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9 of himself and others similarly situated

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF SAN DIEGO**

13 RICHARD A. AZHOCAR, an individual, on
14 behalf of himself and others similarly
situated,

15 Plaintiff,

16 vs.

17 ACCEL FRAMING, INC., a California
18 corporation; and DOES 1 through 50,
inclusive,

19 Defendants.

Case No.: 37-2023-00053185-CU-OE-CTL
CLASS ACTION

Assigned for All Purposes To:
Hon. Marcella O McLaughlin
Dept.: C-72

FIRST AMENDED COMPLAINT FOR:

1. Failure to Pay Minimum Wages;
2. Failure to Pay Wages and Overtime Under Labor Code § 510;
3. Meal Period Liability Labor Code § 226.7;
4. Rest-Break Liability Labor Code § 226.7;
5. Violation of Labor Code § 226;
6. Violation of Labor Code § 221;
7. Violation of Labor Code § 204;
8. Violation of Labor Code § 203;
9. Failure to Maintain Records Required under Labor Code §§ 1174, 1174.5;
10. Failure to Produce Requested Records, Labor Code §§ 226 And 1198;
11. Failure to Reimburse Necessary Business Expenses Under Labor Code § 2802; and
12. Violation of Business & Professions Code § 17200 *et seq.*
13. Penalties under PAGA Labor Code § 2698

Original Complaint Filed: December 06, 2023
Trial Date: None Set.

DEMAND FOR JURY TRIAL

1 Plaintiff RICHARD A. AZHOCAR (hereinafter “Plaintiff”), on behalf of himself and other
2 similarly situated non-exempt, hourly employees employed by Defendants within the state of
3 California during the relevant time period (collectively, “Employees”; individually, “Employee”),
4 complains of Defendants, and each of them, as follows:

5 **INTRODUCTION**

6 1. Plaintiff brings this action on behalf of himself and all current and former Employees
7 within the State of California who, at any time from four years prior to the filing of this lawsuit, are
8 or were employed as non-exempt, hourly employees, including those employed as carpenters and in
9 similar and in similar and related positions, by Defendants ACCEL FRAMING, INC., a California
10 corporation, and DOES 1 through 50, inclusive (all defendants being collectively referred to herein
11 as “Defendants”). Plaintiff alleges that Defendants, and each of them, violated various provisions
12 of the California Labor Code, relevant orders of the Industrial Welfare Commission (“IWC”), and
13 the California Business & Professions Code, and seeks redress for these violations.

14 2. Plaintiff and the Class Members worked as hourly, non-exempt Employees for
15 Defendants in positions generally pertaining to providing general contracting and framing services
16 to Defendants’ clients. Plaintiff, and upon information and belief the other similarly situated
17 Employees in the Class, were required to perform work tasks based out of Defendants’ locations
18 and client-designated jobsites in California. Plaintiff was employed by Defendants as a journey
19 carpenter, and Defendants tasked him with duties that included installing structures, fixtures, and
20 elevations, and constructing and installing building frame works, including walls floors and door
21 frames.

22 3. Defendants employed other similarly situated Employees in similar and related
23 positions based out of Defendants’ client-designated jobsites throughout California, including in the
24 cities of Santee and Alpine. Plaintiff and the other similarly situated Class Members worked at
25 Defendants’ behest without being paid all wages due and without being provided all required breaks.
26 More specifically, Plaintiff and the other similarly situated Class Members were employed by
27 Defendants and (1) shared similar job duties and responsibilities, (2) were subjected to the same
28 policies and practices, and (3) endured similar violations at Defendants’ hands.

1 4. Defendants required Plaintiff and the Employees in the Class to work off the clock
2 and failed to accurately record the hours they were on the clock, failed to pay them at the appropriate
3 rates for all hours worked, failed to pay all wages due and owing at termination or resignation, and
4 failed to provide Plaintiff and Class Members with accurate itemized wage statements that prevented
5 them from learning of these unlawful pay practices. Defendants also failed to provide Plaintiff and
6 the Class with lawful meal and rest periods, as Employees were required to remain under
7 Defendants' control and were not provided with the opportunity to take full uninterrupted and duty-
8 free rest periods and meal breaks, as required by the Labor Code and the applicable paragraphs of
9 the IWC Wage Orders.

10 5. Defendant ACCEL FRAMING, INC. is a California corporation which lists its
11 principal address in Poway, California with the California Secretary of State. It lists a registered
12 corporate agent with an address in Poway, California and in San Diego County. Accel Framing, Inc.
13 ("Accel") lists its type of business as "Accel Framing, Inc." Accel's website explains that they
14 provide the following services: custom homes, remodels, light commercial, production wood
15 framing and rough carpentry, custom homes, heavy timbers, and exterior siding and trim. The wage
16 statements issued to Plaintiff list "Accel Framing, Inc." as his employer with an address in Alpine,
17 California, and Accel Framing, Inc. is the entity that confirmed Plaintiff's employment with "Accel
18 Framing, Inc."

19 6. This Court has jurisdiction over this Action pursuant to California Code of Civil
20 Procedure § 410.10 and California Business & Professions Code § 17203. This Action is brought as
21 a Class Action on behalf of similarly situated Employees of Defendants pursuant to California Code
22 of Civil Procedure § 382. Venue as to Defendants is also proper in this judicial district pursuant to
23 California Code of Civil Procedure § 395 *et seq.* Upon information and belief, the obligations and
24 liabilities giving rise to this lawsuit occurred, at least in part in San Diego County and Defendants
25 list a principal California address with the Secretary of State. Defendants also employ Class
26 Members at its locations and client-designated jobsites and in San Diego County and throughout
27 California.

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

8. Plaintiff is informed and believes and thereon alleges that each Defendant acted in all respects pertinent to this action as the agent of the other Defendants, that Defendants carried out a joint scheme, business plan, or policy in all respects pertinent hereto, and that the acts of each Defendant are legally attributable to the other Defendants. Furthermore, Defendants acted in all respects as the employers or joint employers of Employees. Defendants, and each of them, exercised control over the wages, hours, or working conditions of Employees, created and implemented the policies and practices that governed the employment of Plaintiff and the Class Members, and dictated their job duties and responsibilities, or otherwise suffered or permitted Plaintiff and the other Employee Class Members to work, or engaged them, thereby creating a common law employment relationship with the Employee Class Members. Therefore, Defendants, and each of them, employed or jointly employed the Employee Class Members.

FACTUAL BACKGROUND

9. The Employees who comprise the Class, including Plaintiff, are non-exempt employees pursuant to the applicable Wage Order of the Industrial Welfare Commission (“IWC”). During the period of four years prior to the filing of this action through its resolution, the Employee Class Members were employed by Defendants and worked in non-exempt positions at the direction of Defendants in the State of California. Plaintiff and the Class Members were either not paid by Defendants for all hours worked or were not paid at the appropriate minimum, regular and overtime rates. Plaintiff also contends that Defendants failed to pay Plaintiff and the Class Members all wages due and owing, including compensation for off the clock work, uncompliant meal and rest

breaks, and Defendants' failure to furnish accurate wage statements, all in violation of various provisions of the California Labor Code and applicable paragraphs of the IWC Wage Orders.

10. During the course of Plaintiff and the Class Members' employment with Defendants, they were not paid all wages they were owed, including for all work performed (resulting in "off the clock" work) and for all their overtime hours worked, and they were not paid at the required rates for overtime. This has resulted in systematic and ongoing violations of the California Labor Code and relevant IWC Wage Orders. Upon information and belief, Defendants employ other non-exempt, hourly employees as foremen, operators, laborers, and those in similar and related positions based out of their yards, warehouses, and client-designated locations in California.

11. Plaintiff was generally scheduled to work five days per week for eight to nine hours per shift, with shift times generally spanning from 7:00 a.m. through 3:30 p.m. On many occasions, Plaintiff was also required to work longer shifts with an additional hour or two of time approved by Defendants to be paid at overtime premium rates. However, Plaintiff was required by Defendants to endure substantial off the clock work before and after his scheduled shift hours.

12. Defendants' policy and practice of requiring systematic off the clock work flowed in part from their unlawful timekeeping procedures. Defendants did not have a timekeeping method of recording the actual time worked by Plaintiff and Class Members. Nor did Defendants require Plaintiff and Class Members to maintain timekeeping entries. Managers instead required Plaintiff and Class Members to sign in on a sheet after a required morning meeting. Plaintiff was instructed to only write his name and provide his signature on the sheet. He was not required to write down the time he began working. Instead, Defendants' managers and foremen, themselves, inputted Plaintiff's and Class Members' shift start and end times into their timekeeping records at the end of the work week, and they relied on Plaintiff's scheduled shift time when recording hours worked and not the actual times he began and ended working.

13. Additionally, Defendants did not require Plaintiff and Class Members to record or clock in and out for their meal periods. Typically, Plaintiff and Class Members would continue working as instructed until managers announced that it was time for lunch. Defendants inputted

1 into the timekeeping system that Plaintiff and Class Members took a thirty-minute meal period and
2 did so before the fifth hour of work as required under the Labor Code and Wage Orders without
3 regard to whether they were actually taken on time or for the full duration or were interrupted by
4 demands from the manager or foremen and other work requirements. Additionally, by deducting
5 30 minutes for a meal period that was generally not lawfully provided if at all, Defendants
6 effectively and unlawfully deducted at least 30 minutes of hours worked from each Employee's
7 daily work shifts. Managers would again record that meal periods were timely or not shortened to
8 avoid incurring and paying meal period premium penalty wages.

9 14. Defendants also required Plaintiff to be prepared to begin work at his scheduled
10 shift start time, and he would be reprimanded if he was not. However, for Plaintiff to do so he had
11 to arrive at the jobsite well before that start time. Plaintiff's work shifts were generally scheduled
12 to start at 7:00 a.m., and he was required to be prepared to start working at the start of his scheduled
13 shift. To do so, Plaintiff was compelled to arrive at the jobsites at least 30 minutes prior to his
14 scheduled shift time. Before signing in, Plaintiff was required to search for the jobsite and unload
15 his tools in the area that he was assigned to for the day. After unloading his tools, Plaintiff would
16 hook up his electric tools to the electric bars on the jobsite. This typically took approximately 15-
17 20 minutes, depending on the amount of tools he had to unload for the day and depending on
18 whether other employees were unloading their trucks at the same time. On several occasions,
19 Plaintiff had to wait in line until the trucks before him finished unloading before he could proceed
20 with unloading his own tools. After Plaintiff finished unloading his tools, Plaintiff would drive off
21 the jobsite and search for parking on the street. Plaintiff would park his truck, return to the jobsite,
22 and then attend the morning start up meeting which generally commenced about 15 minutes prior
23 to his shift start time. Plaintiff would be reprimanded by Defendant's managers if he did not arrive
24 on time to the meeting despite the fact that Defendants timekeeping methods did not account for
25 such off the clock work. When Plaintiff questioned this unlawful deduction of his hours worked,
26 Defendants' manager instructed Plaintiff that he should not work with Defendants if he was going
27 to complain about off the clock work and failure to pay overtime.

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1 15. In addition to the above-described pervasive off the clock work that systematically
2 occurred on each of his work shifts, Plaintiff was also required to work off the clock after his
3 scheduled shift end time. Plaintiff's scheduled shift end time was 3:30 p.m., and Plaintiff and Class
4 Members typically stopped working around 3:15 p.m. to begin packing their tools and equipment.
5 However, Plaintiff rarely ever stopped working at his scheduled shift time. By the time Plaintiff
6 finished packing up, retrieving his truck, driving it to the job site, and loading all his tools and
7 equipment onto his truck, it was well past 3:30 p.m. Although Plaintiff and Class Members had
8 approximately 15 minutes every shift to pack up, this process often times took up to 45 minutes,
9 and Defendant's failed to compensate Plaintiff and Class Members for this off the clock work.
10 Defendants' managers also contacted Plaintiff by calling his personal cell phone regarding work
11 related matters and scheduling and would do so both throughout the work day and during breaks
12 and also after work hours. Additional off the clock work occurred in the form of the unlawful
13 deduction of 30 minutes of hours worked for an alleged 30 minute long meal period that was
14 provided generally untimely and interrupted if at all. As mentioned above, Defendants relied on
15 Plaintiff's scheduled shift time for timekeeping purposes and failed to implement a timekeeping
16 system that contemporaneously records the actual time worked by Plaintiff and Class Members,
17 and their actual meal period beginning and end times, resulting in a substantial number of hours of
18 off the clock work.

19 16. Overtime hours were generally not allowed, and if Plaintiff worked beyond his
20 scheduled hours, Defendants' foremen and managers failed to account for such time in their time
21 keeping records or to pay it at the required overtime premium rate. The difficult to attain processing
22 and production goals compelled Plaintiff to work many hours off the clock and without
23 compensation. When Plaintiff questioned Defendants' failure to pay overtime, Defendant's
24 foreman told Plaintiff to "stop crying about 30 minutes of overtime." To whatever extent
25 Defendants paid performance based bonuses and any other form of remuneration to Employees in
26 the Class beyond the hourly rate, such as shift differentials and the like, Defendants failed to include
27 it in the regular rate used to calculate and pay the overtime that Defendants did pay.

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1 17. Plaintiff was therefore not paid for all his hours worked at the required minimum,
2 overtime, and double time wage rates due to Defendants' uniformly applied and unlawful policy
3 and practice of requiring her to work off the clock and without pay. Defendants systematically
4 underpaid Plaintiff and the Class Members by failing to pay them at the required overtime rates for
5 all hours over eight in a work shift or over forty in a work week, and all hours over twelve in a day
6 at the required double time rate. Upon information and belief, the Class Members were bound by
7 similar scheduling and timekeeping policies and endured similar violations at Defendants' hands
8 as Plaintiff.

9 18. Defendants have either failed to maintain timekeeping records for Plaintiff that
10 would permit Plaintiff to discover the nature and extent of the off the clock work Defendants
11 required and the actual hours Plaintiff worked or the breaks he received or have otherwise declined
12 to produce them to Plaintiff in response to a timely and lawful records request. By failing to pay
13 for all hours worked, and by under-recording regular hours to the detriment of the Class Members,
14 Defendants have committed knowing and intentional ongoing violations of the record keeping
15 requirements under the Labor Code, including section 1174, by either failing to maintain records
16 or retaining inaccurate ones.

17 19. The failure to pay for all hours worked and underpayment of wages to Plaintiff and
18 the Class Members is and has been a direct consequence of Defendants' unlawful compensation
19 policies and practices, which upon information and belief applied uniformly to the Class Members
20 working based out of Defendants' yards, warehouses, and client-designated locations throughout
21 California. As a result of the above-described unlawful requirements to work off the clock, the
22 failure to accurately record all hours worked and pay wages at the correct rates, and the other wage
23 violations they endured at Defendants' hands, Plaintiff and the Class Members were not properly
24 paid all wages earned and all wages owed to them by Defendants, including when working more
25 than eight hours in any given day and/or more than forty hours in any given week.

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

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

6 21. Defendants also failed to provide Plaintiff and the Class Members with their required
7 meal periods and the at least two ten-minute rest breaks as required at a minimum for Plaintiff's
8 scheduled shift durations. The above described off the clock work contributed to Defendants'
9 common policy of failing to provide lawful meal periods to Plaintiff and the Class Members, as
10 required under the Labor Code and Paragraph 11 of the IWC Wage Order(s). Defendants similarly
11 failed to authorize and permit Plaintiff and the employee Class Members to take all required 10-
12 minute rest breaks, as required under the Labor Code and Paragraph 12 of the IWC Wage Order(s).

13 22. More specifically, Plaintiff worked shifts that entitled her to at least one meal period.
14 Defendants' managers and foremen were in charge of recording meal periods for Plaintiff and Class
15 Members, and they always recorded 30 minutes for lunches and would deduct that time from hours
16 worked for the shift without regard to whether they were compliant. Plaintiff recalls that lunch
17 periods were typically given around 12:00 p.m. or 1:00 p.m., depending on the foreman in charge
18 of the jobsite for the day. However, to whatever extent there was ever a schedule for meal periods,
19 it went by the wayside quickly as there always seemed to be a problem to resolve or a phone call to
20 take or a message to respond to. Moreover, Defendant's foremen often forgot to release Plaintiff
21 and Class Members for their lunch period. This led to systematically late meal periods, if they were
22 provided at all, and on-duty meal periods that were incessantly interrupted by foremen and
23 management demands and required job duties and tasks to be performed that required Employees
24 to remain under Defendants' control during breaks.

25 23. The difficult to attain production goals and management expectations also
26 contributed to Employees working through meal periods, not taking them, or taking them late so
27 work could be accomplished or they were required to remain under Defendants' control during meal
28 periods. Plaintiff particularly recalls several occasions where he missed his meal because he was

1 working indoors with loud machinery and could not hear the foreman's announcement for lunch.
2 Defendant's foreman refused to let Plaintiff take a lunch break and failed to implement a new
3 method of ensuring all employees hear the lunch time announcement. Moreover, Plaintiff's
4 timecards fail to reflect the payment of any meal period premiums by Defendants.

5 24. Additionally, Defendants foremen and managers inputted into their timekeeping
6 system that Plaintiff and Class Members took a full thirty minutes for a meal period and did so
7 before the fifth hour of work as required under the Labor Code and Wage Orders. Defendants thus
8 recorded compliant meal breaks without regard to whether they were actually taken on time or for
9 the full duration or were interrupted by demands from the manager and foremen and other work
10 requirements. Plaintiff recalls only a handful of times throughout his employment with Defendant
11 where he was ever able to take an actual duty-free meal period, and despite this fact, Defendants
12 automatically deducted 30 minutes for meal period on each work shift.

13 25. Therefore, meal period violations systematically occurred ongoing throughout all of
14 Plaintiff's work shifts where Defendants both failed to provide a lawful meal period or penalty
15 payment and then also unlawfully deducted 30 minutes from Plaintiff's hours worked for the day,
16 despite not requiring Plaintiffs and Class Members to record their meal periods. To the extent
17 Defendants ever did pay Plaintiff a meal period premium, they failed to include all forms of
18 remuneration beyond hourly wages in the regular hourly rate used to pay the one-hour premium
19 payment. Upon information and belief, the other Class Members were subjected to similar unlawful
20 policies and practices and endured similar violations as Plaintiff.

21 26. Defendants thus failed to provide all the legally required unpaid, off-duty meal
22 periods and all the legally required paid, off-duty rest periods to Plaintiff and the other Class
23 Members, as required by the applicable Wage Order and Labor Code. Plaintiff and other Class
24 Members were required to perform work as ordered by Defendants for more than five hours during
25 a shift without receiving compliant meal periods. Additionally, as addressed above, Defendants
26 followed a practice of requiring off the clock work in a manner that would impact when Employees
27 were to receive meal periods and rest breaks and required them to respond to work calls and inquiries
28 and other demands during breaks, thus leading to further violations.

1 27. Upon information and belief, Defendants' systems did not automatically generate a
2 meal period premium under Labor Code § 226.7 for meal periods that commenced after five hours
3 into a work shift or in the event the time punch records reflected a meal period of less than thirty
4 minutes given that Defendants did not require Plaintiff and Class Members to record their meal
5 period start times and end times. However, upon information and belief, in the event Defendants did
6 pay any meal period premiums, they did so at the employee's customary regular rate of hourly
7 compensation without including all forms of remuneration in that hourly rate calculation, for
8 example by omitting performance-based bonuses and the like from the rate at which meal premiums
9 were paid.

10 28. Defendants thus followed uniformly applied policies of not providing all required
11 meal periods to their Employees. Meal periods were often not properly provided, as work demands
12 impermissibly shortened their breaks. Even when Plaintiff and the Class Members were able to take
13 a meal period, it was generally interrupted by work duties or was taken after the fifth hour of work.
14 Additionally, as addressed above, Defendants followed a practice of requiring off the clock work in
15 a manner that would impact when Employees were to receive meal periods and rest breaks, thus
16 leading to further violations.

17 29. As a result, Defendants' failure to provide Plaintiff and the Class Members with all
18 legally required off-duty, unpaid meal periods and all the legally required off-duty, paid rest periods
19 is and will be evidenced by Defendants' business records, or lack thereof. As further detailed above,
20 Defendants also failed to pay Employees "premium pay," i.e. one hour of wages at each Employee's
21 effective regular hourly rate of compensation for each meal period or rest break that Defendants
22 failed to provide or deficiently provided.

23 30. Therefore, for at least four years prior to the filing of this action and through to the
24 present, Plaintiff and the Class Members were unable to take off-duty breaks or were otherwise not
25 provided with the opportunity to take required breaks as required under the Labor Code and Wage
26 Orders due to Defendants' policies and practices. On the occasions when Plaintiff and the Class
27 Members were provided with a meal period, it was often untimely or interrupted, or was
28 impermissibly shortened, and Employees were not provided with one hour's wages in lieu thereof.

Meal period violations thus occurred in one or more of the following manners:

- (a) Class Members were not provided full thirty-minute duty free meal periods for work days in excess of five hours and were not compensated one hour's wages in lieu thereof, or were not compensated at the correct regular rate of compensation, all in violation of, among others, Labor Code §§ 226.7, 512, and the applicable Industrial Welfare Commission Wage Order(s);
- (b) Class Members were not provided second full thirty-minute duty free meal periods for work days in excess of ten hours;
- (c) Class Members were required to work through at least part of their daily meal period(s);
- (d) Meal periods were provided after five hours of continuous work during a shift; and
- (e) Class Members were restricted in their ability to take a full thirty-minute meal period.

31. Similar violations resulted from Defendants' failure to authorize and permit Plaintiff and the Class Members to take duty-free, net ten minute rest breaks for every four hours of shift work, or a major fraction thereof. Plaintiff and the other similarly situated Class Members were either not authorized permitted the opportunity to take a rest break, or were required to remain under Defendants' control and respond to calls and instructions from management and job demands if and when they even attempted to take one. Upon information and belief, Defendants also failed to authorize and permit employees to leave the premises during rest breaks, evidenced by Defendants' policy and practice of requiring Plaintiff and the Class Members to remain under their control during required off-duty rest break times.

32. Defendants time and again failed to provide Plaintiff and Class Members with at least two rest breaks on eight-hour shifts. Although Plaintiff generally received one 15-minute rest break during his shifts, he was not permitted to take a second or a third break, and those that were provided were often late and generally interrupted by job duties and requirement. This practice again unlawfully failed to pay Employees for rest break time, which must be compensated at the

1 regular rate.

2 33. Defendants' uniformly applied policies and practices thus resulted in untimely and
3 shortened or on-duty rest breaks when they were authorized and permitted. Plaintiff and the Class
4 Members worked shifts of at least eight hours, which required at least two rest breaks, and often
5 worked shifts over ten hours, which required at least three rest breaks. Even on the occasions when
6 Defendants authorized and permitted Plaintiff to take a first rest break, he was not permitted to take
7 a second or a third break, and those that were provided were often late and generally interrupted by
8 job duties and requirements.

9 34. During rest periods, employers must relieve employees of all duties and relinquish
10 control over how employees spend their time. Plaintiff and the Class Members were and are under
11 Defendants' control when they are working through rest breaks and remaining under Defendants'
12 control. Defendants have also provided either impermissibly shortened or untimely meal and rest
13 breaks to Plaintiff and the Class Members. Plaintiff and the Employees in the Class were thus not
14 authorized and permitted to take lawful rest periods, were systematically required by Defendants
15 to work through or during breaks, and were not provided with one hour's wages in lieu thereof.
16 They were required to remain on-duty during breaks or portions of their breaks, thus making them
17 either untimely or shortened and on-duty, or otherwise remain under Defendants' control during
18 rest breaks under Defendants' uniformly applied policies and practices. Rest period violations
19 therefore arose in one or more of the following manners:

- 20 (a) Class Members were required to work without being provided a minimum
21 ten minute rest period for every four hours or major fraction thereof worked
22 and were not compensated one hour of pay at their regular rate of
23 compensation for each workday that a rest period was not provided;
- 24 (b) Class Members were not authorized and permitted to take timely rest periods
25 for every four hours worked, or major fraction thereof; and
- 26 (c) Class Members were required to remain on-duty during rest periods and
27 under Defendants' control rest periods or otherwise had their rest periods
28 interrupted by work demands.

1 35. From at least four years prior to the filing of this lawsuit and continuing to the
2 present, Defendants have also consistently violated Labor Code § 221 by unlawfully collecting or
3 deducting the Employees' earned wages, including by the above described off the clock work and
4 on-duty work while on unpaid meal breaks. In addition to failing to authorize and permit rest breaks,
5 Defendants unlawfully deducted up to 30 minutes for meal periods that were rarely provided or
6 otherwise received without violation. Thus, by deducting 30 minutes for a meal period that was
7 generally not lawfully provided if at all, Defendants effectively and unlawfully deducted at least 30
8 minutes of hours worked from each Employee's daily work shifts. In order to avoid overtime,
9 Defendants would either compensate Plaintiff and Class Members for their scheduled hours worked
10 rather than their actual hours worked or would round down Plaintiff's and Class Members' total
11 hours worked. By not compensating Employees for all hours worked, Defendants unlawfully
12 deducted wages earned in violation of Labor Code § 221.

13 36. Defendants also violated California Labor Code § 246 by not providing all required
14 paid sick days to Plaintiff and the Class Members. Labor Code § 246 provides that an Employee
15 who "works in California for the same employer for 30 or more days within a year from the
16 commencement of employment is entitled to paid sick days as specified in this section." Defendants
17 failed to provide Plaintiffs and the other similarly Aggrieved Employees with all their required and
18 earned sick days, in violation of Labor Code § 246. Additionally and upon information and belief,
19 Defendants have failed to provide COVID-19 supplemental sick leave to the Class Members during
20 the relevant time period, including by failing to provide two work weeks of COVID-19
21 supplemental paid sick leave as required under Labor Code §§ 248.1 and 248.2 and including
22 damages and penalties as these sections are enforced through Labor Code § 248.5, which requires
23 that: "If paid sick days were unlawfully withheld, the dollar amount of paid sick days withheld
24 from the employee multiplied by three, or two hundred fifty dollars (\$250), whichever amount is
25 greater, but not to exceed an aggregate penalty of four thousand dollars (\$4,000), shall be included
26 in the administrative penalty." Plaintiff accordingly seeks this relief available for Defendants'
27 failure to provide Employees with all their required and earned sick days and all their COVID-19
28 supplemental sick leave in violation of Labor Code §§ 246, 248.1, 248.2, and the civil and statutory

1 penalties available and applicable under Labor Code §§ 246, 248.1, 248.2, 248.5, 558, 1194.2,
2 1197.1, 1198, 1199, and 2699(f)(2), and also for attorneys' fees and costs pursuant to Labor Code
3 § 2699(g)(1).

4 37. Upon information and belief, Defendants also failed to provide Employees such as
5 Plaintiff at the time of her employment and thereafter with written notice complying with all the
6 requirements of Labor Code § 2810.5, which provides that: "At the time of hiring, an employer
7 shall provide to each employee a written notice, in the language the employer normally uses to
8 communicate employment-related information to the employee, containing" specific required
9 information. Upon information and belief, Defendants failed to provide this information to the
10 Aggrieved Employees as required under Labor Code § 2810.5. Defendants were required to provide
11 Plaintiff and the aggrieved employee Class Members certain specific information upon hiring
12 pursuant to California Labor Code § 2810.5. Defendants failed to provide Plaintiff with any such
13 information when he was hired, or have failed to produce them, and upon information and belief
14 Defendants committed similar violations in connection with similarly situated and aggrieved Class
15 Members.

16 38. As a result of these illegal policies and practices, Defendants also engaged in and
17 enforced the following additional unlawful practices and policies against Plaintiff and the Class
18 Members he seeks to represent:

- 19 (a) failing to pay all wages owed to Class Members who either were discharged,
20 laid off, or resigned in accordance with the requirements of Labor Code §§
21 201, 202, 203;
- 22 (b) failing to pay all wages owed to the Class Members twice monthly in
23 accordance with the requirements of Labor Code § 204;
- 24 (c) failing to pay Class Members all wages owed, including all meal and rest
25 period premium wages, and failing to pay them at the regular rate of
26 compensation;
- 27 (d) failing to maintain accurate records of Class Members' hours worked and
28 earned wages and meal periods in violation of Labor Code §§ 226 and

1 1174(d) and section 7 of the applicable IWC Wage Orders; and

2 (e) failing to produce timekeeping records in response to Plaintiff's timely and
3 lawful request to receive them under these authorities.

4 39. Defendants have also consistently failed to provide Class Members with timely,
5 accurate, and itemized wage statements, in writing, as required by California wage-and-hour laws,
6 including by the above-described requirement of off the clock work, failure to pay all overtime and
7 double time wages owed and failure to pay them at the appropriate premium rates, and failure to
8 pay premium wages for unprovided or otherwise unlawful meal and rest breaks, or by miscalculating
9 any overtime or meal period or rest break premium wages and by the systematic and unlawful
10 deductions Defendants took from Employee wages. Defendants have also made it difficult to
11 account with precision for the unlawfully withheld wages and meal and rest period compensation
12 owed to Plaintiff and the Class, during the liability period, including because they did not calculate
13 the regular rate of pay correctly when paying overtime or meal period premiums and because they
14 did not implement and preserve a record-keeping method as required for non-exempt employees by
15 California Labor Code §§ 226, 1174(d), and paragraph 7 of the applicable California Wage Orders.
16 Upon information and belief, time clock punches were not maintained or were not accurately
17 maintained for work shifts and meal periods, which were automatically presumed by Defendants to
18 have been lawfully provided when they were not. Defendants also failed to accurately record and
19 pay for all regular and overtime hours worked and submitted by Plaintiff and the Class Members,
20 including by failing to pay all overtime hours at the correctly calculated overtime premium rate.

21 40. Defendants have thus also failed to comply with Labor Code § 226(a) by inaccurately
22 reporting total hours worked and total wages earned by Plaintiff and the Class Members, along with
23 the appropriate applicable rates, among others requirements. Plaintiff and Class Members are
24 therefore entitled to penalties not to exceed \$4,000.00 for each employee pursuant to Labor Code §
25 226(b). Defendants have also failed to comply with paragraph 7 of the applicable California IWC
26 Wage Orders by failing to maintain time records showing when the employee begins and ends each
27 work period, meal periods, and wages earned pursuant to Labor Code § 226.7, and total daily hours
28 worked by itemizing in wage statements all deductions from payment of wages and accurately

1 reporting total hours worked.

2 41. Defendants also required Plaintiff and the Class Members to work hours off the clock
3 for which they were not compensated. They were required to endure off the clock work addressed
4 above during interrupted or otherwise on-duty meal and rest periods and were not provided with
5 sick pay and supplemental sick leave and were subjected to systematic off the clock work.
6 Defendants also failed to pay all overtime premium wages owed for work conducted on a work shift
7 and a workday or failed to pay it at the correct rate, as addressed above. Therefore, Defendants have
8 also followed a uniform and consistent policy of failing to pay all wages owed to Plaintiff and other
9 similarly situated Employees at the time of their termination or within seventy-two hours of their
10 resignation, as required by California wage-and-hour laws.

11 42. Additionally, from at least four years prior to the filing of this lawsuit and continuing
12 to the present, Defendants have regularly required Plaintiff and the Class Members to incur
13 necessary business expenses in the course of performing their required job duties without
14 reimbursement. These included the cell phone related expenses Plaintiff incurred in responding to
15 calls from managers and foremen. Additionally, Plaintiff was required by Defendants to supply his
16 own tools and equipment to get the job done. Throughout his employment with Defendant, plaintiff
17 purchased a hammer, a tape measurer, a chalk line, pencil squares, a skill saw, a reciprocating saw,
18 a sander, a planer, an air compressor, a nail gun, levels, several ladders, an electric cord, air hoses,
19 and tool belt as required by the job. Plaintiff anticipates that he spent about \$3,000 to \$3,500 on
20 these tools and equipment. Plaintiff and the Class Members must be reimbursed for these necessary
21 business expenses under Labor Code § 2802 and Defendants systematically failed to do so.

22 43. In light of the foregoing, Plaintiff and the Employees in the Class bring this action
23 pursuant to, *inter alia*, Labor Code §§ 201, 202, 203, 204, 218, 218.5, 218.6, 221, 226, 226.4, 226.7,
24 246, 248.1, 248.2, 248.5, 510, 511, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2
25 1197, 1198, 1198.5, 1199, and 2802 and California Code of Regulations, Title 8, section 11000 *et*
26 *seq.*

27 44. Furthermore, pursuant to Business and Professions Code §§ 17200-17208, Plaintiff
28 and the Class Members seek injunctive relief, restitution, and disgorgement of all benefits

Defendants have enjoyed from their violations of Labor Code and the other unfair, unlawful, or fraudulent practices alleged in this Complaint.

CLASS ALLEGATIONS

45. Plaintiff brings this class action on behalf of herself and all others similarly situated pursuant to Code of Civil Procedure § 382. Plaintiff seeks to represent a Class (often referred to as “the Class” or “Class Members”) defined as follows: “All individuals employed by Defendants at any time during the period of four (4) years prior to the filing of this lawsuit and ending on a date as determined by the Court (“the Class Period”), and who have been employed as non-exempt, hourly employees by Defendants within the State of California.” This includes all types of carpenters and those in similar and related positions. Further, Plaintiff seeks to represent the Subclasses composed of and defined as follows:

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

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

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

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

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

f. Subclass 6. Unauthorized Deductions from Wages Subclass. All Class Members who were subject to Defendants’ policy and/or practice of deducting wages earned from their pay, including by requiring off the clock work.

1 g. Subclass 7. Failure to Timely Pay Wages Twice Monthly Subclass. All Class
2 Members who were subject to Defendants' policy and practice of not timely paying all wages earned
3 when they were due and payable at least twice monthly.

4 h. Subclass 8. Termination Pay Subclass. All Class Members who, within the
5 applicable limitations period, either voluntarily or involuntarily separated from their employment
6 and were subject to Defendants' policy and/or practice of failing to timely pay wages upon
7 termination.

8 i. Subclass 9. Failure To Produce Requested Employment Records Subclass. All Class
9 Members who, within the applicable limitations period, were denied the right to inspect and receive
10 all their payroll records, timecards, and personnel records.

11 j. Subclass 10. Payroll Records Subclass. All Class Members who were subject to
12 Defendants' policy and/or practice of failing to keep accurate time and wage records as required by
13 California wage-and-hour laws.

14 k. Subclass 11. Expense Reimbursement Subclass. All Class Members who incurred
15 necessary and reasonable expenses in connection with performing their job duties for Defendants
16 and who were subject to a policy and/or practice under which such expenses were not reimbursed.

17 l. Subclass 12. UCL Subclass. All Class Members who are owed restitution as a result
18 of Defendants' business acts and practices, to the extent such acts and practices are found to be
19 unlawful, deceptive, and/or unfair.

20 46. Plaintiff reserves the right under California Rule of Court 3.765 to amend or modify
21 the class description with greater particularity or to provide further division into subclasses or
22 limitation to particular issues. To the extent equitable tolling operates to toll claims by the Class
23 against Defendants, the Class Period should be adjusted accordingly.

24 47. Defendants, as a matter of company policy, practice and procedure, and in violation
25 of the applicable Labor Code, Industrial Welfare Commission ("IWC") Wage Order requirements,
26 and the applicable provisions of California law, intentionally, knowingly, and willfully, engaged in
27 a practice whereby Defendants failed to correctly calculate and pay compensation for the time
28 worked by the Plaintiff and the other members of the Class, even though Defendants enjoyed the

benefit of this work, required Employees to perform this work and permitted or suffered to permit this work. Defendants have uniformly denied these Class Members wages to which these employees are entitled, and failed to provide meal periods or authorize and permit rest periods, in order to unfairly cheat the competition and unlawfully profit.

48. This action has been brought and may properly be maintained as a class action under the provisions of Code of Civil Procedure § 382 because there is a well-defined community of interest in this litigation and the proposed Class is easily ascertainable from the employment records for Plaintiff and the Class Members that Defendants are required to maintain under California law.

A. Numerosity

49. The potential members of the class as defined are so numerous that joinder of all the member of the class is impracticable. While the precise number of Class Member has not been determined at this time, Plaintiff is informed and believes that Defendants employ or, during the time period relevant to this lawsuit employed, at least over one hundred Employees who satisfy the Class definition within the State of California. Plaintiff alleges that Defendants' employment records will provide information as to the number and location of all Class Members.

B. Commonality

50. There are questions of law and fact common to the Class that predominate over any questions affecting only individual Class Members. The common questions are numerous and substantial and flow from Defendants' uniform policies and/or practices of violating the California Labor Code addressed above. As such, these common questions predominate over individual questions concerning each individual Class Member's showing as to his or her eligibility for recovery or as to the amount of damages. These common questions of law and fact include:

- a. Whether Defendants failed to pay Employees minimum wages;
- b. Whether Defendants failed to pay Employees wages for all hours worked;
- c. Whether Defendants failed to pay Employees overtime as required under Labor Code § 510;
- d. Whether Defendants violated Labor Code §§ 226.7 and 512, and the applicable IWC Wage Orders, by failing to provide Employees with requisite meal periods or

premium pay in lieu thereof;

- e. Whether Defendants violated Labor Code §§ 226.7, and the applicable IWC Wage Orders, by failing to authorize and permit Employees to take requisite rest breaks or provide premium pay in lieu thereof;
- f. Whether Defendants violated California Labor Code §§ 246 and 248.1 by not providing employees with all required sick days and COVID-19 supplemental sick leave;
- g. Whether Defendants violated Labor Code § 226(a) by providing Employees with inaccurate wage statements;
- h. Whether Defendants violated Labor Code § 221;
- i. 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;
- j. Whether Defendants' conduct was willful;
- k. Whether Defendants violated Labor Code § 226 and § 1174 and § 1198 and the IWC Wage Orders by failing to maintain accurate records of Class Members' earned wages and work periods;
- l. Whether Defendants violated Labor Code § 1194 by failing to compensate all Employees during the relevant time period for all hours worked, whether regular or overtime;
- m. Whether Defendants violated Labor Code § 204 by failing to pay Employees all wages earned at least twice monthly;
- n. Whether Defendants violated Labor Code § 2802 by failing to reimburse necessary business expenses incurred by Employees;
- o. Whether Defendants violated Business and Professions Code § 17200 *et seq.*; and
- p. Whether Employees are entitled to equitable relief pursuant to Business and Professions Code § 17200 *et seq.*

C. Typicality

51. The claims of the named plaintiff are typical of those of the other Employees. The

1 Employee Class Members all sustained injuries and damages arising out of and caused by
2 Defendants' common course of conduct and uniformly applied policies in violation of statutes, as
3 well as regulations, that have the force and effect of law, as alleged herein. Plaintiff's claims for the
4 off the clock work and meal and rest violations he was required to endure are typical of those of the
5 other Class Members.

6 **D. Adequacy of Representation**

7 52. Plaintiff will fairly and adequately represent and protect the interest of the Employee
8 Class Members. Counsel who represents Plaintiff and the Employees in the Class are experienced
9 and competent in litigating employment class actions.

10 **E. Superiority of Class Action**

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

16 54. As to the issues raised in this case, a class action is superior to all other methods for
17 the fair and efficient adjudication of this controversy, as joinder of all Class Members is
18 impracticable and many legal and factual questions to be adjudicated apply uniformly to all Class
19 Members. Further, as the economic or other loss suffered by vast numbers of Class Members may
20 be relatively small, the expense and burden of individual actions makes it difficult for the Class
21 Members to individually redress the wrongs they have suffered. Moreover, in the event
22 disgorgement is ordered, a class action is the only mechanism that will permit the employment of a
23 fluid fund recovery to ensure that equity is achieved. There will be relatively little difficulty in
24 managing this case as a class action, and proceeding on a class-wide basis will permit Employees
25 to vindicate their rights for violations they endured which they would otherwise be foreclosed from
26 receiving in a multiplicity of individual lawsuits that would be cost prohibitive to them.

27 55. Class action treatment will allow those persons similarly situated to litigate their
28 claims in the manner that is most efficient and economical for the parties and the judicial system.

1 Plaintiff is unaware of any difficulties in managing this case that should preclude class treatment.
2 Plaintiff contemplates the eventual issuance of notice to the proposed Class Members that would set
3 forth the subject and nature of the instant action. The Defendants' own business records can be
4 utilized for assistance in the preparation and issuance of the contemplated notices. To the extent that
5 any further notice is required additional media and/or mailings can be used.

6 56. Defendants, as prospective and actual employers of the Employees in the Class, had
7 a special fiduciary duty to disclose to prospective Class Members the true facts surrounding
8 Defendants' pay practices, policies and working conditions imposed upon the similarly situated
9 Employees as well as the effect of any alleged arbitration agreements that may have been forced
10 upon them. In addition, Defendants knew they possessed special knowledge about pay practices and
11 policies, most notably intentionally refusing to pay for all hours actually worked which should have
12 been recorded in Defendants' pay records and the consequence of the alleged arbitration agreements
13 and policies and practices on the Employees and Class as a whole.

14 57. Plaintiff and the Employees in the Class did not discover the fact that they were
15 entitled to all pay under the Labor Code until shortly before the filing of this lawsuit nor was there
16 ever any discussion about Plaintiff's and the Class's waiver of their Constitutional rights of trial by
17 jury, right to collectively organize and oppose unlawful pay practices under California law as well
18 as obtain injunctive relief preventing such practices from continuing. As a result, the applicable
19 statutes of limitation were tolled until such time as Plaintiff and the Class Members discovered their
20 claims.

21 **FIRST CAUSE OF ACTION**

22 **FAILURE TO PAY MINIMUM WAGES**

23 **(Against All Defendants)**

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

26 59. Defendants failed to pay Employees minimum wages for all hours worked.
27 Defendants had a consistent policy of failing to pay Employees for all hours worked. Employees
28 would work hours and not receive wages, including as alleged above in connection with off the

1 clock work, including all the time required to remain on duty and under Defendants' control during
2 breaks and due to the work demands placed upon them by Defendants' management and foremen
3 and by the unlawful deduction of hours or by paying what should have been overtime hours as
4 regular hours. Defendants' uniformly applied policies required systematic off the clock work and
5 underpayment of all wages owed to Employees over a period of time, while benefiting Defendants.
6 During the relevant time period, Defendants thus regularly failed to pay minimum wages to
7 Plaintiff and the Class Members, including by requiring systematic off the clock work. To the
8 extent any local wage ordinances were also applicable to paying the employees an hourly rate
9 above the minimum wage rate, Defendants failed to comply with the local wage ordinances.
10 Defendants' uniform pattern of unlawful wage and hour practices manifested, without limitation,
11 applicable to the Class as a whole, as a result of implementing a uniform policy and practice that
12 denied accurate compensation to Plaintiff and the other members of the Class as to minimum wage
13 pay.

14 60. In California, employees must be paid at least the applicable state minimum wage
15 for all hours worked, including under Labor Code § 1197, IWC Wage Order MW-2014, and
16 paragraphs 2(K), 2(S), and 4(A)-4(C) of the applicable IWC Wage Orders. Also, pursuant to
17 California Labor Code § 204, other applicable laws and regulations, and public policy, an employer
18 must timely pay its employees for all hours worked. Defendants failed to do so.

19 61. California Labor Code § 1197, entitled "Pay of Less Than Minimum Wage" states:
20 "The minimum wage for employees fixed by the commission is the minimum wage to be paid to
21 employees, and the payment of a less wage than the minimum so fixed is unlawful." The applicable
22 minimum wage rate fixed by the commission for work during the relevant period is found in the
23 Wage Orders.

24 62. The minimum wage provisions of California Labor Code are enforceable by private
25 civil action pursuant to Labor Code § 1194(a) which states: "Notwithstanding any agreement to
26 work for a lesser wage, any employee receiving less than the legal minimum wage or the legal
27 overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid
28 balance of the full amount of this minimum wage or overtime compensation, including interest

1 thereon, reasonable attorney's fees and costs of suit."

2 63. As described in California Labor Code §§ 1185 and 1194.2, any action for wages
3 incorporates the applicable Wage Order of the California Industrial Welfare Commission. Also,
4 California Labor Code §§ 1194, 1197, 1197.1 and those Industrial Welfare Commission Wage
5 Orders entitle non-exempt employees to an amount equal to or greater than the minimum wage for
6 all hours worked. All hours must be paid at the statutory or agreed rate, or at the minimum rate in
7 the absence of a contractually agreed upon one.

8 64. In committing these violations of the California Labor Code, Defendants
9 inaccurately recorded, or required Plaintiff and the Class Members to input times that did not reflect
10 their actual hours worked, or miscalculated hours or rates or otherwise underpaid the actual time
11 worked by Plaintiff and other members of the Class, including by requiring off the clock work as
12 addressed in detail above. Defendants acted in an illegal attempt to avoid the payment of all earned
13 wages, and other benefits in violation of the California Labor Code, the Industrial Welfare
14 Commission requirements and other applicable laws and regulations. As a result of these violations,
15 Defendants also failed to timely pay all wages earned in accordance with California Labor Code §
16 1194.

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

21 66. In addition to restitution for all unpaid wages, pursuant to California Labor Code §
22 1197.1, Plaintiff and Class Members are entitled to recover a penalty of \$100.00 for the initial failure
23 to timely pay each employee minimum wages, and \$250.00 for each subsequent failure to pay each
24 employee minimum wages.

25 67. Pursuant to California Labor Code § 1194.2, Plaintiff and Class Members are further
26 entitled to recover liquidated damages in an amount equal to wages unlawfully unpaid and interest
27 thereon.

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

69. Plaintiff and the Class Members are entitled to recover the unpaid minimum wages (including double minimum wages) and local wage ordinance wages and liquidated damages in an amount equal to the minimum wages unlawfully unpaid, interest thereon and reasonable attorney's fees and costs of suit pursuant to California Labor Code § 1194(a). Plaintiff and the other members of the Class further request recovery of all unpaid wages, according to proof, interest, statutory costs, as well as the assessment of any statutory penalties against Defendants, in a sum as provided by the California Labor Code and/or other applicable statutes. To the extent minimum wage compensation is determined to be owed to the Class Members who have terminated their employment, Defendants' conduct also violates Labor Code §§ 201 and/or 202, and therefore these individuals are also be entitled to waiting time penalties under California Labor Code § 203, which penalties are sought herein on behalf of these Class Members. Defendants' failure to timely pay all wages owed also violated Labor Code § 204 and resulted in violations of Labor Code § 226 because they resulted in the issuance of inaccurate wage statements. Defendants' conduct as alleged herein was willful, intentional and not in good faith. Further, Plaintiff and other Class Members are entitled to seek and recover statutory costs.

SECOND CAUSE OF ACTION

FAILURE TO PAY WAGES AND OVERTIME UNDER LABOR CODE § 510

(Against All Defendants)

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

71. California Labor Code § 1194 provides that “any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney’s fees, and costs of suit.” The action may be maintained directly against the employer in an employee’s name without first filing a claim

1 with the Division of Labor Standards and Enforcement.

2 72. By their conduct, as set forth herein, Defendants violated Labor Code § 1194 and
3 Labor Code § 510 (and paragraphs 2(K), 2(S), 3(A) and 4(A)-4(B) of the relevant orders of the
4 Industrial Welfare Commission) by failing to pay Employees: (a) time and one-half their regular
5 hourly rates for hours worked in excess of eight (8) hours in a workday or in excess of forty (40)
6 hours in any workweek or for the first eight (8) hours worked on the seventh day of work in any one
7 workweek; or (b) twice their regular rate of pay for hours worked in excess of twelve (12) hours in
8 any one (1) day or for hours worked in excess of eight (8) hours on any seventh day of work in a
9 workweek.

10 73. Defendants had a consistent policy of not paying Employees wages for all hours
11 worked, including by requiring off the clock work as addressed above, by unlawful deductions, by
12 under-reporting actual hours worked, and by requiring Employees to do so as well. Defendants have
13 also failed to include all forms of remuneration in the regular rate of pay used to calculate and pay
14 overtime and failed to begin paying overtime when it was incurred due to the off the clock work, as
15 detailed above.

16 74. Defendants thus had a consistent policy of not paying Employees wages for all hours
17 worked, including hours at their required regular, overtime, and double-time rates. Defendants, and
18 each of them, have intentionally and improperly rounded, changed, adjusted and/or, modified certain
19 employees' hours, including Plaintiff's, or required Plaintiff and the Class Members to do so, or
20 otherwise caused them to work off the clock to avoid paying Plaintiff and the Class Members all
21 earned and owed straight time and overtime wages and other benefits, in violation of the California
22 Labor Code, the California Code of Regulations and the IWC Wage Orders and guidelines set forth
23 by the Division of Labor Standards and Enforcement. Defendants have also violated these
24 provisions by requiring Plaintiff and other similarly situated non-exempt employees to work through
25 meal periods or remain under Defendants' control when they were required to be clocked out or to
26 otherwise work off the clock to complete their daily job duties and respond to demands from the
27 foremen and managers.

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1 75. Therefore, Employees were not properly compensated, nor were they paid overtime
2 rates for hours worked in excess of eight hours in a given day and/or forty hours in a given week.
3 Based on information and belief, Defendants did not make available to Employees a reasonable
4 protocol for correcting time records when Employees worked overtime hours or to fix incorrect time
5 entries or those that Defendants unlawfully under-recorded to the Employee's detriment. Defendants
6 have also violated these provisions by requiring Plaintiff and other similarly situated Class Members
7 to work through meal periods when they were required to be clocked out or to otherwise work off
8 the clock to complete their daily job duties.

9 76. Defendants' failure to pay Plaintiff and the Class Members the unpaid balance of
10 regular wages owed and overtime compensation for all hours worked, as required by California
11 law, violates the provisions of Labor Code §§ 510 and 1198 and paragraph 3(A) of the applicable
12 IWC Wage Order, and is therefore unlawful. Defendants also failed to correctly calculate the
13 regular rate used to calculate and pay overtime, and meal and rest premiums, as addressed above.

14 77. Additionally, Labor Code § 558(a) provides "any employer or other person acting
15 on behalf of an employer who violates, or causes to be violated, a section of this chapter or any
16 provisions regulating hours and days of work in any order of the IWC shall be subject to a civil
17 penalty as follows: (1) For any violation, fifty dollars (\$50) for each underpaid employee for each
18 pay period for which the employee was underpaid in addition to an amount sufficient to recover
19 underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid
20 employee for each pay period for which the employee was underpaid in addition to an amount
21 sufficient to recover underpaid wages. (3) Wages recovered pursuant to this section shall be paid
22 to the affected employee." Labor Code § 558(c) states, "the civil penalties provided for in this
23 section are in addition to any other civil or criminal penalty provided by law." Defendants have
24 violated provisions of the Labor Code regulating hours and days of work as well as the IWC Wage
25 Orders. Accordingly, Plaintiff and the Class Members seek the remedies set forth in Labor Code §
26 558.

27 78. Defendants' failure to pay compensation in a timely fashion also constituted a
28 violation of California Labor Code § 204, which requires that all wages shall be paid semimonthly.

1 From four (4) years prior to the filing of this lawsuit to the present, in direct violation of that
2 provision of the California Labor Code, Defendants have failed to pay all wages and overtime
3 compensation earned by Employees. Each such failure to make a timely payment of compensation
4 to Employees constitutes a separate violation of California Labor Code § 204.

5 79. Employees have been damaged by these violations of California Labor Code §§ 204
6 and 510 (and the relevant orders of the Industrial Welfare Commission). Additionally, under Labor
7 Code § 1199(a)-(c), it is a misdemeanor and Defendants are subject to a fine of not less than \$100
8 for causing Employees “to work for longer hours than those fixed, or under conditions of labor
9 prohibited by an order of the commission” or if the employer pays “a wage less than the minimum
10 fixed by an order of the commission” or “violates...any provision of this chapter or any order or
11 ruling of the commission.”

12 80. Consequently, pursuant to the California Labor Code, including Labor Code §§ 204,
13 510, 558, 1194, 1198, 1199, and the relevant paragraphs of the IWC Wage Orders, including
14 paragraphs 2(K), 2(S), 3(A), 4, and 20, Defendants are liable to Employees for the full amount of
15 all their unpaid wages and overtime compensation for all their hours worked, with interest, plus
16 their reasonable attorneys’ fees and costs, as well as the assessment of any statutory penalties
17 against Defendants, and each of them, and any additional sums as provided by the Labor Code
18 and/or other statutes.

19 **THIRD CAUSE OF ACTION**

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

21 **(Against All Defendants)**

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

24 82. Employees regularly worked shifts greater than five (5) hours and in some instances,
25 greater than ten (10) hours. Pursuant to Labor Code § 512, and paragraph 11 of the applicable IWC
26 Wage Order, an employer may not employ someone for a shift of more than five (5) hours without
27 providing him or her with a meal period of not less than thirty (30) minutes or for a shift of more
28 than ten (10) hours without providing him or her with a second meal period of not less than thirty

1 (30) minutes.

2 83. Defendants failed to provide Employees with meal periods as required under the
3 Labor Code and paragraph 11 of the applicable IWC Wage Order. Employees were often required
4 to work or to otherwise remain under Defendants' control during meal periods, or Defendants
5 provided them after Employees worked beyond the fifth hour of their shifts or Employees otherwise
6 had them shortened and interrupted by work demands and requirements to perform off the clock
7 work and remain under Defendants' control. Furthermore, upon information and belief, on the
8 occasions when Employees worked more than ten hours in a given shift, they did so without
9 receiving a second uninterrupted thirty-minute meal period as required by law.

10 84. Defendants thus failed to provide Plaintiff and the Class Members with meal periods
11 as required by the Labor Code and paragraph 11 of the applicable IWC Wage Order, including by
12 not providing them with the opportunity to take meal breaks, by providing them late or for less than
13 thirty minutes, or by requiring them to perform work during breaks.

14 85. Moreover, Defendants failed to compensate Employees for each meal period not
15 provided or inadequately provided, as required under Labor Code § 226.7 and paragraphs 11 and 20
16 of the applicable IWC Wage Orders, which provide that, if an employer fails to provide an employee
17 a meal period in accordance with this section, the employer shall pay the employee one (1) hour of
18 pay at the employee's regular rate of compensation for each workday that the meal period is not
19 provided. As detailed above, on the occasions when Defendants did pay any meal period premiums,
20 they upon information and belief underpaid them by miscalculating the regular rate of compensation
21 by not including all forms of remuneration in it. Defendants thus failed to compensate the
22 Employees in the Class for each meal period not provided or inadequately provided, as required
23 under Labor Code § 226.7 and paragraphs 11 and 20 of the applicable IWC Wage Order.

24 86. Therefore, pursuant to Labor Code § 226.7 and paragraphs 11 and 20 of the
25 applicable IWC Wage Order, Employees in the Class are entitled to damages in an amount equal to
26 one (1) hour of wages at their effective hourly rates of pay for each meal period not provided or
27 deficiently provided, a sum to be proven at trial, as well as the assessment of any statutory penalties
28 against the Defendants, and each of them, in a sum as provided by the Labor Code and other statutes

1 and applicable IWC Wage Order paragraphs.

2 **FOURTH CAUSE OF ACTION**

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

4 **(Against All Defendants)**

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

7 88. Labor Code §§ 226.7 and paragraph 12 of the applicable IWC Wage Orders provide
8 that employers must authorize and permit all employees to take rest periods at the rate of ten minutes
9 net rest time per four (4) work hours.

10 89. Employees consistently worked consecutive four hour shifts and were generally
11 scheduled for shifts of greater than 3.5 hours total, thus requiring Defendants to authorize and permit
12 them to take rest periods. Pursuant to the Labor Code and paragraph 12 of the applicable IWC Wage
13 Order, Employees were entitled to paid rest breaks of not less than ten minutes for each consecutive
14 four hour shift, and Defendants failed to provide Employees with timely rest breaks of not less than
15 ten minutes for each consecutive four hour shift. Defendants made no effort to schedule or otherwise
16 authorize and permit Plaintiff and the Class Members to take lawful rest breaks. Employees were
17 often required to work or to otherwise remain under Defendants' control during rest periods,
18 including by responding to work requirements, and had breaks provided untimely as a result of the
19 above described off the clock work. Plaintiff and the Class Members were also not permitted to
20 leave their work premises during rest breaks.

21 90. Labor Code §§ 226.7 and paragraphs 12 and 20 of the applicable IWC Wage Orders
22 provide that if an employer fails to provide an employee rest period in accordance with this section,
23 the employer shall pay the employee one hour of pay at the employee's regular rate of compensation
24 for each workday that the rest period is not provided. Defendants failed to do so.

25 91. Defendants, and each of them, have therefore intentionally and improperly denied
26 rest periods to Plaintiff and the Class Members in violation of Labor Code §§ 226.7 and 512 and
27 paragraph 12 of the applicable IWC Wage Orders.

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92. Defendants failed to authorize and permit Plaintiff and the Class Members to take rest periods, as required by the Labor Code. Moreover, Defendants did not compensate Employees with an additional hour of pay at each Employee's hourly rate for each day that Defendants failed to provide them with adequate rest breaks, as required under Labor Code § 226.7 and paragraphs 12 and 20 of the applicable IWC Wage Orders.

93. Therefore, pursuant to Labor Code § 226.7 and paragraphs 12 and 20 of the applicable IWC Wage Orders, Employees are entitled to damages in an amount equal to one hour of wages at their effective hourly rates of pay for each day worked without the required rest breaks, a sum to be proven at trial, as well as the assessment of any statutory penalties against Defendants, and each of them, in a sum as provided by the Labor Code and/or other statutes.

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

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

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

96. Defendants failed to provide Plaintiff and the similarly situated Employee Class Members with accurate itemized wage statements in writing, as required by the Labor Code and paragraph 7 of the applicable IWC Wage Orders. Specifically, the wage statements issued to Employees by Defendants failed to accurately account for wages, overtime, and premium pay, including for all overtime and double time hours worked and for deficient meal periods and rest breaks, all of which Defendants knew or reasonably should have known were owed to the

1 Employees, as alleged above.

2 97. Throughout the liability period, Defendants intentionally failed to furnish to Plaintiff
3 and the Class Members, upon each payment of wages, itemized statements accurately showing: (1)
4 gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units
5 earned and any applicable piece rate paid on a piece-rate basis, (4) all deductions, (5) net wages
6 earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the
7 employee and only the last four digits of his or her social security number or an employee
8 identification number other than a social security number, (8) the name and address of the legal
9 entity that is the employer and (9) all applicable hourly rates in effect during the pay period and the
10 corresponding number of hours worked at each hourly rate by the employee pursuant to Labor Code
11 § 226 and paragraph 7 of the applicable IWC Wage Orders, amongst other statutory requirements.
12 Defendants knowingly and intentionally failed to provide Plaintiff and the Class Members with such
13 timely and accurate wage and hour statements. Particularly, Defendants failure to accurately list the
14 employer on the wage statements issued to Plaintiff and the Class Members is evidence of
15 Defendant's systematic and ongoing facial violation of Labor Code § 226(a)(8). Moreover, the wage
16 statements issued to Plaintiff by Defendants also fail to list the inclusive dates of the period for
17 which the employee is paid in violation of Labor Code § 226(a)(6).

18 98. Plaintiff and the Class Members suffered injury as a result of Defendants' knowing
19 and intentional failure to provide them with the wage and hour statements as required by law and
20 are presumed to have suffered injury and entitled to penalties under Labor Code § 226€, as the
21 Defendants have failed to provide an accurate wage statement, failed to provide accurate and
22 complete information as required by any one or more of items Labor Code § 226 (a)(1) to (9),
23 inclusive, and the Plaintiff and Class Members cannot promptly and easily determine from the
24 wage statement alone one or more of the following: (i) The amount of the gross wages or net wages
25 paid to the employee during the pay period or any of the other information required to be provided
26 on the itemized wage statement pursuant to items (2) to (4), inclusive, (6), and (9) of subdivision
27 (a), (ii) Which deductions the employer made from gross wages to determine the net wages paid to
28 the employee during the pay period, (iii) The name and address of the employer and, (iv) The name

1 of the employee and only the last four digits of his or her social security number or an employee
2 identification number other than a social security number. For purposes of Labor Code § 226(e)
3 “promptly and easily determine” means a reasonable person [i.e. an objective standard] would be
4 able to readily ascertain the information without reference to other documents or information.

5 99. Additionally, under paragraph 4(B) of the applicable IWC Wage Orders, employers
6 are required “to pay each employee, on the established payday for the period involved, not less than
7 the applicable minimum wage for all hours worked in the payroll period, ...” Under Labor Code §
8 1198, “[t]he employment of any employee for longer hours than those fixed by the order or under
9 conditions of labor prohibited by the order is unlawful.” Plaintiff and the Class Members may
10 therefore pursue damages and penalties for violations of Labor Code § 204 and paragraph 4(B) of
11 the applicable IWC Wage Orders, including penalties under paragraph 20 of the applicable IWC
12 Wage Orders.

13 100. Therefore, as a direct and proximate cause of Defendants’ violation of Labor Code §
14 226(a) and paragraphs 4(b), 7, and 20 of the applicable IWC Wage Orders, the Employees in the
15 Class suffered injuries, including among other things confusion over whether they received all
16 wages owed them, the difficulty and expense involved in reconstructing pay records, and forcing
17 them to make mathematical computations to analyze whether the wages paid in fact compensated
18 them correctly for all hours worked.

19 101. Pursuant to Labor Code §§ 226(a) and 226(e), and paragraph 20 of the applicable
20 IWC Wage Order, Plaintiff and the Employee Class Members are entitled to recover the greater of
21 all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and
22 one hundred dollars (\$100) for each violation in a subsequent pay period, not exceeding an aggregate
23 penalty of four thousand dollars (\$4,000) under Section 226(e). They are also entitled to an award
24 of costs and reasonable attorneys’ fees.

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SIXTH CAUSE OF ACTION
VIOLATION OF LABOR CODE § 221
(Against All Defendants)

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

103. Labor Code § 221 provides, “It shall be unlawful for any employer to collect or receive from an employee any part of wages theretofore paid by said employer to said employee.” Additionally, pursuant to California Labor Code § 204, other applicable laws and regulations, and public policy, an employer must timely pay its employees for all hours worked. Defendants failed to do so.

104. Defendants unlawfully received and/or collected wages from the Employees in the Class by requiring off the clock work, by miscalculating overtime, and by automatically deducting time for meal periods when they were not lawfully provided and not paying one hour of pay at the regular rate of compensation for every meal and rest period violation endured by Plaintiff and the other Class Members, as alleged above. In addition to failing to authorize and permit rest breaks, Defendants unlawfully deducted up to 30 minutes for meal periods that were rarely provided or otherwise received without violation. Thus, by deducting 30 minutes for a meal period that was generally not lawfully provided if at all, Defendants effectively and unlawfully deducted at least 30 minutes of hours worked from each Employee’s daily work shifts. In order to avoid overtime, Defendants would either compensate Plaintiff and Class Members for their scheduled hours worked rather than their actual hours worked or would round down Plaintiff’s and Class Members’ total hours worked. By not compensating Employees for all hours worked, Defendants unlawfully deducted wages earned in violation of Labor Code § 221.

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

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SEVENTH CAUSE OF ACTION
VIOLATION OF LABOR CODE § 204
(Against All Defendants)

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

107. Labor Code § 204 instructs that: “All wages, ...earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays. Labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month.” Additionally, the requirements of this section shall be deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven calendar days following the close of the payroll period.” As detailed above, Defendants maintained a consistently applied policy and practice of not paying all wages earned between the 1st and 15th days of a month between the 16th and 26th day and failed to pay all wages earned between the 16th and the last day of the month between the 1st and 10th day of the following month. Defendants similarly failed to pay all wages earned by not more than seven calendar days following the close of the payroll period.

108. All wages due and owing to Plaintiff and the Class Members, including as required under Labor Code § 510, were therefore not timely paid by Defendants. Additionally, wages required by Labor Code § 1194 and other sections became due and payable to each employee in each pay period that he or she was not provided with a meal period or rest period or paid straight or overtime wages to which he or she was entitled.

109. Defendants violated Labor Code § 204 by systematically refusing to timely pay wages due under the Labor Code, as addressed above. Additionally, under paragraph 4(B) of the applicable IWC Wage Orders, employers are required “to pay each employee, on the established payday for the period involved, not less than the applicable minimum wage for all hours worked in the payroll period, ...” Under Labor Code § 1198, “[t]he employment of any employee for longer

1 hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.”
2 Plaintiff and the Class Members may therefore pursue damages and penalties for violations of Labor
3 Code § 204 and paragraph 4(B) of the applicable IWC Wage Orders, including penalties under
4 paragraph 20 of the applicable IWC Wage Orders.

5 110. As a result of the unlawful acts of Defendants, Plaintiff and the Class he seeks to
6 represent have been deprived of wages in amounts to be determined at trial, and they are entitled to
7 recovery of such amounts, plus interest and penalties thereon, attorneys’ fees, and costs, pursuant to
8 Labor Code § 204, 210, 218.5, 1194 and 1198, and paragraphs 4(B) and 20 of the applicable IWC
9 Wage Orders.

10 **EIGHTH CAUSE OF ACTION**
11 **VIOLATION OF LABOR CODE § 203**
12 **(Against All Defendants)**

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

15 112. Plaintiff and numerous Class Members are no longer employed by Defendants; they
16 either quit Defendants’ employ or were fired therefrom.

17 113. Defendants failed to pay these Employees all wages due and certain at the time of
18 termination or within seventy-two hours of resignation.

19 114. The wages withheld from these Employees by Defendants remained due and owing
20 for more than thirty days from the date of separation from employment. Additionally, Defendants
21 failed to pay Plaintiff his final check at the time of her termination.

22 115. Defendants thus failed to pay Plaintiff and the Class Members without abatement, all
23 wages as defined by applicable California law. Among other things, these Employees were not paid
24 all regular and overtime wages, including by Defendants failing to pay for all hours worked or
25 requiring off the clock work or by unlawfully under-recording time entries to the detriment of
26 Employees, and Defendants failed to pay premium wages owed for unprovided meal periods and
27 rest periods, as further detailed in this Complaint. Defendants’ failure to pay said wages within the
28 required time was willful within the meaning of Labor Code § 203.

116. Additionally, under paragraph 4(B) of the applicable IWC Wage Orders, employers are required “to pay each employee, on the established payday for the period involved, not less than the applicable minimum wage for all hours worked in the payroll period, ...” Under Labor Code § 1198, “[t]he employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.” Plaintiff and the Class Members may therefore pursue damages and penalties for violations of Labor Code § 203 and paragraph 4(B) of the applicable IWC Wage Orders, including penalties under paragraph 20 of the applicable IWC Wage Orders. Additionally, under Labor Code § 1199(a)-(c), it is a misdemeanor and Defendants are subject to a fine of not less than \$100 for causing Employees “to work for longer hours than those fixed, or under conditions of labor prohibited by an order of the commission” or if the employer pays “a wage less than the minimum fixed by an order of the commission” or “violates...any provision of this chapter or any order or ruling of the commission.”

117. Defendants' failure to pay wages, as alleged, entitles Plaintiff and these former Employee Class Members to penalties under Labor Code § 203 and the applicable paragraphs of the IWC Wage Orders as addressed above, including the requirement that an employee's wages shall continue until paid for up to thirty (30) days from the date they were due.

NINTH CAUSE OF ACTION

FAILURE TO KEEP REQUIRED PAYROLL RECORDS, LABOR CODE §§ 1174, 1174.5

(Against All Defendants)

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

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

120. During the course of Plaintiff's and Employees' employment, Defendants consistently failed to maintain accurate time and wage records for Plaintiff and Class Members as required by California Labor Code § 1174 by failing to pay them proper wages, overtime, and

1 premium pay as discussed above and failing to document and pay for actual hours worked.

2 121. Defendants are also required by the California Labor Code § 1198 and the applicable
3 Wage Order to maintain a tracking system that accurately records the times during which Employees
4 work.

5 122. Defendants have maintained a common unlawful policy and practice of failing to
6 accurately record all hours worked and all meal period start and end times and by adjusting or
7 otherwise rounding and shaving them down.

8 123. Defendants' failure to pay wages, as alleged above, was willful in that Defendants
9 knew wages to be due but failed to pay them.

10 124. Accordingly, Defendants are liable for civil penalties pursuant to the California
11 Labor Code including § 1174.5, for the three years prior to the filing of this Complaint.

12 **TENTH CAUSE OF ACTION**

13 **FAILURE TO PRODUCE REQUESTED RECORDS, LABOR CODE §§ 226 and 1198**

14 **(Against All Defendants)**

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

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

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

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

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

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

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

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

13 132. Pursuant to California Labor Code § 226(f), Plaintiff is entitled to a penalty of seven
14 hundred fifty dollars (\$750) from Defendants and attorneys' fees and cost, and the other Class
15 Members similarly situated are similarly entitled.

16 **ELEVENTH CAUSE OF ACTION**
17 **FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENSES LABOR CODE § 2802**
18 **(Against All Defendants)**

19 133. Plaintiff realleges and incorporates all preceding paragraphs, as though set forth in
20 full herein.

21 134. Plaintiff is informed and believes and based thereon alleges that throughout the
22 period applicable, Defendants required Plaintiff and the Class Members to pay for necessary work
23 related expenses they incurred. Defendants required Plaintiff and the Class Members to use their
24 cellular phones to conduct work related business. Defendants also required Plaintiff and Class
25 Members to purchase and provide their own tools and equipment to get the job done. Plaintiff and
26 the Class Members must be reimbursed for these necessary business expenses under Labor Code §
27 2802 and Defendants systematically failed to do so.

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135. Defendants thus followed a uniform policy and practice of failing to reimburse Employees for these necessary work related expenses or losses incurred in direct discharge of their job duties during employment with Defendants and at the direction of the Defendants pursuant to Labor Code § 2802(a) and the applicable IWC Wage Orders, paragraph 9.

136. Defendants' knowing and willful failure to reimburse lawful necessary work related expenses and losses to Plaintiff and the Class Members resulted in damages because, among other things, Defendants did not inform employees of their right to be reimbursed for those work related expenses. As Defendants failed to inform and misled Plaintiff and the Class Members with regard to their rights, Plaintiff and the Class Members were led to believe that incurring those lawful and necessary expenses was an expected and essential function of their employment with Defendants and that failure to incur those expenses would have adverse consequences on their employment.

137. Therefore, Plaintiff and the Class Members are entitled to reimbursement for any and all necessary work related expenses, as provided for in Labor Code § 2802(b) and paragraph 9 of the applicable IWC Wage Orders, incurred during the direct discharge of their duties while employed by Defendants, as well as accrued interest on those expenses that were not reimbursed from the date Plaintiff and the Class Members incurred those expenses. Further, Plaintiff and the Class Members are entitled to costs and attorney's fees pursuant to Labor Code § 2802(c).

TWELFTH CAUSE OF ACTION

VIOLATION OF BUSINESS & PROFESSIONS CODE § 17200 ET SEQ.

(Against All Defendants)

138. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein. Plaintiff, on behalf of himself, the Employees in the Class, and the general public, brings this claim pursuant to Business & Professions Code § 17200 *et seq.* The conduct of Defendants as alleged in this Complaint has been and continues to be unfair, unlawful, and harmful to Employees and the general public. Plaintiff seeks to enforce important rights affecting the public interest within the meaning of Code of Civil Procedure § 1021.5.

139. Plaintiff is a “person” within the meaning of Business & Professions Code § 17204, has suffered injury, and therefore has standing to bring this cause of action for injunctive

1 relief, restitution, and other appropriate equitable relief.

2 140. Business & Professions Code § 17200 *et seq.* prohibits unlawful and unfair business
3 practices. By the conduct alleged herein, Defendants' practices were deceptive and fraudulent in
4 that Defendants' policy and practice failed to provide the required amount of compensation for
5 missed meal and rest breaks, and failed to adequately compensate Plaintiff and Class Members for
6 all hours worked, due to systematic business practices as alleged herein that cannot be justified,
7 pursuant to the applicable California Labor Code and Industrial Welfare Commission requirements
8 in violation of California Business and Professions Code §§ 17200, *et seq.*, and for which this Court
9 should issue injunctive and equitable relief, pursuant to California Business & Professions Code §
10 17203, including restitution of wages wrongfully withheld.

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

18 142. Defendants have violated statutes and public policies. Through the conduct alleged
19 in this Complaint Defendants have acted contrary to these public policies, have violated specific
20 provisions of the Labor Code, and have engaged in other unlawful and unfair business practices in
21 violation of Business & Professions Code § 17200 *et seq.*; which conduct has deprived Plaintiff,
22 and all persons similarly situated, and all interested persons, of the rights, benefits, and privileges
23 guaranteed to all employees under the law.

24 143. Defendants' conduct, as alleged above, constitutes unfair competition in violation
25 of the Business & Professions Code § 17200 *et seq.*

26 144. Defendants, by engaging in the conduct herein alleged, by failing to pay wages and
27 overtime, failing to provide meal periods and rest breaks, etc., either knew or in the exercise of
28 reasonable care should have known that their conduct was unlawful; therefore their conduct

1 violates the Business & Professions Code § 17200 *et seq.*

2 145. By the conduct alleged herein, Defendants have engaged and continue to engage in
3 a business practice which violates California and federal law, including but not limited to, the
4 applicable Industrial Wage Order(s), the California Code of Regulations, and the California Labor
5 Code including Sections 204, 226, 226.7, 510, 512, 1194, 1197, and 1198 for which this Court
6 should issue declaratory and other equitable relief pursuant to California Business & Professions
7 Code § 17203 as may be necessary to prevent and remedy the conduct held to constitute unfair
8 competition, including restitution of wages wrongfully withheld.

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

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

17 **THIRTEENTH CAUSE OF ACTION**

18 **PENALTIES PURSUANT TO LABOR CODE § 2698, *ET SEQ.***

19 **(Against All Defendants)**

20 148. Plaintiff realleges and incorporates all preceding paragraphs, as though set forth in
21 full herein.

22 149. Plaintiff and the Employees in the Class are also aggrieved employees as defined
23 under Labor Code § 2699(c) in that they suffered the violations alleged in this Complaint and either
24 were or are employed by Defendants (“Aggrieved Employees”) during the relevant time period.

25 150. In failing to pay Aggrieved Employees minimum wages and overtime, not providing
26 proper meal and rest periods, failing to provide accurate itemized wage statements, and failing to
27 pay Employees wages upon termination or timely upon resignation, all discussed above,
28 Defendants failed to timely pay Aggrieved Employees wages on a semimonthly basis as required

1 under Labor Code § 204. Defendants also failed to maintain records showing accurate hours
2 worked daily and the wages paid to Aggrieved Employees, as required by Labor Code § 1174 and
3 paragraph 7 of the applicable IWC Wage Orders.

4 151. As such, Employees seek wages and penalties under Labor Code §§ 2698 and 2699
5 for Defendants' violation of Labor Code provisions included under Labor Code § 2699.5, including
6 the penalty provisions, without limitation, based, inter alia, on the following California Labor Code
7 sections: 201, 202, 203, 204, 206.5, 226, 226.2, 226.7, 432.5, 510, 512, 558, 1174, 1174.5, 1185,
8 1194, 1194.1, 1194.2, 1197, 1197.1, 1198, 1199, 2802 and 2698 et seq.

9 152. More specifically, after complying with the notice procedures of Labor Code §
10 2699.3, Plaintiff asserts, as a representative action on behalf of the California Attorney General and
11 the other similarly Aggrieved Employees, a PAGA claim for violations of the above addressed
12 underlying claims and seeking penalties as specified by the applicable corresponding provisions,
13 including as follows:

14 (a) Wage Claims: For failure to provide Plaintiff and the Aggrieved Employees
15 all earned regular pay and minimum wages for regular hours worked and for failure to pay overtime
16 premium wages for overtime hours worked under Labor Code §§ 226.2, 510, 1194(a), 1197, and
17 1198, and paragraphs 2(K), 3(A), 4(A), 4(B) and 20 of the applicable IWC Wage Order(s) seeking
18 all civil and statutory penalties available and applicable, and wages, under Labor Code §§ 510, 558,
19 1194.2, 1197.1, 1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant to
20 Labor Code § 2699(g)(1);

21 (b) Meal and Rest Period Claims: For failure to provide Plaintiff and the
22 Aggrieved Employees off-duty, timely, and unpaid meal periods and failure to authorize and permit
23 them to take off-duty, timely, and paid rest periods, or pay one hour of regular pay in lieu thereof,
24 under Labor Code §§ 512, 1198, and 226.7, and Sections 11, 12(A), and 12(B) of the applicable
25 IWC Wage Order(s) seeking all civil and statutory penalties available and applicable, including
26 under paragraph 20 of the applicable IWC Wage Orders, and wages under Labor Code §§ 226.7,
27 512, 558, including sections 558(a)(1)-(3), 1199 and 2699(f)(2), and also for attorneys' fees and
28 costs pursuant to Labor Code § 2699(g)(1);

1 (c) Inaccurate Wage Statements and Failure to Maintain Records: For failure to
2 provide Plaintiff and the Aggrieved Employees with accurate, itemized wage statements and failure
3 to maintain employment records for Plaintiff and Aggrieved Employees under Labor Code §§ 226,
4 1174, and 1198.5, and Sections 7(A), 7(B), and 7(C) of the applicable IWC Wage Order(s) seeking
5 all civil and statutory penalties and wages available and applicable under Labor Code §§ 226(e),
6 226.3, 558, 1174.5, 1199, and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Order, and
7 also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1). More specifically, by
8 providing inaccurate wage statements and failing to maintain records as required under Labor Code
9 § 226(a), Defendants committed ongoing violations giving rise to civil penalties under Labor Code
10 §226.3, which in addition to other penalties provided by law, subjects Defendants to "a penalty in
11 the amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and
12 one thousand dollars (\$1,000) per employee for each violation in a subsequent citation, ...";

13 (d) Failure to Timely Pay Wages: For failure to timely pay all wages owed,
14 including at least semi-monthly and upon separation or termination, under Labor Code §§ 201, 201,
15 203, 204, 226.2, 1197.5, 2926, and 2927 seeking all civil penalties available and applicable, and
16 wages, under Labor Code §§ 201, 202, 203, 210, 558, 1197, 1198, 1199 and 2699(f)(2), and
17 paragraph 20 of the applicable IWC Wage Orders, and also for attorneys' fees and costs pursuant to
18 Labor Code § 2699(g)(1);

19 (e) Unlawful Deductions and Failure to Reimburse Necessary Business
20 Expenses: For Defendants' unlawful deductions from wages and for Defendants' failure to
21 reimburse the necessary work related expenses incurred under Labor Code §§ 221, 1197, 1197.1,
22 1198, and 2802, and Sections 2(K), 4, 9, and 20 of the applicable IWC Wage Order(s), seeking civil
23 penalties available and applicable under Labor Code §§ 221, 1197, 1197.1, 1198, 2802, 2699.5, and
24 2699(f)(2) and paragraph 9 and 20 of the IWC Wage Orders, and also attorneys' fees and costs
25 pursuant to Labor Code § 2699(g)(1);

26 (f) All Alleged Violations of the IWC Wage Orders and Other Labor Code
27 Sections: For any above addressed violation of the applicable provisions of the IWC Wage Orders,
28 each of which constitute separate violations of Labor Code § 1198 and Labor Code § 2699.5, and

1 seeking penalties available and applicable under Labor Code § 2699(f)(2) and paragraph 20 of the
2 applicable IWC Wage Orders, and for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

3 153. As also addressed above, Plaintiff, on behalf of the Aggrieved Employees, also seeks
4 the penalties and remedies set forth in Labor Code § 558, which states:

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

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

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

22 154. Plaintiff has exhausted his administrative remedies by submitting a certified letter to
23 the LWDA and Defendants on June 20, 2024 (LWDA-CM-1035340-24) addressing in detail the
24 specific provisions of the Labor Code Defendants have violated and addressing the facts and legal
25 theories to support the alleged violations and requested penalties. The LWDA has not provided
26 notice of its intent to investigate the alleged violations within 65 calendar days of the postmark date
27 of the letter, and Plaintiff adds this claim seeking penalties under the PAGA for the violations
28 addressed herein and in the PAGA Notice letter and the original Complaint.

RELIEF REQUESTED

WHEREFORE, Plaintiff prays 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;

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1 3. For liquidated damages in the amount equal to the unpaid minimum wage and interest
2 thereon, from at least four (4) years prior to the filing of this action, according to proof;

3 4. For compensatory damages in the amount of all unpaid wages, including overtime
4 and double-time pay, as may be proven;

5 5. For compensatory damages in the amount of the hourly wage made by Employees
6 for each missed or deficient meal period where no premium pay was paid therefor from four (4)
7 years prior to the filing of this action, as may be proven;

8 6. For compensatory damages in the amount of the hourly wage made by Employees
9 for each day requisite rest breaks were not provided or were deficiently provided where no premium
10 pay was paid therefor from at least four (4) years prior to the filing of this action, as may be proven;

11 7. For penalties pursuant to Labor Code § 226(e) for Employees, as may be proven;

12 8. For restitution and/or damages and penalties for Defendants' failure to pay all wages
13 due twice monthly under Labor Code § 204, as may be proven;

14 9. For restitution and/or damages for all amounts unlawfully withheld from the wages
15 for all Class Members in violation of Labor Code § 221, as may be proven;

16 10. For penalties pursuant to Labor Code § 203 for all Employees who quit or were fired
17 in an amount equal to their daily wage times thirty (30) days, as may be proven;

18 11. For penalties pursuant to Labor Code § 1174.5, as may be proven;

19 12. For penalties pursuant to Labor Code §§ 226 and 1198.5, as may be proven;

20 13. For damages and restitution for failure to reimburse all reasonable and necessary
21 business expenses incurred by Employees as required by Labor Code § 2802, as may be proven;

22 14. For restitution for unfair competition pursuant to Business & Professions Code
23 § 17200 *et seq.*, including disgorgement or profits, as may be proven;

24 15. For penalties pursuant to Labor Code § 2698 *et seq.*, as may be proven;

25 16. For penalties under Labor Code § 558, as may be proven;

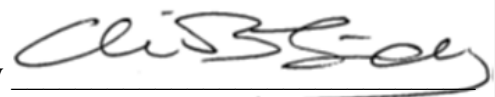
26 17. For an order enjoining Defendants and their agents, servants, and employees, and all
27 persons acting under, in concert with, or for them, from acting in derogation of any rights or duties
28 adumbrated in this Complaint;

18. For other wages and penalties under the Labor Code as may be proven;
19. For all general, special, and incidental damages as may be proven;
20. For an award of pre-judgment and post-judgment interest;
21. For an award providing for the payment of the costs of this suit;
22. For an award of attorneys' fees; and
23. For such other and further relief as this Court may deem proper and just.

DATED: August 20, 2025

D.LAW, INC.

By



David Yeremian
Alvin B. Lindsay
William Tran
Attorneys for Plaintiff RICHARD A.
AZHOCAR and all others similarly situated

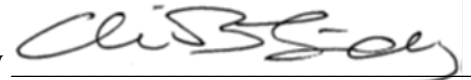
DEMAND FOR JURY TRIAL

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

DATED: August 20, 2025

D.LAW, INC.

By



David Yeremian

Alvin B. Lindsay

William Tran

Attorneys for Plaintiff RICHARD A.

AZHOCAR and all others similarly situated

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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., Ste 840, Glendale, CA 91203

David Nusz
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O'HAGAN MEYER
 4695 MacArthur Court, Suite 900
 Newport Beach, CA 92660

[X] (ONLY BY ELECTRONIC TRANSMISSION) by use of email by scanning the documents and any and all documents and emailing them to email addresses above transmission.

Executed on August 20, 2025, at Glendale, California.

Sasha Zambrano