

BY FAX

**SUMMONS**  
**(CITACION JUDICIAL)**

**NOTICE TO DEFENDANT:**  
**(AVISO AL DEMANDADO):**

CAPITAL LUMBER CO., an Arizona Corporation,

**\*\*Additional Parties Attached\*\***

**YOU ARE BEING SUED BY PLAINTIFF:**  
**(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

MAURICE WARREN, on behalf of himself and other "aggrieved employees", and on behalf of the general public,

**COPY** **Summons and Filed**  
**Superior Court of California**  
**Sacramento**  
**FOR COURT USE ONLY**  
**(SOLO PARA USO DE LA CORTE)**  
**11/16/2023**  
**bloxsov**  
**By \_\_\_\_\_, Deputy**  
**23CV011759**

**NOTICE!** You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

**¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:  
(El nombre y dirección de la corte es): Gordon D. Schaber Downtown Crthouse  
720 9th Street, Room 102  
Sacramento, CA 95814

CASE NUMBER:  
(Número del Caso):

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:  
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):  
Roman Otkupman, Nidah Farishta: 5743 Corsa Ave, Suite 123, Westlake Village, CA 91362; (818)293-5623

DATE:  
(Fecha) **NOV 16 2023**

Clerk, by **V. BLOXSON**, Deputy  
(Secretario) \_\_\_\_\_ (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)  
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

**NOTICE TO THE PERSON SERVED:** You are served

1. ☐ as an individual defendant.  
2. ☐ as the person sued under the fictitious name of (specify):

3. ☐ on behalf of (specify):

under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)  
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)  
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)  
☐ other (specify):

4. ☐ by personal delivery on (date):



|                                                              |              |
|--------------------------------------------------------------|--------------|
| SHORT TITLE:<br>Maurice Warren v. Capital Lumber Co., et al. | CASE NUMBER: |
|--------------------------------------------------------------|--------------|

**INSTRUCTIONS FOR USE**

- This form may be used as an attachment to any summons if space does not permit the listing of all parties on the summons.
- If this attachment is used, insert the following statement in the plaintiff or defendant box on the summons: "Additional Parties Attachment form is attached."

**List additional parties** (Check only one box. Use a separate page for each type of party.):

☐ Plaintiff
 ☒ Defendant
 ☐ Cross-Complainant
 ☐ Cross-Defendant

CAPITAL LUMBER COMPANY INCORPORATED, a California Corporation, and DOES 1 through 10, inclusive.

BY FAX

**COPY**  
Superior Court of California,  
Sacramento  
11/15/2023  
bloxsov  
By \_\_\_\_\_, Deputy  
23CV011759

1 Roman Otkupman, CSBN 249423  
Roman@OLFLA.com  
2 Nidah Farishta, CSBN 312360  
Nidah@OLFLA.com  
3 **OTKUPMAN LAW FIRM, A LAW CORPORATION**  
5743 Corsa Ave., Suite 123  
4 Westlake Village, CA 91362  
Telephone: (818) 293-5623  
5 Facsimile: (888) 850-1310

6 Attorney for Plaintiff,  
Maurice Warren, on behalf of himself and other “aggrieved employees”, and on behalf of the  
7 general public

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **COUNTY OF SACRAMENTO**

10 MAURICE WARREN, on behalf of himself  
and other “aggrieved employees”, and on  
11 behalf of the general public,  
12 Plaintiff,  
13 vs.  
14 CAPITAL LUMBER CO., an Arizona  
Corporation, CAPITAL LUMBER  
15 COMPANY INCORPORATED, a California  
Corporation, and DOES 1 through 10,  
16 inclusive.  
17 Defendants.

CASE NO.  
**REPRESENTATIVE ACTION  
COMPLAINT FOR:**  
  
1. **PENALTIES PURSUANT TO  
LABOR CODE SECTION 2699(f)  
FOR VIOLATIONS OF LABOR  
CODE §§ 226.7, 512, 558, 510, 1194,  
1194.2, 226(a),(e) 1174(d), 201-203,  
204(a)(b), 2802, 210, 218, 6400,  
6401, 6403, 6404, 6407, 8 CCR 3202**  
  
**DEMAND FOR JURY TRIAL**

18  
19 Plaintiff MAURICE WARREN (“Plaintiff”), on behalf of himself and other “aggrieved  
20 employees”, and on behalf of the general public complains of Defendants as follows:

21 **I. INTRODUCTION**

22 1. This is a Representation Action, pursuant to Labor Code § 2698, 2699 et seq., on  
23 behalf of Plaintiff and certain individuals who are employed by, or were formerly employed by  
24 Capital Lumber Co., Capital Lumber Company Incorporated and any subsidiaries or affiliated  
companies (hereinafter collectively referred to as “Defendants”) within California.  
25 2. For at least one (1) year prior to the filing of this action and continuing to the present  
26 (the “liability period”), Plaintiff and Defendant’s California employees were routinely unable,  
27 and not authorized to take their 10-minute rest periods and were also unable to take an  
28 uninterrupted 30-minute meal break for every shift they worked. Specifically, Plaintiff and

1 Defendant's California employees were forced to continue working through their meal and rest  
2 breaks in order to assist Defendant's needs. Because of this, Plaintiff and Defendant's  
3 California employees were unable to take their required meal and rest breaks. Moreover,  
4 Defendants failed to pay premium wages of one hour's pay for each missed meal and rest break  
5 to Plaintiff and Defendant's California employees who were denied timely meal and rest  
6 breaks, in violation of Labor Code §§ 226.7, 512, and 558, and IWC Order No. 5-2001, Section  
7 12.

8 3. Plaintiff and Defendants' California employees were required to work off the  
9 clock for Defendant. Plaintiff and Defendant California employees were asked to perform tasks  
10 prior to clocking in without being compensated for it. It took Plaintiff on the average of 5  
11 minutes to complete these tasks. Moreover, Plaintiff and Defendant's California employees  
12 were instructed to work approximately 5-10 minutes after they had clocked out to finish their  
13 assignments such as loading lumber. Defendants did not compensate Plaintiff and Defendants'  
14 California employees if these tasks were completed outside of her regular work hours. These  
15 excess hours were not recorded on our client's and Defendants' California employees wage  
16 statements. Plaintiff and Defendant's California employees should have been compensated for  
17 that time, but she was not in violation of Labor Code Sections 510, 1194, and 1194.2. As a  
18 result, Plaintiff and Defendant's California employees were not paid for all hours worked  
19 including all straight time wages, and overtime wages. These failures to pay wages constitute  
20 violations of Labor Code § 510 and 1194.

21 4. Plaintiff also claims that Defendant has failed to pay all overtime wages due to  
22 non-exempt employees. As a result, employees are not properly compensated for work  
23 performance in excess of eight (8) hours in a workday and work performed in excess of forty  
24 (40) hours in a workweek at a rate of no less than one and one-half times the regular rate of  
25 pay. Employees of Defendant regularly work in excess of eight (8) hours in a day or more than  
26 forty (40) hours per week and do not receive overtime compensation at a rate of one and one  
27 half of their regular rate. Plaintiff and Defendant's California employees were forced to work  
28 overtime and were not paid for all hours worked including all straight time wages, and overtime  
wages. These failures to pay all overtime wages constitute violations of Labor Code §§ 510,  
1194, 1194.2.

///

1           5. Defendants failed to issue Plaintiff and Defendant's California employees  
2 accurately itemized wage statements. As Defendants failed to compensate Plaintiff and  
3 Defendants' California employees with all wages due, as detailed above, their wage statements  
4 failed to accurately state all gross wages earned, in violation of Labor Code § 226(a)(1), total  
5 hours worked, in violation of Labor Code § 226(a)(2), net wages earned, in violation of Labor  
6 Code § 226(a)(5), and all applicable hourly rates during the pay period and the corresponding  
7 number of hours worked, in violation of Labor Code § 226(a)(9), as a result of Defendants' failure  
8 to pay all overtime wages due. These violations also violate Labor Code §§ 226(e) and 226.3  
9 with respect to Plaintiff and Defendants' California employees.

10           6. Defendants knowingly and intentionally failed to provide Plaintiff and  
11 Defendant's California employees timely, accurate, itemized wage statements in accordance with  
12 Labor Code § 226 and keep accurate records as required by §1174(d). The statements provided  
13 to Plaintiff and Defendant's California employees, and the records maintained by Defendants,  
14 have not accurately reflected actual gross wages earned, including pay for all hours worked,  
15 overtime, and meal/rest premiums, and total hour worked.

16           7. Our client further alleges that Defendants paid him and Defendant's California  
17 employees their final wages beyond the time frames set forth in Labor Code §§ 201 and 202. As  
18 they were not paid all wages due and owing throughout the course of their employment as a result  
19 of Defendants' failure to pay all premium wages as detailed above, at the time of their separation,  
20 they were not paid all final wages due and owing for the entirety of their employment. This  
21 violates Labor Code §§ 201-203.

22           8. Defendant pays Plaintiff and its California employees on a bi-weekly basis and  
23 has failed to comply with Labor Code § 204(a) which holds that wages earned on a bi-weekly  
24 basis must be paid no later than seven calendar days following the close of the payroll period.  
25 Due to the violations described above, Plaintiff and Defendant's California employees did not  
26 receive all of their wages earned in a timely manner as required by Labor Code § 204(a)(b).

27           9. Defendant failed to reimburse Plaintiff and Defendant's California employees for  
28 the equipment they purchased to perform work for Defendant such as face masks. Moreover,  
Defendant failed to reimburse Plaintiff and Defendant's California employees for uniform  
maintenance. Defendant further failed to reimburse its California employees for using their  
personal cell phones for the benefit of Defendant. Labor Code section 2802 provides that "[a]n

1 employer shall indemnify his or her employee for all necessary expenditures or losses incurred  
2 by the employee in direct consequence of the discharge of his or her duties.” As such, Plaintiff  
3 and Defendant’s California employees have incurred reasonable and necessary expenses in the  
4 course of their job duties, which were not reimbursed by Defendant, in violation of Labor Code  
§ 2802.

5 10. Defendants failed to continue to take precautions to ensure employee safety after  
6 the onset of COVID. Under LC §6409.6(a)(1). “COVID-19” means severe acute respiratory  
7 syndrome coronavirus 2 (SARS-CoV-2). Plaintiff and Defendant’s California employees,  
8 directly after the onset of COVID, were required to partake in mandatory temperature and health  
9 checks, but these activities were not enforced or practiced quickly after the onset of COVID and  
10 when COVID was still a health risk to the employees. Plaintiff and Defendant’s California  
11 employees were also required to provide their own masks at the workplace. As a result of these  
12 practices, Defendants have violated Cal. Labor Code §§ 6400, 6401, 6402, 6403, 6404, and 6407  
13 for failure to provide a safe and healthful environment for their Employees, as outlines above.  
Defendants are liable for civil penalties pursuant to Cal. Labor Code § 2699 *et seq.*

14 11. Defendants failed to pay all wages earned to Plaintiff and Defendant’s California  
15 employees as a result of the unlawful employment policies and practices herein. As a result of these  
16 practices, Plaintiff and Defendant’s California employees were underpaid for hours worked,  
17 including overtime and penalty wages, and this underpayment resulted in a failure to pay all wages  
18 owed twice per month. Due to this failure, Defendants are liable under Labor Code § 210 for failure  
to pay wages as required by law.

19 12. Plaintiff, on behalf of himself and other “aggrieved employees”, and on behalf of the  
20 general public brings this action pursuant to Labor Code §§ 226.7, 512, 558, 510, 1194, 1194.2,  
21 226(a)(e), 1174(d), 201-203, 204(a)(b), 2802, 210, 218, 6400, 6401, 6403, 6404, 6407, 8 CCR 3202,  
and 17200.

22 13. Venue as to each Defendant is proper in this judicial district, pursuant to Code  
23 of Civil Procedure § 395. Defendants operate within the State of California. The unlawful acts  
24 alleged herein took place in Sacramento, California.

25 ///

26 ///

27 ///

## II. PARTIES

### A. PLAINTIFF

14. Plaintiff MAURICE WARREN is a resident of Sacramento, California. At all times relevant herein, he was employed by Defendants in Sacramento County, California. Plaintiff was employed by Defendants as a non-exempt, hourly employee in California, including in and around the city of Sacramento, County of Sacramento. During Plaintiff's employment:

- A. Plaintiff did not receive final wages at the time of his termination.
- B. Plaintiff was required to work without meal and rest periods, nor compensation in lieu thereof, as required by the Labor Code and relevant Wage Orders.
- C. Plaintiff was required to work either in excess of eight hours per workday or in excess of forty hours per workweek without receiving compensation at a rate of one and one half the regular rate of pay.
- D. Plaintiff was forced to receive inaccurately itemized and deficient wage statements, in violation of Labor Code § 226(a).
- E. Plaintiff did not receive his compensation in accordance with Labor Code § 204 in that Defendants failed to issues wages to its employees within seven (7) calendar days after the pay period ended.
- F. Plaintiff was not paid in a timely manner pertaining to the waiting time penalties in accordance with Labor Code §§ 201-203.
- G. Defendant also failed to reimburse Plaintiff and Defendant's California employees for reasonable and necessary expenses in the course of their job duties, in violation of Labor Code § 2802.

### B. DEFENDANTS

15. Defendant Capital Lumber Co., is a Arizona Corporation doing business in Sacramento, California. It operates within the State of California. Defendant employed Plaintiff and similarly situated employees within California. The violations alleged herein arose in Sacramento, California.

16. Defendant Capital Lumber Company, Incorporated is a California Corporation doing business in Sacramento, California. It operates within the State of California. Defendant employed Plaintiff and similarly situated employees within California. The violations alleged herein arose in Sacramento, California.

1 17. As used herein, the term "AGGRIEVED EMPLOYEES," and "DEFENDANTS'  
2 CALIFORNIA EMPLOYEES," shall mean Defendants Capital Lumber Co., Capital Lumber  
3 Company, Incorporated's non-exempt employees.

4 18. The true names and capacities, whether individual, corporate, associate, or otherwise,  
5 of Defendants sued herein as DOES 1 to 10, inclusive, are currently unknown to Plaintiff, who  
6 therefore sues Defendants by such fictitious names under Code of Civil Procedure § 474. Plaintiff is  
7 informed and believes, and based thereon alleges, that each of the Defendants designated herein as a  
8 DOE is legally responsible in some manner for the unlawful acts referred to herein. Plaintiff will  
9 seek leave of court to amend this Complaint to reflect the true names and capacities of the  
10 Defendants designated hereinafter as DOES when such identities become known.

11 19. Plaintiff is informed and believes, and based thereon alleges, that each Defendant  
12 acted in all respects pertinent to this action as the agent of the other Defendants, carried out a joint  
13 scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendant are  
14 legally attributable to the other Defendants. Furthermore, Defendants in all respects acted as the  
15 employer and/or joint employer of Plaintiff and all other aggrieved employees.

#### 14 **FACTUAL ALLEGATIONS**

15 20. Plaintiff and Defendant's California employees were routinely unable, and not  
16 authorized to take their 10-minute rest periods and were also unable to take an uninterrupted  
17 30-minute meal break for every shift they worked. Specifically, Plaintiff and Defendant's  
18 California employees were forced to continue working through their meal and rest breaks in  
19 order to assist Defendant's needs. Because of this, Plaintiff and Defendant's California  
20 employees were unable to take their required meal and rest breaks. Moreover, Defendants  
21 failed to pay premium wages of one hour's pay for each missed meal and rest break to Plaintiff  
22 and Defendant's California employees who were denied timely meal and rest breaks, in  
23 violation of Labor Code §§ 226.7, 512, and 558, and IWC Order No. 5-2001, Section 12.

24 21. Plaintiff and Defendants' California employees were required to work off the  
25 clock for Defendant. Plaintiff and Defendant California employees were asked to perform tasks  
26 prior to clocking in without being compensated for it. It took Plaintiff on the average of 5  
27 minutes to complete these tasks. Moreover, Plaintiff and Defendant's California employees  
28 were instructed to work approximately 5-10 minutes after they had clocked out to finish their  
assignments such as loading lumber. Defendants did not compensate Plaintiff and Defendants'

1 California employees if these tasks were completed outside of her regular work hours. These  
2 excess hours were not recorded on our client's and Defendants' California employees wage  
3 statements. Plaintiff and Defendant's California employees should have been compensated for  
4 that time, but she was not in violation of Labor Code Sections 510, 1194, and 1194.2. As a  
5 result, Plaintiff and Defendant's California employees were not paid for all hours worked  
6 including all straight time wages, and overtime wages. These failures to pay wages constitute  
7 violations of Labor Code § 510 and 1194.

8 22. Plaintiff also claims that Defendant has failed to pay all overtime wages due to  
9 non-exempt employees. As a result, employees are not properly compensated for work  
10 performance in excess of eight (8) hours in a workday and work performed in excess of forty  
11 (40) hours in a workweek at a rate of no less than one and one-half times the regular rate of  
12 pay. Employees of Defendant regularly work in excess of eight (8) hours in a day or more than  
13 forty (40) hours per week and do not receive overtime compensation at a rate of one and one  
14 half of their regular rate. Plaintiff and Defendant's California employees were forced to work  
15 overtime and were not paid for all hours worked including all straight time wages, and overtime  
16 wages. These failures to pay all overtime wages constitute violations of Labor Code §§ 510,  
17 1194, 1194.2.

18 23. Defendants failed to issue Plaintiff and Defendant's California employees  
19 accurately itemized wage statements. As Defendants failed to compensate Plaintiff and  
20 Defendant's California employees with all wages due, as detailed above, their wage statements  
21 failed to accurately state all gross wages earned, in violation of Labor Code § 226(a)(1), total  
22 hours worked, in violation of Labor Code § 226(a)(2), net wages earned, in violation of Labor  
23 Code § 226(a)(5), and all applicable hourly rates during the pay period and the corresponding  
24 number of hours worked, in violation of Labor Code § 226(a)(9), as a result of Defendants' failure  
25 to pay all overtime wages due. These violations also violate Labor Code §§ 226(e) and 226.3  
26 with respect to Plaintiff and Defendants' California employees.

27 24. Defendants knowingly and intentionally failed to provide Plaintiff and  
28 Defendant's California employees timely, accurate, itemized wage statements in accordance with  
Labor Code § 226 and keep accurate records as required by §1174(d). The statements provided  
to Plaintiff and Defendant's California employees, and the records maintained by Defendants,

1 have not accurately reflected actual gross wages earned, including pay for all hours worked,  
2 overtime, and meal/rest premiums, and total hour worked.

3 25. Our client further alleges that Defendants paid him and Defendant's California  
4 employees their final wages beyond the time frames set forth in Labor Code §§ 201 and 202. As  
5 they were not paid all wages due and owing throughout the course of their employment as a result  
6 of Defendants' failure to pay all premium wages as detailed above, at the time of their separation,  
7 they were not paid all final wages due and owing for the entirety of their employment. This  
violates Labor Code §§ 201-203.

8 26. Defendant pays Plaintiff and it's California employees on a bi-weekly basis and  
9 has failed to comply with Labor Code § 204(a) which holds that wages earned on a bi-weekly  
10 basis must be paid no later than seven calendar days following the close of the payroll period.  
11 Due to the violations described above, Plaintiff and Defendant's California employees did not  
receive all of their wages earned in a timely manner as required by Labor Code § 204(a)(b).

12 27. Defendant failed to reimburse Plaintiff and Defendant's California employees for  
13 the equipment they purchased to perform work for Defendant such as face masks. Moreover,  
14 Defendant failed to reimburse Plaintiff and Defendant's California employees for uniform  
15 maintenance. Defendant further failed to reimburse its California employees for using their  
16 personal cell phones for the benefit of Defendant. Labor Code section 2802 provides that "[a]n  
17 employer shall indemnify his or her employee for all necessary expenditures or losses incurred  
18 by the employee in direct consequence of the discharge of his or her duties." As such, Plaintiff  
19 and Defendant's California employees have incurred reasonable and necessary expenses in the  
20 course of their job duties, which were not reimbursed by Defendant, in violation of Labor Code  
§ 2802.

21 28. Defendants failed to continue to take precautions to ensure employee safety after  
22 the onset of COVID. Under LC §6409.6(a)(1). "COVID-19" means severe acute respiratory  
23 syndrome coronavirus 2 (SARS-CoV-2). Plaintiff and Defendant's California employees,  
24 directly after the onset of COVID, were required to partake in mandatory temperature and health  
25 checks, but these activities were not enforced or practiced quickly after the onset of COVID and  
26 when COVID was still a health risk to the employees. Plaintiff and Defendant's California  
27 employees were also required to provide their own masks at the workplace. As a result of these  
practices, Defendants have violated Cal. Labor Code §§ 6400, 6401, 6402, 6403, 6404, and 6407

for failure to provide a safe and healthful environment for their Employees, as outlines above. Defendants are liable for civil penalties pursuant to Cal. Labor Code § 2699 *et seq.*

29. Defendants failed to pay all wages earned to Plaintiff and Defendant's California employees as a result of the unlawful employment policies and practices herein. As a result of these practices, Plaintiff and Defendant's California employees were underpaid for hours worked, including overtime and penalty wages, and this underpayment resulted in a failure to pay all wages owed twice per month. Due to this failure, Defendants are liable under Labor Code § 210 for failure to pay wages as required by law.

### **CAUSES OF ACTION**

#### **FIRST CAUSE OF ACTION**

#### **PENALTIES PURSUANT TO LABOR CODE § 2699(f) FOR VIOLATIONS OF LABOR CODE §§ 226.7, 512, 558, 510, 1194, 1194.2, 226(a), (e), 1174(d), 201-203, 204(a)(b), 2802, 210, 218, 6400, 6401, 6403, 6404, 6407, 8 CCR 3202**

30. Plaintiff incorporates all preceding paragraphs of this Complaint as though fully set forth herein.

31. As a result of the acts alleged herein, Plaintiff seeks penalties under Labor Code § 2698 *et seq.* because of Defendants' violations of Labor Code §§ 226.7, 512, 558, 510, 1194, 1194.2, 226(a), (e), 201-203, 204(a)(b), 1174(d), 2802, 210, 218, 6400, 6401, 6403, 6404, 6407, 8 CCR 3202

32. For each such violation, Plaintiff and all aggrieved employees are entitled to penalties in an amount to be shown at the time of trial subject to the following formula:

- a. With respect to the violation of Labor Code § 2699(f) for violations of Labor Code §§ 226.7, 512, 558, 510, 1194, 1194.2, 226(a), (e), 1174(d), 201-203, 204(a)(b), 2802, 210, 218, 6400, 6401, 6403, 6404, 6407, 8 CCR 3202, \$100 for the initial violation per employee per pay period and \$200 for each subsequent violation per employee per pay period.

33. These penalties will be allocated 75% to the Labor Workforce Development Agency, and 25% to the affected employees.

34. On September 7, 2023, Plaintiff sent a letter, by certified mail, return receipt requested, to the LWDA and Defendants setting forth the facts and theories of the violations alleged against Defendants, as prescribed by Labor Code § 2698 *et seq.* (**Exhibit "A"**). Pursuant to Labor Code § 2699.3(a)(2)(A), no notice was received by Plaintiff from the LWDA within sixty-five (65)

1 calendar days of September 7, 2023. Plaintiff may therefore commence this action to seek penalties  
2 pursuant to Labor Code § 2698 *et seq.*

3 35. Wherefore, Plaintiff and the aggrieved employees he seeks to represent request relief  
4 as described herein.

5 **ALLEGATIONS AS TO FAILURE TO PROVIDE MEAL AND REST PERIODS OR**  
6 **COMPENSATION IN LIEU THEREOF (LABOR CODE §§ 226.7, 512, 558)**

7 36. Plaintiff incorporates all preceding paragraphs of this Complaint as though fully set  
8 forth herein.

9 37. Plaintiff and all other aggrieved employees are entitled to one hour of pay for each  
10 day that Defendants failed to properly provide one or more meal or rest periods as set forth in the  
11 IWC Wage Orders and Labor Code §§ 226.7, 512, and 558.

12 38. Defendants have failed to provide Plaintiff and all other aggrieved employees one or  
13 more meal or rest periods during their employment. Defendants have failed to compensate Plaintiff  
14 and all other aggrieved employees at the rate of one hour or pay at his or her regular rate of pay for  
15 each day on which one or more meal or rest periods were not provided.

16 39. Plaintiff and Defendant's California employees were routinely unable, and not  
17 authorized to take their 10-minute rest periods and were also unable to take an uninterrupted 30-  
18 minute meal break for every shift they worked. Specifically, Plaintiff and all other aggrieved  
19 employees were further forced to continue working through their meal and rest breaks in order to  
20 assist Defendant's needs. Because of this, Plaintiff and Defendant's California employees were  
21 unable to take their required meal and rest breaks. Moreover, Defendants failed to pay premium  
22 wages of one hour's pay for each missed meal and rest break to Plaintiff and Defendant's California  
23 employees who were denied timely meal and rest breaks, in violation of Labor Code §§ 226.7, 512,  
24 and 558, and IWC Order No. 5-2001, Section 12.

25 40. Pursuant to Labor Code §§ 226.7 and 512, Plaintiff seeks the payment of all meal and  
26 rest period compensations, which he was owed since he commenced working for Defendants,  
27 according to proof.

28 41. Additionally, Plaintiff is entitled to, and seeks, attorney's fees and costs, and  
prejudgment interest.

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**ALLEGATIONS AS TO FAILURE TO PAY ALL WAGES  
IN VIOLATION OF (LABOR CODE §§ 510, 1194, 1194.2)**

42. Plaintiff incorporates all preceding paragraphs of this Complaint as though fully set forth herein.

43. Plaintiff and Defendants' California employees were required to work off the clock for Defendant.

44. Plaintiff and Defendant California employees were asked to perform tasks prior to clocking in without being compensated for it. It took Plaintiff on the average of 5 minutes to complete these tasks. Moreover, Plaintiff and Defendant's California employees were instructed to work approximately 5-10 minutes after they had clocked out to finish their assignments such as loading lumber. Defendants did not compensate Plaintiff and Defendants' California employees if these tasks were completed outside of her regular work hours. These excess hours were not recorded on our client's and Defendants' California employees wage statements. Plaintiff and Defendant's California employees should have been compensated for that time, but she was not in violation of Labor Code Sections 510, 1194, and 1194.2. As a result, Plaintiff and Defendant's California employees were not paid for all hours worked including all straight time wages, and overtime wages. These failures to pay wages constitute violations of Labor Code § 510 and 1194.

45. Plaintiff also claims that Defendant has failed to pay all overtime wages due to non-exempt employees. As a result, employees are not properly compensated for work performance in excess of eight (8) hours in a workday and work performed in excess of forty (40) hours in a workweek at a rate of no less than one and one-half times the regular rate of pay. Employees of Defendant regularly work in excess of eight (8) hours in a day or more than forty (40) hours per week and do not receive overtime compensation at a rate of one and one half of their regular rate. Plaintiff and Defendant's California employees were forced to work overtime and were not paid for all hours worked including all straight time wages, and overtime wages. These failures to pay all overtime wages constitute violations of Labor Code §§ 510, 1194, 1194.2.

46. As a result of the unlawful acts of Defendants in willfully failing to pay all wages, Plaintiff and Defendant's California employees have been deprived of wages in amounts to be determined at trial, and are entitled to restitution and recovery of such amounts, plus interest thereon,

attorneys' fees, and costs pursuant to Labor Code § 1194 and liquidated damages pursuant to Labor Code § 1194.2.

**ALLEGATIONS AS TO KNOWING AND INTENTIONAL FAILURE TO COMPLY WITH  
ITEMIZED EMPLOYEE WAGE STATEMENT PROVISIONS  
(LABOR CODE § 226(a), (e)), 1174(d))**

47. Plaintiff incorporates all preceding paragraphs of this Complaint as though fully set forth herein.

48. Section 226(a) of the California Labor Code requires Defendants to provide wage statements to employees. In those wage statements, Defendants must accurately set forth, among other things, the total gross and net wages earned, the total hours worked, and the hourly rates in effect, for its employees. Defendants have knowingly and intentionally failed to comply with Labor Code § 226(a).

49. Defendants failed to issue Plaintiff and Defendant's California employees accurately itemized wage statements. As Defendants failed to compensate Plaintiff and Defendants' California employees with all wages due, as detailed above, their wage statements failed to accurately state all gross wages earned, in violation of Labor Code § 226(a)(1), total hours worked, in violation of Labor Code § 226(a)(2), net wages earned, in violation of Labor Code § 226(a)(5), and all applicable hourly rates during the pay period and the corresponding number of hours worked, in violation of Labor Code § 226(a)(9), as a result of Defendants' failure to pay all overtime wages due. These violations also violate Labor Code §§ 226(e) and 226.3 with respect to Plaintiff and Defendants' California employees.

50. Defendants knowingly and intentionally failed to provide timely, accurate, itemized wage statements to Plaintiff and Defendant's California employees in accordance with Labor Code § 226 and keep accurate records as required by § 1174(d). The statements provided to Plaintiff and Defendant's California employees and the records maintained by Defendants, have not accurately reflected actual gross wages earned, including pay for all hours worked, overtime, and meal/rest premiums, and total hour worked.

51. The wage statements provided to Plaintiff and all other aggrieved employees fail to accurately itemize in wage statements total gross and net wages earned, and the total hours worked, and all hourly rates in effect, for its employees. Defendants' violations of Labor Code § 226(a) are knowing and intentional, and Plaintiff has suffered injury as a result of the receipt of defective wage

statements, thereby entitling him to penalties pursuant to Labor Code § 226(e).

**ALLEGATIONS AS TO FAILURE TO PAY WAGES DUE AT THE TIME OF  
DISCHARGE IN VIOLATION OF LABOR CODE §§ 201-202, RESULTING IN  
SECTION 203 WAGES AND PENALTIES (WAITING TIME PENALTIES)**

52. Plaintiff hereby incorporates all preceding paragraphs of this Complaint as though fully set forth herein.

53. At all times material herein, the California Labor Code Sections 201, 202, and 203 were in effect and binding on Defendants.

54. California Labor Code § 202 requires employers to pay employees all wages due within seventy-two (72) hours of resignation. California Labor Code § 201 states in pertinent part that “if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately.” California Labor Code § 203 provides that if an employer willfully fails to timely pay such wages the employer must, as penalty, continue to pay the subject employee’s wages until the back wages are paid in full or an action is commenced. The penalty cannot exceed 30 days of wages.

55. Plaintiff was entitled to compensation for unpaid wages, but to date has not received such compensation. Specifically, Defendants failed to pay Plaintiff all wages due to Plaintiff at the time of his termination. Thus, since Defendants failed to promptly pay Plaintiff all wages due to Plaintiff at the time of his termination, Defendants violated Section 201 of the Labor Code and Plaintiff is therefore entitled to wages and penalties pursuant to Labor Code Section 203.

56. More than 30 days have passed since Plaintiff’s employment ended with Defendants.

57. As a consequence of Defendants’ willful conduct in not paying wages owed to Plaintiff, Plaintiff is entitled to 30 days of wages as a penalty pursuant to Labor Code § 203 for Defendants’ failure to timely pay legal wages.

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**ALLEGATIONS AS TO FAILURE TO TIMELY PAY EMPLOYEES  
IN VIOLATION OF LABOR CODE § 204(a)(b)**

58. Plaintiff incorporates all preceding paragraphs of this Complaint as though fully set forth herein.

59. At all times relevant herein, Labor Code § 204 was in full force and effect and binding on Defendants.

60. Wages must be paid according to a regularly set schedule. (Labor Code § 204). All earned wages must be paid at least twice a month, on days designated in advance by the employer. Work performed between the 1st and the 15th days, inclusive, of any calendar month must be paid between the 16th and 26th day of the same month. Work performed between the 16th and the last day of the month must be paid between the 1st and 10th day of the following month. (Labor Code § 204). Weekly or bi-weekly (every two weeks) payroll must be paid within seven (7) days of the end of the pay period in which the wages were earned (Labor Code §§ 204(a), 204(b)).

61. Defendants pay Plaintiff and its California employees on a bi-weekly basis and have failed to comply with Labor Code § 204(a) which holds that wages earned on a bi-weekly basis must be paid no later than seven calendar days following the close of the payroll period. Due to the violations described above, Plaintiff and Defendants' California employees did not receive all of their wages earned in a timely manner as required by Labor Code § 204(a)(b).

62. Additionally, Defendant failed to pay Plaintiff and Defendant's California Employees earned wages when they became due, failed to pay wages on a bi-weekly basis, and have failed to comply with Labor Code § 204(a) which provides that wages earned on a bi-weekly basis must be paid no later than seven calendar days following the close of the payroll period. Due to the violations described above, Plaintiff and Defendant's California Employees did not receive all of their wages earned when due and in a timely manner as required by Labor Code § 204.

63. Defendants have failed to comply with the above-section because they waited longer than seven days from the close of the pay period to pay its bi-weekly paid employees.

**ALLEGATIONS AS TO FAILURE TO REIMBURSE FOR BUSINESS EXPENSES IN  
VIOLATION OF CALIFORNIA LABOR CODE § 2802**

64. Plaintiff hereby incorporates preceding paragraphs of this Complaint as though fully set forth herein.

65. Labor Code § 2802 provides that "[a]n employer shall indemnify his or her

1 employee for all necessary expenditures or losses incurred by the employee in direct  
2 consequence of the discharge of his or her duties.”

3 66. Defendant failed to reimburse Plaintiff and Defendant’s California employees for  
4 the equipment they purchased to perform work for Defendant such as face masks. Moreover,  
5 Defendant failed to reimburse Plaintiff and Defendant’s California employees for uniform  
6 maintenance. Defendant further failed to reimburse its California employees for using their  
7 personal cell phones for the benefit of Defendant. Labor Code section 2802 provides that “[a]n  
8 employer shall indemnify his or her employee for all necessary expenditures or losses incurred  
9 by the employee in direct consequence of the discharge of his or her duties.” As such, Plaintiff  
10 and Defendant’s California employees have incurred reasonable and necessary expenses in the  
11 course of their job duties, which were not reimbursed by Defendant, in violation of Labor Code  
12 § 2802.

13 67. As such, Plaintiff and Defendant’s California employees have incurred  
14 reasonable and necessary expenses in the course of their job duties, which were not reimbursed  
15 by Defendant, in violation of Labor Code § 2802.

16 68. Plaintiff is entitled to reimbursement for these necessary expenditures, plus  
17 interest and attorneys’ fees and cost, under Labor Code § 2802.

18 69. Plaintiff also requests relief as described below.

19 **ALLEGATIONS AS TO FAILURE TO PAY FOR ALL HOURS WORKED,**  
20 **INCLUDING OVERTIME HOURS WORKED IN VIOLATION OF**  
21 **(LABOR CODES §§ 210, 218)**

22 70. Plaintiff incorporates all preceding paragraphs of this Complaint as though fully set  
23 forth herein.

24 71. Section 2(K) or Wage Order 5 defines “hours worked” as “the rime during which an  
25 employee is subject to the control of an employer, and including all the time the employee is  
26 suffered or permitted to work, whether or not required to do so.” Labor Code §§ 1194 and 1197  
27 required employers to compensate Plaintiff for all hours worked at least at a minimum wage ad  
28 established by the Wage Order. Defendants did not pay for all hours worked and frequently required  
Plaintiff to work off the clock. Defendants have been engaged in many unlawful employment  
practices which resulted in underpayment for hours worked each pay period as more set forth below:

72. Failure to Pay All Wages Owed Twice Per Month. Defendants were required to pay

1 Plaintiff all wages earned twice during each calendar month pursuant to Labor Code § 204(a).  
2 Defendants failed to pay all wages earned to Plaintiff as a result of the unlawful employment policies  
3 and practices herein. As a result of these practices, Plaintiff was underpaid for hours worked,  
4 including overtime and penalty wages, and this underpayment resulted in a failure to pay all wages  
5 owed twice per month. Due to this failure, Defendants are liable under Labor Code § 210 for failure  
6 to pay wages as required by law.

7 **ALLEGATIONS AS TO FAILURE TO PROVIDE PLACE OF EMPLOYMENT**  
8 **THAT IS SAFE AND HEALTHFUL IN VIOLATION OF**  
9 **(LABOR CODE §§ 6400, 6401, 6402, 6403, 6404, 6407, 8 CCR 3202)**

10 73. Plaintiff incorporates all preceding paragraphs of this Complaint as though fully set  
11 forth herein.

12 74. Cal. Labor Code § 6400(a) provides that every employer shall furnish employment  
13 and a place of employment that is safe and healthful for Plaintiff therein. Cal. Labor Code § 6401  
14 provides that “every employer shall furnish and use safety devices and safeguard, and shall adopt  
15 and use practices, means, methods, operations, and processes which are reasonably adequate to  
16 render such employment and place of employment safe and healthful. Every employer.

17 75. Pursuant to Cal. Labor Code § 6402, no employer shall require, or permit any  
18 employee to go or be in any employment or place of employment which is not safe and healthful.  
19 Cal. Labor Code § 6403 states that no employer shall fail or neglect to provide and use safety  
20 devices and safeguard reasonably adequate to render the employment and place of employment safe,  
21 or adopt and use methods and processes reasonably necessary to protect the life, safety, and health of  
22 Plaintiff and Defendant’s California employees.

23 76. Cal. Labor Code § 6404 provides that no employer shall occupy or maintain any  
24 place of employment that is not safe and healthful. Cal. Labor Code § 6407 provides that every  
25 employer and every employee shall comply with occupational safety and health standards, with  
26 Section 25910 of the Health and Safety Code, and with all rules, regulations, and orders pursuant to  
27 this division which are applicable to his own actions and conduct. Defendants failed to continue to  
28 take precautions to ensure employee safety after the onset of COVID. Under LC §6409.6(a)(1).  
“COVID-19” means severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2). Plaintiff,  
directly after the onset of COVID, were required to partake in mandatory temperature and health  
checks, but these activities were not enforced or practiced quickly after the onset of COVID and

1 when COVID was still a health risk to Plaintiff and Defendant's California employees. Plaintiff and  
2 Defendant's California employees was also required to provide their own masks at the workplace.

3 77. As a result of these practices, Defendants have violated Cal. Labor Code §§ 6400,  
4 6401, 6402, 6403, 6404, and 6407 for failure to provide a safe and healthful environment for  
5 Plaintiff, as outlines above.

6 **RELIEF REQUESTED**

7 WHEREFORE, Plaintiff prays for the following relief:

8 1. For penalties pursuant to Labor Code § 203 for Plaintiff and all other aggrieved  
9 employees who are no longer employed by Defendants, equal to their daily wage multiplied by thirty  
10 (30) days;

11 2. For penalties pursuant to Labor Code § 226(e) for Plaintiff and all other aggrieved  
12 employees;

13 3. For penalties pursuant to Labor Code § 226.7 for Plaintiff and all other aggrieved  
14 employees;

15 4. For penalties pursuant to Labor Code § 1194.2 for Plaintiff and all other aggrieved  
16 employees;

17 5. For penalties pursuant to Labor Code § 204(b) for Plaintiff and all other aggrieved  
18 employees;

19 6. For penalties pursuant to Labor Code § 2802 for Plaintiff and all other aggrieved  
20 employees;

21 7. For penalties pursuant to Labor Code § 1174(d) for Plaintiff and all other aggrieved  
22 employees;

23 8. For penalties pursuant to Labor Code § 210 for Plaintiff and all other aggrieved  
24 employees;

25 9. For penalties pursuant to Labor Code § 6400 for Plaintiff and all other aggrieved  
26 employees;

27 10. For penalties and other relief pursuant to Labor Code § 2698 et seq. for Plaintiff and  
28 all other aggrieved employees;

11. An award providing for payment of costs of suit pursuant to Labor Code §  
2699(g)(1);

12. An award of attorneys' fees pursuant to Labor Code § 2699(g)(1);

13. An award of prejudgment and post-judgment interest;  
14. An award providing for payment of costs of suit; and  
15. Such other and further relief as this Court may deem just and proper.

Dated: November 14, 2023

OTKUPMAN LAW FIRM,  
A Law Corporation

By:

  
ROMAN OTKUPMAN  
Attorneys for Plaintiff

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a trial of his claims by jury to the extent authorized by law.

Dated: November 14, 2023

OTKUPMAN LAW FIRM,  
A Law Corporation

By:

  
ROMAN OTKUPMAN  
Attorneys for Plaintiff

# **EXHIBIT A**

**OTKUPMAN LAW FIRM, A LAW CORPORATION**

5743 Corsa Ave, Suite 123  
Westlake Village, CA 91362  
Tel.: 818-293-5623  
Fax: 888-850-1310

September 7, 2023

**VIA ELECTRONIC FILING**

Labor & Workforce Development Agency

**VIA CERTIFIED MAIL**

Capital Lumber Co.  
2525 East Arizona  
Biltmore Cir A116  
Phoenix, AZ 85016  
Defendant certified mail # 7022 3330 0001 1018 8759

**VIA CERTIFIED MAIL**

Agent for Service of Process  
1505 Corporation  
Capitol Corporate Services, Inc.  
206 E. 9<sup>th</sup> Street, Ste 1300  
Austin, TX 78701  
Agent certified mail # 7022 3330 0001 1018 8742

**VIA CERTIFIED MAIL**

Capital Lumber Company, Incorporated  
PO Box 22589  
Sacramento, CA 95822  
Defendant certified mail # 7022 3330 0001 1019 0073

**VIA CERTIFIED MAIL**

Agent for Service of Process  
Alfred H. Johnson  
4312 Duke Dr  
Sacramento, CA 95822  
Agent certified mail # 7022 3330 0001 1019 0066

**VIA CERTIFIED MAIL**

Capital Lumber Company  
4225 Pell Dr.  
Sacramento, CA 95838  
Defendant certified mail # 7022 3330 0001 1019 0059

Re: ***Maurice Warren v. Capital Lumber Co., Capital Lumber Company, Incorporated–  
Labor Code Violations of Capital Lumber Co., Capital Lumber Company, Incorporated  
– Compliance Letter of California Labor Code § 2698 – Private Attorneys General Act***

Dear Sir or Madam:

This office represents Maurice Warren (“Plaintiff”), a former California employee of Capital Lumber Co., Capital Lumber Company, Incorporated (“Defendants”). The purpose of this letter is to comply with the Private Attorneys General Act of 2004, pursuant to California Labor Code § 2698 et seq.

Our client works for Defendant in Northern California. Herein we set forth the facts and theories of California Labor Code violations which we allege Defendant engaged in with respect to our client and other of its California non-exempt employees.

Plaintiff began working for Defendants on or about August 10, 2021. While working for Defendant as a Engineering Wood Products, Forklift Operator, Plaintiff was earning (\$20.00) dollars per hour.

Plaintiff and Defendant’s California employees were routinely unable, and not authorized to take their 10-minute rest periods and were also unable to take an uninterrupted 30-minute meal break for every shift they worked. Specifically, Plaintiff and Defendant’s California employees were forced to continue working through their meal and rest breaks in order to assist Defendant’s needs. Because of this, Plaintiff and Defendant’s California employees were unable to take their required meal and rest breaks. Moreover, Defendants failed to pay premium wages of one hour’s pay for each missed meal and rest break to Plaintiff and Defendant’s California employees who were denied timely meal and rest breaks, in violation of Labor Code §§ 226.7, 512, and 558, and IWC Order No. 5-2001, Section 12.

Plaintiff and Defendants’ California employees were required to work off the clock for Defendant. Plaintiff and Defendant California employees were asked to perform tasks prior to clocking in without being compensated for it. It took Plaintiff on the average of 5 minutes to complete these tasks. Moreover, Plaintiff and Defendant’s California employees were instructed to work approximately 5-10 minutes after they had clocked out to finish their assignments such as loading lumber. Defendants did not compensate Plaintiff and Defendants’ California employees if these tasks were completed outside of her regular work hours. These excess hours were not recorded on our client’s and Defendants’ California employees wage statements. Plaintiff and Defendant’s California employees should have been compensated for that time, but she was not in violation of Labor Code Sections 510, 1194, and 1194.2. As a result, Plaintiff and Defendant’s California employees were not paid for all hours worked including all straight time wages, and overtime wages. These failures to pay wages constitute violations of Labor Code § 510 and 1194.

Plaintiff also claims that Defendant has failed to pay all overtime wages due to non-exempt employees. As a result, employees are not properly compensated for work performance in excess of eight (8) hours in a workday and work performed in excess of forty (40) hours in a workweek at a rate of no less than one and one-half times the regular rate of pay. Employees of Defendant regularly work in excess of eight (8) hours in a day or more than forty (40) hours per week and do not receive overtime compensation at a rate of one and one half of their regular rate. Plaintiff and Defendant's California employees were forced to work overtime and were not paid for all hours worked including all straight time wages, and overtime wages. These failures to pay all overtime wages constitute violations of Labor Code §§ 510, 1194, 1194.2.

Defendants failed to issue Plaintiff and Defendant's California employees accurately itemized wage statements. As Defendants failed to compensate Plaintiff and Defendants' California employees with all wages due, as detailed above, their wage statements failed to accurately state all gross wages earned, in violation of Labor Code § 226(a)(1), total hours worked, in violation of Labor Code § 226(a)(2), net wages earned, in violation of Labor Code § 226(a)(5), and all applicable hourly rates during the pay period and the corresponding number of hours worked, in violation of Labor Code § 226(a)(9), as a result of Defendants' failure to pay all overtime wages due. These violations also violate Labor Code §§ 226(e) and 226.3 with respect to Plaintiff and Defendants' California employees.

Defendants knowingly and intentionally failed to provide Plaintiff and Defendant's California employees timely, accurate, itemized wage statements in accordance with Labor Code § 226 and keep accurate records as required by § 1174(d). The statements provided to Plaintiff and Defendant's California employees, and the records maintained by Defendants, have not accurately reflected actual gross wages earned, including pay for all hours worked, overtime, and meal/rest premiums, and total hour worked.

Our client further alleges that Defendants paid him and Defendant's California employees their final wages beyond the time frames set forth in Labor Code §§ 201 and 202. As they were not paid all wages due and owing throughout the course of their employment as a result of Defendants' failure to pay all premium wages as detailed above, at the time of their separation, they were not paid all final wages due and owing for the entirety of their employment. This violates Labor Code §§ 201-203.

Defendant pays Plaintiff and its California employees on a bi-weekly basis and has failed to comply with Labor Code § 204(a) which holds that wages earned on a bi-weekly basis must be paid no later than seven calendar days following the close of the payroll period. Due to the violations described above, Plaintiff and Defendant's California employees did not receive all of their wages earned in a timely manner as required by Labor Code § 204(a)(b).

Defendant failed to reimburse Plaintiff and Defendant's California employees for the equipment they purchased to perform work for Defendant such as face masks. Moreover, Defendant failed to reimburse Plaintiff and Defendant's California employees for uniform maintenance. Defendant

further failed to reimburse its California employees for using their personal cell phones for the benefit of Defendant. Labor Code section 2802 provides that “[a]n employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties.” As such, Plaintiff and Defendant’s California employees have incurred reasonable and necessary expenses in the course of their job duties, which were not reimbursed by Defendant, in violation of Labor Code § 2802.

Defendants failed to continue to take precautions to ensure employee safety after the onset of COVID. Under LC §6409.6(a)(1). “COVID-19” means severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2). Plaintiff and Defendant’s California employees, directly after the onset of COVID, were required to partake in mandatory temperature and health checks, but these activities were not enforced or practiced quickly after the onset of COVID and when COVID was still a health risk to the employees. Plaintiff and Defendant’s California employees were also required to provide their own masks at the workplace. As a result of these practices, Defendants have violated Cal. Labor Code §§ 6400, 6401, 6402, 6403, 6404, and 6407 for failure to provide a safe and healthful environment for their Employees, as outlines above. Defendants are liable for civil penalties pursuant to Cal. Labor Code § 2699 *et seq.*

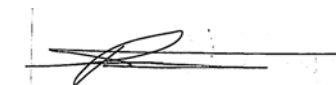
Defendants failed to pay all wages earned to Plaintiff and Defendant’s California employees as a result of the unlawful employment policies and practices herein. As a result of these practices, Plaintiff and Defendant’s California employees were underpaid for hours worked, including overtime and penalty wages, and this underpayment resulted in a failure to pay all wages owed twice per month. Due to this failure, Defendants are liable under Labor Code § 210 for failure to pay wages as required by law.

We invite Defendants or its attorney(s) to contact our office to discuss this matter, including whether an early resolution of the claims can be reached.

Our office awaits your response.

Very truly yours,

OTKUPMAN LAW FIRM

A handwritten signature in black ink, appearing to read 'Roman Otkupman', is written over a horizontal line.

ROMAN OTKUPMAN

COPY

CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):

Roman Otkupman (CSBN: 249423); Nidah Farishta (CSBN: 312360)

Otkupman Law Firm, ALC

5743 Corsa Ave, Suite 123

Westlake Village, CA 91362

TELEPHONE NO.: (818) 293-5623

FAX NO.: (888) 850-1310

ATTORNEY FOR (Name): Plaintiff Maurice Warren

SUPERIOR COURT OF CALIFORNIA, COUNTY OF Sacramento

STREET ADDRESS: 720 9th Street, Room 102

MAILING ADDRESS:

CITY AND ZIP CODE: Sacramento, CA 95814

BRANCH NAME: Gordon D. Schaber Downtown Courthouse

CASE NAME:

Maurice Warren v. Capital Lumber Co., et al.

## CIVIL CASE COVER SHEET



Unlimited

(Amount

demanded

exceeds \$25,000)



Limited

(Amount

demanded is

\$25,000 or less)

## Complex Case Designation



Counter



Joinder

Filed with first appearance by defendant  
(Cal. Rules of Court, rule 3.402)

CASE NUMBER:

JUDGE:

DEPT:

Items 1–6 below must be completed (see instructions on page 2).

1. Check **one** box below for the case type that best describes this case:

## Auto Tort



Auto (22)



Uninsured motorist (46)

Other PI/PD/WD (Personal Injury/Property  
Damage/Wrongful Death) Tort

Asbestos (04)



Product liability (24)



Medical malpractice (45)



Other PI/PD/WD (23)

## Non-PI/PD/WD (Other) Tort



Business tort/unfair business practice (07)



Civil rights (08)



Defamation (13)



Fraud (16)



Intellectual property (19)



Professional negligence (25)



Other non-PI/PD/WD tort (35)

## Employment



Wrongful termination (36)



Other employment (15)

## Contract



Breach of contract/warranty (06)



Rule 3.740 collections (09)



Other collections (09)



Insurance coverage (18)



Other contract (37)

## Real Property

Eminent domain/Inverse  
condemnation (14)

Wrongful eviction (33)



Other real property (26)

## Unlawful Detainer



Commercial (31)



Residential (32)



Drugs (38)

## Judicial Review



Asset forfeiture (05)



Petition re: arbitration award (11)



Writ of mandate (02)



Other judicial review (39)

Provisionally Complex Civil Litigation  
(Cal. Rules of Court, rules 3.400–3.403)

Antitrust/Trade regulation (03)



Construction defect (10)



Mass tort (40)



Securities litigation (28)



Environmental/Toxic tort (30)

Insurance coverage claims arising from the  
above listed provisionally complex case  
types (41)

## Enforcement of Judgment



Enforcement of judgment (20)

## Miscellaneous Civil Complaint



RICO (27)



Other complaint (not specified above) (42)

## Miscellaneous Civil Petition



Partnership and corporate governance (21)



Other petition (not specified above) (43)

2. This case ☒ is ☐ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:a. ☐ Large number of separately represented partiesd. ☐ Large number of witnessesb. ☐ Extensive motion practice raising difficult or novele. ☐ Coordination with related actions pending in one or more courts

issues that will be time-consuming to resolve

in other counties, states, or countries, or in a federal court

c. ☐ Substantial amount of documentary evidencef. ☐ Substantial postjudgment judicial supervision3. Remedies sought (check all that apply): a. ☒ monetary b. ☐ nonmonetary; declaratory or injunctive relief c. ☒ punitive

4. Number of causes of action (specify): One (1)

5. This case ☐ is ☒ is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: November 14, 2023

Roman Otkupman

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

## NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

BY FAX

## INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

**To Plaintiffs and Others Filing First Papers.** If you are filing a first paper (for example, a complaint) in a civil case, you **must** complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

**To Parties in Rule 3.740 Collections Cases.** A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

**To Parties in Complex Cases.** In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

## CASE TYPES AND EXAMPLES

**Auto Tort**

Auto (22)—Personal Injury/Property Damage/Wrongful Death  
Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

**Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort**

Asbestos (04)  
Asbestos Property Damage  
Asbestos Personal Injury/Wrongful Death  
Product Liability (*not asbestos or toxic/environmental*) (24)  
Medical Malpractice (45)  
Medical Malpractice—Physicians & Surgeons  
Other Professional Health Care Malpractice  
Other PI/PD/WD (23)  
Premises Liability (e.g., slip and fall)  
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)  
Intentional Infliction of Emotional Distress  
Negligent Infliction of Emotional Distress  
Other PI/PD/WD

**Non-PI/PD/WD (Other) Tort**

Business Tort/Unfair Business Practice (07)  
Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)  
Defamation (e.g., slander, libel) (13)  
Fraud (16)  
Intellectual Property (19)  
Professional Negligence (25)  
Legal Malpractice  
Other Professional Malpractice (*not medical or legal*)  
Other Non-PI/PD/WD Tort (35)

**Employment**

Wrongful Termination (36)  
Other Employment (15)

**Contract**

Breach of Contract/Warranty (06)  
Breach of Rental/Lease Contract (*not unlawful detainer or wrongful eviction*)  
Contract/Warranty Breach—Seller Plaintiff (*not fraud or negligence*)  
Negligent Breach of Contract/Warranty  
Other Breach of Contract/Warranty  
Collections (e.g., money owed, open book accounts) (09)  
Collection Case—Seller Plaintiff  
Other Promissory Note/Collections Case  
Insurance Coverage (*not provisionally complex*) (18)  
Auto Subrogation  
Other Coverage  
Other Contract (37)  
Contractual Fraud  
Other Contract Dispute

**Real Property**

Eminent Domain/Inverse Condemnation (14)  
Wrongful Eviction (33)  
Other Real Property (e.g., quiet title) (26)  
Writ of Possession of Real Property  
Mortgage Foreclosure  
Quiet Title  
Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

**Unlawful Detainer**

Commercial (31)  
Residential (32)  
Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

**Judicial Review**

Asset Forfeiture (05)  
Petition Re: Arbitration Award (11)  
Writ of Mandate (02)  
Writ—Administrative Mandamus  
Writ—Mandamus on Limited Court Case Matter  
Writ—Other Limited Court Case Review  
Other Judicial Review (39)  
Review of Health Officer Order  
Notice of Appeal—Labor  
Commissioner Appeals

**Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)**

Antitrust/Trade Regulation (03)  
Construction Defect (10)  
Claims Involving Mass Tort (40)  
Securities Litigation (28)  
Environmental/Toxic Tort (30)  
Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

**Enforcement of Judgment**

Enforcement of Judgment (20)  
Abstract of Judgment (Out of County)  
Confession of Judgment (*non-domestic relations*)  
Sister State Judgment  
Administrative Agency Award (*not unpaid taxes*)  
Petition/Certification of Entry of Judgment on Unpaid Taxes  
Other Enforcement of Judgment Case

**Miscellaneous Civil Complaint**

RICO (27)  
Other Complaint (*not specified above*) (42)  
Declaratory Relief Only  
Injunctive Relief Only (*non-harassment*)  
Mechanics Lien  
Other Commercial Complaint Case (*non-tort/non-complex*)  
Other Civil Complaint (*non-tort/non-complex*)

**Miscellaneous Civil Petition**

Partnership and Corporate Governance (21)  
Other Petition (*not specified above*) (43)  
Civil Harassment  
Workplace Violence  
Elder/Dependent Adult Abuse  
Election Contest  
Petition for Name Change  
Petition for Relief From Late Claim  
Other Civil Petition

|                                                                                                 |  |                            |
|-------------------------------------------------------------------------------------------------|--|----------------------------|
| <b>SUPERIOR COURT OF CALIFORNIA<br/>COUNTY OF SACRAMENTO</b>                                    |  | Court Use Only             |
| COURTHOUSE ADDRESS:<br>Gordon D. Schaber Superior Court<br>720 9th Street, Sacramento, CA 95814 |  |                            |
| PLAINTIFF/PETITIONER:<br>Maurice Warren et al                                                   |  |                            |
| DEFENDANT/RESPONDENT:<br>Capital Lumber Co., and Arizona Corporation et al                      |  |                            |
| <b>NOTICE OF CASE ASSIGNMENT<br/>AND CASE MANAGEMENT CONFERENCE<br/>(UNLIMITED CIVIL CASE)</b>  |  | CASE NUMBER:<br>23CV011759 |

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

**NOTICE OF CASE ASSIGNMENT**

Pursuant to rule 3.734 of the California Rules of Court, this action is hereby assigned for limited purposes to the judicial officers indicated below:

| PURPOSE                 | ASSIGNED JUDGE         | COURT LOCATION                   | DEPARTMENT |
|-------------------------|------------------------|----------------------------------|------------|
| LAW & MOTION            | Christopher E. Krueger | Hall of Justice                  | 54         |
| CASE MANAGEMENT PROGRAM | Kenneth C. Mennemeier  | Gordon D. Schaber Superior Court | 38         |

Please refer to Chapter Two – Parts 3 and 4 of the Sacramento Superior Court Local Rules and the Court’s website for additional filing instructions and hearing reservation information.

**NOTICE OF CASE MANAGEMENT CONFERENCE**

**Hearing Date**

The above entitled action has been set for a case management conference at **8:30 AM** on **October 25, 2024** in **Department 38** in accordance with California Rules of Court 3.722. You must be familiar with the case and fully prepared to participate effectively in the case management conference.

**Case Management Statement**

All parties must file and serve a case management statement at least 15 calendar days before the case management conference. Parties are encouraged to file a single joint case management statement.

**Minimum Requirements**

Prior to the filing of the case management statement, the parties should have done the following:

- Served all parties named in the complaint within 60 days after the summons has been issued
- Ensured that all defendants and cross-defendants have answered, been dismissed, or had their defaults entered
- Met and conferred with all parties as required by CRC 3.724 to discuss and resolve issues set forth therein.

**NOTICE OF CASE ASSIGNMENT  
AND CASE MANAGEMENT CONFERENCE  
(UNLIMITED CIVIL CASE)**

### **Tentative Ruling**

Following its review of the case management statement(s), the court may determine that a case management conference is not necessary. To determine whether an appearance is required, the parties must check the court's tentative rulings after 2:00 p.m. on the Court day before the Friday calendar by accessing the court's internet website at [www.saccourt.ca.gov](http://www.saccourt.ca.gov)

### **Remote Appearances**

Unless ordered to appear in person by the court, parties may appear remotely either telephonically or by video conference via the Zoom video/audio conference platform with notice to the court and all other parties in accordance with Code of Civil Procedure 367.75. If appearing remotely, parties are required to participate in their hearing using a device that has video and/or audio capability (i.e. computer, smartphone, or tablet). Although remote participation is not required, the court will presume all parties are appearing remotely for non-evidentiary civil hearings.

### **Certification Filed in Lieu of Case Management Statement**

If parties in the action file a certification on a form provided by the court at least 15 calendar days prior to the date of the case management conference that the case is short cause (five hours or less of trial time), that the pleading stage is complete and that the case will be ready for trial within 60 days, the case will be exempted from any further case management requirements and will be set for trial within 60-120 days. The certification shall be filed in lieu of a case management statement.

### **Case Management Orders**

At the case management conference, the court will consider whether the case should be ordered to judicial arbitration or referred to other forms of Alternative Dispute Resolution. Whether or not a case management conference is held, the court will issue a case management order shortly after the scheduled conference date.

### **Service of Notice of Case Assignment and Case Management Conference**

Unless otherwise ordered by the court, plaintiff shall serve a copy of this notice on any party to the complaint appearing after the court issued this notice. The cross-complainant shall have the same obligation with respect to the cross-complaint.

### **Compliance**

Failure to comply with this notice or to appear at the case management conference may result in the imposition of sanctions (including dismissal of the case, striking of the answer, or payment of money).

### **Continuances**

Case management conference(s) will not be continued except on a showing of good cause. If your case management conference is continued on motion or by the court on its own motion all parties shall file and serve a new case management statement at least 15 calendar days before the continued case management conference.

Dated: 11/16/2023

By:

/s/ V. Bloxson

V. Bloxson, Deputy Clerk