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10 individually and on behalf of all other similarly situated employees

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SUPERIOR COURT OF CALIFORNIA
FOR THE COUNTY OF SAN JOAQUIN

RAUL SAGASTUME, individually and on
behalf of all other similarly situated
employees,

Plaintiff,

vs.

THE WOODBRIDGE GOLF & COUNTRY
CLUB, a California Corporation; NICK
SALVETTI, an individual; and DOES 1 to
100, inclusive,

Defendants.

Case No. STK-CV-UOE-2023-0010980

CLASS ACTION

FIRST AMENDED COMPLAINT FOR
DAMAGES:

1. Failure to Pay Overtime Wages
2. Failure to Pay Minimum Wages
3. Meal Period Violations
4. Rest Period Violations
5. Wage Statement Violations
6. Waiting Time Penalties
7. Failure to Reimburse Expenses
8. Unfair Competition
9. Private Attorneys General Act

DEMAND FOR JURY TRIAL

FIRST AMENDED CLASS ACTION COMPLAINT

FILE BY FAX

1 Plaintiff RAUL SAGASTUME ("Plaintiff"), on behalf of himself and all other similarly
2 situated employees, hereby files this First Amended Complaint against Defendants THE
3 WOODBRIDGE GOLF & COUNTRY CLUB, a California Corporation; NICK SALVETTI, an
4 individual; and DOES 1 to 100, inclusive (hereinafter all collectively referred to as "Defendants").
5 On information and belief, Plaintiff allege the following:

6 **INTRODUCTION**

7 1. This is a class action and Private Attorneys General Act ("PAGA") lawsuit brought by
8 Plaintiff for failure to provide overtime wages, failure to provide minimum wages, meal and rest period
9 violations, waiting time penalties, failure to reimburse expenses, and unfair competition.

10 **JURISDICTION AND VENUE**

11 2. The San Joaquin County Superior Court has jurisdiction in this matter pursuant to
12 California Code of Civil Procedure section 410.10 to determine alleged violations of the California
13 Labor Code, California Business and Professions Code, and Wage Order No. 5.

14 3. Venue is proper pursuant to Civil Procedure Code §§ 395(a), and 395.5, in that
15 Defendants resides in San Joaquin County. In addition, some of the wrongful acts and violations of law
16 asserted herein occurred within San Joaquin County, and Defendants' obligation to pay wages arose in
17 San Joaquin County pursuant to *Madera Police Officers Assn. v. City of Madera*, 36 Cal.3d 403, 414
18 (1984).

19 4. Plaintiff sought permission pursuant to California Labor Code section 2699 *et seq.* to
20 pursue the claims set forth in this Complaint against Defendants as a Private Attorney General on behalf
21 of himself and other similarly situated employees. Pursuant to California Labor Code section 2699.3,
22 Plaintiff gave written notice via online submission to the Labor and Workforce Development Agency
23 ("LWDA") on approximately October 16, 2023. Plaintiff provided facts and legal basis for his claims
24 within the notice to the LWDA on all violations asserted under the Private Attorneys General Act cause
25 of action. Plaintiff also submitted the \$75.00 filing fee. The October 16, 2023, notice was also sent via
26 certified mail to Defendants on the same day. To date, the LWDA has not provided any response to
27 Plaintiff's notice correspondence. Accordingly, Plaintiff has exhausted all administrative remedies
28 pursuant to the Private Attorneys General Act ("PAGA") and may bring this action on behalf of himself

1 and all similarly situated employees, *i.e.* Aggrieved Employees. *See* Cal. Lab. Code § 2699.3(a)(2)(A),
2 (c)(3); *Caliber Bodyworks, Inc., v. Sup. Ct.*, 134 Cal. App. 4th 365, 383 n.18, 385 n.19 (2005).
3 Aggrieved Employees include, but is not limited to the following: all non-exempt employees who
4 worked, or continue to work, for Defendants in California at any time between October 16, 2022 to
5 present.

6 **PARTIES**

7 5. RAUL SAGASTUME is an individual over the age of eighteen (18) and is a resident
8 of the State of California.

9 6. On information and belief, Plaintiff alleges, THE WOODBRIDGE GOLF &
10 COUNTRY CLUB, is now and/or at all times mentioned in this Complaint was a California
11 Corporation and the owner and operator of an industry, business and/or facility doing business in the
12 State of California.

13 7. On information and belief, Plaintiff alleges, NICK SALVETTI, is now and/or at all
14 times mentioned in this Complaint was an individual and the owner and operator of an industry,
15 business and/or facility doing business in the State of California. On information and belief, Plaintiff
16 alleges, NICK SALVETTI, is an individual over the age of eighteen (18) and is a resident of the
17 State of California. On information and belief, Plaintiff alleges that NICK SALVETTI is an owner,
18 director, officer, and/or managing agent of THE WOODBRIDGE GOLF & COUNTRY CLUB
19 responsible for causing the violations outlined in the first through seventh causes of action. As such
20 NICK SALVETTI is individually liable pursuant to California Labor Code section 558.1. Pursuant
21 to California Labor Code section 558.1, THE WOODBRIDGE GOLF & COUNTRY CLUB and are
22 NICK SALVETTI jointly and severally liable for each cause of action asserted herein. On
23 information and belief, Plaintiff alleges that NICK SALVETTI trained subordinate staff to
24 implement and carry out the policies and practices identified herein. As a result, whether directly or
25 indirectly, NICK SALVETTI caused the violations identified herein. NICK SALVETTI was
26 responsible for the violations stated herein as he was in a position of authority with the power and
27 responsibility to monitor, institute, and/or modify the unlawful practices, but chose to ratify them
28 instead.

8. Defendants DOES 1 through 100 are affiliates, subsidiaries and related entities and the alter egos of each of the other Defendants named herein, corporate or otherwise, who participated in and are liable for the actions herein alleged. Plaintiff will seek to amend this Complaint to allege the true names and capacities of these DOE Defendants when they are ascertained.

9. At all times mentioned herein, each Defendant was the agent or employee of each of the other Defendants and was acting within the course and scope of such agency or employment. The Defendants are jointly and severally liable to Plaintiff.

10. Defendants, and each of them, are now and/or at all times mentioned in this Complaint were members of and/or engaged in a joint employment, joint venture, partnership and common enterprise, and were acting within the course and scope of, and in pursuance of said joint employment, joint venture, partnership and common enterprise.

11. Defendants, and each of them, now and/or at all times mentioned in this Complaint approved, ratified, acquiesced, aided or abetted the acts and omissions alleged in this Complaint.

12. Defendants proximately caused Plaintiff to be subjected to the unlawful practices, wrongs, complaints, injuries and/or damages alleged in this Complaint.

CLASS ALLEGATIONS

13. Plaintiff brings the First through Eighth Causes of Action on behalf of himself and all others similarly situated as a class action pursuant to California Code of Civil Procedure section 382. The class which Plaintiff seeks to represent is composed of, and defined, as follows:

All individuals who have worked, or continue to work, for Defendants in California as a non-exempt employee at any time between October 17, 2019, to the present.

14. This action has been brought and may be properly maintained as a class action, pursuant to the provision of California Code of Civil Procedure section 382, because there is a well-defined community of interests in the litigation and the proposed class is easily ascertainable.

(a) **Numerosity**: The putative class is so numerous that the individual joinder of all members is impracticable under the circumstances of this case. While the exact number of class members is unknown to Plaintiff at this time, Plaintiff is informed and believes that Defendants have employed as many as fifty (50) individuals falling within the above

1 stated class definition throughout the State of California during the applicable statute of
2 limitations, who were subjected to the policies and practices outlined in this Complaint.
3 As such, joinder of all members of the putative class is not practicable.

4 (b) Common Questions Predominate: Common questions of law and fact exist as to all
5 members of the putative class and predominate over questions that affect only individual
6 members of the class. These common questions of law and fact include, without
7 limitation, the following:

- 8 (1) Whether Defendants violated the law by not paying employees for all hours
9 worked;
- 10 (2) Whether, as a result of Defendants' policies and practices, Plaintiff and putative
11 class members were not paid all minimum and overtime wages owed;
- 12 (3) Whether Defendants maintained accurate payroll records;
- 13 (4) Whether Defendants failed to pay meal and rest period premium for meal and rest
14 period violations;
- 15 (5) Whether as a result of Defendants' policies and practices, Plaintiff and putative
16 class members were not authorized and permitted to take all meal and rest
17 periods;
- 18 (6) Whether, as a result of Defendants' policies and practices, Plaintiff and putative
19 class members received all reimbursement owed;
- 20 (7) Whether as a result of Defendants' policies and practices Plaintiff's and putative
21 class members received all wages, due and owing, at the time of their termination
22 or separation; and
- 23 (8) Whether Defendants provided Plaintiff's and putative class members with wage
24 statements that complied with Labor Code section 226.

25 (c) Typicality: Plaintiff's claims are typical of the claims of the members of the putative
26 class. The putative class also sustained damages arising out of Defendants' common
27 course of conduct in violation of the law as complained of herein. Plaintiff and all
28 members of the putative class were non-exempt employees who were not paid all

1 minimum wages owed, overtime wages owed, meal and rest period premiums, as a result
2 of Defendants' policies and practices resulting in inaccurate wage statements that did not
3 itemize the accurate minimum wages owed, overtime wages owed, meal and rest period
4 premiums, and sick leave accrued time/wages. Additionally, Defendants issued Plaintiff
5 and all members of the putative class wage statements that did not comply with Labor
6 Code section 226. As a result, Plaintiff and each member of the putative class will have
7 suffered the same type of harm and seek the same type of recovery based on the same
8 legal theories.

9 (d) Adequacy: Plaintiff will fairly and adequately protect the interests of the members of the
10 putative class. For all relevant times, Plaintiff resided in California and worked for
11 Defendants in California. Moreover, Plaintiff is an adequate representative of the
12 putative class as Plaintiff has no interests that are adverse to those of putative class
13 members. Additionally, Plaintiff has retained counsel who has substantial experience in
14 complex civil litigation and wage and hour matters.

15 (e) Superiority: A class action is superior to other available means for the fair and efficient
16 adjudication of the controversy since individual joinder of all members of the putative
17 class is impracticable. Class action treatment will permit a larger number of similarly
18 situated persons to prosecute their common claims in a single forum simultaneously,
19 efficiently, and without the unnecessary duplication of effort and expense that numerous
20 individual actions would engender. Further, as damages suffered by each individual
21 member of the class may be relatively small, the expenses and burden of the individual
22 litigation would make it difficult or impossible for individual members of the class to
23 redress the wrongs done to them, and an important public interest will be served by
24 addressing the matter as a class action. The cost to the court system of adjudication of
25 such individualized litigation would be substantial. Individualized litigation would also
26 present the potential for inconsistent or contradictory judgments.

27 15. Plaintiff is unaware of any difficulties that are likely to be encountered in the
28 management of this action that would preclude its maintenance as a class action.

GENERAL ALLEGATIONS

16. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 15 as though fully set forth herein.

17. Plaintiff was employed with Defendants from April 7, 2023, to August 14, 2023, as a non-exempt employee. Plaintiff worked as a dishwasher and cook in the kitchen. He was paid \$17.5 per hour. Defendants manage a country club in Woodbridge, California. Plaintiff's job duties and responsibilities included but were not limited to ensuring that the Dish Station and kitchen were clean and sanitized, washing all wares, storing cleaned equipment and dishes in assigned storage areas, stocking serving stations, stocking refrigerators, cleaning trash receptacles with water or stream, moving dishwashing supplies from storage to work area, assisting in cleaning and preparing various foods for cooking, ensuring work areas remain safe, cleaning, and cooking. At first, Plaintiff was employed only as a dishwasher and was paid \$16.5 per hour. Later, Defendants added cooking to Plaintiff's job duties and responsibilities and increased his pay to \$17.5 per hour. Plaintiff did not receive the raise at the time of becoming a cook. However, on or about July 20, 2023, Defendants paid Plaintiff retroactive pay for the pay period of June 1, 2023, to June 15, 2023. Defendants paid Plaintiff at the rate of \$17.5 per hour for the pay period of June 16, 2023, to June 30, 2023.

18. Plaintiff and similarly situated employees worked over eight (8) hours a day and over forty (40) hours per week. Plaintiff worked in a fast-paced environment which was very busy. Plaintiff's schedule varied. Typically, Plaintiff worked from 9:00 a.m. to 9:00 p.m. However, Plaintiff worked over twelve hours per day when there were events and would end his shift approximately at 1:00 a.m., the next day. Defendants did not properly calculate the number of overtime and double wages owed to Plaintiff and similarly situated employees, failing to utilize the more favorable of the daily and/or weekly calculation methods where appropriate. For example, Defendants' defined workweek for overtime calculation purposes is Sunday to Saturday. Because Defendants pay employees on a bi-monthly basis, the defined workweek regularly overlaps two different pay periods. When calculating overtime owed, Defendants failed to account for this overlap and often paid a lower amount of wages due as a result. This also resulted in the total hours and wages paid that were identified on paystubs issued to Plaintiff and similarly situated employees being incorrect. Similarly, the dates for which the

1 paystubs purported to cover were incorrect as hours were being incorrectly allocated between two pay
2 periods.

3 19. Defendants did not authorize and permit Plaintiff to take uninterrupted meal and rest
4 periods. Defendants did not relieve Plaintiff to take his meal and rest periods as a result of inadequate
5 staffing and the high volume of work. Plaintiff complained to his supervisor, the Kitchen Cheff, named
6 Matteo that Plaintiff had not been able to take his meal and rest periods because Defendants would not
7 provide anyone to relieve him. Typically, Matteo would not respond to Plaintiff's complaints. However,
8 on two occasions, Matteo informed Plaintiff that someone was going to relieve him for his meal periods,
9 but no one relieved him. As a result, Plaintiff was not able to take all his meal and rest periods.
10 Defendants required Plaintiff and similarly situated employees to clock in and out for meal periods.
11 Thus, Plaintiff usually clocked in and out for meal periods but was not able to take meal periods and
12 worked during the time that he was clocked out. Moreover, Plaintiff typically worked over ten (10)
13 hours per day and was not able to take a second meal period as a result of Defendants' policies and
14 practices of not providing relief for him to take his meal periods. Defendants lacked appropriate staffing
15 for the amount of workload required to operate their business. Furthermore, Defendants' meal period
16 policy was defective because it did not advise employees that they were entitled to a meal period if they
17 worked five hours in a day. Defendants' clocking in and out for meal period policy stated that
18 employees must take a break if they work six (6) hours or more in a day. Similarly situated employees
19 were subject to the same meal period policies and practices. Therefore, Plaintiff is informed and believes
20 that similarly situated employees were not able to take compliant meal periods. Also, Defendants did not
21 authorize or permit Plaintiff to take a ten (10) minute rest break for every four hours or a fraction of
22 thereof. Plaintiff was not able to take any rest breaks because Defendants did not provide anyone to
23 relieve him for his breaks. Similarly situated employees were subject to the same rest period policies and
24 practices. Therefore, Plaintiff is informed and believes that similarly situated employees were not able to
25 take compliant rest periods. Consequently, Defendants did not pay Plaintiff and similarly situated
26 employees for all hours worked since Defendants did not pay Plaintiff and similarly situated employees
27 for the time that they spent working during meal and rest periods. Defendants did not pay Plaintiff meal
28

1 and rest period premiums for all noncompliant meal and rest periods. Plaintiff is informed and believes
2 that Defendants did not pay similarly situated employee meal and rest period premiums either.

3 20. As a result of Plaintiff and similarly situated employees working through meal and rest
4 periods, Defendants did not accurately record Plaintiff's and similarly situated employees' meal periods,
5 as well as minimum and overtime hours and wages, and the correct accrual of sick leave hours. As a
6 result of these practices, Plaintiff and similarly situated employees were not paid wages for all hours
7 worked and did not receive the proper accrual of sick leave hours.

8 21. Defendants also did not have a policy to reimburse Plaintiff and similarly situated
9 employees use of their personal cell phones for work purposes. Plaintiff and similarly situated
10 employees used their personal cell phones to clock in and out using ADP clocking in app in their
11 personal cell phone. Defendants did not reimburse Plaintiff and similarly situated employees using their
12 personal cell phones to clock in and out.

13 22. As a result of Defendants' failure to pay Plaintiff and similarly situated employees all
14 minimum wages, overtime wages, and meal and rest period premiums owed, the wage statements
15 Defendants issued were inaccurate. The paystubs that Defendants issued did not accurately itemize all
16 hours worked, the accurate rates of pay, minimum and overtime wages earned, the number of meal and
17 rest period premiums owed, and the accurate gross and net wages earned.

18 23. As of this date of this letter, Defendants have not paid Plaintiff and similarly situated
19 employees all the overtime wages, meal and rest period premiums, and sick leave wages owed to them.

20 24. THE WOODBRIDGE GOLF & COUNTRY CLUB identified NICK SALVETTI as its
21 Chief Executive Officer in its filing of March 25, 2022, with the California Secretary of State. Plaintiff
22 is informed and believes that Mr. Salvetti was responsible for creating and electing to implement the
23 payroll and compensation policies and practices identified herein and/or that Mr. SALVETTI was aware
24 of such policies and practices and ratified them.

25 **FIRST CAUSE OF ACTION**
26 **FAILURE TO PAY OVERTIME WAGES**
27 **(As to all Defendants)**

28 25. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 24 as though fully
set forth herein.

26. During the period Plaintiff was employed by Defendants, Defendants were required to compensate Plaintiff at one and one-half (1½) times the regular rate of pay for hours worked in excess of eight (8) hours per day and/or forty (40) hours per week, and two (2) times the regular rate of pay for hours worked in excess of twelve (12) hours per day. *See, e.g.*, IWC Wage Order No. 5, section (3)(A); Cal. Lab. Code §§ 510, 1194.

27. Plaintiff and similarly situated employees worked in excess of eight (8) hours per day and/or forty (40) hours per week on several occasions while employed by Defendants. However, Defendants failed to compensate Plaintiff and similarly situated employees for all overtime hours worked at their regular rate of pay.

28. Plaintiff and similarly situated employees were not exempt from overtime protections employees under the California Wage Orders and Labor Code.

29. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

SECOND CAUSE OF ACTION
FAILURE TO PAY MINIMUM WAGES
(As to all Defendants)

30. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 29 as though fully set forth herein.

31. For the period preceding the filing of this Complaint, Defendants were required to compensate Plaintiff and similarly situated employees with at least California's applicable minimum for every hour worked. *See* MW-Order 2019; IWC Wage Order, No. 5, section 4(A); Cal. Lab. Code § 1194.

32. Plaintiff was not exempt to the State's Minimum Wage Order. Defendants aware of their obligation to pay the minimum wage for each hour worked but failed to do so.

33. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

//

THIRD CAUSE OF ACTION
MEAL PERIOD VIOLATIONS
(As to all Defendants)

34. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 33 as though fully set forth herein.

35. An employer must provide an employee a meal period in accordance with the applicable Wage Order, and California Labor Code sections 226.7 and 512.

36. California Labor Code sections 226.7 and 512 and IWC Wage Order No. 5, section 11(A) require an employer to provide an uninterrupted meal period of not less than thirty (30) minutes for each work period of more than five (5) hours.

37. California Labor Code section 512 and Wage Order No. 5 section 11(B) further provide that employers may not employ employees for a work period for more than ten (10) hours per day without providing the employee with a second meal period of at least thirty (30) minutes. However, if the total hours worked is no more than twelve (12) hours, the second meal period may be waived so long as there was no waiver as to the first meal period. Employees are entitled to one (1) hour of pay at their regular rate of compensation for each meal period not provided.

38. Defendants employed Plaintiff and similarly situated employees for periods of more than five (5) hours without providing meal breaks of at least thirty (30) minutes or a second meal period of at least thirty (30) minutes when Plaintiff and similarly situated employees worked more than ten (10) hours in a day. Defendants also failed to allow Plaintiff and similarly situated employees to take their first meal period before the completion of their fifth hour of work and failed to allow Plaintiff and similarly situated employees to take their second meal period before the completion of their tenth hour of work. Plaintiff and similarly situated employees did not waive their rights to all meal periods throughout their employment.

39. Defendants further failed to pay Plaintiff and similarly situated employees the applicable meal period premiums for any such missed meal breaks.

40. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

FOURTH CAUSE OF ACTION
REST PERIOD VIOLATIONS
(As to all Defendants)

41. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 40 as though fully set forth herein.

42. An employer must provide an employee a rest period in accordance with the applicable Wage Order and California Labor Code section 226.7.

43. California Labor Code section 226.7 and Wage Order No. 5, section 12(A) require an employer to provide a rest period of not less than ten (10) minutes for each work period of more than four (4) hours or a major fraction thereof.

44. Plaintiff alleges that Defendants failed to authorize and permit Plaintiff and similarly situated employees to take paid rest periods of at least ten (10) minutes for each work period that they worked more than four (4) hours or a major fraction thereof.

45. Defendants further failed to pay Plaintiff and similarly situated employees the applicable rest period premiums for any such missed rest periods.

46. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

FIFTH CAUSE OF ACTION
WAGE STATEMENT VIOLATIONS
(As to all Defendants)

47. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 46 as though fully set forth herein.

48. Pursuant to California Labor Code section 226(a), an employer must provide an itemized statement to an employee, semimonthly or at the time of each payment of wages, showing:

(1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (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

1 the last four digits of his or her social security number or an employee
2 identification number other than a social security number, (8) the name
3 and address of the legal entity that is the employer and, if the employer is
4 a farm labor contractor, as defined in subdivision (b) of Section 1682, the
5 name and address of the legal entity that secured the services of the
6 employer, and (9) all applicable hourly rates in effect during the pay
7 period and the corresponding number of hours worked at each hourly rate
8 by the employee. The deductions made from payment of wages shall be
9 recorded in ink or other indelible form, properly dated, showing the
10 month, day, and year, and a copy of the statement and the record of the
11 deductions shall be kept on file by the employer for at least three years at
12 the place of employment or at a central location within the State of
13 California.

14 49. Plaintiff alleges that Defendants intentionally and knowingly failed to provide an
15 itemized statement or failed to provide an accurate and complete itemized statement showing the
16 requirements set forth in California Labor Code section 226(a). Specifically, Defendants did not
17 accurately itemize all regular hours worked, overtime and double time hours worked and
18 corresponding rates of pay, and gross and net wages earned. The paystubs also did not accurately
19 itemize Plaintiff's and similarly situated employees' total hours worked due to Defendants' not
20 counting off-the-clock work during meal and rest periods and nonpayment of meal and rest period
21 premiums. Plaintiff and similarly situated employees were not able to promptly and easily determine
22 their total hours worked from their paystubs alone. Additionally, Plaintiff and similarly situated
23 employees suffered confusion over whether they received all wages owed and were prevented from
24 effectively challenging information on their wage statements.

25 50. As a proximate result of Defendants' conduct, Plaintiff and similarly situated
26 employees have been damaged as stated in the section below entitled "DAMAGES," which is
27 incorporated here to the extent pertinent as if set forth here in full.

28
SIXTH CAUSE OF ACTION
WAITING TIME PENALTIES
(As to all Defendants)

51. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 50 as though fully
set forth herein.

52. An employer must pay an employee who is terminated all unpaid wages immediately
upon termination. See Cal. Lab. Code § 201.

1 53. An employer must pay an employee who resigns all unpaid wages within seventy-two
2 (72) hours of their resignation. *See* Cal. Lab. Code § 202.

3 54. Plaintiff and similarly situated employees did not receive all wages, including minimum
4 and overtime wages, meal and rest period premiums, or all sick leave pay owed at their termination or
5 within the required time after their separation from employment.

6 55. An employer who willfully fails to pay an employee wages in accordance with California
7 Labor Code sections 201 and/or 202 must pay the employee a waiting time penalty of up to thirty (30)
8 days. *See* Cal. Lab. Code § 203.

9 56. Defendants knew of their obligation to pay Plaintiff's and similarly situated employees'
10 their final wages when their employment terminated. Indeed, Defendants had knowledge that Plaintiff
11 and similarly situated employees were not paid for all hours worked because Defendants' meal period
12 policy did not authorize Plaintiff and similarly situated employees to take timely, uninterrupted, and
13 compliant meal and rest periods. This resulted in Plaintiff and similarly situated employees working off-
14 the-clock during their meal periods. Also, Defendant's clocking in and out for meal period policy stated
15 that employees must take a break if they work six (6) hours or more in a day. Furthermore, Plaintiff
16 informed Defendants and his supervisor, Matteo, that he was not able to take meal periods because no
17 one was relieving him to go on his breaks. As a result, Defendants knew that they owed Plaintiff and
18 similarly situated employees meal and rest period premiums. Additionally, Defendants required
19 Plaintiff and similarly situated employees to use their cell phones to clock in and out using ADP app.
20 Thus, Defendants knew that Plaintiff and similarly situated employees were using their personal cell
21 phones for work purposes. Defendants did not reimburse Plaintiff and similarly situated employees
22 despite requiring them to use their cell phones for clocking in and out. Such conduct shows Defendants
23 had knowledge of earned, but unpaid wages at the time of separation, yet Defendants still refused to pay
24 the remaining wages owed.

25 57. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees
26 have been damaged and deprived of their wages and thereby seek their daily rate of pay multiplied by
27 thirty (30) days for Defendants' failure to pay all wages due.

28 //

SEVENTH CAUSE OF ACTION
FAILURE TO REIMBURSE EXPENSES
(As to all Defendants)

58. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 57 as though fully set forth herein.

59. California Labor Code section 2802(a) states that "An employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful."

60. Defendants required Plaintiff and similarly situated employees to use their cell phones for work purposes to clock in and out using ADP cell phone application but failed to reimburse them for such use.

61. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

EIGHTH CAUSE OF ACTION
UNFAIR COMPETITION
(As to THE WOODBRIDGE GOLF & COUNTRY CLUB and DOES 1 to 100)

62. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 61 as though fully set forth herein.

63. Unfair competition shall mean and include any unlawful, unfair or fraudulent business act or practice and unfair, deceptive, untrue or misleading advertising and any act prohibited by Chapter 1 (commencing with Section 17500) of Part 3 of Division 7 of the Business and Professions Code. See California Business and Professions ("B&P") Code § 17200.

64. Plaintiff and similarly situated employees were not paid all wages owed, including minimum and overtime wages, and meal and rest period premiums, paid sick leave, or reimbursed for business expenses, during their employment or any time thereafter. Moreover, through Defendants conduct Plaintiff and similarly situated employees were denied statutory protections regarding meal and rest periods.

1 65. Plaintiff further alleges that such actions and/or conduct constitute a violation of the
2 California Unfair Competition Law ("UCL") (Business and Professions Code 17200 *et seq.*) pursuant to
3 *Cortez v. Purolator Air Filtration Products Co.*, 23 Cal. 4th 163 (2000).

4 66. As a direct and legal result of the Defendants' conduct, as alleged herein, pursuant to the
5 UCL (including B&P Code §17203), Plaintiff and similarly situated employees are entitled to
6 restitution, including, but not limited to, interest and penalties pursuant to Business & Professions Code
7 sections 17203, 17208, violations of California Labor Code sections 226.7, 245 *et seq.*, 510, 512, and
8 1194 all in an amount as yet unascertained but subject to proof at trial, for four (4) years from the filing
9 of this Action.

10 **NINTH CAUSE OF ACTION**
11 **PRIVATE ATTORNEYS GENERAL ACT**
12 **(As to all Defendants)**

13 67. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 66 as though fully
14 set forth herein.

15 68. Plaintiff has alleged to the Labor Commissioner that Defendants have violated the
16 following provisions of the Labor Code in their dealings with Plaintiff and other similarly situated
17 current and former employees:

- 18 • Violation of Labor Code §§ 510, 1194; IWC Wage Order 5, § 3 (Failure to Pay Overtime
19 Wages)
- 20 • Violation of Labor Code §§ 1194, 1197.1; IWC Wage Order 5, § 4 (Failure to Pay
21 Minimum Wages)
- 22 • Violation of Labor Code §§ 226.7, 512 and Wage Order No. 5, §§ 11(A) and 11(B)
23 (Failure to Provide Meal Periods or Pay Premiums in Lieu Thereof)
- 24 • Violation of Labor Code § 226.7 and Wage Order No. 5, § 12(A) (Failure to Provide Rest
25 Periods or Pay Premiums in Lieu Thereof)
- 26 • Violation of Labor Code §§ 226, 226.3 (Failure to Provide Accurate Wage Statements)
- 27 • Violation of Labor Code §§ 201-203, 256 (Failure to Pay Final Wages)
- 28 • Violation of Labor Code § 2802 (Failure to Pay Reimbursements for Expenses)

- Violation of Labor Code §§ 558, 558.1 (Provisions Regulating Hours and Days of Work in Any Industrial Welfare Commission Order)
- Violation of Labor Code §§ 226.3, 1174 (Failure to Maintain Accurate Records)
- Violation of Labor Code §§ 246, 246.5, 248.5 (Failure to Provide Paid Sick Leave)

69. Plaintiff seeks civil penalties against Defendants as provided in the California Labor Code, or, if no civil penalty is provided, default penalties pursuant to California Labor Code section 2699(f)(2).

70. Plaintiff seeks these civil penalties from Defendants pursuant to California Labor Code sections 2699(a) and 2699.3.

71. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

DAMAGES

WHEREFORE Plaintiff requests relief as follows:

1. A jury trial;
2. As to the First Cause of Action:
 - a. Wages in an amount to be proven at trial;
 - b. Interest for the wages due pursuant to California Labor Code section 1194;
 - c. For reasonable attorney's fees and costs incurred pursuant to California Labor Code section 1194;
3. As to the Second Cause of Action:
 - a. Wages in an amount to be proven at trial;
 - b. Interest for the wages due pursuant to California Labor Code section 1194;
 - c. For reasonable attorney's fees and costs incurred pursuant to California Labor Code section 1194;
 - d. Liquidated damages pursuant to California Labor Code section 1194.2;
4. As to the Third Cause of Action:
 - a. Wages in an amount to be proven at trial;

- 1 b. Attorney's fees, costs and interest pursuant to California Code of Civil Procedure
2 section 1021.5;

3 5. As to the Fourth Cause of Action:

- 4 a. Wages in an amount to be proven at trial;
5 b. Attorney's fees, costs and interest pursuant to California Code of Civil Procedure
6 section 1021.5;

7 6. As to the Fifth Cause of Action:

- 8 a. Penalties as provided for in Labor Code section 226, including the greater of all
9 actual damages or fifty dollars (\$50.00) for the initial pay period in which the
10 violation occurred and one hundred dollars (\$100.00) per employee for each
11 violation in the subsequent pay periods, but not to exceed four thousand dollars
12 (\$4,000.00);
13 b. For reasonable attorney's fees and costs incurred pursuant to Labor Code section
14 226(e);

15 7. As to the Seventh Cause of Action:

- 16 a. An amount to be proven at trial;
17 b. For attorney's fees, interest, and costs pursuant to Labor Code section 2802(c);

18 8. As to the Ninth Cause of Action:

- 19 a. For civil penalties as provided in the Labor Code for each enumerated
20 violation;
21 b. For those Labor Code sections where there is no civil penalty provided for their
22 violation, the default penalty provided in Labor Code section 2699(f): for any
23 initial violation, one hundred dollars (\$100) for each aggrieved employee per pay
24 period; For any subsequent violation, two hundred dollars (\$200) for each
25 aggrieved employee per pay period;
26 c. Reasonable attorney's fees and costs pursuant to Labor Code section 2699;
27 d. For any other remedies as allowed by law and/or deemed appropriate by the
28 Court;

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9. For such other and further relief as this Court may deem just and proper,
including, but not limited to:
- a. Wages as proved at trial;
 - b. Injunctive and Declaratory relief;
 - c. Attorney's fees and costs as provided for by law; and
 - d. Interest.

Dated: January 25, 2024

Shimoda & Rodriguez Law, PC

By: _____



Galen T. Shimoda

Justin P. Rodriguez

Renald Konini

Attorneys for Plaintiff

1 *Sagastume v. The Woodbridge Golf & Country Club, et al.*
2 *San Joaquin County Superior Court of California STK-CV-UOE-2023-0010980*

3 **PROOF OF SERVICE — CCP §§ 1013a and 2015.5**
4 **and California Rules of Court, Rule 1.21 and Rule 2.150**

5 I, Miriam Tapia, declare that:

6 I am a citizen of the United States and am over the age of eighteen years and not a party to
7 the within above-entitled action.

8 On February 5, 2024, I served the following documents on the party below:

9 • **FIRST AMENDED CLASS ACTION COMPLAINT**

10 MAYALL HURLEY, P.C. 11 William J. Gorham III 12 2453 Grand Canal Boulevard 13 Stockton, California 95207 14 Telephone: (209) 477-3833 15 Facsimile: (209) 473-4818 16 Email: wgorham@mayallaw.com 17 vjkozina@mayallaw.com 18 jzeyen@mayallaw.com	
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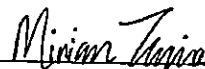
16 [] [By Mail] I am familiar with my employer's practice for the collection and
17 processing of correspondence for mailing with the United States Postal Service
18 and that each day's mail is deposited with the United States Postal Service that
19 same day in the ordinary course of business. On the date set forth above, I served
20 the aforementioned document(s) on the parties in said action by placing a true
21 copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, for
22 collection and mailing on this date, following ordinary business practices, at Salt
23 Lake City, Utah, addressed as set forth above.

20 [] [By Personal Service] By personally delivering a true copy thereof to the office
21 of the addressee above.

22 [XXX] [By Electronic Mail] I e-mailed the documents(s) to the person(s) shown
23 above. No error was reported by the e-mail service that I used.

24 [] [By Overnight Courier] By causing a true copy and/or original thereof to be
25 personally delivered via the following overnight courier service: _____

26 I declare under penalty of perjury under the laws of the State of California that the foregoing
27 is true and correct, and that this declaration was executed on February 5, 2024, at Salt Lake City,
28 Utah.



Miriam Tapia