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GERARDO TORO and USMAN LOPEZ ESCOBAR

*[Additional counsel on following page]***SUPERIOR COURT OF THE STATE OF CALIFORNIA****FOR THE COUNTY OF LOS ANGELES**

GERARDO TORO, as an individual,
 USMAN LOPEZ ESCOBAR, as an
 individual, and on behalf of all others
 similarly situated,

Plaintiff,

vs.

L.A. PROPERTIES HEFFESSE LLC, a
 California limited liability company; and
 DOES 1 through 10,

Defendants.

CASE NO. 23STCV26332

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

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

**DEMAND FOR JURY TRIAL
UNLIMITED CIVIL CASE**

FILED
 Superior Court of California
 County of Los Angeles

01/04/2024

David W. Slayton, Executive Officer / Clerk of Court

By: D. Tamayo Deputy

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Attorneys for Plaintiffs
GERARDO TORO and USMAN LOPEZ ESCOBAR

1 Plaintiffs Gerardo Toro and Usman Lopez Escobar (hereinafter “Plaintiffs”), on behalf of
2 themselves and all others similarly situated, hereby bring this First Amended Class and Representative
3 Action Complaint (“FAC”) against L.A. Properties Heffesse LLC, a California limited liability company;
4 and Does 1 through 100, inclusive (collectively “Defendants”), and on information and belief alleges as
5 follows:

6 **JURISDICTION**

7 1. Plaintiffs, on behalf of themselves and all others similarly situated, hereby bring this class
8 action for recovery of unpaid wages and penalties under Labor Code §§ 201-204, 226, 226.7, 512, 510,
9 516, 558, 1194, 1198, 2698 *et seq.*, 2802; California Business and Professions Code § 17200 *et seq.*; and
10 Wage Order 5, in addition to seeking declaratory relief and restitution. This FAC is brought pursuant to
11 California Code of Civil Procedure § 382. This Court has jurisdiction over Defendants’ violations of the
12 California Labor Code because the amount in controversy exceeds this Court’s jurisdictional minimum.

13 **VENUE**

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

19 **PARTIES**

20 3. Plaintiffs are individuals over the age of eighteen (18). At all relevant times herein,
21 Plaintiffs were, and currently are, California residents. During the four years immediately preceding the
22 filing of the lawsuit in this action and within the statute of limitations periods applicable to each cause of
23 action pled herein, Plaintiffs were employed by Defendants as exempt employees. Plaintiffs were, and
24 are, victims of Defendants’ policies and/or practices complained of herein, lost money and/or property,
25 and has been deprived of the rights guaranteed by Labor Code §§ 201-204, 226, 226.7, 512, 510, 516,
26 558, 1194, 1198, 2698 *et seq.*, 2802; California Business and Professions Code § 17200 *et seq.*; and Wage
27 Order 5, which sets employment standards for Public Housekeeping Industry.

28 4. Plaintiffs are informed and believe, and based thereon allege, that during the four years

preceding the filing of the lawsuit and continuing to the present, Defendants did (and continue to do) business as a real estate agency that also manages properties, and employed Plaintiffs and other similarly situated exempt employees within Los Angeles County and the state of California and, therefore, were (and are) doing business in Los Angeles County and the State of California.

5. Plaintiffs do not know the true names or capacities, whether individual, partner, or corporate, of the defendants sued herein as DOES 1 through 100, and for that reason, said defendants are sued under such fictitious names, and Plaintiffs will seek leave from this Court to amend this FAC when such true names and capacities are discovered. Plaintiffs are informed and believe, and based thereon allege, that each of said fictitious defendants, whether individual, partners, or corporate, were responsible in some manner for the acts and omissions alleged herein, and proximately caused Plaintiffs and the Classes (as defined in Paragraph 20) to be subject to the unlawful employment practices, wrongs, injuries, and damages complained of herein.

6. Plaintiffs are informed and believe, and based thereon allege, that at all times mentioned herein, Defendants were and are the employers of Plaintiffs and all members of the Classes.

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

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

GENERAL FACTUAL ALLEGATIONS

9. Plaintiff Toro, a current employee, has been employed by Defendants since approximately February 5, 2001 through approximately March 10, 2023, at which time he began a medical leave of absence. Plaintiff Toro has worked as a Building Maintenance and Repair employee and was classified

1 as an exempt employee.

2 10. Plaintiff Escobar, a former employee, was employed by Defendants from approximately
3 2004 through approximately September 25, 2023. During his employment with Defendants, Plaintiff
4 Escobar held the position of Maintenance and Painter and was classified as an exempt employee.

5 11. During their employment with Defendants, Plaintiffs were paid solely by way of annual
6 salary, paid semi-monthly, which for most of their employment was less than two (2) times the state
7 minimum wage for full-time employment. Plaintiffs' main job duties during the relevant time period
8 included, among other things, installing flooring, painting units, and responding to emergency repairs.
9 During their employment with Defendants, Plaintiffs were not employed in an executive, administrative,
10 or professional capacity; were not primarily engaged in the duties that meet the exemptions for executive,
11 administrative, or professional workers in Wage Order 5; and did not customarily and regularly exercise
12 discretion and independent judgment in performing the aforementioned duties. During their employment
13 with Defendants, Plaintiffs also did not have the authority to hire and fire other employees. Further,
14 Plaintiffs did not make any suggestions and recommendations as to the hiring, firing, advancement,
15 promotion or any other change of status of other employees nor would any of their suggestions, if made,
16 were given any particular weight.

17 12. During Plaintiffs' employment with Defendants, Plaintiffs routinely worked in excess of
18 8.0 hours per workday and/or more than 40.0 hours per workweek, but due to Defendants'
19 misclassification of Plaintiffs as exempt, Plaintiffs did not receive any overtime compensation for these
20 hours. Upon information and belief, Defendants did not track the actual hours that Plaintiffs worked.
21 Instead, Defendants paid Plaintiffs a flat salary which was not based on the number of hours actually
22 worked. Plaintiffs' weekly schedule were generally Monday through Saturday, 8:00 a.m. until 5:00 p.m.
23 However, Plaintiffs regularly worked more hours than scheduled and on average worked in excess of 8.0
24 to 10.0 hours per day. Indeed, prior to their scheduled shift, Plaintiffs were required to go and pick up
25 materials and then travel to each jobsite. Additionally, Defendants required Plaintiffs to be on call for
26 one (1) week each month and Plaintiffs would have to report to the jobsite immediately upon receiving a
27 call. Due to Defendants' misclassification of Plaintiffs, Defendants failed to pay any overtime wages for
28 hours worked in excess of 8.0 hours per workday and/or 40.0 hours per workweek and have therefore

1 deprived Plaintiffs of earned wages. Defendants also failed to pay Plaintiffs any double-time wages for
2 hours worked in excess of 12.0 in a day.

3 13. Defendants have also failed to provide Plaintiffs with all required meal periods due to
4 Defendants' meal period policies and practices. Specifically, due to the work demands imposed by
5 Defendants and Defendants' failure to keep track of Plaintiffs' actual hours worked, Plaintiffs were often
6 not allowed to take their first meal period before the end of the fifth hour of work, resulting in meal
7 periods that were untimely or otherwise unlawful. Moreover, Plaintiffs were often interrupted during
8 their meal periods by their supervisors and/or managers, which resulted in short or otherwise unlawful
9 meal periods. Further, Defendants did not require Plaintiffs to clock in or out for their meal periods and
10 Defendants did not keep records of Plaintiffs' meal periods. In addition, Plaintiffs were not provided a
11 second meal period when they worked shifts in excess 10.0 hours.

12 14. Despite failing to provide all legally-required meal periods to Plaintiffs, Defendants never
13 paid Plaintiffs one hour of meal period premium wages for each day that they experienced a meal period
14 violation as required by Labor Code § 226.7.

15 15. In addition, throughout Plaintiffs' employment with Defendants, Plaintiffs were not
16 authorized and permitted to take legally required rest periods due to Defendants' unlawful rest period
17 policies and practices. Specifically, as a result of the work demands imposed by Defendants, Defendants
18 did not authorize and permit one rest period for every four hours worked, or *major fraction thereof*.
19 Indeed, Defendants failed to authorize and permit Plaintiffs to take any rest periods during his shifts.

20 16. Although Plaintiffs were not authorized and permitted to take all legally-compliant rest
21 periods to which they were entitled, Defendants failed to compensate Plaintiffs with the required rest
22 period premium for each workday in which they experienced a rest period violation as mandated by Labor
23 Code § 226.7.

24 17. As a result of Defendants' failure to pay all overtime wages, and all meal and rest period
25 premium wages due to Defendants' misclassification of Plaintiffs, the wage statements issued to Plaintiffs
26 were facially deficient. Specifically, the wage statements did not include the actual total hours Plaintiffs
27 worked and all applicable hourly rates in effect during the pay period along with the corresponding
28 number of hours worked at each hourly rate, in violation of Labor Code § 226(a). Additionally, the wage

statements issued to Plaintiffs did not include the legal entity of the employer in violation of Labor Code § 226.

18. Defendants also failed to reimburse Plaintiffs for necessary business expenses incurred during the relevant time period. Specifically, Defendants required Plaintiffs to use their personal vehicles to travel to travel to Defendants' clients. Further, Defendants also required Plaintiffs to use their personal cellular phones to communicate with their supervisor and other employees. Accordingly, despite Plaintiffs being required to use their personal vehicles and/or use their personal cellular phones, Defendants did not reimburse Plaintiffs for all necessary expenditures or losses incurred in direct consequence of the discharge of their duties, or of their obedience to the directions of the employer in violation of California law.

19. As a further result of Defendants' failure to pay all overtime wages, and all meal and rest period premium wages due to Defendants' misclassification of Plaintiffs, Defendants failed to pay all wages owed to Plaintiff Escobar upon his separation of employment from Defendants.

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CLASS ACTION ALLEGATIONS

20. Class Definitions: Plaintiffs bring this action on behalf of himself and the following Classes pursuant to Section 382 of the Code of Civil Procedure:

- a. The Overtime Class consists of all of Defendants' current and former employees in California who: (i) were classified by Defendants as exempt, (ii) for any pay period earned less than two times the applicable minimum wage for full-time employment; and (iii) worked more than eight hours per day and/or forty hours per week when classified as exempt, at any point in time from October 6, 2019 through the present.
- b. The Meal Period Class consists of all of Defendants' current and former employees in California who were classified by Defendants as exempt, and who worked at least one shift in excess of 5.0 hours at any point in time from October 6, 2019 through the present.
- c. The Rest Period Class consists of all of Defendants' current and former employees in California who were classified by Defendants as exempt, and who worked at least one shift of 3.5 hours or more, at any point in time from October 6, 2019 through the present.

d. The Wage Statement Class consists of members of the (i) Overtime Class (ii) Meal Period Class; and/or (iii) Rest Period Class, at any point in time from October 6, 2022 through the present.

e. The Waiting Time Class consists of all of Defendants' formerly employed members of the Overtime Class, Meal Period Class, and/or Rest Period Class who separated their employment from Defendants at any point in time from October 6, 2020 through the present.

f. The UCL Class consists of members of the: (i) Overtime Class; (ii) Meal Period Class; (iii) Rest Period Class; (iv) Wage Statement Class; and/or (v) Waiting Time Class, at any point in time from October 6, 2019 through the present.

21. **Numerosity/Ascertainability:** The members of the Classes are so numerous that joinder of all members would be unfeasible and not practicable. The membership of the Classes are unknown to Plaintiffs at this time; however, it is estimated that the Classes number greater than thirty (30) individuals as to each Class. The identity of such membership is readily ascertainable via inspection of Defendants' employment records.

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

- i. Whether Defendants misclassified the putative class members as exempt employees;
- i. Whether Defendants properly paid to the members of the Overtime Class all overtime wages at the correct regular rate of pay and/or paid for all hours worked pursuant to Labor Code §§ 204, 510, 558, 1194 and 1198;
- ii. Whether Defendants provided all legally compliant meal periods to members of the Meal Period Class pursuant to Labor Code §§ 226.7 and 512;
- iii. Whether Defendants authorized and permitted all legally compliant rest periods to members of the Rest Period Class pursuant to Labor Code §§ 226.7 and 516;

Whether Defendants provided accurate, itemized wage statements to members of the Classes;

iv. Whether Defendants' policies and/or practices for the timing and amount of payment of final wages to members of the Waiting Time Class at the time of separation from employment were unlawful; and

v. Whether Defendants engaged in unlawful, unfair, illegal, and/or deceptive business practices by and through the wage and hour policies and practices described above, and whether as a result Defendants owe the classes restitution.

23. **Predominance of Common Questions:** Common questions of law and fact predominate over questions that affect only individual members of the Classes. The common questions of law set forth above are numerous and substantial and stem from Defendants' policies and/or practices applicable to each individual class member, such as Defendants' overtime and meal period policies/practices and Defendants' policy of misclassifying employees as exempt employees. As such, the common questions predominate over individual questions concerning each individual class member's showing as to his or her eligibility for recovery or as to the amount of his or her damages.

24. **Typicality:** The claims of Plaintiffs are typical of the claims of the Classes because Plaintiffs were employed by Defendants in California and were misclassified as exempt during the statutes of limitation applicable to each cause of action pled in the FAC in this action. As alleged herein, Plaintiffs, like the members of the Classes, was subject to Defendants' uniform misclassification as exempt, uniform overtime and meal period policies/practices, was furnished with inaccurate and incomplete wage statements, and was deprived of all final wages at the time of separation of employment.

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

26. **Superiority:** The California Labor Code is broadly remedial in nature and serves an

important public interest in establishing minimum working conditions and standards in California. These laws and labor standards protect the average working employee from exploitation by employers who have the responsibility to follow the laws and who may seek to take advantage of superior economic and bargaining power in setting onerous terms and conditions of employment. The nature of this action and the format of laws available to Plaintiffs and members of the Classes make the class action format a particularly efficient and appropriate procedure to redress the violations alleged herein. If each employee were required to file an individual lawsuit, Defendants would necessarily gain an unconscionable advantage since they would be able to exploit and overwhelm the limited resources of each individual plaintiff with their vastly superior financial and legal resources. Moreover, requiring each member of the Class(es) to pursue an individual remedy would also discourage the assertion of lawful claims by employees who would be disinclined to file an action against their former and/or current employer for real and justifiable fear of retaliation and permanent damages to their careers at subsequent employment. Further, the prosecution of separate actions by the individual class members, even if possible, would create a substantial risk of inconsistent or varying verdicts or adjudications with respect to the individual class members against Defendants herein; and which would establish potentially incompatible standards of conduct for Defendants; and/or legal determinations with respect to individual class members which would, as a practical matter, be dispositive of the interest of the other class members not parties to adjudications or which would substantially impair or impede the ability of the class members to protect their interests. Further, the claims of the individual members of the Classes are not sufficiently large to warrant vigorous individual prosecution considering all of the concomitant costs and expenses attending thereto. As such, the Classes identified in Paragraph 20 are maintainable under Section 382 of the Code of Civil Procedure.

FIRST CAUSE OF ACTION

FAILURE TO PAY ALL OVERTIME WAGES

(AGAINST ALL DEFENDANTS)

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

28. This cause of action is brought pursuant to Labor Code §§ 204, 510, 558, 1194, and 1198, which provide that non-exempt employees are entitled to overtime wages for all overtime hours worked,

1 and provide a private right of action for the failure to pay all overtime compensation for overtime work
2 performed.

3 29. At all times relevant herein, Defendants were required to properly compensate Plaintiffs
4 and members of the Overtime Class for all overtime hours worked pursuant to California Labor Code §
5 1194 and Wage Order 5. Wage Order 5, § 3 requires an employer to pay an employee “one and one-half
6 (1½) times [the] employee’s regular rate of pay” for work in excess of 8 hours per work day and/or in
7 excess of 40 hours of work in the workweek. Wage Order 5, § 3 also requires an employer to pay an
8 employee double the employee’s regular rate of pay for work in excess of 12 hours each work day and/or
9 for work in excess of 8 hours on the seventh consecutive day of work in the workweek. Defendants
10 caused Plaintiffs to work overtime hours, but did not compensate Plaintiffs or members of the Overtime
11 Class at one and one-half times their regular rate of pay for such hours.

12 30. The foregoing policies and practices are unlawful and create entitlement to recovery by
13 Plaintiffs and the Overtime Class in a civil action for the unpaid amount of overtime premiums owing,
14 including interest thereon, statutory penalties, and attorneys’ fees and costs of suit according to California
15 Labor Code §§ 204, 510, 558, 1194, and 1198, Wage Order 5, and Code of Civil Procedure § 1021.5.

16 **SECOND CAUSE OF ACTION**

17 **MEAL PERIOD VIOLATIONS**

18 **(AGAINST ALL DEFENDANTS)**

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

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

26 33. As a result, Defendants are responsible for paying premium compensation for meal period
27 violations, including interest thereon, statutory penalties, and costs of suit pursuant to Wage Order 5,
28 Labor Code §§ 226.7 and 512, and Civil Code §§ 3287(b) and 3289.

1 **THIRD CAUSE OF ACTION**

2 **FAILURE TO AUTHORIZE AND PERMIT ALL PAID REST PERIODS**

3 **(AGAINST ALL DEFENDANTS)**

4 34. Plaintiffs re-allege and incorporate by reference all previous paragraphs as though fully
5 set forth herein.

6 35. Wage Order 5, § 12 and California Labor Code §§ 226.7 and 516 establish the right of
7 employees to be authorized and permitted to take a paid rest period of at least ten (10) minutes net rest
8 time for each four (4) hour period worked, or *major fraction thereof*.

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

11 37. The foregoing violations create an entitlement to recovery by Plaintiffs and members of
12 the Rest Period Class in a civil action for the unpaid amount of rest period premiums owing, including
13 interest thereon, as well as statutory penalties, civil penalties, and costs of suit according to California
14 Labor Code §§ 226.7, 516, 558, Wage Order 5, California Code of Civil Procedure § 1021.5, and Civil
15 Code §§ 3287(b) and 3289

16 **FOURTH CAUSE OF ACTION**

17 **FAILURE TO PROVIDE ACCURATE, ITEMIZED WAGE STATEMENTS**

18 **(AGAINST ALL DEFENDANTS)**

19 38. Plaintiffs re-allege and incorporate by reference all previous paragraphs as though fully
20 set forth herein.

21 39. Plaintiffs are informed and believe, and based thereon allege, that Defendants knowingly
22 and intentionally, as a matter of uniform practice and policy, failed to furnish Plaintiffs and the Wage
23 Statement Class Members with accurate, itemized wage statements that included among other
24 requirements, accurate total gross wages earned, meal and rest period premiums, and total net wages
25 earned in violation of Labor Code § 226 *et seq.*

26 40. Defendants' failure to furnish Plaintiffs and the members of the Wage Statement Class
27 with complete and accurate, itemized wage statements resulted in actual injury, as said failures led to,
28 among other things, accurate total gross wages earned, meal and rest period premiums, and total net
wages earned in violation of Labor Code § 226 *et seq.*

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

FIFTH CAUSE OF ACTION

FAILURE TO INDEMNIFY ALL NECESSARY BUSINESS EXPENDITURES

(AGAINST ALL DEFENDANTS)

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

43. This cause of action is brought pursuant to Labor Code § 2802, which requires an employer to “indemnify his or her employees for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer.”

44. As alleged herein, and due to their unlawful reimbursement policies and/or practices, Defendants failed to indemnify Plaintiffs all of their necessary business expenses, including, among other things, expenses related to their use of their personal vehicles and personal cellular phones.

45. As a proximate result of Defendants' failure to indemnify Plaintiffs for their necessary business expenses incurred, Plaintiffs are entitled to damages, attorneys' fees and costs of suit, and interest thereon, in sums to be shown according to proof at trial, pursuant to Labor Code § 2802.

SIXTH CAUSE OF ACTION

WAITING TIME PENALTIES

(AGAINST ALL DEFENDANTS)

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

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

48. Defendants failed to timely pay Plaintiffs all of their final wages at the time of termination, which include, among other things, unpaid overtime wages and meal period premium wages. Further, Plaintiffs are informed and believe, and based thereon allege, that as a matter of uniform policy and practice, Defendants continue to fail to pay members of the Waiting Time Class all earned wages at the end of employment in a timely manner pursuant to the requirements of Labor Code §§ 201-203. Defendants' failure to pay all final wages was willful within the meaning of Labor Code § 203.

49. Defendants' willful failure to timely pay Plaintiffs and the members of the Waiting Time Class their earned wages upon separation from employment results in a continued payment of wages up to thirty (30) days from the time the wages were due. Therefore, Plaintiffs and members of the Waiting Time Class are entitled to compensation pursuant to Labor Code § 203, plus reasonable attorneys' fees and costs of suit.

SEVENTH CAUSE OF ACTION

UNFAIR COMPETITION

(AGAINST ALL DEFENDANTS)

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

51. Defendants have engaged and continue to engage in unfair and/or unlawful business practices in California in violation of California Business and Professions Code § 17200, *et seq.*, by failing to pay Plaintiffs and the Classes all overtime wages and meal and rest period premium wages.

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

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

54. The acts complained of herein occurred within the last four years immediately preceding

1 the filing of the lawsuit in this action.

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

7 **EIGHTH CAUSE OF ACTION**

8 **LABOR CODE PRIVATE ATTORNEYS GENERAL ACT OF 2004**

9 **(AGAINST ALL DEFENDANTS)**

10 56. Plaintiffs re-allege and incorporate by reference all previous paragraphs as though fully
11 set forth herein.

12 57. Defendants have committed several Labor Code violations against Plaintiffs and other
13 Aggrieved Employees. Plaintiffs, each an “Aggrieved Employee” within the meaning of Labor Code §
14 2698 *et seq.*, acting on behalf of themselves and other Aggrieved Employees, bring this representative
15 action against Defendants to recover the civil penalties due to Plaintiffs, the other aggrieved employees,
16 and the State of California according to proof pursuant to Labor Code § 2699 (a) and (f) including, but
17 not limited to: (1) \$250.00 for each initial violation and \$1,000.00 for each subsequent violation pursuant
18 to Labor Code § 226.3 per employee per pay period; and/or (2) \$100.00 for each initial violation and
19 \$200.00 for each subsequent violation per employee per pay period for those violations of the Labor
20 Code for which no civil penalty is specifically provided, based on the following Labor Code violations:

- 21 a) Defendants violated Labor Code §§ 204, 510, 558, 1194, and 1198 by failing to pay
22 Plaintiffs and other aggrieved employees all overtime compensation earned;
- 23 b) Defendants violated Labor Code §§ 226.7, 512, and 558 by failing to provide all legally
24 required meal periods and failing to pay meal period premiums to Plaintiffs and the
25 aggrieved employees;
- 26 c) Defendants violated Labor Code §§ 226.7, 516, and 558 by failing to provide all legally
27 required rest periods and failing to pay rest period premiums to Plaintiffs and the
28 aggrieved employees;

- 1 d) Defendants violated Labor Code § 226 by failing to furnish Plaintiffs and other
2 aggrieved employees with accurate and compliant itemized wage statements;
- 3 e) Defendants violated Labor Code §§ 204 and 210 by failing to pay Plaintiffs and other
4 aggrieved employees all earned wages at least twice during each calendar month;
- 5 f) Defendants violated Labor Code § 2802 by failing to reimburse Plaintiffs and other
6 aggrieved employees for all necessary expenditures incurred;
- 7 g) Defendant violated Labor Code §§ 201, 202 and 203 by failing to timely pay all final
8 wages due to Mr. Escobar and other aggrieved employees; and
- 9 h) Defendant violated Labor Code § 1174 by failing to maintain accurate records on behalf
10 of Plaintiffs and other aggrieved employees.

11 58. On October 30, 2023, Plaintiffs notified Defendants via certified mail, and the California
12 Labor and Workforce Development Agency (“LWDA”) via e-mail, of Defendants’ violations of the
13 California Labor Code and Plaintiff’s intent to bring a claim for civil penalties under California Labor
14 Code § 2698 et seq. with respect to violations of the California Labor Code identified in Paragraph 57
15 (a)-(h). Attached hereto as **Exhibit 1** is a true and correct copy of the October 30, 2023 correspondence.
16 Now that sixty-five days have passed from Plaintiffs notifying Defendants of these violations, Plaintiffs
17 has exhausted their administrative requirements for bringing a claim under the Labor Code Private
18 Attorneys General Act with respect to these violations.

19 59. Plaintiffs were compelled to retain the services of counsel to file this court action to protect
20 their interests and the interests of other aggrieved employees, and to assess and collect the civil penalties
21 owed by Defendants. Plaintiffs have thereby incurred attorneys’ fees and costs, which she is entitled to
22 recover under California Labor Code § 2699(g).

23 **PRAYER**

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

- 26 1. For an order certifying the proposed Classes;
- 27 2. For an order appointing Plaintiffs as representatives of the Classes;
- 28 3. For an order appointing counsel for Plaintiffs as counsel for the Classes;

1 4. Upon the First Cause of Action, for compensatory, consequential, general, and special
2 damages according to proof pursuant to Labor Code §§ 204, 510, 558, 1194, and 1198;

3 5. Upon the Second Cause of Action, for compensatory, consequential, general, and special
4 damages according to proof pursuant to Labor Code §§ 226.7 and 512;

5 6. Upon the Third Cause of Action, for compensatory, consequential, general and special
6 damages according to proof pursuant to Labor Code §§ 226.7, 516, and 558;

7 7. Upon the Fourth Cause of Action, for statutory penalties pursuant to Labor Code § 226;

8 8. Upon the Fifth Cause of Action, for compensatory and special damages according to proof
9 pursuant to Labor Code § 2802;

10 9. Upon the Sixth Cause of Action, for statutory waiting time penalties pursuant to Labor
11 Code § 203;

12 10. Upon the Seventh Cause of Action, for restitution to Plaintiffs and members of the Classes
13 of all money and/or property unlawfully acquired by Defendants by means of any acts or practices
14 declared by this Court to be in violation of Business and Professions Code § 17200, *et seq.*;

15 11. Upon the Eighth Cause of Action, for civil penalties due to Plaintiffs, other aggrieved
16 employees, and the State of California according to proof pursuant to Labor Code §§ 558 and 2699(a)
17 and (f) including, but not limited to: (1) \$100.00 for each initial violation for each failure to pay each
18 employee and \$200.00 for each subsequent violation or willful or intentional violation pursuant to Labor
19 Code § 210 for each failure to pay each employee, plus 25% of the amount unlawfully withheld; (2)
20 \$250.00 for each initial violation and \$1,000.00 for each subsequent violation pursuant to Labor Code §
21 226.3 per employee per pay period; (3) \$50.00 for each initial violation and \$100.00 for each subsequent
22 violation pursuant to Labor Code § 558 per employee per pay period; and/or (4) \$100.00 for each initial
23 violation and \$200.00 for each subsequent violation per employee per pay period for those violations of
24 the Labor Code for which no civil penalty is specifically provided, based on the Labor Code violations
25 cited in Paragraph 57 (a)-(h) above.

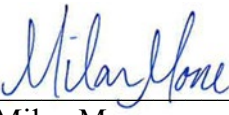
26
27 12. Prejudgment interest on all due and unpaid wages pursuant to California Labor Code §
28 218.6 and Civil Code §§ 3287 and 3289;

1 13. On all causes of action, for attorneys' fees and costs as provided by Labor Code § 218.5
2 and Code of Civil Procedure § 1021.5 and all other applicable statutes; and

3 14. For such other and further relief the Court may deem just and proper.
4

5 Dated: January 4, 2024

LIDMAN LAW, APC

6
7 By: 
8 Milan Moore
9 Attorneys for Plaintiffs
10 GERARDO TORO and
11 USMAN LOPEZ ESCOBAR

12 **DEMAND FOR JURY TRIAL**

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

14 Dated: January 4, 2024

LIDMAN LAW, APC

15 By: 
16 Milan Moore
17 Attorneys for Plaintiffs
18 GERARDO TORO and
19 USMAN LOPEZ ESCOBAR
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28

EXHIBIT 1

EXHIBIT 1

LIDMAN LAW

2155 CAMPUS DRIVE, SUITE 150, EL SEGUNDO, CA 90245

OFFICE: (424) 322-4772

FAX: (424) 322-4775

October 30, 2023

VIA LWDA WEBSITE

Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, CA 94612

**VIA U.S. CERTIFIED MAIL – RETURN
RECEIPT REQUESTED**

LA Properties Heffesse LLC
c/o Cyril Heffesse
8383 Wilshire Blvd., Suite 302
Beverly Hills, CA 90211

Re: *Gerardo Toro & Usman Lopez Escobar v. L.A. Properties Heffesse LLC*

To Whom It May Concern:

Please be advised that this law firm represents Gerardo Toro (“Mr. Toro”) and Usman Lopez Escobar (“Mr. Escobar”) (collectively “Plaintiffs”) in claims arising from their employment with L.A. Properties Heffesse LLC (“Defendant”). Plaintiffs are “aggrieved employees” as defined by Labor Code sections 2699, *et seq.* due to Defendant’s numerous violations of the Labor Code as set forth below. The purpose of this letter is to comply with Labor Code section 2699.3, which requires aggrieved employees to notify their employer and the Labor and Workforce Development Agency (“LWDA”) of the specific provisions of the Labor Code allegedly violated. For purposes of this letter, an “aggrieved employee” should be considered to include all current and former employees of Defendants in California who were classified as exempt during the one year immediately preceding the date of this letter through the present date, and continuing through a civil judgment if the LWDA takes no action and Plaintiffs file a civil lawsuit seeking civil penalties.

Defendant does business as a real estate agency that also manages properties. Mr. Toro, a current employee, has been employed by Defendant since approximately February 5, 2001 through approximately March 10, 2023, at which time he began a medical leave of absence. Mr. Toro has worked as a Building Maintenance and Repair employee and was classified as an exempt employee. Mr. Escobar, a former employee, was employed by Defendant from approximately 2004 through approximately September 25, 2023. During his employment with Defendant, Mr. Escobar held the position of Maintenance and Painter and was classified as an exempt employee.

During their employment with Defendant, Plaintiffs and other employees classified as exempt, were paid solely by way of annual salary, paid semi-monthly, which for most of their employment was less than two (2) times the state minimum wage for full-time employment. Plaintiffs’ main job duties during the relevant time period included, among other things, installing flooring, painting units, and responding to emergency repairs. During their employment with Defendant, Plaintiffs and other

employees classified as exempt, were not employed in an executive, administrative, or professional capacity; were not primarily engaged in the duties that meet the exemptions for executive, administrative, or professional workers in Wage Order 5; and did not customarily and regularly exercise discretion and independent judgment in performing the aforementioned duties. During their employment with Defendant, Plaintiffs and other employees classified as exempt, also did not have the authority to hire and fire other employees. Further, Plaintiffs and other employees classified as exempt, did not make any suggestions and recommendations as to the hiring, firing, advancement, promotion or any other change of status of other employees nor would any of their suggestions, if made, were given any particular weight.

During Plaintiffs' employment with Defendant, Plaintiffs and other employees classified as exempt, routinely worked in excess of 8.0 hours per workday and/or more than 40.0 hours per workweek, but due to Defendant's misclassification of Plaintiffs and other employees as exempt, they did not receive any overtime compensation for these hours. Upon information and belief, Defendant did not track the actual hours that Plaintiffs and other employees classified as exempt worked. Instead, Defendant paid them a flat salary which was not based on the number of hours actually worked. Plaintiffs' weekly schedule were generally Monday through Saturday, 8:00 a.m. until 5:00 p.m. However, Plaintiffs and other employees classified as exempt, regularly worked more hours than scheduled and on average worked in excess of 8.0 to 10.0 hours per day. Indeed, prior to their scheduled shift, Plaintiffs and other employees classified as exempt were required to go and pick up materials and then travel to each jobsite. Additionally, Defendant required Plaintiffs and other employees classified as exempt, to be on call for one (1) week each month and they would have to report to the jobsite immediately upon receiving a call. Due to Defendant's misclassification of Plaintiffs and other employees as exempt, Defendant failed to pay any overtime wages for hours worked in excess of 8.0 hours per workday and/or 40.0 hours per workweek and have therefore deprived Plaintiffs and other employees classified as exempt of earned wages. Defendant also failed to pay Plaintiffs and other employees classified as exempt any double-time wages for hours worked in excess of 12.0 in a day.

Defendant has also failed to provide Plaintiffs and other employees classified as exempt with all required meal periods due to Defendant's meal period policies and practices. Specifically, due to the work demands imposed by Defendant and Defendant's failure to keep track of Plaintiffs' and other employees classified as exempt actual hours worked, they were often not allowed to take their first meal period before the end of the fifth hour of work, resulting in meal periods that were untimely or otherwise unlawful. Moreover, Plaintiffs and other employees classified as exempt were often interrupted during their meal periods by their supervisors and/or managers, which resulted in short or otherwise unlawful meal periods. Further, Defendant did not require Plaintiffs and other employees classified as exempt to clock in or out for their meal periods and Defendant did not keep records of their meal periods. In addition, Plaintiffs and other employees classified as exempt were not provided a second meal period when they worked shifts in excess 10.0 hours.

Despite failing to provide all legally-required meal periods to Plaintiffs, Defendant never paid Plaintiffs and other employees classified as exempt one hour of meal period premium wages for each day that they experienced a meal period violation as required by Labor Code § 226.7.

In addition, throughout Plaintiffs' employment with Defendants, Plaintiffs and other employees classified as exempt were not authorized and permitted to take legally required rest periods due to Defendant's unlawful rest period policies and practices. Specifically, as a result of the work demands imposed by Defendant, Defendant did not authorize and permit one rest period for every four hours

worked, or *major fraction thereof*. Indeed, Defendant failed to authorize and permit Plaintiffs and other employees classified as exempt, to take any rest periods during their shifts.

Although Plaintiffs and other employees classified as exempt were not authorized and permitted to take all legally-compliant rest periods to which they were entitled, Defendant failed to compensate them with the required rest period premium for each workday in which they experienced a rest period violation as mandated by Labor Code § 226.7.

As a result of Defendant's failure to pay all overtime wages, and all meal and rest period premium wages due to Defendant's misclassification of Plaintiffs and other employees, the wage statements issued to them were facially deficient. Specifically, the wage statements did not include the actual total hours they worked and all applicable hourly rates in effect during the pay period along with the corresponding number of hours worked at each hourly rate, in violation of Labor Code § 226(a). Additionally, the wage statements issued to Plaintiffs and other employees classified as exempt did not include the legal entity of the employer in violation of Labor Code § 226.

Defendant also failed to reimburse Plaintiffs and other employees classified as exempt for necessary business expenses incurred during the relevant time period. Specifically, Defendant required them to use their personal vehicles to travel to Defendant's clients. Further, Defendant also required them to use their personal cellular phones to communicate with their supervisor and other employees. Accordingly, despite Plaintiffs and other employees classified as exempt, being required to use their personal vehicles and/or use their personal cellular phones, Defendants did not reimburse them for all necessary expenditures or losses incurred in direct consequence of the discharge of their duties, or of their obedience to the directions of the employer in violation of California law.

As a further result of Defendant's failure to pay all overtime wages, and all meal and rest period premium wages due to Defendant's misclassification of Plaintiffs and other employees classified as exempt, Defendant failed to pay all wages owed to Mr. Escobar and other former employees classified as exempt upon their separation of employment from Defendant.

As described above, Defendant committed the following violations of the Labor Code and Industrial Welfare Commission Wage Order No. 5 ("Wage Order 5"):

Overtime Violations

Defendant was required to pay Plaintiffs and other aggrieved employees overtime wages for all hours worked in excess of eight hours per workday and/or forty hours per workweek. *See* Labor Code §§ 1194(a) and 1198; the Wage Order 5, § 3. According to Labor Code § 510(a), "Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee." This Section further provides, "Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee." As alleged above, Defendant's unlawful misclassification of Plaintiffs and other aggrieved employees as exempt resulted in unpaid overtime wages earned. Additionally, Defendant required Plaintiffs and other employees classified as exempt, to be on call for one (1) week each month and they would have to report to the jobsite immediately upon receiving a call. Due to Defendant's misclassification of Plaintiffs and other employees as exempt, Defendant failed to pay any overtime wages for hours worked in excess of 8.0 hours per workday and/or

40.0 hours per workweek and have therefore deprived Plaintiffs and other employees classified as exempt of earned wages. Defendant also failed to pay Plaintiffs and other employees classified as exempt any double-time wages for hours worked in excess of 12.0 in a day.

Meal Period Violations

As alleged above, Defendant failed to provide the aggrieved employees with all required and compliant meal periods. *See* Labor Code §§ 226.7 and 512; Wage Order 5, § 11. As described above, Defendant failed to provide Plaintiffs and other aggrieved employees with all legally compliant meal periods due to Defendant's meal period policies/practices, which have frequently resulted in late (commencing after the fifth hour of work), short (less than 30 minutes), and missed meal periods. In addition, Defendant failed to provide Further, Defendant did not require Plaintiffs and other employees classified as exempt to clock in or out for their meal periods and Defendant did not keep records of their meal periods. In addition, Plaintiffs and other employees classified as exempt were not provided a second meal period when they worked shifts in excess 10.0 hours. Therefore, the aggrieved employees are owed an additional hour of wages at their regular rate of compensation for each workday they experienced a meal period violation. *See* Labor Code § 226.7 ("If an employer fails to provide an employee a meal or rest or recovery period in accordance with ... [an] order of the Industrial Welfare Commission ... the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest or recovery period is not provided."). Although Plaintiffs and other aggrieved employees were not provided with all legally-compliant meal periods to which they were entitled, Defendant failed to compensate them with the required meal period premium for each workday in which they experienced a meal period violation as mandated by Labor Code § 226.7.

Rest Period Violations

Defendant also failed to authorize and permit their aggrieved employees to take all required rest periods. *See* Labor Code §§ 226.7 and 516; Wage Order 5, § 12. Specifically, Plaintiffs and other aggrieved employees were not authorized and permitted to take all required rest periods due to Defendant's rest period policies/practices, which upon information and belief, fail to authorize and permit all rest periods for every four hours worked, or *major fraction thereof*. Additionally, Defendant has often failed to authorize and permit a third rest period when Plaintiffs and other aggrieved employees worked a shift in excess of 10.0 hours. As a result, Plaintiffs and the aggrieved employees are owed an additional hour of wages at their regular rate of compensation for each workday that they were not authorized and permitted to take all legally required rest periods. *See* Labor Code § 226.7 ("If an employer fails to provide an employee a meal period or rest period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest period is not provided.")

Wage Statement Violations

As a result of the misclassification of Plaintiffs and the other aggrieved employees as exempt, Defendant knowingly and intentionally, as a matter of uniform practice and policy, failed to furnish Plaintiffs and other aggrieved employees with accurate and complete, itemized wage statements that included, among other requirements, all overtime wages earned, meal and rest period premiums, total gross wages earned, and total net wages earned, in violation of Labor Code § 226 *et seq.* Defendant's

failure to furnish Plaintiffs and other aggrieved employees with complete and accurate, itemized wage statements resulted in actual injury, as said failures led to, among other things, the non-payment of all overtime wages earned and meal and rest period premiums, and deprived them of the information necessary to identify discrepancies in Defendant's reported data.

Waiting Time Penalties

Labor Code §§ 201 and 202 require that employees receive all of their final wages at the time of their separation of employment. Defendant failed to timely pay Mr. Escobar and other aggrieved employees all of their final wages at the time of separation, which included, among other things, underpaid overtime wages, and meal and rest period premium wages.

Failure to Reimburse Business Expenses

During Plaintiffs' employment with Defendant, Plaintiffs and other aggrieved employees were required to use their personal cellular phones and personal vehicles to discharge their duties. Defendant's policy of not providing reimbursement for necessary work-related expenses is in violation of Wage Order 5 § 9, and Labor Code § 2802 ("An employer shall indemnify his or her employees for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer.") Plaintiffs and the other aggrieved employees are therefore entitled to reimbursement of such unpaid work expenses with interest.

As "aggrieved employees," Plaintiffs will initiate a civil action on behalf of themselves and other aggrieved employees to recover damages, statutory penalties, and civil penalties resulting from the wage and hour violations alleged herein. Based on Plaintiffs' own investigation, and on information and belief, Defendant committed the following Labor Code violations:

- a) Defendant violated Labor Code §§ 204, 510, 558, 1194, and 1198 by failing to pay Plaintiffs and other aggrieved employees all overtime compensation earned;
- b) Defendant violated Labor Code §§ 226.7, 512, and 558 by failing to provide all legally required meal periods and failing to pay meal period premiums to Plaintiffs and the aggrieved employees;
- c) Defendant violated Labor Code §§ 226.7, 516, and 558 by failing to provide all legally required rest periods and failing to pay rest period premiums to Plaintiffs and the aggrieved employees;
- d) Defendant violated Labor Code § 226 by failing to furnish Plaintiffs and other aggrieved employees with accurate and compliant itemized wage statements;
- e) Defendant violated Labor Code §§ 204 and 210 by failing to pay Plaintiffs and other aggrieved employees all earned wages at least twice during each calendar month;
- f) Defendant violated Labor Code § 2802 by failing to reimburse Plaintiffs and other aggrieved employees for all necessary expenditures incurred;

- g) Defendant violated Labor Code §§ 201, 202 and 203 by failing to timely pay all final wages due to Mr. Escobar and other aggrieved employees; and
- h) Defendant violated Labor Code § 1174 by failing to maintain accurate records on behalf of Plaintiffs and other aggrieved employees.

Pursuant to Labor Code section 2699.3(a)(2)(A), please notify us and Defendant if the LWDA intends to investigate these alleged violations of the Labor Code. Please contact me should you require additional information.

Very truly yours,
LIDMAN LAW, APC



Scott M. Lidman

PROOF OF SERVICE

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

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 2155 Campus Drive, Suite 150, El Segundo, California 90245.

On January 4, 2024, I served the foregoing document(s) described as: **FIRST AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT** on the interested party(ies) in this action as follows:

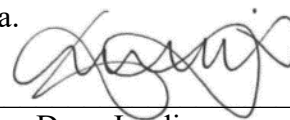
BUCHALTER

A Professional Corporation
JENNIFER M. MISETICH (SBN: 272022)
RONALD J. ARIAS (SBN: 315198)
1000 Wilshire Boulevard, Suite 1500
Los Angeles, CA 90017-1730
Telephone: 213.891.0700
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Email: rarias@buchalter.com
Attorneys for Defendant
L.A. PROPERTIES HEFFESSE LLC

[X] (BY MAIL) I am "readily familiar" with Lidman Law, APC's practice of collection and processing correspondence for mailing. I enclosed the document(s) in a sealed envelope or package addressed to the persons at the address(es) listed above. Under the practice the correspondence would be deposited with the U.S. postal service on the same day with postage thereof fully prepaid at El Segundo, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postage cancellation date or postage date is more than one day after date of deposit for mailing in affidavit.

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

Executed on January 4, 2024, at El Segundo, California.



Dana Joudi