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on behalf of himself and others similarly situated

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Superior Court of California,
County of San Diego
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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO

PAUL CARDOZA, on behalf of himself and
others similarly situated,

Plaintiff,

vs.

AMERICA'S FINEST CHARTER SCHOOL,
a nonprofit California corporation; and DOES
1 through 50, inclusive

Defendants.

Case No.: 37-2023-00045875-CU-OE-CTL

CLASS ACTION

Assigned for All Purposes To:
Hon. Gregory W. Pollack
Dept.: C-71

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR:**

1. Failure to Pay Minimum Wages;
2. Failure to Pay Wages and Overtime Under Labor Code § 510;
3. Meal-Period Liability Under Labor Code § 226.7;
4. Rest-Break Liability Under Labor Code § 226.7;
5. Violation of Labor Code § 226(a);
6. Failure to Keep Required Payroll Records Under Labor Code §§ 1174 and 1174.5
7. Failure to Produce Requested Employment Records Under Labor Code §§ 226 and 1198.5;
8. Reimbursement of Necessary Expenditures Under Labor Code § 2802;
9. Violation of Labor Code § 221;
10. Penalties Pursuant to Labor Code § 203;
11. Violation of Business & Professions Code § 17200 *et seq.*
12. Penalties Pursuant to Labor Code § 2699, *et seq.*

DEMAND FOR JURY TRIAL

1 Plaintiff PAUL CARDOZA, (hereinafter “Plaintiff”) on behalf of himself and all others
2 similarly situated (collectively, “Employees”; individually, “Employee”) complains of Defendants,
3 and each of them, as follows:

4 INTRODUCTION

5 1. Plaintiff brings this action on behalf of himself, and all similarly situated current and
6 former employees within the State of California who, at any time four (4) years prior to the filing of
7 this lawsuit, are or were employed as non-exempt hourly employees by Defendants AMERICA’S
8 FINEST CHARTER SCHOOL, a California corporation, and DOES 1 through 50 (all defendants
9 being collectively referred to herein as “Defendants”). Plaintiff alleges that Defendants, and each of
10 them, violated various provisions of the California Labor Code, relevant orders of the Industrial
11 Welfare Commission (IWC), and California Business & Professions Code, and seeks redress.

12 2. Plaintiff is a resident of California and during the time period relevant to this
13 Complaint was employed by Defendants as a non-exempt hourly employee within the State of
14 California at Defendants’ facilities and offices in San Diego, California. Plaintiff and the other Class
15 members worked for Defendants in San Diego County and throughout California, and consistently
16 worked at Defendants’ behest without being paid all wages due. More specifically, Plaintiff and the
17 other similarly situated Class members were employed by Defendants and worked at Defendants’
18 offices and other facilities where the conduct giving rise to the allegations in this Class Action
19 Complaint occurred. Upon information and belief, Plaintiff was employed by Defendants and (1)
20 shared similar job duties and responsibilities, (2) was subjected to the same policies and practices,
21 and (3) endured similar violations at the hands of Defendants as the other Employee Class members
22 who served in similar and related positions.

23 3. Defendants required Plaintiff and the Employees in the Class to perform work
24 while remaining under Defendants’ control before and after being on the clock for their daily work
25 shift. Defendants further failed to accurately record time worked by Plaintiff and the Employee
26 Class members by rounding hours worked to the nearest quarter hour to their detriment.
27 Defendants thus failed to pay Plaintiff and the Class members for all hours worked, and provided
28 them with inaccurate wage statements that prevented Plaintiff and the Class from learning of these

1 unlawful pay practices. Defendants also failed to provide Plaintiff and the Class with lawful meal
2 and rest periods, as employees were not provided with the opportunity to take timely,
3 uninterrupted, and duty-free meal and rest periods as required by the Labor Code.

4 **THE PARTIES**

5 **A. The Plaintiff**

6 4. Plaintiff PAUL CARDOZA has resided in California and during the time period
7 relevant to this Complaint was employed by Defendants as a non-exempt hourly employee within
8 the State of California at Defendants' facilities and offices in San Diego, California.

9 **B. The Defendants**

10 5. Defendant AMERICA'S FINEST CHARTER SCHOOL, ("AFCS") is a nonprofit
11 California corporation with its principle executive offices in San Diego, California, and has been
12 listed as the employer on the wage statements issued to Plaintiff during the relevant time period.
13 AFCS lists a California address with the California Secretary of State in San Diego, California and
14 employs Plaintiff and the Class members in San Diego County, including at Defendants' offices and
15 facilities in San Diego, California, and throughout California and conducts business throughout
16 California.

17 6. The true names and capacities, whether individual, corporate, associate, or whatever
18 else, of the Defendants sued herein as Does 1 through 50, inclusive, are currently unknown to
19 Plaintiff, who therefore sues these Defendants by such fictitious names under Code of Civil
20 Procedure § 474. Plaintiff is informed and believes and thereon alleges that Defendants designated
21 herein as Does 1 through 50, inclusive, and each of them, are legally responsible in some manner
22 for the unlawful acts referred to herein. Plaintiff will seek leave of court to amend this Complaint to
23 reflect the true names and capacities of the Defendants designated herein as Does 1 through 50 when
24 their identities become known.

25 7. Plaintiff is informed and believes and thereon alleges that each Defendant acted in
26 all respects pertinent to this action as the agent of the other Defendants, that Defendants carried out
27 a joint scheme, business plan, or policy in all respects pertinent hereto, and that the acts of each
28 Defendant are legally attributable to the other Defendants. Furthermore, Defendants acted in all

1 respects as the employers or joint employers of Employees. Defendants, and each of them, exercised
2 control over the wages, hours or working conditions of Employees, or suffered or permitted
3 Employees to work, or engaged, thereby creating a common law employment relationship, with
4 Employees. Therefore, Defendants, and each of them, employed or jointly employed Employees.

5 **JURISDICTION AND VENUE**

6 8. This Court has jurisdiction over this Action pursuant to California Code of Civil
7 Procedure § 410.10 and California Business & Professions Code § 17203. This Action is brought as
8 a Class Action on behalf of similarly situated Employees of Defendants pursuant to California Code
9 of Civil Procedure § 382. Venue as to Defendants is also proper in this judicial district pursuant to
10 California Code of Civil Procedure § 395 *et seq.* Upon information and belief, the obligations and
11 liabilities giving rise to this lawsuit occurred at least in part in San Diego County and Defendants
12 maintain and operate company offices and facilities in San Diego County and employ Plaintiff and
13 other Class members in San Diego County and throughout California.

14 **FACTUAL BACKGROUND**

15 9. The Employees who comprise the Class and Collective, including Plaintiff, are
16 nonexempt employees pursuant to the applicable Wage Order of the IWC. Defendants hire
17 Employees who work in nonexempt positions at the direction of Defendants in the State of
18 California. Plaintiff and the Class members were either not paid by Defendants for all hours
19 worked or were not paid at the appropriate minimum, regular and overtime rates. Specifically,
20 Plaintiff and Employees were required to work off-the-clock hours were required to wait in line at
21 least 5 minutes to clock in before every shift. Furthermore, Defendants required the Employee
22 Class members to clock in and out by using timeclocks. The timekeeping system thus permitted
23 Defendants to record clock in and clock out times to the real-time minute. However, rather than
24 paying Plaintiff and the Class members for all hours and minutes they actually worked,
25 Defendants followed a uniform policy and practice of rounding all time entries to the nearest
26 quarter hour (i.e., to the nearest 15 minute time increment), and generally did so to the detriment
27 of the Employees, and these unlawfully rounded time entries were inputted into Defendants'
28 payroll system from which wage statements and payroll checks were created. Defendants did so

1 with the ostensible intent of paying Class members only for the hours they were scheduled to
2 work, rather than the hours they were actually under Defendants' control. Plaintiff contends this
3 policy is not neutral and results, over time, to the detriment of the Class members by
4 systematically undercompensating them. Plaintiff also contends that Defendants failed to pay
5 Plaintiff and the Class members all wages due and owing, failed to provide meal and rest breaks,
6 and failed to furnish accurate wage statements, all in violation of various provisions of the
7 California Labor Code and applicable Wage Orders.

8 10. Moreover, Plaintiff contends that Defendants failed to pay Plaintiff and the Class
9 members all wages due and owing, by making unlawful deductions from their pay, failed to provide
10 meal and rest breaks, and failed to furnish accurate wage statements, all in violation of various
11 provisions of the California Labor Code and applicable Wage Order provisions.

12 11. During the course of Plaintiff and the Class members' employment with
13 Defendants, they were not paid all wages they were owed, including for all work performed and
14 for all overtime hours worked, and they were forced to work during their meal and rest breaks to
15 keep labor budgets low.

16 12. Further, Defendants had a consistent policy and practice of unlawfully rounding
17 hours worked to the detriment of the Class Members. Rather than paying Class Members for all
18 hours and minutes they actually worked, Defendants followed a uniform policy and practice of
19 rounding all time entries to the nearest quarter-hour or half-hour (i.e. to the nearest 15-minute or 30-
20 minute time increment), and generally did so to the detriment of the Class Members, and Plaintiff
21 contend this policy is not neutral and resulted, over time, to the detriment of the Class Members by
22 systematically under-compensating them. Rather than reflecting the actual hours worked by Class
23 Members, the time entries were rounded and reduced to reflect the scheduled work time rather than
24 the actual hours worked. These unlawfully rounded time entries were inputted into Defendants'
25 payroll system from which wage statements and payroll checks were created.

26 13. Defendants had also either failed to maintain timekeeping records for Plaintiff that
27 would permit him to discover the nature and extent of Defendants' unlawful rounding or has
28 refused to produce them to Plaintiff in response to his timely request to be provided with them.

1 14. As a matter of uniform Company policy, Plaintiff and the Class members were
2 required to work during their meal and rest breaks which were not compensated by Defendants in
3 violation of the California Labor Code. Plaintiff and the Class members were also not paid
4 regular wages and overtime for the time they were required to comply with other requirements
5 imposed upon them, which they had to complete while working through their meal and rest
6 breaks and without compensation. As a result Plaintiff and the Class members worked shifts over
7 eight (8) hours in a day and over forty (40) hours in a work week, but they were not paid at the
8 appropriate overtime rate for all such hours, including by being required to perform work duties
9 and tasks without pay and while off-the-clock and due to Defendants' unlawful rounding which
10 caused overtime to begin accruing before it did in Defendants' timekeeping and payroll systems.
11 As a result, Plaintiff and the Class members worked substantial overtime hours during their
12 employment with Defendants for which they were not compensated, in violation of the California
13 Labor Code, applicable IWC Wage Orders.

14 15. As a result of the above described unlawful rounding, the daily work demands and
15 pressures to work through breaks, and the other wage violations they endured at Defendants' hands,
16 Plaintiff and the Class members were not properly paid for all wages earned and for all wages owed
17 to them by Defendants, including when working more than eight (8) hours in any given day and/or
18 more than forty (40) hours in any given week. As a result of Defendants' unlawful policies and
19 practices, Plaintiff and Class members incurred overtime hours worked for which they were not
20 adequately and completely compensated, in addition to the hours they were required to work off the
21 clock. To the extent applicable, Defendants also failed to pay Plaintiff and the Class members at an
22 overtime rate of 1.5 times the regular rate for the first eight hours of the seventh consecutive work
23 day in a week and overtime payments at the rate of 2 times the regular rate for hours worked over
24 eight (8) on the seventh consecutive work day, as required under the Labor Code, applicable IWC
25 Wage Orders.

26 16. Therefore, from at least four (4) years prior to the filing of this lawsuit and continuing
27 to the present, Defendants had a consistent policy or practice of failing to pay Employees for all
28 hours worked, and failing to pay minimum wage for all time worked as required by California Law.

1 17. Additionally from at least four (4) years prior to the filing of this lawsuit and
2 continuing to the present, Defendants had a consistent policy or practice of failing to pay Employees
3 overtime compensation at premium overtime rates for all hours worked in excess of eight (8) hours
4 a day and/or forty (40) hours a week, and double-time rates for all hours worked in excess of twelve
5 (12) hours a day, in violation of Labor Code § 510 and the corresponding sections of IWC Wage
6 Orders.

7 18. Additionally, from at least four (4) years prior to the filing of this lawsuit and
8 continuing to the present, Defendants have regularly required Employees to work shifts in excess of
9 five (5) hours without providing them with uninterrupted meal periods of not less than thirty (30)
10 minutes, and shifts in excess of ten (10) hours without providing them with second meal periods of
11 not less than thirty minutes; nor did Defendants pay Employees “premium pay,” i.e. one hour of
12 wages at each Employee’s effective hourly rate of pay, for each meal period that Defendants failed
13 to provide or deficiently provided.

14 19. From at least four (4) years prior to the filing of this lawsuit and continuing to the
15 present, Defendants have consistently failed to provide Employees with paid duty-free rest breaks
16 of not less than ten (10) minutes for every work period of four (4) or more consecutive hours; nor
17 did Defendant pay Employees premium pay for each day on which requisite rest breaks were not
18 provided or were deficiently provided.

19 20. From at least four (4) years prior to the filing of this lawsuit and continuing to the
20 present, Defendants have consistently and unlawfully collected or received wages from Employees
21 by making automatic deduction from Employees’ wages for alleged meal periods which Employees
22 were consistently denied.

23 21. Additionally, from at least three (3) years prior to the filing of this lawsuit, and
24 continuing to the present, Defendants have consistently failed to keep accurate time and wage
25 records as required by California wage-and-hour laws.

26 22. From at least four (4) years prior to the filing of this lawsuit and continuing to the
27 present, Defendants have failed to reimburse Employees for expenses necessarily incurred in the
28 performance of their job duties for Defendants including, but not limited to the purchase of a

1 computer and cell phone and internet usage and other costs associated with working from home
2 which were necessary to perform their duties under Defendants' employ which was used throughout
3 the course of Employees' duties under Defendants' employ in violation of Labor Code § 2802.

4 23. Additionally, from at least four (4) years prior to filing this lawsuit and continuing
5 to the present, Defendants have had a consistent policy of denying Employees the right to inspect
6 and receive all of their payroll records, timecards, and personnel records.

7 24. From at least four (4) years prior to filing this lawsuit and continuing to the present,
8 Defendants have had a consistent policy of failing to pay all wages fur and owed to Employees at
9 the time of their termination of within seventy-two (72) hours of their resignation, as required by
10 California wage-and-hour laws.

11 25. In light of the foregoing, Employees bring this action pursuant to, inter alia, Labor
12 Code §§ §§ 201, 202, 203, 204, 210, 218.5, 218.6, 221, 226, 226.3, 226.4, 226.7, 510, 512, 558,
13 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1198.5, 1199, 2698, 2699, *et seq*,
14 and 2802, and applicable provisions of the IWC Wage Orders.

15 26. Furthermore, pursuant to Business and Professions Code §§ 17200-17208,
16 Employees seek injunctive relief, restitution, and disgorgement of all benefits Defendants have
17 enjoyed from their violations of Labor Code.

18 CLASS ALLEGATIONS

19 27. Plaintiff brings this class action on behalf of himself and all others similarly situated
20 pursuant to Code of Civil Procedure § 382. Plaintiff seeks to represent a class defined as follows:
21 "All individuals employed by Defendants, at any time within four (4) years of the filing of this
22 lawsuit, as non-exempt, hourly employees within the State of California.

23 28. Further, plaintiff seeks to represent the following Subclasses composed of and
24 defined as follows:

25 a. Subclass 1. Minimum Wages Subclass. All Class members who were not
26 compensated for all hours worked for Defendants at the applicable minimum wage.

27 b. Subclass 2. Wages and Overtime Subclass. All Class members who were not
28 compensated for all hours worked for Defendants at the required rates of pay, including for all hours

1 worked in excess of eight in a day and/or forty in a week.

2 c. Subclass 3. Meal Period Subclass. All Class members who were subject to
3 Defendants' policy and/or practice of failing to provide unpaid 30-minute uninterrupted and duty
4 free meal periods or one hour of pay at the Employee's regular rate of pay in lieu thereof.

5 d. Subclass 4. Rest Break Subclass. All Class members who were subject to
6 Defendants' policy and/or practice of failing to authorize and permit Employees to take
7 uninterrupted, duty-free, 10-minute rest periods for every four hours worked, or major fraction
8 thereof, and failing to pay one hour of pay at the Employee's regular rate of pay in lieu thereof.

9 e. Subclass 5. Wage Statement Subclass. All Class members who, within the applicable
10 limitations period, were not provided with accurate itemized wage statements.

11 f. Subclass 6. Payroll Records Subclass. All Class members who were subject to
12 Defendants' policy and/or practice of failing to keep accurate time and wage records as required by
13 California wage-and-hour laws.

14 g. Subclass 7. Unauthorized Deductions from Wages Subclass. All Class members who
15 were subject to Defendants' policy and/or practice of automatically deducting 30-minutes worth of
16 wages from Employees for alleged meal periods they were denied and/or by understating the hours
17 worked by Employees.

18 h. Subclass 9. Failure to Reimburse for Necessary Business Expenditures. All Class
19 members who were subject to Defendants failing to reimburse for expenses necessarily incurred in
20 the performance of Employees job duties for Defendants which were necessary to perform their
21 duties under Defendants' employ.

22 i. Subclass 9. Termination Pay Subclass. All Class members who, within the applicable
23 limitations period, either voluntarily or involuntarily separated from their employment and were
24 subject to Defendants' policy and/or practice of failing to timely pay wages upon termination.

25 j. Subclass 10. Failure To Produce Requested Employment Records Subclass. All
26 Class members who, within the applicable limitations period, were denied the right to inspect and
27 receive all of their payroll records, timecards, and personnel records.

28 k. Subclass 11. UCL Subclass. All Class members who are owed restitution as a

1 result of Defendants' business acts and practices, to the extent such acts and practices are found to
2 be unlawful, deceptive, and/or unfair.

3 29. Plaintiff reserves the right under California Rule of Court 3.765 to amend or modify
4 the class description with greater particularity or further division into subclasses or limitation to
5 particular issues.

6 30. This action has been brought and may properly be maintained as a class action under
7 the provisions of Code of Civil Procedure § 382 because there is a well-defined community of
8 interest in litigation and proposed class is easily ascertainable.

9 **A. Numerosity**

10 31. The potential members of the class as defined are so numerous that joinder of all the
11 member of the class is impracticable. While the precise number of class member has not been
12 determined at this time, Plaintiff is informed and believes that, during the time period relevant to
13 this lawsuit, Defendants employed more than 100 individuals within the State of California.

14 32. Accounting for employee turnover during the relevant time period increases this
15 number substantially. Plaintiff alleges that Defendants' employment records will provide
16 information as to the number and location of all class members.

17 **B. Commonality**

18 33. There are questions of law and fact common to the class that predominate over any
19 questions affecting only individual class members. These common questions of law and fact include:

- 20 a. Whether Defendants failed to pay Employees minimum wages;
- 21 b. Whether Defendants failed to pay Employees wages for all hours worked;
- 22 c. Whether Defendants failed to pay Employees overtime as required under Labor Code
23 § 510;
- 24 d. Whether Defendants violated Labor Code §§ 226.7 and 512, and the applicable IWC
25 Wage Orders, by failing to provide Employees with requisite meal periods or
26 premium pay in lieu thereof;
- 27 e. Whether Defendants violated Labor Code §§ 226.7, and the applicable IWC Wage
28 Orders, by failing to provide Employees with requisite rest breaks or premium pay

in lieu thereof;

f. Whether Defendants violated Labor Code § 226(a);

g. Whether Defendants violated Labor Code §§ 226 and 1198.5

h. Whether Defendants violated Labor Code § 221;

i. Whether Defendants failed to reimburse Employees for necessary business expenses;

j. Whether Defendants failed to keep accurate time and wage records;

k. Whether Defendants violated Labor Code §§ 201, 202, and 203 by failing to pay wages and compensation due and owing at the time of termination of employment;

l. Whether Defendants violated Business and Professions Code § 17200 *et seq.*;

m. Whether Defendants are liable for penalties under Labor Code § 2699, *et seq.*; and

n. Whether Employees are entitled to equitable relief pursuant to Business and Professions Code § 17200 *et seq.*

C. Typicality

34. The claims of the named plaintiff are typical of those of the other Employees. Employees all sustained injuries and damages arising out of and caused by Defendant's common course of conducts in violation of statutes, as well as regulations that have the force and effect of law, as alleged herein.

D. Adequacy of Representation

35. Plaintiff will fairly and adequately represent and protect the interest of Employees. Counsel who represents Employees are experienced and competent in litigating employment class actions.

E. Superiority of Class Action

36. A class action is superior to other available means for the fair and efficient adjudication of this controversy. Individual joinder of all Employees is not practicable, and questions of law and fact common to all Employees predominate over any questions affecting only individual Employees. Each Employee has been damaged and is entitled to recovery by reason of Defendants' illegal policies or practices of failing to compensate Employees properly.

1 37. Class action treatment will allow those persons similarly situated to litigate their
2 claims in the manner that is most efficient and economical for the parties and the judicial system.
3 Plaintiff is unaware of any difficulties in managing this case that should preclude class action.

4 **FIRST CAUSE OF ACTION**

5 **FAILURE TO PAY MINIMUM WAGES**

6 **(Against All Defendants)**

7 38. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
8 full herein.

9 39. Defendants failed to pay Employees minimum wages for all hours worked.
10 Defendants had a consistent policy of misstating Employees time records and failing to pay
11 Employees for all hours worked. Employees would work hours and not receive wages, including
12 as alleged above in connection with rounding of timekeeping entries and time off the clock
13 Employees worked without compensation. Specifically, Plaintiff and Employees were required to
14 work off-the-clock hours as were required to wait in line at least 5 minutes to clock in before
15 every shift. Defendants, and each of them, have also intentionally and improperly rounded,
16 changed, adjusted and/or modified Employee hours, while benefiting Defendants. During the
17 relevant time period, Defendants thus regularly failed to pay minimum wages to Plaintiff and the
18 Class members, including by unlawful rounding to their detriment. Moreover, Defendants did not
19 pay Plaintiff and Employees at the applicable minimum wage for all hours worked. Defendants'
20 uniform pattern of unlawful wage and hour practices manifested, without limitation, applicable to
21 the Class as a whole, as a result of implementing a uniform policy and practice that denied
22 accurate compensation to Plaintiff and the other members of the Class as to minimum wage pay.

23 40. California Labor Code § 1197, entitled "Pay of Less Than Minimum Wage" states:
24 The minimum wage for employees fixed by the commission is the
25 minimum wage to be paid to employees, and the payment of a less
26 wage than the minimum so fixed is unlawful.

27 41. The applicable minimum wages fixed by the commission for work during the
28 relevant period is found in the Wage Orders. Pursuant to the Wage Orders, Employees are therefore
entitled to double the minimum wage during the relevant period.

1 42. The minimum wage provisions of California Labor Code are enforceable by private
2 civil action pursuant to California Labor Code § 1194(a) which states:

3 Notwithstanding any agreement to work for a lesser wage, any
4 employee receiving less than the legal minimum wage or the legal
5 overtime compensation applicable to the employee is entitled to
6 recover in a civil action the unpaid balance of the full amount of this
minimum wage or overtime compensation, including interest
thereon, reasonable attorney's fees and costs of suit.

7 43. As described in California Labor Code §§ 1185 and 1194.2, any action for wages
8 incorporates the applicable Wage Order of the California Industrial Welfare Commission.

9 44. California Labor Code § 1194.2 also provides for the following remedies:
10 In any action under Section 1194 . . . to recover wages because of
11 the payment of a wage less than the minimum wages fixed by an
12 order of the commission, an employee shall be entitled to recover
liquidated damages in an amount equal to the wages unlawfully
unpaid and interest thereon.

13 45. Defendants have the ability to pay minimum wages for all time worked and have
14 willfully refused to pay such wages with the intent to secure for Defendants a discount upon this
15 indebtedness with the intent to annoy, harass, oppress, hinder, delay, or defraud Employees.

16 46. Wherefore, Employees are entitled to recover the unpaid minimum wages (including
17 double minimum wages), liquidated damages in an amount equal to the minimum wages unlawfully
18 unpaid, interest thereon and reasonable attorney's fees and costs of suit pursuant to California Labor
19 Code § 1194(a).

20 **SECOND CAUSE OF ACTION**

21 **FAILURE TO PAY WAGES AND OVERTIME UNDER LABOR CODE § 510**

22 **(Against All Defendants)**

23 47. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
24 full herein.

25 48. By their conduct, as set forth herein, Defendants violated California Labor Code §
26 510 (and the relevant orders of the Industrial Welfare Commission) by failing to pay Employees:
27 (a) time and one-half their regular hourly rates for hours worked in excess of eight (8) hours in a
28 workday or in excess of forty (40) hours in any workweek or for the first eight (8) hours worked

1 on the seventh day of work in any one workweek; or (b) twice their regular rate of pay for hours
2 worked in excess of twelve (12) hours in any one (1) day or for hours worked in excess of eight
3 (8) hours on any seventh day of work in a workweek. Defendants had a consistent policy of not
4 paying Employees wages for all hours worked including time off the clock when Plaintiff and
5 Employees were required to wait in line at least 5 minutes to clock in before every shift.
6 Employees regularly worked over 8 hours on a given day without receiving overtime
7 compensation.

8 49. Employees have been damaged by these violations of California Labor Code §§ 204
9 and 510 (and the relevant orders of the Industrial Welfare Commission).

10 50. Consequently, pursuant to California Labor Code §§ 204, 510, and 1194 (and the
11 relevant orders of the Industrial Welfare Commission), Defendants are liable to Employees for the
12 full amount of all their unpaid wages and overtime compensation, with interest, plus their
13 reasonable attorneys' fees and costs.

14 51. The forgoing uncompensated work caused Plaintiff and Employees to work in excess
15 of eight (8), ten (10), and twelve (12) hours a day, and/or forty (40) hours a week, entitling them to
16 overtime and double-time wages which were systemically denied.

17 52. Defendants' failure to pay compensation in a timely fashion also constituted a
18 violation of California Labor Code § 204, which requires that all wages shall be paid semimonthly.
19 From four (4) years prior to the filing of this lawsuit to the present, in direct violation of that
20 provision of the California Labor Code, Defendants have failed to pay all wages and overtime
21 compensation earned by Employees. Each such failure to make a timely payment of compensation
22 to Employees constitutes a separate violation of California Labor Code § 204.

23 53. Employees have been damaged by these violations of California Labor Code §§ 204
24 and 510 (and the relevant orders of the Industrial Welfare Commission).

25 54. Consequently, pursuant to California Labor Code §§ 204, 510, and 1194 (and the
26 relevant orders of the Industrial Welfare Commission), Defendants are liable to Employees for the
27 full amount of all their unpaid wages and overtime compensation, with interest, plus their
28 reasonable attorneys' fees and costs.

1 **THIRD CAUSE OF ACTION**

2 **MEAL-PERIOD LIABILITY UNDER LABOR CODE § 226.7**

3 **(Against All Defendants)**

4 55. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
5 full herein.

6 56. Employees regularly worked shifts greater than five (5) hours and greater than ten
7 (10) hours. Pursuant to Labor Code § 512 an employer may not employ someone for a shift of more
8 than five (5) hours without providing him or her with a meal period of not less than thirty (30)
9 minutes or for a shift of more than ten (10) hours without providing him or her with a second meal
10 period of not less than thirty (30) minutes.

11 57. Defendants failed to provide Employees with meal periods as required under the
12 Labor Code. Employees constitutently had 30 minutes deducted from their meal periods, regardless
13 of the time they actually took for their meal period.

14 58. Moreover, Defendants failed to compensate Employees for each meal period not
15 provided or inadequately provided, as required under Labor Code § 226.7.

16 59. Therefore, pursuant to Labor Code § 226.7, Employees are entitled to damages in an
17 amount equal to one (1) hour of wages at their effective regular rates of pay for each meal period
18 not provided or deficiently provided, a sum to be proven at trial.

19 **FOURTH CAUSE OF ACTION**

20 **REST-BREAK LIABILITY UNDER LABOR CODE § 226.7**

21 **(Against All Defendants)**

22 60. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
23 full herein.

24 61. Employees consistently worked consecutive four (4) hour shifts. Pursuant to the
25 Labor Code and the applicable IWC Wage Order, Employees were entitled to paid rest breaks of
26 not less than ten (10) minutes for each consecutive four (4) hour shift.

27 62. Defendants failed to provide Employees with timely rest breaks of not less than ten
28 (10) minutes for each consecutive four (4) hour shift.

63. Additionally, under *Augustus v. ABM Security Services, Inc.*, 2 Cal.5th 257, 260 (2016) “[D]uring required rest periods, employers must relieve their employees of all duties and relinquish any control over how employees spend their time.” Defendants did not allow Employees to leave the Defendants’ location and this is directly at odds with *Augustus*, as it “tethered [employees] by time and policy to a particular location” and therefore fails to relieve employees of all work duties and employer control during rest periods. *Augustus*, 2 Cal.5th at 269.

64. Moreover, Defendants did not compensate Employees with an additional hour of pay at each Employee's effective hourly rate for each day that Defendants failed to provide them with adequate rest breaks, as required under Labor Code § 226.7.

65. Therefore, pursuant to Labor Code § 226.7, Employees are entitled to damages in an amount equal to one (1) hour of wages at their effective regular rates of pay for each day worked without the required rest breaks, a sum to be proven at trial.

FIFTH CAUSE OF ACTION
VIOLATION OF LABOR CODE § 226(a)
(Against All Defendants)

66. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

67. California Labor Code § 226(a) requires an employer to furnish each of his or her employees with an accurate, itemized statement in writing showing the gross and net earnings, total hours worked, and the corresponding number of hours worked at each hourly rate; these statements must be appended to the detachable part of the check, draft, voucher, or whatever else serves to pay the employee's wages; or, if wages are paid by cash or personal check, these statements may be given to the employee separately from the payment of wages; in either case the employer must give the employee these statements twice a month or each time wages are paid.

68. Defendants failed to provide Employees with accurate itemized wage statements in writing, as required by the Labor Code. Specifically, the wage statements given to Employees by Defendants failed to accurately account for wages, overtime, and premium pay for deficient meal and rest periods and reflected the incorrect hours worked due to the rounding, all of which

1 Defendants knew or reasonably should have known were owed to Employees, as alleged
2 hereinabove. The wage statements provided to Employees were confusing and required Employees
3 to engage in discovery and refer to outside sources to verify whether their pay was correct and
4 potentially resulting in a miscalculation by the Employees.

5 69. As a direct and proximate cause of Defendants' violation of Labor Code § 226(a),
6 Employees suffered injuries, including among other things confusion over whether they received all
7 wages owed them, the difficulty and expense involved in reconstructing pay records, and forcing
8 them to make mathematical computations to analyze whether the wages paid in fact compensated
9 them correctly for all hours worked.

10 70. Pursuant to Labor Code §§ 226(a) and 226(e), Employees are entitled to recover the
11 greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation
12 occurs and one hundred dollars (\$100) for each violation in a subsequent pay period, not exceeding
13 an aggregate penalty of four thousand dollars (\$4,000). They are also entitled to an award of costs
14 and reasonable attorneys' fees.

15 71. With respect to violations of Labor Code § 226, Labor Code § 226.3 imposes a civil
16 penalty of two hundred and fifty dollars (\$250) for initial violations for each employee for each pay
17 period, and one thousand dollars (\$1000) for each subsequent violation for each employee for each
18 pay period.

19 72. Plaintiff is seeking penalties against Defendants under Labor Code § 226.3, and any
20 other applicable statute allowing recovery of penalties as alleged herein in an amount to be shown
21 according to proof.

22 **SIXTH CAUSE OF ACTION**

23 **FAILURE TO KEEP REQUIRED PAYROLL RECORDS UNDER LABOR CODE § 1174**

24 **AND 1174.5**

25 **(Against All Defendants)**

26 73. Plaintiffs re-allege and incorporate all preceding paragraphs, as though set forth in
27 full herein.

28 74. California Labor Code § 1174 requires that all employers shall keep accurate time

1 and wage records for all employees. California Labor Code § 1174.5 further requires that any
2 employee suffering injury due to a willful violation of the aforementioned obligations may seek
3 damages, including civil penalties, from the employer.

4 75. During the course of Plaintiff's and Employees' employment, Defendants
5 consistently failed to maintain accurate time and wage records for Plaintiff and Employees as
6 required by California Labor Code § 1174 by failing to pay Plaintiff and Employees proper wages,
7 overtime, and premium pay as discussed above.

8 76. Accordingly, Defendants are liable for civil penalties pursuant to the California
9 Labor Code §§ 1174.5. for the three (3) years prior to the filing of this Complaint.

10 **SEVENTH CAUSE OF ACTION**
11 **FAILURE TO PRODUCE REQUESTED EMPLOYMENT RECORDS UNDER LABOR**
12 **CODE §§ 226 and 1198**
13 **(Against All Defendants)**

14 77. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
15 full herein.

16 78. Pursuant to California Labor Code § 226, current and former employees have the
17 right to inspect or receive a copy of their records pertaining to their employment, upon reasonable
18 request to their employer. Under this statute, an employer that receives a request to inspect or
19 receive a copy of records pertaining to a current or former employee must comply with the request
20 as soon as practicable, but no later than twenty-one (21) calendar days from the date of the
21 request..

22 79. Pursuant to California Labor Code § 1198.5(a), every current and former employee,
23 or his or her representative, has the right to inspect and receive a copy of the personnel records
24 that the employer maintains relating to the employee's performance or to any grievance concerning
25 the employee. Under this statute, upon written request from a current or former employee or his or
26 her representative, an employer must make the contents of those personnel records available for
27 inspection or provide a copy of the personnel records to the current or former employee, or his or
28 her representative, not later than thirty (30) calendar days from the date the employer receives the

1 written request, subject to some limited exceptions. Failure to comply with these requests allows
2 for a civil penalty seven hundred fifty dollars (\$750), pursuant to Labor Code §§ 1198.5(k) and
3 226(f).

4 80. Plaintiff sent written requests through his counsel to Defendants for their payroll
5 records, timecards, and personnel records. However, Plaintiff has not received all of his requested
6 records as of the date of this Complaint

7 81. Defendants violated California Labor Code §§ 226 and 1198.5 by failing to timely
8 produce the required records requested by Plaintiff.

9 82. On information and belief, Defendants' failure to provide Plaintiff with all of his
10 requested employment records is not an isolated incident, but was instead consistent with
11 Defendants' policy and practice that applied to Plaintiff and Employees.

12 83. Pursuant to California Labor Code § 1198.5, Plaintiff and Employees are entitled to
13 a penalty of seven hundred fifty dollars (\$750) from Defendants and attorneys' fees and costs.

14 84. Pursuant to California Labor Code § 226, Plaintiff is entitled to a penalty of seven
15 hundred fifty dollars (\$750) from Defendants and attorneys' fees and cost.

16 **EIGHTH CAUSE OF ACTION**

17 **FAILURE TO REIMBURSE FOR NECESSARY BUSINESS EXPENDITURES**

18 **IN VIOLATION OF LABOR CODE § 2802**

19 **(Against All Defendants)**

20 85. Plaintiffs re-allege and incorporate all preceding paragraphs, as though set forth in
21 full herein.

22 86. Under Labor Code § 2802(a) an employer must indemnify its employees for all
23 necessary expenditures or losses incurred by the employee in direct consequence of the discharge
24 of his or her duties, or of his or her obedience to the directions of the employer.

25 87. Employees incurred necessary expenditures in the performance of their job duties for
26 Defendants, the purchase of a computer and cell phone and internet usage and other costs associated
27 with working from home which were necessary to perform their duties under Defendants' employ.
28 From four (4) years prior to the original filing of this lawsuit and continuing to the present,

1 Defendants consistently failed to reimburse Employees for these necessarily incurred business
2 expenses.

3 88. As a result of the unlawful acts of Defendants, Employees have been deprived of
4 reimbursement in amounts to be determined at trial; they are entitled to recovery of such amounts,
5 plus interest and penalties thereon, attorneys' fees, and costs.

6 **NINTH CAUSE OF ACTION**
7 **VIOLATION OF LABOR CODE § 221**
8 **(Against All Defendants)**

9 89. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
10 full herein.

11 90. Labor Code § 221 provides, "It shall be unlawful for any employer to collect or
12 receive from an employee any part of wages theretofore paid by said employer to said employee."

13 91. Defendants unlawfully received and/or collected wages from employees by
14 implementing a policy of automatically deducting 30 minutes worth of vested wages, from
15 Employees, for alleged meal periods which they were consistently denied, as well as by understating
16 the hours worked by Employees as alleged above.

17 92. As a direct and proximate cause of the unauthorized deductions, Employees have
18 been damaged, in an amount to be determined at trial.

19 **TENTH CAUSE OF ACTION**
20 **VIOLATION OF LABOR CODE § 203**
21 **(Against All Defendants)**

22 93. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
23 full herein.

24 94. Numerous Employees are no longer employed by Defendants; they either quit
25 Defendants' employ or were fired therefrom.

26 95. Defendants failed to pay these Employees all wages due and certain at the time of
27 termination or within seventy-two (72) hours of resignation.

28 96. The wages withheld from these Employees by Defendants remained due and owing

1 for more than thirty (30) days from the date of separation of employment.

2 97. Defendants' failure to pay wages, as alleged above, was willful in that Defendants
3 knew wages to be due but failed to pay them; this violation entitles these Employees to penalties
4 under Labor Code § 203, which provides that an employee's wages shall continue until paid for up
5 to thirty (30) days from the date they were due.

6 **ELEVENTH CAUSE OF ACTION**
7 **VIOLATION OF BUSINESS & PROFESSIONS CODE § 17200 ET SEQ.**
8 **(Against All Defendants)**

9 98. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
10 full herein.

11 99. Plaintiff, on behalf of himself, Employees, and the general public, brings this claim
12 pursuant to Business & Professions Code § 17200 *et seq.* The conduct of Defendants as alleged in
13 this Complaint has been and continues to be unfair, unlawful, and harmful to Employees and the
14 general public. Plaintiff seeks to enforce important rights affecting the public interest within the
15 meaning of Code of Civil Procedure § 1021.5.

16 100. Plaintiff is a "person" within the meaning of Business & Professions Code
17 § 17204, has suffered injury, and therefore has standing to bring this cause of action for injunctive
18 relief, restitution, and other appropriate equitable relief.

19 101. Business & Professions Code § 17200 *et seq.* prohibits unlawful and unfair business
20 practices.

21 102. Wage-and-hour laws express fundamental public policies. Paying employees their
22 wages and overtime, providing them with meal periods and rest breaks, etc., are fundamental public
23 policies of California. Labor Code § 90.5(a) articulates the public policies of this State vigorously
24 to enforce minimum labor standards, to ensure that employees are not required or permitted to work
25 under substandard and unlawful conditions, and to protect law-abiding employers and their
26 employees from competitors who lower costs to themselves by failing to comply with minimum
27 labor standards.

28 103. Defendants have violated statutes and public policies. Through the conduct alleged

1 in this Complaint Defendants have acted contrary to these public policies, have violated specific
2 provisions of the Labor Code, and have engaged in other unlawful and unfair business practices in
3 violation of Business & Professions Code § 17200 *et seq.*; which conduct has deprived Plaintiff, and
4 all persons similarly situated, and all interested persons, of the rights, benefits, and privileges
5 guaranteed to all employees under the law.

6 104. Defendants' conduct, as alleged hereinabove, constitutes unfair competition in
7 violation of the Business & Professions Code § 17200 *et seq.*

8 105. Defendants, by engaging in the conduct herein alleged, by failing to pay wages and
9 overtime, failing to provide meal periods and rest breaks, etc., either knew or in the exercise of
10 reasonable care should have known that their conduct was unlawful; therefore their conduct violates
11 the Business & Professions Code § 17200 *et seq.*

12 106. As a proximate result of the above-mentioned acts of Defendants, Employees have
13 been damaged, in a sum to be proven at trial.

14 107. Unless restrained by this Court Defendants will continue to engage in such unlawful
15 conduct as alleged above. Pursuant to the Business & Professions Code this Court should make such
16 orders or judgments, including the appointment of a receiver, as may be necessary to prevent the
17 use by Defendants or their agents or employees of any unlawful or deceptive practice prohibited by
18 the Business & Professions Code, including but not limited to the disgorgement of such profits as
19 may be necessary to restore Employees to the money Defendants have unlawfully failed to pay.

20 **TWELFTH CAUSE OF ACTION**

21 **PENALTIES PURSUANT TO LABOR CODE § 2699, ET SEQ.**

22 **(Against All Defendants)**

23 108. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
24 full herein.

25 109. Plaintiff and Employees are aggrieved employees as defined under Labor Code
26 §2699(c) in that they suffered the violations alleged in this Complaint and were employed by the
27 alleged violators, Defendants.

28 110. Plaintiff seeks penalties under Labor Code §§ 2698 and 2699 for Defendants'

violation of all Labor Code provisions included under Labor Code § 2699.5 and includes the penalty provisions, without limitation, based on the following California Labor Code sections: §§ 201, 202, §§ 201, 202, 203, 204, 210, 218.5, 218.6, 221, 226, 226.3, 226.4, 226.7, 510, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1198.5, 1199, 2698, 2699, *et seq*, and 2802.

111. The penalties shall be allocated as follows: 75% to the Labor and Workforce Development Agency (LWDA) and 25% to the affected employee.

112. Employees also seek any and all penalties and remedies set forth in Labor Code § 558, which states:

(a) Any employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (3) Wages recovered pursuant to this section shall be paid to the affected employee.

(b) If upon inspection or investigation the Labor Commissioner determines that a person had paid or caused to be paid a wage for overtime work in violation of any provision of this chapter, or any provision regulating hours and days of work of the Industrial Welfare Commission, the Labor Commissioner may issue a citation. The procedures for issuing, contesting, and enforcing judgments for citations of civil penalties issued by the Labor Commissioner for violation of this chapter shall be the same as those set out in Section 1197.1.

(c) The civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by the law.

113. Labor Code § 226.3 provides that “[a]ny employer who violates subdivision (a) of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial violation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage deduction statement or fails to keep the required in subdivision (a) of Section 226.” To the extent

1 that Labor Code § 226.3 applies, Plaintiff and Employees also seeks such penalties on.

2 114. Plaintiff has exhausted his administrative remedy by sending a certified letter to the
3 LWDA and Defendants postmarked on October 10, 2023. The LWDA has not provided notice of
4 its intent to investigate the alleged violations within 65 calendar days of the postmark date of the
5 letters.

6 **RELIEF REQUESTED**

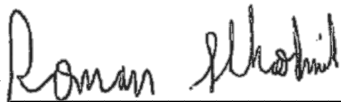
7 WHEREFORE, Plaintiff prays for the following relief:

- 8 1. For an order certifying this action as a class action;
- 9 2. For compensatory damages in the amount of the unpaid minimum wages for work
10 performed by Employees and unpaid overtime compensation from at least four (4) years prior to
11 the filing of this action, as may be proven;
- 12 3. For liquidated damages in the amount equal to the unpaid minimum wage and
13 interest thereon, from at least four (4) years prior to the filing of this action, according to proof;
- 14 4. For compensatory damages in the amount of all unpaid wages, including overtime
15 and double-time pay, as may be proven;
- 16 5. For compensatory damages in the amount of the hourly wage made by Employees
17 for each missed or deficient meal period where no premium pay was paid therefor from four (4)
18 years prior to the filing of this action, as may be proven;
- 19 6. For compensatory damages in the amount of the hourly wage made by Employees
20 for each day requisite rest breaks were not provided or were deficiently provided where no
21 premium pay was paid therefor from at least four (4) years prior to the filing of this action, as may
22 be proven;
- 23 7. For penalties pursuant to Labor Code § 226(e) for Employees, as may be proven;
- 24 8. For restitution and/or damages for all amounts unlawfully withheld from the wages
25 for all class members in violation of Labor Code § 221, as may be proven;
- 26 9. For penalties pursuant to Labor Code § 203 for all Employees who quit or were
27 fired in an amount equal to their daily wage times thirty (30) days, as may be proven;
- 28 10. For penalties pursuant to Labor Code § 1174.5, as may be proven;

11. For penalties pursuant to Labor Code §§ 226 and 1198.5, as may be proven;
12. For restitution for unfair competition pursuant to Business & Professions Code § 17200 *et seq.*, including disgorgement or profits, as may be proven;
13. For penalties pursuant to Labor Code § 2699, *et seq.*, as may be proven;
14. For compensatory damages in the amount of all previously unreimbursed business expenditures necessarily incurred by Employees in the discharge of their job duties for Defendants from four (4) years prior to the original filing of this action, as may be proven;
15. For an order enjoining Defendants and their agents, servants, and employees, and all persons acting under, in concert with, or for them, from acting in derogation of any rights or duties adumbrated in this Complaint;
16. For all general, special, and incidental damages as may be proven;
17. For an award of pre-judgment and post-judgment interest;
18. For an award providing for the payment of the costs of this suit;
19. For an award of attorneys' fees; and
20. For such other and further relief as this Court may deem proper and just.

DATED: December 14, 2023

D.LAW, INC.

By 

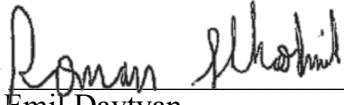
Emil Davtyan
David Yeremian
Roman Shkodnik
Amanda Fazio
Attorneys for Plaintiff
PAUL CARDOZA
and the putative class

DEMAND FOR JURY TRIAL

Plaintiff hereby demands trial of his claims by jury to the extent authorized by law.

DATED: December 14, 2023

D.LAW, INC.

By 
Emil Davtyan
David Yeremian
Roman Shkodnik
Amanda Fazio
Attorneys for Plaintiff
PAUL CARDOZA
and the putative class

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I am employed in the aforesaid county, State of California; I am over the age of 18 years and not a party to the within action; my business address is 880 E Broadway, Glendale, CA 91205.

Todd M. Plate
tplate@platelaw.com
THE PLATE LAW FIRM
 243 S. Escondido Blvd., #301
 Escondido, CA 92025

[X] (BY MAIL) I placed such envelope with postage thereon fully paid in the United States mail at Glendale, California. I am "readily familiar" with this firm's practice of collecting and processing correspondence for mailing. It is deposited with U.S. Postal Service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than 1 day after date of deposit for mailing in affidavit.

[] (ONLY BY ELECTRONIC TRANSMISSION) I electronically served the foregoing document in PDF format. I caused a true copy of the foregoing document(s) listed above to be served by electronic email transmission at the time shown on each transmission, to each interested party at the email address(es) shown above. Each transmission was reported as complete and without error.

☐ **(BY OVERNIGHT DELIVERY)** I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the address above. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

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

Executed on December 14, 2023, at Glendale, California.

Natalia Bermudes
Natalia Bermudes