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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE**

ISRAEL FLORES, an individual, on behalf of
himself and all others similarly situated,

Plaintiff,

vs.

KML SERVICES, INC., a California
Corporation; and DOES 1 through 100,

Defendants.

Case No.: 30-2024-01375907-CU-OE-CXC
*[Assigned for All Purposes to Honorable
Judge Melissa R. McCormick – Department
CX1041]*

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION
COMPLAINT:**

- (1) **MINIMUM WAGE VIOLATIONS**
(LABOR CODE §§ 1182.12, 1194,
1194.2, 1197)
- (2) **OVERTIME WAGE VIOLATIONS**
(LABOR CODE §§ 510 1194, 1198);
- (3) **MEAL PERIOD VIOLATIONS**
(LABOR CODE §§ 226.7 AND 512);
- (4) **REST PERIOD VIOLATIONS**
(LABOR CODE §§ 226.7, 516);
- (5) **FAILURE TO REIMBURSE
NECESSARY BUSINESS
EXPENSES (LABOR CODE §§
2802, 2804);**
- (6) **WAITING TIME PENALTIES**
(LABOR CODE §§ 201-203)
- (7) **UNFAIR COMPETITION (BUS &
PROF CODE § 17200 et seq.)**
- (8) **CIVIL PENALTIES UNDER THE
PRIVATE ATTORNEYS
GENERAL ACT (LABOR CODE §
2698, et seq.)**

**DEMAND FOR JURY TRIAL
UNLIMITED CIVIL CASE**

1 Plaintiff Israel Flores (hereinafter “Plaintiff”) on behalf of himself, the State of California,
2 and all others similarly situated, hereby brings this First Amended Class and Representative
3 Action Complaint against Defendant KML Services, Inc., and DOES 1 to 100, inclusive
4 (collectively “Defendants”), and on information and belief alleges as follows:

5 **JURISDICTION**

6 1. Plaintiff, on behalf of himself and all others similarly situated, hereby brings this
7 class action for recovery of unpaid wages and penalties under California Business and Professions
8 Code § 17200, *et. seq.*, Labor Code §§ 201-203, 226.7, 510, 512, 516, 1182.12, 1194, 1194.2,
9 1197, 1198, 2698 *et seq.*, 2802, 2804, and Industrial Welfare Commission Wage Order No. 16
10 (“Wage Order 16”), in addition to seeking declaratory relief and restitution. This class action is
11 brought pursuant to California Code of Civil Procedure § 382. This Court has jurisdiction over
12 Defendants’ violations of the California Labor Code because the amount in controversy exceeds
13 this Court’s jurisdictional minimum.

14 **VENUE**

15 2. Venue is proper in this judicial district pursuant to California Code of Civil
16 Procedure §§ 395(a) and 395.5, as at least some of the acts and omissions complained of herein
17 occurred in the County of Orange. Defendants own, maintain offices, transact business, have an
18 agent or agents within the County of Orange, and/or otherwise are found within the County of
19 Orange, and Defendants are within the jurisdiction of this Court for purposes of service of process.

20 **PARTIES**

21 3. Plaintiff is an individual over the age of eighteen (18). At all relevant times herein,
22 Plaintiff was and currently is, a California resident. During the four years immediately preceding
23 the filing of the Complaint in this action and within the statute of limitations periods applicable
24 to each cause of action pled herein, Plaintiff was employed by Defendants as a non-exempt
25 Laborer employee. Plaintiff was, and is, a victim of Defendants’ policies and/or practices
26 complained of herein, lost money and/or property, and has been deprived of the rights guaranteed
27 by California Labor Code §§ 201-203, 226.7, 510, 512, 516, 1182.12, 1194, 1194.2, 1197, 1198,
28 2698 *et seq.*, 2802, 2804, California Business and Professions Code § 17200 *et seq.* (Unfair

1 Competition), and Wage Order 16, which sets employment standards for occupations in the
2 construction, drilling, logging, and mining industries.

3 4. Plaintiff is informed and believes, and based thereon alleges, that during the four
4 years preceding the filing of the Complaint and continuing to the present, Defendants did (and
5 do) business by providing demolition and construction services, and employed Plaintiff and other,
6 similarly-situated non-exempt employees within Orange County and the State of California and,
7 therefore, were (and are) doing business in Orange County and the State of California.

8 5. Plaintiff does not know the true names or capacities, whether individual, partner,
9 or corporate, of the defendants sued herein as DOES 1 to 100, inclusive, and for that reason, said
10 defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to
11 amend this Complaint when such true names and capacities are discovered. Plaintiff is informed,
12 and believes, and thereon alleges, that each of said fictitious defendants, whether individual,
13 partners, or corporate, were responsible in some manner for the acts and omissions alleged herein,
14 and proximately caused Plaintiff and the Classes to be subject to the unlawful employment
15 practices, wrongs, injuries and damages complained of herein.

16 6. Plaintiff is informed, and believes, and thereon alleges, that at all times mentioned
17 herein, Defendants were and are the employers of Plaintiff and all members of the Classes (as
18 defined in Paragraph 16).

19 7. At all times herein mentioned, each of said Defendants participated in the doing
20 of the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the
21 Defendants, and each of them, were the agents, servants, and employees of each and every one of
22 the other Defendants, as well as the agents of all Defendants, and at all times herein mentioned
23 were acting within the course and scope of said agency and employment. Defendants, and each
24 of them, approved of, condoned, and/or otherwise ratified each and every one of the acts or
25 omissions complained of herein.

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

1 Plaintiff alleges that all Defendants were joint employers for all purposes of Plaintiff and all Class
2 Members, (as defined in Paragraph 16).

3 **GENERAL FACTUAL ALLEGATIONS**

4 9. Plaintiff is informed and believes and based thereon alleges that Defendant KLM
5 Services Inc. is in the business of providing demolition and construction services.

6 10. Plaintiff was employed by Defendants as a non-exempt Laborer employee based
7 out of Defendants' yard in Anaheim, California and at various assigned locations, including
8 locations throughout Orange County, from approximately January 2021 through approximately
9 January 21, 2022. Throughout his employment with Defendants, Plaintiff was responsible for
10 performing general construction labor. Throughout his employment with Defendants, Plaintiff
11 generally worked Monday through Friday, and occasionally on Saturdays, during shifts that were
12 scheduled from approximately 6:00 a.m. through 7:00 a.m. until 3:30 p.m. or later. Plaintiff
13 sometimes worked more than ten hours in a shift.

14 11. During the relevant time period, Defendants' timekeeping policies and/or practices
15 resulted in Plaintiff and, on information and belief, other non-exempt employees not being
16 compensated for all hours they actually worked. Pursuant to these policies and/or practices,
17 Defendants recorded Plaintiff and, on information and belief, other non-exempt employees' hours
18 worked based on their scheduled work start time at an assigned project location until their
19 scheduled work stop time at the assigned project location, and Defendants compensated Plaintiff
20 and, on information and belief, other non-exempt employees only for these scheduled hours.
21 However, each workday Plaintiff and, on information and belief, other non-exempt employees
22 were required (1) to report to Defendants' yard and/or to the assigned project location
23 approximately 30 minutes before their scheduled work start time to, among other things, sign-in,
24 attend pre-job meetings, gather and prepare necessary materials and equipment, and perform other
25 preparation work so that they would be ready to begin working at the project site at the scheduled
26 work start time, and (2) to continue working at Defendants' central yard and/or the assigned project
27 location to, among other things, clean up and/or organize their work area and equipment/material
28 including to prevent accidents after their scheduled work end time ("Pre & Post Project Duties").

1 Plaintiff's Pre & Post Project Duties generally took 30-60 minutes each workday, and Plaintiff
2 and, on information and belief, other non-exempt employees were never compensated for their
3 time spent performing this work activity. In addition, during the relevant time period, Defendants
4 maintained a policy and/or practice of time rounding and/or time shaving Plaintiff's and, on
5 information and belief, non-exempt employees' time worked in a manner that was not evenhanded
6 over time. These timekeeping policies/practices resulted in Plaintiff and, on information and belief,
7 other non-exempt employees not being compensated for all hours actually worked. Plaintiff is
8 therefore owed unpaid minimum wages, and unpaid overtime wages for the hours during which
9 he actually worked but received no compensation.

10 12. During the relevant time period, Defendants also failed to provide Plaintiff and, on
11 information and belief, other non-exempt employees (1) an uninterrupted 30-minute meal period
12 before the end of their fifth hour of work, and (2) a second uninterrupted 30-minute meal period
13 before the end of their tenth hour of work. For example, when Plaintiff's scheduled work start
14 time was 6:00 a.m. but Plaintiff began performing Pre & Post Project Duties at approximately 5:30
15 a.m., Defendants did not relieve Plaintiff to take a meal period until 11:00 a.m., or later. In
16 addition, Defendants required Plaintiff and, on information and belief, other non-exempt
17 employees to remain on-call and responsive to perform work for Defendants via cell phone
18 throughout the entirety of their shifts. In addition, Defendants failed to record the exact times that
19 Plaintiff and, on information and belief, other non-exempt employees were provided a meal period,
20 if at all, because Plaintiff and other non-exempt employees did not clock out for meal periods per
21 Defendants' policies/practices. Instead, Defendants automatically deducted 30 minutes from non-
22 exempt employees' hours worked regardless of whether they received a full 30-minute meal period
23 ("Auto-Deduct Practice"). In addition, Defendants maintained a policy and/or practice of time
24 rounding Plaintiff's and, on information and belief, other non-exempt employees' meal-period
25 time punches in a fashion that infringed on their meal periods ("Meal Period Time Rounding
26 Policy") and thereafter did not pay them meal period premiums required by Labor Code § 226.7.
27 *See Donohue v. AMN Services, LLC*, 11 Cal. 5th 58 (Feb. 25, 2021). Pursuant to the Meal Period
28 Time Rounding Policy, Defendants rounded Plaintiff's and, on information and belief, other non-

1 exempt employees' meal periods to 30-minutes when non-exempt employees received a meal
2 period of less than 30-minutes. Nonetheless, in the event that a required meal period was not in
3 fact provided, Defendants never paid Plaintiff or, upon information and belief, other non-exempt
4 employees the meal period premiums required by Labor Code § 226.7. In addition, Defendants'
5 Auto-Deduct Practice and Meal Period Time Rounding Policy resulted in Plaintiff and other non-
6 exempt employees not being compensated for all hours actually worked and therefore Plaintiff and
7 other non-exempt employees are owed unpaid minimum wages and unpaid overtime wages for the
8 hours during which they were actually working but received no compensation due to Defendants'
9 Auto-Deduct Practice and Meal Period Time Rounding Policy.

10 13. During the relevant time period, Defendants also failed to authorize and permit
11 Plaintiff and other non-exempt employees to take legally compliant rest periods. Specifically,
12 Defendants discouraged Plaintiff and, on information and belief, other non-exempt employees
13 from taking legally compliant rest periods and pressured them to work through their rest periods.
14 Defendants also maintained a policy/practice of requiring Plaintiffs and other non-exempt
15 employees to combine their meal period with their rest periods for a single break of approximately
16 one hour. Despite Defendants' failure to authorize and permit all required rest periods due to
17 their uniform and unlawful practices, Defendants never provided Plaintiff and, on information
18 and belief, other non-exempt employees with an hour of pay at their regular rate for each rest
19 period violation as required by Labor Code § 226.7.

20 14. During the relevant time period, Defendants required Plaintiff and, on information
21 and belief, other non-exempt employees (1) to use their personal vehicles to travel to and from
22 multiple worksites within a single shift, (2) to use their personal cell phones to receive work
23 assignments from Defendants, and (3) to use their own tools to perform their job duties. Despite
24 being required to use their personal vehicle, cell phone, and/or tools to perform their job duties,
25 Plaintiff and, on information and belief, other non-exempt employees were never reimbursed by
26 Defendants for such business expenses, as mandated by Labor Code § 2802

27 15. As a result of Defendants' failure to pay Plaintiff and other non-exempt employees
28 all minimum wages and all overtime wages, and all meal premium and rest premium wages,

1 Defendants failed to pay them all wages owed upon termination of employment, in violation of
2 Labor Code § 203.

3 **CLASS ACTION ALLEGATIONS**

4 16. **Class Definitions:** Plaintiff brings this action on behalf of himself and the
5 following Classes pursuant to § 382 of the Code of Civil Procedure:

- 6 a. Minimum Wage Class: consists of all of Defendants' current and former non-
7 exempt employees in California who (1) were subject to Defendants'
8 timekeeping policies and/or practices when performing Pre & Post Project
9 Duties, during the four years immediately preceding the filing of this Complaint
10 through the present, and/or (2) were subject to Defendants' time rounding
11 and/or time shaving policies and/or practices, during the four years immediately
12 preceding the filing of this Complaint through the present, and/or (3) were
13 subject to Defendants' Auto-Deduct Practice during the four years immediately
14 preceding the filing of this Complaint through the present, and/or (4) were
15 subject to Defendants' Meal Period Time Rounding Policy during the four years
16 immediately preceding the filing of this Complaint through the present;
17
18 b. Overtime Wage Class: consists of all of Defendants' current and former non-
19 exempt employees who worked in excess of eight hours per workday and/or
20 forty hours per workweek and (1) were subject to Defendants' timekeeping
21 policies and/or practices when performing Pre & Post Project Duties, during the
22 four years immediately preceding the filing of this Complaint through the
23 present, and/or (2) were subject to Defendants' time rounding and/or time
24 shaving policies and/or practices, during the four years immediately preceding
25 the filing of this Complaint through the present, and/or (3) were subject to
26 Defendants' Auto-Deduct Practice during the four years immediately preceding
27 the filing of this Complaint through the present, and/or (4) were subject to
28

Defendants' Meal Period Time Rounding Policy during the four years immediately preceding the filing of this Complaint through the present;

c. Meal Period Class: consists of all of Defendants' (1) current and former non-exempt employees who worked at least one shift in excess of 5.0 hours and who did not receive an uninterrupted meal period of at least thirty minutes before the start of the employee's sixth hour of work as reflected in the employee's timekeeping records, during the four years immediately preceding the filing of this Complaint through the present, and (2) current and former non-exempt employees who worked at least one shift in excess of 10.0 hours and who did not receive a second uninterrupted meal period of at least thirty minutes before the start of the employee's eleventh hour of work as reflected in the employee's timekeeping records, during the four years immediately preceding the filing of this Complaint through the present;

d. Rest Period Class: consists all of Defendants' current and former non-exempt employees in California who: (1) worked at least one shift in excess of 3.5 hours and who were not authorized and permitted to take a first rest period of at least ten minutes, during the four years immediately preceding the filing of this Complaint through the present, and/or (2) worked at least one shift in excess of 6.0 hours and who were not authorized and permitted to take a second rest period of at least ten minutes, during the four years immediately preceding the filing of this Complaint through the present, and/or (3) worked at least one shift in excess of 10.0 hours and who were not authorized and permitted to take a third rest period of at least ten minutes, during the four years immediately preceding the filing of this Complaint through the present.

e. Reimbursement Class: consists of all of Defendants' current and former employees who were required to (1) use their personal vehicles to travel between multiple assigned locations in a shift without reimbursement, (2) to use

1 their personal cell phone to perform their job duties without reimbursement,
2 and/or (3) to use their personal tools to perform their job duties without
3 reimbursement, during the four years immediately preceding the filing of this
4 Complaint through the present date.

- 5 f. Waiting Time Penalty Class: consists of all formerly employed members of the
6 Minimum Wage Class, the Overtime Wage Class, the Meal Period Class, and
7 the Rest Period Class who separated their employment from Defendants during
8 the three years immediately preceding the filing of the Complaint through the
9 present.

10 17. **Numerosity/Ascertainability**: The members of the Classes are so numerous that
11 joinder of all members would be unfeasible and not practicable. The membership of the classes
12 and subclasses are unknown to Plaintiff at this time; however, it is estimated that the Classes
13 number greater than fifty (50) individuals as to each Class. The identity of such membership is
14 readily ascertainable via inspection of Defendants' employment records.

15 18. **Common Questions of Law and Fact Predominate/Well Defined Community**
16 **of Interest**: There are common questions of law and fact as to Plaintiff and all other similarly
17 situated employees, which predominate over questions affecting only individual members
18 including, without limitation to:

- 19 a. Whether Defendants' timekeeping policies and/or practices resulted, over a
20 period of time, in the failure to properly compensate members of the Minimum
21 Wage and Overtime Classes for all hours actually worked;
22 b. Whether Defendants provided all legally compliant meal periods to members
23 of the Meal Period Class pursuant to Labor Code sections 226.7 and 512;
24 c. Whether Defendants authorized and permitted all legally compliant rest
25 periods to members of the Rest Period Class pursuant to Labor Code sections
26 226.7 and 516;
27 d. Whether Defendants paid Labor Code section 226.7 premium wages for all
28

meal and rest period violations during the relevant time period;

e. Whether Defendants' policies and/or practices of reimbursing necessary business expenses for members of the Reimbursement Class violated California law;

f. Whether Defendants properly paid all final wages to members of the Waiting Time Class at the time of separation from employment; and

g. Whether Defendants engaged in unlawful, unfair, illegal, and/or deceptive business practices by and through the wage and hour policies and practices described above, and whether, as a result, Defendants owe the classes restitution

19. **Predominance of Common Questions:** Common questions of law and fact predominate over questions that affect only individual members of the Classes. The common questions of law set forth above are numerous and substantial and stem from Defendants' policies and/or practices applicable to each individual class member, such as Defendants' failure to compensate minimum wages for all hours worked, failure to compensate overtime wages for all hours worked over eight-hours in a workday or over forty-hours in a workweek, failure to provide legally compliant meal periods or pay premium pay in lieu thereof, failure to authorize and permit all legally compliant rest periods or pay premium pay in lieu thereof, failure to reimburse necessary business expenses, and failure to timely pay all final wages upon termination of employment. Thus, 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 his or her damages.

20. **Typicality:** The claims of Plaintiff are typical of the claims of the Classes because Plaintiff was employed by Defendants as a non-exempt employee in California during the statute(s) of limitation applicable to each cause of action pled in the Complaint in this action. As alleged herein, Plaintiff, like the members of the Classes, was deprived of all earned minimum and overtime wages, was deprived of legally compliant meal periods and rest periods, was not reimbursed for necessary business expenses, and was deprived of payment of all final wages upon

1 the termination of his employment with Defendants.

2 21. **Adequacy of Representation:** Plaintiff is fully prepared to take all necessary
3 steps to represent fairly and adequately the interests of the members of the Classes. Moreover,
4 Plaintiff's attorneys are ready, willing and able to fully and adequately represent the members of
5 the Classes and Plaintiff. Plaintiff's attorneys have prosecuted and defended numerous wage-and-
6 hour class actions in state and federal courts in the past and are committed to vigorously
7 prosecuting this action on behalf of the members of the classes.

8 22. **Superiority:** The California Labor Code is broadly remedial in nature and serves
9 an important public interest in establishing minimum working conditions and standards in
10 California. These laws and labor standards protect the average working employee from
11 exploitation by employers who have the responsibility to follow the laws and who may seek to
12 take advantage of superior economic and bargaining power in setting onerous terms and
13 conditions of employment. The nature of this action and the format of laws available to Plaintiff
14 and members of the Classes make the class action format a particularly efficient and appropriate
15 procedure to redress the violations alleged herein. If each employee were required to file an
16 individual lawsuit, Defendants would necessarily gain an unconscionable advantage since they
17 would be able to exploit and overwhelm the limited resources of each individual plaintiff with
18 their vastly superior financial and legal resources. Moreover, requiring each member of the
19 Class(es) to pursue an individual remedy would also discourage the assertion of lawful claims by
20 employees who would be disinclined to file an action against their former and/or current employer
21 for real and justifiable fear of retaliation and permanent damages to their careers at subsequent
22 employment. Further, the prosecution of separate actions by the individual class members, even
23 if possible, would create a substantial risk of inconsistent or varying verdicts or adjudications
24 with respect to the individual class members against Defendants herein; and which would
25 establish potentially incompatible standards of conduct for Defendants; and/or legal
26 determinations with respect to individual class members which would, as a practical matter, be
27 dispositive of the interest of the other class members not parties to adjudications or which would
28 substantially impair or impede the ability of the class members to protect their interests. Further,

the claims of the individual members of the class are not sufficiently large to warrant vigorous individual prosecution considering all of the concomitant costs and expenses attending thereto. As such, the Classes identified in Paragraph 16 are maintainable as a Class under § 382 of the Code of Civil Procedure.

FIRST CAUSE OF ACTION
MINIMUM WAGE VIOLATIONS
(AGAINST ALL DEFENDANTS)

23. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

24. Wage Order 16, § 4 and California Labor Code §§ 1197 and 1182.12 establish the right of employees to be paid minimum wages for all hours worked, in amounts set by state law. Labor Code §§ 1194(a) and 1194.2(a) provide that an employee who has not been paid the legal minimum wage as required by Labor Code § 1197 may recover the unpaid balance together with attorneys' fees and costs of suit, as well as liquidated damages in an amount equal to the unpaid wages and interest accrued thereon.

25. As discussed in the factual allegations contained herein, Defendants failed to conform their timekeeping practices to the requirements of the law. Accordingly, Plaintiff and members of the Minimum Wage Class were not compensated for all hours worked including, but not limited to, all hours they were subject to the control of Defendants and/or suffered or permitted to work under the California Labor Code and Wage Order 16.

26. Defendants' policy and practice of not paying all minimum wages violates California Labor Code §§ 204, 210, 216, 558, 1182.12, 1197.1, 1198, and Wage Order 16.

27. Such a practice and uniform administration of corporate policy regarding illegal employee compensation is unlawful and creates an entitlement to recovery by Plaintiff and members of the Minimum Wage Class in a civil action for the unpaid amount of minimum wages, liquidated damages, including interest thereon, statutory penalties, attorney's fees, and costs of suit according to California Labor Code §§ 204, 210, 216, 558, 1194, 1198, and Code of Civil Procedure § 1021.5.

SECOND CAUSE OF ACTION
OVERTIME WAGE VIOLATIONS
(AGAINST ALL DEFENDANTS)

28. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

29. Wage Order 16, § 3 and California Labor Code §§ 510, 1194, and 1198 establish the right of employees to be paid one and one-half times the employee's regular rate of pay for all hours worked in excess of eight (8) hours up to and including 12 hours in any workday or more than 40 hours in any workweek, and for the first eight (8) hours worked on the seventh (7th) consecutive day of work in a workweek, in amounts set by state law. Labor Code §§ 1194(a) and provides that an employee who has not been paid overtime wages as required by Labor Code § 510 may recover the unpaid balance together with interest accrued thereon, attorneys' fees, and costs of suit.

30. At all relevant times herein, Defendants failed to conform their pay practices to the requirements of the law by causing Plaintiff and members of the Overtime Class to work in excess of 8 hours per workday, and/or 40 hours per workweek, but failing to compensate Plaintiff or members of the Overtime Class at one and one-half times their regular rate of pay for all overtime hours worked.

31. As a direct and proximate result of Defendants' unlawful conduct as alleged herein, Plaintiff and the Overtime Wage Class have sustained economic damages, including but not limited to unpaid overtime wages and lost interest, in an amount to be established at trial, and they are entitled to recover economic and statutory damages and penalties and other appropriate relief as a result of Defendants' violations of the California Labor Code and Wage Order 16.

32. Defendants' practice and uniform administration of corporate policy regarding illegal employee compensation is unlawful and creates an entitlement to recovery by Plaintiff and members of the Overtime Wage Class in a civil action for the unpaid amount of overtime wages, including interest thereon, statutory penalties, attorney's fees, and costs of suit according to California Labor Code §§ 204, 558, 510, 1194, 1198, and Code of Civil Procedure § 1021.5.

THIRD CAUSE OF ACTION
MEAL PERIOD VIOLATIONS
(AGAINST ALL DEFENDANTS)

33. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

34. Plaintiff is informed and believes, and based thereon alleges, that Defendants failed in their affirmative obligation to provide all of their hourly non-exempt employees, including Plaintiff and members of the Meal Period Class, with all required meal periods in accordance with the mandates of the California Labor Code and Wage Order 16, for the reasons set forth in the factual allegations and class definitions sections of this Complaint. Despite Defendants' violations, Defendants did not pay an additional hour of pay to Plaintiff and members of the Meal Period Class at their respective regular rates of pay for each meal period violation, as required by Labor Code § 226.7.

35. As a result, Defendants are responsible for paying premium compensation for meal period violations, including interest thereon, statutory penalties, and costs of suit pursuant to Wage Order 16, Labor Code §§ 226.7, 512, and Civil Code §§ 3287(b) and 3289.

FOURTH CAUSE OF ACTION
REST PERIOD VIOLATIONS
(AGAINST ALL DEFENDANTS)

36. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

37. Wage Order 16, section 11 and California Labor Code sections 226.7, and 516 establish the right of employees to be authorized and permitted to take a paid rest periods of at least ten (10) minutes net rest time for each four (4) hour period worked, or major fraction thereof.

38. As alleged herein, and due to their unlawful rest period policies and/or practices, Defendants failed to authorize and permit Plaintiff and members of the Rest Period Class to take all paid rest periods to which they were legally entitled. Despite Defendants' violations, Defendants failed to pay an additional hour of pay to Plaintiff and members of the Rest Period Class at their respective regular rates of pay for each violation, as required by Labor Code section 226.7.

1 39. The foregoing policies and practices are unlawful and create an entitlement to
2 recovery by Plaintiff and members of the Rest Period Class in a civil action for the unpaid amount
3 of rest period premiums owing, including interest thereon, as well as statutory penalties, civil
4 penalties, and costs of suit according to California Labor Code sections 226.7, 516, Wage Order
5 16, Civil Code sections 3287(b) and 3289, and California Code of Civil Procedure section 1021.5.

6 **FIFTH CAUSE OF ACTION**

7 **FAILURE TO REIMBURSE BUSINESS EXPENSES**

8 **(AGAINST ALL DEFENDANTS)**

9 40. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

10 41. It was necessary for Plaintiff and members of the Reimbursement Class to use their
11 personal vehicles, their personal cell phones, and their personal tools to perform their work duties
12 without reimbursement. Although Plaintiff and members of the Reimbursement Class incurred
13 these expenses at the direction of Defendants and/or in the direct discharge of their job duties,
14 Defendants did not reimburse these employees for such necessary work expenditures during the
15 four years preceding the filing of the Complaint.

16 42. At all relevant times herein, Defendants were subject to Labor Code § 2802, which
17 states that “an employer shall indemnify his or her employees for all necessary expenditures or
18 losses incurred by the employee in direct consequence of the discharge of his or her duties, or of
19 his or her obedience to the directions of the employer.”

20 43. At all relevant times herein, Defendants were subject to Labor Code § 2804, which
21 states that “any contract or agreement, express or implied, made by any employee to waive the
22 benefits of this article or any part thereof, is null and void, and this article shall not deprive any
23 employee or his personal representative of any right or remedy to which he is entitled under the
24 laws of this State.”

25 44. As a proximate result of Defendants’ policies and/or practices in violation of Labor
26 Code §§ 2802 and 2804, Plaintiff and members of the Reimbursement Class were damaged in
27 sums, which will be shown according to proof.

28 45. Plaintiff and members of the Reimbursement Class are entitled to attorneys’ fees

and costs of suit pursuant to Labor Code § 2802(c) for bringing this action.

46. Pursuant to Labor Code § 2802(b), any action brought for the reimbursement of necessary expenditures carries interest at the same rate as judgments in civil actions. Thus, Plaintiff and members of the Reimbursement Class are entitled to interest, which shall accrue from the date on which they incurred the initial necessary expenditure.

SIXTH CAUSE OF ACTION

WAITING TIME PENALTIES

(AGAINST ALL DEFENDANTS)

47. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

48. This cause of action is brought pursuant to Labor Code §§ 201-203, which require an employer to pay all wages earned immediately at the time of termination of employment in the event the employer discharges the employee or the employee provides at least 72 hours of notice of his/her intent to quit. In the event the employee provides less than 72 hours of notice of his/her intent to quit, said employee's wages become due and payable not later than 72 hours upon said employee's last date of employment.

49. Plaintiff is informed and believes, and based thereon alleges, that Defendants failed to timely pay Plaintiff and members of the Waiting Time Penalty Class all final wages due to them at the time of their separation which includes, among other things, unpaid minimum wages, and unpaid overtime wages. Further, Plaintiff is informed and believes, and based thereon alleges, that as a matter of uniform policy and practice, Defendants continue to fail to pay members of the Waiting Time Penalty Class all earned wages at the end of employment in a timely manner pursuant to the requirements of Labor Code §§ 201-203. Defendants' failure to pay all final wages was willful within the meaning of Labor Code § 203.

50. Defendants' willful failure to timely pay Plaintiff and the members of the Waiting Time Penalty Class their earned wages upon separation from employment results in a continued payment of wages up to thirty (30) days from the time the wages were due. Therefore, Plaintiff and members of the Waiting Time Penalty Class are entitled to compensation pursuant to Labor Code § 203, plus reasonable attorneys' fees and costs of suit.

1 **SEVENTH CAUSE OF ACTION**

2 **UNFAIR COMPETITION**

3 **(AGAINST ALL DEFENDANTS)**

4 51. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

5 52. Defendants have engaged and continue to engage in unfair and/or unlawful
6 business practices in California in violation of California Business and Professions Code § 17200
7 et seq. by engaging in the unlawful conduct described above, including failing to pay Plaintiff
8 and the Classes all minimum wages and overtime wages; failing to provide all legally required
9 meal periods or pay legally compliant premium payments in lieu thereof; failing to authorize and
10 permit all legally required rest periods or pay legally compliant premium payments in lieu thereof;
11 failing to reimburse necessary business expenses; and wilfully failing to pay all final wages upon
12 termination of employment in violation of Labor Code § 203.

13 53. Defendants' utilization of these unfair and/or unlawful business practices deprived
14 Plaintiff and continues to deprive members of the Classes of compensation to which they are
15 legally entitled, constitutes unfair and/or unlawful competition, and provides an unfair advantage
16 over Defendants' competitors who have been and/or are currently employing workers and
17 attempting to do so in honest compliance with applicable wage and hour laws.

18 54. Because Plaintiff is a victim of Defendants' unfair and/or unlawful conduct alleged
19 herein, Plaintiff for himself and on behalf of the members of the Classes, seeks full restitution of
20 monies, as necessary and according to proof, to restore any and all monies withheld, acquired
21 and/or converted by Defendants pursuant to Business and Professions Code §§ 17203 and 17208.

22 55. The acts complained of herein occurred within the last four years immediately
23 preceding the filing of the Complaint in this action.

24 56. Plaintiff was compelled to retain the services of counsel to file this court action to
25 protect his interests and those of the Classes, to obtain restitution and injunctive relief on behalf
26 of Defendants' current hourly non-exempt employees and to enforce important rights affecting
27 the public interest. Plaintiff has thereby incurred the financial burden of attorneys' fees and costs,
28 which he is entitled to recover under Code of Civil Procedure § 1021.5.

EIGHTH CAUSE OF ACTION

PRIVATE ATTORNEYS GENERAL ACT

(AGAINST ALL DEFENDANTS)

57. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

58. Defendants have committed several Labor Code violations against Plaintiff and other similarly aggrieved employees. Plaintiff, as an “aggrieved employee” within the meaning of Labor Code § 2698 et seq., acting on behalf of herself and other similarly aggrieved employees, brings this representative action against Defendants to recover the civil penalties due to Plaintiff, the State of California, and other misclassified non-exempt aggrieved employees according to proof pursuant to Labor Code § 2699 (a) and (f) including, but not limited to \$100.00 for each initial violation and \$200 for each subsequent violation per employee per pay period for the following Labor Code violations:

- a. Failing to pay at least the California Minimum Wage for all hours worked, to Plaintiff and other similarly aggrieved employees in violation of Labor Code § 204, 558, 1194, 1197, 1198;
- b. Failing to pay all overtime wages owed for all work performed in excess of eight hours per day and/or forty (40) hours per week, to Plaintiff and other similarly aggrieved employees in violation of Labor Code §§ 510, 1198;
- c. Failing to provide all legally required meal periods, or to pay premium pay in lieu thereof, to Plaintiff and other similarly aggrieved employees in violation of Labor Code §§ 226.7, 512, and 558;
- d. Failing to authorize and permit all legally required rest periods, or to pay premium pay in lieu thereof, to Plaintiff and other similarly aggrieved employees in violation of Labor Code §§ 226.7, 516, and 558;
- e. Failing to reimburse Plaintiff and other similarly aggrieved employees for necessary business expenses in violation of Labor Code § 2802;
- f. Failing to pay Plaintiff and other similarly aggrieved employees all earned wages at least twice during each calendar month in violation of Labor Code §

204;

- g. Failing to pay Plaintiff and other similarly aggrieved employees all earned wages at the end of their employments in violation of Labor Code §§ 201-202;
- h. Failing to furnish Plaintiff and other similarly aggrieved employees with complete, accurate, itemized wage statements in violation of Labor Code § 226;
- i. Failing to maintain accurate records on behalf of Plaintiff and other similarly aggrieved employees in violation of Labor Code § 1174.

59. Plaintiff notified Defendants via certified mail and filed an online PAGA claim notice with the California Labor and Workforce Development Agency (“LWDA”) identifying Defendants’ violations of the California Labor Code identified in this Complaint and Plaintiff’s intent to bring a claim for civil penalties under California Labor Code section 2698 et seq. Plaintiff also submitted a filing fee of seventy-five (\$75.00) to the LWDA in accordance with Labor Code section 2699.3(a)(1)(B). Sixty-five days have passed from the date of Plaintiff’s notice to the LWDA, and thus Plaintiff has exhausted his administrative remedies, thereby allowing Plaintiff to commence a civil action against Defendants pursuant to Labor Code section 2699.

60. Plaintiff was compelled to retain the services of counsel to file this court action to protect the interests of the State of California and other similarly aggrieved employees, and to assess and collect the civil penalties owed by Defendants. Plaintiff has thereby incurred attorneys’ fees and costs, which he is entitled to receive under California Labor Code § 2699.

PRAYER

WHEREFORE, Plaintiff prays for judgment for himself and for all others on whose behalf this suit is brought against Defendants, as follows:

- 1. For an order certifying the proposed Classes;
- 2. For an order appointing Plaintiff as representative of the Classes;
- 3. For an order appointing Counsel for Plaintiff as Counsel for the Classes;
- 4. Upon the First Cause of Action, for payment of minimum wages, liquidated damages, and penalties according to proof pursuant to Labor Code § 558, 1194, 1194.2 and 1199;

1 5. Upon the Second Cause of Action, for payment of unpaid overtime wages, and
2 penalties according to proof pursuant to Labor Code §§ 510, 1194, and 1198;

3 6. Upon the Third Cause of Action, compensatory, consequential, general and
4 special damages according to proof pursuant to Labor Code §§ 226.7 and 512;

5 7. Upon the Fourth Cause of Action, compensatory, consequential, general and
6 special damages according to proof pursuant to Labor Code §§ 226.7 and 516;

7 8. Upon the Fifth Cause of Action, for compensatory, consequential, general and
8 special damages according to proof pursuant to Labor Code §§ 2802 and 2804;

9 9. Upon the Sixth Cause of Action, for statutory penalties pursuant to Labor Code
10 §§ 201-203;

11 10. Upon the Seventh Cause of Action, for restitution to Plaintiff and members of the
12 Class of all money and/or property unlawfully acquired by Defendants by means of any acts or
13 practices declared by this Court to be in violation of Business and Professions Code § 17200 *et*
14 *seq.*;

15 11. Upon the Eighth Cause of Action, for for civil penalties due to Plaintiff, other
16 similarly aggrieved employees, and the State of California according to proof pursuant to Labor
17 Code §§ 558 and 2699(a) and (f) including, but not limited to: (1) \$50.00 for each initial
18 violation and \$100 for each subsequent violation of Labor Code § 558 per employee per pay
19 period plus an amount sufficient to recover the unpaid wages and; (2) \$100.00 for each initial
20 violation and \$200 for each subsequent violation per employee per pay period for the violations
21 of the Labor Code Sections cited in Labor Code § 2699.5;

22 12. Prejudgment interest on all due and unpaid wages pursuant to California Labor
23 Code § 218.6 and Civil Code §§ 3287 and 3289;

24 13. On all causes of action, for attorneys' fees and costs as provided by Labor Code
25 §§ 218.5, 1194 *et seq.*, and Code of Civil Procedure § 1021.5; and

26 //

27 //

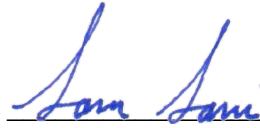
1 14. For such other and further relief the Court may deem just and proper.

2
3 Respectfully submitted,

4 Dated: April 1, 2024

SANI LAW, APC

5
6 By:



7 Sam Sani

8 Attorney for Plaintiff ISRAEL FLORES

DEMAND FOR JURY TRIAL

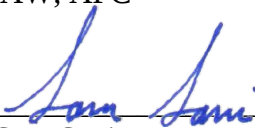
Plaintiff Israel Flores hereby demands a jury trial with respect to all issues triable by jury.

Respectfully submitted,

Dated: April 1, 2024

SANI LAW, APC

By:

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Sam Sani

Attorney for Plaintiff ISRAEL FLORES