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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF VENTURA

ERIC PRADO, as an individual and on behalf
of all others similarly situated,

Plaintiff,

vs.

WILWOOD ENGINEERING, a California
Corporation; and DOES 1 through 100,

Defendants.

Case No.: 2023CUOE015773

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

- (1) FAILURE TO PAY ALL OVERTIME
WAGES (LABOR CODE §§ 204, 510,
558, 1194, 1198);**
- (2) MINIMUM WAGE VIOLATIONS
(LABOR CODE §§ 1182.12, 1194,
1194.2, 1197);**
- (3) MEAL PERIOD VIOLATIONS
(LABOR CODE §§ 226.7, 512, 558);**
- (4) REST PERIOD VIOLATIONS
(LABOR CODE §§ 226.7, 516, 558);**
- (5) FAILURE TO REIMBURSE
NECESSARY BUSINESS
EXPENDITURES (LABOR CODE
§§ 2802, 2804);**
- (6) WAGE STATEMENT VIOLATIONS
(LABOR CODE § 226 *et seq.*);**
- (7) WAITING TIME PENALTIES
(LABOR CODE §§ 201-203);**
- (8) UNFAIR COMPETITION (BUS &
PROF CODE § 17200 *et seq.*); and**

1 (9) CIVIL PENALTIES UNDER THE
2 PRIVATE ATTORNEYS GENERAL
3 ACT (LABOR CODE §§ 2698, *et seq.*)

4 DEMAND FOR JURY TRIAL
5 UNLIMITED CIVIL CASE

6 Plaintiff Eric Prado ("Plaintiff") on behalf of himself and all others similarly situated,
7 hereby brings this First Amended Class and Representative Action Complaint against Wilwood
8 Engineering, a California Corporation, and DOES 1 to 100, inclusive (collectively "Defendants"),
9 and on information and belief alleges as follows:

10 **JURISDICTION**

11 1. Plaintiff, on behalf of himself and all others similarly situated, hereby brings this
12 action for recovery of unpaid wages and penalties under California Labor Code §§ 201-204, 226
13 *et seq.*, 510, 512, 516, 558, 1182.12, 1194, 1194.2, 1197, 1198, 2802, 2804, and 2698 *et seq.*,
14 California Business and Professions Code § 17200 *et seq.*, and Industrial Welfare Commission
15 Wage Order 1 ("Wage Order 1"), in addition to seeking declaratory relief and restitution. This
16 action is brought pursuant to the California Code of Civil Procedure § 382. This Court has
17 jurisdiction over Defendants' violations of the California Labor Code because the amount in
18 controversy exceeds this Court's jurisdictional minimum.

19 **VENUE**

20 2. Venue is proper in this judicial district pursuant to California Code of Civil
21 Procedure §§ 395(a) and 395.5, as at least some of the acts and omissions complained of herein
22 occurred in the County of Ventura. Defendants transact business within the County of Ventura
23 and/or otherwise are found within the County of Ventura, and Defendants are within the
24 jurisdiction of this Court for purposes of service of process.

25 **PARTIES**

26 3. Plaintiff is an individual over the age of eighteen (18). At all relevant times herein,
27 Plaintiff was and currently is, a California resident living within Ventura County. During the four
28 years immediately preceding the filing of this action and within the statute of limitations periods
applicable to each cause of action pled herein, Plaintiff was employed by Defendants as a non-

1 exempt employee. Plaintiff was, and is, a victim of Defendants' policies and/or practices
2 complained of herein, lost money and/or property, and has been deprived of the rights guaranteed
3 by Labor Code §§ 201-204, 226 *et seq.*, 226.7, 510, 512, 516, 558, 1182.12, 1194, 1194.2, 1197,
4 1198, 2802, 2804, and 2698 *et seq.*, California Business and Professions Code § 17200 *et seq.*
5 ("Unfair Competition Law"), and Wage Order 1, which sets employment standards for the
6 manufacturing industry.

7 4. Plaintiff is informed and believes, and based thereon alleges, that during the four
8 years preceding the filing of this action and continuing to the present, Defendants did (and
9 continue to do) business within the County of Ventura and the State of California by operating a
10 company specializing in manufacturing disc brake systems, and therefore, were (and are) doing
11 business in the County of Ventura and the State of California.

12 5. Plaintiff does not know the true names or capacities, whether individual, partner,
13 or corporate, of the defendants sued herein as DOES 1 to 100, inclusive, and for that reason, said
14 defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to
15 further amend this Complaint when such true names and capacities are discovered. Plaintiff is
16 informed, and believes, and based thereon alleges, that each of said fictitious defendants, whether
17 individual, partners, or corporate, were responsible in some manner for the acts and omissions
18 alleged herein, and proximately caused Plaintiff and the Classes (as defined herein) to be subject
19 to the unlawful employment practices, wrongs, injuries and damages complained of herein.

20 6. Plaintiff is informed and believes, and based thereon alleges, that at all times
21 mentioned herein, Defendants were and are the employers of Plaintiff and all members of the
22 Classes.

23 7. At all times herein mentioned, each of said Defendants participated in the doing
24 of the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the
25 Defendants, and each of them, were the agents, servants, and employees of each and every one of
26 the other Defendants, as well as the agents of all Defendants, and at all times herein mentioned
27 were acting within the course and scope of said agency and employment. Defendants, and each
28 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 acting within the course and scope of and in pursuance of said joint venture, partnership, and common enterprise. Further, Plaintiff alleges that all Defendants were joint employers for all purposes of Plaintiff and all members of the Classes.

GENERAL FACTUAL ALLEGATIONS

9. Defendants manufacture automotive disc brake systems, calipers, brake pads, and rotors. Plaintiff was employed at Defendants' Calle Bolero facility in Camarillo, California. Defendants employed Plaintiff as a non-exempt "Quality Inspector" from approximately June 2022 until approximately March 2023. Plaintiff's primary job duties included inspecting and measuring finished products and comparing against blueprints. Unless otherwise stated, all allegations herein occurred during Plaintiff's employment with Defendants.

10. Defendants failed to compensate Plaintiff and other non-exempt employees for all hours actually worked, resulting in unpaid minimum wages and additional unpaid overtime wages. Specifically, Defendants rounded and/or shaved Plaintiff's and other non-exempt employees' hours to the quarter hour, which resulted in Plaintiff and other non-exempt employees not being compensated for all hours actually worked. Due to Defendants' timekeeping policies and practices that fail to compensate for all hours worked, Plaintiff and other non-exempt employees were deprived of all required minimum wages. *See Camp v. Home Depot U.S.A., Inc.*, (2022) 84 Cal.App.5th 638, 654 ("[I]f an employer, as in this case, can capture and has captured the exact amount of time an employee has worked during a shift, the employer must pay the employee for "all the time" worked."). Defendants also failed to maintain accurate timekeeping records when it comes to meal periods. For example, Defendants regularly adjusted Plaintiff's and other non-exempt employees' time records to reflect timely, 30-minute meal periods, without verifying if Plaintiff and other non-exempt employees were provided timely, duty-free, 30-minute meal periods. As a result, Defendants have failed to provide duty-free meal periods, resulting in Plaintiff and other non-exempt employees performing off-the-clock work

during their purported meal periods. *See Kaanaana v. Barrett Business Services, Inc.* (2018) 29 Cal.App.5th 778, 808 (holding that requiring employees to work through any portion of meal period entitles them to payment for actual time worked as well as an additional hour of pay for the meal period premium). Further, on occasions when Plaintiff worked over eight hours in a day and/or forty hours in a workweek, this process of adjusting Plaintiff's timekeeping records also deprived him of all overtime wages owed.

11. Plaintiff also routinely worked over 8 hours per workday and/or over 40 hours per workweek but did not receive overtime compensation equal to one and one-half times his regular rate of pay for overtime hours. Specifically, Plaintiff and other non-exempt employees earned non-discretionary bonuses and differentials (including a differential for working the night shift) and other forms of pay that cannot be excluded from the regular rate of pay as a matter of law (hereinafter "Incentive Pay"). As a result of paying Plaintiff and other non-exempt employees Incentive Pay, Defendants failed to properly calculate the regular rate of pay, resulting in unpaid overtime wages. Additionally, upon information and belief, Defendants only paid "sick pay" at Plaintiff and other non-exempt employees hourly rate. Thus, in instances that Plaintiff and other non-exempt employees earned Incentive Pay in the same time period that sick pay was paid, the sick pay was underpaid.

12. Defendants also failed to provide Plaintiff and other non-exempt employees with all legally-compliant meal periods due to Defendants' unlawful meal period policies/practices that failed to provide timely, uninterrupted, duty-free 30-minute meal periods before the fifth hour of work or *any* second meal periods when they worked shifts over 10.0 hours. Specifically, Defendants frequently failed to provide 30-minute meal periods before the end of the fifth hour of work. As discussed above, Defendants manually adjusted Plaintiff's and other non-exempt-employees' timekeeping records to reflect timely, 30-minute meal periods without verifying if Plaintiff and other non-exempt employees received timely and uninterrupted meal periods. Moreover, Defendants failed to provide a "net" of 30-minute meal periods. For example, Plaintiff and other non-exempt employees had to walk at least 2 minutes, each way, to and from the break room to their workstation. Plaintiff, however, was required to begin his 30-minute meal periods

1 the moment he left his workstation and return to his workstation before the end of his 30-minute
2 allotment, thereby shortening the purported meal periods. Further, Defendants failed to
3 compensate Plaintiff and other non-exempt employees with meal period premiums for each
4 workday in which a meal period violation occurred, as required by Labor Code § 226.7.

5 13. Defendants regularly failed to authorize and permit Plaintiff and other non-exempt
6 employees to take duty-free 10-minute rest periods for every four hours worked, or major fraction
7 thereof, and *any* third rest periods after the tenth hour of work, due to Defendants' unlawful rest
8 period policies/practices. In the event Plaintiff and other non-exempt employees were able to take
9 their rest periods, Defendants failed to authorize and permit rest periods for a "net" of 10 minutes.
10 Under California law, Defendants are required to authorize and permit a "net" rest period of 10-
11 minutes that begins when the employee reaches a rest area away from his or her workstation and
12 must be uninterrupted during the duration of the rest period. *See e.g.*, Division of Labor Standards
13 Enforcement Manual ("DLSE Manual") §45.3.3; *Vaquero v. Stoneledge Furniture LLC*, (2017) 9
14 Cal.App.5th 98, 111-112 (citing DLSE Manual § 45.3.3 for the proposition that "the rest period
15 begins when the employee reaches an area away from the workstation that is appropriate for
16 rest"); *Augustus v. ABM Security Services, Inc.*, (2016) 2 Cal.5th 257, 260 ("[D]uring required
17 rest periods, employers must relieve their employees of all duties and relinquish any control over
18 how employees spend their break time"). As such, Defendants maintained an unlawful rest period
19 policy/practice by mandating that its employees' 10-minute rest periods begin the moment they
20 leave their workstation, and requiring its employees leave the breakroom and return to their
21 workstation before the end of their rest period, thereby shortening their purported rest periods. As
22 a result, Defendants have failed to compensate Plaintiff with the required rest period premium for
23 each workday in which he experienced a rest period violation as mandated by Labor Code § 226.7.

24 14. During their respective employments with Defendants, Plaintiff and other non-
25 exempt employees were not reimbursed for all necessary business expenses pursuant to Labor
26 Code § 2802. Specifically, Plaintiff and other non-exempt employees were required to purchase
27 and cover repair costs for tools necessary to complete their job duties, including levelers, among
28 other items. As such, Defendants failed to reimburse Plaintiff and other non-exempt employees

for all necessary business expenses associated with the purchase of necessary tools, in violation of Labor Code § 2802.

15. As a result of Defendants' failure to pay all overtime wages, minimum wages, sick pay wages, and meal and rest period premium wages owed, Defendants also maintained inaccurate payroll records and issued inaccurate wage statements to Plaintiff and other non-exempt employees, and failed to pay all final wages owed to Plaintiff and other non-exempt employees upon their respective separations from employment.

CLASS ACTION ALLEGATIONS

16. **Class Definitions:** Plaintiff brings this action on behalf of himself and the following Classes pursuant to Code of Civil Procedure § 382:

- a. The Overtime Class consists of consists of all Defendants' current and former non-exempt employees in California who worked more than 8.0 hours per day and/or 40.0 hours per workweek and: (i) received Incentive Pay during a corresponding time period; and/or (ii) were subject to Defendants' timekeeping policies and/or practices for non-exempt employees, between October 24, 2022 and July 15, 2024.
- b. The Minimum Wage Class consists of all of Defendants' current and former non-exempt employees in California who were subject to Defendants' timekeeping policies and/or practices for non-exempt employees, between October 24, 2022 and July 15, 2024.
- c. The Meal Period Class consists of all Defendants' current and former non-exempt employees in California who worked at least one shift in excess of 5.0 hours between October 24, 2022 and July 15, 2024.
- d. The Rest Period Class consists of all Defendants' current and former non-exempt employees in California who worked at least one shift in excess of 3.5 hours, between October 24, 2022 and July 15, 2024.
- e. The Reimbursement Class consists of all Defendants' current and former non-exempt employees in California who were required to purchase tools for work-related purposes without reimbursement, between October 24, 2022 and July 15,

2024.

f. The Wage Statement Class consists of all members of the Overtime Class, Minimum Wage Class, Meal Period Class, and/or Rest Period Class who received a wage statement from Defendants, between October 24, 2022 and July 15, 2024.

g. The Waiting Time Class consists of all members of the Overtime Class, Minimum Wage Class, Meal Period Class, Rest Period Class, and/or any individual who was not paid all his or her sick pay wages who separated their employment with Defendants between October 24, 2023 and July 15, 2024.

h. The Sick Pay Class consists of all Defendants' current and former non-exempt employees in California who earned sick pay and received Incentive Pay during a corresponding time period, between October 24, 2022 and July 15, 2024.

17. **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 is unknown to Plaintiff at this time; however, it is estimated that the members of the Classes number greater than one hundred (100) individuals. The identity of such membership is readily ascertainable via inspection of Defendants' employment records.

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

i. Whether Defendants lawfully paid premium wages for all overtime hours worked to members of the Overtime Class pursuant to Labor Code §§ 204, 510, 558, 1194 and 1198;

ii. Whether Defendants paid all minimum wages owed for all hours worked to members of the Minimum Wage Class pursuant to Labor Code §§ 1182.12, 1194, 1194.2 and 1197;

iii. Whether Defendants provided all legally compliant meal periods to members of the Meal Period Class pursuant to Labor Code §§ 226.7 and 512;

- 1 iv. Whether Defendants authorized and permitted all lawful rest periods to members
2 of the Rest Period Class pursuant to Labor Code §§ 226.7 and 516;
3 v. Whether Defendants correctly paid meal and/or rest period premium payments for
4 non-compliant meal and/or rest periods pursuant to Labor Code § 226.7;
5 vi. Whether Defendants failed to reimburse members of the Reimbursement Class for
6 all necessary business expenses incurred pursuant to Labor Code §§ 2802 and
7 2804;
8 vii. Whether Defendants furnished legally compliant wage statements to members of
9 the Wage Statement Class pursuant to Labor Code § 226;
10 viii. Whether Defendants paid all wages/compensation due upon separation to
11 members of the Waiting Time Class pursuant to Labor Code §§ 201-203;
12 ix. Where Defendants properly calculated and paid all sick pay wages to members of
13 the Sick Pay Class pursuant to Labor Code § 246.

14 19. **Predominance of Common Questions:** Common questions of law and fact
15 predominate over questions that affect only individual members of the Classes. The common
16 questions of law set forth above are numerous and substantial and stem from Defendants' policies
17 and/or practices applicable to each individual class member, such as Defendants' uniform
18 overtime and minimum wage policies/practices, meal and rest period policies/practices, and
19 reimbursement policies/practices. As such, common questions predominate over individual
20 questions concerning each individual class member's showing as to their eligibility for recovery
21 or as to the amount of their damages.

22 20. **Typicality:** Plaintiff's claims are typical of the claims of the Classes because
23 Plaintiff was employed by Defendants as a non-exempt employee in California during the
24 statute(s) of limitations period applicable to each cause of action pled in the action. As alleged
25 herein, Plaintiff, like the members of the Classes, was deprived of all overtime and minimum
26 wages owed, was not provided all required meal periods, was not authorized and permitted to take
27 all required rest periods, did not receive meal and rest period premium wages at his regular rate
28 of pay for missed or non-compliant meal and rest periods, was not reimbursed for all necessary

business expenses, and did not receive accurate wage statements or all final wages owed at the time of his separation from employment.

21. **Adequacy of Representation:** Plaintiff is fully prepared to take all necessary steps to represent fairly and adequately the interests of the members of the Classes. Moreover, Plaintiff's attorneys are ready, willing and able to represent the members of the Classes and Plaintiff fully and adequately. Plaintiff's 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.

22. **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 Plaintiff 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 Classes 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

1 substantially impair or impede the ability of the class members to protect their interests. Further,
2 the claims of the individual members of the Classes are not sufficiently large to warrant vigorous
3 individual prosecution considering all of the concomitant costs and expenses attending thereto.
4 As such, the Classes identified herein are maintainable as a Class under Code of Civil Procedure
5 § 382.

6 **FIRST CAUSE OF ACTION**
7 **FAILURE TO PAY ALL OVERTIME WAGES**
8 **(AGAINST ALL DEFENDANTS)**

9 23. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

10 24. This cause of action is brought pursuant to Labor Code §§ 204, 510, 558, 1194,
11 and 1198, which provide that non-exempt employees are entitled to overtime wages for all
12 overtime hours worked and provide a private right of action for the failure to pay all overtime
13 compensation for overtime work performed.

14 25. At all times relevant herein, Defendants were required to properly pay Plaintiff
15 and members of the Overtime Class for all overtime hours worked pursuant to California Labor
16 Code § 1194 and Wage Order 1. Wage Order 1, § 3 requires an employer to pay an employee
17 “one and one-half (1½) times the employee’s regular rate of pay for all hours worked in excess
18 of eight (8) hours” per work day and/or in excess of 40 hours of work in the workweek.

19 26. At all times relevant herein, Defendants caused Plaintiff and members of the
20 Overtime Class to work overtime hours but did not compensate Plaintiff or members of the
21 Overtime Class at one and one-half times their regular rate of pay for such hours.

22 27. The foregoing policies and practices are unlawful and create entitlement to
23 recovery by Plaintiff and the Overtime Class in a civil action for the unpaid amount of overtime
24 premiums owing, including interest thereon, statutory and civil penalties, attorney’s fees, and
25 costs of suit according to California Labor Code §§ 204, 510, 558, 1194, and 1198, Wage Order
26 1, and Code of Civil Procedure § 1021.5.

SECOND CAUSE OF ACTION
MINIMUM WAGE VIOLATIONS
(AGAINST ALL DEFENDANTS)

28. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

29. Wage Order 1, § 4 and California Labor Code §§ 1197 and 1182.12 establish the right of employees to be paid minimum wages for all hours worked, in amounts set by state law. Labor Code §§ 1194(a) and 1194.2(a) provide that an employee who has not been paid the legal minimum wage as required by Labor Code § 1197 may recover the unpaid balance together with attorneys' fees and costs of suit, as well as liquidated damages in an amount equal to the unpaid wages and interest accrued thereon.

30. At all relevant times herein, Defendants failed to conform their pay practices to the requirements of the law. This unlawful conduct includes but is not limited to all hours they were subject to Defendants' control. Accordingly, Plaintiff and members of the Minimum Wage Class were not compensated for all hours actually worked as required by the California Labor Code and Wage Order 1.

31. California Labor Code § 1198 makes unlawful the employment of an employee under conditions that the Industrial Welfare Commission prohibits. California Labor Code §§ 1194(a) and 1194.2(a) provide that an employer who has failed to pay its employees the legal minimum wage is liable to pay those employees the unpaid balance of the unpaid wages as well as liquidated damages in an amount equal to the wages due and interest thereon.

32. As a direct and proximate result of Defendants' unlawful conduct as alleged herein, Plaintiff and the Minimum Wage Class have sustained economic damages, including, but not limited to unpaid wages and lost interest, in an amount to be established at trial, and they are entitled to recover economic and statutory damages and penalties and other appropriate relief as a result of Defendants' violations of the California Labor Code and Wage Order 1.

33. Defendants' timekeeping policies/practices are unlawful and create an entitlement to recovery by Plaintiff and members of the Minimum Wage Class in a civil action for the unpaid

1 amount of minimum wages, liquidated damages, including interest thereon, statutory penalties,
2 civil penalties, attorney's fees, and costs of suit according to California Labor Code §§ 204, 210,
3 216, 558, 1194, 1194.2, and 1198, and Code of Civil Procedure § 1021.5.

4
5 **THIRD CAUSE OF ACTION**
6 **MEAL PERIOD VIOLATIONS**
7 **(AGAINST ALL DEFENDANTS)**

8 34. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

9 35. Plaintiff is informed and believes, and based thereon alleges, that Defendants
10 failed in their affirmative obligation to provide all of their non-exempt employees in California,
11 including Plaintiff and members of the Meal Period Class, with all legally compliant meal periods
12 in accordance with the mandates of the California Labor Code and Wage Order 1, § 11, for the
13 reasons set forth in the factual allegations and class definitions sections of this Complaint. Despite
14 Defendants' violations, Defendants did not pay an additional hour of premium pay to Plaintiff
15 and members of the Meal Period Class at their respective regular rates of pay, in accordance with
16 California Labor Code §§ 226.7 and 512.

17 36. As a result, Defendants are responsible for paying premium compensation for meal
18 period violations, including interest thereon, statutory penalties, civil penalties, and costs of suit,
19 pursuant to Labor Code §§ 226.7, 512, and 558, Wage Order 1, and Code of Civil Procedure
20 § 1021.5.

21 **FOURTH CAUSE OF ACTION**
22 **REST PERIOD VIOLATIONS**
23 **(AGAINST ALL DEFENDANTS)**

24 37. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

25 38. Wage Order 1, § 12 and Labor Code §§ 226.7 and 516 establish the right of
26 employees to be provided with a rest period of at least ten (10) minutes for each four (4) hour
27 period worked, or major fraction thereof.

28 39. As alleged herein, and due to Defendants' unlawful rest period policies and/or

practices, Defendants failed to authorize and permit Plaintiff and members of the Rest Period Class to take all paid rest periods to which they were legally entitled. Despite Defendants' violations, Defendants failed to pay an additional hour of premium pay to Plaintiff and members of the Rest Period Class at their respective regular rates of pay for each violation, as required by California Labor Code § 226.7.

40. The foregoing violations create an entitlement to recovery by Plaintiff and members of the Rest Period Class in a civil action for the unpaid amount of rest period premiums owing, including interest thereon, statutory penalties, civil penalties, and costs of suit according to Labor Code §§ 226.7, 516, and 558, Wage Order 1, and Code of Civil Procedure § 1021.5.

FIFTH CAUSE OF ACTION

FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENSES

(AGAINST ALL DEFENDANTS)

41. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

42. At all relevant times herein, Defendants were subject to Labor Code § 2802, which states that "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."

43. At all times relevant herein, Defendants were subject to Labor Code § 2804, which states that "any contract or agreement, express or implied, made by any employee to waive the benefits of this article or any part thereof, is null and void, and this article shall not deprive any employee or his personal representative of any right or remedy to which he is entitled under the laws of this State."

44. As alleged herein, due to Defendants' unlawful reimbursement practices, Defendants failed to indemnify Plaintiff and the members of the Reimbursement Class for all necessary business expenses incurred, including, among other things, purchasing necessary tools.

45. As a proximate result of Defendants' policies and/or practices in violation of Labor Code §§ 2802 and 2804, Plaintiff and members of the Reimbursement Class are entitled to

1 damages, attorneys' fees and costs of suit, and interest thereon, in sums to be shown according to
2 proof at trial, pursuant to Labor Code § 2802.

3
4 **SIXTH CAUSE OF ACTION**

5 **WAGE STATEMENT VIOLATIONS**

6 **(AGAINST ALL DEFENDANTS)**

7 46. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

8 47. Plaintiff is informed and believes, and based thereon alleges, that Defendants
9 knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Plaintiff
10 and the Wage Statement Class with wage statements that complied with the requirements of Labor
11 Code § 226(a).

12 48. Defendants' failure to furnish Plaintiff and members of the Wage Statement Class
13 with compliant wage statements resulted in actual injury, as said failures rendered Plaintiff unable
14 to unable to readily ascertain the information on their wage statements.

15 49. Defendants' failures create an entitlement to recovery by Plaintiff and members of
16 the Wage Statement Class in a civil action for all damages and/or penalties pursuant to Labor
17 Code § 226 *et. seq.*, including statutory penalties, civil penalties, reasonable attorneys' fees, and
18 costs of suit according to California Labor Code § 226 *et. seq.*

19
20 **SEVENTH CAUSE OF ACTION**

21 **WAITING TIME PENALTIES**

22 **(AGAINST ALL DEFENDANTS)**

23 50. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

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

1 said employee's last date of employment.

2 52. Plaintiff is informed and believes, and based thereon alleges, that Defendants
3 failed to timely pay Plaintiff and members of the Waiting Time Class all final wages due to them
4 at the time of their separation including, among other things, underpaid overtime and minimum
5 wages owed, sick pay wages, and meal and rest period premium wages. Further, Plaintiff is
6 informed and believes, and based thereon alleges, that as a matter of uniform policy and practice,
7 Defendants continue to fail to pay members of the Waiting Time Class all earned wages at the
8 end of employment in a timely manner pursuant to the requirements of Labor Code §§ 201-203.
9 Defendants' failure to pay all final wages was willful within the meaning of Labor Code § 203.

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

15
16 **EIGHTH CAUSE OF ACTION**

17 **UNFAIR COMPETITION**

18 **(AGAINST ALL DEFENDANTS)**

19 54. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

20 55. Defendants have engaged and continue to engage in unfair and/or unlawful
21 business practices in California in violation of California Business and Professions Code § 17200
22 *et seq.* by, amongst other things, failing to pay Plaintiff and the Classes all overtime and minimum
23 wages owed; failing to pay all required meal and rest period premium wages owed; failing to
24 reimburse for all necessary business expenses incurred; knowingly failing to furnish complete
25 and accurate, itemized wage statements; and failing to pay all final wages at the time of separation
26 from employment.

27 56. Defendants' utilization of these unfair and/or unlawful business practices deprived
28 Plaintiff, and continues to deprive members of the Classes, of compensation to which they are

1 legally entitled, constitutes unfair and/or unlawful competition, and provides an unfair advantage
2 over Defendants' competitors who have been and/or are currently employing workers and
3 attempting to do so in honest compliance with applicable wage and hour laws.

4 57. Because Plaintiff is a victim of Defendants' unfair and/or unlawful conduct alleged
5 herein, Plaintiff, for himself and on behalf of the members of the Classes, seeks full restitution of
6 monies as necessary and according to proof to restore any and all monies withheld, acquired
7 and/or converted by Defendants pursuant to Business and Professions Code §§ 17203 and 17208.

8 58. The acts complained of herein occurred within the last four years immediately
9 preceding the filing of this action.

10 59. Plaintiff was compelled to retain the services of counsel to file this court action to
11 protect his interests and those of the Classes, to obtain restitution and injunctive relief on behalf
12 of Defendants' current non-exempt employees, and to enforce important rights affecting the
13 public interest. Plaintiff has thereby incurred the financial burden of attorneys' fees and costs,
14 which he is entitled to recover under Code of Civil Procedure § 1021.5.

15 **NINTH CAUSE OF ACTION**

16 **PRIVATE ATTORNEYS GENERAL ACT**

17 **(AGAINST ALL DEFENDANTS)**

18 60. Plaintiff re-alleges and incorporated by reference all previous paragraphs.

19 61. Defendants have committed several Labor Code Violations against Plaintiff,
20 members of the classes, and other aggrieved employees. Plaintiff, an "aggrieved employee"
21 within the meaning of Labor Code § 2698 *et seq.*, acting on behalf of himself and other aggrieved
22 employees, brings this representative action against Defendants to recover the civil penalties due
23 to Plaintiff, the members of the Classes, other aggrieved employees, and the State of California
24 according to proof pursuant to Labor Code § 558 and § 2699 (a) and (f) including, but not limited
25 to: (1) \$100.00 for each initial violation for each failure to pay each employee and \$200 for each
26 subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for each
27 failure to pay each employee; (2) \$50.00 for each initial violation and \$100 for each subsequent
28 violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial

violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per employee per pay period; (4) \$250.00 for each initial violation and \$1,000.00 for each subsequent violation pursuant to Labor Code § 226.3 per employee per pay period; and/or (5) \$100.00 for each initial violation and \$200.00 for each subsequent violation per employee per pay period for those violations of the Labor Code for which no civil penalty is specifically provided, based on the following Labor Code violations:

- a. Failing to pay Plaintiff and other aggrieved employees all overtime compensation earned in violation of Labor Code §§ 204, 510, 558, 1194 and 1198;
- b. Failing to pay Plaintiff and other aggrieved employees the statutory minimum wage for all hours worked in violation of Labor Code §§ 1182.12, 1194, 1194.2, and 1197;
- c. Failing to provide all meal periods as required by law and failing to pay meal period premiums to Plaintiff and other aggrieved employees at these employees' respective regular rates of compensation for meal period violations in violation of Labor Code §§ 226.7, 512, and 558;
- d. Failing to authorize and permit Plaintiff and other aggrieved employees to take all of their statutorily mandated, duty-free rest periods and failing to pay rest period premiums to Plaintiff and other aggrieved employees at these employees' respective regular rates of pay for rest period violations in violation of Labor Code §§ 226.7, 516, and 558;
- e. Failing to reimburse Plaintiff and other aggrieved employees for all work-related expenses incurred in violation of Labor Code §§ 2802 and 2804;
- f. Failing to pay Plaintiff and other aggrieved employees sick time pay at their regular rate of compensation in violation of Labor Code § 246;
- g. Failing to furnish Plaintiff and other aggrieved employees with accurate and compliant itemized wage statements in violation of Labor Code § 226;

- 1 h. Failing to timely pay all final wages due to Plaintiff and other aggrieved
2 employees in violation of Labor Code §§ 201- 203;
3 i. Failing to pay Plaintiff and other aggrieved employees all wages earned at least
4 twice during each calendar month in violation of Labor Code § 204; and
5 j. Failing to maintain accurate records on behalf of Plaintiff and aggrieved
6 employees in violation of Labor Code §§ 558 and 1174.

7 62. On October 23, 2023, Plaintiff notified Defendants, via certified mail, and the
8 California Labor and Workforce Development Agency (“LWDA”) via e-mail of Defendants’
9 violations of the California Labor Code and Plaintiff’s intent to bring a claim for civil penalties
10 under California Labor Code § 2698 *et seq.* with respect to violations of the California Labor
11 Code identified herein. Now that sixty-five days have passed from Plaintiff notifying Defendants
12 of these violations, Plaintiff has exhausted his administrative requirements for bringing a claim
13 under the Private Attorneys General Act with respect to these violations.
14

15 63. Based on the foregoing, Plaintiff seeks to represent himself and all other
16 Aggrieved Employees, as defined by Labor Code § 2699(c), which includes all of Defendants’
17 current and former nonexempt employees who worked for Defendants in California at any time
18 between October 24, 2022 and July 15, 2024.

19 64. Plaintiff was compelled to retain the services of counsel to file this court action to
20 protect his interests and the interests of other similarly aggrieved employees, and to assess and
21 collect the civil penalties owed by Defendants. Plaintiff has thereby incurred attorneys’ fees and
22 costs, which he is entitled to receive under California Labor Code § 2699.
23

24 **PRAYER**

25 WHEREFORE, Plaintiff prays for judgment for himself and for all others on whose behalf
26 this suit is brought against Defendants, as follows:

- 27 1. For an order certifying the proposed Classes;
28 2. For an order appointing Plaintiff as representative of the Classes;
3. For an order appointing Counsel for Plaintiff as Counsel for the Classes;

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

3 5. Upon the Second Cause of Action, for payment of minimum wages, liquidated
4 damages, and penalties owed according to proof pursuant to Labor Code §§ 1182.12, 1194,
5 1194.2 and 1197;

6 6. Upon the Third Cause of Action, for compensatory, consequential, general and
7 special damages according to proof pursuant to Labor Code §§ 226.7, 512 and 558;

8 7. Upon the Fourth Cause of Action, for compensatory, consequential, general, and
9 special damages according to proof pursuant to Labor Code §§ 226.7, 516, and 558;

10 8. Upon the Fifth Cause of Action, for compensatory, consequential, general, and
11 special damages according to proof pursuant to Labor Code §§ 2802 and 2804;

12 9. Upon the Sixth Cause of Action, for statutory penalties pursuant to Labor Code
13 § 226 *et. seq.*;

14 10. Upon the Seventh Cause of Action, for statutory waiting time penalties pursuant
15 to Labor Code §§ 201-203;

16 11. Upon the Eighth Cause of Action, for restitution to Plaintiff and members of the
17 Classes of all money and/or property unlawfully acquired by Defendants by means of any acts or
18 practices declared by this Court to be in violation of California Business and Professions Code
19 § 17200 *et seq.*;

20 12. Upon the Ninth Cause of Action, for civil penalties due to Plaintiff, other
21 aggrieved employees, and the State of California according to proof pursuant to Labor
22 Code §§ 558 and 2699(a) and (f) including, but not limited to: (1) \$100.00 for each initial
23 violation for each failure to pay each employee and \$200 for each subsequent violation or willful
24 or intentional violation pursuant to Labor Code § 210 for each failure to pay each employee;
25 (2) \$50.00 for each initial violation and \$100.00 for each subsequent violation pursuant to Labor
26 Code § 558 per employee per pay period; (3) \$100.00 for each initial violation and \$250.00 for
27 each subsequent violation pursuant to Labor Code § 1197.1 per employee per pay period;
28 (4) \$250.00 for each initial violation and \$1,000.00 for each subsequent violation pursuant to

1 Labor Code § 226.3 per employee per pay period; and/or (5) \$100.00 for each initial violation
2 and \$200.00 for each subsequent violation per employee per pay period for those violations of
3 the Labor Code for which no civil penalty is specifically provided, based on the violations of
4 Labor Code sections cited in Paragraph 61 (a)-(j) above;

5 13. Prejudgment interest on all due and unpaid wages pursuant to California Labor
6 Code § 218.6 and Civil Code §§ 3287 and 3289;

7 14. On all causes of action, for attorneys' fees and costs as provided by Labor Code
8 §§ 218.5, 1194 *et seq.*, and 226, and Code of Civil Procedure § 1021.5; and

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

10 Dated: September 17, 2024

Respectfully submitted,
HAINES LAW GROUP, APC

11
12 By:



13 Fletcher W. Schmidt
14 Attorneys for Plaintiff

DEMAND FOR JURY TRIAL

15 Plaintiff hereby demands a jury trial with respect to all issues triable by jury.

16 Dated: September 17, 2024

Respectfully submitted,
HAINES LAW GROUP, APC

17
18 By:



19 Fletcher W. Schmidt
20 Attorneys for Plaintiff
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