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 County of Los Angeles  
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Attorneys for Plaintiff, BRUCE ALTAMIRANO,  
 individually and as a proxy for the State of California

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**COUNTY OF LOS ANGELES**  
**[UNLIMITED CIVIL]**

BRUCE ALTAMIRANO, an individual, and as  
 a proxy for the State of California,

Case No.: 23STCV31737

**COMPLAINT FOR:**

Plaintiff,

vs.

CALIFORNIA SIGNS, INC., a corporation;  
 MATTHEW MILLER, an individual; and  
 DOES 1 through 5, inclusive,

Defendants.

1. Private Attorneys General Act
2. Failure to Provide Meal and Rest  
Periods or Compensation in Lieu  
Thereof in Violation of Labor Code §  
226.7
3. Violation of Unfair Competition Law
4. Labor Code § 203 Waiting Time  
Penalty
5. Failure to Provide Accurate Itemized  
Wage Statements

**DEMAND FOR JURY TRIAL**

Plaintiff, BRUCE ALTAMIRANO, alleges as follows:

**JURISDICTION AND VENUE**

1. This Court has jurisdiction to hear the subject matter of this complaint. This Court also has jurisdiction over each defendant, as the unlawful business acts alleged herein occurred in California. Plaintiff's claims arise out of and are related to all Defendant's contacts with California.

2. Venue is proper in any county in which an aggrieved employee worked and Labor Code violations allegedly occurred. Venue is proper in this Court because all or some of the violations of law and unlawful practices alleged herein occurred and are occurring in the County of Los Angeles.

**PARTIES**

3. Plaintiff is an individual who, at all relevant times, has resided in the State of California.

4. Defendant CALIFORNIA SIGNS, INC. is a corporation that conducted, and is conducting, business in the State of California. CALIFORNIA SIGNS, INC. registered the address 10280 GLENOAKS BLVD PACOIMA, CA 91331 with the California Secretary of State as its principal place of business in California.

5. MATTHEW MILLER is an individual who at all relevant times was domiciled in California. MATTHEW MILLER was the CEO at all relevant times and was involved in the management of operations and wage and hour practices alleged herein.

6. Plaintiff is ignorant of the true names and capacities of the defendants sued herein as DOES 1-5, inclusive, and therefore sues these defendants by such fictitious names and capacities. Plaintiff will seek leave to amend this Complaint to allege their true names and capacities when ascertained. Plaintiff is informed and believes and on that basis alleges that each fictitiously named Defendants are responsible in some manner for the occurrences herein alleged, and that Plaintiff's injuries were proximately caused by the conduct of such defendant.

7. All of the Defendants, including DOES 1-5, are alleged to be co-conspirators with each other, in that each agreed to participate, and participated in, the furtherance of the objective of civil wrongs as alleged in this Complaint.

8. Plaintiff is informed and believes and thereupon alleges that at all times material herein, each defendant was completely dominated and controlled by its, his or her co-Defendants, each was the agent, representative, and alter ego of the others, and all aided and abetted the wrongful acts of the others.

9. Plaintiff is informed and believes and thereupon alleges that at all times material herein, each of the Defendants was the agent, employee and/or joint venturer of, or working in concert with, co-Defendants and was acting within the course and scope of such agency, employment, and/or joint venture or concerted activity. To the extent that said conduct and omissions were perpetrated by certain Defendants, Plaintiff is informed and believes and thereupon alleges that the remaining Defendant and/or Defendants confirmed and ratified said conduct and omissions.

10. Plaintiff is informed and believes and on that basis alleges that at all times relevant herein, the corporate Defendants, and each of them, had the right to control, and controlled, Plaintiff's wages, hours and working conditions, and has the right to control the manner in which Plaintiff performed work duties, including but not limited to supervision of work, engaged Plaintiff, suffered and permitted Plaintiff to work, and they were employers, joint employers, or co-employers of Plaintiff at all relevant times alleged herein.

11. Plaintiff is informed and believes and on that basis alleges that at all times relevant herein, the Defendant, and each of them, were an integrated enterprise in that they had an interrelation of operations, centralized control of labor relations, common management, and common ownership or financial control.

### GENERAL ALLEGATIONS

12. Defendants employed Plaintiff, as an hourly non-exempt signage installer, from on or about September 18, 2018 to on or about June 23, 2023.

13. As a company-wide practice, Defendants regularly denied Plaintiff and its other non-exempt employees to a second uninterrupted meal break on shifts over 10 hours per day. As a company-wide practice, Defendants regularly denied Plaintiff and its other non-exempt employees to rest breaks on shifts over 3.5 hours. As a company-wide practice, Defendants regularly failed to furnish to Plaintiff and its other accurate itemized wage statements that show accurate: gross wages earned; total hours worked; and the last four digits of his or her social security number or an employee identification number other than a social security number. As a company-wide practice, Defendants regularly denied Plaintiff and its other non-exempt employees their full and complete final wages upon termination to include wages owed for denied meal and rest breaks.

### FIRST CAUSE OF ACTION

#### PRIVATE ATTORNEYS GENERAL ACT (AGAINST ALL DEFENDANTS AND DOES 1-5)

14. Plaintiff incorporates each allegation set forth in all of the preceding paragraphs as though set forth herein in full again.

15. Pursuant to the California Labor Code Private Attorneys General Act ("PAGA"),

“Notwithstanding any other provision of law, any provision of [the California Labor Code] that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency or any of its departments, divisions, commissions, boards, agencies, or employees, for a violation of this code, may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees pursuant to the procedures specified in Section 2699.3.” Cal. Lab. Code § 2699(a). “For all provisions of [the California Labor Code] except those for which a civil penalty is specifically provided, there is established a civil penalty for a violation of these provisions.” Cal. Lab. Code § 2699(f).

16. This PAGA suit “is fundamentally a law enforcement action.” *Arias v. Super. Ct.*, 46 Cal. 4th 969, 986 (2009); *Iskanian v. CLS Transportation Los Angeles, LLC*, 59 Cal.4th 348, 386-387 (2014) (“[E]very PAGA action, whether seeking penalties for Labor Code violations as to only one aggrieved employee—the plaintiff bringing the action—or as to other employees as well, is a representative action on behalf of the state.”); *Williams v. Super. Ct.*, 3 Cal. 5th 531, 538 (2017) (“a PAGA suit, essentially a qui tam action filed on behalf of the state to assist it with labor law enforcement”). An employee who brings such an action is acting as an agent of state enforcement agencies. *Kim v. Reins Intl. Cal., Inc.*, 9 Cal.5th 73, 81 (2020).

17. A PAGA “violation” includes, and is used in these allegations to mean, a failure to comply with any requirement of the Labor Code. Cal. Lab. Code § 22. Under the PAGA, an “aggrieved employee” means any person who was employed by the alleged violator and against whom only one of the alleged violations was committed. Cal. Lab. Code § 2699(c). Plaintiff is an “aggrieved employee.”

18. This PAGA action is intended to “remediate present violations and deter future ones.” *Williams*, 3 Cal. 5th at 546. The relevant period for the following PAGA allegations in this cause of action is from October 24, 2022, to present and ongoing.

***Labor Code Violations §§ 226.7, 512, 226, 1198, 226.3, 201, 202, 203***

***§ 226.7***

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

Occupational Safety and Health.” Lab. Code § 226.7(b). “If an employer fails to provide an employee a meal or rest or recovery period in accordance with a state law, including, but not limited to, an applicable statute or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health, 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.” Lab. Code § 226.7(c).

20. Relevant Wage Orders of the Industrial Welfare Commission, applicable to Defendants, such as Wage Order No. 4-2001 section 12 for example, provide that “Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof.”

21. As a company-wide practice, Defendant regularly required Plaintiff and its other non-exempt employees to work without being provided the opportunity to have an uninterrupted rest break. As a company-wide practice, Defendant did not allow them the opportunity to be relieved of all duties to take a rest break. As a company-wide practice, Defendant did not compensate them in lieu of providing rest breaks. As such, Defendant violated California Labor Code section 226.7.

22. California Labor Code section 226.7 does not provide for its own self-contained “civil penalty” within the statute. Thus, California Labor Code section 2699(f)(2) applies to provide a civil penalty of \$100 for each aggrieved employee per pay period for the initial violation and \$200 for each aggrieved employee per pay period for each subsequent violation. The relevant period of the foregoing allegations for this notice is from one year preceding this letter, to present and ongoing.

### § 512

23. “An employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes, except that if the total work period per day of the employee is no more than six hours, the meal period may be waived by mutual consent of both the employer and employee. An employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period

of not less than 30 minutes.” Lab. Code § 512(a).

24. As set forth above, Defendant did not permit Plaintiff and other aggrieved employees uninterrupted second duty-free meal periods with the opportunity to be relieved of all duties for meal breaks on the days they worked more than 10 hours.

25. California Labor Code section 512 does not provide for its own self-contained “civil penalty” within the statute. Thus, California Labor Code section 2699(f)(2) applies to provide a civil penalty of \$100 for each aggrieved employee per pay period for the initial violation and \$200 for each aggrieved employee per pay period for each subsequent violation. The relevant period of the foregoing allegations for this notice is from one year preceding this letter, to present and ongoing.

#### § 226

26. “An employer, semimonthly or at the time of each payment of wages, shall furnish to his or her employee, either as a detachable part of the check, draft, or voucher paying the employee’s wages, or separately if wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except as provided in subdivision (j), (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer . . . , and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.” Lab. Code § 226(a).

27. Due to Defendant’s failure to account for all the time worked including owed break premiums, Plaintiff and other aggrieved employees’ itemized wage records did not show: (1) the accurate total hours worked; (2) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate; (3) the accurate gross wages earned; and (4) the accurate net wages earned. Defendant also did not include the last four digits of their social security numbers or an employee identification number other than a social security number. As such, Defendants

violated Labor Code Section 226(a)(1)(2)(5)(8)(9). Defendant also failed to keep itemized wage statement records of the foregoing.

28. Labor Code Section 226 does not provide for its own self-contained “civil” penalty within the statute. Thus, Labor Code Section 2699(f)(2) applies to provide a civil penalty of \$100 for each aggrieved employee per pay period for the initial violation and \$200 for each aggrieved employee per pay period for each subsequent violation. The relevant period of the foregoing allegations for this notice is from one year preceding this letter, to present and ongoing.

### **§ 1198**

29. California Labor Code section 1198 provides that the maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. California Labor Code section 1173 defines commission as the IWC. Further, the “employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.” Lab. Code § 1198.

30. Sections 5 of IWC Order Nos. 1-2001, 2-2001, 3-2001, 4-2001, 5-2001, 6-2001, 7-2001, 8-2001, 9-2001, 10-2001, 11-2001, 12-2001, 13-2001, 16-200, Section 3(C) of IWC Order No. 15-2001, and Section 4 of IWC Order No. 17-2001, provide that, “(A) Each workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee's usual or scheduled day's work, the employee shall be paid for half the usual or scheduled day's work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee's regular rate of pay, which shall not be less than the minimum wage. (B) If an employee is required to report for work a second time in any one workday and is furnished less than two (2) hours of work on the second reporting, said employee shall be paid for two (2) hours at the employee's regular rate of pay, which shall not be less than the minimum wage.”

31. As set forth above, Plaintiff and aggrieved employees reported for work, but when a client canceled, Defendants did not pay them reporting time wages.

32. Sections 3(A)(1) of IWC Order Nos. 1-2001, 2-2001, 3-2001, 4-2001, 5-2001, 6-2001, 7-2001, 8-2001, 9-2001, 10-2001, 11-2001, 12-2001, 13-2001, 16-200, Section 3(C) of IWC Order No. 15-2001, and Section 4 of IWC Order No. 17-2001, provide that “employees shall not be employed

more than eight (8) hours in any workday or more than 40 in a workweek unless the employee receives one and one half (1 1/2) times such employee's regular rate of pay for all hours worked over 40 hours in the workweek." Section 7(A) requires every employer to keep accurate time records showing when the employee begins and ends each work period and the total hours worked in the payroll period. As set forth above, Plaintiff and her co-workers occasionally worked more than eight hours per workday. They were not compensated with the earned premium overtime pay for those overtime hours worked more than eight per day. Relevant Wage Orders of the IWC, applicable to Defendants, such as Wage Order No. 4- 2001 section 12, provide that "Every employer shall authorize and permit all employees to take rest periods, which in so far as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof."

33. As set forth above, on numerous occasions, Defendants did not permit Plaintiff and other aggrieved employees to have uninterrupted rest breaks with the opportunity to be relieved of all duties for rest breaks.

34. Relevant Wage Orders of the IWC, applicable to Defendants, such as Wage Order No. 4- 2001 section 11, provide that "(A) No employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes, except that when a work period of not more than six (6) hours will complete the day's work the meal period may be waived by mutual consent of the employer and the employee. (C) Unless the employee is relieved of all duty during a 30 minute meal period, the meal period shall be considered an —on duty meal period and counted as time worked. An —on duty meal period shall be permitted only when the nature of the work prevents an employee from being relieved of all duty and when by written agreement between the parties an on-the-job paid meal period is agreed to. The written agreement shall state that the employee may, in writing, revoke the agreement at any time."

35. As set forth above, on numerous occasions, Defendants did not permit Plaintiff and other aggrieved employees to have uninterrupted duty-free meal breaks with the opportunity to be relieved of all duties for meal breaks.

36. Based on the foregoing, Defendants violated California Labor Code section 1198 by

violating the above-referenced sections of relevant Wage Orders of the IWC.

37. California Labor Code section 1198 does not provide for its own self-contained “civil penalty” within the statute. Thus, California Labor Code section 2699(f)(2) applies to provide a civil penalty of \$100 for each aggrieved employee per pay period for the initial violation and \$200 for each aggrieved employee per pay period for each subsequent violation.

38. Based on the foregoing, Defendants violated California Labor Code section 1198 by violating the above-referenced sections of relevant Wage Orders of the IWC.

39. California Labor Code section 1198 does not provide for its own self-contained “civil penalty” within the statute. Thus, California Labor Code section 2699(f)(2) applies to provide a civil penalty of \$100 for each aggrieved employee per pay period for the initial violation and \$200 for each aggrieved employee per pay period for each subsequent violation. The relevant period of the foregoing allegations for this notice is from one year preceding this letter, to present and ongoing.

### § 226.3

40. “Any employer who violates subdivision (a) of section 226 shall be subject to a civil penalty in the amount” set forth in Labor Code section 226.3 for failing to provide the employee a wage deduction statement or failing “to keep the records required in subdivision (a) of Section 226.” Lab. Code § 226.3. This section “sets out a civil penalty for all violations of section 226.” *Raines v. Coastal Pacific Food Distribs., Inc.*, 23 Cal. App. 5th 667, 675 (2018). “[A] representative PAGA claim for civil penalties for a violation of section 226(a) **does not require proof of injury or a knowing and intentional violation**. This is true even though these two elements are required to be proven when bringing an individual claim for damages or statutory penalties under section 226(e).” *Raines*, at 670 (emphasis added). Because Defendant violated California Labor Code section 226(a), Defendant is subject to civil penalties under section 226.3 applicable to Plaintiff and other current and former aggrieved employees. The relevant period of the foregoing allegations for this notice is from one year preceding this letter, to present and ongoing.

### § 201-203

41. Due to the overtime and break violations, Plaintiff did not timely receive all of his final pay within the required timeframe from his discharge date. Defendant also failed to provide Plaintiff his

final pay on the date of discharge. Thus, Defendant violated Labor Code sections 201-203. Defendant also did this to other aggrieved employees. Labor Code Sections 201-203 do not provide for their own self-contained civil penalty within the statute. Thus, Labor Code Section 2699(f)(2) applies to provide a civil penalty of \$100 for each aggrieved employee per pay period for the initial violation and \$200 for each aggrieved employee per pay period for each subsequent violation. The relevant period of the foregoing allegations for this notice is from one year preceding this letter, to present and ongoing.

### ***Exhaustion of Administrative Remedies***

42. On October 24, 2023, Plaintiff provided notice to Defendants by certified mail [9214 8902 3589 0900 0023 9706 28] pursuant to Labor Code § 2699.3, detailing the specific provisions of the foregoing Labor Code sections that have been violated, including the facts and theories to support the violations. On October 30, 2023, Plaintiff provided notice to the California Labor and Workforce Development Agency (“LWDA”), pursuant to Labor Code § 2699.3, detailing the specific provisions of the foregoing Labor Code sections that have been violated, including the facts and theories to support the violations. The LWDA file number is LWDA-CM-990663-23. Plaintiff submitted a \$75.00 fee to the LWDA.

43. The LWDA has not, within 65 calendar days of the postmark date of Plaintiff’s Notice of violations of the Labor Code, sent Plaintiff notice that it intends to investigate the violations. Thus, Plaintiff has exhausted Plaintiff’s administrative remedies, pursuant to Labor Code section 2699.3(a), as a prerequisite to assert a civil action, for civil penalties pursuant to Labor Code section 2699. Defendant has not sent any notice to the LWDA attempting to cure the alleged violations of Labor Code statutes not enumerated in Labor Code section 2699.5. Thus, Plaintiff has exhausted Plaintiff’s administrative remedies, pursuant to Labor Code section 2699.3(c), as a prerequisite to assert a civil action, for civil penalties pursuant to Labor Code section 2699.

## **SECOND CAUSE OF ACTION**

### **FAILURE TO PROVIDE MEAL AND REST PERIODS OR COMPENSATION IN LIEU THEREOF IN VIOLATION OF LABOR CODE § 226.7 (AGAINST ALL DEFENDANTS AND DOES 1-5)**

44. Plaintiff incorporates each allegation set forth in all of the preceding paragraphs as

1 though set forth herein in full again.

2 45. California Labor Code section 226.7 provides that “An employer shall not require an  
3 employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or  
4 applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety  
5 and Health Standards Board, or the Division of Occupational Safety and Health.” Cal. Lab. Code §  
6 226.7(b).

7 46. “If an employer fails to provide an employee a meal or rest or recovery period in  
8 accordance with a state law, including, but not limited to, an applicable statute or applicable regulation,  
9 standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards  
10 Board, or the Division of Occupational Safety and Health, the employer shall pay the employee one  
11 additional hour of pay at the employee’s regular rate of compensation for each workday that the meal or  
12 rest or recovery period is not provided.” Cal. Lab. Code § 226.7(c).

13 47. Relevant Wage Orders of the Industrial Welfare Commission (“IWC”), applicable to  
14 Defendant, such as Wage Order No. 4-2001 section 12, provide that “Every employer shall authorize  
15 and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each  
16 work period. The authorized rest period time shall be based on the total hours worked daily at the rate  
17 of ten (10) minutes net rest time per four (4) hours or major fraction thereof.”

18 48. Relevant Wage Orders of the IWC, applicable to Defendant, such as Wage Order No. 4-  
19 2001 section 11, provide that “No employer shall employ any person for a work period of more than five  
20 (5) hours without a meal period of not less than 30 minutes, except that when a work period of not more  
21 than six (6) hours will complete the day’s work the meal period may be waived by mutual consent of the  
22 employer and the employee.”

23 49. California Labor Code section 512(a) provides that an employer may not employ an  
24 employee for a work period of more than five hours per day without providing the employee with a meal  
25 period of not less than 30 minutes, except that if the total work period per day of the employee is no  
26 more than six hours, the meal period may be waived by mutual consent of both the employer and  
27 employee.

28 50. Defendant regularly denied Plaintiff a second uninterrupted meal break on shifts over 10

hours per day. Defendant regularly denied Plaintiff rest breaks on shifts over 3.5 hours. Defendant did not compensate Plaintiff in lieu of providing Plaintiff with second meal and rest breaks.

51. Pursuant to Labor Code section 512, Plaintiff is entitled to compensation of one additional hour of pay at Plaintiff's regular rate of compensation for each workday that the meal period was not provided. Pursuant to Labor Code section 226.7, Plaintiff is entitled to compensation of one additional hour of pay at Plaintiff's regular rate of compensation for each workday that the meal period was not provided, and one additional hour of pay for each workday that the rest period was not provided pursuant to *United Parcel Serv., Inc. v. Superior Court*, 196 Cal. App. 4th 57, 70 (2011).

52. "Any employer or other person acting on behalf of an employer, who violates, or causes to be violated, any provision regulating minimum wages or hours and days of work in any order of the Industrial Welfare Commission, or violates, or causes to be violated, Sections 203, 226, 226.7, 1193.6, 1194, or 2802, may be held liable as the employer for such violation." Cal. Lab. Code § 558.1(a).

### **THIRD CAUSE OF ACTION**

#### **VIOLATION OF UNFAIR COMPETITION LAW**

#### **(AGAINST CALIFORNIA SIGNS, INC. AND DOES 1-5)**

53. Plaintiff incorporates each allegation set forth in all of the preceding paragraphs as though set forth herein in full again.

54. Defendant's conduct, as alleged in this Complaint, has been and continues to be unfair, unlawful, and harmful to Plaintiff and Defendant's competitors. Defendant's activities as alleged herein are violations of California law and constitute unlawful business acts and practices in violation of California's Unfair Competition Law ("UCL") Business and Professions Code Section 17200 et seq.

55. A violation of Business and Professions Code Section 17200 et seq. may be predicated on the violation of any state or federal law including violations of the Labor Code. *Cortez v. Purolator Air Filtration Prods. Co.*, 23 Cal. 4th 163, 178 (2000). Business and Professions Code Section 17200 et seq. defines unfair competition to include any unlawful, unfair or fraudulent business act or practice.

56. California Labor Code section 226.7 provides that "An employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety

and Health Standards Board, or the Division of Occupational Safety and Health.” Cal. Lab. Code § 226.7(b).

57. “If an employer fails to provide an employee a meal or rest or recovery period in accordance with a state law, including, but not limited to, an applicable statute or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health, 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.” Cal. Lab. Code § 226.7(c).

58. Relevant Wage Orders of the Industrial Welfare Commission (“IWC”), applicable to Defendant, such as Wage Order No. 4-2001 section 12, provide that “Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof.”

59. Relevant Wage Orders of the IWC, applicable to Defendant, such as Wage Order No. 4-2001 section 11, provide that “No employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes, except that when a work period of not more than six (6) hours will complete the day’s work the meal period may be waived by mutual consent of the employer and the employee.”

60. California Labor Code section 512(a) provides that an employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes, except that if the total work period per day of the employee is no more than six hours, the meal period may be waived by mutual consent of both the employer and employee.

61. As alleged above, Defendant violated Labor Code sections 226.7 and 512.

62. As a result of the herein described violations of law, Defendant unlawfully gained an unfair advantage over other businesses. As a result of the herein described violations of law, Defendant has unjustly enriched itself at the expense of Plaintiff and the general public. Such conduct by Defendant constitutes unfair competition and unfair business practices, as such terms are described in

Business and Professions Code section 17200, et seq.

63. Plaintiff is informed, believe and thereon allege that Defendant has continued and still threaten to, unless restrained and ordered to disgorge all profits derived from said unfair business practices as restitution to Plaintiff, violate the Unfair Competition Law by engaging in business practices violative of California law as detailed hereinabove.

64. Plaintiff and others have been personally injured and continue to be injured by Defendant's unlawful business acts and practices as alleged herein, including, but not limited to, the loss of money and/or property at a sum according to proof at trial.

65. Pursuant to Business and Professions Code § 17203, the court is authorized to make such orders or judgments as may be necessary to prevent the use or employment by any such person or entity of any such practice which constitutes unfair competition or as may be necessary to restore to any person in interest any money or property which may have been acquired by means of such unfair competition.

66. Pursuant to Business and Professions Code Section 17200 et seq., Plaintiff is entitled to restitution of the wages and other monies wrongfully withheld and retained by Defendant, for the period commencing from four years preceding the filing of the Complaint.

67. "Unless otherwise expressly provided, the remedies or penalties provided by [Business and Professions Code Section 17200 et seq.] are cumulative to each other and to the remedies or penalties available under all other laws of [California]."

#### **FOURTH CAUSE OF ACTION**

##### **LABOR CODE § 203 WAITING TIME PENALTY**

##### **(AGAINST ALL DEFENDANTS AND DOES 1-5)**

68. Plaintiff incorporates each allegation set forth in all of the preceding paragraphs as though set forth herein in full again.

69. Defendant failed to timely pay Plaintiff all of Plaintiff's owed wages on Plaintiff's last date of work, in violation of Cal. Labor Code § 201, and failed to pay Plaintiff the additional continuing wages as a penalty from the original due date, in violation of California Labor Code § 203.

70. Plaintiff has been harmed by Defendant's conduct and is entitled to a statutory waiting

time penalty, in an amount according to proof at trial, interest thereon, and costs.

## **FIFTH CAUSE OF ACTION**

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

#### **(AGAINST ALL DEFENDANTS AND DOES 1-5)**

71. Plaintiff incorporates each allegation set forth in all of the preceding paragraphs as though set forth herein in full again.

72. California Labor Code section 226(a) provides that every employer shall, at the time of each payment of wages, furnish each of his or her employees, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately when wages are paid by personal check or cash, an accurate itemized statement in writing showing accurate: (1) gross wages earned, (2) total hours worked by the employee, except as provided in subdivision (j), (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. . ." A copy of the itemized statement shall be kept on file by the employer for at least three years. Lab. Code § 226(a). A "copy" includes a duplicate of the itemized statement provided to an employee or a computer-generated record that accurately shows all of the information required by Labor Code Section 226(a). Lab. Code § 226(a).

73. Defendant knowingly and intentionally failed to provide an itemized statement in writing showing all *accurate* information required by Labor Code section 226(a).

74. "An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per

employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney's fees." Lab. Code § 226(e)(1).

75. An employee is deemed to suffer injury for purposes of section 226(e) if the employer fails to provide accurate and complete information as required by any one or more of items (1) to (9), inclusive, of subdivision (a) and the employee cannot promptly and easily determine **from the wage statement alone** the information required to be provided on the itemized wage statement pursuant to items (2) to (4), inclusive, (6), and (9) of subdivision (a). Lab. Code § 226(e)(2)(B)(i).

76. An employee is deemed to suffer injury for purposes of section 226(e) if the employer fails to provide accurate and complete information as required by any one or more of items (1) to (9), inclusive, of subdivision (a) and the employee cannot promptly and easily determine from the wage statement alone only the last four digits of the employee's social security number or an employee identification number other than a social security number. Lab. Code § 226(e)(2)(B)(iv).

77. As a result of the knowing and intentional failure to provide compliant wage statements, Plaintiff has suffered an injury pursuant to section 226(e). As a result, Defendants are liable to Plaintiff for the amounts provided by California Labor Code § 226(e).

78. Pursuant to California Labor Code § 226(e), Plaintiff is also entitled to an award of reasonable attorneys' fees and costs.

79. "Any employer or other person acting on behalf of an employer, who violates, or causes to be violated, any provision regulating minimum wages or hours and days of work in any order of the Industrial Welfare Commission, or violates, or causes to be violated, Sections 203, 226, 226.7, 1193.6, 1194, or 2802, may be held liable as the employer for such violation." Lab. Code § 558.1(a).

### PRAYER

WHEREFORE, Plaintiff prays:

1. For civil penalties pursuant to the California Labor Code §§ 2698 *et seq.*
2. For compensatory special damages, in an amount according to proof at the time of trial.
3. For restitution, in an amount according to proof at the time of trial.
4. For statutory penalties pursuant to the California Labor Code.

5. For injunctive relief in the form of an order enjoining the Defendant from continuing violations of the Labor Code.

6. For reasonable attorneys' fees pursuant to the California Labor Code and Code of Civil Procedure.

7. For costs of suit including expert witness fees.

8. For prejudgment interest.

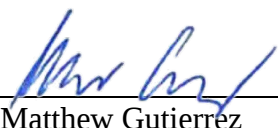
9. For such other and further relief as the Court may deem proper.

**DEMAND FOR JURY TRIAL**

Plaintiff BRUCE ALTAMIRANO hereby demands a trial by jury.

Dated: December 28, 2023

GUTIERREZ DERHAM LAW FIRM LLP

By:   
Matthew Gutierrez  
Attorneys for Plaintiff, BRUCE  
ALTAMIRANO, individually and as a proxy  
for the State of California