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ELECTRONICALLY FILED
Superior Court of California,
County of San Diego

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Clerk of the Superior Court
By Sophia Felix, Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN DIEGO

DIANE MARIE CREADICK, individually, and
on behalf of all others similarly situated,

Plaintiff,

vs.

HUNTER INDUSTRIES INCORPORATED, a
California corporation; and DOES 1 through 10,
inclusive,

Defendants

Case No.: 37-2024-00002769-CU-OE-CTL

**FIRST AMENDED CLASS ACTION
COMPLAINT:**

1. Failure to Indemnify Necessary Business Expenses [Cal. Lab. Code § 2802]; and
2. Unfair Business Practices [Cal. Bus. & Prof. Code §§ 17200, et seq.].

DEMAND FOR JURY TRIAL

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1 Plaintiff Diane Marie Creadick (“Plaintiff”), based upon facts that either have evidentiary
2 support or are likely to have evidentiary support after a reasonable opportunity for further
3 investigation and discovery, alleges as follows:

4 **INTRODUCTION & PRELIMINARY STATEMENT**

5 1. Plaintiff brings this action against Defendants Hunter Industries Incorporated, and Does
6 1 through 10 (collectively referred to as “Defendants”) for California Labor Code violations and
7 unfair business practices stemming from Defendants’ failure to indemnify necessary business
8 expenses.

9 2. Plaintiff brings the First through Second Causes of Action individually and as a class
10 action on behalf of herself and certain current and former employees of Defendants (hereinafter
11 collectively referred to as the “Class” or “Class Members” and defined more fully below). The
12 Class consists of Plaintiff and all other persons who have been employed by any Defendants in
13 California during the statute of limitations period applicable to the claims pleaded here.

14 3. Defendants own/owned and operate/operated an industry, business, and establishment
15 within the State of California, including San Diego County. As such, and based upon all the facts
16 and circumstances incident to Defendants’ business in California, Defendants are subject to the
17 California Labor Code, Wage Orders issued by the Industrial Welfare Commission (“IWC”), and
18 the California Business & Professions Code.

19 4. Despite these requirements, throughout the statutory period Defendants maintained a
20 systematic, company-wide policy and practice of:

21 (a) Failing to indemnify employees for necessary business expenses incurred.

22 5. On information and belief, Defendants, and each of them were on actual and constructive
23 notice of the improprieties alleged herein and intentionally refused to rectify their unlawful policies.
24 Defendants’ violations, as alleged above, during all relevant times herein were willful and deliberate.

25 6. At all relevant times, Defendants were and are legally responsible for all of the unlawful
26 conduct, policies, practices, acts and omissions as described in each and all of the foregoing
27 paragraphs as the employer of Plaintiff and the Class. Further, Defendants are responsible for each
28 of the unlawful acts or omissions complained of herein under the doctrine of “respondeat superior”.

1 **THE PARTIES**

2 **Plaintiff**

3 7. Plaintiff is a California resident that worked for Defendants in the County of San Diego,
4 State of California, as an accounts payable employee during the statutory period.

5 8. Plaintiff reserves the right to seek leave to amend this complaint to add new plaintiffs,
6 if necessary, in order to establish suitable representative(s) pursuant to *La Sala v. American Savings*
7 *and Loan Association* (1971) 5 Cal.3d 864, 872, and other applicable law.

8 **Defendants**

9 9. Plaintiff is informed and believes, and based upon that information and belief alleges,
10 that Defendant Hunter Industries Incorporated is:

- 11 (a) A California corporation with its principal place of business in San Diego,
12 California.
- 13 (b) A business entity conducting business in numerous counties throughout the
14 State of California, including in San Diego County; and
- 15 (c) The former employer of Plaintiff, and the current and/or former employer of
16 the putative Class. Defendants suffered and permitted Plaintiff and the Class
17 to work, and/or controlled their wages, hours, or working conditions.

18 10. At all times mentioned herein, the Defendants named as Does 1-10, inclusive, and each
19 of them, were residents of, doing business in, availed themselves of the jurisdiction of, and/or
20 injured a significant number of the Plaintiff and the Class in the State of California.

21 11. Plaintiff is informed and believes and thereon alleges that at all relevant times each
22 Defendant, directly or indirectly, or through agents or other persons, employed Plaintiff and the
23 other employees described in the class definitions below, and exercised control over their wages,
24 hours, and working conditions. Plaintiff is informed and believes and thereon alleges that, at all
25 relevant times, each Defendant was the principal, agent, partner, joint venturer, officer, director,
26 controlling shareholder, subsidiary, affiliate, parent corporation, successor in interest and/or
27 predecessor in interest of some or all of the other Defendants, and was engaged with some or all
28 of the other Defendants in a joint enterprise for profit, and bore such other relationships to some

1 or all of the other Defendants so as to be liable for their conduct with respect to the matters alleged
2 below. Plaintiff is informed and believes and thereon alleges that each Defendant acted pursuant
3 to and within the scope of the relationships alleged above, that each Defendant knew or should
4 have known about, and authorized, ratified, adopted, approved, controlled, aided and abetted the
5 conduct of all other Defendants.

6 **ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

7 12. Plaintiff is a California resident who worked for Defendants in the County of San
8 Diego, State of California during the statutory period.

9 13. Throughout the statutory period, Defendants failed to indemnify Plaintiff for necessary
10 business expenses and failed to furnish accurate wage statements to Plaintiff. As discussed below,
11 Plaintiff's experience working for Defendants was typical and illustrative.

12 14. Throughout the statutory period, Defendants wrongfully required Plaintiff and the Class
13 to pay expenses that they incurred in direct discharge of their duties for Defendants without
14 reimbursement, such as the purchase of home office items (i.e. home internet, home computer,
15 printer, mouse, keyboard, monitor, desk/chair workstation, office supplies) – the employee
16 handbook requires a proper workstation at home, but does not reimburse for this workstation. Also,
17 Plaintiff and the Class were required to use their own personal cellular telephones for work
18 purposes, without reimbursement. Also, Plaintiff and the Class were required to use their own
19 vehicles for work purposes, without reimbursement.

20 **CLASS ACTION ALLEGATIONS**

21 15. Plaintiff brings certain claims individually, as well as on behalf of each and all other
22 persons similarly situated, and thus, seek class certification under California Code of Civil
23 Procedure § 382.

24 16. All claims alleged herein arise under California law for which Plaintiff seeks relief
25 authorized by California law.

26 17. The proposed Class consists of and is defined as:

27 All persons who worked for any Defendant in California as an employee at any
28 time during the period beginning four years before the filing of the initial

complaint in this action and ending when notice to the Class is sent.

18. At all material times, Plaintiff was a member of the Class.

19. Plaintiff undertakes this concerted activity to improve the wages and working conditions of all Class Members.

20. There is a well-defined community of interest in the litigation and the Class is readily ascertainable:

(a) Numerosity: The members of the Class (and each subclass, if any) are so numerous that joinder of all members would be unfeasible and impractical. The membership of the entire Class is unknown to Plaintiff at this time, however, the Class is estimated to be greater than 100 individuals and the identity of such membership is readily ascertainable by inspection of Defendants' records.

(b) Typicality: Plaintiff is qualified to, and will, fairly and adequately protect the interests of each Class Member with whom there is a shared, well-defined community of interest, and Plaintiff's claims (or defenses, if any) are typical of all Class Members' claims as demonstrated herein.

(c) Adequacy: Plaintiff is qualified to, and will, fairly and adequately protect the interests of each Class Member with whom there is a shared, well-defined community of interest and typicality of claims, as demonstrated herein. Plaintiff has no conflicts with or interests antagonistic to any Class Member. Plaintiff's attorneys, the proposed class counsel, are versed in the rules governing class action discovery, certification, and settlement. Plaintiff has incurred, and throughout the duration of this action, will continue to incur costs and attorneys' fees that have been, are, and will be necessarily expended for the prosecution of this action for the substantial benefit of each class member.

(d) Superiority: A Class Action is superior to other available methods for the fair and efficient adjudication of the controversy, including consideration of:

1) The interests of the members of the Class in individually controlling

the prosecution or defense of separate actions;

- 2) The extent and nature of any litigation concerning the controversy already commenced by or against members of the Class;
- 3) The desirability or undesirability of concentrating the litigation of the claims in the particular forum; and
- 4) The difficulties likely to be encountered in the management of a class action.

(e) Public Policy Considerations: The public policy of the State of California is to resolve the California Labor Code claims of many employees through a class action. Indeed, current employees are often afraid to assert their rights out of fear of direct or indirect retaliation. Former employees are also fearful of bringing actions because they believe their former employers might damage their future endeavors through negative references and/or other means. Class actions provide the class members who are not named in the complaint with a type of anonymity that allows for the vindication of their rights at the same time as their privacy is protected.

21. There are common questions of law and fact as to the Class (and each subclass, if any) that predominate over questions affecting only individual members, including without limitation, whether, as alleged herein, Defendants have:

- (a) Failed to reimburse Class Members for all necessary business expenses; and
- (b) Violated California Business & Professions Code §§ 17200 *et. seq.* as a result of their illegal conduct as described above.

22. This Court should permit this action to be maintained as a class action pursuant to California Code of Civil Procedure § 382 because:

- (a) The questions of law and fact common to the Class predominate over any question affecting only individual members;
- (b) A class action is superior to any other available method for the fair and efficient adjudication of the claims of the members of the Class;
- (c) The members of the Class are so numerous that it is impractical to bring all members

of the class before the Court;

(d) Plaintiff, and the other members of the Class, will not be able to obtain effective and economic legal redress unless the action is maintained as a class action;

(e) There is a community of interest in obtaining appropriate legal and equitable relief for the statutory violations, and in obtaining adequate compensation for the damages and injuries for which Defendants are responsible in an amount sufficient to adequately compensate the members of the Class for the injuries sustained;

(f) Without class certification, the prosecution of separate actions by individual members of the class would create a risk of:

1) Inconsistent or varying adjudications with respect to individual members of the Class which would establish incompatible standards of conduct for Defendants; and/or

2) Adjudications with respect to the individual members which would, as a practical matter, be dispositive of the interests of other members not parties to the adjudications, or would substantially impair or impede their ability to protect their interests, including but not limited to the potential for exhausting the funds available from those parties who are, or may be, responsible Defendants; and,

(g) Defendants have acted or refused to act on grounds generally applicable to the Class, thereby making final injunctive relief appropriate with respect to the class as a whole.

23. Plaintiff contemplates the eventual issuance of notice to the proposed members of the Class that would set forth the subject and nature of the instant action. The Defendants' own business records may be utilized for assistance in the preparation and issuance of the contemplated notices. To the extent that any further notices may be required, Plaintiff would contemplate the use of additional techniques and forms commonly used in class actions, such as published notice, e-mail notice, website notice, first-class mail, or combinations thereof, or by other methods suitable to the Class and deemed necessary and/or appropriate by the Court.

1 **FIRST CAUSE OF ACTION**

2 **(Against All Defendants for Failure to Indemnify Necessary Business Expenses)**

3 24. Plaintiff incorporates by reference and re-alleges as if fully stated herein paragraphs 1
4 through 14 in this First Amended Complaint.

5 25. Defendants violated Labor Code section 2802 and the IWC Wage Orders, by failing to
6 pay and indemnify the Plaintiff and the Class for their necessary expenditures and losses incurred
7 in direct consequence of the discharge of their duties or of their obedience to directions of
8 Defendants.

9 26. As a result, Plaintiff and the Class were damaged at least in the amounts of the expenses
10 they paid, or which were deducted by Defendants from their wages.

11 27. Plaintiff and the class they represent are entitled to attorney's fees, expenses, and costs
12 of suit pursuant to Labor Code section 2802(c) and interest pursuant to Labor Code section
13 2802(b).

14 **SECOND CAUSE OF ACTION**

15 **(Against all Defendants for Violation of California Business & Professions Code §§ 17200,**
16 **et seq.)**

17 28. Plaintiff incorporates by reference and re-alleges as if fully stated herein paragraphs 1
18 through 14 in this First Amended Complaint.

19 29. Defendants, and each of them, are "persons" as defined under California Business &
20 Professions Code § 17201.

21 30. Defendants' conduct, as alleged herein, has been, and continues to be, unfair, unlawful,
22 and harmful to Plaintiff, other Class members, and to the general public. Plaintiff seeks to enforce
23 important rights affecting the public interest within the meaning of Code of Civil Procedure §
24 1021.5.

25 31. Defendants' activities, as alleged herein, are violations of California law, and constitute
26 unlawful business acts and practices in violation of California Business & Professions Code §§
27 17200, *et seq.*

28 32. A violation of California Business & Professions Code §§ 17200, *et seq.* may be

1 predicated on the violation of any state or federal law. All of the acts described herein as violations
2 of, among other things, the California Labor Code, are unlawful and in violation of public policy;
3 and in addition are immoral, unethical, oppressive, fraudulent and unscrupulous, and thereby
4 constitute unfair, unlawful and/or fraudulent business practices in violation of California Business
5 & Professions Code §§ 17200, *et seq.*

6 **Failure to Indemnify Necessary Business Expenses**

7 33. Defendants' failure to indemnify employees for necessary business expenses in
8 accordance with California Labor Code § 2802 and the IWC Wage Orders, as alleged above,
9 constitutes unlawful and/or unfair activity prohibited by Business and Professions Code §§ 17200,
10 *et seq.*

11 34. By and through their unfair, unlawful and/or fraudulent business practices described
12 herein, the Defendants, have obtained valuable property, money and services from Plaintiff, and
13 all persons similarly situated, and have deprived Plaintiff, and all persons similarly situated, of
14 valuable rights and benefits guaranteed by law, all to their detriment.

15 35. Plaintiff and the Class Members suffered monetary injury as a direct result of
16 Defendants' wrongful conduct.

17 36. Plaintiff, individually, and on behalf of members of the putative Class, is entitled to,
18 and do, seek such relief as may be necessary to disgorge money and/or property which the
19 Defendants have wrongfully acquired, or of which Plaintiff and the Class have been deprived, by
20 means of the above-described unfair, unlawful and/or fraudulent business practices. Plaintiff and
21 the Class are not obligated to establish individual knowledge of the wrongful practices of
22 Defendants in order to recover restitution.

23 37. Plaintiff, individually, and on behalf of members of the putative class, are further
24 entitled to and do seek a declaration that the above described business practices are unfair, unlawful
25 and/or fraudulent, and injunctive relief restraining the Defendants, and each of them, from
26 engaging in any of the above-described unfair, unlawful and/or fraudulent business practices in the
27 future.

28 38. Plaintiff, individually, and on behalf of members of the putative class, have no plain,

1 speedy, and/or adequate remedy at law to redress the injuries which the Class Members suffered
2 as a consequence of the Defendants' unfair, unlawful and/or fraudulent business practices. As a
3 result of the unfair, unlawful and/or fraudulent business practices described above, Plaintiff,
4 individually, and on behalf of members of the putative Class, has suffered and will continue to
5 suffer irreparable harm unless the Defendants, and each of them, are restrained from continuing to
6 engage in said unfair, unlawful and/or fraudulent business practices.

7 39. Plaintiff also alleges that if Defendants are not enjoined from the conduct set forth
8 herein above, they will continue to avoid paying the appropriate taxes, insurance and other
9 withholdings.

10 40. Pursuant to California Business & Professions Code §§ 17200, *et seq.*, Plaintiff and
11 putative Class Members are entitled to restitution of the wages withheld and retained by
12 Defendants during a period that commences four years prior to the filing of this complaint; a
13 permanent injunction requiring Defendants to pay all outstanding wages due to Plaintiff and Class
14 Members; an award of attorneys' fees pursuant to California Code of Civil Procedure § 1021.5 and
15 other applicable laws; and an award of costs.

16 **PRAYER FOR RELIEF**

17 Plaintiff, individually, and on behalf of all others similarly situated only with respect to the
18 class claims, prays for relief and judgment against Defendants, jointly and severally, as follows:

19 **Class Certification**

20 1. That this action be certified as a class action with respect to the First and Second Causes
21 of Action;

22 2. That Plaintiff be appointed as the representative of the Class; and

23 3. That counsel for Plaintiff be appointed as Class Counsel.

24 **As to the First Cause of Action**

25 4. That the Court declare, adjudge and decree that Defendants violated Labor Code §
26 2802 and the IWC Wage Orders;

27 5. For general unpaid wages and reimbursement of business expenses as may be
28 appropriate;

6. For pre-judgment interest on any unpaid compensation commencing from the date such amounts were due;

7. For reasonable attorneys' fees and for costs of suit incurred herein; and

8. For such other and further relief as the Court may deem equitable and appropriate.

As to the Second Cause of Action

9. That the Court declare, adjudge and decree that Defendants violated California Business & Professions Code §§ 17200, *et seq.* by failing to furnish accurate wage statements and failing to indemnify necessary business expenses;

10. For the appointment of a receiver to receive, manage and distribute any and all funds disgorged from Defendants and determined to have been wrongfully acquired by Defendants as a result of violations of California Business & Professions Code §§ 17200 *et seq.*;

11. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California Code of Civil Procedure § 1021.5;

12. For injunctive relief to ensure compliance with this section, pursuant to California Business & Professions Code §§ 17200, *et seq.*; and,

13. For such other and further relief as the Court may deem equitable and appropriate.

As to all Causes of Action

14. For any additional relief that the Court deems just and proper.

Respectfully submitted,

Dated: March 26, 2024

MOON LAW GROUP, PC

By: 

Kane Moon

Lilit Ter-Astvatsatryan

Holly Williams

Attorneys for Plaintiff

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury as to all causes of action triable by jury.

Dated: March 26, 2024

MOON LAW GROUP, PC

By: _____

Kane Moon

Lilit Ter-Astvatsatryan

Holly Williams

Attorneys for Plaintiff

1 **PROOF OF SERVICE**

2 **STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

3 I am employed in the State of California, County of Los Angeles. I am over the age of 18
4 and not a party to the within suit; my business address is 1055 W. 7th Street, Suite 1880, Los
5 Angeles, CA 90017.

6 On the date indicated below, I served the document described as: **FIRST AMENDED**
7 **CLASS ACTION COMPLAINT** on the interested parties in this action by sending [] the
8 original [or] [✓] a true copy thereof [✓] to interested parties as follows [or] [] as stated on the
9 attached service list:

10 Nicole R. Roysdon
11 **WILSON TURNER KOSMO LLP**
12 402 West Broadway | Suite 1600
13 San Diego, California 92101
14 Telephone: 619-236-9600
15 Facsimile: 619-236-9669
16 nroysdon@wilsonturnerkosmo.com
17 BLee@wilsonturnerkosmo.com

18 *Attorneys for Defendant Hunter Industries Incorporated*

19 [✓] **BY U.S. MAIL:** I deposited such envelope in the mail at Los Angeles, California.
20 The envelope was mailed with postage thereon fully prepaid. I am “readily familiar”
21 with the firm’s practice of collection and processing correspondence for mailing.
22 Under that practice it would be deposited with U.S. postal service on that same day
23 with postage thereon fully prepaid at Los Angeles, California in the ordinary course
24 of business. I am aware that on motion of the party served, service is presumed
25 invalid if postal cancellation date or postage meter date is more than one day after
26 date of deposit for mailing in affidavit.

27 I declare under penalty of perjury under the laws of the State of California that the
28 foregoing is true and correct. Executed this **March 26, 2024** at Los Angeles, California.

Karen Castillo
Type or Print Name

/s/ Karen Castillo
Signature