

By:   
Cynthia Achee  
Deputy Clerk

Miriam Schimmel (State Bar No. 185089)  
mschimmel@blackstonepc.com  
Joana Fang (State Bar No. 309623)  
jfang@blackstonepc.com  
Alexandra Rose (State Bar No. 329407)  
arose@blackstonepc.com  
Jared C. Osborne (State Bar No. 335968)  
josborne@blackstonepc.com  
**BLACKSTONE LAW, APC**  
8383 Wilshire Boulevard, Suite 745  
Beverly Hills, California 90211  
Tel: (310) 622-4278 / Fax: (855) 786-6356

Attorneys for Plaintiff ALMA LOPEZ

*[Additional counsel listed on next page]*

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

ALMA LOPEZ and JOSE REFUGIO LOPEZ  
ACEVEDO, individually, and on behalf of other  
members of the general public similarly situated  
and aggrieved employees pursuant to the Private  
Attorneys General Act,

Plaintiffs,

vs.

ADVANCED MANUFACTURING AND  
DEVELOPMENT, INC. dba METALFX, a  
California corporation; and DOES 1 through 25,  
inclusive,

Defendants.

Case No. 23CV00673

*Assigned to Dept. E*

**SECOND AMENDED COMPLAINT:**

- 1. Violation of Cal. Labor Code §§ 1194, 1197 and 1197.1 (Unpaid Minimum Wages)**
- 2. Violation of Cal. Labor Code §§ 510 and 1198 (Unpaid Overtime)**
- 3. Violation of Cal. Labor Code §§ 226.7 and 512(a) (Unpaid Meal Period Premiums)**
- 4. Violation of Cal. Labor Code § 226.7 (Unpaid Rest Period Premiums)**
- 5. Violation of Cal. Labor Code §§ 204 and 210 (Wages Not Timely Paid During Employment)**
- 6. Violation of Cal. Labor Code § 226(a) (Failure to Provide Accurate Wage Statements)**
- 7. Violation of Cal. Labor Code §§ 201, 202 and 203 (Untimely Final Wages)**

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28
8. Violation of Cal. Labor Code §§ 2800 and 2802 (Failure to Reimburse Necessary Business Expenses)
  9. Violation of Cal. Business & Professions Code § 17200, *et seq.*; and
  10. Violation of Cal. Labor Code §§ 2698 *et. seq.* (“Private Attorneys General Act”)

**DEMAND FOR JURY TRIAL**

Arrash T. Fattahi (State Bar No. 333676)  
afattahi@wilshirelawfirm.com  
**WILSHIRE LAW FIRM, PLC**  
3055 Wilshire Boulevard, 12th Floor  
Los Angeles, California 90010  
Tel: (213) 381-9988 / Fax: (213) 381-9989

Attorneys for Plaintiff JOSE REFUGIO LOPEZ ACEVEDO

1 Plaintiffs ALMA LOPEZ and JOSE REFUGIO LOPEZ ACEVEDO (together, “Plaintiffs”),  
2 individually and on behalf of all members of the general public similarly situated and other aggrieved  
3 employees pursuant to the California Labor Code Private Attorneys General Act, bring this Second  
4 Amended Complaint against Defendants ADVANCED MANUFACTURING AND  
5 DEVELOPMENT, INC. DBA METALFX and DOES 1-25 (“Defendants”) and allege as follows:

6 **INTRODUCTION**

7 1. This action seeks relief against Defendants for their knowingly wrongful conduct with  
8 respect to current and former employees. Plaintiffs allege causes of action against Defendants for: (1)  
9 failure to pay certain wages at the statutorily required rate(s), including but not limited to straight time  
10 wages, overtime wages, minimum wages, meal break premium wages, and rest break period premium  
11 wages; (2) failure to provide meal breaks and missed meal break premiums to their current and former  
12 employees; (3) failure to provide rest breaks and missed rest break premiums to their current and  
13 former employees; (4) failure to provide complete and accurate wage statements to their current and  
14 former employees; (5) failure to provide timely wages during employment and after termination; (6)  
15 failure to reimburse current and former employees for necessary business related expenses; (7) unfair  
16 business practices based on the foregoing; and (8) civil penalties under the Private Attorney General  
17 Act of 2004 (“PAGA”) and derivative or related claims for violations of the Labor Code and the  
18 Industrial Welfare Commission (“IWC”) Wage Orders.

19 2. Additionally, this is an enforcement action under PAGA to recover civil penalties on  
20 behalf of Plaintiffs, the State of California, and all individuals who worked for Defendants in the State  
21 of California as hourly-paid and/or non-exempt employees at any time during the period from July 24,  
22 2022 to final judgment (“Aggrieved Employees”). As a result, Defendants violated among other  
23 things, California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 1174(d), 1194,  
24 1197, 1197.1, 1198, 2800, and 2802, and the applicable IWC Wage Orders. Through this action,  
25 Plaintiffs seek to recover all available remedies under PAGA, including, but not limited to, civil  
26 penalties and attorney’s fees and costs.

27 ///

28 ///

3. The systematic policies, practices, and customs of Defendants violated and continue to violate California law, and have injured Plaintiffs and other similarly aggrieved employees and putative class members.

## JURISDICTION AND VENUE

4. This action is brought pursuant to California Code of Civil Procedure section 382 and California Labor Code sections 2698, *et seq.*

5. The monetary damages, restitution, statutory penalties, and other applicable legal and equitable relief sought by Plaintiffs exceed the minimal jurisdiction limits of the Superior Court and will be established according to proof at trial.

6. This Court has jurisdiction over this action pursuant to the California Constitution, Article VI, section 10, which grants the superior court “original jurisdiction in all other causes” except those given by statute to other courts. The statutes under which this action is brought do not specify any other basis for jurisdiction.

7. This Court has jurisdiction over all Defendants because, upon information and belief, Defendants are either citizens of California, have sufficient minimum contacts in California, or otherwise intentionally avail themselves of the California market so as to render the exercise of jurisdiction over them by the California courts consistent with traditional notions of fair play and substantial justice. Further, no federal question is at issue because the claims asserted herein are based solely on California law.

8. Venue is proper in this Court because, upon information and belief, Defendants maintain offices, have agents, employ individuals, and/or transact business in the State of California, County of Mendocino. The majority of the acts, events, and violations alleged herein relating to Plaintiffs occurred throughout the state of California, including in the County of Mendocino.

## THE PARTIES

9. At all times herein mentioned, Plaintiffs ALMA LOPEZ and JOSE REFUGIO LOPEZ ACEVEDO were and are residents of Mendocino County in the State of California.

///

///

1           10.     At all times herein mentioned, Defendant ADVANCED MANUFACTURING AND  
2 DEVELOPMENT, INC. DBA METALFX, was and is, upon information and belief, a California  
3 corporation, and at all times hereinafter mentioned, an employer whose employees are engaged  
4 throughout Mendocino County and the State of California, including at 200 N. Lenore Ave., Willits,  
5 CA 95490.

6           11.     Plaintiffs are unaware of the true names or capacities of the Defendants sued herein  
7 under the fictitious names DOES 1 through 25 but will seek leave of this Court to amend the complaint  
8 and serve such fictitiously named Defendants once their names and capacities become known.

9           12.     Plaintiffs are informed and believe, and thereon allege, that each and all of the acts and  
10 omissions alleged herein were performed by, or are attributable to Defendants and/or DOES 1 through  
11 25, each acting as the agent, employee, alter ego, and/or joint venturer of, or working in concert with,  
12 each of the other co-Defendants and within the course and scope of such agency, employment, joint  
13 venture, or concerted activity with legal authority to act on the others' behalf. The acts of any and all  
14 Defendants represent and were in accordance with Defendants' official policies.

15           13.     At all relevant times, Defendants were the employers of Plaintiffs within the meaning  
16 of all applicable state laws and statutes. Defendants directly or indirectly controlled or affected the  
17 working conditions, wages, working hours, and conditions of employment of Plaintiffs so as to make  
18 each of said Defendants employers and employers liable under the statutory provisions set forth herein.

19           14.     Defendants had the authority to hire and terminate Plaintiffs, the other class members,  
20 and aggrieved employees to set work rules and conditions governing their employment, and to  
21 supervise their daily employment activities.

22           15.     Defendants exercised sufficient authority over the terms and conditions of Plaintiffs,  
23 the other class members, and aggrieved employees' employment for them to be their joint  
24 employers.

25           16.     Defendants directly hired and paid wages and benefits to Plaintiffs, the other class  
26 members, and aggrieved employees.

27           17.     Defendants continue to employ hourly paid and/or non-exempt employees within the  
28 State of California.

18. At all relevant times, Defendants, and each of them, ratified each and every act or omission complained of herein. At all relevant times, Defendants, and each of them, aided and abetted the acts and omissions of each and all the other Defendants in proximately causing the damages herein alleged.

19. Plaintiffs are informed and believe, and thereon allege, that each of said Defendants is in some manner intentionally, negligently, or otherwise responsible for the acts, omissions, occurrences, and transactions alleged herein.

## GENERAL ALLEGATIONS

20. Defendants, jointly and severally, employed Plaintiff ALMA LOPEZ from approximately July 2019 to March 2023 as a non-exempt, hourly-paid employee. During her employment with Defendants, Plaintiff ALMA LOPEZ was employed as a Production Worker and then as an Assembler II at Defendants' location at 200 N. Lenore Ave., Willits, CA 95490.

21. Defendants, jointly and severally, employed Plaintiff JOSE REFUGIO LOPEZ ACEVEDO from approximately April 2020 to June 2023 as a non-exempt, hourly-paid employee. During his employment with Defendants, Plaintiff JOSE REFUGIO LOPEZ ACEVEDO was employed as a Machine Operator at Defendants' location at 200 N. Lenore Ave., Willits, CA 95490

22. Plaintiffs are informed and believe, and thereon allege that Defendants engaged in a pattern and practice of wage abuse against their hourly-paid and/or non-exempt employees. As set forth in more detail below, this pattern and practice of wage abuse involved, *inter alia*, requiring Plaintiffs, the other class members, and aggrieved employees to work off-the-clock without compensation, failing to properly pay straight time, overtime, and minimum wages for all hours worked, failing to provide all meal and rest breaks to which they were entitled and failing to pay meal and rest break premiums when due, failing to timely pay wages during employment and upon termination of employment, failing to provide accurate wage statements, failing to reimburse necessary business-related expenses, and failing to adhere to other related protections afforded by the California Labor Code and the applicable Industrial Welfare Commission Wage Order.

///

///

23. Defendants knew or should have known that they had a duty to compensate Plaintiffs, the other class members, and aggrieved employees pursuant to California law, and had the financial ability to pay such compensation, but willfully, knowingly, and intentionally failed to do so to increase Defendants' profits.

#### **CLASS ACTION ALLEGATIONS**

24. Plaintiffs bring this lawsuit as a class action on behalf of themselves and all others similarly situated, as members of a proposed class pursuant to California Code of Civil Procedure section 382. The class satisfies the numerosity, commonality, typicality, adequacy, predominance, and superiority requirements under California Code of Civil Procedure section 382.

25. The proposed class is defined as follows:

**All current and former hourly-paid and/or non-exempt employees who worked for Defendants in the State of California at any time during the period from July 25, 2019 until final judgment.**

26. Plaintiffs reserve the right to establish additional subclasses as appropriate.

27. There is a well-defined community of interest in the litigation and the Class is easily ascertainable.

28. The Class is so numerous that the individual joinder of all its members is impracticable. While the exact number and identities of class members are unknown to Plaintiffs at this time, the exact numbers of class members and their identities can be ascertained through appropriate discovery from records maintained by Defendants and their agents.

29. Common questions of fact and law exist as to all class members, which predominate over any questions affecting only individual members of the Class. The common legal and factual questions which do not vary from class member to class member and which may be determined without reference to the individual circumstances of any class member include, but are not limited to, the following:

- i. Whether Defendants had a policy and practice of failing to pay minimum wages to Plaintiffs and the other class members for all hours worked;

///

- 1           ii. Whether Defendants had a policy and practice of failing to pay overtime wages to  
2           Plaintiffs and the other class members for all overtime hours worked;
- 3           iii. Whether Defendants had a policy and practice of failing to provide meal periods to  
4           Plaintiffs and the other class members;
- 5           iv. Whether Defendants had a policy and practice of failing to provide rest periods to  
6           Plaintiffs and the other class members;
- 7           v. Whether Defendants failed to pay their hourly-paid and/or non-exempt employees in  
8           the State of California for all hours worked, and for all missed, short, late, and/or  
9           interrupted meal periods and rest breaks;
- 10          vi. Whether Defendants failed to timely pay all wages due to Plaintiffs and the other class  
11          members during their employment;
- 12          vii. Whether Defendants' failure to pay wages, without abatement or reduction, in  
13          accordance with the California Labor Code, was willful;
- 14          viii. Whether Defendants failed to pay all wages due to Plaintiffs and the other class  
15          members within the required time upon their discharge or resignation;
- 16          ix. Whether Defendants failed to comply with wage reporting as required by the California  
17          Labor Code; including, *inter alia*, section 226;
- 18          x. Whether Defendants failed to reimburse Plaintiffs and the other class members for  
19          necessary business-related expenses and costs;
- 20          xi. Whether Defendants' conduct was willful or reckless;
- 21          xii. Whether Defendants engaged in unfair business practices in violation of California  
22          Business & Professions Code section 17200, *et seq.*;
- 23          xiii. The appropriate amount of damages, restitution, and/or monetary penalties resulting  
24          from Defendants' violation of California law; and
- 25          xiv. Whether Plaintiffs and the other class members are entitled to compensatory damages  
26          pursuant to the California Labor Code.

27 ///

28 ///



30. Plaintiffs' claims are typical of the claims of the Class, and Plaintiffs' interests are coincident with and not antagonistic to those of the other class members they seek to represent. Plaintiffs will fairly and adequately protect the interests of the members of the Class. Plaintiffs have retained attorneys experienced in the prosecution of class actions and Plaintiffs intend to prosecute this action vigorously.

31. A class action is superior to other available methods for the fair and efficient adjudication of this controversy since individual litigation of the claims of all class members is impracticable. Even if every class member could afford individual litigation, the court system could not. It would be unduly burdensome on the courts in which individual litigation of numerous cases would proceed. Individualized litigation would also present the potential for varying, inconsistent or contradictory judgments and would magnify the delay and expense to all parties and to the court system resulting from multiple trials of the same complex factual issues. By contrast, the conduct of this action as a class action, with respect to some or all of the issues presented in this Complaint, presents fewer management difficulties, conserves the resources of the parties and of the court system, and protects the rights of each class member.

32. Certification of this lawsuit as a class action will advance public policy objectives. Employers of this great state violate employment and labor laws every day. Current employees are often afraid to assert their rights out of fear of direct or indirect retaliation. However, class actions provide the class members who are not named in the complaint anonymity that allows for the vindication of their rights.

## PAGA ALLEGATIONS

33. At all times set forth herein, PAGA applied to Plaintiffs' employment by Defendants.

34. PAGA provides that any provision of law under the California Labor Code that provides for a civil penalty, including unpaid wages and premium wages, to be assessed and collected by the LWDA for violations of the California Labor Code may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees pursuant to procedures outlined in California Labor Code section 2699.3.

///

1           35. Pursuant to PAGA, a civil action may be brought by an “aggrieved employee,” who is  
2 any person employed by the alleged violator and against whom one or more of the alleged violations  
3 was committed.

4           36. Plaintiffs and the other employees are “Aggrieved Employees” as defined by California  
5 Labor Code section 2699(c) because they are current or former employees of Defendants against  
6 whom one of more of the alleged violations were committed.

7           37. Pursuant to California Labor Code sections 2699.3 and 2699.5, an aggrieved employee,  
8 including Plaintiffs, may pursue a civil action arising under PAGA after the following requirements  
9 have been met:

10           (a) The aggrieved employee shall give written notice by certified mail (hereinafter  
11 “Employee’s Notice”) to the LWDA and the employer of the specific provisions of the  
12 Labor Code alleged to have been violated, including the facts and theories to support the  
13 alleged violations.

14           (b) The LWDA shall provide notice (hereinafter “LWDA Response”) to the employer and the  
15 aggrieved employee by certified mail that it does not intend to investigate the alleged  
16 violation within sixty (60) calendar days of the postmark date of the Employee’s Notice.  
17 Upon receipt of the LWDA Response, or if the LWDA Response is not provided within  
18 sixty-five (65) calendar days of the postmark date of the Employee’s Notice, the aggrieved  
19 employee may commence a civil action pursuant to California Labor Code section 2699  
20 to recover civil penalties in addition to any other penalties to which the employee may be  
21 entitled.

22           38. On July 24, 2023, Plaintiff ALMA LOPEZ provided notice by electronic submission  
23 to the LWDA and by certified mail to Defendants regarding the specific provisions of the Labor Code  
24 alleged to have been violated, including the facts and theories to support the alleged violations,  
25 pursuant to Labor Code section 2699.3. **A true and correct copy of the Employee’s Notice is**  
26 **attached hereto as Exhibit A.**

27 ///

28 ///

39. On September 27, 2023, Plaintiff JOSE REFUGIO LOPEZ ACEVEDO provided notice by electronic submission to the LWDA and by certified mail to Defendants regarding the specific provisions of the Labor Code alleged to have been violated, including the facts and theories to support the alleged violations, pursuant to Labor Code section 2699.3. **A true and correct copy of the Employee's Notice is attached hereto as Exhibit B.**

40. Plaintiffs did not receive an LWDA Response within sixty-five calendar days of providing the Employee's Notice.

41. Therefore, the administrative prerequisites under California Labor Code section 2699.3(a) to recover civil penalties against Defendants, in addition to other remedies for violations of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 2800, and 2802 have been satisfied.

**FIRST CAUSE OF ACTION**

## VIOLATION OF LABOR CODE SECTIONS 1194, 1197, AND 1197.1

## Failure to Pay Minimum Wage

**(Against All Defendants and DOES 1 – 25)**

42. Plaintiffs incorporate herein by specific reference, as though fully set forth, the allegations in all preceding paragraphs.

43. California Labor Code sections 1194, 1197, and 1197.1 provide that the minimum wage for employees fixed by the Industrial Welfare Commission is the minimum wage to be paid to employees, and the payment of a wage less than the minimum so fixed is unlawful. Plaintiffs and the other class members were frequently suffered or permitted to work “off-the-clock”, such that they were not paid minimum wage for all hours worked.

44. Such “off-the-clock” work that Plaintiffs and class members were suffered and/or permitted to work, and for which Plaintiffs and class members did not receive minimum and/or straight time wages include *inter alia*, requiring Plaintiffs and the other class members to continue assembling parts and assisting coworkers with their builds during purported meal periods.

///

///

45. Moreover, Defendants had a policy, practice, and procedure of rounding employee time such that Plaintiffs and some or all class members were systematically unpaid and/or underpaid for time worked over the course of their employment.

46. Accordingly, Defendants regularly failed to pay at least minimum wages to Plaintiffs and the other class members for all hours they worked in violation of California Labor Code sections 1194, 1197, and 1197.1.

47. Defendants knew or should have known that Plaintiffs and class members were performing such work “off-the-clock” because, among other things, Defendants’ management witnessed, authorized, was made aware of, and/or required Plaintiffs and class members to perform such work.

48. Defendants' failure to pay Plaintiffs and the other class members the minimum wage as required violates California Labor Code sections 1194, 1197, and 1197.1. Pursuant to those sections, Plaintiffs and the other class members are entitled to recover the unpaid balance of their minimum wage compensation, as well as interest, costs, and attorney's fees.

49. Pursuant to California Labor Code section 1194.2, Plaintiffs and the other class members are entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

## SECOND CAUSE OF ACTION

## VIOLATION OF LABOR CODE SECTIONS 510 AND 1198

## Unpaid Overtime

**(Against All Defendants and DOES 1 – 25)**

50. Plaintiffs incorporate herein by specific reference, as though fully set forth, the allegations in all preceding paragraphs.

51. California Labor Code section 1198 and the applicable IWC Wage Order provide that it is unlawful to employ persons without compensating them at a rate of pay either time-and-one-half or two-times that person's regular rate of pay, depending on the number of hours worked by the person on a daily and/or weekly basis.

///

1           52.     Specifically, the applicable IWC Wage Order provides that Defendants were required  
2 to pay Plaintiffs and the other class members at the rate of time-and-one-half for all hours worked in  
3 excess of eight (8) hours in a day, in excess of forty (40) hours in a workweek, and/or the first eight  
4 (8) hours worked on the seventh consecutive day in a workweek.

5           53.     The applicable IWC Wage Order further provides that Defendants were required to pay  
6 Plaintiffs and the other class members overtime compensation at a rate of two (2) times their regular  
7 rate of pay for all hours worked in excess of twelve (12) hours in a day and/or for all hours worked in  
8 excess of eight (8) hours on the seventh consecutive day in a workweek.

9           54.     California Labor Code section 510 codifies the right to overtime compensation at one-  
10 and-one half times the regular hourly rate for hours worked in excess of eight (8) hours in a day, forty  
11 (40) hours in a week, or for the first eight (8) hours worked on the seventh day of work, and to overtime  
12 compensation at twice the regular hourly rate for hours worked in excess of twelve (12) hours in a day  
13 or in excess of eight (8) hours in a day on the seventh day of work.

14          55.     Plaintiffs and the other class members regularly worked in excess of eight (8) hours in  
15 a day, in excess of twelve (12) hours in a day, in excess of forty (40) hours in a week and/or seven (7)  
16 consecutive days in a workweek. However, Defendants did not record Plaintiffs and the other class  
17 members' actual hours worked and intentionally and willfully failed to pay all overtime wages owed  
18 to Plaintiffs and the other class members. Defendants' failure to pay correct overtime wages included,  
19 *inter alia*: (a) when the combined total of the off-the-clock work discussed *supra* and the on-the-clock  
20 work exceed the number of hours that trigger the payment of overtime wages under Labor Code  
21 sections 510 and 1198 and/or the applicable Wage Order; (b) when Defendants intentionally, willfully  
22 and/or negligently mischaracterized overtime as straight time; (c) when Defendants assigned more  
23 work than could reasonably be completed in a workday or workweek to Plaintiffs and class members,  
24 but refused to authorize the overtime necessary for them to complete the assigned work; and (d) when  
25 Defendants failed to include all required wages and remuneration when calculating setting the  
26 overtime rate.

27 ///

28 ///

56. Defendants' failure to pay Plaintiffs and the other class members as outlined above violates California Labor Code sections 510 and 1198 and the applicable Wage Order and is therefore unlawful.

57. Pursuant to California Labor Code section 1194, Plaintiffs and the other class members are entitled to recover their unpaid overtime compensation, as well as interest, costs, and attorneys' fees.

### THIRD CAUSE OF ACTION

## VIOLATION OF LABOR CODE SECTIONS 226.7 AND 512

## Meal Break Violations

**(Against All Defendants and DOES 1 – 25)**

58. Plaintiffs incorporate herein by specific reference, as though fully set forth, the allegations in all preceding paragraphs.

59. California Labor Code sections 226.7 and 512(a) and the applicable Wage Order govern Plaintiffs and the other class members' employment by Defendants.

///

60. California Labor Code section 226.7 provides that no employer shall require an employee to work during any meal period mandated by an applicable IWC Order.

61. The applicable IWC Wage Order and California Labor Code section 512(a) provide that an employer may not require, cause, or permit an employee to work for a period of more than five (5) hours per day without providing the employee with a meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee.

62. The applicable IWC Wage Order and California Labor Code section 512(a) further provides that an employer may not require, cause, or permit an employee to work a work period of more than ten (10) hours per day without providing the employee with a second uninterrupted meal period of not less than thirty (30) minutes, except if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

1           63.     Plaintiffs and the other class members who were scheduled to work for shifts no longer  
2 than six (6) hours, and who did not waive their legally mandated meal periods by mutual consent, were  
3 required to work for periods longer than five (5) hours without an uninterrupted meal period of not  
4 less than thirty (30) minutes.

5           64.     Plaintiffs and the other class members who were scheduled to work for shifts in excess  
6 of ten (10) hours but no longer than twelve (12) hours, and who did not waive their legally-mandated  
7 meal periods by mutual consent, were required to work for periods longer than ten (10) hours without  
8 an uninterrupted meal period of not less than thirty (30) minutes.

9           65.     Defendants intentionally and willfully required Plaintiffs and the other class members  
10 to work during meal periods and failed to compensate Plaintiffs and the other class members for work  
11 performed during meal periods. This includes, among other things, requiring Plaintiffs and class  
12 members to work through their lunch breaks, permitting and/or requiring Plaintiffs and class members  
13 to take late lunch breaks, permitting and/or requiring Plaintiffs and class members to take short lunch  
14 breaks, interrupting and/or allowing others to interrupt Plaintiffs and class members during their lunch  
15 breaks, failing to relieve Plaintiffs and class members of all duties during their lunch breaks, and  
16 restricting Plaintiffs and class members from leaving the premises during their lunch breaks.

17           66.     Further, because of Defendants' rounding policy, meal breaks were at times incorrectly  
18 recorded as compliant, when in reality they were untimely and/or cut short.

19           67.     During the relevant time period, Defendants failed to pay Plaintiffs and the other class  
20 members all meal period premiums due pursuant to California Labor Code section 226.7 and 512 and  
21 the applicable Wage Order.

22           68.     Defendants' conduct therefore violates the applicable IWC Wage Order, and California  
23 Labor Code sections 226.7 and 512(a).

24           69.     Pursuant to the applicable IWC Wage Order and California Labor Code section  
25 226.7(b), Plaintiffs and the other class members are entitled to recover from Defendants one additional  
26 hour of pay at their regular rate of compensation for each workday that a compliant meal  
27 period was not provided.

28 ///

1 **FOURTH CAUSE OF ACTION**

2 **VIOLATION OF LABOR CODE SECTION 226.7**

3 **Rest Break Violations**

4 **(Against All Defendants and DOES 1 – 25)**

5 70. Plaintiffs incorporate herein by specific reference, as though fully set forth, the  
6 allegations in all preceding paragraphs.

7 71. California Labor Code section 226.7 and the applicable IWC Wage Order govern  
8 Plaintiffs and the other class members' employment by Defendants.

9 72. California Labor Code section 226.7 provides that no employer shall require an  
10 employee to work during any rest period mandated by an applicable order of the California IWC.

11 73. The applicable IWC Wage Order provides that "[e]very employer shall authorize and  
12 permit all employees to take rest periods, which insofar as practicable shall be in the middle of each  
13 work period" and that the "rest period time shall be based on the total hours worked daily at the rate  
14 of ten (10) minutes net rest time per four (4) hours or major fraction thereof" unless the total daily  
15 work time is less than three and one-half (3½) hours."

16 74. Defendants routinely required Plaintiffs and the other class members to work three and  
17 one-half (3 ½) or more hours without authorizing or permitting a compliant ten (10) minute rest period  
18 per each four (4) hour period, or major fraction thereof, worked.

19 75. Moreover, Defendants willfully required, suffered, and permitted Plaintiffs and the  
20 other class members to work during what should have been their rest periods. Defendants also failed  
21 to relieve Plaintiffs and the other class members of all duties for ten (10) minutes as required for  
22 compliant rest breaks.

23 76. As a result, Plaintiffs worked through rest periods, took late rest periods, took  
24 interrupted rest periods, and/or took short rest periods, if at all.

25 77. Pursuant to the applicable IWC Wage Order and California Labor Code section  
26 226.7(b), Plaintiffs and the other class members were entitled to recover from Defendants one (1)  
27 additional hour of pay at their regular hourly rate of compensation for each workday that compliant  
28 rest period(s) were not provided.



78. Defendants had no policy and/or practice to pay a premium when rest periods were missed, short, late, and/or interrupted, or otherwise failed to comply with California law, and thus Defendants failed to pay Plaintiffs and the other class members the full rest period premium due to them in violation of California Labor Code section 226.7 and the applicable IWC Wage Orders.

79. Pursuant to the applicable IWC Wage Orders and California Labor Code section 226.7(c), Plaintiffs and the other class members are entitled to recover from Defendants one additional hour of pay at their regular rate of compensation for each workday complaint rest period(s) were not provided.

## **FIFTH CAUSE OF ACTION**

## VIOLATION OF CALIFORNIA LABOR CODE §§ 204 AND 210

## Failure to Timely Pay Wages During Employment

**(Against All Defendants and DOES 1 – 25)**

80. Plaintiffs incorporate herein by specific reference, as though fully set forth, the allegations in all preceding paragraphs.

81. California Labor Code section 204 provides that all wages earned by any person in any employment between the 1st and 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and 26th day of the month during which the labor was performed.

82. California Labor Code section 204 provides that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month.

83. California Labor Code section 204 provides that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period.

84. As a result of the violations set forth in detail above (failure to pay overtime, failure to pay minimum wages, meal break violations and rest break violations), Defendants intentionally and willfully failed to timely pay Plaintiffs and other class members all wages due to them, within the period permissible under California Labor Code section 204.

85. Plaintiffs and other class members are entitled to recover all available remedies for Defendants' violations of California Labor Code section 204, including statutory penalties pursuant to Labor Code section 210(b).

## **SIXTH CAUSE OF ACTION**

## VIOLATION OF LABOR CODE SECTION 226(a)

## Failure to Provide Accurate Wage Statements

**(Against All Defendants and DOES 1 – 25)**

86. Plaintiffs incorporate herein by specific reference, as though fully set forth, the allegations in all preceding paragraphs.

87. At all material times set forth herein, California Labor Code section 226(a) provides that every employer shall furnish each of its employees an accurate itemized wage statement in writing, including, but not limited to, the name and address of the legal entity that is the employer, total hours worked, and all applicable hourly rates.

88. As a result of the violations set forth in detail above (failure to pay overtime, failure to pay minimum wages, meal break violations and rest break violations), Defendants intentionally and willfully failed to provide Plaintiffs and the other class members with complete and accurate wage statements. The deficiencies include, among other things, the failure to state all hours worked, the failure to state the actual gross wages earned, the failure to include meal and rest break premiums, and the failure to include correct rates of pay. Accordingly, Defendants violated California Labor Code 226(a).

89. As a result of Defendants' violation of California Labor Code section 226(a), Plaintiffs and the other class members have suffered injury and damage to their statutorily protected rights.

90. Specifically, Plaintiffs and the other class members have been injured by Defendants' intentional violation of California Labor Code section 226(a) because they were denied both their legal right to receive, and their protected interest in receiving, accurate, itemized wage statements under California Labor Code section 226(a). In addition, because Defendants failed to provide the accurate number of total hours worked on wage statements, Plaintiffs and the other class members have been prevented by Defendants from determining if all hours worked were paid and the extent of the

1 underpayment. Plaintiffs had to file this lawsuit, and will further have to conduct discovery,  
2 reconstruct time records, and perform computations in order to analyze whether in fact Plaintiffs and  
3 the other class members were paid correctly and the extent of the underpayment, thereby causing  
4 Plaintiffs to incur expenses and lost time. Plaintiffs would not have had to engage in these efforts and  
5 incur these costs had Defendants provided the accurate number of total hours worked. This has also  
6 delayed Plaintiffs' ability to demand and recover the underpayment of wages from Defendants.

7 91. Plaintiffs and the other class members are entitled to recover from Defendants the  
8 greater of their actual damages caused by Defendants' failure to comply with California Labor Code  
9 section 226(a), or an aggregate penalty not exceeding four thousand dollars (\$4,000).

10 **SEVENTH CAUSE OF ACTION**

11 **VIOLATION OF LABOR CODE SECTIONS 201, 202, AND 203**

12 **Final Wages Not Timely Paid**

13 **(Against All Defendants and DOES 1 – 25)**

14 92. Plaintiffs incorporate herein by specific reference, as though fully set forth, the  
15 allegations in all preceding paragraphs.

16 93. Pursuant to California Labor Code sections 201, 202, and 203, Defendants are required  
17 to timely pay all earned and unpaid wages to an employee who is discharged. California Labor Code  
18 section 201 mandates that if an employer discharges an employee, the employee's wages accrued and  
19 unpaid at the time of discharge are due and payable immediately. California Labor Code section 202  
20 mandates that if an employee quits, his or her wages shall become due and payable not later than  
21 seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours' notice of  
22 his or her intention to quit, in which case the employee is entitled to his or her wages at the time of  
23 quitting.

24 94. California Labor Code section 203 provides that if an employer willfully fails to pay,  
25 in accordance with California Labor Code sections 201 and 202, any wages of an employee who is  
26 discharged or who quits, the wages of the employee shall continue as a penalty from the due date  
27 thereof at the same rate until paid or until an action therefore is commenced; but the wages shall not  
28 continue for more than thirty (30) days.

95. As a result of the violations set forth in detail above (failure to pay overtime, failure to pay minimum wages, meal break violations and rest break violations), at the time that Plaintiffs and the other class members' employment with Defendants ended, Defendants knowingly and willfully failed to pay Plaintiffs and the other class members all wages owed to them pursuant to California Labor Code sections 201 and 202, including, without limitation, overtime wages, minimum wages, meal period premium wages, and rest period premium wages, and all wages due to Plaintiffs and class members as they became due, as required per California Labor Code sections 204.

96. As a result, Plaintiffs and the other class members are entitled to all available statutory penalties, including the waiting time penalties provided in California Labor Code section 203, together with interest thereon, as well as other available remedies.

### EIGHTH CAUSE OF ACTION

## VIOLATION OF LABOR CODE SECTIONS 2800 AND 2802

### Failure to Reimburse Necessary Business Expenses

**(Against All Defendants and DOES 1 – 25)**

97. Plaintiffs incorporate herein by specific reference, as though fully set forth, the allegations in all preceding paragraphs.

98. Pursuant to California Labor Code sections 2800 and 2802, an employer must reimburse its employees for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her job duties or in direct consequence of his or her job duties or in direct consequence of his or her obedience to the directions of the employer.

99. Plaintiffs and the other class members incurred necessary business-related expenses and costs that were not fully reimbursed by Defendants, including, but not limited to the purchase of assembling tools, such as sockets and screwdrivers, and the usage of personal cell phones for work-related purposes.

100. Defendants intentionally and willfully failed to reimburse Plaintiffs and the other class members for all necessary business-related expenses and costs. Plaintiffs and the other class members are entitled to recover from Defendants their business-related expenses and costs incurred during the course and scope of employment, plus interest accrued from the date on which Plaintiffs and the other

1 class members incurred the necessary expenditures at the same rate as judgments in civil actions in  
2 the State of California.

3 **NINTH CAUSE OF ACTION**

4 **VIOLATION OF CAL. BUS. & PROF. CODE §§ 17200 *ET. SEQ.***

5 **Unfair and Unlawful Business Practices**

6 **(Against All Defendants and DOES 1 – 25)**

7 101. Plaintiffs incorporate herein by specific reference, as though fully set forth, the  
8 allegations in all preceding paragraphs.

9 102. Each and every one of Defendants' acts and omissions in violation of the California  
10 Labor Code and/or the applicable IWC Wage Order as alleged herein, including but not limited to  
11 Defendants' failure and refusal to pay overtime compensation, Defendants' failure and refusal to pay  
12 minimum wages, Defendants' failure and refusal to provide required meal periods and/or pay meal  
13 period premiums, Defendants' failure and refusal to provide required rest periods and/or pay the  
14 required rest break premiums, Defendants' failure to timely pay wages at the correct rate during  
15 employment, Defendants' failure and refusal to furnish accurate itemized wage statements,  
16 Defendants' failure and refusal to reimburse business-related expenses, and Defendants' failure to  
17 timely pay wages upon termination constitutes an unfair and unlawful business practice under  
18 California Business and Professions Code § 17200 *et seq.*

19 103. Defendants' violations of California wage and hour laws constitute an unfair and  
20 unlawful business practice because Defendants' aforementioned acts and omissions were done  
21 repeatedly over a significant period of time, and in a systematic manner, to the detriment of Plaintiffs  
22 and the other class members.

23 104. Defendants have avoided payment of overtime wages, minimum wages, meal period  
24 premiums, rest period premiums, timely wages at the correct rate of pay, and other benefits as required  
25 by the California Labor Code, the California Code of Regulations, and the applicable IWC Wage  
26 Order. Further, Defendants have failed to record, report, and pay the correct sums of assessment to  
27 the state authorities under the California Labor Code and other applicable regulations.

28 ///

105. As a result of Defendants' unfair and unlawful business practices, Defendants have reaped unfair and illegal profits during Plaintiffs and the other class members' tenure at the expense of Plaintiffs, the other class members, and members of the public. Defendants should be made to disgorge their ill-gotten gains and to restore them to Plaintiffs and the other class members.

106. Defendants' unfair and unlawful business practices entitle Plaintiffs and the other class members to seek preliminary and permanent injunctive relief, including but not limited to orders that Defendants account for, disgorge, and restore to Plaintiffs and the other class members the wages and other compensation unlawfully withheld from them. Plaintiffs and the other class members are entitled to restitution of all monies to be disgorged from Defendants in an amount according to proof at the time of trial.

### TENTH CAUSE OF ACTION

**VIOLATION OF CALIFORNIA LABOR CODE §§ 2699, *ET SEQ.***

## Private Attorney General Act

**(Against All Defendants and DOES 1-25)**

107. Plaintiffs incorporate herein by specific reference, as though fully set forth, the allegations and applicable law in all preceding paragraphs.

108. Plaintiffs bring this action on an individual basis and on a representative basis on behalf of other Aggrieved Employees and the State of California, in Plaintiffs' capacities as private attorney generals pursuant to the Private Attorneys General Act of 2004, California Labor Code § 2698, *et seq.*

109. PAGA expressly provides for a private right of action to recover civil penalties for violations of the Labor Code as follows: “Notwithstanding any other provision of law, any provision of this code that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency or any of its departments, divisions, commissions, boards, agencies, or employees, for a violation of this code, may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees pursuant to the procedures specified in Section 2699.3.” Cal. Lab. Code § 2699(a).

///

///

1           110. Whenever the LWDA, or any of its departments, divisions, commissions, boards,  
2 agencies, or employees has discretion to assess a civil penalty, a court in a civil action is authorized to  
3 exercise the same discretion, subject to the same limitations and conditions, to assess a civil penalty.

4           111. Plaintiffs and the other hourly-paid, non-exempt employees are “Aggrieved  
5 Employees” as defined by California Labor Code section 2699(c) in that they are all current or former  
6 employees of Defendants, and one or more of the alleged violations were committed against them.

7           112. Defendants’ conduct, as alleged herein, violates numerous sections of the California  
8 Labor Code, including, but not limited to, the following:

- 9           (a) Violation of California Labor Code sections 510 and 1198 for failure to pay  
10 overtime wages, as set forth more fully below;
- 11           (b) Violation of California Labor Code sections 1194, 1197, and 1197.1 for failure to  
12 pay minimum wages, as set forth more fully below;
- 13           (c) Violation of California Labor Code sections 226.7 and 512(a) for failure to provide  
14 legally required meal periods, as set forth more fully below;
- 15           (d) Violation of California Labor Code sections 226.7 and 512(a) for failure to pay  
16 required meal period premiums, as set forth more fully below;
- 17           (e) Violation of California Labor Code section 226.7 for failure to provide legally  
18 required rest periods, as set forth more fully below;
- 19           (f) Violation of California Labor Code section 226.7 for failure to pay required rest  
20 period premiums, as set forth more fully below;
- 21           (g) Violation of California Labor Code section 204 for failure to timely pay wages to  
22 Plaintiffs and Aggrieved Employees during employment, as set forth more fully  
23 before;
- 24           (h) Violation of California Labor Code sections 201, 202, and 203 for failure to pay all  
25 wages at time of discharge from employment, as set forth more fully below;
- 26           (i) Violation of California Labor Code section 226(a) for failure to provide accurate  
27 wage statements to Plaintiffs and Aggrieved Employees, as set forth more fully  
28 below;

(j) Violation of California Labor Code section 1174(d) for failure to keep complete and accurate payroll records relating to Plaintiffs and Aggrieved Employees, as set forth more fully below; and

(k) Violation of California Labor Code sections 2800 and 2802 for failure to reimburse Plaintiffs and Aggrieved Employees for necessary business-related expenses, as set forth more fully below.

113. Pursuant to PAGA, and in particular Labor Code sections 2699(a), 2699.3, and 2699.5, Plaintiffs, acting in the public interest as private attorney generals, seek assessment and collection of civil penalties for Plaintiffs, all Aggrieved Employees, and the State of California against Defendants for violations of Labor Code sections set forth herein, including penalties under California Labor Code sections 2699, 558, 210, 1197.1, 226, 226.3, 1174.5, and 1197.1, penalties under the applicable IWC Wage Order, and any and all additional penalties and remedies as provided by the California Labor Code and/or other statutes.

114. Pursuant to California Labor Code section 2699(i), civil penalties recovered by Aggrieved Employees shall be distributed as follows: seventy-five percent (75%) to the LWDA for the enforcement of labor laws and education of employers and employees about their rights and responsibilities and twenty-five (25%) to the Aggrieved Employees.

115. Plaintiffs retained counsel to file this court action, and to assess and collect the civil penalties owed by Defendants. Plaintiffs therefore seek an award of reasonable attorney's fees and costs pursuant to Labor Code §§ 210, 218.5, and 2699(g)(1), and any other applicable statute.

#### **DEMAND FOR JURY TRIAL**

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

#### **PRAYER FOR RELIEF**

Plaintiffs, on behalf of all others similarly situated, prays for relief and judgment against Defendants, jointly and severally, as follows:

#### **Class Certification**

1. That this action be certified as a class action;
2. That Plaintiffs be appointed as the representatives of the Class;



1           3.       That counsel for Plaintiffs be appointed as Class Counsel; and

2           4.       That Defendants provide to Class Counsel immediately the names and most current/last  
3 known contact information (address, e-mail and telephone numbers) of all class members.

4                               **As to the First Cause of Action**

5           5.       That the Court declare, adjudge, and decree that Defendants violated California Labor  
6 Code sections 1194, 1197, and 1197.1 by willfully failing to pay minimum wages to Plaintiffs and the  
7 other class members;

8           6.       For general unpaid wages and such general and special damages as may be appropriate;

9           7.       For statutory wage penalties pursuant to California Labor Code section 1197.1 for  
10 Plaintiffs and the other class members in the amount as may be established according to proof at trial;

11          8.       For pre-judgment interest on any unpaid compensation from the date such amounts  
12 were due;

13          9.       For reasonable attorneys' fees and costs of suit incurred herein pursuant to California  
14 Labor Code section 1194(a);

15          10.      For liquidated damages pursuant to California Labor Code section 1194.2; and

16          11.      For such other and further relief as the Court may deem just and proper.

17                               **As to the Second Cause of Action**

18          12.      That the Court declare, adjudge, and decree that Defendants violated California Labor  
19 Code sections 510 and 1198 and applicable IWC Wage Orders by willfully failing to pay all  
20 overtime wages due to Plaintiffs and the other class members;

21          13.      For general unpaid wages at overtime wage rates and such general and special  
22 damages as may be appropriate;

23          14.      For pre-judgment interest on any unpaid overtime compensation commencing from  
24 the date such amounts were due;

25          15.      For reasonable attorneys' fees and costs of suit incurred herein pursuant to California  
26 Labor Code section 1194; and

27          16.      For such other and further relief as the Court may deem just and proper.

28       ///

**As to the Third Cause of Action**

17. That the Court declare, adjudge, and decree that Defendants violated California Labor Code sections 226.7 and 512 and applicable IWC Wage Orders by willfully failing to provide all meal periods, (including second meal periods) to Plaintiffs and the other class members;

18. That the Court make an award to Plaintiffs and the other class members of one (1) hour of pay at each employee's regular rate of compensation for each workday that a meal period was not provided;

19. For all actual, consequential, and incidental losses and damages, according to proof;

20. For premium wages pursuant to California Labor Code section 226.7(c);

21. For pre-judgment interest on any unpaid wages from the date such amounts were due;

22. For reasonable attorneys' fees and costs of suit incurred herein; and

23. For such other and further relief as the Court may deem just and proper.

**As to the Fourth Cause Action**

24. That the Court declare, adjudge, and decree that Defendants violated California Labor Code section 226.7 and applicable IWC Wage Orders by willfully failing to provide all rest periods to Plaintiffs and the other class members;

25. That the Court make an award to Plaintiffs and the other class members of one (1) hour of pay at each employee's regular rate of compensation for each workday that a rest period was not provided;

26. For all actual, consequential, and incidental losses and damages, according to proof;

27. For premium wages pursuant to California Labor Code section 226.7(c);

28. For pre-judgment interest on any unpaid wages from the date such amounts were due;  
and

29. For such other and further relief as the Court may deem just and proper.

**As to the Fifth Cause of Action**

30. That the Court declare, adjudge, and decree that Defendants violated California Labor Code section 204 by willfully failing to pay all compensation owed at the time required by California Labor Code section 204 to Plaintiffs and the Class;

31. For statutory penalties pursuant to California Labor Code section 210;

32. For such other and further relief as the Court deems just and proper.

**As to the Sixth Cause of Action**

33. That the Court declare, adjudge, and decree that Defendants violated the record keeping provisions of California Labor Code section 226(a) and applicable IWC Wage Orders as to Plaintiffs and the other class members, and willfully failed to provide accurate itemized wage statements thereto;

34. For actual, consequential and incidental losses and damages, according to proof;

35. For statutory penalties pursuant to California Labor Code section 226(e);

36. For injunctive relief to ensure compliance with this section, pursuant to California Labor Code section 226(g); and

37. For such other and further relief as the Court may deem just and proper.

**As to the Seventh Cause of Action**

38. That the Court declare, adjudge, and decree that Defendants violated California Labor Code sections 201, 202, and 203 by willfully failing to pay all compensation owed at the time of termination of the employment of Plaintiffs and the other class members no longer employed by Defendants;

39. For all actual, consequential, and incidental losses and damages, according to proof;

40. For statutory wage penalties pursuant to California Labor Code section 203 for Plaintiffs and the other class members who have left Defendants' employ;

41. For pre-judgment interest on any unpaid compensation from the date such amounts were due; and

42. For such other and further relief as the Court may deem just and proper.

**As to the Eight Cause of Action**

43. That the Court declare, adjudge, and decree that Defendants violated California Labor Code sections 2800 and 2802 by willfully failing to reimburse Plaintiffs and the other class members for all necessary business-related expenses as required by California Labor Code sections 2800 and 2802;

44. For actual, consequential and incidental losses and damages, according to proof;

- 1           45.     For the imposition of civil penalties and/or statutory penalties;
- 2           46.     For punitive damages and/or exemplary damages according to proof at trial;
- 3           47.     For reasonable attorneys' fees and costs of suit incurred herein; and
- 4           48.     For such other and further relief as the Court may deem just and proper.

5                           **As to the Ninth Cause of Action**

6           49.     That the Court declare, adjudge, and decree that Defendants violated the following

7 California Labor Code sections as to Plaintiffs and the other class members: 510 and 1198 (by failing

8 to pay overtime wages); 1194, 1197, and 1197.1 (by failing to pay minimum wages); 226.7 and 512(a)

9 (by failing to provide meal and rest periods or compensation in lieu thereof); 204 (by failing to timely

10 pay wages during employment); 226(a) (by failing to provide accurate wage statements); 201, 202,

11 and 203 (by failing to pay all wages owed upon termination); and 2800 and 2802 (by failing to

12 reimburse business-related expenses);

13           50.     For restitution of unpaid wages to Plaintiffs and all the other class members and all pre-

14 judgment interest from the day such amounts were due and payable;

15           51.     For the appointment of a receiver to receive, manage and distribute any and all funds

16 disgorged from Defendants and determined to have been wrongfully acquired by Defendants as a

17 result of violation of California Business and Professions Code sections 17200, *et seq.*;

18           52.     For reasonable attorneys' fees and costs of suit incurred herein pursuant to California

19 Code of Civil Procedure section 1021.5; and

20           53.     For injunctive relief to ensure compliance with this section, pursuant to California

21 Business and Professions Code sections 17200, *et seq.*

22                           **As to the Tenth Cause of Action**

23           54.     For the imposition of civil penalties pursuant to California Labor Code §§ 2699, 210,

24 558, 226, 226.3, 1174.5, 1197.1 and all other penalties allowed by the California Labor Code and/or

25 other applicable statutes;

26 ///

27 ///

28 ///

1           55.     For statutory attorneys' fees and costs pursuant to sections 210, 218.5 and 2699(g)(1)  
2 of California Labor Code; and

3           56.     For such other and further relief as the Court may deem proper.

4 Dated: May 29, 2025

**BLACKSTONE LAW, APC**

5  
6 By:

  
\_\_\_\_\_  
Alexandra Rose, Esq.  
Attorneys for Plaintiff  
ALMA LOPEZ, individually,  
and on behalf of all similarly aggrieved  
employees and the putative class

**WILSHIRE LAW FIRM, PLC**

11  
12 By:

\_\_\_\_\_  
/s/ Arrash T. Fattahi  
Arrash T. Fattahi, Esq.  
Attorneys for Plaintiff  
JOSE REFUGIO LOPEZ ACEVEDO,  
Individually, and on behalf of all similarly  
aggrieved employees and the putative class

## **EXHIBIT A**

July 24, 2023

**PAGA Claim Notice Via Online Electronic Submission**

California Labor & Workforce Development Agency

800 Capitol Mall, Suite 5000 (MIC-55)

Sacramento, CA 95814

<https://www.dir.ca.gov/Private-Attorneys-General-Act/Private-Attorneys-General-Act.html>

**RE: *Alma Lopez v. Advanced Manufacturing and Development, Inc. dba METALfx***

Dear Representative:

This office represents Alma Lopez (“Claimant”) with respect to her claims under the California Labor Code against Advanced Manufacturing and Development, Inc. dba METALfx (including any and all affiliates, subsidiaries, parents, directors, and officers thereof) (collectively referred to herein as “Employers”). This letter is being sent simultaneously to Employers by certified mail.

Employers employed Claimant from approximately July 2019 to March 2023 as a non-exempt, hourly-paid employee. During her employment with Employers, Claimant was employed as a Production Worker and then as an Assembler II at Defendant’s location at 200 N. Lenore Ave., Willits, CA 95490.

Claimant intends to bring a representative action seeking penalties for violations of the California Labor Code which are recoverable under the Labor Code Private Attorneys General Act of 2004, California Labor Code section 2698, *et seq.* (“PAGA”). Claimant is seeking penalties on behalf of himself and in a representative capacity on behalf of the State of California and all current and former hourly-paid and/or non-exempt employees who worked for Employers in the State of California during the relevant statutory period (“Aggrieved Employees”). This letter is being sent in compliance with California Labor Code section 2699.3, and shall serve as Claimant’s notice of the provisions of the California Labor Code alleged to have been violated, including the facts and theories in support thereof.

As detailed below, Employers violated several of California’s wage and hour laws during Claimant’s employment, including but not limited to California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 2800, 2802, and the Industrial Welfare Commission Wage Orders (“IWC Wage Order”) including, *inter alia*, IWC Wage Order No. 1-2001. The claims made on behalf of Claimant and Aggrieved Employees are based upon the

following facts and theories:

**1. FAILURE TO PAY FOR ALL TIME WORKED AT CORRECT RATES OF PAY, INCLUDING MINIMUM WAGES, STRAIGHT TIME WAGES, AND OVERTIME COMPENSATION**

Employers have engaged in numerous unlawful practices which resulted in the failure to pay Claimant and other Aggrieved Employees for all time worked at the correct rates of pay, including minimum wages, straight time wages, and overtime compensation.

California Labor Code sections 1194, 1197, and 1197.1 and IWC Wage Order No. 1-2001 require employers to pay at least the legal minimum wage to their employees. California Labor Code sections 510 and 1198 and IWC Wage Order No. 1-2001 further require employers to pay no less than one and one-half times the regular rate of pay of the employee for hours worked in excess of eight (8) hours in one workday, for hours worked in excess of forty (40) hours in one workweek, and for the first eight (8) hours worked on the seventh day of work in any one workweek, and to pay no less than twice the regular rate of pay of the employee for hours worked in excess of twelve (12) hours in one workday and for any work in excess of eight (8) hours on any seventh day of a workweek.

Throughout the relevant time period, Employers regularly required Claimant and other Aggrieved Employees to perform work off-the-clock. This off-the-clock work included, amongst other things, requiring Claimant and other Aggrieved Employees to continue assembling parts and assisting coworkers with their builds during purported meal periods. Employers failed to compensate Claimant and other Aggrieved Employees for any of this off-the-clock work, in violation of California law.

In addition, Employers utilized time rounding practices that resulted in the systematic underpayment of wages (including minimum wages, straight time wages and overtime wages) to Claimant and Aggrieved Employees.

Employers also failed to accurately record the actual time worked by Claimant and Aggrieved Employees. Moreover, the uncompensated work described herein was often performed when Claimant and other Aggrieved Employees had already worked eight (8) hours in a day and/or forty (40) hours in week resulting in a failure to pay overtime compensation. Finally, Employers failed to pay overtime to Claimant and Aggrieved Employees for all overtime hours worked based on regular rates of pay correctly calculated to include all applicable remuneration, including non-discretionary commissions, non-discretionary bonuses, and non-discretionary performance pay.

As a result of the foregoing practices, Employers have failed to pay Claimant and other Aggrieved Employees for all wages earned at the correct rates of pay, including minimum wages, straight time wages, and overtime compensation. Accordingly, Employers violated IWC Wage Order No. 1-2001 and California Labor Code sections 204, 510, 1194, 1197, 1197.1 and 1198.



Claimant and Aggrieved Employees will therefore seek PAGA default penalties pursuant to California Labor Code section 2699; penalties pursuant to paragraph 20(A) of IWC Wage Order No. 1-2001; penalties pursuant to California Labor Code sections 558, 1197.1, and 1199; and attorneys' fees and costs.

## **2. FAILURE TO PROVIDE MEAL PERIODS AND PAY MEAL PERIOD PREMIUMS**

California law requires employers to provide employees with an opportunity to take an uninterrupted meal period of no less than thirty (30) minutes before the end of the fifth hour of work when an employee works more than five (5) hours in a day. Cal. Lab. Code §§ 226.7, 512(a). A second meal period of no less than thirty (30) minutes must be provided before the end of the tenth hour of work when an employee works more than ten (10) hours in a day. Cal. Lab. Code §§ 226.7, 512(a). When an employer fails to provide a meal or rest period, an hour of pay at the employee's regular rate of compensation is owed to the employee. Cal. Lab. Code § 226.7(c).

During the relevant time period, Employers failed to provide Claimant and other Aggrieved Employees with legally-compliant 30-minute meal periods. Claimant and other Aggrieved Employees were required by Employers to work more than five (5) hours per day, but were not provided with uninterrupted 30-minute meal periods. Further, Claimant and other Aggrieved Employees were not provided with a second uninterrupted 30-minute meal period when they worked over ten (10) hours per day. Employers regularly required Claimant and other Aggrieved Employees to work through their first and second meal periods, to take their first meal period after their fifth (5<sup>th</sup>) hour of work, and/or to take their second meal periods after their tenth (10<sup>th</sup>) hour of work. Meal periods, when provided, were oftentimes interrupted or cut short.

Employers' policies, practices, and procedures were responsible for the violations alleged above and prevented Claimant and other Aggrieved Employees from taking timely, complete and duty-free meal periods because, amongst other reasons: (1) Employers did not have legally-compliant policies regarding the provision and timing of meal periods or systematically disregarded its own purported meal period policies; (2) Employers' management at various levels failed and refused to implement and enforce legally compliant meal period policies and practices; (3) Employers failed to adequately inform and train Claimant and other Aggrieved Employees regarding their right to take timely, uninterrupted, and duty-free meal periods; (4) Employers failed to adequately inform and train Claimant and other Aggrieved Employees about their right to premium wages for non-compliant meal periods; (5) Employers failed to ensure that there was adequate staffing to allow Claimant and other Aggrieved Employees to take timely, uninterrupted, and duty-free meal periods; (6) Employers required Claimant and other Aggrieved Employees to respond to work-related requests at all times, including during meal periods; and (7) Employers' policy and culture prevented Claimant and other Aggrieved Employees from taking timely, uninterrupted, and duty-free meal periods because of the priority placed on maximizing profits over employees' right to receive timely, uninterrupted, and duty-free meal periods.

Claimant and other Aggrieved Employees did not receive an extra hour of wages at their regular rate of pay for the meal periods which were not provided to them in compliance with California law.

Accordingly, Employers violated IWC Wage Order No. 1-2001 and California Labor Code sections 226.7, 512(a) and 1198.

Claimants and Aggrieved Employees will therefore seek PAGA default penalties pursuant to California Labor Code section 2699; penalties pursuant to paragraph 20(A) of IWC Wage Order No. 1-2001; penalties pursuant to California Labor Code sections 558 and 1199; and attorneys' fees and costs.

### **3. FAILURE TO AUTHORIZE AND PERMIT REST PERIODS AND PAY REST PERIOD PREMIUMS**

California law requires employers to authorize and permit employees to take an uninterrupted rest period of no less than ten (10) minutes must for every four (4) hours, or major fraction thereof, worked. Cal. Lab. Code § 226.7. When an employer fails to authorize and permit a rest period, an hour of pay at the employee's regular rate of compensation is owed to the employee. Cal. Lab. Code § 226.7(c).

Employers failed to authorize and permit Claimant and other Aggrieved Employees to take legally-compliant 10-minute rest periods. Employers required Claimant and other Aggrieved Employees to work through rest periods. Claimant and Aggrieved Employees were not provided with uninterrupted, duty-free rest periods when they worked more than four (4) hours or a major fraction thereof. Further, Claimant and other Aggrieved Employees were not provided with a second uninterrupted, duty-free rest period when they worked more than six (6) hours in a day, or a third uninterrupted, duty-free rest period after working more than ten (10) hours in day. In the rare event that a rest period was taken, it was frequently interrupted or cut short. Moreover, Claimant and other Aggrieved Employees were not completely relieved of duty as required by *Augustus v. ABM Security Services, Inc.*, 2 Cal.5th 257 (2016).

Employers' policies, practices, and procedures were responsible for the violations alleged above and prevented Claimant and other Aggrieved Employees from taking timely and complete rest periods because, amongst other reasons: (1) Employers did not have legally-compliant policies regarding the provision and timing of rest periods or systematically disregarded its own purported rest period policies; (2) Employers' management at various levels failed and refused to implement and enforce legally compliant rest period policies and practices; (3) Employers failed to adequately inform and train Claimant and other Aggrieved Employees regarding their right to take timely, uninterrupted, and duty-free rest periods; (4) Employers failed to adequately inform and train Claimant and other Aggrieved Employees about their right to premium wages for non-compliant rest periods; (5) Employers failed to ensure that there was adequate staffing to allow Claimant and

other Aggrieved Employees to take timely, uninterrupted, and duty-free rest periods; (6) Employers required Claimant and other Aggrieved Employees to respond to work-related requests at all times, including during rest periods; and (7) Employers' policy and culture prevented Claimant and other Aggrieved Employees from taking timely, uninterrupted, and duty-free rest periods because of the priority placed on completing job requirements over employees' right to receive rest periods.

Claimant and other Aggrieved Employees did not receive an extra hour of wages at their regular rate of pay for the rest periods which were not provided to them in compliance with California law.

Accordingly, Employers violated IWC Wage Order No. 1-2001 and California Labor Code sections 226.7, and 1198.

Claimant and Aggrieved Employees will therefore seek PAGA default penalties pursuant to California Labor Code section 2699; penalties pursuant to paragraph 20(A) of IWC Wage Order No. 1-2001; California Labor Code sections 558 and 1199 penalties; and attorneys' fees and costs.

#### **4. FAILURE TO TIMELY PAY WAGES DURING EMPLOYMENT**

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. During the relevant time period, Employers have failed to timely pay all wages earned because Claimant and other Aggrieved Employees were not paid all the wages they were owed including, *inter alia*, overtime compensation, straight time wages, minimum wages, and meal and rest period premiums. Accordingly, Employers violated California Labor Code section 204(a).

Claimant and Aggrieved Employees will therefore seek PAGA default penalties pursuant to Labor Code section 2699; penalties pursuant to California Labor Code sections 210 and 1199; and attorneys' fees and costs.

#### **5. FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**

California Labor Code section 226(a) requires an employer semimonthly or at the time of each payment of wages to furnish wage statements to its employees setting forth, *inter alia*, (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown

as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, and (8) the name and address of the legal entity that is the employer.

As a result of the practices described herein, the wage statements provided to Claimant and other Aggrieved Employees failed to include the actual hours worked (including time spent working off-the-clock), the actual gross wages earned (including wages owed for time spent working off the clock and meal and rest period premiums), and the correct rates of pay. The wage statements provided to Claimant and other Aggrieved Employees also failed to include the name of the legal entity that employed Claimant and the Aggrieved Employees. Accordingly, Employers violated California Labor Code section 226(a).

Claimant and Aggrieved Employees will therefore seek PAGA default penalties; penalties pursuant to California Labor Code section 226.3; and attorneys' fees and costs.

## **6. FAILURE TO MAINTAIN ACCURATE RECORDS**

California Labor Code section 1174(d) requires an employer to keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept with rules established for this purpose by the commission, but in any case, shall be kept on file for not less than two years. During the relevant time period, Employers have failed to maintain accurate records relating to Claimant and other Aggrieved Employees' work periods, meal periods, total daily hours worked, and total hours worked per payroll period. Accordingly, Employers violated IWC Wage Order No. 1-2001 and California Labor Code sections 1198.5 and 1174(d).

Claimant and Aggrieved Employees will therefore seek PAGA default penalties pursuant to California Labor Code section 2699; penalties pursuant to paragraph 20(A) of IWC Wage Order No. 1-2001; California Labor Code section 1174.5 penalties; and attorneys' fees and costs.

## **7. FAILURE TO REIMBURSE NECESSARY EXPENDITURES**

California Labor Code sections 2800 and 2802 require an employer to reimburse its employees for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her job duties or in direct consequence of his or her obedience to the directions of the employer. IWC Wage Order No. 1-2001 requires employers to provide employees with the tools or equipment necessary for the performance of their job. During the relevant time period, Claimant and Aggrieved Employees incurred necessary business-related expenses and costs that were not fully reimbursed by Employers. These costs include but are not limited to the purchase of

assembling tools, such as sockets and screwdrivers, and the usage of personal cell phones for work-related purposes.

Accordingly, Employers violated IWC Order No. 1-2001 and California Labor Code sections 2800 and 2802. Claimant and Aggrieved Employees will therefore seek PAGA default penalties pursuant to California Labor Code section 2699; penalties pursuant to paragraph 20(A) of IWC Wage Order No. 1-2001; and attorneys' fees and costs.

## **8. FAILURE TO TIMELY PAY ALL WAGES UPON TERMINATION OF EMPLOYMENT**

California Labor Code sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and if an employee quits his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours' notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

During the relevant time period, upon the termination of employment (including but not limited to when they were temporarily laid off, laid off, discharged, and/or resigned), Aggrieved Employees were not paid all wages due to them within twenty-four (24) hours or even within seventy-two (72) hours for those who resigned. Specifically, as a result of Employers' practices of requiring Aggrieved Employees to work off-the-clock without compensation, failing to pay proper overtime compensation, unlawful rounding practices, failure to properly calculate regular rates, and failure to accurately record all hours actually worked, Employers failed to pay Aggrieved Employees for all straight time wage, minimum wages and overtime compensation owed to them upon termination of their employment. Employers also failed to pay Aggrieved Employees for meal period premiums and rest period premiums they were owed, amongst other wages. Accordingly, Employers violated California Labor Code sections 201 and 202.

Claimant and Aggrieved Employees will therefore seek PAGA default penalties pursuant to California Labor Code section 2699; penalties pursuant to California Labor Code sections 203 and 1199; and attorneys' fees and costs.

Employers are in direct violation of numerous California wage and hour laws including but not limited to said sections stated above. We hereby provide notice under the California Labor Code Private Attorneys General Act of 2004, California Labor Code Sections 2698, et seq., and specifically ask for an investigation, or if the agency does not intend to investigate the alleged violations, a letter confirming the same so that we may allege a cause of action under PAGA against Employers for the violations discussed in this letter.

This letter is sent in compliance with the reporting requirements of California Labor Code section 2699.3. By law, an employee alleging a violation of one of the above referenced sections

must notify his or her employer and the Labor and Workforce Development Agency (LWDA) before he or she can invoke the provisions of Sections 2699, et seq., by seeking redress in court. Cal. Lab. Code § 2699.3(a)(1). The LWDA must then notify the employer and the employee within 60 calendar days regarding whether it intends to investigate the alleged violation. Cal. Lab. Code § 2699.3(a)(2)(B). If the LWDA advises it will not investigate, or if no notice is provided within 65 calendar days, the employee may file a lawsuit invoking the provisions under Labor Code § 2699. Cal. Lab. Code § 2699.3(a)(2)(A). It is Claimant's intention to file a civil complaint and to bring the appropriate claims under California Labor Code § 2699 on behalf of themselves, the State of California and all Aggrieved Employees should your office not address Employers' alleged violations within this time.

If you have any questions or require additional information, please do not hesitate to contact my office. Thank you for your attention to this matter.

**BLACKSTONE LAW**

*Miriam L. Schimmel*

Miriam L. Schimmel, Esq.

cc: By U.S. Certified Mail, Return Receipt Requested

Advanced Manufacturing and Development, Inc. dba METALfx  
ATTN: Alberto Gutierrez, Agent for Service of Process  
200 North Lenore Avenue  
Willits, CA 95490

## **EXHIBIT B**

**WILSHIRE LAW FIRM, PLC**

3055 Wilshire Blvd, 12<sup>th</sup> Floor  
Los Angeles, CA 90010  
Tel: (213) 381-9988  
Fax: (213) 381-9989  
www.wilshirelawfirm.com



Bobby Saadian, Esq. JD/MBA

Colin M. Jones, Esq.  
Justin F. Marquez, Esq.  
John G. Yslas, Esq.  
Jon Teller, Esq.  
Johnny Ogata, Esq.  
Tae Kim, Esq.

Benjamin H. Haber, Esq.  
Christina M. Le, Esq.  
Daniel Kramer, Esq.  
Arsiné Grigoryan, Esq.  
Arrash T. Fattahi, Esq.  
Zachary D. Greenberg, Esq.  
Aram Boyadjian, Esq.

September 27, 2023

LWDA

Attn. PAGA Administrator  
1515 Clay Street, Ste. 801  
Oakland, CA 94612  
***(Via Online Submission)***

Advanced Manufacturing and Development, Inc.  
200 North Lenore Avenue  
Willits, CA 95490  
***(Via Certified Mail, Return Receipt Requested)***  
**#9489 0090 0027 6498 8249 26**

Alberto Gutierrez  
Agent for Service of Process for:  
Advanced Manufacturing and Development, Inc.  
200 North Lenore Avenue  
Willits, CA 95490  
***(Via Certified Mail, Return Receipt Requested)***  
**#9489 0090 0027 6498 8249 33**

Re: **Jose Refugio Lopez Acevedo v. Advanced Manufacturing and Development, Inc.  
Notice of Labor Code Violations and PAGA Penalties**

To Whom It May Concern:

Please be advised that my office has been retained by Jose Refugio Lopez Acevedo ("Plaintiff") to pursue a Labor Code Private Attorneys General Act ("PAGA") representative action (Cal. Lab. Code §§ 2699, *et seq.*) against his former employer, Advanced Manufacturing and Development, Inc. ("Defendant"). The purpose of this letter is to comply with PAGA and set forth the facts and theories of California Labor Code violations which we allege Defendant engaged in with respect to Plaintiff and all of Defendant's Aggrieved Employees.

Plaintiff wishes to pursue this action on behalf of himself as an aggrieved employee, on behalf of the State of California, as well as on behalf of all other persons who worked for Defendant in California as a non-exempt or hourly-paid employee at any time within the applicable statutory period (hereafter, the "Aggrieved Employees").

Plaintiff and the Aggrieved Employees suffered the Labor Code violations described below.



**Plaintiff's Employment with Defendant**

Defendant owns/owned and operates/operated an industry, business, and establishment within the State of California, including Mendocino County. As such, and based upon all the facts and circumstances incident to Defendant's business in California, Defendant is subject to the California Labor Code, Wage Orders issued by the Industrial Welfare Commission ("IWC"), and the California Business & Professions Code.

Plaintiff JOSE REFUGIO LOPEZ ACEVEDO is a resident of Mendocino County, California who worked for Defendant in Mendocino County, California as an hourly-paid, non-exempt employee from approximately April 2020 to approximately June 2023. Defendant typically scheduled Plaintiff to work at least five days in a workweek and at least eight hours per day, but Plaintiff regularly worked more than eight hours in a workday and/or more than forty (40) hours in a workweek.

Throughout Plaintiff's employment, Defendant failed to pay for all hours worked (including minimum, straight time, and overtime wages), failed to provide Plaintiff with legally compliant meal periods, failed to authorize and permit Plaintiff to take rest periods, failed to timely pay all final wages to Plaintiff when Defendant terminated his employment, failed to furnish accurate wage statements to Plaintiff, and failed to indemnify Plaintiff for expenditures. As discussed below, Plaintiff's experience working for Defendant was typical and illustrative.

**Defendant Failed to Pay for All Hours Worked, Including Minimum, Straight Time, and Overtime Wages**

Under California law, an employer must pay for all hours worked by an employee. "Hours worked" is the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.

In addition, Labor Code § 510 provides that employees in California shall not be employed more than eight hours in any workday or forty (40) hours in a workweek unless they receive additional compensation beyond their regular wages in amounts specified by law.

Labor Code §§ 1194 and 1198 also provide that employees in California shall not be employed more than eight hours in any workday unless they receive additional compensation beyond their regular wages in amounts specified by law. Additionally, Labor Code § 1198 states that the employment of an employee for longer hours than those fixed by the IWC is unlawful.

Throughout the statutory period, Defendant maintained a policy and practice of not paying Plaintiff and the Aggrieved Employees for all hours worked, including minimum, straight time, and overtime wages. Defendant required Plaintiff and the Aggrieved Employees to work "off-the-clock," uncompensated, by, for example, requiring Plaintiff and the Aggrieved Employees to perform work during unpaid meal periods. Some of this unpaid work should have been paid at

the overtime rate. In failing to pay for all hours worked, Defendant also failed to maintain accurate records of the hours Plaintiff and the Aggrieved Employees worked.

As a result, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210, 1197.1, and 2699(f)(2) for failing to pay for all hours worked, including minimum, straight time, and overtime wages.

### **Failure to Provide Meal Periods**

Under California law, employers have an affirmative obligation to relieve employees of all duty in order to take their first 30-minute, duty-free meal periods no later than the start of sixth hour of work in a workday, and to allow employees to take their second 30-minute, duty-free meal period no later than the start of the eleventh hour of work in the workday. Further, employees are entitled to be paid one hour of additional wages for each workday they were not provided with all required meal period(s).

Despite these legal requirements, Defendant wrongfully failed to provide Plaintiff and the Aggrieved Employees with legally compliant meal periods. Defendant regularly, but not always, required Plaintiff and the Aggrieved Employees to work in excess of five consecutive hours a day without providing a 30-minute, uninterrupted, and duty-free meal period for every five hours of work, or without compensating Plaintiff and the Aggrieved Employees for meal periods that were not provided by the end of the fifth hour of work or tenth hour of work. Instead, Defendant continued to assert control over Plaintiff and the Aggrieved Employees by requiring, pressuring, or encouraging them to perform work tasks which could not be completed without working in lieu of taking mandatory meal periods, or by denying Plaintiff and the Aggrieved Employees permission to take a meal period. Accordingly, Defendant's policy and practice was not to provide meal periods to Plaintiff and the Aggrieved Employees in compliance with California law.

Plaintiff and the Aggrieved Employees are thus entitled to be paid one hour of additional wages for each workday he or she was not provided with all required meal period(s). Defendant, however, regularly failed to pay Plaintiff and the Aggrieved Employees the additional wages to which they were entitled for meal periods and that were not provided.

As a result, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210 and 2699(f)(2) for failing to provide meal periods and pay meal period premium wages.

### **Failure to Authorize and Permit Rest Periods**

Employers are required by California law to authorize and permit breaks of ten uninterrupted minutes for each four hours of work or major fraction of four hours (i.e. more than two hours). Thus, for example, if an employee's work time is six hours and ten minutes, the employee is entitled to two rest breaks. Each failure to authorize rest breaks as so required is itself a violation

of California's rest break laws.

Throughout the statutory period, Defendant has wrongfully failed to authorize and permit Plaintiff and the Aggrieved Employees to take legally compliant rest periods. Defendant regularly required Plaintiff and the Aggrieved Employees to work in excess of four consecutive hours a day without Defendant authorizing and permitting them to take a 10-minute, uninterrupted, duty-free rest period for every four hours of work (or major fraction of four hours), or without compensating Plaintiff and the Aggrieved Employees for rest periods that were not authorized or permitted. Instead, Defendant continued to assert control over Plaintiff and the Aggrieved Employees by requiring, pressuring, or encouraging them to perform work tasks which could not be completed without working in lieu of taking mandatory rest periods, or by denying Plaintiff and the Aggrieved Employees permission to take a rest period. Accordingly, Defendant's policy and practice was to not authorize and permit Plaintiff and the Aggrieved Employees to take rest periods in compliance with California law.

Plaintiff and the Aggrieved Employees are thus entitled to be paid one hour of additional wages for each workday he or she was not authorized and permitted to take all required rest period(s). Defendant, however, regularly failed to pay Plaintiff and the Aggrieved Employees the additional wages to which they were entitled for rest periods and that they were not authorized and permitted to take.

As a result, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210 and 2699(f)(2) for failing to authorize and permit rest periods and pay rest period premium wages.

#### **Failure to Pay All Earned Wages Twice Per Month**

Based on its failure to pay Plaintiff and the Aggrieved Employees for all wages as discussed above, Defendant also violated Labor Code § 204.

Labor Code § 204 requires employers to pay employees all earned wages two times per month. Throughout the statute of limitations period applicable to this cause of action, employees were entitled to be paid twice a month at their regular rates, including all meal period premium wages owed, rest period premium wages owed, and wages owed for overtime hours worked. However, during all such times, Defendant systematically failed and refused to pay the employees all wages due, and failed to pay those wages twice a month, in that employees were not paid all wages for all meal periods not provided by Defendant, all wages for all rest periods not authorized and permitted by Defendant, and all wages for all hours worked. As a result, Defendant owes employees the legally required wages for unpaid wages, and Plaintiff and the Aggrieved Employees suffered damages in those amounts.

Moreover, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 210 for failing to pay all earned wages twice per month.

**Failure to Maintain Accurate Records of Hours Worked and Meal Periods**

Plaintiff seeks penalties under California Labor Code § 1174(d). Pursuant to California Labor Code § 1174.5, any person, including any entity, employing labor who willfully fails to maintain accurate and complete records required by California Labor Code § 1174 is subject to a penalty under § 1174.5. Pursuant to the applicable IWC Order § 7(A)(3), every employer shall keep time records showing when the employee begins and ends each work period. Meal periods and total hours worked daily shall also be recorded.

Defendant, however, failed to maintain accurate records of hours worked and all meal periods taken or missed by Plaintiff and the Aggrieved Employees.

Defendant's failure to provide and maintain records required by the California Labor Code and the applicable IWC Wage Orders deprived Plaintiff and the Aggrieved Employees the ability to know, understand and question the accuracy and frequency of meal periods, and the accuracy of their hours worked stated in Defendant's records. Therefore, Plaintiff and the Aggrieved Employees had no way to dispute the resulting failure to pay wages, all of which resulted in an unjustified economic enrichment to Defendant. As a direct result, Plaintiff and the Aggrieved Employees have suffered and continue to suffer, substantial losses related to the use and enjoyment of such wages, lost interest on such wages and expenses and attorney's fees in seeking to compel Defendant to fully perform its obligation under state law, all to their respective damage in amounts according to proof at trial. As a result of Defendant's knowing failure to comply with the California Labor Code and applicable IWC Wage Orders, Plaintiff and the Aggrieved Employees have also suffered an injury in that they were prevented from knowing, understanding, and disputing the wage payments paid to them.

**Failure to Timely Pay All Wages at Termination**

Labor Code §§ 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

Within the applicable statute of limitations, the employment of Plaintiff and many other Aggrieved Employees ended, i.e., was terminated by quitting or being discharged, and the employment of others will be terminated. However, during the relevant time period, Defendant failed, and continues to fail to pay Plaintiff and terminated Aggrieved Employees, without abatement, all wages required to be paid by Labor Code sections 201 and 202 either at the time of discharge, or within seventy-two (72) hours of their leaving Defendant's employment. These unpaid wages include wages for unpaid work time (including minimum, straight time, and

overtime wages), missed meal period premium wages, and missed rest period premium wages.

Defendant's conduct violates Labor Code §§ 201 and 202. Labor Code § 203 provides that if an employer willfully fails to pay wages owed, in accordance with sections 201 and 202, then the wages of the employee shall continue as a penalty wage from the due date, and at the same rate until paid or until an action is commenced; but the wages shall not continue for more than thirty (30) days.

Accordingly, Plaintiff and the Aggrieved Employees are entitled to recover from Defendant their additionally accruing wages for each day they were not paid, at their regular hourly rate of pay, up to thirty (30) days maximum pursuant to Labor Code § 203.

Moreover, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 2699(f)(2) for failing to timely pay all wages at termination.

#### **Failure to Furnish Accurate Itemized Wage Statements**

Labor Code § 226(a) provides that every employer shall furnish each of his or her employees an accurate itemized wage statement in writing showing nine pieces of information, including: (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. An employee is presumed to suffer an injury if this information is missing. (Lab. Code § 226(e)(2)(B)(iii).)

The statute further provides: "An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney's fees." (Lab. Code § 226(e)(1).)

Throughout the statutory period, Defendant failed to furnish Plaintiff and the Aggrieved Employees with accurate, itemized wage statements showing all applicable hourly rates, and all gross and net wages earned (including correct hours worked, correct wages for meal periods that were not provided in accordance with California law, and correct wages for rest periods that were not authorized and permitted to take in accordance with California law).

Because Defendant violated Labor Code § 226, Plaintiff and similarly Aggrieved Employees

suffered injury and damage to their statutorily protected rights. Accordingly, Plaintiff and similarly Aggrieved Employees are entitled to recover from Defendant the greater of their actual damages caused by Defendant's failure to comply with Labor Code § 226(a), or an aggregate penalty not exceeding four thousand dollars (\$4,000) per employee.

Moreover, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 226.3 for failing to furnish accurate itemized wage statements.

**Failure to Indemnify for Necessary Expenditures**

Labor Code § 2802(a) provides that employers shall indemnify his or her employees for all necessary business expenditures or losses that have been incurred by the employees in direct discharge of his or her duties. Throughout the statute of limitations period applicable to this cause of action, Defendant wrongfully required Plaintiff and the Aggrieved Employees to pay expenses that they incurred in direct discharge of their duties for Defendant. Plaintiff and the Aggrieved Employees regularly paid out-of-pocket for necessary employment-related expenses, including, without limitation, work attire. Plaintiff and the Aggrieved Employees incurred substantial expenses as a direct result of performing their job duties for Defendant, but Defendant failed to indemnify Plaintiff and the Aggrieved Employees for these employment-related expenses.

As a result, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 2802 and 2699(f)(2) for failing to indemnify Plaintiff and the Aggrieved Employees for necessary business expenditures.

**Action for Civil Penalties Under PAGA**

In light of the above, Plaintiff alleges that Defendant violated the following provisions of the Labor Code with respect to the Aggrieved Employees:

1. Labor Code § 204, 510, 1194, 1197, and 1198 by failing to pay for all hours worked, including minimum wages, straight time wages, and overtime wages;
2. Labor Code § 226.7 and applicable Wage Orders by failing to provide meal periods;
3. Labor Code § 226.7 and applicable Wage Orders by failing to authorize and permit rest periods;
4. Labor Code § 204 by failing to pay all earned wages two times per month;
5. California Labor Code § 1174.5 and applicable Wage Orders by failing to maintain accurate records of hours worked and meal periods taken or missed;
6. Labor Code §§ 201 to 203 by willfully failing to pay all wages owed at termination;
7. Labor Code § 226 by failing to provide accurate itemized wage statements; and

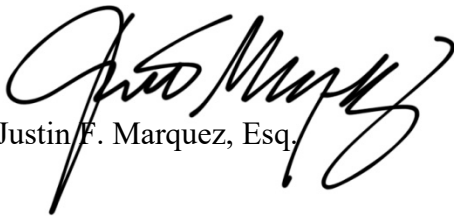
8. Labor Code § 2802 by failing to indemnify for necessary expenditures.

Therefore, on behalf of all Aggrieved Employees, Plaintiff seeks applicable penalties related to the violations alleged above pursuant to the PAGA. These include, but are not limited to, penalties under Labor Code §§ 210, 226.3, 1174.5, 1197.1, and 2699(f)(2).

Plaintiff has placed Defendant on notice by mailing a certified copy of this correspondence, as indicated on the first page. Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact me.

Sincerely,

WILSHIRE LAW FIRM



Justin F. Marquez, Esq.

**PROOF OF SERVICE**

**STATE OF CALIFORNIA, COUNTY OF MENDOCINO**

I, Karina Hernandez, certify and declare as follows:

I am over eighteen years of age and not a party to the within action; my business address is 8383 Wilshire Blvd, Suite 745, Beverly Hills, California 90211. On May 29, 2025, I served a copy of the following document(s):

• **SECOND AMENDED COMPLAINT**

On the interested parties as follows:

Spencer C. Skeen

Cameron Davila

Jennifer P. Suberlak

**OGLETREE, DEAKINS, NASH, SMOAK &  
STEWART, P.C.**

4660 La Jolla Village Drive, Suite 900

San Diego, CA 92122

Telephone: (858) 652-3100

Facsimile: (858) 652-3101

E-mails: spencer.skeen@ogletree.com

cameron.davila@ogletree.com

jennifer.suberlak@ogletree.com

melissa.downing-alan@ogletreedekins.com

michelle.doan@ogletreedekins.com

kristin.menchaca@ogletree.com

Attorneys for Defendant Advanced Manufacturing and Development, Inc. dba Metalfx

Arrash T. Fattahi (State Bar No. 333676)

afattahi@wilshirelawfirm.com

**WILSHIRE LAW FIRM, PLC**

3055 Wilshire Boulevard, 12th Floor

Los Angeles, California 90010

Tel: (213) 381-9988 / Fax: (213) 381-9989

Attorneys for Plaintiff Jose Refugio Lopez Acevedo

☒ **BY ELECTRONIC MAIL (E-MAIL):** I caused said document(s) to be delivered electronically to be delivered to the above referenced addressee(s) via email from email address [khernandez@blackstonepc.com](mailto:khernandez@blackstonepc.com) pursuant to California Code of Civil Procedure section 1010.6(e)(1). I did not receive any electronic message or other indication that the transmission was unsuccessful.



1 ☒ **BY ONLINE SUBMISSION:** The above-referenced documents were transmitted to the  
2 California Labor and Workforce Development Agency through the online system established  
3 for the submission of notices and documents, in conformity with California Labor Code section  
2699(I). I did not receive, within a reasonable time after the transmission, any electronic  
message or other indication that the transmission was unsuccessful.

4 ☒ **STATE:**  
5 I declare under penalty of perjury under the laws of the State of California that the above is  
6 true and correct.

7 Executed on May 29, 2025 at Beverly Hills, California.

8 /s/ Karina Hernandez

9 Karina Hernandez