

2023 NOV 30 PM 2:45

STEPHANIE SCHERRER, CLERK  
BY JESSICA CAYO  
DEPUTY

Aaron A. Bartz (SBN 198722)  
BARTZ LAW GROUP, APC  
5151 California Ave., Suite 100  
Irvine, California 92617  
Tel: (949) 504-4413 / Fax: (949) 656-7760  
Email: aaron@bartzlawgroup.com

Walter L. Haines, Esq. (SBN 71075)  
UNITED EMPLOYEES LAW GROUP, PC  
8605 Santa Monica Blvd., #63354  
West Hollywood, CA 90069  
Tel.: (562) 256-1047 / Fax: (562) 256-1006  
Email: walter@uelglaw.com

Attorneys for Plaintiff STETSON WHITEHEAD and all others similarly situated

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SAN JOAQUIN**

STETSON WHITEHEAD, an individual; on  
behalf of himself and all others similarly  
situated,

Plaintiffs,

v.

GLS US FREIGHT, INC., a California  
corporation; and DOES 1 to 100, inclusive,

Defendants.

Case No.: STK-CV-V00E -2023- 12910

CLASS ACTION

**COMPLAINT FOR:**

1. Violation of B&PC §17200, et seq.
2. Violation of Labor Code §§ 204, 510, 1194 and 1198;
3. Violation of Labor Code §§ 200, et seq.;
4. Failure to Pay Meal and Rest Break Premiums at the Proper Regular Rate of Pay (Labor Code §226.7)
5. Failure to Provide & Maintain Accurate Wage Statements Pursuant to Labor Code §226;
6. Failure to Provide Meal Periods (Lab. Code §226.7);
7. Failure to Provide Rest Breaks (Lab. Code §226.7);
8. Failure to Reimburse Expenses (Lab. Code §2802).

**DEMAND FOR JURY TRIAL**

Class Action Complaint

FILE BY FAX

1 Plaintiff STETSON WHITEHEAD, on behalf of himself and all other persons  
2 similarly situated (hereinafter, "Plaintiffs"), hereby complains against Defendant, GLS US  
3 FREIGHT, INC., a California corporation ("GLS"); and DOES 1 to 100, inclusive  
4 (hereinafter GLS and Does 1-100 are collectively referred to herein as "Defendants"), and on  
5 information and belief allege as follows:

6 **GENERAL ALLEGATIONS**

7 **JURISDICTION**

8 1. This is a civil action seeking recovery of unpaid wages, waiting time penalties,  
9 pay stub penalties and meal and rest period premiums under California Labor Code §§ 510,  
10 1194 et seq., 201 et seq., 226 and 226.7. Plaintiffs bring an action for monetary damages for  
11 failure to pay wages as well as for restitution for Defendants' violations of Business and  
12 Professions Code (B&PC) §17200, et seq., including full restitution of all compensation  
13 retained by Defendants as a result of their unlawful, fraudulent and unfair business practices.  
14 Plaintiffs seek all available relief, including full restitution of all compensation retained by  
15 Defendants as a result of their unlawful and unfair business practices. Further, Plaintiffs seek  
16 injunctive relief under B&PC §17200, et seq.

17 **VENUE**

18 2. Venue as to each of the Defendants is proper in this judicial district pursuant to  
19 California Code of Civil Procedure (CCP) §§ 395(a) and 395.5, as at least some of the acts  
20 complained of herein occurred in the County of San Joaquin. Each defendant either owns,  
21 maintains offices, transacts business, has an agent or agents within the County of San Joaquin,  
22 or otherwise is found within the County of San Joaquin, and each defendant is within the  
23 jurisdiction of this Court for purposes of service of process.

24 **PARTIES**

25 3. Stetson Whitehead ("Whitehead") is an individual over the age of eighteen  
26 (18). At all relevant times herein, Plaintiff Whitehead worked for Defendants within the State  
27 of California.

1           4.       Plaintiffs are informed and believe and thereon allege that at all times  
2 mentioned herein, defendant GLS is and was a California corporation.

3           5.       Plaintiffs are informed and believe and thereon allege that at all times  
4 mentioned herein, Defendant GLS was authorized to do business in the State of California,  
5 County of San Joaquin, and performing freight transportation services. Thus, each named  
6 defendant and DOES 1 to 100 are subject to B&PC §17200, et seq. (Unfair Competition Law)  
7 and the Labor Code, as hereinafter alleged.

8           6.       Plaintiffs do not know the true names or capacities, whether individual,  
9 partner, or corporate, of defendants sued herein as DOES 1 to 100, inclusive, and for that  
10 reason, those defendants are sued under such fictitious names, and Plaintiffs will seek from  
11 this Court leave to amend this Complaint when such true names and capacities are discovered.  
12 Plaintiffs are informed and believe and thereon allege that each of the Defendants and each  
13 fictitious defendant, whether individual, partners, or corporate, was responsible in some  
14 manner for the circumstances alleged herein, and proximately caused Plaintiffs and all others  
15 similarly situated hereinafter alleged and the general public to be subjected to the unlawful  
16 employment practices, wrongs, injuries and damages complained of herein.

17           7.       At all times herein mentioned, each of the Defendants participated in the doing  
18 of the acts hereinafter alleged to have been done by the named Defendants; and furthermore,  
19 Defendants, and each of them, were the agents, servants, and employees of each and every  
20 one of the other Defendants, as well as the agents of all Defendants, and at all times herein  
21 mentioned were acting within the course and scope of said agency and employment. Plaintiffs  
22 herein allege that Defendants and each of them is the joint employer of Plaintiffs and the  
23 classes.

24           8.       At all times mentioned herein, Defendants, and each of them, were members of  
25 and engaged in a joint venture, partnership, and common enterprise, and acting within the  
26 course and scope of and in pursuance of said joint venture, partnership, and common  
27 enterprise.  
28

9. At all times herein mentioned, the acts and omissions of various Defendants, and each of them, concurred and contributed to the various acts and omissions of each and every one of the other Defendants in proximately causing the complaints, injuries and damages alleged herein.

10. At all times herein mentioned, Defendants, and each of them, approved of, condoned, and/or otherwise ratified each and every one of the acts or omissions complained of herein. At all times herein mentioned, Defendants, and each of them, aided and abetted the acts and omissions of each and every one of the other Defendants, thereby proximately causing the damages, as herein alleged.

11. The California Superior Court also has jurisdiction in this matter because both the individual and aggregate monetary damages and restitution sought herein exceed the minimal jurisdictional limits of the Superior Court and will be established at trial, according to proof. The California Superior Court also has jurisdiction in this matter because Plaintiffs and the putative classes herein worked within the State of California, and were subject to California's wage and hour laws.

## PLAINTIFF CLASSES

12. The class representative Plaintiff who worked in the position of an hourly non-exempt employees or other similar title while employed by Defendants within the State of California, is as follows:

a. Stetson Whitehead

Plaintiff Whitehead worked within California as a freight driver for Defendants until July 2023.

13. At all times mentioned herein, Plaintiffs and the entirety of the hourly Class identified herein are current and former employees of Defendants who were not properly paid all their wages, including but not limited to, proper premium overtime, and/or double time due to Defendants' failure to properly calculate the regular rate and/or include all hours worked in a week to determine hours over eight (8) in a given day, or forty (40) in a week.

1 **CLASS ACTION ALLEGATIONS**

2 14. Plaintiffs bring this action on behalf of themselves and all others similarly  
3 situated as a class action pursuant to CCP §382. The Classes which Plaintiffs seek to  
4 represent are composed of and defined as follows:

5 **Class 1:**

6 All non-exempt hourly employees who worked for Defendants in California from  
7 2019 through the date of judgment, who were not paid premium overtime and/or double time  
8 at the employee's regular rate of pay.

9 **Subclass 1:**

10 All non-exempt hourly employees who worked for Defendants in California who were  
11 paid for a missed meal or rest period at an allegedly "reduced" rate of pay from 2019 through  
12 the date of judgment (Meal and Rest Reduced Rate Subclass);

13 **Class 2:**

14 All non-exempt hourly employees who worked for Defendants in California from  
15 2019 through the date of judgment, who were not paid the minimum wage for all hours  
16 worked (Minimum Wage Class);

17 **Class 3:**

18 All non-exempt hourly employees who worked for Defendants in California and who  
19 worked at some point from 2020 through the present, who are no longer employed with  
20 Defendants and to whom Defendants willfully failed to pay all wages due upon separation  
21 from Defendants (Waiting Time Penalty Class);

22 **Class 4:**

23 All non-exempt hourly employees who worked for Defendants in California from  
24 2019 to the present who were not provided legally compliant meal periods (Meal Break  
25 Class);  
26  
27  
28

**Class 5:**

All non-exempt hourly employees who worked for Defendants in California from 2019 through the present who were not provided legally-compliant rest breaks (Rest Break Class);

**Class 6:**

All non-exempt hourly employees who worked for Defendants in California from 2022 through the present who were provided a paystub (a.k.a. wage statement) which failed to list all hours actually worked and wages owed (Pay Stub Class).

**Class 7:**

All non-exempt hourly employees who worked for Defendants in California from 2019 through the present who were not reimbursed for their necessary and reasonable business expenses (Reimbursement Class).

The members of the classes are so numerous that joinder of all members would be unfeasible and not practicable. The membership of the classes are unknown to Plaintiffs at this time; however, it is estimated that the classes number greater than 100 individuals. The identity of such membership is readily ascertainable via inspection of Defendants' employment records.

15. There are common questions of law and fact as to Plaintiffs and all others similarly situated which predominate over questions affecting only individual members including, without limitation to:

- i. Whether Defendants paid their employees proper premium overtime and/or double time at the employees' regular rate for hours over eight (8) in a day and/or forty (40) hours in a week, in paying their hourly non-exempt employees;
- ii. Whether Defendants violated the applicable Labor Code provisions including §510, 1194, and 203 by requiring substantial overtime work and not paying for said work according to the overtime laws of the State of California;

- 1           iii.     Whether Defendants failed to pay the appropriate premium overtime  
2                 compensation to the hourly employees;
- 3           iv.     Whether Defendants improperly retained, appropriated or deprived  
4                 Plaintiffs and the class members of the use of monies or sums to which  
5                 Plaintiffs and the class were legally entitled;
- 6           v.     Whether Defendants engaged in unfair business practices;
- 7           vi.     Whether Defendants, and each of them, were participants in the alleged  
8                 unlawful conduct;
- 9           vii.    Whether Defendants' conduct was willful or reckless;
- 10          viii.   The effect upon and the extent of injuries suffered by Plaintiffs and all  
11                 others similarly situated and the appropriate amount of compensation;
- 12          ix.     The appropriate amount of monetary penalties allowed by Labor Code  
13                 §201, et. seq.;
- 14          x.     Whether Defendants pay and continue to pay for missed meal and rest  
15                 period premiums at an allegedly "reduced" rate of pay in violation of  
16                 Section 11 of the applicable Wage Orders;
- 17          xi.     Whether Defendants violated Labor Code §226 and relevant IWC  
18                 Wage Orders by failing to, among other violations, accurately report  
19                 total hours worked, premium pay at the regular hourly rate for meal and  
20                 rest periods, all applicable hourly rates in effect during each pay period  
21                 and the corresponding number of hours worked at each hourly work, by  
22                 Plaintiffs and the members of the Class;
- 23          xii.    Whether Defendants knowingly and intentionally failed to maintain  
24                 records for Plaintiffs and members of the Class as required by Labor  
25                 Code § 1174 and the applicable IWC Wage Orders;
- 26          xiii.   Whether Defendants failed to reimburse Plaintiffs and the  
27                 class members for necessary expenditures incurred in the performance  
28                 of their work for Defendants;

1           16.     Plaintiffs' claims are typical of the claims of all members of the classes and  
2 subclasses mentioned herein. Plaintiffs, as representative parties, will fairly and adequately  
3 protect the interest of the classes by vigorously pursuing this suit through their attorneys who  
4 are skilled and experienced in handling matters of this type. Plaintiffs have no claim or  
5 interest that is antagonistic to any class member.

6           17.     The nature of this action and the nature of laws available to the members of the  
7 classes and subclasses identified herein make use of the class action format a particularly  
8 efficient and appropriate procedure to afford relief to Plaintiffs for the wrongs alleged herein.  
9 Further, this claim involves a large corporate employer, Defendant GLS, and a large number  
10 of individual employees (Plaintiffs and all others similarly situated) with many relatively  
11 small claims with common issues of law and fact. If each employee were required to file an  
12 individual lawsuit, the corporate defendants would necessarily gain an unconscionable  
13 advantage since they would be able to exploit and overwhelm the limited resources of each  
14 individual plaintiff with their vastly superior financial and legal resources. Requiring each  
15 class member to pursue an individual remedy would also discourage the assertion of lawful  
16 claims by employees who would be disinclined to pursue an action against their present  
17 and/or former employer for an appreciable and justifiable fear of retaliation and permanent  
18 damage to their careers at present and/or subsequent employment. Proof of a common  
19 business practice or factual pattern, of which the Plaintiffs experienced, is representative of  
20 the class mentioned herein and will establish the right of each of the members of the named  
21 class to recovery on the causes of action alleged herein.

22           18.     The prosecution of separate actions by the individual class members, even if  
23 possible, would create a substantial risk of inconsistent or varying verdicts or adjudications  
24 with respect to the individual class members against Defendants herein; and which would  
25 establish potentially incompatible standards of conduct for Defendants; and/or (b) legal  
26 determinations with respect to individual class members which would, as a practical matter,  
27 be dispositive of the interest of the other class members not parties to adjudications or which  
28 would substantially impair or impede the ability of the class members to protect their interests.

1 Further, the claims of the individual members of the class are not sufficiently large to warrant  
2 vigorous individual prosecution considering all of the concomitant costs and expenses  
3 attending thereto.

4 19. Plaintiffs and all others similarly situated are entitled to the wages and other  
5 monies unlawfully withheld. This action is brought for the benefit of the public.

6 **FIRST CAUSE OF ACTION**

7 **(Violation of B&PC §17200, et seq.)**

8 20. Plaintiffs re-allege and incorporate by reference herein the allegations of all  
9 preceding paragraphs as though fully set forth herein.

10 21. Beginning on an exact date unknown to Plaintiffs but believed to have  
11 occurred from 2019 on, Defendants have engaged in a pattern and practice of acts of unfair  
12 competition in violation of B&PC §17200, including the practices alleged herein.

13 22. Defendants, and each of them, provide freight transportation services within  
14 California, and have engaged in the practice of paying their non-exempt employees, in a  
15 fashion that circumvents California's wage and hour laws.

16 **FAILURE TO PAY PROPER WAGES AND OVERTIME COMPENSATION**

17 23. Plaintiffs are informed and believe and thereon allege that as part of  
18 Defendants' ongoing unfair business practices, Defendants' hourly employees worked in  
19 excess of eight (8) hours per day, and in excess of forty (40) hours per week without receiving  
20 the proper regular rate of pay and/or minimum wage rate because Plaintiffs regularly conduct  
21 pre-trip and post-trip inspections of their vehicles, without payment. Defendants are therefore  
22 in violation of Labor Code §§ 510 and 1194, and the relevant California Industrial Welfare  
23 Commission Orders.

24 24. Defendants, and each of them, consistently administered a corporate policy  
25 regarding off-the-clock and on-call time, which required that employees work overtime  
26 without proper premium overtime pay, the regular rate of pay, and/or minimum wage. This  
27 corporate policy and pattern of conduct is accomplished with the advanced knowledge and  
28 designed intent to avoid paying non-exempt employees for all hours worked. Accordingly,

1 Plaintiffs and the class members are entitled to all unpaid wages due under California law.  
2 Further, Plaintiffs and the class are entitled to restitution of these wages obtained by  
3 Defendants, and each of them.

4 **VIOLATION OF LABOR CODE § 200, ET SEQ.**

5 25. Plaintiffs are informed and believe and thereon allege that as part of  
6 Defendants' ongoing unfair business practices, Defendants failed to provide all employees all  
7 wages at the time of their separation in violation of Labor Code § 200, et. seq., including but  
8 not limited to, §§201, 202, 203 & 204.

9 26. Labor Code § 200, et seq. provides that an employer is required to pay an  
10 employee all wages (including accrued vacation) immediately upon the employee's  
11 involuntary separation from employment; immediately upon his or her voluntary separation if  
12 the employee gave at least seventy-two (72) hours notice, and within seventy-two (72) hours,  
13 if the employee voluntarily separated, but did not give at least seventy-two (72) hours notice.

14 27. Plaintiffs are informed and believe and thereon allege that all employees who  
15 have been separated from Defendants did not timely receive a final paycheck detailing the  
16 proper amount of pay from Defendants in violation of Labor Code § 200, et. seq.

17 28. Pursuant to Labor Code § 200, et seq. employees that no longer work for  
18 Defendants, and who were not timely paid, are entitled to one (1) day of pay in penalties for  
19 each day that he or she was paid late, until payment was made, up to a maximum of thirty (30)  
20 days.

21 **VIOLATION OF MEAL AND REST PERIOD PROVISIONS**

22 29. Defendants' improper meal and rest period policies are in violation of  
23 California law including, but not limited to Labor Code § 226.7, 512, and the applicable IWC  
24 Wage Orders. Plaintiffs and the class were entitled to 1 hour of pay for each meal and rest  
25 break violation at their regular rate of pay. Defendants failed and continue to fail to pay for  
26 meal and rest period violations at the employees' regular rate of pay in violation of Section 11  
27 of the applicable Wage Orders.

28 30. Plaintiffs seek restitution and injunctive relief for said violations.

1           31.     Plaintiffs are informed and believe and thereon allege that at all times herein  
2 mentioned, Defendants have engaged in unlawful, deceptive, and unfair business practices  
3 prohibited by California B&PC §17200, thereby depriving their employees and the putative  
4 class the minimum working standards and conditions due to them under the California labor  
5 laws and Industrial Welfare Commission wage orders as specifically described herein.  
6 Plaintiffs seek an injunction preventing Defendants from continuing their unfair business  
7 practice of improperly depriving their employees of overtime pay, and payment of their  
8 regular rate of pay for meal and rest period premiums. Plaintiffs further seek an order  
9 requiring Defendants to identify by full name, telephone number, and last known address  
10 employees who worked or still work for Defendants between 2019 through the date of  
11 judgment; Plaintiffs further seek an order requiring Defendants to timely pay restitution to all  
12 current and former employees, including back wages, premium payments, and interest.

13                   **FAILURE TO PROVIDE ITEMIZED WAGE STATEMENTS**

14           32.     Plaintiffs are informed and believe and thereon allege that as part of  
15 Defendants' ongoing unfair business practices, Defendants, and each of them, fail to provide  
16 their employees with proper and understandable itemized wage statement, as required by Labor  
17 Code § 226.

18           33.     Plaintiffs are informed and believe, and thereon allege, that Defendants, and  
19 each of them, fail to provide each employee with an itemized statement which states the actual  
20 regular rate paid, the total hours worked by the employee, the gross and net wages earned, and  
21 all applicable hourly rates in effect during the pay period and the corresponding number of  
22 hours worked at each hourly rate by the employee.

23                   **FAILURE TO REIMBURSE EXPENSES**

24           34.     Defendants have adopted and implemented an illegal reimbursement policy  
25 that fails to compensate Plaintiffs for all of their necessary business expenses incurred in  
26 discharging their duties for Defendants.

27           35.     Defendants' conduct in failing to reimburse Plaintiffs and the class for their  
28 necessary business expenses is also unfair within the meaning of Business and Professions

Code §17200 because it is against established public policy and has been pursued to attain an unjustified monetary advantage for Defendants by unfairly and unlawfully reducing Plaintiffs' and the other class members' compensation, as Plaintiffs and the class are required to come out of pocket for such expenses. As such, Defendants' business practices, including their illegal reimbursement policy and practice, is unfair, illegal and fraudulent, in that such policy and practice was intended to reduce Plaintiffs' and the class' due and owing compensation.

## **SECOND CAUSE OF ACTION**

### **RECOVERY OF UNPAID WAGES & PENALTIES**

#### **(Violation of Labor Code §§ 204, 510, 1194 and 1198)**

36. Plaintiffs re-allege and incorporate by reference herein the allegations of all preceding paragraphs as though fully set forth herein.

37. Plaintiffs and all others similarly situated identified herein were and are employed and scheduled as a matter of established company policy to work and in fact worked as non-exempt hourly employees in excess of eight (8) hours per day and/or in excess of forty (40) hours per week. Defendants employed and scheduled all employees without providing overtime compensation for such excess hours worked in violation of Labor Code §§ 510 and 1194 and the relevant California Industrial Welfare Commission (IWC) orders. Labor Code § 204 establishes the fundamental right of all employees in the State of California to be paid the proper amount of wages in a timely fashion for their work, including overtime. Defendants always had a written and verbal agreement to pay overtime and double time based on the Plaintiffs' and classes' regular rate of pay.

38. Pursuant to Labor Code §§ 218 and 1194(a), Plaintiffs may bring a civil action for overtime wages directly against the employer without first filing a claim with the Division of Labor Standards Enforcement (hereinafter "DLSE") and may recover such wages, together with interest thereon, penalties, attorneys' fees and costs.

39. At all times relevant hereto, Defendants have failed to pay to Plaintiffs and all persons similarly situated wages when due as required by Labor Code § 204.

1           40. Pursuant to Labor Code § 1198, it is unlawful to employ persons for longer  
2 than the hours set by the IWC or under conditions prohibited by the applicable IWC Wage  
3 Orders.

4           41. At all times relevant hereto, Plaintiffs are informed and believe and thereon  
5 allege that Defendants have treated Plaintiffs as hourly non-exempt employees. Despite this  
6 classification, Defendants have willfully violated the Labor Code with respect to meeting the  
7 requirements of paying one (1) regular rate of pay and calculating overtime and double time  
8 based on that regular rate, as herein before alleged. Defendants have failed to properly pay  
9 premium overtime for hours worked in a week, and as such, Defendants are able to reduce  
10 their overhead and operating expenses and gain an unfair advantage over competing  
11 companies complying with state law. Furthermore, Defendants have failed to include all  
12 items of remuneration when determining the employees' regular rate of pay, as described  
13 above.

14           42. Plaintiffs are informed and believe and thereon allege that Defendants  
15 consistently administered a corporate policy regarding both staffing levels and duties and  
16 responsibilities of the members of the classes which required the entirety of all classes to work  
17 overtime without proper premium pay, and to fail all wages for hours worked. This corporate  
18 policy and pattern of conduct was/is accomplished with the advance knowledge and design of  
19 all Defendants herein. Thus, Plaintiffs and all others similarly situated routinely, regularly  
20 and customarily performed overtime work and/or work that they failed to be compensated at  
21 the appropriate hourly wage.

22           43. Plaintiffs are informed and believe and thereon allege that the obligations and  
23 responsibilities of the class employees are irrelevant because Plaintiffs and all others similarly  
24 situated merely allege wrongdoing with Defendants' pay plans, policies and practices.  
25 Further, the duties of Plaintiffs and all others similarly situated are not relevant in certifying  
26 any of the classes.

27           44. Defendants, and each of them, had a consistent and uniform policy, practice  
28 and procedure of willfully failing to pay the earned and unpaid wages of all such non-exempt

1 employees. Defendants have willfully failed to pay the earned and unpaid wages of such  
2 individuals, including, but not limited to regular pay, premium pay, and other wages earned  
3 and remaining uncompensated according to amendment, or proof.

4 45. The pattern, practice and uniform administration of corporate policy regarding  
5 illegal employee compensation as described herein is unlawful and creates an entitlement to  
6 recovery by Plaintiffs and all others similarly situated, in a civil action, for the unpaid balance  
7 of the full amount of all wages owing, including the proper calculation of the regular rate and  
8 the proper overtime premiums calculated at 1.5 or 2 times the legal regular rate which are  
9 owing, including interest thereon, willful penalties, reasonable attorneys' fees, and costs of  
10 suit according to the mandate of Labor Code § 1194, et. seq.

11 46. Likewise, Defendants have a pattern, practice and uniform administration of  
12 corporate policy regarding failure to comply with the required provisions of Labor Code §  
13 226.7, in failing to pay Plaintiffs and the class the meal and rest period premium payments at  
14 the regular rate.

### 15 **THIRD CAUSE OF ACTION**

#### 16 **(Violation of Labor Code §§ 200, et. seq.)**

17 47. Plaintiffs re-allege and incorporate by reference herein the allegations of all  
18 preceding paragraphs as though fully set forth herein.

19 48. Labor Code §§ 200, et. seq., provides that an employer is required to pay an  
20 employee all wages (including accrued vacation) immediately upon an employee's  
21 involuntary separation from employment; immediately upon her voluntary separation if the  
22 employee gave at least seventy-two (72) hours notice, and within seventy-two (72) hours, if  
23 the employee voluntarily separated, but did not give at least seventy-two (72) hours notice.

24 49. Plaintiff Whitehead and other former employees of Defendants employed in  
25 the State of California separated from employment with Defendants, and did not timely  
26 receive a final pay check with all of their wages due from Defendants in violation of Labor  
27 Code §§  
28

1 200, et seq. Plaintiffs are informed and believe and thereon allege that Defendants also  
2 violated the mandates of Labor Code §§ 200, et seq., as to other employees whose  
3 employment ended during the period of time covered by this action.

4 50. Pursuant to Labor Code §§ 200, et. seq., each member of the class that no  
5 longer works for Defendants, and who was not timely paid all of his or her wages due is  
6 entitled to one (1) day of pay in penalties for each day that he or she was paid late, until  
7 payment was made, up to a maximum of thirty (30) days.

#### 8 **FOURTH CAUSE OF ACTION**

#### 9 **FAILURE TO PAY MEAL AND REST PERIOD PREMIUMS AT THE PROPER** 10 **REGULAR RATE OF PAY**

#### 11 **(Violation of Labor Code §§ 226.7 & 512, et seq.)**

12 51. Plaintiffs re-allege and incorporate by reference herein the allegations of all  
13 preceding paragraphs as though fully set forth herein.

14 52. Plaintiffs believe and thereon allege that Labor Code §226.7 requires an  
15 employer to pay an additional hour of compensation at the employee's regular rate of pay for  
16 each meal period and rest period violation. During the class period, Plaintiffs are informed  
17 and believe, and based thereon allege that Defendants have failed to pay Plaintiffs and the  
18 class members meal period and rest period premium pay at their regular rate of pay.  
19 Defendants' improper meal and rest period practices and policies are in violation of California  
20 law including, but not limited to Labor Code § § 226.7, 512, and the IWC Wage Orders.

21 53. Pursuant to Labor Code §226.7, Plaintiffs are entitled to damages in an amount  
22 equal to one (1) hour of the employee's regular rate of pay per each meal and rest period  
23 violation, in a sum to be proven at trial.

#### 24 **FIFTH CAUSE OF ACTION**

#### 25 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**

#### 26 **(Violation of Labor Code § 226)**

27 54. Plaintiffs re-allege and incorporate by reference herein the allegations of all  
28 preceding paragraphs as though fully set forth herein.

1           55. Labor Code §226(a) provides, in pertinent part:

2           An employer, semimonthly or at the time of each payment of wages, shall  
3           furnish to his or her employee, either as a detachable part of the check, draft, or  
4           voucher paying the employee's wages, or separately if wages are paid by  
5           personal check or cash, an accurate itemized statement in writing showing (1)  
6           gross wages earned, (2) total hours worked by the employee, except as  
7           provided in subdivision (j), (3) the number of piece-rate units earned and any  
8           applicable piece rate if the employee is paid on a piece-rate basis, (4) all  
9           deductions, provided that all deductions made on written orders of the  
10          employee may be aggregated and shown as one item, (5) net wages earned, (6)  
11          the inclusive dates of the period for which the employee is paid, (7) the name  
12          of the employee and only the last four digits of his or her social security  
13          number or an employee identification number other than a social security  
14          number, (8) the name and address of the legal entity that is the employer and, if  
15          the employer is a farm labor contractor, as defined in subdivision (b) of Section  
16          1682, the name and address of the legal entity that secured the services of the  
17          employer, and (9) all applicable hourly rates in effect during the pay period and  
18          the corresponding number of hours worked at each hourly rate by the  
19          employee. . . .

20          56. During the Class Period, Defendants knowingly and intentionally failed to  
21          provide the Class Members, including Plaintiff Whitehead, with timely and accurate wage and  
22          hour statements showing gross wages earned, total hours worked, all deductions made, net  
23          wages earned, the name and address of the legal entity employing that Class Member, meal  
24          and rest period premium payments, and all applicable hourly rates in effect during each pay  
25          period and the corresponding number of hours worked at each hourly rate by that Class  
26          Member.

27          57. The Class Members, including Plaintiffs, suffered injury as a result of  
28          Defendants' knowing and intentional failure to provide the Class Members, with the wage and  
29          hour statements required by law.

30          58. Based on Defendants' conduct as alleged herein, Defendants are liable for actual  
31          damages, statutory damages and/or statutory penalties pursuant to California Labor Code §  
32          226, attorney's fees and costs and other applicable provisions of the Labor Code and  
33          applicable Wage Order.

**(Violation of Labor Code §§ 226.7 and 512)**

62. Plaintiffs and members of the Class were not provided with or given the opportunity to take the requisite meal periods before the end of the first 5 hours of work, nor were they provided with or given the opportunity to take a proper second meal period during the days when they worked more than 10 hours in a day. Defendants coerced Plaintiffs and the members of the Class to forego meal periods by disciplining and/or threatening disciplinary action against them if they attempted to take meal periods, created incentives to forego meal breaks, and encouraged the skipping of meal periods by scheduling work to coincide with the meal periods, among other things. In addition, Defendants placed unnecessarily tight timelines on Plaintiffs' work, forcing them to miss their meal periods in order to complete their jobs. As a result, Plaintiffs and members of the Class were required to work and/or were not relieved of all duties during any meal period taken, and thus were

1 considered “on duty;” however, Defendants failed to count as time worked any “on duty”  
2 meal period taken by Plaintiffs and the members of the Class.

3 63. Pursuant to California Labor Code § 226.7(c) and IWC Wage Orders, if an  
4 employer fails to provide an employee a meal period in accordance with the applicable  
5 provisions of the IWC Wage Orders, the employer shall pay the employee one (1) hour of pay  
6 at the employee’s regular rate of pay for each workday that the meal period is not provided.  
7 As such, Plaintiffs and members of the Class are entitled to an additional one hour’s pay for  
8 each day in which Plaintiffs and members of the Class were not provided a proper meal break  
9 under the above-described authorities.

10 64. Plaintiffs and the members of the Class request that the Court award interest on  
11 all unpaid wages at the legal rate specified by California Civil Code § 3289(b), accruing from  
12 the date the wages were due and payable pursuant to Labor Code § 218.6.

13 **SEVENTH CAUSE OF ACTION**

14 **FAILURE TO AUTHORIZE OR PERMIT REST PERIODS**

15 **(Violation of Labor Code § 226.7)**

16 65. Plaintiffs re-allege and incorporate by reference as if fully set forth herein, the  
17 allegations of the preceding paragraphs.

18 66. The applicable IWC Wage Orders state that every employer shall authorize and  
19 permit all employees to take rest periods. The authorized rest period time shall be based on  
20 the total hours worked daily at the rate of ten (10) minutes net rest time per four hours of  
21 work, or major fraction thereof. An employer must provide employees with 10 minutes’ rest  
22 for shifts from three and one-half to six hours in length, 20 minutes for shifts of more than six  
23 hours up to 10 hours, 30 minutes for shifts of more than 10 hours up to 14 hours, and so on.

24 67. Plaintiffs and Class Members were not permitted to take rest periods, were  
25 required to work during their rest periods, and/or were disciplined and/or were advised that  
26 they would be disciplined if they took rest periods during work hours, in contravention of  
27 California law.

1           68. Pursuant to California Labor Code § 226.7(c) and the applicable IWC Wage  
2 Orders, if an employer fails to provide an employee a rest period in accordance with the  
3 applicable IWC Wage Orders, the employer shall pay the employee one (1) hour of pay at the  
4 employee's regular rate of compensation for each workday that the rest period is not provided.

5           69. As such, Plaintiffs and the Class members are entitled to an additional one  
6 hour's pay for each day in which they were not provided a proper rest period under the above-  
7 described authorities.

8           70. Plaintiffs and the members of the Class request that the Court award interest on  
9 all unpaid wages at the legal rate specified by California Civil Code § 3289(b), accruing from  
10 the date the wages were due and payable pursuant to Labor Code § 218.6.

11                           **EIGHTH CAUSE OF ACTION**

12                           **FAILURE TO REIMBURSE EXPENSES**

13                           **(Violation of (Labor Code § 2802))**

14           71. Plaintiffs re-allege and incorporate by reference as if fully set forth herein, the  
15 allegations of the preceding paragraphs.

16           72. California Labor Code § 2802 provides that "[a]n employer shall indemnify his  
17 or her employee for all necessary expenditures or losses incurred by the employee in direct  
18 consequence of the discharge of his or her duties."

19           73. Plaintiffs are informed and believe, and based thereon allege, that at all  
20 relevant times Plaintiffs and the class members incurred certain expenses for their jobs with  
21 Defendants, including but not limited to using their own personal cell phone to remain in  
22 direct communication with work at all times. Despite this, Defendants failed and refused to  
23 indemnify Plaintiffs and the class for all of their expenditures in carrying out their duties for  
24 Defendants.

25           74. As a result of Defendants' failure to indemnify Plaintiff and the class members,  
26 they have suffered losses according to proof, including prejudgment interest, costs, and  
27 attorneys' fees in prosecuting this case.

1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiffs pray:

3 1. That the Court determine this action may be maintained as a class action;

4 **As to the First Cause of Action:**

5 2. For an order preliminarily and permanently enjoining Defendants from  
6 engaging in the practices challenged herein;

7 3. An order for full restitution of all monies, as necessary and according to proof,  
8 to restore any and all monies withheld by the Defendants by means of the unfair practices  
9 complained of herein. Plaintiffs seek, on behalf of the putative class, the appointment of a  
10 receiver, as necessary. The restitution includes all monies retained as wages, as defined in  
11 Labor Code §§ 201, 202, 510 and 1194, and interest, and attorneys' fees as a result of the  
12 unfair business practices;

13 4. For an order finding and declaring that Defendants' acts and practices as  
14 challenged herein are unlawful, and unfair and/or fraudulent;

15 5. For an accounting, under administration of Plaintiffs and subject to court  
16 supervision, to determine the amount to be returned by Defendants and the amounts to be  
17 refunded to members who are or were not paid all their wages due to Defendants' unfair  
18 business practices;

19 6. For the creation of an administrative process wherein each injured current and  
20 former employee receives his or her back wages in the form of overtime pay or alternatively  
21 that each current or former eligible employee may submit a claim in order to receive his/her  
22 money;

23 7. For an order requiring Defendants to make full restitution and payment  
24 pursuant to B&PC §§ 17200, et seq.;

25 8. For all other appropriate declaratory and equitable relief;

26 9. For pre-judgment interest to the extent permitted by law;

1           10.     For an order requiring Defendants to identify, by name, address and telephone  
2 number of each person who worked in California as an hourly non-exempt employee for  
3 Defendants between 2019 through the time of judgment;

4           11.     For an order imposing all civil and statutory penalties provided by law.

5           **As to the Second and Fourth Cause of Action:**

6           12.     For damages according to proof, as set forth in Labor Code §§ 510, 226.7 and  
7 1194, et seq., (and the applicable California Industrial Welfare Commission wage orders)  
8 regarding wages due and owing;

9           13.     For pre-judgment interest as allowed by Labor Code § 1194 and California  
10 Civil Code § 3287(b), for waiting time penalties as authorized by Labor Code § 203, and for  
11 reasonable attorneys' fees;

12           14.     For an order imposing all civil and statutory penalties provided by law.

13           **As to the Third Cause of Action:**

14           15.     For waiting time penalties for all former employees not timely paid their last  
15 pay check, including vacation pay;

16           16.     For reasonable attorneys' fees and costs;

17           17.     For an order imposing all civil and statutory penalties provided by law.

18           **As to the Fifth Cause of Action:**

19           18.     For recovery as authorized by Labor Code §226(e);

20           19.     For injunctive relief to ensure Defendants' compliance with Labor Code §226  
21 and the IWC Wage Orders §7(A) pursuant to Labor Code §226(h);

22           20.     For an award of costs and reasonable attorneys' fees pursuant to Labor Code  
23 §226(e) and/or §226(h);

24           21.     For an order imposing all civil and statutory penalties provided by law.

25           **As to the Sixth Cause of Action:**

26           22.     One (1) hour of pay at each of the employees' regular rate of compensation for  
27 each workday that a meal period was not provided, impeded, discouraged and/or dissuaded;

28           23.     For an order imposing all civil and statutory penalties provided by law.

1           **As to the Seventh Cause of Action:**

2           24.     One (1) hour of pay at each of the employees' regular rate of compensation for  
3 each workday that a rest period was not authorized or permitted, or impeded, interrupted,  
4 discouraged and/or dissuaded;

5           25.     For an order imposing all civil and statutory penalties provided by law.

6           **As to the Eighth Cause of Action:**

7           26.     For recovery of all necessary expenditures or losses incurred by Plaintiffs and  
8 the class members, according to proof;

9           27.     For pre-judgment interest as allowed by Labor Code §§ 218.6, 1194(a), and  
10 Civil Code § 3287;

11          28.     For an award of reasonable attorneys' fees and costs pursuant to Labor Code §  
12 2802(c);

13          **As to All Causes of Action:**

14          29.     For reasonable costs incurred;

15          30.     For such other and further relief as this Court may deem just and proper.

16  
17 Dated: November 30, 2023

BARTZ LAW GROUP, APC

18  
19 By:     /s/ Aaron A. Bartz  
20 AARON A. BARTZ  
21 Attorneys for Plaintiff Stetson Whitehead and all  
22 others similarly situated  
23  
24  
25  
26  
27  
28

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

Dated: November 30, 2023

By: /s/ Aaron A. Bartz  
AARON A. BARTZ  
Attorneys for Plaintiff Stetson Whitehead and all  
others similarly situated