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Superior Court of California  
County of Fresno  
By: A. Hoffman, Deputy

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

EVERARDO GARCIA, as an individual, and  
on behalf of all others similarly situated,

Plaintiff,

v.

FOSTER FARMS, LLC, a California limited  
liability company; and DOES 1 through 100,  
inclusive,

Defendants.

Case No. 24CECG00162

Amended as a Matter of Right Pursuant to  
Labor Code Section 2699.3(a)(2)(C)

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

- (1) **MINIMUM WAGE VIOLATIONS  
(LABOR CODE §§ 1182.12, 1194,  
1194.2, 1197);**
- (2) **FAILURE TO PAY ALL  
OVERTIME WAGES (LABOR  
CODE §§ 204, 510, 558, 1194, AND  
1198);**
- (3) **MEAL PERIOD VIOLATIONS  
(LABOR CODE §§ 226.7 AND 512)**
- (4) **REST PERIOD VIOLATIONS  
(LABOR CODE §§ 226.7, 516);**
- (5) **WAITING TIME PENALTIES  
(LABOR CODE §§ 201-203);**
- (6) **WAGE STATEMENT VIOLATIONS  
(LABOR CODE § 226, *et seq.*);**
- (7) **UNFAIR COMPETITION (BUS &  
PROF CODE § 17200, *et seq.*);**
- (8) **FAILURE TO REIMBURSE FOR  
NECESSARY BUSINESS  
EXPENSES (LABOR CODE § 2802);  
AND**

**(9) CIVIL PENALTIES UNDER THE  
PRIVATE ATTORNEYS GENERAL  
ACT (LABOR CODE § 2698 *et seq.*).**

**DEMAND FOR JURY TRIAL  
UNLIMITED CIVIL CASE**

1 Plaintiff Everardo Garcia (hereinafter “Plaintiff”), as an individual, and on behalf of all  
2 others similarly situated, hereby brings this First Amended Class and Representative Action  
3 Complaint against Foster Farms, LLC; and DOES 1 to 100, inclusive (collectively “Defendants”),  
4 and on information and belief alleges as follows:

5 **JURISDICTION**

6 1. Plaintiff hereby brings this First Amended Class and Representative Action  
7 Complaint for recovery of unpaid wages and penalties under California Business and Professions  
8 Code § 17200 *et seq.*, Labor Code §§ 201-204, 221, 226 *et seq.*, 226.2, 226.7, 227.3, 510, 512,  
9 516, 558, 1182.12, 1194, 1194.2, 1197, 1198, 2802, 2698 *et seq.*, and Industrial Welfare  
10 Commission Wage Order 14 (“Wage Order 14”), in addition to seeking declaratory relief and  
11 restitution. This Complaint is brought pursuant to California Code of Civil Procedure § 382. This  
12 Court has jurisdiction over Defendants’ violations of the California Labor Code because the  
13 amount in controversy exceeds 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 Fresno. Defendants own, maintain offices, transact business, have an  
18 agent or agents within the County of Fresno, and/or otherwise are found within the County of  
19 Fresno, 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 employee. Plaintiff was and is a victim of Defendants’ policies and/or practices complained of  
26 herein, lost money and/or property, and has been deprived of the rights guaranteed by Labor Code  
27 §§ 201-204, 221, 226 *et seq.*, 226.2, 226.7, 227.3, 510, 512, 516, 558, 1182.12, 1194, 1194.2,  
28 1197, 1198, 2802, 2698 *et seq.*, California Business and Professions Code § 17200 *et seq.* (“Unfair

Competition Law”), and Wage Order 14, which sets employment standards for the agricultural industries.

4. Plaintiff is informed and believes, and based thereon alleges, that during the four years preceding the filing of the Complaint and continuing to the present, Defendants did (and continue to do) business in the poultry industry, employed Plaintiff within Fresno County and the state of California and, therefore, were (and are) doing business in Fresno County and the State of California.

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

6. Plaintiff is informed, and believes, and thereon alleges, that at all times mentioned herein, Defendants were and are the employers of Plaintiff and all members of the Classes.

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

8. At all times mentioned herein, Defendants, and each of them, were members of and engaged in a joint venture, partnership, and common enterprise, and acting within the course and scope of, and in pursuance of said joint venture, partnership, and common enterprise. Further, Plaintiff alleges that all Defendants were joint employers for all purposes towards Plaintiff and

all members of the Classes.

### **GENERAL FACTUAL ALLEGATIONS**

9. Plaintiff worked for Defendants from approximately July 22, 2019 to approximately February 3, 2023. During his employment, Plaintiff worked in Defendants' hatchery as a machine attendant monitoring the temperature and humidity in incubators and maintaining the incubators and related machines. Plaintiff was generally scheduled to work for five (5) days per week. Every three months, Plaintiff rotated through one of four work schedules. For one set of three months, Plaintiff was scheduled to work from approximately 3:00 a.m. to approximately 11:30 a.m. For a second set of three months, Plaintiff was scheduled to work from approximately 7:00 a.m. to approximately 3:30 p.m. For a third set of three months, Plaintiff was scheduled to work from approximately 11:00 a.m. to approximately 7:30 p.m. For a fourth set of three months, Plaintiff was scheduled to work from approximately 7:00 p.m. to approximately 3:30 a.m.

10. Throughout the duration of Plaintiff's employment with Defendants, Plaintiff and other non-exempt employees were not paid for all hours worked as Defendants required Plaintiff and other employees to work off-the-clock. Defendants instructed Plaintiff and other non-exempt employees not to clock in before putting on their work uniform consisting in part of coveralls, a helmet, a mask, gloves and boots. Plaintiff and other non-exempt employees spent at least approximately 10 minutes putting on and removing their uniforms before clocking in and after clocking out.

11. Furthermore, Plaintiff and other non-exempt employees worked overtime hours, based on the requirements of Wage Order 14, but did not receive overtime compensation equal to one and one-half times their regular rates of pay for all overtime hours worked. Defendants failed to pay overtime compensation due to Plaintiff and other non-exempt employees when they worked off the clock. As a result, Defendants failed to ensure that Plaintiff and other non-exempt employees were being paid at least the minimum wage for all hours actually worked, and failed to ensure that Plaintiff and other non-exempt employees received proper overtime wages for all overtime hours worked, in compliance with Wage Order 14.

1           12.     Plaintiff and other non-exempt employees were not authorized to take all legally  
2 required rest periods. By way of example, Defendants instructed Plaintiff that he could not leave  
3 the premises during his rest period because he had to attend to the incubators and related  
4 machines. As another example, at least once per week, Plaintiff's rest period was interrupted  
5 because Defendants required Plaintiff to address an alarm or other work matter. Despite  
6 Defendants' failure to authorize and permit Plaintiff and other non-exempt employees to take all  
7 lawful paid rest periods, due to their uniform and unlawful practices, Defendants did not provide  
8 Plaintiff and other non-exempt employees with an hour of pay at their regular rate for each rest  
9 period violation as required by Labor Code § 226.7.

10           13.     Defendants did not provide Plaintiff and other non-exempt employees with legally  
11 compliant meal periods when they worked shifts in excess of 5.0 hours. By way of example,  
12 consistent with their rest period policies, Defendants instructed Plaintiff that he could not leave  
13 the premises during his meal period because he had to attend to the incubators and related  
14 machines. As another example, at least once per week, Plaintiff's meal period was interrupted  
15 because Defendants required Plaintiff to address an alarm or other work matter. Despite  
16 Defendants' failure to provide Plaintiff and other non-exempt employees with all lawful meal  
17 periods due to their uniform and unlawful practices, Defendants did not provide Plaintiff and  
18 other non-exempt employees with an hour of pay at their regular rate for each meal period  
19 violation as required by Labor Code § 226.7.

20           14.     Furthermore, Defendants failed to adequately reimburse Plaintiff and other non-  
21 exempt employees for all reasonable and necessary work expenditures, including but not limited  
22 to, requiring Plaintiff to purchase his own tools to fix broken incubator/machine parts. Plaintiff  
23 was not ever provided any reimbursement for these necessary uses.

24           15.     Additionally, Defendants forced Plaintiff to wait approximately two months for  
25 his final paycheck, in violation of Labor Code 201.

26           16.     Defendants have maintained inaccurate payroll records, failed to timely pay all  
27 wages owed to employees, and failed to timely pay separating employees at the time of their  
28

1 separation, and issued inaccurate wage statements. This is in part a result of Defendants' failure  
2 to accurately compensate Plaintiff and other non-exempt employees for all minimum and  
3 overtime wages, and failure to pay premium pay for failing to provide all required meal periods  
4 and authorize all rest periods.

5 17. Defendants failed to issue to Plaintiff and other non-exempt employees accurate  
6 itemized statements in writing showing (1) gross wages earned, (2) total hours worked by the  
7 employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee  
8 is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written  
9 orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the  
10 inclusive dates of the period for which the employee is paid, (7) the name of the employee and  
11 only the last four digits of his or her social security number or an employee identification number  
12 other than a social security number, (8) the name and address of the legal entity that is the  
13 employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding  
14 number of hours worked at each hourly rate by the employee.  
15

16 18. Finally, Defendants failed to conform to the requirements of Labor Code § 2810.5  
17 by failing to provide Plaintiff and other non-exempt employees written notices, in the language  
18 normally used to communicate employment related information to the employees, containing  
19 information regarding their: i) rate(s) of pay and the basis thereof; ii) allowances claimed as part  
20 of the minimum wage; iii) regular payday designated by the employer; iv) the legal name of the  
21 employer; v) the address of the legal entity that is the employer; vi) the telephone number of the  
22 employer; vii) identifying information for the employer's workers' compensation insurance  
23 carrier; and viii) information informing the employee of their right to accrue and use paid sick  
24 leave. Despite maintaining an obligation to provide these disclosures to Plaintiff and other non-  
25 exempt employees, Defendants failed to do so, in violation of Labor Code § 2810.5.

### 26 **CLASS ACTION ALLEGATIONS**

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

- 1 a. The Minimum Wage Class consists of all current and former non-exempt  
2 employees of Defendants who performed in California and were subject to  
3 Defendants' timekeeping systems and/or practices during the four years  
4 immediately preceding the filing of this lawsuit through the present.
- 5 b. The Overtime Wage Class consists of all current and former non-exempt  
6 employees of Defendants who performed work for in California and who worked  
7 overtime hours during the four years immediately preceding the filing of this  
8 lawsuit through the present.
- 9 c. The Rest Period Class consists of all current and former non-exempt employees of  
10 Defendants who performed work in California and who worked at least one shift  
11 in excess of 3.5 hours during the four years immediately preceding the filing of  
12 this lawsuit through the present.
- 13 d. The Meal Period Class consists of all current and former non-exempt employees  
14 of Defendants who performed work in California and worked at least one shift in  
15 excess of 5.0 hours without a meal period of at least 30 minutes in duration  
16 commencing prior to the conclusion of the fifth hour of work, and who do not have  
17 a corresponding meal period premium payment made for such shifts.
- 18 e. The Employee Expense Class consists of all of Defendants in California who were  
19 not reimbursed for expenses in the performance of their job duties, including, but  
20 not limited to tools during the four years immediately preceding the filing of this  
21 lawsuit to the present.
- 22 f. The Wage Statement Class consists of all members of the Rest Period Class,  
23 Minimum Wage Class, Overtime Class, and/or Meal Period Class who received a  
24 wage statement from Defendants during the one year immediately preceding the  
25 filing of this lawsuit through the present.
- 26 g. The Waiting Time Class consists of all of Defendants' formerly employed non-  
27 exempt employees who performed work in California and were subject to  
28

Defendants' timekeeping systems and/or practices, during the three years immediately preceding the filing of this lawsuit through the present.

20. **Numerosity/Ascertainability:** The members of the Classes are so numerous that joinder of all members would be unfeasible and not practicable. The membership of the Classes is unknown to Plaintiff at this time; however, it is estimated that the members of the Classes number greater than one hundred (100) individuals. The identity of such membership is readily ascertainable via inspection of Defendants' employment records.

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

- i. Whether Defendants paid all minimum wages owed for all hours worked to members of the Minimum Wage Class pursuant to Labor Code §§ 1182.12, 1194, 1194.2, and 1197;
- ii. Whether Defendants violated the applicable Labor Code provisions, including, but not limited to, §§ 510 and 1194 and Wage Order 14 by requiring members of the Overtime Wage Class to perform overtime work and not paying for said work in accordance with the overtime laws of the State of California;
- iii. Whether Defendants' timekeeping policies/practices resulted in the failure to properly compensate members of the Minimum Wage Class;
- iv. Whether Defendants provided all legally compliant meal periods to members of the Meal Period Class pursuant to Labor Code §§ 226.7 and 512;
- v. Whether Defendants provided all legally compliant rest periods to members of the Rest Period Class pursuant to Labor Code §§ 226.7 and 516;
- vi. Whether Defendants failed to reimburse members of the Employee Expense Class for business expenditures necessarily incurred in the performance of their duties;
- vii. Whether Defendants provided accurate, itemized wage statements to members of

the Classes; and

- viii. Whether Defendants' policies and/or practices for the timing and amount of payment of final wages to members of the Waiting Time Class at the time of separation from employment were lawful.

22. **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' uniform timekeeping policies and practices, meal and rest period policies and practices, non-reimbursement policies and practices, wage statement policies and practices, and the policies and practices regarding the timely payment of final wages. As such, the 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.

23. **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 limitations period applicable to each cause of action pled in the Complaint. As alleged herein, Plaintiff, like the members of the Classes, was subject to Defendants' meal/rest period and timekeeping policies and practices, was subjected to Defendants' unlawful failure to reimburse business expenses, was provided inaccurate wage statements, and was not paid all wages earned at the time of his separation of employment.

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

25. **Superiority:** The California Labor Code is broadly remedial in nature and serves

1 an important public interest in establishing minimum working conditions and standards in  
2 California. These laws and labor standards protect the average working employee from  
3 exploitation by employers who have the responsibility to follow the laws and who may seek to  
4 take advantage of superior economic and bargaining power in setting onerous terms and  
5 conditions of employment. The nature of this action and the format of laws available to Plaintiff  
6 and members of the Classes make the class action format a particularly efficient and appropriate  
7 procedure to redress the violations alleged herein. If each employee were required to file an  
8 individual lawsuit, Defendants would necessarily gain an unconscionable advantage since they  
9 would be able to exploit and overwhelm the limited resources of each individual plaintiff with  
10 their vastly superior financial and legal resources. Moreover, requiring each member of the  
11 Classes to pursue an individual remedy would also discourage the assertion of lawful claims by  
12 employees who would be disinclined to file an action against their former and/or current employer  
13 for real and justifiable fear of retaliation and permanent damages to their careers at subsequent  
14 employment. Further, the prosecution of separate actions by the individual class members, even  
15 if possible, would create a substantial risk of inconsistent or varying verdicts or adjudications  
16 with respect to the individual class members against Defendants herein; and which would  
17 establish potentially incompatible standards of conduct for Defendants; and/or legal  
18 determinations with respect to individual class members which would, as a practical matter, be  
19 dispositive of the interest of the other class members not parties to adjudications or which would  
20 substantially impair or impede the ability of the class members to protect their interests. Further,  
21 the claims of the individual members of the Classes are not sufficiently large to warrant vigorous  
22 individual prosecution considering all of the concomitant costs and expenses attending thereto.  
23 As such, the Classes (as defined herein) are maintainable as a Class under § 382 of the Code of  
24 Civil Procedure.  
25

26 **FIRST CAUSE OF ACTION**  
27 **MINIMUM WAGE VIOLATIONS**  
28 **(AGAINST ALL DEFENDANTS)**



**OVERTIME VIOLATIONS**  
**(AGAINST ALL DEFENDANTS)**

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

32. This cause of action is brought pursuant to Labor Code §§ 204, 510, 558, 1194, and 1198, which provide that non-exempt employees are entitled to overtime wages for all overtime hours worked, and provide a private right of action for the failure to pay all overtime compensation for overtime work performed.

33. At all times relevant herein, Defendants were required to properly compensate Plaintiff and members of the Overtime Class for all overtime hours worked pursuant to California Labor Code § 1194 and Wage Order 14. Wage Order 14, § 3 requires an employer to pay overtime wages when an employee's hours worked cross certain thresholds or meet certain criteria set forth in the Wage Order.

34. The foregoing policies and practices are unlawful and create entitlement to recovery by Plaintiff and the Overtime Class in a civil action for the unpaid amount of overtime premiums owing, including interest thereon, statutory penalties, and attorneys' fees and costs of suit according to California Labor Code §§ 204, 510, 558, 1194, and 1198, Wage Order 14, and Code of Civil Procedure § 1021.5.

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

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

36. Plaintiff is informed and believe, and based thereon allege, that Defendants failed in their affirmative obligation to provide all of their non-exempt employees in California, including Plaintiff and members of the Meal Period Class with all legally compliant meal periods in accordance with the mandates of the California Labor Code and Wage Order 14, § 11. Despite Defendants' violations, Defendants did not pay an additional hour of pay to Plaintiff and the Meal Period Class at their respective regular rate of pay, in accordance with California Labor Code §§ 204, 210, 226.7, and 512.

1           37. As a result, Defendants are responsible for paying premium compensation for meal  
2 period violations including interest thereon, as well as statutory penalties, civil penalties, and  
3 costs of suit, pursuant to Labor Code §§ 226.7, 512, and 558, Wage Order 14, and Civil Code §§  
4 3287(b) and 3289.

5                                   **FOURTH CAUSE OF ACTION**

6                                   **REST PERIOD VIOLATIONS**

7                                   **(AGAINST ALL DEFENDANTS)**

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

9           39. Wage Order 14, § 12 and California Labor Code §§ 226.2, 226.7 and 516 establish  
10 the right of employees to be authorized and permitted to take a paid rest period of at least ten (10)  
11 minutes net rest time for each four (4) hour period worked, or major fraction thereof.

12           40. As alleged herein, Defendants failed to authorize and permit Plaintiff and members  
13 of the Rest Period Class to take all legally compliant rest periods.

14           41. The foregoing violations create an entitlement to recovery by Plaintiff and  
15 members of the Rest Period Class in a civil action for the unpaid rest period wages and the amount  
16 of rest period premiums owing, including interest thereon, as well as statutory penalties, civil  
17 penalties, and costs of suit according to California Labor Code §§226.2, 226.7, 516, 558, and  
18 Civil Code §§ 3287(b) and 3289.

19                                   **FIFTH CAUSE OF ACTION**

20                                   **WAITING TIME PENALTIES**

21                                   **(AGAINST ALL DEFENDANTS)**

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

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

1           44. Defendants failed to timely pay Plaintiff and members of the Waiting Time Class  
2 all final wages due to them at the time of their separation including, among other things, unpaid  
3 and/or underpaid overtime and minimum wages owed, and meal & rest period premium wages.  
4 Further, Plaintiff is informed and believes, and based thereon alleges, that as a matter of uniform  
5 policy and practice, Defendants continue to fail to pay members of the Waiting Time Class all  
6 earned wages at the end of employment in a timely manner pursuant to the requirements of Labor  
7 Code §§ 201-203. Defendants' failure to pay all final wages was willful within the meaning of  
8 Labor Code § 203.

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

14                                   **SIXTH CAUSE OF ACTION**  
15                                   **WAGE STATEMENT VIOLATIONS**  
16                                   **(AGAINST ALL DEFENDANTS)**

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

18           47. Plaintiff is informed and believes, and based thereon alleges, that Defendants  
19 knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Plaintiff  
20 and the Wage Statement Class with complete and accurate wage statements reflecting the accurate  
21 number of hours worked, and meal & rest period premiums in violation of Labor Code § 226 et  
22 seq.

23           48. Defendants' failures in furnishing Plaintiff and the Wage Statement Class with  
24 complete and accurate itemized wage statements resulted in actual injury, as said failures led to,  
25 among other things, the non-payment of all minimum wages, overtime wages, meal and rest  
26 period premium wages, and deprived them of the information necessary to identify the  
27 discrepancies in Defendants' reported data.

28           49. Defendants' failures create an entitlement to recovery by Plaintiff and the Wage

1 Statement Class in a civil action for all damages and/or penalties pursuant to Labor Code § 226  
2 et seq., including statutory penalties, civil penalties, reasonable attorneys' fees, and costs of suit  
3 according to California Labor Code § 226 et seq.

4 **SEVENTH CAUSE OF ACTION**

5 **UNFAIR COMPETITION**

6 **(AGAINST ALL DEFENDANTS)**

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

8 51. Defendants have engaged and continue to engage in unfair and/or unlawful  
9 business practices in California in violation of California Business and Professions Code § 17200  
10 et seq., by failing to pay Plaintiff and the Classes all minimum and overtime wages, provide all  
11 required meal and rest periods, or pay premium payments in lieu thereof, failing to furnish  
12 accurate, itemized wage statements, failing to reimburse for necessary business expenses, and  
13 willfully failing to timely pay Plaintiff and members of the Waiting Time class all final wages  
14 due upon separation of employment.

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

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

24 54. The acts complained of herein occurred within the last four years immediately  
25 preceding the filing of the Complaint in this action.

26 55. Plaintiff is compelled to retain the services of counsel to file this court action to  
27 protect his interests and those of the Classes, to obtain restitution and injunctive relief on behalf  
28 of Defendants' current non-exempt employees, and to enforce important rights affecting the

1 public interest. Plaintiff has thereby incurred the financial burden of attorneys' fees and costs,  
2 which he is entitled to recover under Code of Civil Procedure § 1021.5.

3 **EIGHTH CAUSE OF ACTION**

4 **FAILURE TO REIMBURSE BUSINESS EXPENSES**

5 **(AGAINST ALL DEFENDANTS)**

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

7 57. At all relevant times herein, Defendants were subject to Labor Code § 2802, which  
8 states that "an employer shall indemnify his or her employees for all necessary expenditures or  
9 losses incurred by the employee in direct consequence of the discharge of his or her duties, or of  
10 his or her obedience to the directions of the employer..."

11 58. Due to Defendants' unlawful policy and practice of requiring employees to  
12 purchase their own work boots, aprons and sleeves in the performance of their work duties,  
13 Defendants have violated Labor Code § 2802.

14 59. Plaintiff and the members of the Employee Expense Class are entitled to attorneys'  
15 fees and costs of suit pursuant to Labor Code § 2802(c) for bringing this action.

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

20 **NINTH CAUSE OF ACTION**

21 **PRIVATE ATTORNEYS GENERAL ACT**

22 **(AGAINST ALL DEFENDANTS)**

23 61. Plaintiff re-alleges and incorporates by reference all prior paragraphs as though  
24 fully set forth herein.

25 62. Defendants have committed several Labor Code violations against Plaintiff,  
26 members of the Classes, and other aggrieved employees. Plaintiff, an "aggrieved employee"  
27 within the meaning of Labor Code § 2698 *et seq.*, acting on behalf of himself and other aggrieved  
28

employees, brings this representative action against Defendants to recover the civil penalties due to Plaintiff, the members of the Classes, other aggrieved employees, and the State of California according to proof pursuant to Labor Code § 558 and § 2699 (a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for each failure to pay each employee and \$200 for each subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100 for each subsequent violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per employee per pay period; (4) \$250.00 for each initial violation and \$1,000.00 for each subsequent violation pursuant to Labor Code § 226.3 per employee per pay period; and/or (5) \$100.00 for each initial violation and \$200 for each subsequent violation per employee per pay period for those violations of the Labor Code for which no civil penalty is specifically provided, based on the following Labor Code violations:

- a. Failing to pay minimum wages for all hours worked to Plaintiff, the Minimum Wage Class, and other aggrieved employees in violation of Labor Code §§ 551-552, 558, 1182.12, 1194, 1194.2, 1197, and 1198;
- b. Failing to pay Plaintiff, the Overtime Class, and other aggrieved employees all earned overtime compensation in violation of Labor Code §§ 204, 510, 558, 1194, and 1198;
- c. Failing to authorize and permit all legally required rest periods, and failure to pay rest period premium wages, to Plaintiff, the Rest Period Class, and other aggrieved employees at the regular rate of compensation in violation of Labor Code §§ 226.7, 516 and 558;
- d. Failing to provide all legally required meal periods, and failure to pay meal period premium wages, to Plaintiff, the Meal Period Class, and other aggrieved employees at the regular rate of compensation in violation of Labor Code §§ 226.7, 512, and 1198;

- e. Failing to reimburse Plaintiff, the Employee Expense Class and other aggrieved employees for necessary business expenditures incurred by Plaintiff, the Employee Expense Class and other aggrieved employees in violation of Labor Code §§ 2800, 2802 and 2804;
- f. Failing to furnish Plaintiff, the Wage Statement Class, and other aggrieved employees with complete, accurate, itemized wage statements in violation of Labor Code § 226;
- g. Failing to timely pay all final wages and compensation earned by Plaintiff, the Waiting Time Class, and other aggrieved employees at the time of separation in violation of Labor Code §§ 201, 202, and 203;
- h. Failing to pay Plaintiff and other aggrieved employees all earned wages at least twice during each calendar month in violation of Labor Code § 204;
- i. Failing to pay Plaintiff and other aggrieved employees all wages earned up to and including the fourth day before the scheduled payday in violation of Labor Code § 205;
- j. Failing to permit and authorize Plaintiff and other non-exempt to exercise the use of their accrued paid sick leave days in violation of Labor Code § 245.5;
- k. Failing to provide legally mandated disclosures and/or written notices regarding the terms of employment of Plaintiff and other aggrieved employees in violation of Labor Code § 2810.5; and
- l. Failing to maintain accurate records on behalf of Plaintiff and other aggrieved employees in violation of Labor Code §§ 1174 and 1198.

63. On January 11, 2024, Plaintiff notified Defendants via certified mail, and notified the California Labor and Workforce Development Agency (“LWDA”) via its website, of Defendants’ violations of the California Labor Code and Plaintiff’s intent to bring a claim for civil penalties under California Labor Code § 2698 et seq. with respect to violations of the California Labor Code identified in Paragraph 62 (a)-(l). Now that sixty-five days have passed from Plaintiff’s notifying Defendants and the LWDA of these violations, and the LWDA has not

provided notice that it intends to investigate the violations, Plaintiff has exhausted his administrative requirements for bringing a claim under the Private Attorneys General Act with respect to these violations.

64. Plaintiff was compelled to retain the services of counsel to file this court action to protect his interests and the interests of 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(g).

### **PRAYER**

WHEREFORE, Plaintiff prays for judgment for himself and for all others on whose behalf this suit 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 §§ 1182.12, 1194, 1194.2, 1198 and Wage Order 14 § 5(A);
5. Upon the Second Cause of Action, for compensatory, consequential, general, and special damages according to proof pursuant to Labor Code §§ 204, 510, 558, 1194, 1198 and Wage Order 14 § 5(A);
6. Upon the Third Cause of Action, for compensatory, consequential, general and special damages according to proof pursuant to Labor Code §§ 226.7, 512, and 558;
7. Upon the Fourth Cause of Action, for compensatory, consequential, general and special damages according to proof pursuant to Labor Code §§ 226.2, 226.7, 516, and 558;
8. Upon the Fifth Cause of Action, for statutory waiting time penalties pursuant to Labor Code §§ 201-203;
9. Upon the Sixth Cause of Action, for statutory penalties pursuant to Labor Code § 226;
10. Upon the Seventh Cause of Action, for restitution to Plaintiff of all money and/or

property unlawfully acquired by Defendants by means of any acts or practices declared by this Court to be in violation of Business and Professions Code § 17200 *et seq.*;

11. Upon the Eighth Cause of Action, for compensatory, consequential, general, and special damages according to proof pursuant to Labor Code § 2802;

12. Upon the Ninth Cause of Action, for (1) \$100.00 for each initial violation for each failure to pay each employee and \$200 for each subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100 for each subsequent violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per employee per pay period; (4) \$250.00 for each initial violation and \$1,000.00 for each subsequent violation pursuant to Labor Code § 226.3 per employee per pay period; and/or (5) \$100.00 for each initial violation and \$200 for each subsequent violation per employee per pay period for the violations of the Labor Code Sections cited in Labor Code § 2699.5;

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

14. On all causes of action, for attorneys' fees and costs as provided by Labor Code §226, and Code of Civil Procedure § 1021.5; and

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

Dated: June 11, 2024

Respectfully submitted,  
STANSBURY BROWN LAW, PC

By:



Daniel J. Brown  
Jessica Flores  
Attorneys for Plaintiff

**DEMAND FOR JURY TRIAL**

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

Respectfully submitted,

Dated: June 11, 2024

STANSBURY BROWN LAW, PC

By:



Daniel J. Brown

Jessica Flores

Attorneys for Plaintiff

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