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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

EDDIE MARTINEZ, an individual,
individually and on behalf of all others similarly
situated,

Plaintiff,

v.

HEAVY INDUSTRY, INC.; CHARLES
CAREY, an individual; ROBERT
BLATCHFORD, an individual; DOE 1 through
and including DOE 10,

Defendants.

Case No: **23STCV26825**

COMPLAINT

1. Cal. Lab. Code §§ 201.5 and 203, Continuing Wages
2. Cal. Lab. Code § 226(a), Failure to Provide Compliant Pay Stubs
3. Cal. Lab. Code §§ 510, 515 and 1198, Failure to Pay Overtime
4. Cal Lab. Code §§ 1194, 1197 and 1197.1, Failure to Pay Minimum Wages
5. Cal. Lab. Code § 226.7 and 512(a), Failure to Provide Meal Breaks
6. Cal. Lab. Code § 226.7, Failure to Provide Rest Breaks
7. Cal. Bus. & Prof. Code § 17200, Unfair Competition
8. Cal. Lab. Code § 226(b), Failure to Provide Employment Records
9. Cal. Lab. Code § 1198.5, Failure to Provide Employment Records
10. Cal. Labor Code § 2698 et seq. PAGA

JURY TRIAL DEMANDED

1 Plaintiff Eddie Martinez by and through his undersigned attorneys, alleges as follows:

2 **JURISDICTION AND VENUE**

3 1. This is a representative action brought under the California Labor Code Private Attorneys
4 General Act ("PAGA"), seeking relief under state law on account of unpaid wages, unpaid overtime,
5 damages, continuing wages, liquidated damages, penalties, restitution and attorneys' fees and costs.

6 2. Venue as to Defendants is proper in this judicial district, pursuant to California Business
7 & Professions Code section 17203 and California Code of Civil Procedure sections 395(a) and 395.5.
8 Defendants maintain an office, transact business, have an agent, or are found in the County of Los
9 Angeles and are within the jurisdiction of this Court for purposes of service of process.

10 **INTRODUCTION**

11 3. Plaintiff Eddie Martinez ("Martinez") is an individual, who, during the time periods
12 relevant to this Complaint, was and is a resident of the County of Los Angeles, State of California.

13 4. Defendant HEAVY INDUSTRY, INC. ("Heavy") at all times relevant herein, conducted
14 business within the County of Los Angeles of the State of California.

15 5. Defendant CHARLES CAREY ("Carey") at all times relevant herein, was a joint
16 employers or other person acting on behalf of an employer who violated, or caused to be violated the
17 relevant sections of the Code referenced herein.

18 6. Defendant ROBERT BLATCHFORD ("Blatchford") at all times relevant herein, was a
19 joint employers or other person acting on behalf of an employer who violated, or caused to be violated
20 the relevant sections of the Code referenced herein.

21 7. Defendants Doe One through and including Doe Ten are sued herein under the provisions
22 of section 474 of the California Code of Civil Procedure. Plaintiff is currently ignorant of the true
23 names and capacities, whether individual, corporate, associate, or otherwise, of the defendants sued
24 herein under fictitious names and therefore sue such defendants by such fictitious names. Plaintiff will
25 seek leave to amend this complaint to allege the true names and capacities of said fictitiously named
26 defendants when their true names and capacities have been ascertained. Plaintiff is informed and
27 believes and thereon alleges that each of the fictitiously named defendants is legally responsible in some
28 Martinez for the events and occurrences alleged herein, and for the damages suffered by the Class.

8. Plaintiff is informed and believes and thereon alleges that all defendants, including the fictitious Doe defendants, were at all relevant times acting as actual agents, conspirators, ostensible agents, alter egos, partners and/or joint venturers and/or employees of all other defendants, and that all acts alleged herein occurred within the course and scope of said agency, employment, partnership, and joint venture, conspiracy or enterprise, and with the express and/or implied permission, knowledge, consent authorization and ratification of their co-defendants; however, each of these allegations are deemed “alternative” theories whenever not doing so would result in a contradiction with other allegations.

9. Emergency Rule 9 as promulgated by the Judicial Council of California on insert date, provides: “Notwithstanding any other law, the statutes of limitations and repose for civil causes of action that exceed 180 days are tolled from April 6, 2020, until October 1, 2020.” The Advisory Committee Comment notes that: “Emergency rule 9 is intended to apply broadly to toll any statute of limitations on the filing of a pleading in court asserting a civil cause of action. The term “civil causes of action” includes special proceedings. (See Code Civ. Proc., §§ 312, 363 [“action,” as used in title 2 of the code (Of the Time of Commencing Civil Actions), is construed “as including a special proceeding of a civil nature”). . . . The rule also applies to statutes of limitations on filing of causes of action in court found in codes other than the Code of Civil Procedure.”

GENERAL ALLEGATIONS

10. Defendants employed Plaintiff and Aggrieved Employees as crew members for the creation of a commercial called “FOXBET POKERSTARS SHARED LIQUIDITY 2022” (the “Production”).

11. Defendants are “temporary services employers” as defined by Code § 201.3 and required to pay workers no less frequently than weekly. As a “temporary services employer,” ABCSL is an employing unit which contracts with clients to supply workers to perform services to its clients. ABCSL performs all of the following functions and did so in the present Production: (A) Negotiates with clients and customers for matters such as the time and place where the services are to be provided, the type of work, the working conditions, and the quality and price of the services; (B) Determines assignments or reassignments of workers, even if workers retain the right to refuse specific assignments; (C) Retains the

1 authority to assign or reassign a worker to another client or customer when the worker is determined
2 unacceptable by a specific client or customer; (D) Assigns or reassigns workers to perform services for
3 clients or customers; (E) Sets the rate of pay of workers, whether or not through negotiation; (F) Pays
4 workers from its own account or accounts; and (G) Retains the right to hire and terminate workers.

5 12. Plaintiff Martinez was hired to work on or about November 2, 2022, as a crew member
6 on the Production. Once the employment ended, Defendants were required to pay him by Friday of the
7 next week. However, a check for Plaintiff's work was not prepared until on or about November 28,
8 2022, and not posted until some unknown date.

9 13. Although Plaintiff should have been paid in full for the accrued minimum wages and
10 overtime, issued legally compliant wage statements, and reimbursed for all expenses no later than as
11 required by Code §§ 201.3 and/or 201.5, they have yet to be paid properly.

12 14. Defendants failed to fully compensate Plaintiff and other nonexempt workers who
13 performed services on the Production or other such projects produced in California for Defendants
14 ("Aggrieved Employees") for work performed. Plaintiff and the Aggrieved Employees worked on the
15 Production as well as on other California motion picture projects, toiling in excess of eight hours in a
16 single day and/or over forty hours in a work week, yet not being paid timely or with appropriate wage
17 statements, all due to Defendant's insufficient funding of the payroll accounting function.

18 15. At all relevant times mentioned herein, Wage Order 12 of the California Industrial
19 Welfare Commission applied to Plaintiff and Aggrieved Employees. In part, the Wage Order reflects
20 employer obligations regarding hours and days of work, reporting time pay and records (obligations
21 which the employer, here, failed to fulfill, both with respect to Plaintiff and Aggrieved Employees). The
22 Wage Order provides, in relevant part:

23 **3. Hours and Days of Work.**

24 **(A) Daily Overtime - General Provisions**

25 (1) The following overtime provisions are applicable to employees 18 years of age or
26 over and to employees 16 or 17 years of age who are not required by law to attend school
27 and are not otherwise prohibited by law from engaging in the subject work. Such
28 employees shall not be employed more than eight (8) hours in any workday or more than
40 hours in any workweek unless the employee receives one and one-half (1.5) times
such employee's regular rate of pay for all hours worked over 40 hours in the workweek.
Eight (8) hours of labor constitutes a day's work. Employment beyond eight (8) hours in

any workday or more than six (6) days in any workweek is permissible provided the employee is compensated for such overtime as follows:

(a) Employees may be employed up to a maximum of sixteen (16) hours including meal periods in any one day from the time they are required and do report until dismissed, provided the employee is compensated for such overtime at not less than:

(1) For daily employees and weekly employees, excluding weekly employees guaranteed more than forty (40) hours a workweek and "on call" employees, one and one-half (1.5) times the employee's regular rate of pay for all hours worked in excess of eight (8) hours up to and including twelve (12) hours in any one workday, and for the first eight (8) hours worked on the seventh (7th) consecutive day of work in a workweek; and

(2) Double the employee's regular rate of pay for all hours worked in excess of twelve (12) hours in any workday, , and for all hours worked in excess of eight (8) hours on the seventh (7th) consecutive day of work in a workweek.

(3) Overtime payments shall not be compounded and all payments made by the employer for daily overtime on the basis herein above specified shall be applied toward any sum for weekly overtime.

(4) The overtime rate of compensation required to be paid to a nonexempt full-time salaried employee shall be computed by using the employee's regular hourly salary as one fortieth (1/40) of the employee's weekly salary. The overtime rate of compensation required to be paid to a nonexempt full-time salaried employee shall be computed by using the employee's regular hourly salary as one-fortieth (1/40) of the employee's weekly salary.

...

7. Records.

(A) Every employer shall keep accurate information with respect to each employee including the following:

(1) Full name, home address, occupation and social security number.

(2) Birth date, if under 18 years, and designation as a minor.

(3) Time records showing when the employee begins and ends each work period. Meal periods, split shift intervals and total daily hours worked shall also be recorded. Meal periods during which operations cease and authorized rest periods need not be recorded.

(4) Total wages paid each payroll period, including value of board, lodging, or other compensation actually furnished to the employee.

(5) Total hours worked in the payroll period and applicable rates of pay. This information shall be made readily available to the employee upon reasonable request.

(6) When a piece rate or incentive plan is in operation, piece rates or an explanation of the incentive plan formula shall be provided to employees. An accurate production record shall be maintained by the employer.

(B) Every employer shall semimonthly or at the time of each payment of wages furnish each employee, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately, an itemized statement in writing showing: (1) all deductions; (2) the inclusive dates of the period for which the employee is paid; (3) the name of the employee or the employee's social security number; and (4) the name of the employer, provided all deductions made on written orders of the employee may be aggregated and shown as one item.

(C) All required records shall be in the English language and in ink or other indelible form, properly dated, showing month, day and year, and shall be kept on file by the employer for at least three years at the place of employment or at a central location within

the State of California. An employee's records shall be available for inspection by the employee upon reasonable request.

...

11. Meal Periods.

(A) No employer shall employ any person for a work period of more than six (6) hours without a meal period of not less than thirty (30) minutes, nor more than one (1) hour. Subsequent meal period for all employees shall be called not later than six (6) hours after the termination of the preceding meal period.

(B) Unless the employee is relieved of all duty during a thirty (30) minute meal period, the meal period shall be considered an "on duty" meal period and counted as time worked. An "on duty" meal period shall be permitted only when the nature of the work prevents an employee from being relieved of all duty and when by written agreement between the parties an on-the-job paid meal period is agreed to. The written agreement shall state that the employee may, in writing, revoke the agreement at any time.

(C) If an employer fails to provide an employee a meal period in accordance with the applicable provisions of this Order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each work day that the meal period is not provided.

(D) In all places of employment where employees are required to eat on the premises, a suitable place for that purpose shall be designated.

12. Rest Periods.

(A) Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof. However, a rest period need not be authorized for employees whose total daily work time is less than three and one-half (3.5) hours. Authorized rest period time shall be counted as hours worked for which there shall be no deduction from wages.

(B) If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this Order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each work day that the rest period is not provided.

Cal. Code Regs., Title 8 §§ 11110, 11120.

16. At all relevant times mentioned herein, section 201.5 of the California Labor Code provided in part:

(a) For purposes of this section, the following definitions apply:

(1) "An employee engaged in the production or broadcasting of motion pictures" means an employee to whom both of the following apply:

(A) The employee's job duties relate to or support the production or broadcasting of motion pictures or the facilities or equipment used in the production or broadcasting of motion pictures.

(B) The employee is hired for a period of limited duration to render services relating to or supporting a particular motion picture production or broadcasting project, or is hired on the basis of one or more daily or weekly calls.

1 (2) "Daily or weekly call" means an employment that, by its terms, will expire at the
2 conclusion of one day or one week, unless renewed.

3 (3) "Next regular payday" means the day designated by the employer, pursuant to Section
4 204, for payment of wages earned during the payroll period in which the termination
5 occurs.

6 (4) "Production or broadcasting of motion pictures" means the development, creation,
7 presentation, or broadcasting of theatrical or televised motion pictures, television
8 programs, commercial advertisements, music videos, or any other moving images,
9 including, but not limited to, productions made for entertainment, commercial, religious,
10 or educational purposes, whether these productions are presented by means of film, tape,
11 live broadcast, cable, satellite transmission, Web cast, or any other technology that is now
12 in use or may be adopted in the future.

13 (b) An employee engaged in the production or broadcasting of motion pictures whose
14 employment terminates is entitled to receive payment of the wages earned and unpaid at
15 the time of the termination **by the next regular payday**.

16 (c) The payment of wages to employees covered by this section may be mailed to the
17 employee or made available to the employee at a location specified by the employer in
18 the county where the employee was hired or performed labor. The payment shall be
19 deemed to have been made on the date that the employee's wages are mailed to the
20 employee or made available to the employee at the location specified by the employer,
21 whichever is earlier.

22 (d) For purposes of this section, an employment terminates when the employment
23 relationship ends, whether by discharge, lay off, resignation, completion of employment
24 for a specified term, or otherwise.

25 (e) Nothing in this section prohibits the parties to a valid collective bargaining agreement
26 from establishing alternative provisions for final payment of wages to employees covered
27 by this section if those provisions do not exceed the time limitation established in Section
28 204.

Cal. Lab. Code § 201.5. At all relevant times mentioned herein, §§ 201.3 and/or 201.5 of the California
Labor Code controlled the final payment of wages to Plaintiff and the Aggrieved Employees.

17. At all relevant times mentioned herein, section 203 of the California Labor Code
provided:

If an employer willfully fails to pay, without abatement or reduction, in accordance with
Sections 201, 201.5, 202 and 202.5, any wages of an employee who is discharged or who
quits, the wages of the employee shall continue as a penalty from the due date thereof at
the same rate until paid or until action therefore is commence; but the wages shall not
continue for more than 30 days.

Cal. Lab. Code § 203.

18. By failing to pay Plaintiff and Aggrieved Employees all wages when due at the end of
employment, Plaintiff and Aggrieved Employees are entitled to continuing wages pursuant to section
203 of the California Labor Code.

1 19. At all times relevant herein, section 204 of the California Labor Code provided in part:

2 All wages, other than those mentioned in Section 201, 201.3, 202, 204.1, or 204.2, earned
3 by any person in any employment are due and payable twice during each calendar month,
4 on days designated in advance by the employer as the regular paydays. Labor performed
5 between the 1st and 15th days, inclusive, of any calendar month shall be paid for between
6 the 16th and the 26th day of the month during which the labor was performed, and labor
7 performed between the 16th and the last day, inclusive, of any calendar month, shall be
8 paid for between the 1st and 10th day of the following month.

9 Cal. Lab. Code § 204.

10 20. In no event should Plaintiff or the Aggrieved Employees have been paid later than the
11 time periods established by sections §§ 201.3, 201.5 and/or 204 of the California Labor Code, but
12 certain payments to Plaintiff and the Aggrieved Employees were made months after they were due, or
13 not at all, leading to penalties and civil penalties under sections 203 and 204 of the California Labor
14 Code.

15 21. At all times relevant herein, section 210 of the California Labor Code provided:

16 In addition to, and entirely independent and apart from, any other penalty provided in this
17 article, every person who fails to pay the wages of each employee as provided in Sections
18 204, 204b, 204.1, 204.2, 205, 205.5, and 1197.5, shall be subject to a civil penalty as
19 follows: (a) For any initial violation, one hundred dollars (\$100) for each failure to pay
20 each employee; (b) For each subsequent violation, or any willful or intentional violation,
21 two hundred dollars (\$200) for each failure to pay each employee, plus 25 percent of the
22 amount unlawfully withheld.

23 Cal. Lab. Code § 210. Further, the Defendants' policy has been to devote insufficient manpower and
24 other resources to the payroll accounting function, with the inevitable result that employees are routinely
25 paid in tardy fashion, in violation of sections §§ 201.3, 201.5, 203 and/or 204 of the California Labor
26 Code.

27 22. At all relevant times mentioned herein, section 510(a) of the California Labor Code
28 provided:

 Eight hours of labor constitutes a day's work. Any work in excess of eight hours in one
workday and any work in excess of 40 hours in any one workweek and the first eight
hours worked on the seventh day of work in any one workweek shall be compensated at
the rate of at least one and one-half times the regular rate of pay for an employee. Any
work in excess of 12 hours in one day shall be compensated at the rate of no less than
twice the regular rate of pay for an employee. In addition, any work in excess of eight
hours on any seventh day of a workweek shall be compensated at the rate of no less than

twice the regular rate of pay of an employee. Nothing in this section requires an employer to combine more than one rate of overtime compensation in order to calculate the amount to be paid to an employee for any hour of overtime work.

Cal. Lab. Code § 510.

23. Defendants failed to pay proper minimum wage or overtime to Plaintiff and Aggrieved Employees.

24. At all relevant times mentioned herein, section 515(d)(2) of the California Labor Code provided:

Payment of a fixed salary to a nonexempt employee shall be deemed to provide compensation only for the employee's regular, nonovertime hours, notwithstanding any private agreement to the contrary.

Cal. Lab. Code § 515(d)(2). Accordingly, a daily wage rate is "deemed to provide compensation only for the employee's regular, nonovertime hours" too. Alvarado v. Dart Container Corp. of Cal., 4 Cal. 5th 542, 564–65 (2018), as modified (Apr. 25, 2018) ("the Legislature expressly endorsed the principle that flat sum nonhourly compensation should be factored into an employee's regular rate of pay by dividing the flat sum by the number of nonovertime hours that exist in the relevant period, and that the flat sum compensates the worker for only nonovertime hours worked.") The California Supreme Court based its holding on fundamental principles that "the obligation to pay premium pay for overtime work reflects a state policy favoring an eight-hour workday and a six-day 40-hour workweek, and discouraging employers from imposing work in excess of those limits." Alvarado, 4 Cal. 5th at 539. Therefore, Plaintiff was not paid properly for his overtime.

25. At all relevant times mentioned herein, section 1194 of the California Labor Code provided:

Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees, and costs of suit.

Cal. Lab. Code § 1194.

26. Plaintiff and Aggrieved Employees were not timely paid the minimum wages and/or overtime to which they were entitled. Accordingly, they are entitled to liquidated damages under

1 section 1194.2.

2 27. At all relevant times mentioned herein, section 558.1 of the California Labor Code
3 provided:

4 (a) Any employer or other person acting on behalf of an employer, who violates, or
5 causes to be violated, any provision regulating minimum wages or hours and days of
6 work in any order of the Industrial Welfare Commission, or violates, or causes to be
7 violated, Sections 203, 226, 226.7, 1193.6, 1194, or 2802, may be held liable as the
8 employer for such violation.

9 (b) For purposes of this section, the term "other person acting on behalf of an employer"
10 is limited to a natural person who is an owner, director, officer, or managing agent of the
11 employer, and the term "managing agent" has the same meaning as in subdivision (b) of
12 Section 3294 of the Civil Code.

13 (c) Nothing in this section shall be construed to limit the definition of employer under existing
14 law.

15 Cal. Lab. Code § 558.1. Defendants are the joint employers or other persons acting on behalf of an
16 employer who violated, or caused to be violated the relevant sections of the Code referenced herein.

17 28. At all relevant times mentioned herein, section 558 of the California Labor Code
18 provided:

19 Any employer or other person acting on behalf of an employer who violates, or causes to
20 be violated, a section of this chapter or any provision regulating hours and days of work
21 in any order of the Industrial Welfare Commission shall be subject to a civil penalty as
22 follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for
23 each pay period for which the employee was underpaid in addition to an amount
24 sufficient to recover underpaid wages. (2) For each subsequent violation, one hundred
25 dollars (\$100) for each underpaid employee for each pay period for which the employee
26 was underpaid in addition to an amount sufficient to recover underpaid wages. (3)
27 Wages recovered pursuant to this section shall be paid to the affected employee.

28 Cal. Lab. Code § 558. Defendants are the employers or other persons acting on behalf of an employer
29 who violated, or caused to be violated the relevant sections of the California Labor Code referenced
30 herein.

31 29. At all relevant times mentioned herein, section 226 of the California Labor Code
32 provided:

33 (a) An employer, semimonthly or at the time of each payment of wages, shall furnish to
34 his or her employee, either as a detachable part of the check, draft, or voucher paying the
35 employee's wages, or separately if wages are paid by personal check or cash, an
36 accurate itemized statement in writing showing (1) gross wages earned, (2) total hours
37 worked by the employee, except as provided in subdivision (j), (3) the number of piece-
38 rate units earned and any applicable piece rate if the employee is paid on a piece-rate

1 basis, (4) all deductions, provided that all deductions made on written orders of the
2 employee may be aggregated and shown as one item, (5) net wages earned, (6) the
3 inclusive dates of the period for which the employee is paid, (7) the name of the
4 employee and only the last four digits of his or her social security number or an
5 employee identification number other than a social security number, (8) the name and
6 address of the legal entity that is the employer and, if the employer is a farm labor
7 contractor, as defined in subdivision (b) of Section 1682, the name and address of the
8 legal entity that secured the services of the employer, and (9) all applicable hourly rates
9 in effect during the pay period and the corresponding number of hours worked at each
10 hourly rate by the employee and, beginning July 1, 2013, if the employer is a temporary
11 services employer as defined in Section 201.3, the rate of pay and the total hours worked
12 for each temporary services assignment. The deductions made from payment of wages
13 shall be recorded in ink or other indelible form, properly dated, showing the month, day,
14 and year, and a copy of the statement and the record of the deductions shall be kept on
15 file by the employer for at least three years at the place of employment or at a central
16 location within the State of California. . . .

17 Cal. Lab. Code § 226. Defendants did not provide Plaintiff or other Aggrieved Employees wage
18 statements with all required information, such as total hours worked or applicable hourly rates.

19 30. Labor Code sections 226.7, 512 and Section 12 of the Wage Order require an employer to
20 pay an additional hour of compensation for each rest break and/or meal period the employer fails to
21 provide. Section 12 requires that “No employer shall employ any person for a work period of more than
22 six (6) hours without a meal period of not less than thirty (30) minutes, nor more than one (1) hour.
23 Subsequent meal period for all employees shall be called not later than six (6) hours after the
24 termination of the preceding meal period.” Defendants failed to maintain a policy informing all similarly
25 situated employees of these rights.

26 31. Here, Defendants failed to apprise all similarly situated employees of their rights
27 associated with meal periods and failed to provide timely meal periods. Defendants have had a
28 consistent policy requiring all similarly situated employees to keep their radios on even during meal and
rest breaks. At all relevant times mentioned herein, section 226.7 of the California Labor Code provided:

(a) As used in this section, “recovery period” means a cooldown period afforded an employee to prevent heat illness.

(b) An employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health.

(c) If an employer fails to provide an employee a meal or rest or recovery period in accordance with a state law, including, but not limited to, an applicable statute or

1 applicable regulation, standard, or order of the Industrial Welfare Commission, the
2 Occupational Safety and Health Standards Board, or the Division of Occupational Safety
3 and Health, the employer shall pay the employee one additional hour of pay at the
4 employee's regular rate of compensation for each workday that the meal or rest or
5 recovery period is not provided.

6 Cal. Lab. Code § 226.7. Since his work required that he be in constant radio communication with
7 Defendants, he was never provided a proper meal or rest break. Upon information and belief, other class
8 members were also not provided proper meal and rest breaks.

9 **CLASS-ACTION ALLEGATIONS**

10 32. Plaintiff brings this action on behalf of himself, Aggrieved Employees, and all others
11 similarly situated as a class action pursuant to section 382 of the Code of Civil Procedure. Plaintiff
12 seeks to represent a "Code Class" composed of and defined as follows:

13 For the period three years prior to the filing of this Complaint to date, all persons issued wage
14 statements on account of services provided for Defendants in the production of Motion Pictures
15 (such persons are referred to hereafter as Code Class Members, and such period is referred to
16 hereafter as the Code Class Period).

17 Further, Plaintiff seeks to represent a "226 Class" composed of and defined as follows:

18 For the period one year prior to the filing of this Complaint to date, all persons paid wages on
19 account of services provided for Defendants in the production of Motion Pictures (such persons
20 are referred to hereafter as 226 Class Members, and such period is referred to hereafter as the
21 Class Period).

22 Further, Plaintiff seeks to represent a "17200 Class" composed of and defined as follows:

23 For the period four years and 180 days prior to the filing of this Complaint to date, all persons
24 paid wages on account of services provided for Defendants in the production of Motion Pictures
25 (such persons are referred to hereafter as 17200 Class Members, and such period is referred to
26 hereafter as the Class Period).

27 **A. Numerosity**

28 33. The potential members of each Class as defined are so numerous that joinder of all the
members of either Class is impracticable. The number of Class Members is great, but not so great as to
make the class unmanageable. It, therefore, is impractical to join each Class Member as a named
plaintiff. Accordingly, utilization of a class action is the most economically feasible means of
determining the merits of this litigation.

34. Despite the size of the proposed Classes, the Class Members are readily ascertainable
through an examination of the records that Defendants are required by law to keep. Likewise, the dollar
amount owed to each Class Member is readily ascertainable by an examination of those same records.

1 **B. Commonality**

2 35. There are questions of law and fact common to each Class that predominate over any
3 questions affecting only individual Class Members. These common questions of law and fact include,
4 without limitation:

- 5 a. Whether Defendants failed to pay all wages in a timely fashion in violation of sections
6 201.3, 201.5, 203 and/or 204 of the Code.
- 7 b. Whether Defendants' failure to provide accurate itemized wage statements to each and
8 every employee violates section 226(a).
- 9 c. Whether Defendants untimely and/or nonpayment of wages give rise to liquidated
10 damages for failure to pay minimum wages under section 1194.2.
- 11 d. Whether Defendants failed to provide meal breaks to each and every employee.
- 12 e. Whether Defendants failed to provide rest breaks to each and every employee.

13 **C. Typicality**

14 36. There is a well-defined community of interest in the questions of law and fact common to
15 the Class Members.

16 37. The claims of the named Plaintiff is typical of the claims of each Class, which claims all
17 arise from the same general operative facts, namely, Defendants did not compensate its employees as
18 required by the Code and applicable Wage Order. Plaintiff and all members of the Classes sustained
19 injuries and damages arising out of and caused by Defendants in violation of laws, regulations that have
20 the force and effect of law, and statutes as alleged herein. Plaintiff has no conflict of interest with the
21 other Class Members and are able to represent the Class Members' interests fairly and adequately.

22 **D. Adequacy of Representation**

23 38. Plaintiff will fairly and adequately represent and protect the interests of the members of
24 each Class. Counsel who represents Plaintiff is competent and experienced in litigation large
25 employment class actions. Neither Plaintiff nor his counsel have any conflict with either Class.

26 **E. Superiority of Class Action**

27 39. A class action is superior to other available means for the fair and efficient adjudication
28 of this controversy. Individual joinder of all Class Members is not practicable, and questions of law and

1 fact common to the Class predominate over any questions affecting only individual members of the
2 Class. Each member of the Class has been damaged and is entitled to recovery by reason of Defendants'
3 illegal policy and/or practice of failing to pay hourly wages, failing to pay overtime wages, failing to
4 provide Class Members rest and meal periods without legal compensation. Class action treatment will
5 allow those similarly situated persons to litigate their claims in the Martinez that is most efficient and
6 economical for the parties and the judicial system. Plaintiff is unaware of any difficulties that are likely
7 to be construed in the management of this action that would preclude its maintenance as a class action.
8 The disposition of all claims of the members of the Class in a class action, rather than in individual
9 actions, benefits the parties and the Court. The interest of the Class Members in controlling the
10 prosecution of separate claims against Defendants is small when compared with the efficiency of a class
11 action.

12 **FIRST CAUSE OF ACTION**

13 (Continuing Wages, California Labor Code §§ 201.3, 201.5, 203, and/or 204
14 On Behalf of Plaintiff and the Code Class against All Defendants)

15 40. Plaintiff realleges and incorporates herein by reference the allegations contained in this
16 Complaint as though fully set forth herein.

17 41. Defendants employed Plaintiff. As of the date of filing of this Complaint, Plaintiff has
18 not been timely compensated in full for their services.

19 42. Upon information and belief, Aggrieved Employees the Code Class have not been timely
20 compensated in full for their services. Plaintiff and the Code Class consistently worked more than 6-
21 hour and/or 12-hour shifts. However, they were required to keep their walkie talkies or radios on their
22 persons, turned on and audible at all times, including their rest periods and meal breaks and/or they were
23 precluded from leaving the set during their breaks. Accordingly, they were denied their breaks and are
24 entitled to an additional thirty minutes of wages for each faux meal break.

25 43. Defendants' failure to compensate Plaintiff and the Code Class within the time for which
26 provision is made by section 201.3 and/or 201.5 of the California Labor Code, despite their knowledge
27 of their obligation to do so, was and is "willful" as the word is used in section 203.

28 44. Pursuant to section 203 of the California Labor Code, Plaintiff and the Class Members

1 are entitled to continuing wages from Defendants in an amount according to proof. Plaintiff and
2 Aggrieved Employees are also entitled to recover costs and reasonable attorneys' fees under section
3 218.5 of the California Labor Code in the total sum of at least \$29,250.00.

4 **SECOND CAUSE OF ACTION**

5 (Failure to Provide Compliant Pay Stubs, Cal. Lab. Code § 226(a)
6 On Behalf of Plaintiff and the 226 Class Against All Defendants)

7 45. Plaintiff realleges and incorporates herein by reference the allegations contained in this
8 Complaint as though fully set forth herein.

9 46. Defendants failed to provide Plaintiff and the 226 Class with wage statements
10 conforming to the requirements of section 226(a) of the Code.

11 47. The foregoing was intentional misconduct of Defendants that injured Plaintiff and
12 Aggrieved Employees insofar as they were deprived of information to which they were legally entitled,
13 including but not limited to, hours worked, the inclusive dates of the pay period, the name and address
14 of the legal entity that is the employer, and all applicable rates of pay.

15 48. The failure of Defendants to provide compliant wage statements violates section 226(a)
16 of the Code. The failure caused them injury by depriving them of information to which they are legally
17 entitled. Accordingly, Plaintiff and Class Members are entitled to damages in an amount according to
18 proof and costs and reasonable attorney's fees in accordance with the provisions of Code section 226(e),
19 all in a sum according to proof. Plaintiff is entitled to an amount according to proof of at least \$50 each,
20 not including interest thereon, reasonable attorneys' fees and cost of suit.

21 **THIRD CAUSE OF ACTION**

22 (Damages for Unpaid Overtime Compensation,
23 California Labor Code §§ 510, 515 and 1198
24 On Behalf of Plaintiff and the Code Class against All Defendants)

25 49. Plaintiff realleges and incorporates herein by reference the allegations contained in this
26 Complaint as though fully set forth herein.

27 50. Plaintiff, as well as the Code Class, worked many hours for Defendants, including
28 overtime, without compensation for work performed, as required by law.

51. Plaintiff and the Code Class are entitled to recover an amount according to proof.
Plaintiff and the Code Class are also entitled to recover costs and reasonable attorneys' fees under

1 section 1194 of the California Labor Code.

2 **FOURTH CAUSE OF ACTION**

3 (Damages for Unpaid Minimum Wages,
4 California Labor Code §§ 510, 1194, 1194.2 and 1198
5 On Behalf of Plaintiff and the Code Class against All Defendants)

6 52. Plaintiff realleges and incorporates herein by reference the allegations contained in this
7 Complaint as though fully set forth herein.

8 53. Plaintiff and the Code Class, worked many hours for Defendants, without compensation
9 for work performed, as required by law.

10 54. Plaintiff and the Code Class are entitled to recover liquidated damages under section
11 1194.2 of the California Labor Code in an amount according to proof. Plaintiff and Aggrieved
12 Employees are also entitled to recover costs and reasonable attorneys' fees under section 1194 of the
13 California Labor Code.

14 **FIFTH CAUSE OF ACTION**

15 (Failure to Provide Meal Breaks, Cal. Lab. Code §§ 226.7 and 512
16 On Behalf of Plaintiff and the Code Class and Against All Defendants)

17 55. Plaintiff realleges and incorporates herein by reference the allegations contained in this
18 Complaint as though fully set forth herein.

19 56. Labor Code section 226.7 requires an employer to pay an additional hour of
20 compensation for each meal period the employer fails to provide a timely and uninterrupted meal period.
21 Employees are entitled to meal period of at least thirty 30 minutes per six-hour work period.

22 57. Upon information and belief, Aggrieved Employees the Code Class have not been timely
23 compensated in full for their services. Plaintiff and the Code Class consistently worked more than six-
24 hour and/or 12-hour shifts. However, they were required to keep their walkie talkies or radios on their
25 persons, turned on and audible at all times, including their rest periods and meal breaks and/or they were
26 precluded from leaving the set during their breaks. Accordingly, they were denied their breaks and are
27 entitled to an additional thirty minutes of wages for each faux meal break.

28 58. Pursuant to Labor Code section 226.7, Plaintiff and Class Members are entitled to
damages in an amount equal to one hour of wages per missed meal break, in an amount according to
proof.

SIXTH CAUSE OF ACTION

(Failure to Provide Rest Breaks, Cal. Lab. Code §§ 226.7
On Behalf of Plaintiff and the Code Class against All Defendants)

59. Plaintiff realleges and incorporates herein by reference the allegations contained in this Complaint as though fully set forth herein.

60. Labor Code Section 226.7 requires an employer to pay an additional hour of compensation for each rest period the employer fails to provide a compliant rest period. Employees are entitled to a rest period of ten minutes for every four hours worked or major fraction thereof.

61. Upon information and belief, Aggrieved Employees the Code Class have not been timely compensated in full for their services. Plaintiff and the Code Class consistently worked more than six-hour and/or 12-hour shifts. However, they were required to keep their walkie talkies or radios on their persons, turned on and audible at all times, including their rest periods and meal breaks and/or they were precluded from leaving the set during their breaks. Accordingly, they were denied their breaks and are entitled to an additional thirty minutes of wages for each faux meal break.

62. Pursuant to Labor Code section 226.7, Plaintiff and the Code Class are entitled to damages in an amount equal to one hour of wages per missed meal break, in an amount according to proof.

SEVENTH CAUSE OF ACTION

(Unfair Business Practices On Behalf of Plaintiff and the 17200 Class Members against All Defendants)

63. Plaintiff realleges and incorporates herein by reference the allegations contained in this Complaint as though fully set forth herein.

64. Business and Professions Code section 17200 et seq. prohibits acts of unfair competition, including any “unlawful, unfair, or fraudulent business act or practice.” Cal. Bus. & Prof. Code § 17200 et seq. Plaintiff allege that Defendants have engaged in unfair business practices in California by the above-described failure to pay all accrued overtime.

65. Defendants' violations of the California wage and hour laws constitutes a business practice because Defendants' aforementioned acts and omissions were done repeatedly over a significant period of time, and in a systematic way, to the detriment of Plaintiff and Aggrieved Employees.

66. Defendants have avoided payment of wages and overtime wages and other benefits

1 required by the California Labor Code, the California Code of Regulations, and the applicable IWC
2 Wage Order. Upon information and belief, Aggrieved Employees the 17200 Class have not been timely
3 compensated in full for their services. Plaintiff and the 17200 Class consistently worked more than 6-
4 hour and/or 12-hour shifts. However, they were required to keep their walkie talkies or radios on their
5 persons, turned on and audible at all times, including their rest periods and meal breaks and/or they were
6 precluded from leaving the set during their breaks. Accordingly, they were denied their breaks and are
7 entitled to an additional thirty minutes of wages for each faux meal break.

8 67. As a result of Defendants' unfair and unlawful business practices, Defendants have
9 reaped unfair and illegal profits during the relevant time period herein at the expense of Plaintiff and the
10 Aggrieved Employees and members of the public. Defendants should be made to disgorge their ill-
11 gotten gains and to restore them to Plaintiff and Aggrieved Employees.

12 68. The actions of Defendants entitle Plaintiff to seek the remedies available under section
13 17200 et seq. Plaintiff seek full restitution of said amounts from Defendants, as necessary and according
14 to proof, to restore any and all amounts—including interest—withheld, acquired, or converted by
15 Defendants by means of the unfair practices complained of herein. Plaintiffs, on behalf of themselves,
16 as well as on behalf of the general public, further seeks attorney's fees and costs pursuant to sections
17 218.5 of the Labor Code and 1021.5 of the Code of Civil Procedure. In addition, Plaintiff seeks the
18 appointment of a receiver as necessary.

19 **EIGHTH CAUSE OF ACTION**

20 (Failure to Provide Employment Records Upon Request Cal. Lab. Code § 226(b)
21 On Behalf of Plaintiff Against Defendants)

22 69. Plaintiff realleges and incorporates herein by reference the allegations contained in this
23 Complaint as though fully set forth herein.

24 70. Pursuant to Labor Code section 226(b), an employer shall afford current and former
25 employees the right to inspect or copy the records pertaining to that current or former employee, upon
26 reasonable request to the employer.

27 71. Plaintiff have requested that Defendants permit inspection or copying of their
28 employment records pursuant to Labor Code section 226(b). Defendants have failed to provide Plaintiff

1 with an opportunity to inspect or copy their employment records within 21 days of their requests.
2 Defendants have not produced any records at all.

3 72. Pursuant to Labor Code Section 226(b) and (f), Plaintiff is entitled, and hereby seek to
4 recover from Defendants a seven-hundred-fifty dollar (\$750) penalty for each violation, reasonable
5 attorney's fees, and the costs of bringing this cause of action.

6 **NINTH CAUSE OF ACTION**

7 (Failure to Provide Employment Records Upon Request Cal. Lab. Code §1198.5
8 On Behalf of Plaintiff Against Defendants)

9 73. Plaintiff realleges and incorporates herein by reference the allegations contained in this
10 Complaint as though fully set forth herein.

11 74. Pursuant to Labor Code section 1198.5, an employer shall afford current and former
12 employees the right to inspect or copy the personnel records pertaining to that current or former
13 employee, upon reasonable request to the employer.

14 75. Plaintiff have requested that Defendants permit inspection or copying of their personnel
15 records pursuant to Labor Code section 1198.5. Defendants have failed to provide Plaintiff with an
16 opportunity to inspect or copy the employment records within 30 days of their request.

17 76. Pursuant to Labor Code Section 1198.5(k), Plaintiff is entitled, and hereby seek to
18 recover from Defendants a seven-hundred-fifty dollar (\$750) penalty per Defendant, reasonable
19 attorney's fees, and the costs of bringing this cause of action.

20 **TENTH CAUSE OF ACTION**

21 (Code § 2698 et seq. Civil Penalties
22 (On Behalf of Plaintiff, the California Labor & Workforce Development Agency and Aggrieved
23 Employees Against All Defendants)

24 77. Plaintiff realleges and incorporates herein by reference the allegations contained in this
25 Complaint as though fully set forth herein.

26 78. At all relevant times, Code section 2699.3(a)(2)(A) provided:

27 The agency shall notify the employer and the aggrieved employee or representative by
28 certified mail that it does not intend to investigate the alleged violation within 60 calendar
days of the postmark date of the notice received pursuant to Paragraph (1). Upon receipt
of that notice or if no notice is provided within 65 calendar days of the postmark date of
the notice given pursuant to Paragraph (1), the aggrieved employee may commence a
civil action pursuant to Section 2699.

1 Code § 2699.3(a)(2)(A). After sixty-five (65) calendar days from the postmark date of the notice sent by
2 Plaintiff, Plaintiff may “commence a civil action pursuant to Section 2699.” Code § 2699.3(a)(2)(A).
3 More than sixty-five calendar days have passed since Plaintiff gave written notice of the PAGA
4 violations to the LWDA on August 7, 2023, therefore, Plaintiff has amended the Complaint to add a
5 PAGA cause of action.

6 79. Plaintiff seeks to recover the PAGA civil penalties through a representative action
7 permitted by PAGA and the California Supreme Court in Arias v. Superior Court, 46 Cal. 4th 969
8 (2009). Therefore, class certification of the PAGA claims is not required.

9 80. Plaintiff seeks to bring a representative action on behalf of himself and the State of
10 California as well as on behalf of a group of Aggrieved Employees defined as: Plaintiff and/or other
11 persons who performed services for Defendant CFLLC as a motion picture production crew member in
12 California (“Aggrieved Employees”) during the period from one year prior to the filing of the PAGA
13 Notice until this case is resolved.

14 81. Plaintiff will seek civil penalties pursuant to PAGA for violations of the following Code
15 provisions:

16 **1. Failure to provide payroll records in violation of Code § 226(b).**

17 Employers must afford current and former employees the right to inspect or copy the records
18 pertaining to that current or former employee, upon reasonable request to the employer. Aggrieved
19 Employees have requested but have not been provided with an opportunity to inspect or copy all payroll
20 records within 21 days of request. Upon information and belief, many Aggrieved Employees have
21 requested their payroll records but have not been given access to them pursuant to section 226(b). Code
22 § 2699(f)(2) imposes a civil penalty of \$100 per pay period per Aggrieved Employee for initial
23 violations, and \$200 per pay period per Aggrieved Employee for subsequent violations for all Code
24 provisions for which a civil penalty is not specifically provided.

25 **2. Failure to personnel records in violation of Code § 1198.5.**

26 Employers must afford current and former employees the right to inspect or copy the personnel
27 records pertaining to that current or former employee, upon reasonable request to the employer.
28 Aggrieved Employees have requested have not been provided with an opportunity to inspect or copy all
personnel records within 30 days of request. Upon information and belief, many Aggrieved Employees
have requested their personnel records but have not been given access to them pursuant to section
1198.5. Code § 2699(f)(2) imposes a civil penalty of \$100 per pay period per Aggrieved Employee for
initial violations, and \$200 per pay period per Aggrieved Employee for subsequent violations for all
Code provisions for which a civil penalty is not specifically provided.

3. Failure to provide records in violation of Code § 432.

Employers are required to give a copy of any instrument relating to the obtaining or holding of
employment, if signed by an employee, upon request. Plaintiffs have requested such documents but
have not received them. Upon information and belief, other Aggrieved Employees have requested their

signed documents but have not been provided a copy. Code § 2699(f)(2) imposes a civil penalty of \$100 per pay period per Aggrieved Employee for initial violations, and \$200 per pay period per Aggrieved Employee for subsequent violations for all Code provisions for which a civil penalty is not specifically provided.

4. Failure to timely pay wages during employment in violation of Code §§ 204 and 210.

Aggrieved Employees were not compensated during their employment by the times prescribed by section 204 due to the failure to allocate sufficient resources to the payroll function. The failure of Defendants to make timely payments within the time provided for has been and is “willful” within the meaning of such word as used in Section 210 of the Code.

Defendants failed to pay Plaintiffs and Aggrieved Employees all wages for a weekly payroll period within 7 calendar days following the close of the payroll period in violation of Code §§ 204(d) and 210. Plaintiffs and Aggrieved Employees were paid after the 7th day following the close of the payroll period in violation of these statutes.

Accordingly, each Aggrieved Employee who was not timely paid his or her timely wages during their employment is entitled to civil penalties. Code section 210 provides for a penalty of \$100 for each initial violation and \$200 for each subsequent, or willful or intentional violation plus 25 percent of the amount unlawfully withheld.

5. Failure to pay wages and/or final wages in violation of Code §§ 201.3, 201.5 and 203.

With respect to violations of Code §§ 201.3 and 201.5, the failure of Defendants to make final payments within the time provided for has been and is “willful” within the meaning of such word as used in Section 203 of the Code. Code section 203 provides that if “an employer willfully fails to pay...any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days.”

Here, Plaintiffs and Aggrieved Employees were not timely paid all doubletime wages due upon their separation from Defendants’ employ. As such, Defendants failed to pay Plaintiffs and Aggrieved Employees all wages due as provided by §§ 201.3 and 201.5, and have failed to pay those sums for thirty (30) days thereafter in violation of Code § 203.

Accordingly, each Aggrieved Employee who was not timely paid his or her final wages is entitled to civil penalties. Code § 2699(f)(2) imposes a civil penalty of \$100 per pay period per Aggrieved Employee for initial violations, and \$200 per pay period per Aggrieved Employee for subsequent violations for all Code provisions for which a civil penalty is not specifically provided.

6. Failure to provide itemized wage statements in violation of Code § 226(a).

Aggrieved Employees have not been provided a wage statement as required by Code section 226(a). The foregoing was the intentional misconduct of Defendants that was intended to mislead and injure Aggrieved Employees insofar as they were subjected to confusion and deprived of information to which they were legally entitled.

- a. The wage statements failed to include, among other required information, the “name and address of the legal entity that is the employer” as it
 - does not reflect the full legal name of the employer
 - misstates that the employer is only a “Client”
- b. The wage statements failed to include, among other required information, “all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee” such as the double time rate.
- c. The wage statements failed to include, among other required information, the “the rate of pay and the total hours worked for each temporary services assignment”

Section 226(e) provides that any employee who suffers injury as a result of a knowing and intentional failure by the employer to comply with its obligation to provide wage statements containing all of the information referenced above is entitled to recover. Section 226.3 provides for a civil penalty of \$250 per employee per violation in an initial violation and \$1,000 per employee for each violation in

1 a subsequent violation, for which the employer fails to provide the employee a wage deduction
2 statement or fails to keep the records required in subdivision (a) of Section 226.

3 **7. Failure to provide sick leave information under Code §§ 245.5 and 246.**

4 Code sections 245.5 and 246(i) provide that “[a]n employer shall provide an employee with
5 written notice that sets forth the amount of paid sick leave available, or paid time off leave an employer
6 provides in lieu of sick leave, for use on either the employee’s itemized wage statement described in
7 Section 226 or in a separate writing provided on the designated pay date with the employee’s payment
8 of wages.” Here, Defendants have systematically and intentionally failed to set forth the amount of sick
9 leave available, or paid time off leave an employer provides in lieu of sick leave, on the itemized wage
10 statements described in Section 226 to Plaintiffs and all Aggrieved Employees.

11 Code § 248.5(e) provides “equitable relief on behalf of the aggrieved as may be appropriate to
12 remedy the violation, including reinstatement, backpay, the payment of sick days unlawfully withheld, .
13 . . any person or entity enforcing this article on behalf of the public as provided for under applicable
14 state law shall, upon prevailing, be entitled only to equitable, injunctive, or restitutionary relief, and
15 reasonable attorney’s fees and costs.”

16 **8. Failure to furnish information under Code § 2810.5.**

17 Aggrieved Employees were entitled to certain information in writing at the time of hiring
18 including, among other items, the following:

- 19 a) The rate or rates of pay and basis thereof, whether paid by the hour, shift, day, week, salary,
20 piece, commission, or otherwise, including any rates for overtime, as applicable.
- 21 b) The regular payday designated by the employer in accordance with the requirements of this
22 code.
- 23 c) The name of the employer, including any “doing business as” names used by the employer.
- 24 d) The physical address of the employer’s main office or principal place of business, and a
25 mailing address, if different.
- 26 e) The telephone number of the employer.
- 27 f) The name, address, and telephone number of the employer’s workers’ compensation
28 insurance carrier.
- g) That an employee: may accrue and use sick leave; has a right to request and use accrued paid
sick leave; may not be terminated or retaliated against for using or requesting the use of
accrued paid sick leave; and has the right to file a complaint against an employer who
retaliates.

19 All Aggrieved Employees were not provided with all of the required information under Section 2810.5.
20 Code section 2699(f)(2) imposes a civil penalty of \$100 per pay period per Aggrieved Employee for
21 initial violations, and \$200 per pay period per Aggrieved Employee for subsequent violations for all
22 Code provisions for which a civil penalty is not specifically provided.

23 **9. Failure to provide proper meal periods under Code § 226.7 and Wage Order § 11.**

24 Aggrieved Employees were not provided with timely meal periods in violation of Code section
25 226.7 and Applicable Wage Order section 11. For example, Plaintiffs worked over 6 or 12 hours in a
26 day but were not provided with compliant meal break(s) and were not otherwise compensated.
27 Aggrieved Employees were not permitted to leave the production set for meal periods.

28 Code §§ 226.7, 512 and Section 12 of the Applicable Wage Order require an employer to pay an
additional hour of compensation for each meal period the employer fails to provide. Section 12 requires
that “No employer shall employ any person for a work period of more than six (6) hours without a meal
period of not less than thirty (30) minutes, nor more than one (1) hour. Subsequent meal period for all
employees shall be called not later than six (6) hours after the termination of the preceding meal period.”
Defendants failed to maintain a policy informing all Aggrieved Employees of these rights.

Here, Defendants failed to apprise all Aggrieved Employees of their rights associated with meal
periods and failed to provide timely meal periods, often calling for “grace” – a procedure which might
provide delay in the commencement of a meal break for certain union members, but not for those like

1 Plaintiff who were not union members—all with the end result that on such days on which “grace” has
2 been called all non-union crew should be paid an additional hour of compensation. Defendants have had
3 a consistent policy of: (1) requiring all Aggrieved Employees to take late meal breaks that occurred after
4 the first 6 hours of each shift; (2) required Aggrieved Employees to work shifts over 12 hours without
5 providing a second meal period of 30 minutes in length; and (3) failed to pay such employees 1 hour of
6 pay at the employees regular rate of compensation for each workday in which a proper meal break was
7 not provided.

8 Additionally, Defendants maintained a policy of automatically deducting 30 minutes from each
9 shift that Plaintiffs and the Aggrieved Employees worked. This “auto-deduct” policy was unlawful and
10 did not account for whether the employees took their meal periods, took meal periods late, were
11 interrupted with work, and/or took meal periods of less than 30 minutes.

12 Code section 2699(f)(2) imposes a civil penalty of \$100 per pay period per Aggrieved Employee
13 for initial violations, and \$200 per pay period per Aggrieved Employee for subsequent violations for all
14 Code provisions for which a civil penalty is not specifically provided.

10. Failure to provide proper rest periods under Code § 226.7 and Wage Order § 12.

15 All Aggrieved Employees were not provided with timely rest periods in violation of Code
16 section 226.7 and Applicable Wage Order section 12. Aggrieved Employees were not permitted to leave
17 the set of the Production for any purported rest periods. They were required to be available via radio or
18 cell phone at all times. Plaintiffs and Aggrieved Employees were neither informed of nor otherwise
19 provided with compliant rest breaks. Defendants failed to provide all Aggrieved Employees with rest
20 breaks of not less than 10 minutes per 4-hour work period, or major fraction thereof. On a regular and
21 consistent basis, Defendants failed to provide all Aggrieved Employees with a third rest period despite
22 regularly requiring Aggrieved Employees to work over 10 hours. As such, Defendants failed to provide
23 all Aggrieved Employees with compliant rest periods. Further, Plaintiffs and the Aggrieved Employees
24 were not compensated with 1 hour of wages for each missed rest period as required by Code § 226.7.

25 Code section 2699(f)(2) imposes a civil penalty of \$100 per pay period per Aggrieved Employee
26 for initial violations, and \$200 per pay period per Aggrieved Employee for subsequent violations for all
27 Code provisions for which a civil penalty is not specifically provided.

11. Failure to reimburse necessary business expenses under Code § 2802.

28 Aggrieved Employees were not reimbursed for necessary business expenses. Section 2802
requires that an employer indemnify his or her employee for all necessary expenditures or losses
incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her
obedience to the directions of the employer, even though unlawful, unless the employee, at the time of
obeying the directions, believed them to be unlawful.

Defendants have failed to reimburse Plaintiffs and Aggrieved Employees the cost of using their
personal cell phones for business related purposes. Defendants required that Plaintiffs and the Aggrieved
Employees be available by cell phone and answer/use their cell phones while working and this was
necessary to perform their job duties. These cell phones were not provided by Defendants, and
Defendants failed to reimburse Aggrieved Employees for the costs associated with using these personal
cell phones. They were also not reimbursed for the provision and use of personal protective equipment
and traffic management equipment and supplies necessary to perform their job duties.

Code section 2699(f)(2) imposes a civil penalty of \$100 per pay period per Aggrieved Employee
for initial violations, and \$200 per pay period per Aggrieved Employee for subsequent violations for all
Code provisions for which a civil penalty is not specifically provided.

12. Failure to pay minimum and overtime wages in violation of Code §§ 510, 515, 558, 1194, and 1198.

Both late payment and non-payment of minimum wages violate the state statute requiring the
payment of a minimum hourly wage. The Code requires an employer to compensate its employees at the
minimum wage rate for all hours worked and at a rate of no less than one and one-half times the regular
rate of pay for any work in excess of eight hours in one workday and any work in excess of 40 hours in
any one workweek.

Here, Plaintiffs and other Aggrieved Employees were not paid at the proper corresponding rate

for all hours worked, including overtime as Plaintiffs were not paid the correct double time rate.

Code § 558 imposes a civil penalty in addition to any other penalty provided by law of \$50 for initial violations for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover unpaid wages, and \$100 for subsequent violations for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages.

13. Failure to keep complete and accurate payroll records.

Defendants failed to keep complete and accurate payroll records relating to Aggrieved Employees in accordance with Code section 1174(d). Willful failure to maintain accurate and complete records required by section 1174(d) is subject to a civil penalty of \$500. Code § 1174.5.

14. Personal Liability of Defendant Carl Swan under Code § 558.

Defendant Carl Swan was an employer and/or “other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission” as he was the Manager of Defendant CFLLC who controlled the payment of wages. Under Code § 558, Defendant Swan is responsible for the civil penalties for violation of minimum wages, overtime wages, meal and rest breaks, and reporting time pay.

Aggrieved Employees are entitled to recover as follows:

(1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages.

(2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages.

(3) Wages recovered pursuant to this section shall be paid to the affected employee.
Code § 558(a).

15. Personal Liability of Defendant Carl Swan under Code § 1197.1

Defendant Carl Swan was an employer and/or “other person acting either individually or as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or local law, or by an order of the Commission.” Defendant Swan was the Manager of Defendant CFLLC, and had control over the payment of wages and intentionally caused Aggrieved Employees to be paid less than was required by the Code and the Applicable Wage Order. Defendant is responsible for minimum wage restitution, liquidated damages and Code § 203 penalties. Aggrieved Employees are entitled to recover as follows:

(1) For any initial violation that is intentionally committed, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee is underpaid. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed pursuant to Section 203.

(2) For each subsequent violation for the same specific offense, two hundred fifty dollars (\$250) for each underpaid employee for each pay period for which the employee is underpaid regardless of whether the initial violation is intentionally committed. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed pursuant to Section 203.

(3) Wages, liquidated damages, and any applicable penalties imposed pursuant to Section 203, recovered pursuant to this section shall be paid to the affected employee.
Code § 1197.1(a).

1 **WHEREFORE**, Plaintiff prays judgment as follows:

2 1. That the Court certify the Class.

3 2. That, under the First Cause of Action for Continuing Wages, it be adjudged that the
4 failure of Defendants to make payment of Plaintiff's and Class Members' wages was in violation of
5 section 201.3, 201.5, 203 and/or 204 of the California Labor Code, and was "willful" as that word is
6 used in section 203 of the California Labor Code, and that the Court enter judgment against Defendants
7 in favor of Plaintiff and Class Members. That judgment be entered in favor of Plaintiff of at least
8 \$29,250.00 and the Code Class in an amount according to law and proof, interest thereon, and costs and
9 reasonable attorneys' fees in accordance with the provisions of California Labor Code section 218.5.

10 3. That, under the Second Cause of Action for Failure to Provide Compliant Wage
11 Statements, this Court enter judgment in favor of Plaintiff and Class Members against Defendants. That
12 judgment be entered in favor of Plaintiff of at least \$50 and the 226 Class in an amount according to
13 proof, and costs and reasonable attorneys' fees in accordance with the provisions of California Labor
14 Code section 226(e).

15 4. That, under the Third Cause of Action for Failure to Pay Overtime, this Court enter
16 judgment in favor of Plaintiff and the Code Class against Defendants in the amount of unpaid overtime
17 and liquidated damages according to proof, interest thereon, and costs and reasonable attorneys' fees
18 pursuant to sections 1194.

19 5. That, under the Fourth Cause of Action for Failure to Pay Minimum Wages, this Court
20 enter judgment in favor of Plaintiff and the Code Class against Defendants in the amount of unpaid
21 minimum wages and liquidated damages according to proof, interest thereon, and costs and reasonable
22 attorneys' fees pursuant to sections 1194 and 1194.2.

23 6. That, under the Fifth Cause of Action, this Court enter judgment in favor of Plaintiff and
24 the Code Class in an amount according to proof and award them their damages, penalties, and costs of
25 suit.

26 7. That, under the Sixth Cause of Action, this Court enter judgment in favor of Plaintiff and
27 the Code Class in an amount according to proof and award them their damages, penalties, and costs of
28 suit.

1 8. That, with respect to the Seventh Cause of Action for Unfair Competition, this Court
2 enter judgment in favor of Plaintiff and the 17200 Class against Defendants in an amount according to
3 proof. Plaintiff seeks full restitution from Defendants, as necessary and according to proof, to restore
4 any and all amounts—including interest—withheld, acquired, or converted by Defendants by means of
5 the unfair practices complained of herein. Plaintiffs, on behalf of themselves, as well as on behalf of the
6 general public, further seeks attorney's fees and costs pursuant to sections 218.5 of the Labor Code and
7 1021.5 of the Code of Civil Procedure. In addition, Plaintiff seek the appointment of a receiver as
8 necessary.

9 9. That, with respect to the Eighth Cause of Action, this Court enter judgment in favor of
10 each Plaintiff against Defendants of \$750 per Defendant, reasonable attorney's fees, and the costs of
11 bringing this cause of action under Labor Code Section 226(b) and (f).

12 10. That, with respect to the Ninth Cause of Action, this Court enter judgment in favor of
13 each Plaintiff against Defendants of \$750 per Defendant, reasonable attorney's fees, and the costs of
14 bringing this cause of action pursuant to Labor Code Section 1198.5(k).

15 11. That, under the Tenth Cause of Action, it be adjudged that Defendants' violations of
16 PAGA entitle Plaintiff to recover civil penalties, according to proof. Finally, Plaintiff requests that the
17 Court award Plaintiff's reasonable attorneys' fees and costs, pursuant to section 218.5 of the Code and
18 section 1021.5 of the California Code of Civil Procedure

19 12. For such further relief as the Court may order, including attorney's fees, costs, and
20 interest pursuant to Labor Code sections 218.5 and 218.6, and Code of Civil Procedure section 1021.5,
21 in an amount according to proof.

22 DATED: November 1, 2023

HARRIS & RUBLE



Alan Harris
Attorney for Plaintiff