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7 Attorneys for Plaintiff JORGE EDUARDO VELAZQUEZ

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9 **FOR THE COUNTY OF LOS ANGELES**

10 **JORGE EDUARDO VELAZQUEZ,**

11 **Plaintiff,**

12 **vs.**

13 **GOLDWATER EXPRESS LLC; YUXIAO**
14 **LIN; and DOES 1 to 25, inclusive,**

15 **Defendants.**

CASE NO.: 24STCV00263

COMPLAINT FOR DAMAGES FOR:

- 1) **FAILURE TO COMPENSATE FOR ALL HOURS WORKED;**
- 2) **FAILURE TO PAY MINIMUM WAGES;**
- 3) **FAILURE TO PAY OVERTIME;**
- 4) **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS;**
- 5) **FAILURE TO PAY WAGES OWED EVERY PAY PERIOD;**
- 6) **FAILURE TO GIVE REST BREAKS**
- 7) **FAILURE TO GIVE MEAL BREAKS**
- 8) **FAILURE TO REIMBURSE FOR BUSINESS EXPENSES;**
- 9) **FAILURE TO PAY WAGES WHEN EMPLOYMENT ENDS**
- 10) **PRIVATE ATTORNEYS GENERAL ACT ("PAGA");**
- 11) **RETALIATION IN VIOLATION OF LABOR CODE SECTION 1102.5;**
- 12) **RETALIATION IN VIOLATION OF LABOR CODE SECTION 98.6;**
- 13) **WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY**
- 14) **VIOLATION OF CALIFORNIA BUSINESS AND PROFESSIONS CODE SECTION 17200**

DEMAND FOR JURY TRIAL

COMES NOW Plaintiff, JORGE EDUARDO VELAZQUEZ (hereinafter "Plaintiff"),
and alleges as follows:

PARTIES, JURISDICTION, VENUE

1. Jurisdiction and Venue are proper in this Court and this action is properly filed in the County of Los Angeles in this judicial district because Defendants GOLDWATER EXPRESS LLC and YUXIAO LIN and DOES 1 to 25, inclusive, (hereinafter collectively known as "Defendant(s)" or "GOLDWATER"), do business in the County of Los Angeles and because Defendants' obligations and liabilities arise therein. Moreover, Plaintiff's damages sought herein exceed \$25,000.

2. Plaintiff is a male resident of the County of Los Angeles, State of California.

3. Plaintiff is informed and believes that at all times herein mentioned, Defendant GOLDWATER EXPRESS LLC is and was a California limited liability company, doing business in Los Angeles County, California, and which employed Plaintiff.

4. Plaintiff is informed and believes that at all times herein mentioned, Defendant YUXIAO LIN is a male resident of the State of California, and the owner, managing agent, and/or director GOLDWATER EXPRESS LLC. Defendant YUXIAO LIN is being included in this lawsuit pursuant to Labor Code Section 558.1 as he was involved in the day-to-day operations of the business and controlled the hours, wages, and/or working conditions of Plaintiff and other hourly, non-exempt employees. Defendants GOLDWATER EXPRESS LLC and YUXIAO LIN are collectively referred to herein as "Defendant(s)" (unless otherwise noted) or "GOLDWATER".

5. Plaintiff is ignorant of the true names and capacities, whether individual, corporate, or associate of those defendants fictitiously sued as DOES 1 to 25, inclusive, and so Plaintiff sues them by these fictitious names. Plaintiff is informed and believes that each of the DOE

1 defendants, numbers 1 to 25, reside in the State of California and are in some manner
2 responsible for the conduct alleged herein. Upon discovering the true names and capacities of
3 these fictitiously named defendants, Plaintiff will amend this complaint to show the true names
4 and capacities of these fictitiously named defendants.

5 6. Unless otherwise alleged in this complaint, Plaintiff is informed, and on the basis of
6 that information and belief, alleges that at all times herein mentioned, each of the remaining
7 codefendants, in doing the things hereinafter alleged, were acting within the course, scope, and
8 under the authority of their agency, employment, or representative capacity, with the consent
9 of his/her codefendants.
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11 **GENERAL ALLEGATIONS**

12 7. Plaintiff was employed by GOLDWATER as forklift driver on or around
13 November 2022. Plaintiff was classified as an hourly, non-exempt employee and was paid
14 \$18.50 per hour. Plaintiff's employment ended on or around September 2023.

15 8. In the case of Huff v. Securitas Sec. Servs. USA, Inc., 23 Cal. App. 5th 745 (2018),
16 Plaintiff, Huff, was employed as a security guard for the Defendant Employer, Securitas Security
17 Services USA, Inc., an onsite security provider. After about a year of employment, Huff
18 resigned. Huff then filed suit against Securitas under PAGA. In his claim, Huff specifically
19 alleged violations to the Labor Code requiring immediate payment of wages upon termination
20 of employment and weekly payment of wages to temporary employees. The trial court
21 determined Huff was not a temporary employee, and therefore, lacked standing to bring the
22 claim. Thus, Securitas was granted a motion for summary judgement. Later, the trial court
23 granted Huff a new trial. Securitas then appealed the grant of a new trial. On appeal, the issue
24 was whether Huff could bring a PAGA claim and sue for Labor Code violations that did not
25 directly affect him. Securitas unsuccessfully argued that the PAGA statute only allows the PAGA
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1 representative to sue for violations that the representative has personally suffered. The PAGA
2 statute states that an “aggrieved employee” is able to file suit on behalf of themselves and others.
3 The statute also states that an “aggrieved employee” is “any person who was employed by the
4 alleged violator and against whom one or more of the alleged violations was committed.”
5 Because at least one of the violations that Huff had alleged had affected him personally, the
6 Court of Appeal denied Securitas’ motion.
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8 9. In sum, since PAGA allows Plaintiffs to bring suit on behalf of both themselves and
9 other employees, it allows for suits broader than the specific violations the named
10 employee experienced. Therefore, even if the employee did not personally experience the Labor
11 Code violations, the employer may still be liable to under PAGA. Consequently, it is Plaintiff’s
12 position that Plaintiff can equivocally bring the following labor code violations on behalf of all
13 other employees, including ALL hourly, non-exempt employees, irrespective of job title or job
14 duties, who worked for GOLDWATER at any time during the relevant PAGA period.
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16 10. It is Plaintiff’s position that GOLDWATER has violated the following Labor Code
17 Sections against Plaintiff and other aggrieved employees, who include all non-exempt, hourly
18 employees, who worked for GOLDWATER at their various locations in the State of California
19 during the relevant PAGA period.
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21 11. GOLDWATER violated Labor Code § 1194, 1194.2, 1197, and 1197.1 because it failed
22 to pay Plaintiff and other similarly situated aggrieved employees for all hours worked, including
23 the statutory minimum wage for all hours worked and for “off the clock” work. This is so because
24 GOLDWATER had a company policy wherein they would disproportionately round down the
25 number of hours worked, resulting in “time shaving” and further resulting in aggrieved
26 employees not being paid for all hours worked. In fact, and despite having a formal timekeeping
27 system with clocking in and clocking out, Plaintiff’s work hours were rounded to whole numbers
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1 and Plaintiff was simply not paid for all hours worked. One look at Plaintiff's paystubs and it's
2 obvious that work hours were simply rounded to whole numbers without regard to exact clock-
3 in and clock-out figures.

4 12. Due to the above "off the clock" violations, GOLDWATER also violated Labor Code
5 §510 because it failed to pay Plaintiff and other aggrieved employees overtime compensation,
6 even though they worked more than 8 hours per day, 12 hours per day, and/or 40 hours per week
7 throughout their employment. Plaintiff's and other aggrieved employees' actual work hours
8 entitled them to overtime compensation, however, GOLDWATER did not compensate its
9 hourly, non-exempt employees with ANY amount of overtime, despite the "off the clock" work
10 and time shaving as described above. In fact, if employees such as Plaintiff did work overtime,
11 they were paid in cash and not at the overtime rate in violation of California law. Furthermore,
12 GOLDWATER failed to include bonuses/incentive payments in calculating employees' regular
13 rate of pay for use in deciphering the correct overtime rate of pay. Additionally, the incentive
14 and bonus payments were also not factored into employees' regular rate for purposes of receiving
15 meal and rest break premiums per the Ferra v. Loews case.

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18 13. GOLDWATER also violated Labor Code § 226.7 and the appropriate Industrial Welfare
19 Commission Wage Order no. 4/9 because it failed to provide Plaintiff and other similarly situated
20 aggrieved employees with timely 10-minute rest periods for every four hours of work, or
21 majority portion thereof, throughout their employment. GOLDWATER did not completely
22 relieve Plaintiff and others of all duty during said rest periods. GOLDWATER did not pay to
23 Plaintiff and others one additional hour of pay at Plaintiff's regular rate of compensation for each
24 workday that one or more statutory rest periods was not provided or was interrupted. Rest periods
25 were also simply not part of the company policy and were not consistently enforced. For the
26 majority of his employment, Plaintiff was not able to take any uninterrupted rest periods
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1 throughout his employment. At some point, the company started to provide employees with the
2 opportunity to take rest breaks, but it would only be one rest break, if that.

3 14. GOLDWATER violated Labor Code §§ 512 and 226.7 and the appropriate Industrial
4 Welfare Commission Wage Order no. 4/9 because it failed to provide hourly, non-exempt
5 employees, including Plaintiff and others, the requisite 30-minute, uninterrupted meal periods
6 for every five (5) hours of work throughout their employment. GOLDWATER did not
7 completely relieve Plaintiff and other employees of all duty during said meal
8 periods. GOLDWATER did not pay to Plaintiff and its hourly, non-exempt employees one
9 additional hour of pay at their regular rate of compensation for each workday that one or more
10 statutory meal periods was not provided. Plaintiff and the hourly, non-exempt employees would
11 not always receive timely, uninterrupted meal periods. The latter was due to the workload and
12 due to being in a fast-paced work environment and in having to finish the jobs. Furthermore,
13 Plaintiff and others seemingly did not clock in and clock out for meal periods per the time
14 records, and as such, there is no indication that any meal breaks were taken. Moreover, it was
15 commonplace for meal breaks to be taken late and after the 5th hour worked. There were many
16 occasions wherein Plaintiff would receive his meal break at 230pm, which would be considered
17 late. Moreover, there is pressure by management to finish tasks, even at the expense of taking
18 timely, uninterrupted meal breaks.

21 15. Consequently, it was the normal practice and custom of GOLDWATER not to authorize,
22 permit, and enforce timely, uninterrupted, statutory meal periods. If GOLDWATER had Plaintiff
23 sign a meal period waiver, it would not be valid and enforceable since Plaintiff and others
24 generally worked more than a 6-hour shift. If GOLDWATER had Plaintiff sign an on-duty meal
25 period agreement wherein Plaintiff agreed to work through the meal periods, it would be invalid
26 and unenforceable because the nature of Plaintiff's job does not and did not prevent him from
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1 taking a meal period and the company could have hired “breakers” to relieve Plaintiff of his job
2 duties so that he can actually take a timely, uninterrupted meal period. Moreover, any such “on
3 duty” meal period agreement did not allow for Plaintiff to revoke such an agreement even if it
4 was signed. As such, Plaintiff and others did not always receive statutory, timely meal periods
5 during their employment. To the extent that GOLDWATER argues that employees receive meal
6 break premium pay for missed meal periods, that argument is inconsequential for PAGA penalty
7 purposes since the PAGA penalties are for the violations themselves, irrespective of whether an
8 employee received the premium payment for a missed, short, or interrupted meal period.
9 In *Kirby v. Immoos Fire Protection, Inc.*, the Court stated, “section 226.7 does not give
10 employers a lawful choice between providing *either* meal and rest breaks *or* an additional hour
11 of pay.” See *Kirby v. Immoos Fire Protection, Inc.*, (2012) 53 Cal.4th 1244, 1256 (emphasis in
12 original). Thus, the extra hour of pay does not excuse the violation; the employer has still
13 committed a violation even if the remedy for the violation has been paid. See *Wert v. U.S.*
14 *Bancorp*, (S.D. Cal. Mar. 22, 2016, 2016 WL 1110302 at *4). As such, the work environment
15 and culture at GOLDWATER was not conducive to receiving consistent, timely, statutory meal
16 breaks under California law. Moreover, any meal or rest break premiums paid were not
17 compensated at the weighted average regular rate, inclusive of bonuses and/or incentive
18 payments as well as overtime compensation.
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21 16. Furthermore, during the relevant time period, and due to the above labor code violations,
22 GOLDWATER failed to pay Plaintiff and other similarly situated aggrieved employees all wages
23 due to them within any time period specified by California Labor Code section 204. In fact, there
24 were numerous occasions wherein Plaintiff and others were paid their earned wages late by
25 several days. GOLDWATER was also in violation of California Labor Code section 226(a) by
26 failing to include pertinent information on the wage statements, including but not limited to, the
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1 correct hourly rate, all hours worked, overtime hours worked, correct overtime pay, gross wages
2 earned, net wages earned, premium pay for missed meal and rest breaks, all deductions, the
3 correct start and end of the pay period, all employee identifying information, the correct and
4 complete name and address of the legal employer, and reimbursement for business expenses,
5 among others. As such, GOLDWATER did not provide Plaintiff and other similarly situated
6 aggrieved employees with complete, accurate itemized wage statements.

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8 17. During the relevant time period, GOLDWATER also failed to keep accurate and
9 complete payroll records showing the actual hours worked per day and the wages paid to Plaintiff
10 and others pursuant to California Labor Code sections 1174(d).

11 18. GOLDWATER also violated Labor Code § 203 because it willfully failed to pay Plaintiff
12 and other similarly situated aggrieved employees earned and due wages upon separation of
13 employment, either immediately upon involuntary termination, or within 72 hours of resignation.
14 These earned but unpaid wages include compensation for all hours worked, including minimum
15 wages, overtime compensation, and premium pay for missed meal and rest breaks.

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17 19. During the relevant time period, Plaintiff and other aggrieved employees incurred
18 necessary, business-related expenses and costs that were not reimbursed by GOLDWATER.
19 These costs include, but are not limited to, uniforms, use of personal cell phones for work
20 purposes and use of personal hand tools for work purposes. Accordingly, GOLDWATER was
21 in violation of California Labor Code sections 2800 and 2802.

22 20. Moreover, GOLDWATER failed to provide sick pay pursuant to Labor Code section 246
23 and also failed to provide Worker's Compensation coverage for Plaintiff and other aggrieved
24 employees in violation of Labor Code Section 3700.5.

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26 21. Furthermore, Plaintiff believes Defendants have also violated Labor Code Section 558
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1 and has engaged in business practices which violate Business and Professions Code Section
2 17200.

3 22. Furthermore, Plaintiff would have individual claims against GOLDWATER for
4 wrongful termination and retaliation, especially under Labor Code sections 98.6 and 1102.5 in
5 that Plaintiff was terminated after having a discussion with management about issues with his
6 pay and the fact that he was not being paid properly, including overtime compensation.
7 GOLDWATER clearly and unequivocally retaliated against Plaintiff for trying to enforce his
8 legal rights as an employee.
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10 **FIRST CAUSE OF ACTION**

11 **FAILURE TO COMPENSATE FOR ALL HOURS WORKED**

12 **(California Industrial Welfare Commission Order 4-2001/9-2001, California Code of**
13 **Regulations Title 8 Section 11040/11090, and California Labor Code Section 1198)**

14 **(Plaintiff against all named defendants and all DOE defendants)**

15 23. Plaintiff re-alleges and incorporates by reference each and every allegation in
16 paragraphs 1 through 22, inclusive, of this Complaint as though fully set forth herein.
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18 24. At all times relevant herein, Defendants were required to compensate its employees for
19 all hours worked upon reporting for work at the appointed time stated by the employer
20 pursuant to Industrial Welfare Commission Order 4-2001/9-2001, California Code of
21 Regulations, Title 8, Section 11040/11090.

22 25. For the three (3) years preceding filing of this action, Defendants failed to compensate
23 Plaintiff for all hours worked.

24 26. Under the aforementioned wage order and regulations, Plaintiff is to recover
25 compensation for all hours worked but not paid by Defendants for the three (3) years
26 preceding the filing of this Complaint.

27 27. As a proximate result of the aforementioned violations, Plaintiff has been damaged in
28 an amount according to proof at time of trial, but in an amount in excess of the jurisdiction of

1 this Court.

2 28. Defendants' conduct described herein violates Labor Code Section 512, 558, 1194, and
3 1198. Therefore, pursuant to Labor Code Sections 218.5, 512, 558, and 1194, Plaintiff is
4 entitled to recover damages for the nonpayment of wages for all hours worked, penalties, plus
5 reasonable attorney's fees and costs of suit.

6 29. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
7 along with any allowable interest, penalties, attorney's fees, and costs which will equal an
8 amount known to Plaintiff once he has obtained all of his payroll records from
9 Defendants.

10 **SECOND CAUSE OF ACTION**

11 **FAILURE TO PAY MINIMUM WAGES**

12 **(California Labor Code Sections 1194, 1194.2, 1197)**

13 **(Plaintiff against all named defendants and all DOE defendants)**

14 30. Plaintiff re-alleges and incorporates by reference each and every allegation in
15 paragraphs 1 through 29, inclusive, of this Complaint as though fully set forth herein.
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17 31. Pursuant to Labor Code Sections 1194, 1194.2 and 1197, it is unlawful for an employer
18 to suffer or permit a California employee to work without paying wages at the minimum wage
19 rate for all hours worked as required by the applicable Industrial Welfare Commission
20 (hereinafter "IWC") Wage Order No. 4-2001/9-2001, codified at California Code of
21 Regulations, Title 8, Section 11040/11090, subdivision 4.

22 32. Pursuant to IWC Wage Order no. 4-2001/9-2001, subdivision 2, at all
23 relevant times, "hours worked" included "the time during which an employee is subject to the
24 control of an employer, and includes all the time the employee is suffered or permitted to work,
25 whether or not required to do so..."

26 33. During his employment, Plaintiff was regularly required as a matter of uniform
27 policy and practice to work, and in fact worked, as an employee of Defendants and Plaintiff
28 was paid less than the minimum wage rate by Defendants for hours worked in violation of

1 California Labor Code Section 1197 and the applicable California Industrial Wage
2 Commission wage order(s).

3 34. Plaintiff was, at all relevant times, under the control of Defendants and suffered or
4 permitted to work by Defendants. Defendants' acts or omissions in failing to adequately
5 compensate Plaintiff were not in good faith nor were there reasonable grounds for Defendants
6 to believe that their acts or omissions were not contrary to California law.

7 35. For all hours worked by Plaintiff for which he was paid less than the minimum wage
8 rate by Defendants, Plaintiff is entitled to not less than the applicable California minimum
9 wage rate and, pursuant to Labor Code Section 1194.2(a), liquidated damages in an amount
10 equal to unpaid minimum wages and interests thereon. Pursuant to Labor Code Section 1194,
11 Plaintiff is also entitled to attorney's fees, costs and interests according to proof.

12 36. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
13 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
14 trial.

15 **THIRD CAUSE OF ACTION**

16 **FAILURE TO PAY OVERTIME**

17 **(California Industrial Welfare Commission Order 4-2001/9-2001, California Code of**
18 **Regulations Title 8 Section 11040/11090)**

19 **(Plaintiff against all named defendants and all DOE defendants)**

20 37. Plaintiff re-alleges and incorporates by reference each and every allegation in
21 paragraphs 1 through 36, inclusive, of this Complaint as though fully set forth herein. This
22 cause of action is brought by Plaintiff against all Defendants jointly and individually.

23 38. Pursuant to Industrial Welfare Commission Orders No. 4-2001/9-2001, California
24 Code of Regulations, Title 8, Section 11040/11090, for the period of Plaintiff's employment,
25 Defendants were required to compensate Plaintiff for all overtime, which is calculated at one
26 and one-half (1.5) times the regular rate of pay for hours worked in excess of eight (8) in a day
27 or forty (40) hours in a week, and two (2) times the regular rate of pay for hours worked in
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1 excess of twelve (12) hours in a day or hours worked in excess of eight (8) on the seventh
2 consecutive work day in a week.

3 39. Plaintiff was a non-exempt employee entitled to the protections of the California
4 Industrial Welfare Commission Order No. 4-2001/9-2001, California Code of Regulations,
5 Title 8, Section 11040/11090.

6 40. Plaintiff worked more than eight (8) hours in a single workday or forty (40) hours in a
7 single workweek on numerous occasions.

8 41. Plaintiff worked more than twelve (12) hours in a single workday.

9 42. Plaintiff was entitled to the above overtime premiums.

10 43. Defendants did not pay Plaintiff premium wages of at least one and one-half times
11 Plaintiff's correct regular rate of pay for hours worked past eight (8) in a day.

12 44. Defendants did not pay Plaintiff premium wages of at least one and one-half times
13 Plaintiff's correct regular rate of pay for hours worked past forty (40) in a week.

14 45. Defendants did not pay Plaintiff premium wages of at least two times Plaintiff's correct
15 regular rate of pay for hours worked past twelve (12) in a day.

16 46. Plaintiff worked at least one pay period in which he was not properly paid the correct
17 amount of overtime within the three (3) years prior to the initiation of this lawsuit.

18 47. Defendants know or should know the actual dates of overtime worked, the amount of
19 overtime worked, and the amount of unpaid overtime due.

20 48. As a proximate result of Defendants' violations, Plaintiff has been damaged in an
21 amount according to proof at time of trial, but in an amount in excess of the jurisdiction of this
22 Court.

23 49. Pursuant to California Labor Code Sections 218.6, 510, 1194, and California Code of
24 Regulations, Title 8, Section 11040/11090, Plaintiff is entitled to recover damages for the
25 nonpayment of overtime premiums for all overtime hours worked, penalties, interest, plus
26 reasonable attorney's fees and costs of suit.
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FOURTH CAUSE OF ACTION

FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS

(California Labor Code Section 226)

(Plaintiff against all named defendants and all DOE defendants)

50. Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs 1 through 49, inclusive, of this Complaint as though fully set forth herein. This cause of action is brought by Plaintiff against all Defendants jointly and individually.

51. Labor Code section 226(a) requires employers provide employees with itemized wage statements.

52. Labor Code section 226(a)(2) requires pay stubs accurately account for hours worked and the applicable hourly rates.

53. Labor Code section 226(a)(9) requires pay stubs to accurately reflect all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate.

54. Pursuant to California Labor Code Section 226, every employer must furnish each employee an itemized statement of wages and deductions at the time of payment of wages.

55. Defendants knowingly and intentionally did not furnish Plaintiff with any pay stubs that accurately reflected all information required by Labor Code Section 226, including but not limited to, gross wages earned, net wages earned, total hours worked by the employee, all deductions, overtime hours and pay, premium pay for rest break and meal break violations, and business expense reimbursement, among others. Therefore, Defendants failed to maintain and provide accurate itemized wage statements to Plaintiff in accordance with California Labor Code Section 226(a).

56. Pursuant to California Labor Code Section 226(e), Plaintiff is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not exceeding an aggregate amount of four thousand dollars (\$4,000), plus costs and

1 reasonable attorney's fees.

2 57. As a direct and proximate result of Defendants' unlawful conduct, Plaintiff has
3 sustained damages, including loss of earnings, in an amount to be established at trial. As a
4 further direct and proximate result of Defendants' unlawful conduct, as set forth herein,
5 Plaintiff is entitled to recover penalties, in an amount to be established at trial, as well as costs
6 and attorney's fees pursuant to statute.

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8 **FIFTH CAUSE OF ACTION**

9 **FAILURE TO PAY WAGES OWED EVERY PAY PERIOD**

10 **(California Labor Code Section 204)**

11 **(Plaintiff against all named defendants and all DOE defendants)**

12 58. Plaintiff re-alleges and incorporates by reference each and every allegation in
13 paragraphs 1 through 57, inclusive, of this Complaint as though fully set forth herein. This
14 cause of action is brought by Plaintiff against all Defendants jointly and individually.

15 59. California Labor Code Section 204 establishes the fundamental right of all employees
16 in the State of California to be paid wages in a timely fashion for their work.

17 60. At all times relevant during the liability period, Defendants failed to pay Plaintiff the
18 full amount of all owed wages when due as required by California Labor Code Section 204.

19 61. Defendants failed to pay Plaintiff all wages earned each pay period. Plaintiff is
20 informed, believes, and thereon alleges, that all times relevant during the liability period,
21 Defendants maintained a policy or practice of not paying Plaintiff the minimum wage for all
22 hours worked, not paying Plaintiff for all overtime hours worked, and not compensating
23 Plaintiff with premium pay for missed rest and meal breaks.

24 62. As a result of Defendants' unlawful conduct, Plaintiff has suffered damages in an
25 amount, subject to proof, to the extent he was not paid all wages each pay period. The precise
26 amount of unpaid wages is not presently known to Plaintiff but can be determined directly
27 from Defendants' records or indirectly based on information from Defendants' records.
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2 **SIXTH CAUSE OF ACTION**

3 **FAILURE TO GIVE REST BREAKS**

4 **(Plaintiff against all named defendants and all DOE defendants)**

5 63. Plaintiff re-alleges and incorporates by reference each and every allegation in
6 paragraphs 1 through 62, inclusive, of this Complaint as though fully set forth herein. This
7 cause of action is brought by Plaintiff against all Defendants jointly and individually.

8 64. Plaintiff brings this cause of action under the following laws, for the following reasons:

- 9 a. Title 8 of the California Code of Regulations Section 11040/11090(11)(A), which
10 provides that every employer shall authorize and permit all employees to take rest
11 periods, which insofar as practicable shall be in the middle of each work period.
12 The authorized rest period time shall be based on the total hours worked daily at the
13 rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof;
14 b. Title 8 of the California Code of Regulations Section 11040/11090(11)(B), which
15 provides that if an employer fails to provide an employee a rest period in
16 accordance with the applicable provisions of this order, the employer shall pay the
17 employee one (1) hour of pay at employee's regular rate of compensation for each
18 workday that the rest period is not provided;
19 c. Title 8 of the California Code of Regulations section 11040/11090(18)(A), which
20 penalizes the employer \$50.00 for each initial violation, per employee, of any
21 provision of the Wage Order, and \$100.00 for each additional violation thereafter
22 per employee; and
23 d. California Labor Code section 226.7, which states that (a) no employer shall require
24 any employee to work during any rest period mandated by an applicable order of
25 the Industrial Welfare Commission, and (b) if an employer fails to provide an
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1 employee a rest period in accordance with an applicable order of the Industrial
2 Welfare Commission, the employer shall pay the employee one (1) additional hour
3 of pay at employee's regular rate of compensation for each work day that the rest
4 period is not provided.

5 65. Plaintiff alleges that he was not authorized and permitted to take a ten (10) minute rest
6 break after every four (4) hours of work or major fraction thereof, as required by California
7 law.

8 66. Under this cause of action, Plaintiff prays for wages due to him under the statutes,
9 regulations, and wage orders alleged in this cause of action along with any allowable interest,
10 penalties, attorney's fees and costs, in an amount to be proven at trial. Specifically, Plaintiff
11 prays for the foregoing moneys calculated from 3 years immediately preceding the filing of
12 this lawsuit.
13

14 67. Plaintiff also prays for Labor Code section 218.5 recovery of costs and attorney's fees
15 as well as interest under Labor Code section 218.6.
16

17 **SEVENTH CAUSE OF ACTION**

18 **FAILURE TO GIVE MEAL BREAKS**

19 **(Plaintiff against all named defendants and all DOE defendants)**

20 68. Plaintiff re-alleges and incorporates by reference each and every allegation in
21 paragraphs 1 through 67, inclusive, of this Complaint as though fully set forth herein.

22 69. Plaintiff brings this cause of action under the following laws, for the following reasons:

- 23 a. California Labor Code section 512(a), which requires that employees be given a 30-
24 minute uninterrupted meal break after five (5) hours of work, and a second
25 uninterrupted meal break after ten (10) hours of work;
26
27 b. California Labor Code section 226.7, which states that (a) no employer shall require
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1 any employee to work during any meal period mandated by an applicable order of
2 the Industrial Welfare Commission, and (b) if any employer fails to provide an
3 employee a meal period in accordance with an applicable order of the Industrial
4 Welfare Commission, the employer shall pay the employee one (1) additional hour
5 of pay at the employee's regular rate of compensation for each workday that the
6 meal period is not provided;

- 7
- 8 c. California Industrial Welfare Commission Order No. 4/9 section 11(B)/10(B), as
9 codified under Title 8 of the California Code of Regulations Section 11040/11090,
10 which state that if an employer fails to provide an employee a meal period in
11 accordance with the applicable provisions of the Wage Order, the employer shall
12 pay the employee one (1) hour of pay at the employee's regular rate of
13 compensation for each workday that the meal period is not provided;
- 14 d. California Industrial Welfare Commission Wage Order No. 4/9 Section
15 7(A)(3)/6(A)(3), as codified under Title 8 of the California Code of Regulations
16 Section 11040/11090, which require an employer to maintain records documenting
17 its employees' meal periods;
- 18
- 19 e. California Industrial Welfare Commission wage order No. 4/9 Section 20(A)/18(A),
20 as codified under California Code of Regulations Section 11040/11090, which
21 penalizes the employer \$50.00 for each initial violation, per employee, of any
22 provision of the Wage Order, and \$100.00 for each additional violation thereafter
23 per employee; and
- 24
- 25 f. California Labor Code section 1171 and 1173, which have given the California
26 Labor Commission jurisdiction to enact Wage Orders (such as Wage Order nos. 4)
27 as enforceable law.
28

1 70. Plaintiff alleges that he was not authorized and permitted to take relieved meal breaks
2 after five (5) hours of work. Plaintiff further alleges that he was not authorized and permitted to
3 take a second relieved meal break after ten (10) hours of work, as required by California law.
4 California Labor Code section 512(a) and California Industrial Welfare Commission Order No.
5 4/9, as codified under California Code of Regulations Sections 11040/11090 et. seq., require
6 that employees receive uninterrupted meal periods every five (5) hours of consecutive work,
7 and that the meal period be at least 30 minutes in length, wherein employee is relieved of all
8 work duty. California Labor Code section 226.7 provides that employers may not require their
9 employees to work through their meal periods. California Labor Code section 226.7 and
10 California Code of Regulations section 11040/11090 require that if the employer fails to
11 provide the employee with an uninterrupted meal period, the employer must pay the employee
12 one (1) hour of pay for each work day that the meal period is not given.
13

14 71. Under this cause of action, Plaintiff prays for wages due to him under the statutes,
15 regulations, and wage orders alleged in this cause of action along with any allowable interest,
16 penalties, attorney's fees and costs according to proof at trial. Specifically, Plaintiff prays for
17 the foregoing moneys calculated from 3 years immediately preceding the filing of this lawsuit.
18

19 72. Plaintiff also prays for Labor Code section 218.5 recovery of costs and attorney's
20 fees as well as interest under Labor Code section 218.6.

21 73. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
22 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
23 trial.

24 **EIGHTH CAUSE OF ACTION**

25 **FAILURE TO REIMBURSE FOR BUSINESS EXPENSES**

26 **(Plaintiff against all Defendants and DOE Defendants, and each of them)**

27 74. Plaintiff re-alleges and incorporates by reference each and every allegation in
28

1 paragraphs 1 through 73, inclusive, of this Complaint as thought fully set forth herein.

2 75. Labor Code section 2802 provides that “[a]n employer shall indemnify his or her
3 employee for all necessary expenditures or losses incurred by the employee in direct
4 consequence of the discharge of his or her duties.”

5 76. Beginning at most 3 years prior to the filing of this complaint, in order to discharge
6 their duties for Defendant, Plaintiff incurred reasonable and necessary expenses in the course
7 of completing his job duties, which were not reimbursed by Defendants. These expenses
8 include, but are not limited to, uniforms, use of personal cell phones for work purposes and use
9 of personal hand tools for work purposes.

10 77. Plaintiff is entitled to reimbursement for these necessary expenditures, plus interest
11 and attorney’s fees and costs, under Labor Code section 2802.

12 **NINTH CAUSE OF ACTION**

13 **FAILURE TO PAY WAGES WHEN EMPLOYMENT ENDS**

14 **(California Labor Code Sections 201, 202, 203)**

15 **(Plaintiff against all named defendants and all DOE defendants)**

16 78. Plaintiff re-alleges and incorporates by reference each and every allegation in
17 paragraphs 1 through 77, inclusive, of this Complaint as though fully set forth herein.

18 79. Pursuant to California Labor Code Section 201(a), an employer who discharges an
19 employee must immediately pay for all compensation due and owing.

20 80. Pursuant to California Labor Code Section 202, when an employee resigns, the
21 employer must pay all compensation due and owing within 72 hours of resignation, or on the
22 employee’s last day of work, if the employee gives more than 72 hours notice of resignation.

23 81. Pursuant to California Labor Code Section 203, if an employer willfully fails to
24 pay, without abatement or reduction, any wages of an employee whose employment ends, the
25 wages of the employee shall continue as a penalty from the due date at the same rate until paid
26 or until an action is commenced; however, the wages shall not continue for more than 30 days
27
28

1 for failure to pay an employee owed wages.

2 82. After Plaintiff's employment with Defendants ended, Defendants willfully
3 refused and continue to refuse to pay him unpaid wages as required by Labor Code Section
4 203.

5 83. Under this cause of action, Plaintiff prays for penalties due under the statutes
6 alleged along with any allowable interest, penalties, attorney's fees, and costs according to
7 proof at trial. Moreover, Plaintiff prays for the above-mentioned money from 1 year
8 immediately preceding the filing of this lawsuit.

9 84. Under this cause of action, Plaintiff also prays for attorney's fees and costs
10 under California Labor Code Section 218.5 for time spent pursuing the non-payment of wages
11 as set forth herein. Plaintiff also prays for interest under California Labor Code Section 218.6.

12 85. Under this cause of action, Plaintiff prays for penalties due under the statutes
13 alleged along with any allowable interest, penalties, attorney's fees, and costs according to
14 proof at trial.

15 **TENTH CAUSE OF ACTION**

16 **PRIVATE ATTORNEYS GENERAL ACT**

17 **Representative Claim for PAGA penalties under California Labor Code sections 201,**
18 **202, 203, 204 and/or 204b, 210, 226, 226.3, 226.7, 246, 510, 512, 558, 1174, 1174.5, 1194,**
1194.2, 1197, 1197.1, 1198, 2800, 2802, 3700.5)

19 **(Plaintiff Against all Named Defendants and all DOE Defendants)**

20 86. Plaintiff re-alleges and incorporates by reference each and every allegation in
21 paragraphs 1 through 85, inclusive, of this Complaint as though fully set forth herein.

22 87. Pursuant to law, Plaintiff provided the required written notice to the LWDA and
23 Defendants of the specific violations of the California Labor Code that Defendants
24 and DOE defendants have violated and continue to violate.

25 88. Pursuant to California Labor code section 2699.3, no response was received from the
26 LWDA within 65 days of the postmark date of the above-alleged letter.

27 89. Plaintiff therefore has exhausted all administrative remedies required of him under
28

1 California Labor Code sections 2698, 2699, and 2699.3, and, as a result, may prosecute this
2 cause of action and pursue penalties in a representative action for Defendants' violations of the
3 Labor Code.

4 90. Pursuant to California Labor Code section 2699, any provisions of the Labor Code
5 that provides for a civil penalty to be assessed and collected by the LWDA or any of its
6 departments, divisions, commissions, boards, agencies, or employees for violation of the code
7 may, as an alternative, be recovered through a civil action brought by an aggrieved employee
8 on behalf of himself or herself and other current or former employees pursuant to the
9 procedures specified in California Labor Code section 2699.3.
10

11 91. Plaintiff is an "aggrieved employee" because Plaintiff was employed by the alleged
12 violator and had one or more of the alleged violations committed against him, and therefore is
13 properly suited to represent the interests of other current and former hourly, non-exempt
14 employees who worked for GOLDWATER at all locations in the state of California during
15 the relevant PAGA Period.

16 92. Based on the acts alleged above, Plaintiff, on behalf of others, seeks penalties under
17 California Labor Code sections 2698 and 2699 because of Defendants' violations of numerous
18 provisions of the California Labor Code as alleged in this Complaint.

19 93. Plaintiff therefore has exhausted all administrative remedies required of him under
20 California Labor Code sections 2698, 2699, and 2699.3, and, as a result, may prosecute this
21 cause of action and pursue penalties in a representative action for Defendants' violations of the
22 Labor Code.

23 94. California Labor Code section 2699 et seq. imposes penalties upon culpable
24 Defendants for violating the Labor Code.

25 95. California Labor Code section 558 establishes a civil penalty as follows: Any
26 employer or other person action on behalf of an employer who violates, or causes to be
27 violated, a section of this chapter or any provision regulating hours and days of work in any
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1 order of the Industrial Welfare Commission (including the "Hours and Days of Work" section
2 of the Wage Order) shall be subject to a civil penalty of (1) for any initial violation, fifty
3 dollars (\$50) for each underpaid employee for each pay period for which the employee was
4 underpaid... (2) for each subsequent violation, one hundred dollars (\$100) for each underpaid
5 employee for each pay period for which the employee was underpaid...

6 96. Plaintiff seeks penalties for Defendants' misconduct as alleged herein as permitted by
7 law, but only those penalties that are required to be shared with the LWDA as Plaintiff is not
8 seeking individual/victim specific relief or underpaid wages for Plaintiff or other aggrieved
9 employees in this specific cause of action under the Private Attorneys General Act.

10 97. Specifically, Plaintiff seeks penalties under California Labor Code section 2699, for
11 the following:

12 Violations of California Labor Code sections 201, 202, 203, 204 and/or 204b, 210, 226,
13 226.3, 226.7, 246, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198,
14 2800, 2802, 3700.5, via 2698 and 2699 and any other Labor Codes and Industrial Welfare
15 Commission Wage Order Provisions (no.4/9) violated based on the facts alleged in this
16 Complaint.

17 98. Pursuant to Labor Code section 2698 et seq., Plaintiff seeks to recover attorney's fees,
18 costs, and civil penalties on behalf of other current and former aggrieved employees as alleged
19 herein in an amount to be shown according to proof at trial and within the jurisdictional limits
20 of this Court.

21 **ELEVENTH CAUSE OF ACTION**

22 **RETALIATION IN VIOLATION OF LABOR CODE SECTION 1102.5**

23 **(Plaintiff against Defendant GOLDWATER EXPRESS LLC and all DOE Defendants)**

24 99. Plaintiff re-alleges and incorporates by reference each and every allegation in
25 paragraphs 1 through 98, inclusive, of this Complaint as though fully set forth herein.

26 100. At all times material to this Complaint, California Labor Code § 1102.5 was in
27 effect and binding on Defendants. This section requires Defendants to refrain from retaliating
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1 against an employee for refusing to participate in an activity that he/she reasonably believes
2 would result in a violation of state or federal statute, or a violation or noncompliance with a
3 state or federal rule or regulation. California Labor Code section 1102.5 also requires
4 Defendants to refrain from retaliating against an employee for disclosing information to a
5 person with authority over the employee if the employee has reasonable cause to believe that
6 the information discloses a violation of state or federal statute, or a violation of or
7 noncompliance with a local, state, or federal rule or regulation, regardless of whether
8 disclosing the information is part of the employee's job duties.

9 101. As mentioned above, Plaintiff complained to Defendants about wage and hour
10 violations, including not being paid properly and not receiving overtime compensation.

11 102. Defendants retaliated against Plaintiff for his whistleblowing, as alleged above,
12 all in violation of Labor Code § 1102.5.

13 103. As a direct and proximate result of the aforementioned acts and omissions of
14 Defendants, Plaintiff suffered general and compensatory damages, including but not limited
15 to, loss of income (past and future), loss of employment benefits (past and future), general and
16 compensatory damages (past and future), mental pain and anguish and emotional distress (past
17 and future), and will continue to suffer in the future, in an amount to be proved at trial.

18 104. Plaintiff requests all available relief under Labor Code § 1102.5 including
19 damages and the imposition of civil penalties of \$10,000 for each violation as well as
20 attorney's fees.

21 **TWELFTH CAUSE OF ACTION**

22 **RETALIATION IN VIOLATION OF LABOR CODE SECTION 98.6**

23 (California Labor Code section 98.6)

24 (Plaintiff against GOLDWATER EXPRESS LLC and All DOE Defendants, and each of
25 them)

26 105. Plaintiff re-alleges and incorporates by reference each and every allegation in
27 paragraphs 1 through 104, inclusive, of this Complaint as though fully set forth herein.

28 106. California Labor Code section 98.6 provides, in pertinent part, as follows:

1 “A person shall not discharge an employee or in any manner discriminate, retaliate, or
2 take any adverse action against any employee or applicant for employment because the
3 employee or applicant engaged in any conduct delineated in this chapter...or because
the employee or applicant...made a written or oral complaint that he or she is owed
unpaid wages...

4 107. In doing the things herein alleged, Defendants violated Labor Code section 98.6 in
5 that they retaliated against Plaintiff for complaining about his wages and about the labor code
6 violations that were being committed by Defendants.

7
8 108. As a direct and proximate result of the aforementioned acts and omissions of
9 Defendants, Plaintiff suffered general and compensatory damages, including but not
10 limited to, loss of income (past and future), loss of employment benefits (past and future),
11 general and compensatory damages (past and future), mental pain and anguish and emotional
12 distress (past and future), and will continue to suffer in the future, in an amount to be proved at
13 trial. Moreover, pursuant to Labor Code section 98.6, an employer who violates this section is
14 liable for a civil penalty not exceeding ten thousand dollars (\$10,000) per employee for each
15 violation of this section.

16 **THIRTEENTH CAUSE OF ACTION**

17 **WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY**

18 **(Plaintiff against Defendant GOLDWATER EXPRESS LLC and all DOE Defendants)**

19
20 109. Plaintiff re-alleges and incorporates by reference each and every allegation in
21 paragraphs 1 through 108 inclusive, of this Complaint as though fully set forth herein.

22 110. At all times during his employment with Defendants, Plaintiff performed his duties
23 with the utmost diligence and competence.

24 111. Plaintiff is informed and believes and thereon alleges that Defendants' decision and
25 actions to treat him differently and terminate his employment as alleged herein, was motivated
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27
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1 by Plaintiff's whistleblowing and complaints about illegal activity at the workplace. Plaintiff is
2 further informed and believes and thereon alleges that any other reasons proffered by Defendants
3 were and are pretextual in nature.

4 112. The employment of Plaintiff was wrongfully suspended/terminated in or around
5 September 2023 in violation of the fundamental public policy of the State of California with
6 respect to retaliating against an employee on account of his whistleblowing. Plaintiff was forced
7 to hire an attorney to assist him to end these illegal activities. Said conduct violated statutory and
8 constitutional expressions of public policy including, but not limited to, California Labor Code
9 sections 98.6 and 1102.5.
10

11 113. As set forth above, said actions by Defendants were wrongful and in violation of
12 the fundamental principles of the public policy of the State of California as reflected in its laws,
13 objectives and policies. Said statutes and constitutional expressions of public policy include,
14 but are not limited to, California Labor Code sections 98.6 and 1102.5. These laws inure to the
15 benefit of the public at large, and not just the private interests of the employers and employees
16 whom they govern or protect.
17

18 114. As a direct and proximate result of the aforementioned acts and omissions of
19 Defendants, Plaintiff suffered general and compensatory damages, including but not limited to,
20 loss of income (past and future), loss of employment benefits (past and future), general and
21 compensatory damages (past and future), mental pain and anguish and emotional distress (past
22 future), and will continue to suffer in the future, in an amount to be proved at trial.
23

24 115. The foregoing conduct engaged in by Defendants and each of their directors,
25 officers and/or managing agents, constitutes malice, fraud, and oppression and was authorized,
26 ratified, and carried on with a conscious and willful disregard of their workers' right to work in
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1 an environment free of retaliation due to whistleblowing, so as to justify the imposition of
2 punitive damages to punish and set an example of said Defendants.

3 **FOURTEENTH CAUSE OF ACTION**

4 **VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTION 17200**

5 **(California Business and Professions Code Section 17200)**

6 **(Plaintiff against Defendant GOLDWATER EXPRESS LLC and all DOE defendants)**

7
8 116. Plaintiff re-alleges and incorporates by reference each and every allegation in
9 paragraphs 1 through 115, inclusive, of this Complaint as though fully set forth herein.

10 117. By virtue of the foregoing statutes, regulations, and laws, the acts of Defendants
11 constitute unfair and unlawful business practices under California Business and Professions
12 Code Section 17200, et seq.

13 118. Defendants' violations of California labor laws constitutes a business practice because
14 it was done repeatedly over a significant period of time in a systematic manner that was
15 detrimental to Plaintiff and others.

16 119. For the four years preceding the filing of this action, Plaintiff has suffered damages
17 and request damages and/or restitution of all monies and profits to be disgorged from
18 Defendants in an amount according to proof at time of trial, but in excess of the jurisdiction of
19 this Court.

20 **PRAYER FOR RELIEF**

21 WHEREFORE, Plaintiff prays for Judgment against Defendants and each of them, as
22 follows:

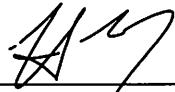
- 23
24 1. For compensatory damages including lost past and future wages, regular wages,
25 overtime, and all other sums of money, including employment benefits, together with
26 interest on said amounts, and any other economic injury to Plaintiff, according to proof;
27 2. For general damages according to proof;

3. For punitive damages against Goldwater Express LLC according to proof;
4. For damages for wages and overtime not paid to Plaintiff in an amount subject to proof at trial;
5. For damages and penalties under Labor Code Section 226 for Plaintiff in an amount subject to proof at trial;
6. For damages and penalties pursuant to Labor Code Section 203 in an amount subject to proof at trial;
7. For restitution and disgorgement for all unfair business practices by corporate Defendants against Plaintiff in an amount subject to proof at trial;
8. For an order enjoining corporate Defendants from further unfair and unlawful business practices in violation of Business and Professions Code Sections 17200, et seq.;
9. For one hour of wages due to Plaintiff for each work period of more than five (5) hours when Plaintiff did not receive an uninterrupted thirty (30) minute meal period;
10. For one hour of wages due to Plaintiff for each work period of four (4) hours or major fraction thereof when Plaintiff did not receive a ten (10) minute rest break;
11. For maximum civil penalties available under the Labor Code and applicable Wage Order against Defendant as described more particularly in the Complaint and Representative PAGA claim/action;
12. For all remedies available to Plaintiff under the applicable Wage Order and the Labor Code including an award of attorney's fees, costs, interest, and penalties according to proof to the extent permitted by law;
13. For restitution and/or damages for all amounts unlawfully withheld from the wages of Plaintiff, as may be proven;
14. For the imposition of civil penalties and/or statutory penalties;
15. For all interest as allowed by law;
16. For all costs and disbursements incurred in this suit;
17. Reasonable attorney's fees where available by law, including but not limited to, pursuant to Labor Code section 2698 et seq., Code of Civil Procedure section 1021.5, the California Labor Code, including section 1102.5; and/or other applicable laws; and

1 18. For such other and further relief as this Court may deem proper.

2
3 DATED: January 4, 2024

MESSRELIAN LAW INC.

4 By 
5 Harout Messrelian, Esq.
6 Attorneys for Plaintiff Jorge Eduardo Velazquez

7
8 **DEMAND FOR JURY TRIAL**

9 Plaintiff hereby demands, as a matter of right, a trial by jury in this case.

10 DATED: January 4, 2024

MESSRELIAN LAW INC.

11 By 
12 Harout Messrelian, Esq.
13 Attorneys for Plaintiff Jorge Eduardo Velazquez
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