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FILED
Superior Court of California
County of Los Angeles

11/09/2023

David W. Slayton, Executive Officer / Clerk of Court

By: M. Arellanes Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES, CENTRAL DISTRICT

JUNG HO LEE, an individual and on behalf of
all others similarly situated;

Plaintiff,

vs.

VIZIO SERVICES, LLC, a Delaware limited
liability company; and DOES 1 through 50,

Defendants.

Case No.: 23STCV24004

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

- (1) **OVERTIME WAGE VIOLATIONS
(LABOR CODE §§ 204, 510, 1194,
1198);**
- (2) **MEAL PERIOD VIOLATIONS
(LABOR CODE §§ 226.7, 512, 558);**
- (3) **REST PERIOD VIOLATIONS
(LABOR CODE §§ 226.7, 516, 558);**
- (4) **WAGE STATEMENT PENALTIES
(LABOR CODE § 226);**
- (5) **WAITING TIME PENALTIES
(LABOR CODE §§ 201-203);**
- (6) **UNFAIR COMPETITION (BUS &
PROF CODE §§ 17200, *et seq.*); and**
- (7) **CIVIL PENALTIES UNDER THE
CALIFORNIA PRIVATE
ATTORNEYS GENERAL ACT
(LABOR CODE §§ 2698, *et seq.*)**

DEMAND FOR JURY TRIAL

1 Plaintiff JUNG HO LEE (“Plaintiff”), on behalf of himself and all others similarly situated,
2 hereby brings this Class and Representative Action Complaint (“Complaint”) against Defendants
3 VIZIO SERVICES, LLC, a Delaware limited liability company (“VIZIO SERVICES”), and DOES
4 1 to 50 inclusive (collectively “Defendants”), and on information and belief alleges as follows:

5 **JURISDICTION AND VENUE**

6 1. Plaintiff, on behalf of himself and all others similarly situated, hereby brings this
7 Complaint for recovery of unpaid wages and penalties under California Business and Professions
8 Code § 17200, *et seq.*, Labor Code §§ 201-204, 226, 226.7, 246, 510, 512, 516, 558, 1198, and
9 2698, *et seq.*, and Industrial Welfare Commission (“IWC”) Wage Orders 1-2001 and 4-2001
10 (“Wage Orders 1 and 4”), in addition to seeking injunctive relief, declaratory relief, and restitution.
11 This Complaint is brought pursuant to California Code of Civil Procedure § 382. This Court has
12 jurisdiction over Defendants’ violations of the Labor Code because the amount in controversy
13 exceeds \$25,000.

14 2. Venue is proper in this judicial district because Defendants maintain offices, have
15 agents, and/or transact business in the State of California, including Los Angeles County, and some
16 of the acts and omissions complained of herein occurred in Los Angeles County. Furthermore,
17 Plaintiff was employed by Defendants within Los Angeles.

18 **PARTIES**

19 3. Plaintiff is, and at all times relevant herein was, an individual over the age of
20 eighteen (18) and is a California resident. Within the statute of limitations periods applicable to
21 each cause of action pled herein, Plaintiff was employed by Defendants as an exempt misclassified
22 employee. Plaintiff was, and is, a victim of Defendants’ policies, practices, and/or customs
23 complained of herein and has been deprived of the rights guaranteed by Business and Professions
24 Code § 17200, *et seq.*, Labor Code §§ 201-204, 226, 226.7, 246, 510, 512, 516, 558, 1198, and
25 2698, *et seq.*, and Wage Orders 1 and 4.

26 4. Plaintiff is informed and believes, and based thereon alleges, that during the
27 applicable statute of limitations for each cause of action pled herein and continuing to the present,
28 Defendants engage in and continue to engage in business operations in Los Angeles County, and

1 employed Plaintiff and other, similarly-situated exempt misclassified employees within Los
2 Angeles County, and the State of California and, therefore, were (and are) doing business in Los
3 Angeles County and the State of California.

4 5. Plaintiff does not know the true names or capacities, whether individual, partner, or
5 corporate, of the defendants sued herein as DOES 1 to 50, inclusive, and for that reason, said
6 defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to
7 amend this Complaint when such true names and capacities are discovered. Plaintiff is informed,
8 and believes, and based thereon alleges, that each of said fictitious defendants, whether individual,
9 partners, or corporate, was responsible in some manner for the acts and omissions alleged herein,
10 and proximately caused Plaintiff, the Classes (as defined below), and Aggrieved Employees (as
11 defined below) to be subject to the unlawful employment practices, wrongs, injuries, and damages
12 complained of herein.

13 6. At all times herein mentioned, each of said Defendants participated in the doing of
14 the acts hereinafter alleged to have been done by the named Defendant; and furthermore,
15 Defendants, and each of them, were the agents, servants, and employees of each of the other
16 defendants, as well as the agents of all Defendants, and at all times herein mentioned, were acting
17 within the course and scope of said agency and employment.

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

24 8. At all times herein mentioned, Defendants, and each of them, were members of, and
25 engaged in, a joint venture, partnership, and common enterprise, and acting within the course and
26 scope of, and in pursuance of, said joint venture, partnership, and common enterprise.

27 9. At all times herein mentioned, the acts and omissions of various Defendants, and
28 each of them, concurred and contributed to the various acts and omissions of each and all of the

1 other Defendants in proximately causing the injuries and damages as herein alleged.

2 **FACTUAL ALLEGATIONS**

3 10. Defendant VIZIO SERVICES is a wholly owned subsidiary of the smart TV
4 manufacturer, VIZIO, Inc. VIZIO SERVICES operates and manages product marketing,
5 advertisement sales, and data analytics for VIZIO smart TVs' built-in application and generates
6 advertisement sales revenue. Defendants employed Plaintiff in Los Angeles, California as an
7 Account Executive on its advertisement sales team from October 2022 to August 2023.

8 11. Defendants misclassified Plaintiff as an exempt employee under the inside and/or
9 outside sales exemptions. Plaintiff did not receive at least half of his compensation in the form of
10 commissions each pay period and/or did not customarily and regularly spend more than half of his
11 working time away from Defendants' place of business conducting sales. Upon information and
12 belief, Defendants misclassified other employees in the positions of Account Executive, Senior
13 Account Executive, and similar positions as exempt inside and/or outside salespeople because they
14 did not receive at least half of their compensation in the form of commissions each pay period
15 and/or did not customarily and regularly spend more than half of their working time away from
16 Defendants' place of business conducting sales.

17 12. Defendants also employed individuals in the positions of Account Manager, Account
18 Coordinator, and similar positions. Upon information and belief, Defendants misclassified these
19 employees as exempt under the administrative and/or executive exemptions because they did not
20 perform office or non-manual work directly related to management policies or general business
21 operations of Defendants or Defendants' customers, did not customarily and regularly direct the
22 work of two or more other employees, did not have authority to hire or fire other employees or
23 make suggestions and their recommendations as to the hiring or firing and as to the advancement
24 and promotion or any other change of status of other employees were not given particular weight,
25 did not customarily and regularly exercise discretion and independent judgment, did not primarily
26 engage in duties which meet the test of the administrative and/or executive exemptions, and/or did
27 not earn a monthly salary equivalent to no less than two times the state minimum wage for full-time
28 employment.

1 13. Throughout Plaintiff's employment with Defendants, Defendants' timekeeping
2 and/or payroll policies and practices resulted in Plaintiff and other exempt misclassified employees
3 not being compensated for all hours actually worked. Plaintiff and other exempt misclassified
4 employees regularly worked more than eight hours in a workday or 40 hours in a workweek but
5 were not paid overtime pay because they were misclassified as exempt employees. As a result,
6 Plaintiff and other exempt misclassified employees were not compensated for all earned overtime
7 wages.

8 14. Defendants failed to provide Plaintiff and other exempt misclassified employees with
9 all legally compliant meal periods due to Defendants' meal period policies/practices, which have
10 frequently resulted in late (commencing after the fifth hour of work), short (less than 30 minutes),
11 and/or missed meal periods. Upon information and belief, Defendants do not keep accurate records
12 of Plaintiff's and other exempt misclassified employees' hours worked, including accurate time
13 records showing when employees take their meal periods. On those occasions when Plaintiff and
14 other exempt misclassified employees were not provided with all legally compliant meal periods to
15 which they were entitled, Defendants failed to compensate Plaintiff and other exempt misclassified
16 employees with the required meal period premium(s) for each workday there was a meal period
17 violation as mandated by Labor Code § 226.7.

18 15. Plaintiff and other exempt misclassified employees were not authorized and
19 permitted to take all required rest periods due to Defendants' unlawful rest period policies/practices,
20 which failed to authorize and permit a net 10-minute rest period for every four hours worked, or
21 major fraction thereof. On those occasions when Plaintiff and other exempt misclassified employees
22 were not authorized and permitted to take all legally compliant rest periods to which they were
23 entitled, Defendants failed to compensate them with the required rest period premium(s) for each
24 workday there was a rest period violation as mandated by Labor Code § 226.7.

25 16. Additionally, upon information and belief, Defendants violated Labor Code § 246 by
26 failing to incorporate multiple rates of pay and/or all non-discretionary remuneration into the paid
27 sick leave pay rate.

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17. As a result of Defendants' failure to pay all overtime wages, failure to pay all meal and rest period premium wages, and unlawful timekeeping and payroll practices as alleged above, Defendants maintained inaccurate payroll records and issued inaccurate wage statements to Plaintiff and other exempt misclassified employees. As a further result of Defendants' failure to pay all overtime wages, sick leave wages, and meal and rest period premium wages, Defendants failed to timely pay all final wages to Plaintiff and other former exempt misclassified employees upon their separation of employment from Defendants.

CLASS ACTION ALLEGATIONS

18. **Class Definitions:** Plaintiff brings this action on behalf of himself and the following Classes pursuant to § 382 of the California Code of Civil Procedure:

- a. Overtime Class: All current and former employees of Defendants in the State of California in the positions of Account Executive, Senior Account Executive, Account Manager, Account Coordinator, and similar positions who worked more than eight hours per day and/or 40 hours per week and were subject to Defendants' timekeeping policies and/or practices, during the four years immediately preceding the filing of this action through the present.
- b. Meal Period Class: All current and former employees of Defendants in the State of California in the positions of Account Executive, Senior Account Executive, Account Manager, Account Coordinator, and similar positions who: (i) worked at least one shift in excess of 5.0 hours; and/or (ii) worked at least one shift in excess of 10.0 hours, during the four years immediately preceding the filing of this action through the present.
- c. Rest Period Class: All current and former employees of Defendants in the State of California in the positions of Account Executive, Senior Account Executive, Account Manager, Account Coordinator, and similar positions who worked at least one shift of 3.5 or more hours, during the four years immediately preceding the filing of this action through the present.

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1 d. Wage Statement Class: All current and former employees of Defendants in the State
2 of California in the positions of Account Executive, Senior Account Executive,
3 Account Manager, Account Coordinator, and similar positions who received a wage
4 statement, during the one year immediately preceding the filing of this action
5 through the present.

6 e. Waiting Time Penalty Class: All of Defendants' formerly employed members of the
7 Minimum Wage Class, Overtime Class, Rest Period Class, and/or Meal Period Class
8 during the three years immediately preceding the filing of this action through the
9 present.

10 19. **Numerosity/Ascertainability**: The members of the Classes are so numerous that
11 joinder of all members would be impractical, if not impossible. The membership of the Classes is
12 unknown to Plaintiff at this time; however, it is estimated that the members of the Classes number
13 greater than 50 individuals. The identity of such membership is readily ascertainable via inspection
14 of Defendants' employment records, including payroll records.

15 20. **Common Questions of Law and Fact Predominate/Well-Defined Community of**
16 **Interest**: There are predominant common questions of law and fact as to Plaintiff and members of
17 the Classes, which predominate over questions affecting only individual members including,
18 without limitation to:

- 19 a. Whether Defendants misclassified employees in the positions of Account Executive,
20 Senior Account Executive, Account Manager, Account Coordinator, and similar
21 positions as exempt employees;
- 22 b. Whether Defendants properly paid all overtime wages to members of the Overtime
23 Class;
- 24 c. Whether Defendants provided all legally compliant meal periods or paid meal period
25 premium wages due to members of the Meal Period Class pursuant to Labor Code §§
26 226.7 and 512;
- 27 d. Whether Defendants authorized and permitted all legally compliant rest periods or
28 paid all rest period premium wages due to members of the Rest Period Class

1 pursuant to Labor Code §§ 226.7 and 516;

2 e. Whether Defendants furnished legally compliant wage statements to members of the
3 Wage Statement Class pursuant to Labor Code § 226; and

4 f. Whether Defendants timely paid all final wages to members of the Waiting Time
5 Class at the time of their separation of employment pursuant to Labor Code §§ 201
6 and 202.

7 These common questions of law and fact set forth above are numerous and substantial and
8 stem from Defendants' policies and/or practices applicable to each individual class member. As
9 such, the common questions predominate over individual questions concerning each individual
10 class member's showing as to their eligibility for recovery or as to the amount of their damages.

11 21. **Typicality:** The claims of Plaintiff are typical of the claims of the Classes because
12 Plaintiff was employed by Defendants as an exempt misclassified employee in California during the
13 statute(s) of limitations period applicable to each cause of action pled in the Complaint. As alleged
14 herein, Plaintiff, like the members of the Classes, was not paid all overtime wages owed due to
15 Defendants' timekeeping policies/practices, was not provided all required meal periods, was not
16 authorized and permitted all rest periods, did not receive premium pay for non-compliant meal and
17 rest periods, was not paid all final wages upon separation of employment, and was not provided
18 with accurate, compliant, itemized wage statements.

19 22. **Adequacy of Representation:** Plaintiff is fully prepared to take all necessary steps
20 to represent fairly and adequately the interests of the members of the Classes. Moreover, Plaintiff's
21 attorneys are ready, willing and able to fully and adequately represent the members of the Classes
22 and Plaintiff. Plaintiff's attorneys have litigated numerous wage-and-hour class actions in state and
23 federal courts in the past and are committed to vigorously prosecuting this action on behalf of the
24 members of the Classes.

25 23. **Superiority:** The Labor Code is broadly remedial in nature and serves an important
26 public interest in establishing minimum working conditions and standards in California. These laws
27 and labor standards protect the average working employee from exploitation by employers who
28 have the responsibility to follow the laws and who may seek to take advantage of superior economic

1 and bargaining power in setting onerous terms and conditions of employment. The nature of this
2 action and the format of laws available to Plaintiff and members of the Classes make the class
3 action format a particularly efficient and appropriate procedure to redress the violations alleged
4 herein. If each employee were required to file an individual lawsuit, Defendants would necessarily
5 gain an unconscionable advantage since they would be able to exploit and overwhelm the limited
6 resources of each individual plaintiff with their vastly superior financial and legal resources.

7 24. Moreover, requiring each member of the Class(es) to pursue an individual remedy
8 would also discourage the assertion of lawful claims by employees who would be disinclined to file
9 an action against their former and/or current employer for real and justifiable fear of retaliation and
10 permanent damages to their careers at subsequent employment. The claims of the individual
11 members of the Class are not sufficiently large to warrant vigorous individual prosecution
12 considering all of the concomitant costs and expenses attending hereto.

13 25. Furthermore, the prosecution of separate actions by the individual class members,
14 even if possible, would create a substantial risk of inconsistent or varying verdicts or adjudications
15 with respect to the individual class members against Defendants herein; and which would establish
16 potentially incompatible standards of conduct for Defendants; and/or legal determinations with
17 respect to individual class members which would, as a practical matter, be dispositive of the interest
18 of the other class members not parties to adjudications or which would substantially impair or
19 impede the ability of the class members to protect their interests. As such, the Classes identified
20 hereinabove are maintainable as classes under § 382 of the Code of Civil Procedure.

21 **FIRST CAUSE OF ACTION**

22 **OVERTIME WAGE VIOLATIONS**

23 **(Against All Defendants)**

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

26 27. This cause of action is brought pursuant to Labor Code §§ 204, 510, 1194, 1198, and
27 Wage Orders 1 and 4, § 3, which provide that exempt misclassified employees are entitled to all
28 overtime wages and compensation for all overtime hours worked and provide a private right of

1 action for the failure to pay all overtime compensation for overtime work performed.

2 28. At all times relevant herein, Defendants were required to properly compensate
3 exempt misclassified employees, including Plaintiff and members of the Overtime Class, for all
4 overtime hours worked pursuant to Labor Code § 1194 and Wage Orders 1 and 4. Wage Orders 1
5 and 4, § 3 requires an employer to pay an employee one and one-half (1½) times and two times the
6 employee's regular rate of pay for overtime and double time hours work. Defendants caused
7 Plaintiff and members of the Overtime Class to work overtime hours but failed to compensate these
8 employees with all overtime hours actually worked.

9 29. As a consequence of Defendants' non-payment of overtime wages, Plaintiff and
10 members of the Overtime Class seek recovery of the balance of unpaid overtime wages, including
11 interest thereon, statutory penalties, attorneys' fees, and costs of suit according to Labor Code §§
12 204, 210, 216, 218.6, 510, 1194, and 1198; Code of Civil Procedure § 1021.5; and Civil Code §§
13 3287 and 3289.

14 **SECOND CAUSE OF ACTION**

15 **MEAL PERIOD VIOLATIONS**

16 **(Against All Defendants)**

17 30. Plaintiff re-alleges and incorporates by reference all preceding paragraphs as though
18 fully set forth herein.

19 31. Plaintiff is informed and believes, and based thereon alleges, that Defendants failed
20 in their affirmative obligation to provide all of their exempt misclassified employees in California,
21 including Plaintiff and members of the Meal Period Class, with all legally compliant meal periods
22 in accordance with the mandates of the Labor Code and Wage Orders 1 and 4, § 11.

23 32. Despite Defendants' violations, Defendants did not pay an additional hour of pay to
24 Plaintiff and members of the Meal Period Class at their respective regular rates of compensation, in
25 accordance with California Labor Code §§ 204, 210, 226.7, and 512.

26 33. As a consequence of Defendants' unlawful meal period practices, Plaintiff and
27 members of the Meal Period Class seek recovery of unpaid premium wages for meal period
28 violations including interest thereon, statutory penalties, and costs of suit, pursuant to Labor Code

1 §§ 226.7, 512, 558, Wage Orders 1 and 4, and Civil Code §§ 3287 and 3289.

2 **THIRD CAUSE OF ACTION**

3 **REST PERIOD VIOLATIONS**

4 **(Against All Defendants)**

5 34. Plaintiff re-alleges and incorporates by reference all preceding paragraphs as though
6 fully set forth herein.

7 35. Labor Code §§ 226.7, 516, 558, and Wage Orders 1 and 4, § 12 and establish the
8 right of employees to be provided with a rest period of at least 10 minutes for each four-hour period
9 worked, or major fraction thereof. Plaintiff is informed and believes, and based thereon alleges, that
10 despite Defendants' failure to authorize and permit Plaintiff and members of the Rest Period Class
11 to take all legally compliant rest periods as alleged herein, Defendants did not pay these individuals
12 an additional hour of pay at their respective regular rate for the rest periods that they failed to
13 authorize and permit them to take, as required by Labor Code § 226.7.

14 36. As a consequence of Defendants' unlawful rest period practices, Plaintiff and
15 members of the Rest Period Class seek recovery of unpaid premium wages for rest period violations
16 including interest thereon, statutory penalties, and costs of suit, statutory penalties, attorneys' fees,
17 and costs of suit according to Labor Code §§ 226.7, 516, 558, Wage Orders 1 and 4, and Civil Code
18 §§ 3287 and 3289.

19 **FOURTH CAUSE OF ACTION**

20 **WAGE STATEMENT PENALTIES**

21 **(Against All Defendants)**

22 37. Plaintiff re-alleges and incorporates by reference all preceding paragraphs as though
23 fully set forth herein.

24 38. Plaintiff is informed and believes, and based thereon alleges, that Defendants
25 knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Plaintiff
26 and members of the Wage Statement Class with accurate and complete, itemized wage statements
27 that included, among other requirements, all hours worked, total gross wages earned, all rates of pay
28 and corresponding number of hours worked, total net wages earned, and/or the correct name and

1 address of the legal entity that is the employer in violation of Labor Code § 226.

2 39. Defendants' failure to furnish Plaintiff and members of the Wage Statement Class
3 with accurate and complete, itemized wage statements resulted in actual injury, as said failures led
4 to, among other things, the non-payment of minimum and overtime wages and meal and rest period
5 premium wages owed and deprived them of the information necessary to identify the discrepancies
6 in Defendants' reported payroll data.

7 40. As a consequence of Defendants' unlawful wage statement practices, Plaintiff and
8 members of the Wage Statement Class seek damages and/or statutory penalties, reasonable
9 attorneys' fees, and costs of suit according to California Labor Code § 226.

10 **FIFTH CAUSE OF ACTION**

11 **WAITING TIME PENALTIES**

12 **(Against All Defendants)**

13 41. Plaintiff re-alleges and incorporates by reference all preceding paragraphs as though
14 fully set forth herein.

15 42. This cause of action is brought pursuant to Labor Code §§ 201-203, which require an
16 employer to pay all wages immediately at the time of separation of employment in the event the
17 employer discharges the employee or the employee provides at least 72 hours of notice of their
18 intent to quit. In the event the employee provides less than 72 hours of notice of their intent to quit,
19 said employee's wages become due and payable not later than 72 hours upon said employee's last
20 date of employment.

21 43. Plaintiff is informed and believes, and based thereon alleges, that Defendants failed
22 to timely pay Plaintiff and members of the Waiting Time Class all final wages due to them at their
23 separation from employment, including unpaid minimum and overtime wages as well as unpaid
24 meal and rest period premium wages.

25 44. Furthermore, Plaintiff is informed and believes, and based thereon alleges, that as a
26 matter of uniform policy and practice, Defendants continue to fail to pay Plaintiff and members of
27 the Waiting Time Class all earned wages at the end of employment in a timely manner pursuant to
28 the requirements of Labor Code §§ 201-202.

45. Defendants' failure to pay all final wages was willful within the meaning of Labor Code § 203. Defendants' willful failure to timely pay Plaintiff and the members of the Waiting Time Class their earned wages upon separation from employment results in continued payment of daily wages up to thirty days from the time the wages were due.

46. As a consequence of Defendants' unlawful practices, Plaintiff and members of the Waiting Time Class seek statutory penalties, and costs of suit according to California Labor Code § 203.

SIXTH CAUSE OF ACTION

UNFAIR COMPETITION

(Against All Defendants)

47. Plaintiff re-alleges and incorporates by reference all preceding paragraphs as though fully set forth herein.

48. Defendants have engaged and continue to engage in unfair and/or unlawful business practices in California in violation of Business and Professions Code § 17200, *et seq.*, by:

- a. failing to pay Plaintiff and members of the Minimum Wage Class all minimum wages due;
- b. failing to pay Plaintiff and members of the Overtime Class all overtime wages due;
- c. failing to provide Plaintiff and members of the Meal Period Class with all meal periods to which they are entitled, and failing to pay them all meal period premium wages due;
- d. failing to authorize and permit Plaintiff and members of the Rest Period Class all rest periods to which they are entitled, and failing to pay them all rest period premium wages due;
- e. failing to issue accurate and itemized wage statements to Plaintiff and members of the Wage Statement Class;
- f. failing to timely pay all final wages to Plaintiff and members of the Waiting Time Penalty Class

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49. Defendants' utilization of these unfair and/or unlawful business practices deprived Plaintiff and continues to deprive members of the Classes of compensation to which they are legally entitled, constitutes unfair and/or unlawful competition, and provides an unfair advantage over Defendants' competitors who have been and/or are currently employing workers and attempting to do so in honest compliance with applicable wage and hour laws.

50. Because Plaintiff is a victim of Defendants' unfair and/or unlawful conduct alleged herein, Plaintiff for himself and on behalf of the members of the Classes, seeks full restitution of monies, as necessary and according to proof, to restore any and all monies withheld, acquired and/or converted by Defendants pursuant to Business and Professions Code §§ 17203 and 17208.

51. The acts complained of herein occurred within the last four years immediately preceding the filing of the Complaint in this action.

SEVENTH CAUSE OF ACTION

PRIVATE ATTORNEYS GENERAL ACT

(Against All Defendants)

52. Plaintiff re-alleges and incorporates by reference all preceding paragraphs as though fully set forth herein.

53. Plaintiff, an “aggrieved employee” within the meaning of Labor Code § 2698, *et seq.*, acting on behalf of himself and other aggrieved employees (collectively, “Aggrieved Employees”), brings this representative action against Defendants to recover the civil penalties due to Plaintiff and other Aggrieved Employees, and the State of California according to proof pursuant to Labor Code § 558 and § 2699(a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for each failure to pay each employee and \$200 for each subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100 for each subsequent violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100 for each initial violation and \$250 for each subsequent violation pursuant to Labor Code § 1197.1 per employee per pay period; (4) \$250 for each initial violation and \$1,000 for each subsequent violation pursuant to Labor Code § 226.3 per employee per pay period; (5) pursuant to Labor Code

1 section 256, a civil penalty in an amount not exceeding 30 days per former employee as waiting
2 time under the terms of Labor Code § 203; and/or (6) \$100 for each initial violation and \$200 for
3 each subsequent violation per employee per pay period for those violations of the Labor Code for
4 which no civil penalty is specifically provided, based on the following Labor Code violations:

- 5 a. Failing to pay minimum wages for all hours worked to Aggrieved Employees in
6 violation of Labor Code § 558, 1182.12, 1194, 1194.2, 1197, and 1198;
- 7 b. Failing to pay Aggrieved Employees all earned overtime compensation in violation
8 of Labor Code §§ 204, 510, 558, 1194, and 1198;
- 9 c. Failing to provide all legally required meal periods, and failure to pay meal period
10 premium wages, to Aggrieved Employees at the regular rate of compensation in
11 violation of Labor Code §§ 226.7, 512, 558, and 1198;
- 12 d. Failing to authorize and permit all legally required rest periods, and failure to pay
13 rest period premium wages, to Aggrieved Employees at the regular rate of
14 compensation in violation of Labor Code §§ 226.7, 516, 558, and 1198;
- 15 e. Failing to furnish Aggrieved Employees with complete, accurate, itemized wage
16 statements in violation of Labor Code § 226;
- 17 f. Failing to timely pay all final wages and compensation earned by Aggrieved
18 Employees at the time of separation in violation of Labor Code §§ 201-202;
- 19 g. Failure to reimburse Aggrieved Employees for all necessary business expenses in
20 violation of Labor Code § 2802;
- 21 h. Failing to pay all paid sick leave wages due in violation of Labor Cod § 246;
- 22 i. Failing to pay Aggrieved Employees all earned wages at least twice during each
23 calendar month in violation of Labor Code § 204; and
- 24 j. Failing to maintain accurate records on behalf of Aggrieved Employees in violation
25 of Labor Code §§ 1174 and 1198.

26 54. On or about August 29, 2023, Plaintiff notified Defendants via certified mail, and
27 notified the California Labor and Workforce Development Agency (“LWDA”) via its website, of
28 Defendants’ violations of the Labor Code and Plaintiff’s intent to bring a claim for civil penalties

1 under Labor Code § 2698, *et seq.* with respect to the violations of the Labor Code identified in the
2 preceding paragraph. Now that 65 days have passed from Plaintiff notifying Defendants and the
3 LWDA of these violations, and the LWDA has not provided notice that it intends to investigate the
4 violations, Plaintiff has exhausted administrative requirements for bringing a claim under the
5 Private Attorneys General Act with respect to these violations. Furthermore, Defendants have failed
6 to cure any

7 55. Plaintiff has incurred attorneys' fees and costs, which Plaintiff is entitled to receive
8 under California Labor Code § 2699(g).

9 **PRAYER FOR RELIEF**

10 WHEREFORE, Plaintiff prays for judgment for himself and for all others on whose behalf
11 this suit is brought against Defendants, as follows:

- 12 1. For an order certifying the proposed Classes;
- 13 2. For an order appointing Plaintiff as representative of the Classes;
- 14 3. For an order appointing Counsel for Plaintiff as Counsel for the Classes;
- 15 4. Upon the First Cause of Action, for payment of overtime wages and penalties
16 according to proof pursuant to Labor Code §§ 204, 510, 558, 1194, and 1198;
- 17 5. Upon the Second Cause of Action, for meal period premium wages according to
18 proof pursuant to Labor Code §§ 226.7, 512, and 558;
- 19 6. Upon the Third Cause of Action, for rest period premium wages according to proof
20 pursuant to Labor Code §§ 226.7, 516, and 558;
- 21 7. Upon the Fourth Cause of Action, for statutory penalties pursuant to Labor Code §
22 226;
- 23 8. Upon the Fifth Cause of Action, for statutory penalties pursuant to Labor Code §
24 203;
- 25 9. Upon the Sixth Cause of Action, for restitution to Plaintiff and members of the
26 Classes of all money and/or property unlawfully acquired by Defendants by means of any acts or
27 practices declared by this Court to be in violation of Business and Professions Code §§ 17200, *et*
28 *seq.*;

1 10. Upon the Seventh Cause of Action, for civil penalties due to Plaintiff, other
2 Aggrieved Employees, and the State of California according to proof pursuant to Labor Code §§
3 558 and 2699(a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for each
4 failure to pay each employee and \$200 for each subsequent violation or willful or intentional
5 violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the
6 amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100 for each subsequent
7 violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial
8 violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per employee
9 per pay period; (4) \$250.00 for each initial violation and \$1,000.00 for each subsequent violation
10 pursuant to Labor Code § 226.3 per employee per pay period; (5) pursuant to Labor Code section
11 256, a civil penalty in an amount not exceeding 30 days per former employee as waiting time under
12 the terms of Labor Code § 203; and/or (6) \$100.00 for each initial violation and \$200 for each
13 subsequent violation per employee per pay period for those violations of the Labor Code for which
14 no civil penalty is specifically provided;

15 11. Prejudgment interest on all due and unpaid wages pursuant to Labor Code § 218.6
16 and Civil Code §§ 3287 and 3289;

17 12. On all causes of action, for attorneys' fees and costs as provided by Labor Code §§
18 218.5, 226, 1194, and 2699(g), and Code of Civil Procedure § 1021.5; and

19 13. For such other and further relief, the Court may deem just and proper.

20 **DEMAND FOR JURY TRIAL**

21 Plaintiff hereby demands a trial by jury on all claims.

22
23 DATED: November 9, 2023

JUSTICE FOR WORKERS, P.C.

24
25 By:



26 William C. Sung
27 Attorneys for Plaintiff JUNG HO LEE
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