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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

CRISTINA MIRANDA and MARIBEL
TORRES LOPEZ, as individuals and on behalf
of all others similarly situated,

Plaintiffs,

vs.

K & P JANITORIAL SERVICES, a California
corporation; and DOES 1 through 100,

Defendants.

Case No. 23STCV19824

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

- (1) **MINIMUM WAGE VIOLATIONS
(LABOR CODE §§ 1182.12, 1194,
1194.2, 1197);**
- (2) **FAILURE TO PAY ALL
OVERTIME WAGES (LABOR
CODE §§ 204, 510, 1194 and 1198);**
- (3) **MEAL PERIOD VIOLATIONS
(LABOR CODE §§ 226.7, 512, and
558);**
- (4) **REST PERIOD VIOLATIONS
(LABOR CODE §§ 226.7, 516, and
558);**
- (5) **WAGE STATEMENT VIOLATIONS
(LABOR CODE § 226 *et seq.*);**
- (6) **WAITING TIME PENALTIES
(LABOR CODE §§ 201-203);**
- (7) **FAILURE TO REIMBURSE
EMPLOYEES FOR NECESSARY
BUSINESS EXPENDITURES
(LABOR CODE §§ 2802 and 2804);**
- (8) **UNFAIR COMPETITION (BUS &
PROF CODE § 17200 *et seq.*); and**
- (9) **CIVIL PENALTIES UNDER THE
PRIVATE ATTORNEYS
GENERAL ACT (LABOR CODE
§ 2698 *et seq.*).**

**DEMAND FOR JURY TRIAL
UNLIMITED CIVIL CASE**

1 Plaintiffs Cristina Miranda and Maribel Torres Lopez (“Plaintiffs”) hereby bring this First
2 Amended Class and Representative Action Complaint (“Complaint”) against Defendants K & P
3 Janitorial Services, a California corporation; and DOES 1 through 100, inclusive (collectively,
4 “Defendants”), and on information and belief allege as follows:

5 **JURISDICTION**

6 1. Plaintiffs, on behalf of themselves and all others similarly situated, hereby bring
7 this Complaint for recovery of unpaid wages and penalties under Labor Code §§ 201-204, 226 *et*
8 *seq.*, 226.7, 510, 512, 516, 558, 1182.12, 1194, 1194.2, 1197, 1198, 2802, 2804, and 2698 *et seq.*;
9 California Business & Professions Code § 17200 *et seq.*, and Industrial Welfare Commission
10 Wage Order No. 5 (“Wage Order 5”), in addition to seeking 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 California Labor Code because the amount in
13 controversy exceeds this Court’s jurisdictional minimum.

14 **VENUE**

15 2. Venue is proper in this judicial district pursuant to California Code of Civil
16 Procedure §§ 395(a) and 395.5, as at least some of the acts and omissions complained of herein
17 occurred in Los Angeles County. Defendants own, maintain offices, transact business, have an
18 agent or agents within Los Angeles County, and/or otherwise are found within Los Angeles
19 County, and Defendants are within the jurisdiction of this Court for purposes of service of process.

20 **PARTIES**

21 3. Plaintiffs are individuals over the age of eighteen (18). At all relevant times herein,
22 Plaintiffs were, and currently are, residents of California. Within the statute of limitations periods
23 applicable to each cause of action pled herein, Plaintiffs were employed by Defendants as non-
24 exempt employees. Plaintiffs were, and are, victims of Defendants’ policies and/or practices
25 complained of herein, lost money and/or property, and have been deprived of the rights
26 guaranteed to them by Labor Code §§ 201-204, 226 *et seq.*, 226.7, 510, 512, 516, 558, 1182.12,
27 1194, 1194.2, 1197, 1198, 2802, 2804, and 2698 *et seq.*; California Business & Professions Code
28 § 17200 *et seq.*, and Wage Order 5, which sets employment standards for the “Public

Housekeeping Industry”

4. Plaintiffs are informed and believe, and based thereon allege, that during the time period relevant to this action, Defendants did (and do) business by providing janitorial and building maintenance services.

5. Plaintiffs are informed and believe, and based thereon allege, that at all times mentioned herein, Defendants were licensed to do business in California and were the employers of Plaintiffs and of the members of the Classes (as defined in Paragraph 16).

6. Plaintiffs do not know the true names, capacities, relationships, and/or the extent of participation of Defendants DOES 1 through 100, inclusive, in the conduct alleged in this Complaint. For that reason, Defendants DOES 1 through 100, inclusive, are sued under such fictitious names. Plaintiffs pray for leave to amend this Complaint when their true names and capacities are known. Plaintiffs are informed and believe, and based thereon allege, that each fictitiously named Respondent is and was responsible in some way for the alleged wage-and-hour violations and other wrongful conduct that subjected Plaintiffs and the Classes, as defined below, to the illegal employment practices, wrongs and injuries complained of herein. All references in this Complaint to “Defendants” shall be deemed to include all DOE Defendants.

7. At all times herein mentioned, each of said Defendants participated in the doing of the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the Defendants, and each of them, were the agents, servants, and employees of each and every one of the other Defendants, as well as the agents of all Defendants, and at all times herein mentioned were acting within the course and scope of said agency and employment. Defendants, and each of them, approved of, condoned, and/or otherwise ratified each and every one of the acts or omissions complained of herein.

8. At all times mentioned herein, Defendants, and each of them, were members of and engaged in a joint venture, partnership, and common enterprise, and acted within the course and scope of and in pursuance of said joint venture, partnership, and common enterprise. Further, Plaintiffs allege that all Defendants were joint employers for all purposes of Plaintiffs and the Classes (as defined in Paragraph 16).

1 **GENERAL FACTUAL ALLEGATIONS**

2 9. Defendants employed Plaintiffs in the non-exempt job position of “Janitor” (or
3 similarly titled position). Plaintiff Miranda was employed by Defendants from approximately
4 January 1, 2019 until approximately December 22, 2022. Plaintiff Torres Lopez was employed
5 by Defendants from approximately June 11, 2018 until approximately December 22, 2022.

6 10. During Plaintiffs’ employment with Defendants, Defendants utilized a
7 timekeeping system which resulted in Plaintiffs and other non-exempt employees not being
8 compensated for all hours actually worked, whether by rounding, time-shaving, or otherwise.
9 Prior to 2020, Plaintiffs and other non-exempt employees did not record their hours worked, but
10 instead reported their hours worked to the site supervisor. Upon information and belief,
11 Defendant’s supervisors failed to accurately record Plaintiffs’ and other non-exempt employees’
12 hours worked, resulting in unpaid minimum and overtime wages. Starting in 2020, Plaintiffs and
13 other non-exempt employees were asked to download an app to their personal cell phones in order
14 to clock in and out of their shifts, including their meal periods. Upon information and belief, this
15 timekeeping system recorded hours worked to the minute; however, Defendants rounded
16 Plaintiffs and other non-employees’ hours, so that over a period of time they were deprived of all
17 minimum and overtime wages. Defendants’ timekeeping policies/practices were not even-handed
18 and have resulted in Plaintiffs and other non-exempt employees not being compensated for all
19 hours worked.

20 11. During Plaintiffs’ employment with Defendants, Plaintiffs worked over 8.0 hours
21 in a workday and/or 40.0 in a workweek, but upon information and belief did not receive overtime
22 compensation equal to one and one-half times their regular rate of pay for working overtime
23 hours. Specifically, Plaintiffs and other non-exempt employees would also be asked to work
24 additional hours over 8.0 hours in a workday, with pay for these hours in excess of 8.0 hours paid
25 in cash at their base hourly rate and not recorded on timesheets, resulting in unpaid overtime
26 compensation. Additionally, Defendants paid Plaintiffs and other non-exempt employees non-
27 discretionary incentive pay, including but not limited to, payments denoted on wage statements
28 as “Laundry” and/or other forms of pay that are not excludable from an employee’s “regular rate”

of pay (hereinafter the aforementioned forms of pay are collectively referred to as “Incentive Pay”). However, Defendants failed to properly calculate Plaintiffs’ and other non-exempt employees’ regular rates of pay as a result of their receipt of Incentive Pay, thereby miscalculating and underpaying the overtime wages owed to them.

12. Defendants also failed to provide Plaintiffs and other non-exempt employees with all legally compliant meal periods due to Defendants’ meal period policies/practices, which have resulted in late (commencing after the fifth hour of work) and short (fewer than 30 minutes) meal periods. Plaintiffs and other non-exempt employees’ meal periods were frequently “late” (i.e., starting after the completion of the fifth hour of work) because Defendants’ work demand prevented them from taking a timely meal period. During at least a portion of the relevant time period, Defendants did not require Plaintiffs and other non-exempt employees to record their meal periods. Instead, upon information and belief, Plaintiffs and other non-exempt employees reported their meal periods to supervisors and Defendants automatically deducted 30 minutes from the total hours worked for each shift worked regardless of whether the employee took a full 30-minute compliant meal period. In addition, Defendants failed to provide Plaintiffs and other non-exempt employees with second meal periods on shifts over 10.0 hours. On those occasions when Plaintiffs were not provided with all legally required meal periods to which they were entitled, Defendants failed to compensate Plaintiffs with the required meal period premium for each workday in which they experienced a meal period violation as mandated by Labor Code § 226.7. Upon information and belief, during at least a portion of the relevant time period, Defendants maintained no payroll code for paying meal period premiums under Labor Code § 226.7.

13. Defendants have also failed to authorize and permit all required rest periods for Plaintiffs and other non-exempt employees. Specifically, Defendants have often failed to authorize and permit a 10-minute rest period for every four hours worked or major fraction thereof due to work demands imposed by Defendants. On those occasions when Plaintiffs were not authorized and permitted all legally required rest periods to which they were entitled, Defendants failed to compensate Plaintiffs with the required rest period premium for each workday in which they experienced a rest period violation as mandated by Labor Code § 226.7. Upon information

and belief, during at least a portion of the relevant time period, Defendants maintained no payroll code for paying rest period premiums under Labor Code § 226.7.

14. Defendants also failed to adequately reimburse Plaintiffs and other non-exempt employees for all reasonable and necessary work expenditures, including, but not limited to, use of personal cellular phones to clock in and out of shifts and meal periods starting in 2020. Plaintiffs also purchased cleaning supplies for which they were not reimbursed.

15. As a result of Defendants' failure to compensate Plaintiffs and other non-exempt employees for all minimum wages, overtime wages, and all meal and rest period premium wages, Defendants maintained inaccurate payroll records and failed to issue accurate, compliant, itemized wage statements. As a further result of Defendants' failure to compensate Plaintiffs and other non-exempt employees for all minimum wages, overtime wages, and all meal and rest period premium wages, Defendants failed to pay Plaintiffs and other non-exempt employees all wages owed at the time of their separation of employment with Defendants.

CLASS ACTION ALLEGATIONS

16. Class Definitions: Plaintiffs bring this Complaint on behalf of themselves and the following Classes pursuant to § 382 of the Code of Civil Procedure:

- a. The Minimum Wage Class consists of all of Defendants' current and former non-exempt employees in California who were subject to Defendants' timekeeping policies and/or practices, during the four years immediately preceding the filing of the Complaint through the present.
- b. The Overtime Class consists of all of Defendants' current and former non-exempt employees in California who worked more than 8.0 hours per day and/or 40.0 hours per week and: (i) received Incentive Pay during a corresponding time period; (ii) were paid at a base hourly rate rather than an overtime rate of pay; and/or (iii) were subject to Defendants' timekeeping policies and/or practices, during the four years immediately preceding the filing of the Complaint through the present.
- c. The Meal Period Class consists of all of Defendants' current and former non-exempt employees in California 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 the Complaint through the present.

d. The Rest Period Class consists of all of Defendants' current and former non-exempt employees in California who worked at least one shift of 3.5 hours or more, during the four years immediately preceding the filing of the Complaint through the present.

e. The Wage Statement Class consists of all members of the Minimum Wage Class, Overtime Class, Meal Period Class, and/or Rest Period Class who have received a wage statement from Defendants during the one year immediately preceding the filing of the Complaint through the present.

f. The Waiting Time Class consists of all members of the Minimum Wage Class, Overtime Class, Meal Period Class, and/or Rest Period Class who have separated their employment with Defendants during the three years immediately preceding the filing of the Complaint through the present.

g. The Employee Expense Class consists of all of Defendants' current and former non-exempt employees who were not adequately reimbursed for reasonable and necessary expenditures in connection with their employment with Defendants, during the four years immediately preceding the filing of the Complaint through the present.

17. **Numerosity/Ascertainability:** The members of the Classes are so numerous that joinder of all members would be unfeasible and not practicable. The membership of the classes and subclasses are unknown to Plaintiffs, at this time; however, it is estimated that the Classes number is in excess of one hundred (100) individuals as to each class. The identity of such membership is readily ascertainable via inspection of Defendants' employment records.

18. **Common Questions of Law and Fact Predominate/Well Defined Community of Interest:** There are common questions of law and fact as to Plaintiffs and all other similarly situated employees, which predominate over questions affecting only individual members including, without limitation, to:

- i. Whether Defendants paid all minimum wages owed to members of the Minimum Wage Class for all hours worked pursuant to Labor Code §§ 1182.12, 1194, 1194.2 and 1197;
- ii. Whether Defendants violated the applicable Labor Code provisions, including, but not limited to, §§ 510 and 1194 by requiring members of the Overtime Class to perform overtime work and not paying for said work in accordance with the overtime laws of the State of California;
- iii. Whether Defendants' timekeeping policies/practices resulted in the failure to properly compensate members of the Overtime Class and Minimum Wage Classes;
- iv. Whether Defendants provided legally compliant meal periods to members of the Meal Period Class pursuant to Labor Code §§ 226.7 and 512;
- v. Whether Defendants correctly paid meal period premium payments for non-compliant meal periods pursuant to Labor Code § 226.7;
- vi. Whether Defendants authorized and permitted legally compliant rest periods to members of the Rest Period Class pursuant to Labor Code §§ 226.7 and 516;
- vii. Whether Defendants correctly paid rest period premium payments for non-compliant rest periods pursuant to Labor Code § 226.7;
- viii. Whether Defendants furnished legally compliant wage statements to members of the Wage Statement Class pursuant to Labor Code § 226;
- ix. Whether Defendants' policies and/or practices for the timing and amount of payment of final wages to Plaintiffs and members of the Waiting Time Class at the time of their separation of employment were lawful; and
- x. Whether Defendants' policies and/or practices regarding reasonable and necessary business expenditures resulted in the failure to properly reimburse members of the Employee Expense Class;

19. **Predominance of Common Questions:** Common questions of law and fact predominate over questions that affect only individual members of the Classes. The common

1 questions of law and fact set forth above are numerous and substantial and stem from Defendants’
2 uniform policies and/or practices applicable to each individual class member including, but not
3 limited to, Defendants’ uniform timekeeping policies and/or practices, and meal and rest period
4 policies and/or practices. As such, the common questions predominate over individual questions
5 concerning each individual class member’s showing as to his or her eligibility for recovery or as
6 to the amount of his or her damages.

7 **20. Typicality:** The claims of Plaintiffs are typical of the claims of the Classes
8 because Plaintiffs were employed by Defendants as a non-exempt employee in California during
9 the statutes of limitation applicable to each cause of action pled in this Complaint. As alleged
10 herein, Plaintiffs, like the members of the Classes, were not properly paid minimum and overtime
11 wages due to Defendants’ timekeeping policies/practices, were not provided all required meal
12 periods, were not authorized and permitted to take all required rest periods, did not receive meal
13 and rest period premium wages for missed and/or non-compliant meal and rest periods, were not
14 reimbursed for necessary business expenses, were not issued accurate itemized wage statements,
15 and/or did not receive all final wages owed to them upon their separation of employment with
16 Defendants.

17 **21. Adequacy of Representation:** Plaintiffs are fully prepared to take all necessary
18 steps to represent fairly and adequately the interests of the members of the Classes. Moreover,
19 Plaintiffs’ attorneys are ready, willing, and able to fully and adequately represent the members of
20 the Classes and Plaintiffs. Plaintiffs’ attorneys have prosecuted and defended numerous wage-
21 and-hour class actions in state and federal courts in the past and are committed to vigorously
22 prosecuting this action on behalf of the members of the Classes.

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

1 and members of the Classes make the class action format a particularly efficient and appropriate
2 procedure to redress the violations alleged herein. If each employee were required to file an
3 individual lawsuit, Defendants would necessarily gain an unconscionable advantage since they
4 would be able to exploit and overwhelm the limited resources of each individual plaintiff with
5 their vastly superior financial and legal resources. Moreover, requiring each member of the
6 Classes to pursue an individual remedy would also discourage the assertion of lawful claims by
7 employees who would be disinclined to file an action against their former and/or current employer
8 for real and justifiable fear of retaliation and permanent damages to their careers at subsequent
9 employment. Further, the prosecution of separate actions by the individual class members, even
10 if possible, would create a substantial risk of inconsistent or varying verdicts or adjudications
11 with respect to the individual class members against Defendants herein; and which would
12 establish potentially incompatible standards of conduct for Defendants; and/or legal
13 determinations with respect to individual class members which would, as a practical matter, be
14 dispositive of the interest of the other class members not parties to adjudications or which would
15 substantially impair or impede the ability of the class members to protect their interests. Further,
16 the claims of the individual members of the Classes are not sufficiently large to warrant vigorous
17 individual prosecution considering all of the concomitant costs and expenses attending thereto.
18 As such, the Classes are maintainable as classes under § 382 of the Code of Civil Procedure.

19 **FIRST CAUSE OF ACTION**

20 **MINIMUM WAGE VIOLATIONS**

21 **(AGAINST ALL DEFENDANTS)**

22 23. Plaintiffs re-allege and incorporate by reference all previous paragraphs.

23 24. Wage Order 5, § 4 and California Labor Code §§ 1197 and 1182.12 establish the
24 right of employees to be paid minimum wages for all hours worked, in amounts set by state law.
25 Labor Code §§ 1194(a) and 1194.2(a) provide that an employee who has not been paid the legal
26 minimum wage as required by Labor Code § 1197 may recover the unpaid balance together with
27 attorneys' fees and costs of suit, as well as liquidated damages in an amount equal to the unpaid
28 wages and interest accrued thereon.

1 25. At all relevant times herein, Defendants failed to conform their pay practices to
2 the requirements of the law by failing to pay Plaintiffs and members of the Minimum Wage Class
3 for all hours worked including, but not limited to, all hours they were subject to the control of
4 Defendants and/or suffered or permitted to work under the California Labor Code and Wage
5 Order 5.

6 26. California Labor Code § 1198 makes unlawful the employment of an employee
7 under conditions that the IWC prohibits. California Labor Code §§ 1194(a) and 1194.2(a) provide
8 that an employer who has failed to pay its employees the legal minimum wage is liable to pay
9 those employees the unpaid balance of the unpaid wages as well as liquidated damages in an
10 amount equal to the wages due and interest thereon.

11 27. As a direct and proximate result of Defendants' unlawful conduct as alleged
12 herein, Plaintiffs and the Minimum Wage Class have sustained economic damages including, but
13 not limited to, unpaid wages and lost interest, in an amount to be established at trial, and are
14 entitled to recover economic and statutory damages and penalties and other appropriate relief as
15 a result of Defendants' violations of the California Labor Code and Wage Order 5.

16 28. The foregoing practices and policies are unlawful and create an entitlement to
17 recovery by Plaintiffs and the members of the Minimum Wage Class in a civil action for the
18 unpaid amount of minimum wages owing, including interest thereon, liquidated damages,
19 statutory and civil penalties, attorney's fees, and costs of suit according to California Labor Code
20 §§ 204, 558, 1194, 1197, and 1198, Wage Order 5, and Code of Civil Procedure § 1021.5.

21 **SECOND CAUSE OF ACTION**

22 **FAILURE TO PAY ALL OVERTIME WAGES**

23 **(AGAINST ALL DEFENDANTS)**

24 29. Plaintiffs re-allege and incorporate by reference all previous paragraphs.

25 30. This cause of action is brought pursuant to Labor Code §§ 204, 510, 1194, and
26 1198, which provides that non-exempt employees are entitled to all overtime wages and
27 compensation for all overtime hours worked and provide a private right of action for the failure
28 to pay all overtime compensation for overtime work performed.

1 31. At all times relevant herein, Defendants were required to properly compensate
2 non-exempt employees, including Plaintiffs and members of the Overtime Class, for all overtime
3 hours worked pursuant to California Labor Code § 1194 and Wage Order 5. Wage Order 5, § 3
4 requires an employer to pay an employee “one and one-half (1½) times the employee’s regular
5 rate of pay” for work in excess of 8 hours per workday and/or in excess of 40 hours of work in
6 the workweek. Defendants caused Plaintiffs to work overtime hours but did not compensate
7 Plaintiffs or members of the Overtime Class with one and one-half times their regular rate of pay
8 for such hours.

9 32. The foregoing policies and practices are unlawful and create an entitlement to
10 recovery by Plaintiffs and members of the Overtime Class in a civil action for the unpaid amount
11 of overtime premiums owing, including interest thereon, statutory penalties, attorneys’ fees, and
12 costs of suit according to California Labor Code §§ 204, 210, 216, 510, 1194, and 1198; and Code
13 of Civil Procedure § 1021.5.

14 **THIRD CAUSE OF ACTION**

15 **MEAL PERIOD VIOLATIONS**

16 **(AGAINST ALL DEFENDANTS)**

17 33. Plaintiffs re-allege and incorporate by reference all previous paragraphs.

18 34. Plaintiffs are informed and believe, and based thereon allege, that Defendants
19 failed in their affirmative obligation to provide all of their non-exempt employees in California,
20 including Plaintiffs and members of the Meal Period Class, with all legally compliant meal
21 periods in accordance with the mandates of the California Labor Code and Wage Order 5, § 11.
22 Despite Defendants’ violations, Defendants did not pay an additional hour of pay to Plaintiffs and
23 members of the Meal Period Class at their respective regular rates of pay, in accordance with
24 California Labor Code §§ 204, 210, 226.7, and 512.

25 35. As a result, Defendants are responsible for paying premium compensation for meal
26 period violations pursuant to Labor Code §§ 226.7 and 512, and Wage Order 5, including interest
27 thereon, statutory penalties, civil penalties, and costs of suit.

28 ///

1 **FOURTH CAUSE OF ACTION**

2 **REST PERIOD VIOLATIONS**

3 **(AGAINST ALL DEFENDANTS)**

4 36. Plaintiffs re-allege and incorporate by reference all previous paragraphs.

5 37. Wage Order 5, § 12 and Labor Code §§ 226.7 and 516 establish the right of
6 employees to be provided with a rest period of at least ten (10) minutes for each four (4) hour
7 period worked, or major fraction thereof.

8 38. As alleged herein, Defendants failed to authorize and permit Plaintiffs and
9 members of the Rest Period Class to take all required rest periods.

10 39. The foregoing violations create an entitlement to recovery by Plaintiffs and
11 members of the Rest Period Class in a civil action for the unpaid amount of rest period premiums
12 owing, including interest thereon, statutory penalties, civil penalties, and costs of suit according
13 to Labor Code §§ 226.7, 516, and Civil Code §§ 3287(b) and 3289.

14 **FIFTH CAUSE OF ACTION**

15 **WAGE STATEMENT VIOLATIONS**

16 **(AGAINST ALL DEFENDANTS)**

17 40. Plaintiffs re-allege and incorporate by reference all previous paragraphs.

18 41. Plaintiffs are informed and believe, and based thereon allege, that Defendants
19 knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Plaintiffs
20 and members of the Wage Statement Class with accurate and complete, itemized wage statements
21 that included, among other requirements, all hours worked, total gross wages earned, all rates of
22 pay and corresponding number of hours worked, total net wages earned, and the correct name of
23 the legal entity that is the employer in violation of Labor Code § 226 *et seq.*

24 42. Defendants' failure to furnish Plaintiffs and members of the Wage Statement Class
25 with accurate and complete, itemized wage statements resulted in actual injury, as said failures
26 led to, among other things, the non-payment of minimum and overtime wages and meal and rest
27 period premium wages owed, and deprived them of the information necessary to identify the
28 discrepancies in Defendants' reported data.

43. Defendants' failures create an entitlement to recovery by Plaintiffs and members of the Wage Statement Class in a civil action for all damages and/or penalties pursuant to Labor Code § 226 *et seq.*, including statutory penalties, civil penalties, reasonable attorneys' fees, and costs of suit according to California Labor Code § 226 *et seq.*

SIXTH CAUSE OF ACTION

WAITING TIME PENALTIES

(AGAINST ALL DEFENDANTS)

44. Plaintiffs re-allege and incorporate by reference all previous paragraphs.

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

46. Plaintiffs are informed and believe, and based thereon allege, that Defendants failed to timely pay Plaintiffs and members of the Waiting Time Class all final wages due to them at their separation from employment, including minimum and overtime wages, and meal and rest period premium wages.

47. Further, Plaintiffs are informed and believe, and based thereon allege, that as a matter of uniform policy and practice, Defendants continue to fail to pay Plaintiffs and members of the Waiting Time Class all earned wages at the end of employment in a timely manner pursuant to the requirements of Labor Code §§ 201-203.

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

49. Therefore, Plaintiffs and members of the Waiting Time Class are entitled to compensation pursuant to Labor Code § 203, plus reasonable attorneys' fees and costs of suit.

1 **SEVENTH CAUSE OF ACTION**

2 **FAILURE TO REIMBURSE EMPLOYEES FOR**

3 **NECESSARY BUSINESS EXPENDITURES**

4 **(AGAINST ALL DEFENDANTS)**

5 50. Plaintiffs re-allege and incorporate by reference all previous paragraphs.

6 51. Based on information and belief, Defendants required Plaintiffs and members of
7 the Employee Expense Class to use their personal cellular phones and purchase their own cleaning
8 supplies but failed to provide adequate reimbursement.

9 52. At all relevant times herein, Defendants were subject to Labor Code § 2802, which
10 states that “[a]n employer shall indemnify his or her employee for all necessary expenditures or
11 losses incurred by the employee in direct consequence of the discharge of his or her duties, or of
12 his or her obedience to the directions of the employer.”

13 53. At all relevant times herein, Defendants were subject to Labor Code § 2804, which
14 states that, “[a]ny contract or agreement, express or implied, made by any employee to waive the
15 benefits of this article or any part thereof, is null and void, and this article shall not deprive any
16 employee or his personal representative of any right or remedy to which he is entitled under the
17 laws of this State.”

18 54. As a proximate result of Defendants’ policies and/or practices in violation of Labor
19 Code §§ 2802 and 2804, and Wage Order 5, § 9, Plaintiffs and members of the Employee Expense
20 Class were damaged in sums, which will be shown according to proof.

21 55. Plaintiffs and members of the Employee Expense Class are entitled to attorneys’
22 fees and costs of suit pursuant to Labor Code § 2802(c) for bringing this action.

23 56. Pursuant to Labor Code § 2802(b), any action brought for the reimbursement of
24 necessary expenditures carries interest at the same rate as judgments in civil actions. Thus,
25 Plaintiffs and members of the Employee Expense Class are entitled to interest, which shall accrue
26 from the date on which they incurred the necessary expenditure.

27 ///

28 ///

1 **EIGHTH CAUSE OF ACTION**

2 **UNFAIR COMPETITION**

3 **(AGAINST ALL DEFENDANTS)**

4 57. Plaintiffs re-allege and incorporate by reference all previous paragraphs.

5 58. Defendants have engaged and continue to engage in unfair and/or unlawful
6 business practices in California in violation of Business & Professions Code § 17200 *et seq.*, by:
7 (a) failing to pay Plaintiffs and members of the Minimum Wage Class all minimum wages; (b)
8 failing to pay Plaintiffs and members of the Overtime Class all overtime wages; (c) failing to
9 provide Plaintiffs and members of the Meal Period Class with all meal periods to which they are
10 entitled, and/or failing to pay them meal period premium payments; (d) failing to authorize and
11 permit all required duty-free rest periods to Plaintiffs and members of the Rest Period Class,
12 and/or failing to pay them rest period premiums payments; (e) knowingly failing to furnish
13 Plaintiffs and the Wage Statement Class with all accurate and complete, itemized wage statements
14 in violation of Labor Code § 226; (f) failing to timely pay all wages owed upon separation to
15 Plaintiffs and members of the Waiting Time Class; and/or (g) failing to provide adequate
16 reimbursement for all reasonable and necessary business expenditures,

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

22 60. Because Plaintiffs are victims of Defendants' unfair and/or unlawful conduct
23 alleged herein, Plaintiffs, for themselves and on behalf of the members of the Classes, seek full
24 restitution of monies, as necessary and according to proof, to restore any and all monies withheld,
25 acquired and/or converted by Defendants pursuant to Business and Professions Code §§ 17203
26 and 17208.

27 61. The acts complained of herein occurred within the last four years immediately
28 preceding the filing of the Plaintiffs' Complaint.

62. Plaintiffs were compelled to retain the services of counsel to file this Complaint to protect their interests and those of the Classes, to obtain restitution and injunctive relief on behalf of Defendants' current non-exempt employees, and to enforce important rights affecting the public interest. Plaintiffs have thereby incurred the financial burden of attorneys' fees and costs, which they are entitled to recover under Code of Civil Procedure § 1021.5.

NINTH CAUSE OF ACTION
PRIVATE ATTORNEYS GENERAL ACT
(AGAINST ALL DEFENDANTS)

63. Plaintiffs re-allege and incorporate by reference all previous paragraphs.

64. Defendants have committed several Labor Code violations against Plaintiffs, members of the Classes, and other aggrieved employees. Plaintiffs, "aggrieved employee" within the meaning of Labor Code § 2698 *et seq.*, acting on behalf of themselves and other aggrieved employees, brings this representative action against Defendants to recover the civil penalties due to Plaintiffs, the members of the Classes, 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) \$100.00 for each initial violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per employee per pay period; (4) \$250.00 for each initial violation and \$1,000.00 for each subsequent violation pursuant to Labor Code § 226.3 per employee per pay period; and/or (5) \$100.00 for each initial violation and \$200 for each subsequent violation per employee per pay period for those violations of the Labor Code for which no civil penalty is specifically provided, based on the following Labor Code violations:

- a. Failing to pay minimum wages for all hours worked to Plaintiffs, the Minimum Wage Class, and other aggrieved employees in violation of Labor Code §§ 1182.12, 1194, 1194.2, and 1197;

- b. Failing to pay Plaintiffs, the Overtime Class, and other aggrieved employees all earned overtime compensation in violation of Labor Code §§ 204, 510, 1194, and 1198;
- c. Failing to provide all legally required meal periods, and failure to pay meal period premium wages, to Plaintiffs, the Meal Period Class, and other aggrieved employees at the regular rate of compensation in violation of Labor Code §§ 226.7, 512, 558, and 1198;
- d. Failing to authorize and permit all legally required rest periods, and failure to pay rest period premium wages, to Plaintiffs, the Rest Period Class, and other aggrieved employees at the regular rate of compensation in violation of Labor Code §§ 226.7, 516, 558, and 1198;
- e. Failing to furnish Plaintiffs, the Wage Statement Class, and other aggrieved employees with complete, accurate, itemized wage statements in violation of Labor Code § 226;
- f. Failing to timely pay all final wages and compensation earned by Plaintiffs, the Waiting Time Class, and other aggrieved employees at the time of separation in violation of Labor Code §§ 201, 202, and 203;
- g. Failing to reimburse Plaintiffs, the Reimbursement Class, and other aggrieved employees for all necessary work expenses incurred in violation of Labor Code §§ 2802 and 2804;
- h. Failing to pay Plaintiffs and other aggrieved employees all earned wages at least twice during each calendar month in violation of Labor Code § 204; and
- i. Failing to maintain accurate records on behalf of Plaintiffs and other aggrieved employees in violation of Labor Code § 1174 and 1198.

65. On August 18, 2023, Plaintiffs notified Defendants via certified mail, and notified the California Labor and Workforce Development Agency (“LWDA”) via its website, of Defendants’ violations of the California Labor Code and Plaintiffs’ intent to bring a claim for civil penalties under California Labor Code § 2698 *et seq.* with respect to the violations of the

California Labor Code identified in Paragraph 64 (a)-(i). Now that sixty-five days have passed from Plaintiffs notifying Defendants and the LWDA of these violations, and the LWDA has not provided notice that it intends to investigate the violations, Plaintiffs have exhausted their administrative requirements for bringing a claim under the Private Attorneys General Act with respect to these violations.

66. Based on the foregoing, Plaintiffs seek to represent themselves and all Aggrieved Employees, as defined by Labor Code § 2699(c).

67. Plaintiffs were compelled to retain the services of counsel to file this court action to protect their interests and the interests of other aggrieved employees, and to assess and collect the civil penalties owed by Defendants. Plaintiffs have thereby incurred attorneys' fees and costs, which they are entitled to receive under California Labor Code § 2699(g).

PRAYER

WHEREFORE, Plaintiffs pray for judgment for themselves and for all others on whose behalf this suit is brought against Defendants, as follows:

1. For an order certifying the proposed Classes;
2. For an order appointing Plaintiffs as representatives of the Classes;
3. For an order appointing Counsel for Plaintiffs as Counsel for the Classes;
4. Upon the First Cause of Action, for payment of minimum wages, liquidated damages, and penalties according to proof pursuant to Labor Code §§ 1182.12, 1194, 1194.2, and 1197;
5. Upon the Second Cause of Action, for compensatory, consequential, general and special damages according to proof pursuant to Labor Code §§ 204, 510, 1194, and 1198;
6. Upon the Third Cause of Action, for compensatory, consequential, general and special damages according to proof pursuant to Labor Code §§ 226.7, 512, and 558;
7. Upon the Fourth Cause of Action, for compensatory, consequential, general and special damages according to proof pursuant to Labor Code §§ 226.7, 516, and 558;
8. Upon the Fifth Cause of Action, for statutory penalties pursuant to Labor Code § 226 *et. seq.*;

1 9. Upon the Sixth Cause of Action, for statutory waiting time penalties pursuant to
2 Labor Code §§ 201- 203;

3 10. Upon the Seventh Cause of Action, for compensatory, consequential, general, and
4 special damages according to proof pursuant to Labor Code §§ 2802 and 2804;

5 11. Upon the Eighth Cause of Action, for restitution to Plaintiffs and members of the
6 Classes of all money and/or property unlawfully acquired by Defendants by means of any acts or
7 practices declared by this Court to be in violation of Bus. & Prof. Code § 17200, *et seq.*;

8 12. Upon the Ninth Cause of Action, for civil penalties due to Plaintiffs, other
9 aggrieved employees, and the State of California according to proof pursuant to Labor Code §§
10 558 and 2699(a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for
11 each failure to pay each employee and \$200 for each subsequent violation or willful or intentional
12 violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the
13 amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100 for each subsequent
14 violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial
15 violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per
16 employee per pay period; (4) \$250.00 for each initial violation and \$1,000.00 for each subsequent
17 violation pursuant to Labor Code § 226.3 per employee per pay period; and/or (5) \$100.00 for
18 each initial violation and \$200 for each subsequent violation per employee per pay period for
19 those violations of the Labor Code for which no civil penalty is specifically provided, based on
20 the Labor Code violations identified in Paragraph 64 (a)-(i);

21 13. Prejudgment interest on all due and unpaid wages pursuant to California Labor
22 Code § 218.6 and Civil Code §§ 3287 and 3289;

23 14. On all causes of action, for attorneys' fees and costs as provided by Labor Code
24 §§ 226, 1194, 2699(g), 2802(c), and Code of Civil Procedure § 1021.5; and

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2 15. For such other and further relief, the Court may deem just and proper.

3
4 Dated: October 23, 2023

Respectfully submitted,
HAINES LAW GROUP, APC

5
6 By:



Paul K. Haines
Attorneys for Plaintiffs

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8 **DEMAND FOR JURY TRIAL**

9 Plaintiffs hereby demand a jury trial with respect to all issues triable by jury.

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11 Dated: October 23, 2023

Respectfully submitted,
HAINES LAW GROUP, APC

12
13 By:



Paul K. Haines
Attorneys for Plaintiffs

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PROOF OF SERVICE

Cristina Miranda, et al., v. K & P Janitorial Services
Los Angeles County Superior Court Case No. 23STCV19824

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is [X] 2155 Campus Drive, Suite 180, El Segundo, California 90245.

On October 23, 2023, I served the foregoing document(s) described as:

FIRST AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT

on the interested party(ies) in this action as follows:

Jonathan Fraser Light, Esq.
Kimberly Offenbacher, Esq.
Mary Jo Spaulding
LIGHTGABLER
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Camarillo, CA 93010
Email: jlight@lightgablerlaw.com
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Attorneys for Defendant K & P JANITORIAL SERVICES

[X] (VIA ELECTRONIC MAIL) Pursuant to California Rule of Court 2.251(c)(3), I caused the document described above to be sent to the persons at the electronic service addresses listed above via third party cloud service First Legal.

[X] (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on October 23, 2023, at El Segundo, California.



Aaron Clark