

HAINES LAW GROUP, APC
Paul K. Haines (SBN 248226)
phaines@haineslawgroup.com
Sean M. Blakely (SBN 264384)
sblakely@haineslawgroup.com
2155 Campus Drive, Suite 180
El Segundo, California 90245
Tel: (424) 292-2350
Fax: (424) 292-2355

Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF RIVERSIDE

JOSE HERNANDEZ-ALVARADO, as an
individual and on behalf of all others similarly
situated,

Plaintiff,

vs.

BLOW MOLDED PRODUCTS, INC., a
California Corporation; PLASTIC
TECHNOLOGIES, INC., dba BLOW
MOLDED PRODUCTS, a California
Corporation; and DOES 1 through 100,

Defendants.

CASE NO. CVRI2302599

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

- (1) MINIMUM WAGE VIOLATIONS
(LABOR CODE §§ 1182.12, 1194,
1194.2, and 1197);**
- (2) FAILURE TO PAY ALL OVERTIME
WAGES (LABOR CODE §§ 204, 510,
558, 1194, and 1198);**
- (3) MEAL PERIOD VIOLATIONS
(LABOR CODE §§ 226.7, 512, and
558);**
- (4) REST PERIOD VIOLATIONS
(LABOR CODE §§ 226.7, 516, and
558);**
- (5) WAITING TIME PENALTIES
(LABOR CODE §§ 201-203);**
- (6) FAILURE TO REIMBURSE FOR ALL
NECESSARY BUSINESS
EXPENDITURES (LABOR CODE
§§ 2802 and 2804);**
- (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**

Plaintiff Jose Hernandez-Alvarado (“Plaintiff”), on behalf of himself and all others similarly situated, hereby brings this First Amended Class and Representative Action Complaint (“Complaint”) against Defendants Blow Molded Products, Inc., a California Corporation; Plastic Technologies, Inc., dba Blow Molded Products; and Does 1 through 100, inclusive (collectively “Defendants”), and on information and belief alleges as follows:

JURISDICTION

1. Plaintiff, on behalf of himself and all others similarly situated, hereby brings this class action for recovery of unpaid wages and penalties under California Labor Code §§ 201-204, 226.7, 510, 512, 516, 558, 1182.12, 1194, 1194.2, 1197, 1198, 2698 *et seq.*, 2802, and 2804, California Business and Professions Code §§ 17200, *et. seq.* (Unfair Competition), and Industrial Welfare Commission Wage Order No. 1 (“Wage Order 1”), in addition to seeking declaratory relief and restitution. This class action is brought pursuant to California Code of Civil Procedure § 382. This Court has jurisdiction over Defendants’ violations of the California Labor Code because the amount in controversy exceeds this Court’s jurisdictional minimum.

VENUE

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

PARTIES

3. Plaintiff is an individual over the age of eighteen (18). At all relevant times herein, Plaintiff was, and currently is, a California resident, residing in the County of Riverside. During

the four years immediately preceding the filing of the Complaint in 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-exempt employee. Plaintiff was, and is, a victim of Defendants' policies and/or practices complained of herein, lost money and/or property, and has been deprived of the rights guaranteed to him by California Labor Code §§ 201-204, 226.7, 510, 516, 558, 1182.12, 1194, 1194.2, 1197, 1198, 2698 *et seq.*, 2802, and 2804, California Business and Professions Code §§ 17200, *et seq.*, and Wage Order 1, which sets employment standards for the manufacturing industry.

4. Plaintiff is informed and believes, and based thereon alleges, that during the four years preceding the filing of the Complaint and continuing to the present, Defendants did (and do) business by manufacturing custom blow-molded plastic products in Riverside County, and employed Plaintiff and other similarly situated non-exempt employees within the County of Riverside and the State of California and, therefore, were (and are) doing business in the County of Riverside and the State of California.

5. Plaintiff does 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 Plaintiff will seek leave from this Court to amend this Complaint when such true names and capacities are discovered. Plaintiff is informed and believes, and based thereon alleges, that each of said fictitious defendants, whether individual, partner, or corporate, were responsible in some manner for the acts and omissions alleged herein, and proximately caused Plaintiff and the Classes (as defined in Paragraph 16) to be subject to the unlawful employment practices, wrongs, injuries, and damages complained of herein.

6. Plaintiff is informed and believes, and based thereon alleges, that at all times mentioned herein, Defendants were and are the employers of Plaintiff and all members of the Classes (as defined in Paragraph 16).

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

1 the other Defendants, as well as the agents of all Defendants, and at all times herein mentioned
2 were acting within the course and scope of said agency and employment. Defendants, and each
3 of them, approved of, condoned, and/or otherwise ratified each and every one of the acts or
4 omissions complained of herein.

5 8. At all times mentioned herein, Defendants, and each of them, were members of
6 and engaged in a joint venture, partnership, and common enterprise, and acted within the course
7 and scope of and in pursuance of said joint venture, partnership, and common enterprise. Further,
8 Plaintiff alleges that all Defendants were joint employers for all purposes of Plaintiff and all
9 members of the Classes (as defined in Paragraph 16).

10 **GENERAL FACTUAL ALLEGATIONS**

11 9. Plaintiff worked for Defendants as a non-exempt employee from approximately
12 2008 until approximately August 2021.

13 10. During Plaintiffs' employment with Defendants, upon information and belief,
14 during at least a portion of relevant time period, Defendants utilized a timekeeping system which
15 resulted in Plaintiffs and other non-exempt employees not being compensated for all hours
16 actually worked, whether by rounding, time-shaving, or otherwise. Upon information and belief,
17 Defendants' timekeeping system regularly, systematically, and impermissibly rounded the hours
18 worked by Plaintiffs and other non-exempt employees in Defendants' favor, resulting, over a
19 period of time, in the failure to compensate Plaintiffs and other non-exempt employees for all
20 hours worked. As a result, Plaintiffs and other non-exempt employees were not compensated for
21 all required minimum and overtime wages.

22 11. Plaintiff often worked in excess of eight hours per workday and/or forty hours per
23 workweek, but did not receive overtime compensation equal to one and one half times his regular
24 rate of pay for all overtime hours worked. Specifically, Defendants paid any hours worked in
25 excess of eight hours in a workday and/or forty hours in a workweek to Plaintiff at Plaintiff's base
26 rate of pay and not at a rate of one- and one-half times his regular rate of pay for such hours. As
27 a result, Defendants failed to pay Plaintiff and other non-exempt employees for all overtime hours
28 worked.

1 12. Defendants failed to provide Plaintiff and other non-exempt employees with all
2 legally compliant meal periods due to Defendants' meal period policies/practices, which have
3 frequently resulted in late (commencing after the fifth hour of work) and short (less than 30
4 minutes) meal periods. Specifically, although Plaintiff began his work shift at 12:00 a.m., he was
5 often not provided with a meal period until 7:00 a.m., which is after the completion of five hours
6 of work. Additionally, Defendants failed to provide Plaintiff and other non-exempt employees
7 with second meal periods on shifts over 10.0 hours. On those occasions when Plaintiff was not
8 provided with all legally-compliant meal periods to which he was entitled, Defendants failed to
9 compensate Plaintiff with the required meal period premium(s) for each workday there was a
10 meal period violation as mandated by Labor Code § 226.7. Upon information and belief,
11 Defendants maintained no mechanism for the payment of meal period premium payments as
12 required by Labor Code § 226.7, in the event that a legally-compliant meal period was not
13 provided to their non-exempt employees.

14 13. Plaintiff was not authorized and permitted to take all legally compliant rest periods
15 due to Defendants' rest period policies/practices, which fail to authorize and permit an off-duty
16 rest period for every four hours worked, or major fraction thereof. Specifically, due to work
17 demands imposed by Defendants, Plaintiff was prevented from being relieved of all work duties
18 during required rest periods. On the occasions when Plaintiff was not provided with all legally
19 compliant rest periods to which he was entitled, Defendants failed to compensate Plaintiff with
20 the required rest period premium for each workday in which he experienced a rest period violation
21 as mandated by Labor Code § 226.7. Upon information and belief, during at least a portion of the
22 putative class period, Defendants maintained no payroll code or other mechanism for the payment
23 of rest period premiums as required by Labor Code § 226.7 in the event a legally compliant rest
24 period was not provided to their non-exempt employees.

25 14. Defendants failed to reimburse Plaintiff and other non-exempt employees for use
26 of their personal cellular phones for work activities. Plaintiff was required to use his personal
27 cellular phone to communicate with Plaintiff's supervisors and other co-workers; however,
28 Defendants failed to reimburse Plaintiff and other non-exempt employees for the use of their

personal cellular phones for business purposes. Furthermore, Plaintiff was required to purchase his own tools to perform his job duties for Defendants; however, Defendants failed to reimburse Plaintiff for the use of his personal tools.

15. As a result of Defendants' failure to pay all minimum and overtime wages and failure to pay all meal and rest period premium wages, Defendants failed to timely pay all final wages to Plaintiff and other former employees upon their separation of employment from Defendants.

CLASS ACTION ALLEGATIONS

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

a. The Minimum Wage Class consists of all of Defendants' current and former non-exempt employees in California who were subject to Defendants' timekeeping policies/practices, during the four years immediately preceding the filing of the Complaint through the present.

b. The Overtime Class consists of all of Defendants' current and former non-exempt employees in California who worked more than 8 hours per day and/or 40 hours per week and (i) were paid for overtime hours at their base hourly rate of pay and not at a rate of one and one half times the regular rate of pay; and/or (ii) were subject to Defendants' timekeeping policies/practices, during the four years immediately preceding the filing of the Complaint through the present.

c. The Meal Period Class consists of all of Defendants' current and former non-exempt employees in California who worked at least one shift: (i) in excess of 5.0 hours without a meal period of at least 30 minutes commencing prior to the end of the fifth hour of work, and who do not have a corresponding meal period premium payment made for such shifts; and/or (ii) in excess of 10.0 hours without a second meal period of at least 30 minutes in duration commencing prior to the conclusion of the tenth hour of work, and who do not have a corresponding meal period premium payment made for such shifts, during the four years immediately preceding the filing of the Complaint through

1 the present.

2 d. The Rest Period Class consists of all of Defendants' current and former
3 non-exempt employees in California who worked at least one shift in excess of 3.5 hours,
4 during the four years immediately preceding the filing of the Complaint through the
5 present.

6 e. The Employee Expense Class consists of all of Defendants' current and
7 former non-exempt employees in California who were not reimbursed for the use of their
8 personal cellular phones and tools, during the four years immediately preceding the filing
9 of the Complaint through the present.

10 f. The Waiting Time Class consists of all members of the Minimum Wage
11 Class, Overtime Class, Meal Period Class, and/or Rest Period Class who no longer
12 perform work for Defendants and who last worked for Defendants in the three years
13 immediately preceding the filing of the Complaint through the present.

14 17. **Numerosity/Ascertainability:** The members of the Classes are so numerous that
15 joinder of all members would be unfeasible and not practicable. The membership of the Classes
16 and Subclasses are unknown to Plaintiff at this time; however, it is estimated that the Classes
17 number greater than fifty (50) individuals as to each Class. The identity of such membership is
18 readily ascertainable via inspection of Defendants' employment records.

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

23 i. Whether Plaintiff and members of the Minimum Wage Class were
24 compensated for all hours actually worked;

25 ii. Whether Defendants' overtime policies/practices violate the applicable
26 Labor Code provisions, including, but not limited to Sections 510 and 1194, by requiring
27 overtime work and not paying members of the Overtime Class for said work according to
28 the overtime laws of the State of California;

1 iii. Whether Defendants provided legally compliant meal periods to members
2 of the Meal Period Class;

3 iv. Whether Defendants authorized and permitted legally compliant paid rest
4 periods to members of the Rest Period Class; and

5 v. Whether Defendants' policies and/or practices for the timing and amount
6 of payment of final wages to Waiting Time Class members at their separation of
7 employment were lawful.

8 19. **Predominance of Common Questions:** Common questions of law and fact
9 predominate over questions that affect only individual members of the Classes. The common
10 questions of law set forth above are numerous and substantial and stem from Defendants' policies
11 and/or practices applicable to each individual class member, such as their uniform timekeeping
12 policies/practices and uniform meal and rest period policies/practices. As such, these common
13 questions predominate over individual questions concerning each individual class member's
14 showing as to his or her eligibility for recovery or as to the amount of his or her damages.

15 20. **Typicality:** The claims of Plaintiff are typical of the claims of the Classes because
16 Plaintiff was employed by Defendants as a non-exempt employee in California during the statutes
17 of limitation applicable to each cause of action pled in the Complaint in this action. As alleged
18 herein, Plaintiff, like the members of the Classes, was deprived of all minimum and overtime
19 wages, was subject to Defendants' uniform meal and rest period policies/practices, and was not
20 paid all final wages upon separation of employment.

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

27 22. **Superiority:** The California Labor Code is broadly remedial in nature and serves
28 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 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.

23. As such, the Classes identified in Paragraph 16 are maintainable under Section 382 of the Code of Civil Procedure.

FIRST CAUSE OF ACTION

MINIMUM WAGE VIOLATIONS

(AGAINST ALL DEFENDANTS)

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

25. Wage Order 1, § 4 and 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.

26. 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 Defendants' timekeeping policies/practices for members of the Minimum Wage Class, which resulted in these individuals not being paid for all hours worked. Accordingly, Plaintiff and members of the Minimum Wage Class were not compensated for all hours worked, including, but not limited to all hours they were subject to the control of Defendants and/or suffered or permitted to work under the California Labor Code and Wage Order 1.

27. Defendants' policy and practice of not paying all minimum wages violates Labor Code §§ 204, 210, 216, 558, 1182.12, 1197.1, and 1198, and Wage Order 1.

28. Such a practice and uniform administration of corporate policy regarding illegal employee compensation is unlawful and creates an entitlement to recovery by Plaintiff and members of the Minimum Wage Class in a civil action for the unpaid amount of minimum wages, liquidated damages, including interest thereon, statutory penalties, civil penalties, attorneys' fees, and costs of suit according to Labor Code §§ 204, 210, 216, 558, 1194, 1194.2, and 1198, and Code of Civil Procedure § 1021.5.

SECOND CAUSE OF ACTION

FAILURE TO PAY ALL OVERTIME WAGES

(AGAINST ALL DEFENDANTS)

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

30. 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 all overtime wages and compensation for hours worked, and provide a private right of action for the failure to pay all overtime compensation for overtime work performed.

31. At all times relevant herein, Defendants were required to properly compensate Plaintiff and members of the Overtime Class for all overtime hours worked pursuant to Labor Code § 1194 and Wage Order 1. Wage Order 1, § 3 requires an employer to pay an employee “one and one-half (1½) times the employee’s regular rate of pay” for work in excess of 8 hours per work day and/or in excess of 40 hours of work in the workweek. Wage Order 1, § 3 also requires an employer to pay an employee double the employee’s regular rate of pay for work in excess of 12 hours each work day and/or for work in excess of 8 hours on the seventh consecutive day of work in the workweek.

32. Plaintiff is informed and believes, and based thereon alleges, that Defendants regularly and systematically, as a policy and practice, did not pay all overtime wages. Defendants’ policy and practice of requiring overtime work and not paying at the proper overtime rates for said work violates Labor Code §§ 204, 210, 216, 510, 558, 1194, and 1198, and Wage Order 1.

33. The foregoing policies and practices are unlawful and create an entitlement to recovery by Plaintiff and members of the Overtime Class in a civil action for the unpaid amount of overtime premiums owing, including interest thereon, statutory penalties, civil penalties, attorneys’ fees, and costs of suit according to Labor Code §§ 204, 210, 216, 510, 558, 1194, and 1198, and Code of Civil Procedure § 1021.5.

THIRD CAUSE OF ACTION
MEAL PERIOD VIOLATIONS
(AGAINST ALL DEFENDANTS)

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

35. Plaintiff is informed and believes, and based thereon alleges, that Defendants failed in their affirmative obligation to provide all of their non-exempt employees in California, including Plaintiff and members of the Meal Period Class, with all legally compliant meal periods in accordance with the mandates of the California Labor Code and Wage Order 1, § 11. Despite Defendants’ violations, Defendants did not pay an additional hour of pay to Plaintiff and members of the Meal Period Class at their respective regular rates of pay, in accordance with California

1 Labor Code §§ 204, 210, 226.7, and 512.

2 36. As a result, Defendants are responsible for paying premium compensation for meal
3 period violations pursuant to Labor Code §§ 226.7 and 512, and Wage Order 1, including interest
4 thereon, statutory penalties, civil penalties, and costs of suit.

5 **FOURTH CAUSE OF ACTION**

6 **REST PERIOD VIOLATIONS**

7 **(AGAINST ALL DEFENDANTS)**

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

9 38. Wage Order 1, § 12 and Labor Code §§ 226.7, 516, and 558 establish the right of
10 employees to be provided with a rest period of at least ten (10) minutes for each four (4) hour
11 period worked, or major fraction thereof.

12 39. Due to their unlawful rest period policies and/or practices, Defendants did not
13 authorize and permit members of the Rest Period Class to take the paid rest periods to which they
14 are legally entitled. Despite Defendants' violations, Defendants have not paid an additional hour
15 of pay to Plaintiff and members of the Rest Period Class at their respective regular rates of pay
16 for each violation in accordance with Labor Code § 226.7.

17 40. The foregoing policies and practices are unlawful and create an entitlement to
18 recovery by Plaintiff and members of the Rest Period Class in a civil action for the unpaid amount
19 of rest period premiums owing, including interest thereon, statutory penalties, civil penalties, and
20 costs of suit according to Labor Code §§ 226.7, 516, and 558, and Civil Code §§ 3287(b) and
21 3289.

22 **FIFTH CAUSE OF ACTION**

23 **WAITING TIME PENALTIES**

24 **(AGAINST ALL DEFENDANTS)**

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

26 42. This cause of action is brought pursuant to Cal. Labor Code §§ 201-203, which
27 require an employer to pay all wages immediately at the time of separation of employment in the
28 event the employer discharges the employee or the employee provides at least 72 hours of notice

1 of their intent to quit. In the event the employee provides less than 72 hours of notice of their
2 intent to quit, said employee's wages become due and payable not later than 72 hours upon said
3 employee's last date of employment.

4 43. Plaintiff is informed and believes, and based thereon alleges, that Defendants
5 failed to timely pay Plaintiff and members of the Waiting Time Class all final wages due to them
6 at their separation from employment, including unpaid minimum and overtime wages as well as
7 unpaid meal and rest period premium wages.

8 44. Further, Plaintiff is informed and believes, and based thereon alleges, that as a
9 matter of policy and practice, Defendants continue to fail to pay Plaintiff and members of the
10 Waiting Time Class all earned wages at the end of employment in a timely manner pursuant to
11 the requirements of Cal. Labor Code §§ 201-203.

12 45. Defendants' failure to pay all final wages was willful within the meaning of Cal.
13 Labor Code § 203. Defendants' willful failure to timely pay Plaintiff and the members of the
14 Waiting Time Class their earned wages upon separation from employment results in a continued
15 payment of daily wages up to thirty days from the time the wages were due.

16 46. Plaintiff and members of the Waiting Time Class are entitled to compensation
17 pursuant to Cal. Labor Code § 203, plus reasonable attorneys' fees and costs of suit.

18 **SIXTH CAUSE OF ACTION**

19 **FAILURE TO REIMBURSE FOR ALL NECESSARY BUSINESS EXPENDITURES**
20 **(AGAINST ALL DEFENDANTS)**

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

22 48. At all relevant times herein, Defendants were subject to Labor Code § 2802, which
23 states that "an employer shall indemnify his or her employees for all necessary expenditures or
24 losses incurred by the employee in direct consequence of the discharge of his or her duties, or of
25 his or her obedience to the directions of the employer."

26 49. At all relevant times herein, Defendants were subject to Labor Code § 2804, which
27 states that "any contract or agreement, express or implied, made by any employee to waive the
28 benefits of this article or any part thereof, is null and void, and this article shall not deprive any

1 employee or his personal representative of any right or remedy to which he is entitled under the
2 laws of this State.”

3 50. Due to Defendants’ unlawful policy and practice of requiring employees to use
4 their personal cellular phones and tools for work purposes, and failing to compensate employees
5 for the use of their personal cellular phones and tools, Defendants have violated Labor Code §
6 2802.

7 51. As a proximate result of Defendants’ policies and/or practices in violation of Labor
8 Code §§ 2802 and 2804, Plaintiff and members of the Employee Expense Class suffered damages
9 in sums, which will be shown according to proof.

10 52. Plaintiff and members of the Employee Expense Class are entitled to attorneys’
11 fees and costs of suit pursuant to Labor Code § 2802(c) for bringing this action.

12 53. Pursuant to Labor Code §2802(b), any action brought for the reimbursement of
13 necessary expenditures carries interest at the same rate as judgments in civil actions. Thus,
14 Plaintiff and members of the Employee Expense Class are entitled to interest, which shall accrue
15 from the date on which they incurred the initial necessary expenditure.

16 **SEVENTH 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 §§
22 17200, *et seq.* by failing to pay Plaintiff and members of the Classes all overtime and minimum
23 wages and all meal and rest period premium wages, failing to reimburse for necessary business
24 expenses, and failing to pay all final wages upon separation of employment.

25 56. Defendants’ utilization of these unfair and/or unlawful business practices deprived
26 Plaintiff, and continues to deprive members of the Classes, of compensation to which they are
27 legally entitled, constitutes unfair and/or unlawful competition, and provides an unfair advantage
28

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.

57. Because Plaintiff is a victim of Defendants' unfair and/or unlawful conduct alleged herein, Plaintiff for himself and on behalf of the members of the Classes, seeks 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.

58. The acts complained of herein occurred within the four years immediately preceding the filing of the Complaint in this action.

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

EIGHTH CAUSE OF ACTION

PRIVATE ATTORNEYS GENERAL ACT

(AGAINST ALL DEFENDANTS)

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

61. Defendants have committed several Labor Code violations against Plaintiff, members of the Classes, and other aggrieved employees. Plaintiff, an "aggrieved employee" within the meaning of Labor Code § 2698 *et seq.*, acting on behalf of himself and other aggrieved employees, brings this representative action against Defendants to recover the civil penalties due to Plaintiff, the members of the Classes, other aggrieved employees, and the State of California according to proof pursuant to Labor Code § 558 and § 2699 (a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for each failure to pay each employee and \$200 for each subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100 for each subsequent 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 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 minimum wages for all hours worked to Plaintiff, the Minimum Wage Class, and other aggrieved employees in violation of Labor Code §§ 1182.12, 1194, 1194.2, and 1197;
- b. Failing to pay Plaintiff, the Overtime Class, and other aggrieved employees all earned overtime compensation in violation of Labor Code §§ 204, 510, 558, 1194, and 1198;
- c. Failing to provide all legally required meal periods, and failure to pay meal period premium wages, to Plaintiff, the Meal Period Class, and other aggrieved employees at the regular rate of compensation in violation of Labor Code §§ 226.7, 512, 558, and 1198;
- d. Failing to authorize and permit all legally required rest periods, and failure to pay rest period premium wages, to Plaintiff, the Rest Period Class, and other aggrieved employees at the regular rate of compensation in violation of Labor Code §§ 226.7, 516, 558, and 1198;
- e. Failing to timely pay all final wages and compensation earned by Plaintiff, the Waiting Time Class, and other aggrieved employees at the time of separation in violation of Labor Code §§ 201, 202, and 203;
- f. Failing to reimburse Plaintiff, the Employee Expense Class, and other aggrieved employees for all necessary work expenses incurred in violation of Labor Code §§ 2802 and 2804;
- g. Failing to furnish Plaintiff, the Wage Statement Class, and other aggrieved employees with complete, accurate, itemized wage statements in violation of Labor Code § 226;

1 h. Failing to pay Plaintiff and other aggrieved employees all earned wages at least
2 twice during each calendar month in violation of Labor Code § 204; and

3 i. Failing to maintain accurate records on behalf of Plaintiff and other aggrieved
4 employees in violation of Labor Code § 1174 and 1198.

5 62. On October 16, 2023, Plaintiff notified Defendants via certified mail, and notified
6 the California Labor and Workforce Development Agency (“LWDA”) via its website, of
7 Defendants’ violations of the California Labor Code and Plaintiff’s intent to bring a claim for
8 civil penalties under California Labor Code § 2698 *et seq.* with respect to the violations of the
9 California Labor Code identified in Paragraph 61 (a)-(i). Now that sixty-five days have passed
10 from Plaintiff notifying Defendants and the LWDA of these violations, and the LWDA has not
11 provided notice that it intends to investigate the violations, Plaintiff has exhausted his
12 administrative requirements for bringing a claim under the Private Attorneys General Act with
13 respect to these violations.

14 63. Based on the foregoing, Plaintiff seeks to represent himself and all Aggrieved
15 Employees, as defined by Labor Code § 2699(c).

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

20 **PRAYER**

21 WHEREFORE, Plaintiff prays for judgment for himself and for all others on whose behalf
22 this suit is brought against Defendants, jointly and severally, as follows:

- 23 1. For an order certifying the proposed Classes;
24 2. For an order appointing Plaintiff as representative of the Classes;
25 3. For an order appointing counsel for Plaintiff as counsel for the Classes;
26 4. Upon the First Cause of Action, for payment of minimum wages, liquidated
27 damages, and penalties according to proof pursuant to Labor Code §§ 558, 1194, 1194.2, and
28 1197;

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

5 7. Upon the Fourth Cause of Action, for compensatory, consequential, general, and
6 special damages according to proof pursuant to Labor Code §§ 226, 516, and 558;

7 8. Upon the Fifth Cause of Action, for statutory waiting time penalties pursuant to
8 Labor Code §§ 201-203;

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

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

15 11. Upon the Eighth Cause of Action, for civil penalties due to Plaintiff, other
16 aggrieved employees, and the State of California according to proof pursuant to Labor Code §§
17 558 and 2699(a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for
18 each failure to pay each employee and \$200 for each subsequent violation or willful or intentional
19 violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the
20 amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100 for each subsequent
21 violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial
22 violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per
23 employee per pay period; (4) \$250.00 for each initial violation and \$1,000.00 for each subsequent
24 violation pursuant to Labor Code § 226.3 per employee per pay period; and/or (5) \$100.00 for
25 each initial violation and \$200 for each subsequent violation per employee per pay period for
26 those violations of the Labor Code for which no civil penalty is specifically provided, based on
27 the Labor Code violations identified in Paragraph 61 (a)-(i);
28

1 12. Prejudgment interest on all due and unpaid wages pursuant to Labor Code § 218.6
2 and Civil Code §§ 3287 and 3289;

3 13. On all causes of action, for attorneys' fees and costs as provided by Labor Code
4 §§ 1194, 2699(g), and 2802(c); and Code of Civil Procedure § 1021.5; and

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

6
7 Dated: December 21, 2023

Respectfully submitted,
HAINES LAW GROUP, APC

8
9 By:



10 Paul K. Haines
11 Attorneys for Plaintiff

12 **DEMAND FOR JURY TRIAL**

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

14
15 Dated: December 21, 2023

HAINES LAW GROUP, APC

16
17 By:



18 Paul K. Haines
19 Attorneys for Plaintiff
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PROOF OF SERVICE

Jose Hernandez-Alvarado v. Blow Molded Products, Inc., et al.
Riverside County Superior Court Case No. CVRI2302599

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 [X] 2155 Campus Drive, Suite 180, El Segundo, California 90245.

On December 21, 2023, 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:

Amber S. Healy, Esq.
Email: ahealy@aalrr.com
Hailey N. Oberst, Esq.
Email: hailey.oberst@aalrr.com
ATKINSON, ANDELSON, LOYA, RUUD & ROMO
12800 Center Court Drive, Suite 300
Cerritos, CA 90703
Attorneys for Defendants BLOW MOLDED PRODUCTS, INC., and PLASTIC TECHNOLOGIES, INC.

[X] (VIA ELECTRONIC MAIL) Pursuant to California Rule of Court 2.251(c)(3), I caused the document described above to be sent to the persons at the electronic service addresses listed above via third party cloud service First Legal.

[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 December 21, 2023, at El Segundo, California.



Aaron Clark