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

CESAR TATE, an individual and on behalf of
all others similarly situated;

Plaintiff,

vs.

ST. DISTRIBUTING CO., LLC, a Delaware
limited liability company; and DOES 1 through
50,

Defendants.

Case No.: 23STCV22743

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

- (1) **MINIMUM WAGE VIOLATIONS
(LABOR CODE §§ 1182.12, 1194,
1194.2, 1197);**
- (2) **OVERTIME WAGE VIOLATIONS
(LABOR CODE §§ 204, 510, 1194,
1198);**
- (3) **MEAL PERIOD VIOLATIONS
(LABOR CODE §§ 226.7, 512, 558);**
- (4) **REST PERIOD VIOLATIONS
(LABOR CODE §§ 226.7, 516, 558);**
- (5) **WAGE STATEMENT PENALTIES
(LABOR CODE § 226);**
- (6) **WAITING TIME PENALTIES
(LABOR CODE §§ 201-203);**
- (7) **FAILURE TO REIMBURSE
NECESSARY BUSINESS EXPENSES
(LABOR CODE § 2802);**
- (8) **UNFAIR COMPETITION (BUS &
PROF CODE §§ 17200, *et seq.*);**
- (9) **FAILURE TO PERMIT
INSPECTION OF EMPLOYMENT**

FILED
Superior Court of California
County of Los Angeles

10/23/2023

David W. Slayton, Executive Officer / Clerk of Court

By: M. Arellanes Deputy

**RECORDS (LABOR CODE §§ 1198.5
& 226(b)); and
(10) CIVIL PENALTIES UNDER THE
CALIFORNIA PRIVATE
ATTORNEYS GENERAL ACT
(LABOR CODE §§ 2698, *et seq.*)**

DEMAND FOR JURY TRIAL

Plaintiff CESAR TATE (“Plaintiff”), on behalf of himself and all others similarly situated, hereby brings this First Amended Class and Representative Action Complaint (“Complaint”) against Defendants ST. DISTRIBUTING CO., LLC, a Delaware limited liability company, and DOES 1 to 50 inclusive (collectively “Defendants”), and on information and belief alleges as follows:

JURISDICTION AND VENUE

1. Plaintiff, on behalf of himself and all others similarly situated, hereby brings this Complaint for recovery of unpaid wages and penalties under California Business and Professions Code § 17200, *et seq.*, Labor Code §§ 201-204, 226, 226.7, 246, 432, 510, 512, 516, 558, 1182.12, 1194, 1194.2, 1197, 1198, 1198.5, 2802, and 2698, *et seq.*, and Industrial Welfare Commission (“IWC”) Wage Order 7-2001 (“Wage Order 7”), in addition to seeking injunctive relief, declaratory relief, and restitution. This Complaint is brought pursuant to California Code of Civil Procedure § 382. This Court has jurisdiction over Defendants’ violations of the Labor Code because the amount in controversy exceeds \$25,000.

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

PARTIES

3. Plaintiff is, and at all times relevant herein was, an individual over the age of eighteen (18) and is a California resident. Within the statute of limitations periods applicable to each cause of action pled herein, Plaintiff was employed by Defendants as a non-exempt employee.

1 Plaintiff was, and is, a victim of Defendants' policies, practices, and/or customs complained of
2 herein and has been deprived of the rights guaranteed by Business and Professions Code § 17200, *et*
3 *seq.*, Labor Code §§ 201-204, 226, 226.7, 246, 432, 510, 512, 516, 558, 1182.12, 1194, 1194.2,
4 1197, 1198, 1198.5, 2802, and 2698, *et seq.*, and Wage Order 7.

5 4. Plaintiff is informed and believes, and based thereon alleges, that during the
6 applicable statute of limitations for each cause of action pled herein and continuing to the present,
7 Defendants engage in and continue to engage in craft beer distribution company, and employed
8 Plaintiff and other, similarly-situated non-exempt employees within Los Angeles County, and the
9 State of California and, therefore, were (and are) doing business in Los Angeles County and the
10 State of California.

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

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

25 7. Plaintiff is informed and believes, and based thereon alleges, that at all times
26 material hereto, each of the Defendants named herein was the agent, employee, alter ego and/or
27 joint venturer of, or working in concert with each of the other co-Defendants and was acting within
28 the course and scope of such agency, employment, joint venture, or concerted activity. To the extent

1 said acts, conduct, and omissions were perpetrated by certain Defendants, each of the remaining
2 Defendants confirmed and ratified said acts, conduct, and omissions of the acting Defendants.

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

6 9. At all times herein mentioned, the acts and omissions of various Defendants, and
7 each of them, concurred and contributed to the various acts and omissions of each and all of the
8 other Defendants in proximately causing the injuries and damages as herein alleged.

9 **FACTUAL ALLEGATIONS**

10 10. Defendants own and operate a craft beer distributing business in the State of
11 California. Plaintiff began working for Defendants as a non-exempt warehouse worker at its
12 warehouse in Downey, California from approximately November 2022 to approximately August
13 2023.

14 11. From November 2022 to June 2023, Defendants employed Plaintiff via a staffing
15 agency. Despite being assigned to work for Defendants from a staffing agency, Defendants and
16 their employees and/or agents supervised and exercised control over the wages, hours, and/or
17 working conditions of Plaintiff and other employees from staffing agencies, including the unlawful
18 policies and practices described below. From June 2023 to August 2023, Defendants employed
19 Plaintiff as a direct-hire employee and the same unlawful policies and practices described below
20 continued.

21 12. Throughout Plaintiff's employment with Defendants, Defendants' timekeeping
22 and/or payroll policies and practices resulted in Plaintiff and other non-exempt employees not being
23 compensated for all hours actually worked. Plaintiff and other non-exempt employees regularly
24 worked more than eight hours in a workday or 40 hours in a workweek. Upon information and
25 belief, Defendants required Plaintiff and other non-exempt employees to perform work before their
26 scheduled shifts, after their scheduled shifts, and/or during off-the-clock meal breaks, and failed to
27 compensate employees for this time. Upon information and belief, Defendants also failed to
28 incorporate multiple rates of pay and/or all non-discretionary remuneration into the regular rate of

1 pay. As a result, Plaintiff and other non-exempt employees were not compensated for all earned
2 minimum and overtime wages.

3 13. Defendants failed to provide Plaintiff and other non-exempt employees with all
4 legally compliant meal periods due to Defendants' meal period policies/practices, which have
5 frequently resulted in late (commencing after the fifth hour of work), short (less than 30 minutes),
6 and/or missed meal periods. Upon information and belief, Plaintiff and other non-exempt
7 employees were not able to take their legally compliant meal breaks due to work demands imposed
8 by Defendants and Defendants instructed Plaintiff and other non-exempt employees to clock out for
9 their meal breaks and work off the clock. Upon information and belief, Defendants do not keep
10 accurate records of Plaintiff's and other non-exempt employees' hours worked, including accurate
11 time records showing when employees take their meal periods. On those occasions when Plaintiff
12 and other non-exempt employees were not provided with all legally compliant meal periods to
13 which they were entitled, Defendants failed to compensate Plaintiff and other non-exempt
14 employees with the required meal period premium(s) for each workday there was a meal period
15 violation as mandated by Labor Code § 226.7. Upon information and belief, Defendants maintained
16 no mechanism for the payment of meal period premium payments as required by Labor Code §
17 226.7 in the event that a legally compliant meal period was not provided to their non-exempt
18 employees.

19 13. Plaintiff and other non-exempt employees were not authorized and permitted to take
20 all required rest periods due to Defendants' unlawful rest period policies/practices, which failed to
21 authorize and permit a net 10-minute rest period for every four hours worked, or major fraction
22 thereof. Plaintiff and other non-exempt employees were not able to take their legally compliant rest
23 breaks due to work demands imposed by Defendants. Additionally, although Plaintiff and other
24 non-exempt employees occasionally worked shifts in excess of 10 hours, Plaintiff and other non-
25 exempt employees were not authorized and permitted a third rest period during shifts in excess of
26 10 hours. On those occasions when Plaintiff and other non-exempt employees were not authorized
27 and permitted to take all legally compliant rest periods to which they were entitled, Defendants
28 failed to compensate them with the required rest period premium(s) for each workday there was a

1 rest period violation as mandated by Labor Code § 226.7. Upon information and belief, Defendants
2 maintained no mechanism for the payment of rest period premium payments as required by Labor
3 Code § 226.7, in the event that a legally compliant rest period was not authorized and permitted to
4 their non-exempt employees.

5 14. Upon information and belief, Defendants violated Labor Code § 246 by failing to
6 incorporate multiple rates of pay and/or all non-discretionary remuneration into the paid sick leave
7 pay rate.

8 15. As a result of Defendants' failure to pay all minimum and overtime wages, failure to
9 pay all meal and rest period premium wages, and unlawful timekeeping and payroll practices as
10 alleged above, Defendants maintained inaccurate payroll records and issued inaccurate wage
11 statements to Plaintiff and other non-exempt employees. As a further result of Defendants' failure to
12 pay all minimum and overtime wages, sick leave wages, and meal and rest period premium wages,
13 Defendants failed to timely pay all final wages to Plaintiff and other former non-exempt employees
14 upon their separation of employment from Defendants.

15 16. Additionally, Defendants required Plaintiff and other non-exempt employees to use
16 their personal cellphones for work, such as using a cellphone application to clock in and out of their
17 shifts. Despite requiring employees to incur these necessary business expenses, Defendants failed to
18 reimburse Plaintiff and other non-exempt employees for the cost of their personal cellphones.

19 17. California Labor Code section 1198 provides: "The employment of any employee ...
20 under conditions of labor prohibited by the [Industrial Wage Orders] is unlawful." The applicable
21 Industrial Wage Orders, including inter alia, Wage Order 7-2001, provide that: "(A) The
22 temperature maintained in each work area shall provide reasonable comfort consistent with
23 industry-wide standards for the nature of the process and the work performed. (B) If excessive heat
24 or humidity is created by the work process, the employer shall take all feasible means to reduce
25 such excessive heat or humidity to a degree providing reasonable comfort. Where the nature of the
26 employment requires a temperature of less than 60° F, a heated room shall be provided to which
27 employees may retire for warmth, and such room shall be maintained at not less than 68° F. (C) A
28 temperature of not less than 68° F shall be maintained in the toilet rooms, resting rooms, and change

1 rooms during hours of use. (D) Federal and State energy guidelines shall prevail over any
2 conflicting provision of this section.” California law requires an employer to endeavor to provide a
3 safe and healthy workplace. (Cal. Code Regs., tit. 8, §3203.) Labor Code section 6720 required the
4 California Division of Occupational Safety and Health (“Cal/OSHA”) to propose an indoor heat
5 illness standard by January 1,2019. (Lab. Code, § 6720.) Cal/OSHA’s draft standard applies its
6 proposed regulations to “all indoor work areas where the temperature equals or exceeds 82 degrees
7 Fahrenheit when employees are present.” During the relevant time period, Defendants own, operate,
8 or otherwise manage two distribution centers in California. Upon information and belief, at the
9 distribution centers, Defendants failed to provide Plaintiff and other non-exempt employees with
10 reasonable comfort by maintaining indoor temperature within the range of industry standards by,
11 inter alia, providing adequate heating, air conditioning, and/or ventilation; failed to provide a heated
12 room of not less than 68° F to aggrieved employees to retire for warmth; and failed to maintain
13 toilet rooms, resting rooms, and changing rooms at a temperature of not less than 68° F during hours
14 of use.

15 18. On August 17, 2023, Plaintiff submitted a request for inspection or copy of his
16 personnel file, payroll and time records, and all documents he signed relating to the obtaining or
17 holding of employment under Labor Code §§ 226(b), 432, and 1198.5 to Defendants via certified
18 mail. As of the date of this Complaint, Defendants have failed to permit Plaintiff to inspect or copy
19 his employment records.

20 **CLASS ACTION ALLEGATIONS**

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

- 23 a. Minimum Wage Class: All current and former non-exempt employees of
24 Defendants, whether directly hired or employed through a staffing agency, in the
25 State of California who were subject to Defendants’ timekeeping policies and/or
26 practices, during the four years immediately preceding the filing of this action
27 through the present.

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- 1 b. Overtime Class: All current and former non-exempt employees of Defendants,
2 whether directly hired or employed through a staffing agency, in the State of
3 California who worked more than eight hours per day and/or 40 hours per week and
4 were subject to Defendants' timekeeping policies and/or practices, during the four
5 years immediately preceding the filing of this action through the present.
- 6 c. Meal Period Class: All current and former non-exempt employees of Defendants,
7 whether directly hired or employed through a staffing agency, in the State of
8 California who: (i) worked at least one shift in excess of 5.0 hours; and/or (ii)
9 worked at least one shift in excess of 10.0 hours, during the four years immediately
10 preceding the filing of this action through the present.
- 11 d. Rest Period Class: All current and former non-exempt employees of Defendants,
12 whether directly hired or employed through a staffing agency, in the State of
13 California who worked at least one shift of 3.5 or more hours, during the four years
14 immediately preceding the filing of this action through the present.
- 15 e. Wage Statement Class: All current and former non-exempt employees of
16 Defendants, whether directly hired or employed through a staffing agency, in the
17 State of California who received a wage statement, during the one year immediately
18 preceding the filing of this action through the present.
- 19 f. Waiting Time Penalty Class: All of Defendants' formerly employed members of the
20 Minimum Wage Class, Overtime Class, Rest Period Class, and/or Meal Period Class
21 during the three years immediately preceding the filing of this action through the
22 present.
- 23 g. Expense Reimbursement Class: All current and former non-exempt employees of
24 Defendants, whether directly hired or employed through a staffing agency, in the
25 State of California who were not reimbursed for all necessary business expenses,
26 during the four years immediately preceding the filing of this action through the
27 present.

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

6 21. **Common Questions of Law and Fact Predominate/Well-Defined Community of**
7 **Interest:** There are predominant common questions of law and fact as to Plaintiff and members of
8 the Classes, which predominate over questions affecting only individual members including,
9 without limitation to:

- 10 a. Whether Defendants properly paid all overtime wages to members of the Overtime
11 Class;
- 12 b. Whether Defendants paid at least the minimum wage for all hours worked to
13 members of the Minimum Wage Class;
- 14 c. Whether Defendants provided all legally compliant meal periods or paid meal period
15 premium wages due to members of the Meal Period Class pursuant to Labor Code §§
16 226.7 and 512;
- 17 d. Whether Defendants authorized and permitted all legally compliant rest periods or
18 paid all rest period premium wages due to members of the Rest Period Class
19 pursuant to Labor Code §§ 226.7 and 516;
- 20 e. Whether Defendants furnished legally compliant wage statements to members of the
21 Wage Statement Class pursuant to Labor Code § 226;
- 22 f. Whether Defendants reimbursed members of the Expense Reimbursement Class for
23 all necessary business expenses pursuant to Labor Code § 2802; and
- 24 g. Whether Defendants timely paid all final wages to members of the Waiting Time
25 Class at the time of their separation of employment pursuant to Labor Code §§ 201
26 and 202.

27 These common questions of law and fact set forth above are numerous and substantial and
28 stem from Defendants' policies and/or practices applicable to each individual class member. As

1 such, the common questions predominate over individual questions concerning each individual
2 class member's showing as to their eligibility for recovery or as to the amount of their damages.

3 22. **Typicality:** The claims of Plaintiff are typical of the claims of the Classes because
4 Plaintiff was employed by Defendants as a non-exempt employee in California during the statute(s)
5 of limitations period applicable to each cause of action pled in the Complaint. As alleged herein,
6 Plaintiff, like the members of the Classes, was not paid all minimum and overtime wages owed due
7 to Defendants' timekeeping policies/practices, was not provided all required meal periods, was not
8 authorized and permitted all rest periods, did not receive premium pay for non-compliant meal and
9 rest periods, was not paid all final wages upon separation of employment, was not provided with
10 accurate, compliant, itemized wage statements, and was not reimbursed for all necessary business
11 expenses.

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

18 24. **Superiority:** The Labor Code is broadly remedial in nature and serves an important
19 public interest in establishing minimum working conditions and standards in California. These laws
20 and labor standards protect the average working employee from exploitation by employers who
21 have the responsibility to follow the laws and who may seek to take advantage of superior economic
22 and bargaining power in setting onerous terms and conditions of employment. The nature of this
23 action and the format of laws available to Plaintiff and members of the Classes make the class
24 action format a particularly efficient and appropriate procedure to redress the violations alleged
25 herein. If each employee were required to file an individual lawsuit, Defendants would necessarily
26 gain an unconscionable advantage since they would be able to exploit and overwhelm the limited
27 resources of each individual plaintiff with their vastly superior financial and legal resources.

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

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

15 **FIRST CAUSE OF ACTION**

16 **MINIMUM WAGE VIOLATIONS**

17 **(Against All Defendants)**

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

20 28. Labor Code §§ 1182.12, 1197, and Wage Order 7, § 4 establish the right of
21 employees to be paid minimum wages for all hours worked, in amounts set by state or local law.
22 Labor Code §§ 1194(a) and 1194.2(a) provide that an employee who has not been paid the legal
23 minimum wage as required by Labor Code § 1197 may recover the unpaid balance together with
24 attorneys' fees and costs of suit, as well as liquidated damages in an amount equal to the unpaid
25 wages and interest accrued thereon. At all relevant times herein, Defendants failed to conform its
26 pay practices to the requirements of the law by failing to pay Plaintiff and members of the
27 Minimum Wage Class for all hours worked, including, but not limited to, all hours they were
28 subject to the control of Defendants and/or suffered or permitted to work under the Labor Code and

1 Wage Order 7.

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

7 30. As a consequence of Defendants' non-payment of minimum wages, Plaintiff and
8 members of the Minimum Wage Class seek recovery of the balance of unpaid wages, including
9 interest thereon, statutory penalties, attorneys' fees, and costs of suit according to Labor Code §§
10 218.6, 558, 1194, 1194.2, and 1199, Code of Civil Procedure § 1021.5; and Civil Code §§ 3287 and
11 3289.

12 **SECOND CAUSE OF ACTION**
13 **OVERTIME WAGE VIOLATIONS**
14 **(Against All Defendants)**

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

17 32. This cause of action is brought pursuant to Labor Code §§ 204, 510, 1194, 1198, and
18 Wage Order 7, § 3, which provide that non-exempt employees are entitled to all overtime wages
19 and compensation for all overtime hours worked and provide a private right of action for the failure
20 to pay all overtime compensation for overtime work performed.

21 33. At all times relevant herein, Defendants were required to properly compensate non-
22 exempt employees, including Plaintiff and members of the Overtime Class, for all overtime hours
23 worked pursuant to Labor Code § 1194 and Wage Order 7. Wage Order 7, § 3 requires an employer
24 to pay an employee one and one-half (1½) times and two times the employee's regular rate of pay
25 for overtime and double time hours work. Defendants caused Plaintiff and members of the Overtime
26 Class to work overtime hours but failed to compensate these employees with all overtime hours
27 actually worked.

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1 34. As a consequence of Defendants' non-payment of overtime wages, Plaintiff and
2 members of the Overtime Class seek recovery of the balance of unpaid overtime wages, including
3 interest thereon, statutory penalties, attorneys' fees, and costs of suit according to Labor Code §§
4 204, 210, 216, 218.6, 510, 1194, and 1198; Code of Civil Procedure § 1021.5; and Civil Code §§
5 3287 and 3289.

6 **THIRD CAUSE OF ACTION**

7 **MEAL PERIOD VIOLATIONS**

8 **(Against All Defendants)**

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

11 36. Plaintiff is informed and believes, and based thereon alleges, that Defendants failed
12 in their affirmative obligation to provide all of their non-exempt employees in California, including
13 Plaintiff and members of the Meal Period Class, with all legally compliant meal periods in
14 accordance with the mandates of the Labor Code and Wage Order 7, § 11.

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

18 38. As a consequence of Defendants' unlawful meal period practices, Plaintiff and
19 members of the Meal Period Class seek recovery of unpaid premium wages for meal period
20 violations including interest thereon, statutory penalties, and costs of suit, pursuant to Labor Code
21 §§ 226.7, 512, 558, Wage Order 7, and Civil Code §§ 3287 and 3289.

22 **FOURTH CAUSE OF ACTION**

23 **REST PERIOD VIOLATIONS**

24 **(Against All Defendants)**

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

27 40. Labor Code §§ 226.7, 516, 558, and Wage Order 7, § 12 and establish the right of
28 employees to be provided with a rest period of at least 10 minutes for each four-hour period

1 worked, or major fraction thereof. Plaintiff is informed and believes, and based thereon alleges, that
2 despite Defendants' failure to authorize and permit Plaintiff and members of the Rest Period Class
3 to take all legally compliant rest periods as alleged herein, Defendants did not pay these individuals
4 an additional hour of pay at their respective regular rate for the rest periods that they failed to
5 authorize and permit them to take, as required by Labor Code § 226.7.

6 41. As a consequence of Defendants' unlawful rest period practices, Plaintiff and
7 members of the Rest Period Class seek recovery of unpaid premium wages for rest period violations
8 including interest thereon, statutory penalties, and costs of suit, statutory penalties, attorneys' fees,
9 and costs of suit according to Labor Code §§ 226.7, 516, 558, Wage Order 7, and Civil Code §§
10 3287 and 3289.

11 **FIFTH CAUSE OF ACTION**
12 **WAGE STATEMENT PENALTIES**
13 **(Against All Defendants)**

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

16 43. Plaintiff is informed and believes, and based thereon alleges, that Defendants
17 knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Plaintiff
18 and members of the Wage Statement Class with accurate and complete, itemized wage statements
19 that included, among other requirements, all hours worked, total gross wages earned, all rates of pay
20 and corresponding number of hours worked, total net wages earned, and/or the correct name and
21 address of the legal entity that is the employer in violation of Labor Code § 226.

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

27 45. As a consequence of Defendants' unlawful wage statement practices, Plaintiff and
28 members of the Wage Statement Class seek damages and/or statutory penalties, reasonable

1 attorneys' fees, and costs of suit according to California Labor Code § 226.

2 **SIXTH CAUSE OF ACTION**

3 **WAITING TIME PENALTIES**

4 **(Against All Defendants)**

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

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

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

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

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

25 51. As a consequence of Defendants' unlawful practices, Plaintiff and members of the
26 Waiting Time Class seek statutory penalties, and costs of suit according to California Labor Code §
27 203.

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1 **SEVENTH CAUSE OF ACTION**

2 **FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENSES**

3 **(Against All Defendants)**

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

6 53. At all relevant times herein, Defendants were subject to Labor Code § 2802, which
7 states that “an employer shall indemnify his or her employees for all necessary expenditures or
8 losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his
9 or obedience to the directions of the employer.”

10 54. Defendants violated Labor Code § 2802 by failing to reimburse Plaintiff and
11 members of the Expense Reimbursement Class all necessary business expenses they incurred in the
12 performance of their job duties.

13 55. As a consequence of Defendants’ unlawful practices, Plaintiff and members of the
14 class seek recovery of unreimbursed business expenses, including interest thereon, reasonable
15 attorneys’ fees, and costs of suit pursuant to Labor Code § 2802.

16 **EIGHTH CAUSE OF ACTION**

17 **UNFAIR COMPETITION**

18 **(Against All Defendants)**

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

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

- 23 a. failing to pay Plaintiff and members of the Minimum Wage Class all minimum
24 wages due;
- 25 b. failing to pay Plaintiff and members of the Overtime Class all overtime wages due;
- 26 c. failing to provide Plaintiff and members of the Meal Period Class with all meal
27 periods to which they are entitled, and failing to pay them all meal period premium
28 wages due;

- 1 d. failing to authorize and permit Plaintiff and members of the Rest Period Class all rest
2 periods to which they are entitled, and failing to pay them all rest period premium
3 wages due;
- 4 e. failing to issue accurate and itemized wage statements to Plaintiff and members of
5 the Wage Statement Class;
- 6 f. failing to timely pay all final wages to Plaintiff and members of the Waiting Time
7 Penalty Class; and
- 8 g. failing to reimburse all necessary business expenses to Plaintiff and members of the
9 Expense Reimbursement Class.

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

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

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

21 **NINTH CAUSE OF ACTION**

22 **FAILURE TO PERMIT INSPECTION OF PERSONNEL AND PAYROLL RECORDS**
23 **(Against All Defendants)**

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

26 62. Labor Code § 226 requires an employer to "afford current and former employees the
27 right to inspect or copy records pertaining to their employment" within 21 calendars from the date
28 of the request; provides that "a failure by an employer to permit a current or former employee to

1 inspect or copy records within the time set forth . . . entitles the current or former employee . . . to
2 recover a seven-hundred-fifty-dollar (\$750) penalty from the employer”; and authorizes recovery of
3 attorneys’ fees and costs.

4 63. Labor Code § 1198.5 requires an employer to “make the contents of . . . personnel
5 records available for inspection to the current or former employee, or his or her representative, at
6 reasonable intervals and at reasonable times, but not later than 30 calendar days from the date the
7 employer receives a written request . . .”; provides that the failure to comply with this statute
8 entitles the employee to recover a penalty of \$750; and authorizes recovery of attorneys’ fees and
9 costs.

10 64. Defendants failed to permit Plaintiff to inspect or copy records pertaining to his
11 employment in violation of Labor Code §§ 226 and 1198.5. As a consequence of Defendants’
12 unlawful practices, Plaintiff and seek statutory penalties, attorneys’ fees, and costs of suit according
13 to Labor Code §§ 226 and 1198.5.

14 **TENTH CAUSE OF ACTION**

15 **PRIVATE ATTORNEYS GENERAL ACT**

16 **(Against All Defendants)**

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

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

1 employee per pay period; (4) \$250 for each initial violation and \$1,000 for each subsequent
2 violation pursuant to Labor Code § 226.3 per employee per pay period; (5) pursuant to Labor Code
3 section 256, a civil penalty in an amount not exceeding 30 days per former employee as waiting
4 time under the terms of Labor Code § 203; and/or (6) \$100 for each initial violation and \$200 for
5 each subsequent violation per employee per pay period for those violations of the Labor Code for
6 which no civil penalty is specifically provided, based on the following Labor Code violations:

- 7 a. Failing to pay minimum wages for all hours worked to Aggrieved Employees in
8 violation of Labor Code § 558, 1182.12, 1194, 1194.2, 1197, and 1198;
- 9 b. Failing to pay Aggrieved Employees all earned overtime compensation in violation
10 of Labor Code §§ 204, 510, 558, 1194, and 1198;
- 11 c. Failing to provide all legally required meal periods, and failure to pay meal period
12 premium wages, to Aggrieved Employees at the regular rate of compensation in
13 violation of Labor Code §§ 226.7, 512, 558, and 1198;
- 14 d. Failing to authorize and permit all legally required rest periods, and failure to pay
15 rest period premium wages, to Aggrieved Employees at the regular rate of
16 compensation in violation of Labor Code §§ 226.7, 516, 558, and 1198;
- 17 e. Failing to furnish Aggrieved Employees with complete, accurate, itemized wage
18 statements in violation of Labor Code § 226;
- 19 f. Failing to timely pay all final wages and compensation earned by Aggrieved
20 Employees at the time of separation in violation of Labor Code §§ 201-202;
- 21 g. Failure to reimburse Aggrieved Employees for all necessary business expenses in
22 violation of Labor Code § 2802;
- 23 h. Failing to pay Aggrieved Employees all earned wages at least twice during each
24 calendar month in violation of Labor Code § 204;
- 25 i. Failing to maintain accurate records on behalf of Aggrieved Employees in violation
26 of Labor Code §§ 1174 and 1198; and
- 27 j. Failing to permit inspection of employment records by Aggrieved Employees in
28 violation of Labor Code §§ 226, 432, and 1198.5.

67. On or about August 17, 2023, Plaintiff notified Defendants via certified mail, and notified the California Labor and Workforce Development Agency (“LWDA”) via its website, of Defendants’ violations of the Labor Code and Plaintiff’s intent to bring a claim for civil penalties under Labor Code § 2698, *et seq.* with respect to the violations of the Labor Code identified in the preceding paragraph. Now that sixty-five (65) days have passed from Plaintiff notifying Defendants and the LWDA of these violations, and the LWDA has not provided notice that it intends to investigate the violations, Plaintiff has exhausted administrative requirements for bringing a claim under the Private Attorneys General Act with respect to these violations.

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

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment for himself 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 Plaintiff as representative of the Classes;
3. For an order appointing Counsel for Plaintiff 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 payment of overtime wages and penalties according to proof pursuant to Labor Code §§ 204, 510, 558, 1194, and 1198;
6. Upon the Third Cause of Action, for meal period premium wages according to proof pursuant to Labor Code §§ 226.7, 512, and 558;
7. Upon the Fourth Cause of Action, for rest period premium wages 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;

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

3 10. Upon the Seventh Cause of Action, for unreimbursed business expenses according to
4 proof pursuant to Labor Code § 2802;

5 11. Upon the Eighth Cause of Action, for restitution to Plaintiff 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 Business and Professions Code §§ 17200, *et*
8 *seq.*;

9 12. Upon the Ninth Cause of Action, for statutory penalties pursuant to Labor Code §§
10 226 and 1198.5;

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

25 14. Prejudgment interest on all due and unpaid wages pursuant to Labor Code § 218.6
26 and Civil Code §§ 3287 and 3289;

27 15. On all causes of action, for attorneys' fees and costs as provided by Labor Code §§
28 218.5, 226, 1194, and 2699(g), and Code of Civil Procedure § 1021.5; and

1 16. For such other and further relief, the Court may deem just and proper.

2 **DEMAND FOR JURY TRIAL**

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

4
5 DATED: October 23, 2023

JUSTICE FOR WORKERS, P.C.

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7 
8 By: _____
9 Young K. Park
 William C. Sung
 Attorneys for Plaintiff CESAR TATE

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