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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SANTA CLARA

PETE CRUZ and JOSE HERNANDEZ,
individually and on behalf all others similarly
situated,

Plaintiffs,

v.

QUANTUMSCAPE, an entity of unknown
form; QUANTUMSCAPE CORPORATION, a
Delaware corporation; QUANTUMSCAPE
BATTERY, INC., a Delaware corporation; and
DOES 1 through 50, inclusive,

Defendants.

Case No. 23CV427117
Related to Case No.: 24CV439603

CLASS ACTION

*Assigned for All Purposes to the Hon. Theodore
C. Zayner, Dept. 19*

**SECOND AMENDED CLASS ACTION AND
PAGA COMPLAINT FOR:**

1. Failure to Pay Minimum Wages;
2. Failure to Pay Wages and Overtime Wages;
3. Meal-Period Violations;
4. Rest-Break Violations;
5. Failure to Pay Vacation Wages;
6. Failure to Comply with Labor Code § 245 *et seq.* and 246 (Failure to Pay Sick Time at the Regular Rate of Pay);
7. Reimbursement of Necessary Expenditures;
8. Violation of Labor Code § 226(a) (Wage Statement Violations);
9. Failure to Keep Required Payroll Records;
10. Penalties Pursuant to Labor Code § 203 (Waiting Time Penalties);
11. Violation of Business & Professions Code § 17200 *et seq.*;
12. Penalties Pursuant to Labor Code § 2699, *et seq.*; and
13. Untimely Payment of Wages

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1 Plaintiffs PETE CRUZ and JOSE HERNANDEZ, (hereinafter “Plaintiffs”) on behalf of
2 themselves and all others similarly situated (collectively, “Employees”; individually, “Employee”)
3 complains of Defendants, and each of them, as follows:

4 INTRODUCTION

5 1. Plaintiffs bring this action on behalf of themselves and all current and former
6 Employees within the State of California who, at any time four (4) years prior to the filing of this
7 lawsuit, are or were employed as non-exempt, hourly employees by Defendants
8 QUANTUMSCAPE, an entity of unknown form; QUANTUMSCAPE CORPORATION, a
9 Delaware corporation; QUANTUMSCAPE BATTERY, INC., a Delaware corporation; and DOES
10 1 through 50 (all defendants being collectively referred to herein as “Defendants”). Plaintiffs
11 allege that Defendants, and each of them, violated various provisions of the California Labor
12 Code, relevant orders of the Industrial Welfare Commission (IWC) and California Business &
13 Professions Code, and seek redress therefore.

14 2. Plaintiffs are residents of California and during the time period relevant to this
15 Second Amended Class Action and PAGA Complaint (the “Complaint”) were employed by
16 Defendants as non-exempt, hourly employees within the State of California at Defendants’
17 facilities and offices in California. Plaintiffs and the other Class members worked for Defendants
18 in Santa Clara County, and in other non-exempt positions, throughout California and consistently
19 worked at Defendants’ behest without being paid all wages due. More specifically, Plaintiffs and
20 the other similarly situated Class members were employed by Defendants and worked at
21 Defendants’ offices and other facilities where the conduct giving rise to the allegations in this
22 class action and PAGA complaint occurred. Upon information and belief, Plaintiffs were
23 employed by Defendants and (1) shared similar job duties and responsibilities, (2) were subjected
24 to the same policies and practices, and (3) endured similar violations at the hands of Defendants as
25 the other Employee Class members who served in similar and related positions.

26 3. Defendants required Plaintiffs and the Employees in the Class to perform work
27 while remaining under Defendants’ control before and after being on the clock for their daily work
28 shift. Defendants further failed to accurately record time worked by Plaintiffs and Employee Class

1 members by rounding hours worked to reflect scheduled shift start and end times as opposed to
2 actual hours worked. Defendants also had a uniform policy and practice of requiring Employees to
3 record meal breaks before the fifth hour of work regardless of whether Employees took a meal
4 period after the fifth hour or did not receive a meal period. Defendants thus failed to pay Plaintiffs
5 and the Class members for all hours worked and provided them with inaccurate wage statements
6 that prevented Plaintiffs and the Class from learning of these unlawful pay practices. Defendants
7 also failed to provide Plaintiffs and the Class with lawful meal and rest periods, as employees
8 were not provided with the opportunity to take timely, uninterrupted, and duty-free meal and rest
9 periods as required by the Labor Code.

10 THE PARTIES

11 A. The Plaintiffs

12 4. Plaintiff PETE CRUZ (“Cruz”) has resided in California and during the time period
13 relevant to this Complaint was employed by Defendants as a non-exempt, hourly employee within
14 the State of California.

15 5. Plaintiff JOSE HERNANDEZ (“Hernandez”) has resided in California and during
16 the time period relevant to this Complaint was employed by Defendants as a non-exempt, hourly
17 employee within the State of California from July 15, 2019 to September 22, 2023.

18 B. The Defendants

19 6. Defendant QUANTUMSCAPE is an entity of unknown form with its principle
20 executive offices in Fullerton, California and has been listed as the employer on Plaintiffs’
21 paystubs during the relevant time period. QUANTUMSCAPE does not list a California address
22 with the California Secretary of State, but upon information and belief, employs Plaintiffs and the
23 Class members at Defendants’ offices and facilities in San Jose, California, and throughout
24 California and conducts business throughout California.

25 7. Defendant QUANTUMSCAPE CORPORATION (“QSC”) is a Delaware
26 corporation with its principle executive office in San Jose, California, and was Plaintiffs’ principal
27 job site during the relevant time period. QSC lists a California address in San Jose, California with
28 the California Secretary of State, and employs Class members in Santa Clara County, including at

1 Defendants' offices and facilities in San Jose, California, and throughout California and conducts
2 business throughout California.

3 8. Defendant QUANTUMSCAPE BATTERY, INC. ("QSB") is a Delaware
4 corporation with its principle executive offices in San Jose, California, and was Plaintiffs'
5 principal job site during the relevant time period. QSB lists a California address in San Jose,
6 California with the California Secretary of State, and employs Class members in Santa Clara
7 County, including at Defendants' offices and facilities in San Jose, California, and throughout
8 California and conducts business throughout California.

9 9. The true names and capacities, whether individual, corporate, associate, or
10 whatever else, of the Defendants sued herein as Does 1 through 50, inclusive, are currently
11 unknown to Plaintiffs, who therefore sues these Defendants by such fictitious names under Code
12 of Civil Procedure § 474. Plaintiffs are informed and believe and thereon allege that Defendants
13 designated herein as Does 1 through 50, inclusive, and each of them, are legally responsible in
14 some manner for the unlawful acts referred to herein. Plaintiffs will seek leave of court to amend
15 this Complaint to reflect the true names and capacities of the Defendants designated herein as
16 Does 1 through 50 when their identities become known.

17 10. Plaintiffs are informed and believe and thereon allege that each Defendant acted in
18 all respects pertinent to this action as the agent of the other Defendants, that Defendants carried
19 out a joint scheme, business plan, or policy in all respects pertinent hereto, and that the acts of
20 each Defendant are legally attributable to the other Defendants. Furthermore, Defendants acted in
21 all respects as the employers or joint employers of Employees. Defendants, and each of them,
22 exercised control over the wages, hours or working conditions of Employees, or suffered or
23 permitted Employees to work, or engaged, thereby creating a common law employment
24 relationship, with Employees. Therefore, Defendants, and each of them, employed or jointly
25 employed Employees.

26 **JURISDICTION AND VENUE**

27 11. This Court has jurisdiction over this Action pursuant to California Code of Civil
28 Procedure § 410.10 and California Business & Professions Code § 17203. This Action is brought

1 as a Class Action on behalf of similarly situated Employees of Defendants pursuant to California
2 Code of Civil Procedure § 382. Venue as to Defendants is also proper in this judicial district
3 pursuant to California Code of Civil Procedure § 395 *et seq.* Upon information and belief, the
4 obligations and liabilities giving rise to this lawsuit occurred at least in part in Santa Clara County
5 and Defendants maintain and operate company offices and facilities in Santa Clara County, and
6 employ Plaintiffs and other Class members in Santa Clara County and throughout California.

7 **FACTUAL BACKGROUND**

8 12. The Employees who comprise the Class and Collective, including Plaintiffs, are
9 non-exempt employees pursuant to the applicable Wage Order of the IWC. Defendants hire
10 Employees who work in non-exempt positions at the direction of Defendants in the State of
11 California. Plaintiffs and the Class members were either not paid by Defendants for all hours
12 worked or were not paid at the appropriate minimum, regular and overtime rates. Specifically,
13 Plaintiffs and Employees were not paid for the time that they worked “pre-shift” and “post-shift”
14 without compensation by interfacing with vendors, sending emails, and driving to pick up parts.
15 Moreover, Employees were not paid for the time spent answering work-related phone calls while
16 off-the-clock. Defendants also had a uniform policy and practice of rounding all time entries to
17 reflect scheduled shift start and end times rather than paying Plaintiffs and the Class members for
18 all hours and minutes they actually worked. Defendants generally rounded time entries to the
19 detriment of the Employees, and these unlawfully rounded time entries were inputted into
20 Defendants’ payroll system from which wage statements and payroll checks were created.
21 Plaintiffs also contend that Defendants failed to pay Plaintiffs and the Class members all wages
22 due and owing, failed to provide meal and rest breaks, and failed to furnish accurate wage
23 statements, all in violation of various provisions of the California Labor Code and applicable
24 Wage Orders. Additionally, Defendants paid Plaintiffs and Employees nondiscretionary
25 commissions, incentive pay, and/or nondiscretionary bonuses. For example, Defendants had a
26 policy to pay referring employees a bonus of \$1,000 - \$2,500 for referring applicants that were
27 subsequently hired for full-time, regular positions. Pursuant to Defendants’ policy, in order to
28 receive the bonus, the referring employee had to remain employed during the hired candidate’s

1 first 30 days of employment, making the bonus a longevity bonus. Plaintiff Hernandez was paid
2 overtime as well as a \$1,000 nondiscretionary bonus in the October 14, 2022 and November 10,
3 2022 pay periods, but his overtime rate did not include an adjustment for the value of the bonus he
4 received. Defendants failed to incorporate all remunerations, including nondiscretionary
5 commissions, incentive pay, and/or nondiscretionary bonuses, such as the longevity bonus, into
6 the calculation of the regular rate of pay for purposes of calculating the overtime wage rate.
7 Therefore, during times when Plaintiffs and Employees worked overtime and received
8 nondiscretionary commissions, incentive pay, and/or nondiscretionary bonuses, Defendants failed
9 to pay all overtime wages by paying a lower overtime rate than required.

10 13. From at least four (4) years prior to the filing of this lawsuit and continuing to the
11 present, Defendants paid Plaintiffs and Employees nondiscretionary commissions, incentive pay,
12 and/or nondiscretionary bonuses. However, upon information and belief, Defendants failed to
13 incorporate all remunerations, including nondiscretionary commissions, incentive pay, and/or
14 nondiscretionary bonuses, including the longevity bonus described above, into the calculation of
15 the regular rate of pay for purposes of calculating sick pay. In addition, Defendants also paid
16 Employees a shift differential rate of 6% when their shifts were worked/scheduled to start on or
17 around 3:30 pm, and paid Employees a shift differential rate of 12% when their shifts were
18 worked/scheduled to start on or around 6:30 p.m.. However, Defendants failed to incorporate the
19 value of shift differentials when calculating the regular rates of pay for the purposes of paying sick
20 time. For example, Plaintiff Hernandez was paid sick time as well as a shift differential in the
21 April 11, 2022 to April 29, 2022 pay period but his sick time rate did not include an adjustment for
22 the value of the shift differential he was paid. Therefore, during times when Plaintiffs and
23 Employees worked overtime and received nondiscretionary commissions, incentive pay,
24 nondiscretionary bonuses, and/or shift differentials, Defendants failed to pay all sick pay by
25 paying a lower overtime rate than required.

26 14. From at least four (4) years prior to the filing of this lawsuit and continuing to the
27 present, Defendants paid Plaintiffs and Employees nondiscretionary commissions, incentive pay,
28 nondiscretionary bonuses, and/or shift differentials. However, upon information and belief,

1 Defendants failed to incorporate all remunerations, including nondiscretionary commissions,
2 incentive pay, nondiscretionary bonuses, and/or shift differentials into the calculation of the
3 regular rate of pay for purposes of calculating vacation pay. Therefore, during times when
4 Plaintiffs and Employees worked overtime and received nondiscretionary commissions, incentive
5 pay, nondiscretionary bonuses, and/or shift differentials, Defendants failed to pay all vacation pay
6 by paying a lower overtime rate than required.

7 15. During the course of Plaintiffs and the Class members' employment with
8 Defendants, they were not paid all wages they were owed, including for all work performed and
9 for all overtime hours worked and were forced to work during their meal and rest breaks.
10 Defendants also failed to maintain timekeeping records for Plaintiffs that would permit them to
11 discover the nature and extent of Defendants' unlawful rounding.

12 16. As a matter of uniform Company policy, Plaintiffs and the Class members were
13 required to work during their meal and rest breaks which were not compensated by Defendants in
14 violation of the California Labor Code. Plaintiffs and the Class members were also not paid
15 regular wages and overtime for the time they were required to comply with other requirements
16 imposed upon them, which they had to complete while working through their meal and rest
17 breaks and without compensation. As a result, Plaintiffs and the Class members worked shifts
18 over eight (8) hours in a day and over forty (40) hours in a work week, but they were not paid at
19 the appropriate overtime rate for all such hours, including by being required to perform work
20 duties and tasks without pay and while off-the-clock, and due to Defendants' unlawful rounding.
21 As a result, Plaintiffs and the Class members worked substantial overtime hours during their
22 employment with Defendants for which they were not compensated, in violation of the California
23 Labor Code, applicable IWC Wage Orders.

24 17. As a result of the above described unlawful rounding, the daily work demands and
25 pressures to work through breaks, and the other wage violations they endured at Defendants'
26 hands, Plaintiffs and the Class members were not properly paid for all wages earned and for all
27 wages owed to them by Defendants, including when working more than eight (8) hours in any
28 given day and/or more than forty (40) hours in any given week. As a result of Defendants'

1 unlawful policies and practices, Plaintiffs and Class members incurred overtime hours worked for
2 which they were not adequately and completely compensated. To the extent applicable,
3 Defendants also failed to pay Plaintiffs and the Class members at an overtime rate of 1.5 times the
4 regular rate for the first eight hours of the seventh consecutive work day in a week and overtime
5 payments at the rate of 2 times the regular rate for hours worked over eight (8) on the seventh
6 consecutive work day, as required under the Labor Code, applicable IWC Wage Orders.

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

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

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

24 21. From at least four (4) years prior to the filing of this lawsuit and continuing to the
25 present, Defendants have consistently failed to provide Employees with paid rest breaks of not less
26 than ten (10) minutes for every work period of four (4) or more consecutive hours and did not
27 provide a third rest break when the length of the shift warranted it; nor did Defendant pay
28 Employees premium pay for each day on which requisite rest breaks were not provided or were

1 deficiently provided at one hour of wages at each Employee's effective regular rate of pay, for
2 each rest period that Defendants failed to provide or deficiently provided.

3 22. Additionally, from at least four (4) years prior to the filing of this lawsuit, and
4 continuing to the present, Defendants have consistently failed to provide Employees with timely,
5 accurate, and itemized wage statements as required by California wage-and-hour laws.
6 Specifically, Defendants failed in their affirmative obligation to keep accurate records of the
7 correct overtime wages based on proper regular rate calculations that included nondiscretionary
8 commissions, incentive pay, nondiscretionary bonuses, and/or shift differentials earned, and the
9 total amount of compensation of their Employees. Moreover, the wage statements given to
10 Employees by Defendants failed to accurately account for wages, overtime, and premium pay for
11 deficient meal periods and rest breaks all of which Defendants knew or reasonably should have
12 known were owed to Employees, as alleged hereinabove. The wage statements provided to
13 Employees were confusing and required Employees to engage in discovery and refer to outside
14 sources to verify whether their pay was correct, potentially resulting in a miscalculation by the
15 Employees.

16 23. Additionally, from at least four (4) years prior to the filing of this lawsuit, and
17 continuing to the present, Defendants have consistently failed to provide Employees with timely,
18 accurate, and itemized wage statements, in writing, as required by California wage-and-hour laws.

19 24. From at least four (4) years prior to the filing of this lawsuit and continuing to the
20 present, Defendants have failed to reimburse Employees for expenses necessarily incurred in the
21 performance of their job duties for Defendants including, but not limited to, the cost of cellphone
22 usage, vehicle mileage and fuel and home internet usage which were necessary to perform their
23 duties under Defendants' employ in violation of Labor Code § 2802.

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

27 26. Additionally, from at least four (4) years prior to filing this lawsuit and continuing
28 to the present, Defendants have had a consistent policy of failing to pay all wages fur and owed to

1 Employees at the time of their termination or within seventy-two (72) hours of their resignation, as
2 required by California wage-and-hour laws.

3 27. Additionally, from at least four (4) years prior to filing this lawsuit and continuing
4 to the present, Defendants have had a consistent policy of failing to timely pay all wages due and
5 owed to Employees at least twice monthly under Labor Code § 204.

6 28. In light of the foregoing, Employees bring this action pursuant to, inter alia, Labor
7 Code §§ 201, 202, 203, 204, 210, 226, 226.3, 226.7, 227.3, 245 *et seq.*, 246, 510, 512, 558, 558.1,
8 1174, 1174.5, 1182.12, 1185, 1194, 1194.2 1197, 1199, 2698, 2699, *et seq.* and 2802.

9 29. Furthermore, pursuant to Business and Professions Code §§ 17200-17208,
10 Employees seek injunctive relief, restitution, and disgorgement of all benefits Defendants have
11 enjoyed from their violations of Labor Code.

12 CLASS ALLEGATIONS

13 30. Plaintiffs bring this class action on behalf of themselves and all others similarly
14 situated pursuant to Code of Civil Procedure § 382. Plaintiffs seek to represent a class defined as
15 follows: all individuals employed by Defendants within the State of California at any time within
16 four (4) years of the filing of this lawsuit.

17 31. Further, Plaintiffs seek to represent the following Subclasses composed of and
18 defined as follows:

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

21 b. Subclass 2. Wages and Overtime Wages Subclass. All Class members who were
22 not compensated for all hours worked for Defendants at the required rates of pay, including for all
23 hours worked in excess of eight in a day and/or forty in a week.

24 c. Subclass 3. Vacation Wages Subclass. All Class members who were not
25 compensated at the Employee's regular rate of pay for their vacation wages.

26 d. Subclass 4. Sick Pay Subclass. All Class members who were not compensated at
27 the Employee's regular rate of pay for their sick pay wages.

1 e. Subclass 5. Meal Period Subclass. All Class members who were subject to
2 Defendants' policy and/or practice of failing to provide unpaid 30-minute uninterrupted and duty-
3 free meal periods or one hour of pay at the Employee's regular rate of pay in lieu thereof.

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

8 g. Subclass 7. Payroll Records Subclass. All Class members who were subject to
9 Defendants' policy and/or practice of failing to keep accurate time and wage records as required
10 by California wage-and-hour laws.

11 h. Subclass 8. Wage Statement Subclass. All Class members who, within the
12 applicable limitations period, were not provided with accurate itemized wage statements.

13 i. Subclass 9. Failure to Reimburse for Necessary Business Expenditures. All Class
14 members who were subject to Defendants' failure to reimburse for expenses necessarily incurred
15 in the performance of Employees job duties for Defendants.

16 j. Subclass 10. Termination Pay Subclass. All Class members who, within the
17 applicable limitations period, either voluntarily or involuntarily separated from their employment
18 and were subject to Defendants' policy and/or practice of failing to timely pay wages upon
19 termination.

20 k. Subclass 11. UCL Subclass. All Class members who are owed restitution as a result
21 of Defendants' business acts and practices, to the extent such acts and practices are found to be
22 unlawful, deceptive, and/or unfair.

23 l. Subclass 12. Failure to Timely Pay Wages Subclass. All Class members who were
24 subject to Defendants' policy and/or practice of not timely paying all wages earned when they
25 were due and payable at least twice monthly.

26 32. Plaintiffs reserve the right under California Rule of Court 3.765 to amend or
27 modify the class description with greater particularity or further division into subclasses or
28 limitation to particular issues.

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

4 **A. Numerosity**

5 34. The potential members of the class as defined are so numerous that joinder of all
6 the member of the class is impracticable. While the precise number of class members has not been
7 determined at this time, Plaintiffs are informed and believes that Defendants employ or, during the
8 time period relevant to this lawsuit, employed more than 100 individuals within the State of
9 California.

10 35. Accounting for employee turnover during the relevant time period increases this
11 number substantially. Plaintiffs allege that Defendants' employment records will provide
12 information as to the number and location of all class members.

13 **B. Commonality**

14 36. There are questions of law and fact common to the class that predominate over any
15 questions affecting only individual class members. These common questions of law and fact
16 include:

- 17 a. Whether Defendants failed to pay Employees minimum wages;
- 18 b. Whether Defendants failed to pay Employees wages for all hours worked;
- 19 c. Whether Defendants failed to pay Employees overtime as required under Labor
20 Code § 510;
- 21 d. Whether Defendants failed to pay Employees vacation wages as required under
22 Labor Code § 227.3;
- 23 e. Whether Defendants failed to pay Employees sick pay as required under Labor
24 Code § 245;
- 25 f. Whether Defendants violated Labor Code §§ 226.7 and 512, and the applicable
26 IWC Wage Orders, by failing to provide Employees with requisite meal periods or
27 premium pay in lieu thereof;

- g. Whether Defendants violated Labor Code § 226.7, and the applicable IWC Wage Orders, by failing to provide Employees with requisite rest breaks or premium pay in lieu thereof;
- h. Whether Defendants violated Labor Code § 226(a);
- i. Whether Defendants violated Labor Code §§ 1174 and 1174.5;
- j. Whether Defendants failed to reimburse Employees for necessary business expenses;
- k. Whether Defendants violated Labor Code §§ 201, 202, and 203 by failing to pay wages and compensation due and owing at the time of termination of employment;
- l. Whether Defendants violated Business and Professions Code § 17200 *et seq.*; and
- m. Whether Employees are entitled to equitable relief pursuant to Business and Professions Code § 17200 *et seq.*
- n. Whether Defendants are liable for penalties under Labor Code § 2699, *et seq.*; and
- o. Whether Defendants violated Labor Code § 204 by failing to timely pay wages earned at least twice monthly

C. Typicality

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

D. Adequacy of Representation

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

E. Superiority of Class Action

39. A class action is superior to other available means for the fair and efficient adjudication of this controversy. Individual joinder of all Employees is not practicable, and questions of law and fact common to all Employees predominate over any questions affecting only

individual Employees. Each Employee has been damaged and is entitled to recovery by reason of Defendants' illegal policies or practices of failing to compensate Employees properly.

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

FIRST CAUSE OF ACTION
FAILURE TO PAY MINIMUM WAGES
(Against All Defendants)

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

42. Defendants failed to pay Employees minimum wages for all hours worked. Defendants had a consistent policy of misstating Employees time records and failing to pay Employees for all hours worked. Employees would work hours and not receive wages, including as alleged above in connection with working during meal breaks, rounding of timekeeping entries, and working "pre-shift" and "post-shift" without compensation by interfacing with vendors, sending emails, and driving to pick up parts, and receiving phone calls while off-the-clock. Additionally, Defendants had a consistent policy of failing to pay Employees for hours worked during alleged meal periods for which Employees were consistently denied, as also addressed herein. Defendants have also intentionally and improperly rounded, changed, adjusted, and/or modified Employee hours, while benefiting Defendants. Defendants thus regularly failed to pay minimum wages to Plaintiffs and Class members, including by unlawful rounding to their detriment. Moreover, Defendants did not pay Plaintiffs and Employees at the applicable minimum wage for all hours worked. Defendants' uniform pattern of unlawful wage and hour practices manifested, without limitation, applicable to the Class as a whole, as a result of implementing a uniform policy and practice that denied accurate compensation to Plaintiffs and the other members of the Class as to minimum wage pay.

43. California Labor Code § 1197, entitled "Pay of Less Than Minimum Wage" states:

1 The minimum wage for employees fixed by the commission is the
2 minimum wage to be paid to employees, and the payment of a less
3 wage than the minimum so fixed is unlawful.

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

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

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

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

17 47. California Labor Code § 1194.2 also provides for the following remedies:

18 In any action under Section 1194 . . . to recover wages because of
19 the payment of a wage less than the minimum wages fixed by an
20 order of the commission, an employee shall be entitled to recover
21 liquidated damages in an amount equal to the wages unlawfully
22 unpaid and interest thereon.

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

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

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1 **SECOND CAUSE OF ACTION**

2 **FAILURE TO PAY WAGES AND OVERTIME WAGES**

3 **(Against All Defendants)**

4 50. Plaintiffs re-allege and incorporate all preceding paragraphs, as though set forth in
5 full herein.

6 51. By their conduct, as set forth herein, Defendants violated California Labor Code §
7 510 (and the relevant orders of the Industrial Welfare Commission) by failing to pay Employees:
8 (a) time and one-half their regular hourly rates for hours worked in excess of eight (8) hours in a
9 workday or in excess of forty (40) hours in any workweek or for the first eight (8) hours worked
10 on the seventh day of work in any one workweek; or (b) twice their regular rate of pay for hours
11 worked in excess of twelve (12) hours in any one (1) day or for hours worked in excess of eight
12 (8) hours on any seventh day of work in a workweek. Defendants had a consistent policy of not
13 paying Employees wages for all hours worked including time off the clock working “pre-shift”
14 and “post-shift” without compensation by interfacing with vendors, sending emails, and driving
15 to pick up parts, and receiving phone calls while off-the-clock. Employees regularly worked over
16 8 hours on a given day without receiving overtime compensation.

17 52. Furthermore, on information and belief, Defendants did not pay Plaintiffs and
18 Employees the correct overtime rate for the recorded overtime hours that they generated. In
19 addition to an hourly wage, Defendants paid Plaintiffs and Employees nondiscretionary
20 commissions, incentive pay, and/or nondiscretionary bonuses. For example, Defendants had a
21 policy to pay referring employees a bonus of \$1,000 - \$2,500 for referring applicants that were
22 subsequently hired for full-time, regular positions. Pursuant to Defendants’ policy, in order to
23 receive the bonus, the referring employee had to remain employed during the hired candidate’s
24 first 30 days of employment, making the bonus a longevity bonus. However, upon information
25 and belief, Defendants failed to incorporate all remunerations, including nondiscretionary
26 commissions, incentive pay, and/or nondiscretionary bonuses, including the longevity bonus, into
27 the calculation of the regular rate of pay for purposes of calculating the overtime wage rate.
28

1 53. Therefore, during times when Plaintiffs and Employees worked overtime and
2 received nondiscretionary commissions, incentive pay, and/or nondiscretionary bonuses,
3 Defendants failed to pay all overtime wages by paying a lower overtime rate than required.

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

10 55. Employees have been damaged by these violations of California Labor Code §§
11 204 and 510 (and the relevant orders of the Industrial Welfare Commission).

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

16 **THIRD CAUSE OF ACTION**

17 **MEAL BREAK VIOLATIONS**

18 **(Against All Defendants)**

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

21 58. Employees regularly worked shifts greater than five (5) hours and greater than ten
22 (10) hours and occasionally shifts over twelve (12) hours. Pursuant to Labor Code § 512 an
23 employer may not employ someone for a shift of more than five (5) hours without providing him
24 or her with a meal period of not less than thirty (30) minutes or for a shift of more than ten (10)
25 hours without providing him or her with a second meal period of not less than thirty (30) minutes.

26 59. Defendants failed to provide Employees with meal periods as required under the
27 Labor Code. Employees were consistently required to work through their meal periods which they
28 were consistently denied. Employees were also required to take meal periods after working well

beyond the five (5) hour shifts. In addition, Defendants had a policy and practice of requiring Employees to record meal periods before the fifth hour of work regardless of when meal periods were taken or if they were taken at all in order to avoid paying meal period premiums. What meal periods were provided were also not duty-free due to Defendants' policy and practice requiring Employees to keep walkie talkies and work phones on during meal periods to respond to emergencies and other situations. Furthermore, Employees were regularly required to work for more than 10 hours in a given shift and more than 12 hours in a given shift without receiving a second uninterrupted thirty (30) minute meal period as required by law.

60. Moreover, Defendants failed to compensate Employees for each meal period not provided or inadequately provided, as required under Labor Code § 226.7 and paragraphs 11 and 20 of the applicable IWC Wage Orders, which provide that, if an employer fails to provide an employee a meal period in accordance with this section, the employer shall pay the employee one hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided. Defendants failed to compensate the Employees in the Class for each meal period not provided or inadequately provided, as required under Labor Code § 226.7 and paragraphs 11 and 20 of the applicable IWC Wage Order. Additionally, as detailed above, when Defendants did pay meal period premiums, they did so at the normal regular rate of pay without factoring in all forms or remuneration/compensation or by otherwise incorrectly calculating the regular rate.

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

FOURTH CAUSE OF ACTION

REST BREAK VIOLATIONS

(Against All Defendants)

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

63. Employees consistently worked consecutive four (4) hour shifts. Pursuant to the Labor Code and the applicable IWC Wage Order, Employees were entitled to paid rest breaks of

1 not less than ten (10) minutes for each consecutive four (4) hour shift.

2 64. Defendants failed to provide Employees with timely rest breaks of not less than ten
3 (10) minutes for each consecutive four (4) hour shift and did not provide a third rest break when
4 the length of the shift warranted it. What rest breaks were provided were also not duty-free due to
5 Defendants' policy and practice requiring Employees to keep walkie talkies and work phones on
6 during rest breaks to respond to emergencies and other situations.

7 65. Moreover, Defendants failed to compensate Employees for each rest period not
8 provided or inadequately provided, as required under Labor Code § 226.7 and the applicable IWC
9 Wage Orders, which provide that, if an employer fails to provide an employee a rest period in
10 accordance with this section, the employer shall pay the employee one hour of pay at the
11 employee's regular rate of compensation for each workday that the rest period is not provided.
12 Defendants failed to compensate the Employees in the Class for each rest period not provided or
13 inadequately provided, as required under Labor Code § 226.7 and the applicable IWC Wage
14 Order. Additionally, as detailed above, when Defendants did pay rest period premiums, they did
15 so at the normal regular rate of pay without factoring in all forms or remuneration/compensation
16 or by otherwise incorrectly calculating the regular rate.

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

20 **FIFTH CAUSE OF ACTION**
21 **FAILURE TO PAY VACATION WAGES**
22 **(Against All Defendants)**

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

25 68. Pursuant to California Labor Code § 227.3, whenever a contract of employment or
26 employment policy provides for paid vacation and an employee is terminated without having
27 taken off his vested vacation time, all vested vacation shall be paid to him as wages at his final rate
28 in accordance with said contract of employment or policy respecting eligibility or time served.

69. Defendants paid nondiscretionary commissions, incentive pay, nondiscretionary bonuses, and/or shift differentials to Employees but Defendants failed to include these forms of remuneration in the regular rate of pay upon which vacation wages were calculated and paid.

70. Therefore, Plaintiffs and Employees seek to recover penalties pursuant to Labor Code § 227.3.

SIXTH CAUSE OF ACTION

FAILURE TO COMPLY WITH LABOR CODE §§ 245 *ET SEQ.* AND 246

(FAILURE TO PAY SICK TIME AT THE REGULAR RATE OF PAY)

(Against All Defendants)

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

72. California Labor Code § 245 *et seq.* requires that Defendants provide paid sick time to Employees, including at the amount, terms, and rate of compensation set forth in said law. At times relevant, Defendants have failed compute the amount due for paid sick time in conformance with the pay calculation under California Labor Code § 246(1).

73. Defendants paid nondiscretionary commissions, incentive pay, nondiscretionary bonuses and/or to Employees but Defendants failed to include these forms of remuneration in the regular rate of pay upon which sick pay was calculated and paid. In addition, Defendants also paid Employees a shift differential rate of 6% when their shifts were worked/scheduled to start on or around 3:30 pm, and paid Employees a shift differential rate of 12% when their shifts were worked/scheduled to start on or around 6:30 p.m. However, Defendants failed to incorporate the value of shift differentials when calculating the regular rates of pay for the purposes of paying sick time. Rather than calculating the amount of paid sick time due when sick time is used according to the requirements set forth in California Labor Code § 246(1), Defendants paid sick leave to Employees at a lower rate, in violation of the law.

74. Therefore, Plaintiffs and Employees seek to recover penalties pursuant to Labor Code § 245 *et seq.* and 246.

///

1 **SEVENTH CAUSE OF ACTION**

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

3 **(Against All Defendants)**

4 75. Plaintiffs re-allege and incorporate all preceding paragraphs, as though set forth in
5 full herein.

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

9 77. Employees incurred necessary expenditures in the performance of their job duties
10 for Defendants, namely the cost of cell phone usage, vehicle mileage and fuel and home internet
11 usage, which were necessary to perform their duties under Defendants' employ. From four (4)
12 years prior to the original filing of this lawsuit and continuing to the present, Defendants
13 consistently failed to reimburse Employees for these necessarily incurred business expenses.

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

17 **EIGHTH CAUSE OF ACTION**

18 **VIOLATION OF LABOR CODE § 226(a) (WAGE STATEMENT VIOLATIONS)**

19 **(Against All Defendants)**

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

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

1 81. Defendants failed to provide Employees with accurate itemized wage statements in
2 writing, as required by the Labor Code. Specifically, the wage statements given to Employees, by
3 Defendants, failed to accurately account for wages, overtime, and premium pay for deficient meal
4 periods and rest breaks, and reflected incorrect hours worked due to the rounding of timekeeping
5 entries all of which Defendants knew or reasonably should have known were owed to Employees,
6 as alleged hereinabove. Additionally, Defendants failed in their affirmative obligation to keep
7 accurate records of the correct overtime wages based on proper regular rate calculations that
8 included nondiscretionary commissions, incentive pay, nondiscretionary bonuses, and/or shift
9 differentials earned, and the total amount of compensation of their Employees. As a result, the
10 wage statements did not accurately set for the total hours worked or all applicable hourly rates in
11 effect during the pay period and the corresponding number of hours worked at each hourly rate.
12 The wage statements provided to Employees were confusing and required Employees to engage in
13 discovery and refer to outside sources to verify whether their pay was correct, potentially resulting
14 in a miscalculation by the Employees.

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

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

25 84. With respect to violations of Labor Code § 226, Labor Code § 226.3 imposes a
26 civil penalty of two hundred and fifty dollars (\$250) for initial violations for each employee for
27 each pay period, and one thousand dollars (\$1000) for each subsequent violation for each
28 employee for each pay period.

1 85. Plaintiffs are seeking penalties against Defendants under Labor Code § 226.3, and
2 any other applicable statute allowing recovery of penalties as alleged herein in an amount to be
3 shown according to proof.

4 **NINTH CAUSE OF ACTION**

5 **FAILURE TO KEEP REQUIRED PAYROLL RECORDS**

6 **(Against All Defendants)**

7 86. Plaintiffs re-allege and incorporate all preceding paragraphs, as though set forth in
8 full herein.

9 87. California Labor Code § 1174 requires that all employers shall keep accurate time
10 and wage records for all employees. California Labor Code § 1174.5 further requires that any
11 employee suffering injury due to a willful violation of the aforementioned obligations may seek
12 damages, including civil penalties, from the employer.

13 88. During the course of Plaintiffs' and Employees' employment, Defendants
14 consistently failed to maintain accurate time and wage records for Plaintiffs and Employees as
15 required by California Labor Code § 1174 by failing to pay Plaintiffs and Employees proper
16 wages, overtime, and premium pay as discussed above.

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

19 **TENTH CAUSE OF ACTION**

20 **VIOLATION OF LABOR CODE § 203 (WAITING TIME PENALTIES)**

21 **(Against All Defendants)**

22 90. Plaintiffs re-allege and incorporate all preceding paragraphs, as though set forth in
23 full herein.

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

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

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

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

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

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

9 95. Plaintiffs re-allege and incorporate all preceding paragraphs, as though set forth in
10 full herein.

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

16 97. Plaintiffs are "person(s)" within the meaning of Business & Professions Code
17 § 17204, have suffered injury, and therefore have standing to bring this cause of action for
18 injunctive relief, restitution, and other appropriate equitable relief.

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

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

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

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

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

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

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

22 **TWELFTH CAUSE OF ACTION**

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

24 **(Against All Defendants)**

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

1 106. Plaintiffs and Employees are aggrieved employees as defined under Labor Code §
2 2699(c) in that they suffered the violations alleged in this Complaint and were employed by the
3 alleged violators, Defendants.

4 107. Plaintiffs seeks penalties under Labor Code §§ 2698 and 2699 for Defendants’
5 violation of all Labor Code provisions included under Labor Code § 2699.5 and includes the
6 penalty provisions, without limitation, based on the following California Labor Code sections:
7 201, 202, 203, 204, 210, 226, 226.3, 226.7, 227.3, 245 *et seq.*, 246, 246.5, 248.5, 256, 510, 512,
8 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1199, 2698, 2699, *et seq.* and
9 2802.

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

12 109. Employees also seek any and all penalties and remedies set forth in Labor Code §
13 558, which states:

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

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

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

27 110. Labor Code § 226.3 provides that “[a]ny employer who violates subdivision (a) of
28 Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250)

1 per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee
2 for each violation in a subsequent citation, for which the employer fails to provide the employee a
3 wage deduction statement or fails to keep the required in subdivision (a) of Section 226.” To the
4 extent that Labor Code § 226.3 applies, Plaintiff and Employees also seeks such penalties on.

5 111. Plaintiff Cruz has exhausted his administrative remedy by sending a certified letter
6 to the LWDA and Defendants postmarked on December 4, 2023. Plaintiff Hernandez has
7 exhausted his administrative remedy by sending a certified letter to the LWDA and Defendants
8 postmarked on January 10, 2024. The LWDA has not provided notice of its intent to investigate
9 the alleged violations within 65 calendar days of the postmark date of the letters.

10 **THIRTEENTH CAUSE OF ACTION**

11 **UNTIMELY PAYMENT OF WAGES**

12 **(Against All Defendants)**

13 112. Plaintiffs re-allege and incorporate all preceding paragraphs, as though set forth in
14 full herein.

15 113. Labor Code section 204(a) provides that “all wages, other than those mentioned in
16 Section 201, 201.3, 202, 204.1, or 204.2, earned by any person in any employment are due and
17 payable twice during each calendar month, on days designated in advance by the employer as the
18 regular paydays. Labor performed between the 1st and 15th days, inclusive, of any calendar month
19 shall be paid for between the 16th and the 26th day of the month during which the labor was
20 performed, and labor performed between the 16th and the last day, inclusive, of any calendar
21 month, shall be paid for between the 1st and 10th day of the following month. As stated above,
22 Defendants failed to comply with this provision by paying Plaintiffs and Employees for wages
23 earned between the 1st and 15th and between the 16th and last day of the month beyond the
24 maximum time allowed under the statute.

25 114. As a proximate result of Defendants’ conduct, Plaintiffs and Employees have been
26 damaged by the failure to pay them all wages due, including minimum wages, overtime wages,
27 meal and rest period premium wages, and sick leave wages when due.
28

115. Plaintiffs seek to recover \$100 as a statutory penalty for each initial violation and failure to pay Employees their wages due. Plaintiffs also seek to recover \$200 as a statutory penalty for each subsequent violation and failure to pay Employees their wages due plus 25% of the amount unlawfully withheld.

RELIEF REQUESTED

WHEREFORE, Plaintiffs pray for the following relief:

1. For an order certifying this action as a class action;
2. For compensatory damages in the amount of the unpaid minimum wages for work performed by Employees and unpaid overtime compensation from at least four (4) years prior to the filing of this action, as may be proven;
3. For liquidated damages in the amount equal to the unpaid minimum wage and interest thereon, from at least four (4) years prior to the filing of this action, according to proof;
4. For compensatory damages in the amount of the hourly wage made by Employees for each missed or deficient meal period where no premium pay was paid therefor from four (4) years prior to the filing of this action, as may be proven;
5. For compensatory damages in the amount of the hourly wage made by Employees for each day requisite rest breaks were not provided or were deficiently provided and where no premium pay was paid therefor from at least four (4) years prior to the filing of this action, as may be proven;
6. For penalties pursuant to Labor Code § 226(e) for Employees, as may be proven;
7. For penalties pursuant to Labor Code § 226.3, as may be proven;
8. For penalties pursuant to Labor Code § 203 for all Employees who quit or were fired in an amount equal to their daily wage times thirty (30) days, as may be proven;
9. For penalties pursuant to Labor Code § 227.3, as may be proven;
10. For penalties pursuant to Labor Code §§ 245 and 246, as may be proven;
11. For penalties pursuant to Labor Code § 1174.5, as may be proven;
12. For restitution for unfair competition pursuant to Business & Professions Code § 17200 *et seq.*, including disgorgement or profits, as may be proven;

13. For restitution and/or damages and penalties for Defendants' failure to pay all wages due twice monthly under Labor Code § 204, as may be proven;
14. For penalties pursuant to Labor Code § 2699, *et seq.*, as may be proven;
15. For compensatory damages in the amount of all previously unreimbursed business expenditures necessarily incurred by Employees in the discharge of their job duties for Defendants from four (4) years prior to the original filing of this action, as may be proven;
16. For an order enjoining Defendants and their agents, servants, and employees, and all persons acting under, in concert with, or for them, from acting in derogation of any rights or duties adumbrated in this Complaint;
17. For all general, special, and incidental damages as may be proven;
18. For an award of pre-judgment and post-judgment interest;
19. For an award providing for the payment of the costs of this suit;
20. For an award of attorneys' fees; and
21. For such other and further relief as this Court may deem proper and just.

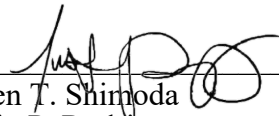
DATED: December 9, 2025

D.LAW, INC.

By 
Emil Davtyan
David Yermian
Roman Shkodnik
Emma Geesaman
Attorneys for Plaintiff Pete Cruz

DATED: December 9, 2025

SHIMODA & RODRIGUEZ LAW, PC

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I am employed in the aforesaid county, State of California; I am over the age of 18 years and not a party to the within action; my business address is 450 N Brand Blvd., Suite 840, Glendale, CA 91203.

SECOND AMENDED COMPLAINT

*Attorneys for Defendant QUANTUMSCAPE CORPORATION, and
QUANTUMSCAPE BATTERY, INC.*

X **VIA ELECTRONIC MAIL:** Service by electronic mail was made either pursuant to a Court Order, pursuant to agreement between the parties permitting the same, or as a professional courtesy in addition to other proper service. The electronic mail was sent to an electronic mail address maintained by the person(s) on whom the document(s) is/are served as last given by that/those person(s). I personally requested a “delivery receipt” for this electronic mail message, and, unless disallowed by the recipient, received the same.

Executed on December 9, 2025, at Glendale, California.


Kathryn Perez