, INC., an Illinois corporation, and/or any subsidiaries or affiliated companies (hereinafter collectively referred to as “Defendants”), and each of them, as follows:

I.

INTRODUCTION AND FACTUAL BACKGROUND

1. This is a Class and Representative Action, pursuant to Code of Civil Procedure § 382 and Labor Code § 2698 *et seq.*, on behalf of Plaintiff and the Class of individuals described in detail below against Defendants.

2. For at least four (4) years prior to the filing of this action and continuing to the present (the “liability period”), Defendants have had a consistent policy of misclassifying Class Members (as defined below) as independent contractors, failing to pay all minimum wages due to Class Members; failing to reimburse Class Members for all business-related expenses; making unlawful deductions from Class Members’ wages; failing to issue accurately itemized wage statements to Class Members; and failing to timely issue Class Members all wages due and owing upon separation of employment.

3. Plaintiff, on behalf of himself and members of the Class, brings this action pursuant to Labor Code §§ 201-203, 221, 224, 225.5, 226(a), 226.8, 510, 1194, 1194.2, and 2802 seeking

1 compensation for all unpaid wages, business-related expenses, statutory penalties, liquidated
2 damages, injunctive and other equitable relief, and reasonable attorneys' fees and costs.

3 4. Plaintiff, on behalf of himself and Class Members, pursuant to Business & Professions
4 Code §§ 17200-17208, also seeks injunctive relief, restitution, and disgorgement of all benefits
5 Defendants enjoyed from their failure to pay all wages and expense reimbursement due.

6 5. Plaintiff, on behalf of himself and all aggrieved employees pursuant to Labor Code §
7 2698 *et seq.*, seeks penalties for Defendants' various violations of the California Labor Code.

8 6. Venue is proper in this Court because upon information and belief, Defendant is not
9 qualified to do business in the State of California because it failed to register with the California
10 Secretary of State. Consequently, Defendant is subject to suit in any county in the State of California
11 that Plaintiff chooses. As such, venue is proper in Imperial County.

12 II.

13 PARTIES

14 A. Plaintiff

15 7. Plaintiff LAVESTER STURGES was misclassified by Defendants as an independent
16 contractor from December 2022 through February 2023 and performed work for Defendants
17 throughout California.

18 8. During his work with Defendants, Plaintiff was:

- 19 a. Willfully misclassified as an independent contractor;
- 20 b. Willfully denied the payment of all minimum wages due;
- 21 c. Willfully denied reimbursement for all business-related expenses incurred;
- 22 d. Willfully forced to incur unlawful deductions from wages;
- 23 e. Willfully denied accurately itemized wage statements; and
- 24 f. Willfully denied the timely payment of all wages upon separation of his
25 employment.

26 B. Defendants

27 9. Defendant GLOBAL SOLUTIONS PLANNING, INC. is an Illinois corporation that
28 employed Plaintiff and Class Members in Imperial County, California.

10. The true names and capacities, whether individual, corporate, associate, or otherwise, of Defendants sued herein as DOES 1 to 10, inclusive, are currently unknown to Plaintiff, who therefore sues Defendants by such fictitious names under Code of Civil Procedure § 474. Plaintiff is informed and believes, and based thereon alleges, that each of the Defendants designated herein as a DOE is legally responsible in some manner for the unlawful acts referred to herein. Plaintiff will seek leave of court to amend this Complaint to reflect the true names and capacities of the Defendants designated hereinafter as DOES when such identities become known.

11. Plaintiff is informed and believes, and based thereon alleges, that each Defendant acted in all respects pertinent to this action as the agent of the other Defendants, carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendant are legally attributable to the other Defendants.

12. The Defendants named herein as DOE 1 through DOE 10 are and were persons acting on behalf of, or acting jointly with, Defendants, who violated, or caused to be violated, one or more provisions of the California Labor Code as alleged herein.

III.

CLASS ACTION ALLEGATIONS

13. Plaintiff brings this action on behalf of himself, and all others similarly situated as a Class Action pursuant to § 382 of the Code of Civil Procedure. Plaintiff seeks to represent the following class composed of and defined as follows:

THE CLASS

All truck drivers based in California and/or who performed work in California for Defendants and who were classified as independent contractors at any time since the date four years preceding the filing of this Action and continuing through the present, plus any additional time tolled by the California State Judicial Council pursuant to Emergency Rule 9 in response to the COVID-19 pandemic and continuing through the present.

1 14. Plaintiff reserves the right under Rule 3.765, California Rules of Court, to amend or
2 modify this class description with greater specificity or further division into subclasses or limitation
3 to particular issues.

4 15. This action has been brought and may properly be maintained as a class action under
5 the provisions of § 382 of the Code of Civil Procedure because there is a well-defined community of
6 interest in the litigation and each proposed Class is easily ascertainable.

7 **A. Numerosity**

8 16. The potential members of the Class as defined are so numerous that joinder of all class
9 members is impracticable. While the precise number of members of the Class has not been
10 ascertained at this time, Plaintiff is informed and believes, and based thereon alleges, that Defendants
11 currently employ, and during the relevant time periods employed, over 50 persons in the State of
12 California who fall within the Class definition.

13 17. Accounting for employee turnover during the relevant period necessarily increases this
14 number. Plaintiff alleges Defendants' employment records would provide information as to the
15 number and location of members of the Class. Joinder of members of the Class is not practicable.

16 **B. Commonality**

17 18. There are questions of law and fact common to the Class that predominate over any
18 questions affecting only individual class members. These common questions of law and fact include,
19 without limitation:

- 20 a. Whether Defendants misclassified Plaintiff and Class Members as independent
21 contractors rather than employees, in violation of Labor Code § 226.8;
- 22 b. Whether Defendants failed to pay all minimum wages due to Plaintiff and
23 Class Members, in violation of Labor Code §§ 226.8, 510, 1194, and 1194.2;
- 24 c. Whether Defendants failed to reimburse Plaintiff and Class Members for all
25 business-related expenses incurred, in violation of Labor Code § 2802;
- 26 d. Whether Defendants made unlawful deductions from Plaintiff and Class
27 Members wages, in violation of Labor Code §§ 221, 224, 225.5, 510, and 1194;

- 1 e. Whether Defendants failed to timely pay Plaintiff and Class Members all
2 wages due and owing at the separation of their employment, in violation of
3 Labor Code §§ 201-203;
- 4 f. Whether Defendants failed to provide Plaintiff and Class Members with
5 accurately itemized wage statements, in accordance with Labor Code § 226(a),
6 (e); and
- 7 g. Whether Plaintiff and members of the Class are entitled to equitable relief
8 pursuant to Business & Professions Code § 17200 *et seq.*

9 **C. Typicality**

10 19. The claims of the named Plaintiff are typical of the claims of members of the Class.
11 Plaintiff and members of the Class sustained injuries and damages arising out of and caused by
12 Defendants' common course of conduct in violation of laws, regulations that have the force and effect
13 of law, and statutes as alleged herein.

14 **D. Adequacy of Representation**

15 20. Plaintiff will fairly and adequately represent and protect the interests of members of
16 the Class. Counsel who represents Plaintiff are competent and experienced in litigating large
17 employment class actions.

18 **E. Superiority of Class Action**

19 21. A class action is superior to other available means for the fair and efficient adjudication
20 of this controversy. Individual joinder of all proposed members of the Class is not practicable, and
21 questions of law and fact common to the proposed Class predominate over any questions affecting
22 only individual members of the proposed Class. Each member of the proposed Class has been
23 damaged and is entitled to recovery by reason of Defendants' illegal policies and/or practices.

24 22. Class action treatment will allow those similarly situated persons to litigate their
25 claims in the manner that is most efficient and economical for the parties and the judicial system.
26 Plaintiff is unaware of any difficulties that are likely to be encountered in the management of this
27 action that would preclude its maintenance as a class action.

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1 IV.

2 **CAUSES OF ACTION**

3 **FIRST CAUSE OF ACTION**

4 **PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS**

5 **KNOWING AND INTENTIONAL MISCLASSIFICATION AS AN INDEPENDENT**
6 **CONTRACTOR**

7 **(LABOR CODE § 226.8)**

8 23. Plaintiff incorporates paragraphs 1 through 22 of this Complaint as though fully set
9 forth herein.

10 24. During the liability period, Defendants voluntarily and knowingly misclassified its
11 employees as independent contractors, in violation of Labor Code § 226.8. California uses the ABC
12 Test to determine if an employee is properly classified as an independent contractor: unless the hiring
13 entity establishes (A) that the worker is free from the control and direction of the hiring entity in
14 connection with the performance of the work, both under the contract for the performance of the work
15 and in fact, (B) that the worker performs work that is outside the usual course of the hiring entity's
16 business, and (C) that the worker is customarily engaged in an independently established trade,
17 occupation, or business, then the worker should be considered an employee and the hiring business
18 an employer under the suffer or permit to work standard in the applicable wage orders. Defendants
19 cannot establish all three elements of the ABC Test, let alone any single element individually: first,
20 Defendants dictated the hours Plaintiff must work and how he was to specifically perform his job
21 duties; next, Plaintiff performed the exact type of work Defendants are in the business of—
22 transportation of goods—and, therefore, did not perform work that is outside the usual course of
23 Defendants' business; and third, Plaintiff did not work in an independently established trade – truck
24 drivers are customarily employees of a transportation business. Thus, as Plaintiff and Class Members
25 fail to meet the qualifications of independent contractors under each element of the test, Defendants
26 have violated Labor Code § 226.8.

25. As a result of the unlawful acts of Defendants in willfully failing to pay all wages due, Plaintiff and members of the Class have been deprived of wages in amounts to be determined at trial, and are entitled to penalties as provided by Labor Code § 226.8.

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

V.

SECOND CAUSE OF ACTION

PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS

FAILURE TO PAY ALL MINIMUM WAGES DUE

(LABOR CODE §§ 226.8, 510, 1194, AND 1194.2)

26. Plaintiff incorporates paragraphs 1 through 25 of this Complaint as though fully set forth herein.

27. During the liability period, Defendants paid Plaintiff and Class Members a piece-rate for each load they transported. However, Plaintiff and Class Members were not paid for all time during which they did not earn a piece-rate, but were under Defendants' control (i.e., time between tasks, work for which no piece-rate is assigned, and other non-compensated time), in violation of Labor Code §§ 226.8, 510, 1194, and 1194.2. When employees are paid on a piece rate basis, they must be paid separately for non-piece rate associated activities. *Gonzalez v. Downtown LA Motors* (2013) 215 Cal.App.4th 36, 47 (“[T]he obligation to pay minimum wages attaches to each and every separate hour worked during the payroll period, and that payment must be made for all such hours on the established payday . . .”). Plaintiff and Class Members also were not paid all minimum wages due for all hours worked. Plaintiff and Class Members were not paid separately for certain tasks, discussed below, and thus, were denied all wages due for certain portions of their workday, in violation of Labor Code §§ 226.8, 510, 1194, and 1194.2.

28. As a result of the unlawful acts of Defendants in willfully failing to pay all minimum wages due, Plaintiff and members of the Class have been deprived of wages in amounts to be determined at trial, and are entitled to restitution and recovery of such amounts, plus interest thereon, attorneys' fees, and costs, pursuant to Labor Code § 1194 and liquidated damages pursuant to Labor Code § 1194.2.

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

VI.

THIRD CAUSE OF ACTION

PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS

FAILURE TO REIMBURSE ALL BUSINESS-RELATED EXPENSES

(LABOR CODE§ 2802)

29. Plaintiff incorporates paragraphs 1 through 28 of this Complaint as though fully set forth herein.

30. Pursuant to California Labor Code § 2802, Defendants must indemnify Plaintiff and Class Members for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of their duties.

31. Plaintiff and Class Members were required to incur costs to operate their own corporation and use of his personal cellular phone while working for Defendants, but was not fully reimbursed by Defendants for these expenses.

32. As a proximate result of the aforementioned violations, Plaintiff and Class Members have been damaged in an amount according to proof at the time of trial.

33. Pursuant to Labor Code § 2802, Plaintiff and Class Members are entitled to recover from Defendants the full amount of the expenses they incurred in the performance of their job duties that have not been reimbursed, plus interest, reasonable attorney's fees, and costs of suit.

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

VII.

FOURTH CAUSE OF ACTION

PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS

UNLAWFUL DEDUCTIONS FROM WAGES

(LABOR CODE §§ 221, 224, 225.5, 510 AND 1194 AND IWC WAGE ORDER 9-2001)

34. Plaintiff incorporates paragraphs 1 through 33 of this Complaint as though fully set forth herein.

35. During the liability period, Defendants failed to pay all wages due to Plaintiff and Class Members by making unlawful deductions from their wages, in violation of Labor Code §§ 221, 224, 225.5, 510 and 1194 and IWC Wage Order No. 9-2001. Defendants' practice of unlawfully deducting wages (in the form of an escrow account) from our client and other Aggrieved Employees violates Labor Code §§ 221, 224, 225.5, 510 and 1194.

36. Labor Code § 221 states that it is “unlawful for any employer to collect or receive from an employee any part of wages theretofore paid by said employer to said employee.” Defendants’ practice of unlawfully deducting wages from Plaintiff and Class Members violates Labor Code §§ 221, 510, and 1194 and IWC Wage Order No. 9-2001, section 7.

37. As a result of the unlawful acts of Defendants in willfully failing to pay all wages due by making unlawful deductions from wages, Plaintiff and Class Members have been deprived of wages in amounts to be determined at trial, and are entitled to restitution and recovery of such amounts, plus interest thereon, attorneys' fees, and costs, pursuant to Labor Code § 1194.

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

VIII.

FIFTH CAUSE OF ACTION

PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS

KNOWING AND INTENTIONAL FAILURE TO COMPLY WITH ITEMIZED

EMPLOYEE WAGE STATEMENT PROVISIONS

(LABOR CODE § 226(a), (e))

38. Plaintiff incorporates paragraphs 1 through 37 of this Complaint as though fully set forth herein.

39. Section 226(a) of the California Labor Code requires Defendants to provide wage statements to employees. In those wage statements, Defendants must provide an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee..., (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period

1 for which the employee is paid, (7) the name of the employee and only the last four digits of his or
2 her social security number or an employee identification number other than a social security number,
3 (8) the name and address of the legal entity that is the employer..., and (9) all applicable hourly rates
4 in effect during the pay period and the corresponding number of hours worked at each hourly rate by
5 the employee. Defendants have knowingly and intentionally failed to comply with Labor Code §
6 226(a).

7 40. Defendants failed to issue Plaintiff and Class Members wage statements that fully and
8 accurately itemized the requirements set forth in Labor Code § 226(a). As stated above, Plaintiff and
9 Class Members were not paid all minimum wages due (including unlawful deductions). As such, the
10 wage statements provided by Defendants fail to accurately state all gross wages earned, in violation
11 of Labor Code § 226(a)(1), total hours worked, in violation of Labor Code § 226(a)(2), accurate
12 deductions from wages, in violation of Labor Code § 226(a)(4), net wages earned, in violation of
13 Labor Code § 226(a)(5), and all applicable hourly rates in effect during the pay period and the
14 corresponding number of hours worked, in violation of Labor Code § 226(a)(9). Independent of, and
15 in addition to the above allegations, the wage statements issued to Plaintiff and other Class Members
16 failed to set forth the total hours worked by the employee, in violation of Labor Code §§ 226(a)(2)
17 and 226.3, the inclusive dates of the period for which they are paid, in violation of Labor Code §§
18 226(a)(6) and 226.3, and the last four digits of the employees' social security number or employee
19 identification number, in violation of Labor Code §§ 226(a)(7) and 226.3.

20 41. As a consequence of Defendants' willful conduct in failing to provide Class Members
21 with accurate itemized wage statements, Plaintiff and Class Members have been injured because they
22 have not been paid all wages due and were issued wage statements which do not reflect, and fail to
23 state, all information required by Labor Code § 226(a). The missing information cannot be discerned
24 at all from the face of the wage statements themselves. Plaintiff and Class Members are entitled to
25 penalties pursuant to Labor Code § 226(e) to recover the greater of all actual damages or \$50 for the
26 initial pay period in which a violation occurs and \$100 per employee for each violation in a subsequent
27 pay period, not exceeding an aggregate penalty of \$4,000 per employee, and are entitled to injunctive
28 relief and an award of costs and reasonable attorneys' fees pursuant to Labor Code § 226(h).

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

IX.

SIXTH CAUSE OF ACTION

PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS

FAILURE TO TIMELY PAY WAGES DUE AT

SEPARATION OF EMPLOYMENT

(LABOR CODE §§ 201-203)

42. Plaintiff incorporates paragraphs 1 through 41 of this Complaint as though fully set forth herein.

43. California Labor Code § 201 and § 202 require Defendants to pay employees all wages due within 72 hours after resignation of employment or the day of termination of employment. Labor Code § 203 provides that if an employer willfully fails to timely pay such wages, the employer must, as a penalty, continue to pay the subject employee's daily wages until the back wages are paid in full or an action is commenced. The penalty cannot exceed 30 days of wages.

44. Defendants paid Plaintiff and Class Members their final wages beyond the time frames set forth in Labor Code §§ 201 and 202, in violation of Labor Code § 203. Plaintiff and Class Members were not paid all wages due and owing throughout the course of their employment, including all minimum wages due, as detailed above. Consequently, at the time of their separation from employment with Defendants, they were not paid all final wages due and owing for the entirety of their employment.

45. More than 30 days have passed since Plaintiff and Class Members have left Defendants' employ.

46. As a consequence of Defendants' willful conduct in not paying wages owed timely upon separation of employment, Plaintiff and Class Members are entitled to up to 30 days' wages as a penalty under Labor Code § 203 for Defendants' failure to timely pay legal wages at separation of employment.

Wherefore, Plaintiff and the Class her seeks to represent request relief as described below.

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1 X.

2 SEVENTH CAUSE OF ACTION

3 PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS

4 UNFAIR COMPETITION PURSUANT TO

5 BUSINESS & PROFESSIONS CODE § 17200 ET SEQ.

6 47. Plaintiff incorporates paragraphs 1 through 46 of this Complaint as though fully set
7 forth herein.

8 48. This is a Class Action for Unfair Business Practices. Plaintiff, on his own behalf and
9 on behalf of the general public, and on behalf of others similarly situated, brings this claim pursuant
10 to Business & Professions Code § 17200 *et seq.* The conduct of all Defendants as alleged in this
11 Complaint has been and continues to be unfair, unlawful, and harmful to Plaintiff, the general public,
12 and members of the Class. Plaintiff seeks to enforce important rights affecting the public interest
13 within the meaning of Code of Civil Procedure § 1021.5.

14 49. Plaintiff is a “person” within the meaning of Business & Professions Code § 17204,
15 and therefore has standing to bring this cause of action for injunctive relief, restitution, and other
16 appropriate equitable relief.

17 50. Business & Professions Code § 17200 *et seq.* prohibits unlawful and unfair business
18 practices.

19 51. Wage and hour laws express fundamental public policies. Properly providing
20 employees with all minimum wages and expense reimbursement due are fundamental public policies
21 of this State and of the United States. Labor Code § 90.5(a) articulates the public policies of this State
22 to enforce vigorously minimum labor standards, to ensure that employees are not required or
23 permitted to work under substandard and unlawful conditions, and to protect law-abiding employers
24 and its employees from competitors who lower their costs by failing to comply with minimum labor
25 standards.

26 52. Defendants have violated statutes and public policies. Through the conduct alleged in
27 this Complaint, Defendants, and each of them, have acted contrary to these public policies, have
28 violated specific provisions of the Labor Code, and have engaged in other unlawful and unfair

business practices in violation of Business & Professions Code § 17200 *et seq.* depriving Plaintiff, and all persons similarly situated, and all interested persons of rights, benefits, and privileges guaranteed to all employees under law.

53. Defendants' conduct, as alleged herein, constitutes unfair competition in violation of §17200 *et seq.* of the Business & Professions Code.

54. Defendants, by engaging in the conduct herein alleged, either knew or in the exercise of reasonable care should have known that the conduct was unlawful. As such, it is a violation of § 17200 *et seq.* of the Business & Professions Code.

55. As a proximate result of the above-mentioned acts of Defendants, Plaintiff and others similarly situated have been damaged in a sum as may be proven.

56. Unless restrained by this Court, Defendants will continue to engage in the unlawful conduct, as alleged above. Pursuant to Business & Professions Code § 17200 *et seq.*, this Court should make such orders or judgments, including the appointment of a receiver, as may be necessary to prevent the use or employment, by Defendants, its agents, or employees, of any unlawful or deceptive practice prohibited by the Business & Professions Code, and/or, including but not limited to, disgorgement of profits which may be necessary to restore Plaintiff and members of the Class to the money Defendants have unlawfully failed to pay.

XI.

EIGHTH CAUSE OF ACTION

PLAINTIFF AND ALL AGGRIEVED EMPLOYEES AGAINST ALL DEFENDANTS FOR PENALTIES PURSUANT TO LABOR CODE § 2699(f) FOR VIOLATIONS OF LABOR CODE §§ 201, 202, 221, 224, 225.5, 226(a), 226.7, 226.8, 510, 512, 1194, AND 2802 AND PURSUANT TO LABOR CODE § 2699(a) FOR VIOLATIONS OF LABOR CODE §§ 226.3 AND 558

57. Plaintiff incorporates paragraphs 1 through 56 of this Complaint as though fully set forth herein.

58. As a result of the acts alleged above, including the Labor Code violations set forth herein, Plaintiff seeks penalties pursuant to Labor Code § 2698 *et seq.*

59. For each such violation, Plaintiff and all other aggrieved employees are entitled to penalties in an amount to be shown at the time of trial subject to the following formulas:

- a. Pursuant to Labor Code § 2699(f), \$100 for each initial violation and \$200 for each subsequent violation of Labor Code §§ 201, 202, 221, 224, 225.5, 226(a), 226.7, 226.8, 510, 512, 1194, and 2802; and
- b. Pursuant to Labor Code § 2699(a), the civil penalties as authorized by Labor Code §§ 226.3 and 558.

60. Penalties recovered will be allocated 75% to the Labor and Workforce Development Agency, and 25% to the affected employees.

61. On August 31, 2023, Plaintiff sent a letter, by online submission to the LWDA and by certified mail, return receipt requested, to Defendants setting forth the facts and theories of the violations alleged against Defendants, as prescribed by Labor Code § 2698 et seq. Pursuant to Labor Code § 2699.3(a)(2)(A), no notice was received by Plaintiff from the LWDA within sixty-five (65) calendar days of August 31, 2023. Plaintiff may therefore commence this action to seek civil penalties pursuant to Labor Code § 2698 et seq.

Wherefore, Plaintiff and the aggrieved employees he seeks to represent request relief as described below.

RELIEF REQUESTED

WHEREFORE, Plaintiff prays for the following relief:

1. For compensatory damages and liquidated damages, pursuant to Labor Code §§ 1194 and 1194.2, respectively, in the amount of all unpaid minimum wages due to Plaintiff and members of the Class;
2. For penalties pursuant to Labor Code § 226(e) for Plaintiff and Class Members;
3. For penalties pursuant to Labor Code § 203 for Plaintiff and Class Members;
4. For penalties pursuant to Labor Code § 226.8 for Plaintiff and Class Members;
5. For civil penalties pursuant to Labor Code § 2698 *et seq.* for Plaintiff and all other aggrieved employees;
6. For reimbursement of all expenses incurred by Plaintiff and Class Members pursuant

1 to Labor Code § 2802;

2 7. For unpaid wages pursuant to Labor Code §§ 221 and 224 for Plaintiff and Class
3 Members;

4 8. For restitution and injunctive relief for unfair competition pursuant to Business &
5 Professions Code § 17200 *et seq.* for Plaintiff and Class Members;

6 9. An award providing for payment of costs of suit pursuant to Labor Code §§ 226(h),
7 1194, 2699(g)(1), 2802, and other applicable law;

8 10. For an award of attorneys' fees pursuant to Labor Code §§ 226(h), 1194, 2699(g)(1),
9 2802, and other applicable law;

10 11. An award of prejudgment and post-judgment interest; and

11 12. Such other and further relief as this Court may deem just and proper.

12 Dated: November 14, 2023

Respectfully submitted,

13 GAINES & GAINES
14 A Professional Law Corporation

15 By: Daniel F. Gaines
16 DANIEL F. GAINES
Attorneys for Plaintiff

17 **DEMAND FOR JURY TRIAL**

18 Plaintiff hereby demands a trial of his claims by jury to the extent authorized by law.

19 Dated: November 14, 2023

Respectfully submitted,

20 GAINES & GAINES
21 A Professional Law Corporation

22 By: Daniel F. Gaines
23 DANIEL F. GAINES
24 Attorneys for Plaintiff

1 **PROOF OF SERVICE AND CERTIFICATION**

2 I am employed in the County of VENTURA, State of California. I am over the age of 18 and not a party to the
3 within action; my business address is 4550 East Thousand Oaks Blvd., Suite 100, Westlake Village, CA 91362.

4 _____ (For messenger) my business address is:

5 On November 14, 2023, I served the foregoing document described as **FIRST AMENDED CLASS AND**
6 **REPRESENTATIVE ACTION COMPLAINT** on the interested parties in this action by placing a true copy thereof
enclosed in sealed envelopes addressed as follows:

7 **Nenad Vekic, Agent for Service of Process for**
8 **Global Solutions Planning, Inc.**
9 **7700 Brush Hill Rd., Suite 201**
10 **Burr Ridge, IL 60527**

11 X (BY x U.S. MAIL/ BY ☐ CERTIFIED MAIL, RETURN RECEIPT REQUESTED) The sealed envelope was
12 mailed with postage thereon fully prepaid. I am "readily familiar" with the firm's practice of collection
13 and processing correspondence for mailing. It is deposited with United States postal service on that same
14 day in the ordinary course of business. I am aware that on motion of party served, service is presumed
15 invalid if postal cancellation date or postage meter date is more that one day after date of deposit for
16 mailing in affidavit.

17 _____ (BY FEDERAL EXPRESS OR OTHER OVERNIGHT SERVICE) I deposited the sealed envelope in a box or
18 other facility regularly maintained by the express service carrier or delivered the sealed envelope to an
19 authorized carrier or driver authorized by the express carrier to receive documents.

20 _____ (BY FACSIMILE TRANSMISSION) On _____, at _____ a.m./p.m., at Westlake Village, California, I
21 served the above-referenced document on the above-stated addressee by facsimile transmission pursuant
22 to Rule 2008 of the California Rules of Court. The telephone number of the sending facsimile machine
23 was (818)703-8984 and the telephone number(s) of the receiving facsimile machine was (____) ____ - ____.
24 A transmission report was properly issued by the sending facsimile machine, and the transmission was
25 reported as complete and without error. Copies of the facsimile transmission cover sheet and the
26 transmission report are attached to this proof of service.

27 _____ (BY PERSONAL DELIVERY) By causing a true copy of the within document(s) to be personally hand-
28 delivered to the office(s) of the addressee(s) set forth above, on the date set forth above.

_____ (BY PERSONAL SERVICE) I delivered such envelope by hand to the offices of the addressee.

_____ (BY ELECTRONIC SERVICE) The above-stated document was submitted for service by electronic
transmission on the counsel of record listed above.

_____ (ONLINE TO THE LWDA): I caused the above-described document to be delivered to the Labor Workforce
Development Agency via online process at the PAGA Filing website in accordance with the procedure
imposed by the LWDA.

I certify that the above document was printed on recycled paper.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on November 14, 2023, at Westlake Village, California.

27 Katherine Soriano
28 Katherine Soriano