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**SUPERIOR COURT OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO**

RICHARD GOMEZ,

Plaintiff,

vs.

B&M BUILDERS, INC., an unknown
business entity; JONATHAN BROWN, an
individual; PATRICK MULLEN, an
individual; and DOES 1 to 100, inclusive,
Defendants.

Case No. 24CV005888

COMPLAINT FOR DAMAGES:

- 1. Failure to Pay Overtime Wages**
- 2. Failure to Pay Minimum Wages**
- 3. Meal Period Violations**
- 4. Rest Period Violations**
- 5. Wage Statement Violations**
- 6. Waiting Time Penalties**
- 7. Failure to Reimburse Expenses**
- 8. Unfair Competition**
- 9. Private Attorneys General Act**

1 Plaintiff RICHARD GOMEZ (“Plaintiff”) hereby files this Complaint against Defendants
2 B&M BUILDERS, INC., an unknown business entity; JONATHAN BROWN, an individual;
3 PATRICK MULLEN, an individual; and DOES 1 to 100, inclusive (hereinafter all collectively
4 referred to as “Defendants”). On information and belief, Plaintiff allege the following:

5 **INTRODUCTION**

6 1. This is an individual and Private Attorneys General Act (“PAGA”) lawsuit brought by
7 Plaintiff for failure to provide overtime wages, failure to provide minimum wages, meal and rest period
8 violations, wage statement violations, waiting time penalties, failure to reimburse expenses, and unfair
9 competition.

10 **JURISDICTION AND VENUE**

11 2. The Sacramento County Superior Court has jurisdiction in this matter pursuant to
12 California Code of Civil Procedure section 410.10 to determine alleged violations of the California
13 Labor Code and Wage Order No. 4.

14 3. Venue is proper pursuant to Civil Procedure Code §§ 395(a), and 395.5, in that some of
15 the wrongful acts and violations of law asserted herein occurred within Sacramento County, and
16 Defendants' obligation to pay wages arose in Sacramento County pursuant to *Madera Police Officers*
17 *Assn. v. City of Madera*, 36 Cal.3d 403, 414 (1984).

18 4. Plaintiff has sought permission pursuant to California Labor Code section 2699 *et seq.* to
19 pursue the claims set forth in this Complaint against Defendants as a Private Attorney General on behalf
20 of himself and other similarly situated employees. Pursuant to California Labor Code section 2699.3,
21 Plaintiff gave written notice via online submission to the Labor and Workforce Development Agency
22 (“LWDA”) on approximately January 10, 2024. Plaintiff provided facts and legal bases for his claims
23 within the notice to the LWDA on all violations asserted under the Private Attorneys General Act cause
24 of action. Plaintiff also submitted the \$75.00 filing fee. The January 10, 2024, notice was also sent via
25 certified mail to Defendants on the same day. To date, the LWDA has not provided any response to
26 Plaintiff’s notice correspondence. Accordingly, Plaintiff has exhausted all administrative remedies
27 pursuant to the Private Attorneys General Act (“PAGA”) and may bring this action on behalf of himself
28 and all similarly situated employees, *i.e.* Aggrieved Employees. *See* Cal. Lab. Code § 2699.3(a)(2)(A),

(c)(3); *Caliber Bodyworks, Inc., v. Sup. Ct.*, 134 Cal. App. 4th 365, 383 n.18, 385 n.19 (2005).

Aggrieved Employees include, but is not limited to, the following: all non-exempt employees who worked or continue to work for Defendants in California at any time between January 10, 2023, to the present.

PARTIES

5. RICHARD GOMEZ is an individual over the age of eighteen (18) and is a resident of the State of California.

6. On information and belief, Plaintiff alleges, B&M BUILDERS, INC., is now and/or at all times mentioned in this Complaint was an unknown business entity and the owner and operator of an industry, business and/or facility doing business in the State of California.

7. On information and belief, Plaintiff alleges, JONATHAN BROWN, is now and/or at all times mentioned in this Complaint was an individual and the owner and operator of an industry, business and/or facility doing business in the State of California. Plaintiff further alleges that JONATHAN BROWN is an owner, director, officer, and/or managing agent of B&M BUILDERS, INC., responsible for causing the violations outlined in the first through seventh, and ninth causes of action. As such JONATHAN BROWN is individually liable pursuant to California Labor Code section 558.1. Pursuant to California Labor Code section 558.1, B&M BUILDERS, INC., are jointly and severally liable for each cause of action asserted herein. On information and belief, Plaintiff alleges that JONATHAN BROWN trained subordinate staff to implement and carry out the policies and practices identified herein. As a result, whether directly or indirectly, JONATHAN BROWN caused the violations identified herein. JONATHAN BROWN was responsible for the violations stated herein as he was in a position of authority with the power and responsibility to monitor, institute, and/or modify the unlawful practices, but chose to ratify them instead.

8. On information and belief, Plaintiff alleges, PATRICK MULLEN, is now and/or at all times mentioned in this Complaint was an individual and the owner and operator of an industry, business and/or facility doing business in the State of California. Plaintiff further alleges that PATRICK MULLEN is an owner, director, officer, and/or managing agent of B&M BUILDERS, INC., responsible for causing the violations outlined in the first through seventh, and ninth causes of

1 action. As such PATRICK MULLEN is individually liable pursuant to California Labor Code
2 section 558.1. Pursuant to California Labor Code section 558.1, B&M BUILDERS, INC., are jointly
3 and severally liable for each cause of action asserted herein. On information and belief, Plaintiff
4 alleges that PATRICK MULLEN trained subordinate staff to implement and carry out the policies
5 and practices identified herein. As a result, whether directly or indirectly, PATRICK MULLEN
6 caused the violations identified herein. PATRICK MULLEN was responsible for the violations
7 stated herein as he was in a position of authority with the power and responsibility to monitor,
8 institute, and/or modify the unlawful practices, but chose to ratify them instead.

9 9. Defendants DOES 1 through 100 are affiliates, subsidiaries and related entities and the
10 alter egos of each of the other Defendants named herein, corporate or otherwise, who participated in and
11 are liable for the actions herein alleged. Plaintiff will seek to amend this Complaint to allege the true
12 names and capacities of these DOE Defendants when they are ascertained.

13 10. At all times mentioned herein, each Defendant was the agent or employee of each of the
14 other Defendants and was acting within the course and scope of such agency or employment. The
15 Defendants are jointly and severally liable to Plaintiff.

16 11. Defendants, and each of them, are now and/or at all times mentioned in this Complaint
17 were members of and/or engaged in a joint employment, joint venture, partnership and common
18 enterprise, and were acting within the course and scope of, and in pursuance of said joint employment,
19 joint venture, partnership and common enterprise.

20 12. Defendants, and each of them, now and/or at all times mentioned in this Complaint
21 approved, ratified, acquiesced, aided, or abetted the acts and omissions alleged in this Complaint.

22 13. Defendants proximately caused Plaintiff to be subjected to the unlawful practices,
23 wrongs, complaints, injuries and/or damages alleged in this Complaint.

24 **GENERAL ALLEGATIONS**

25 14. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 13 as though fully
26 set forth herein.

27 15. Plaintiff was employed by Defendants from September 12, 2023, to November 7, 2023,
28 as a non-exempt employee. Defendants provide general contractor construction services as well as

1 paving asphalt and performing concrete work for different construction projects. Plaintiff was paid \$30
2 per hour. Plaintiff and Aggrieved Employees worked for all Defendants.

3 16. Plaintiff and Aggrieved Employees worked over eight (8) hours a day and over forty (40)
4 hours per week. Plaintiff worked in a fast-paced environment which was very busy and that caused
5 Plaintiff to work off the clock. Plaintiff's schedule was from 7:00 a.m. to 3:30 p.m. However,
6 Defendants did not pay Plaintiff for off the clock work. Plaintiff estimates that he worked thirty (30) to
7 forty-five (45) minutes off the clock at the beginning of his shift about one (1) to two (2) times per
8 week. Also, Plaintiff received regularly text messages or calls regarding work issues after his shift.
9 Defendants required Plaintiff to respond to their texts and phone calls regarding work issues after his
10 shift. Plaintiff estimates that he spent approximately one (1) to two (2) hours per week working off the
11 clock because he had to read and respond to Defendants texts and phone calls after working hours.
12 Moreover, Plaintiff had to deliver bids to different customers weekly. These customers were located
13 approximately one (1) and one half (1/2) hours away from Defendants' office. The bids were due at 2:00
14 p.m. Plaintiff would wait until all the bids were open and until the winner was announced. Plaintiff
15 would then contact Defendants and inform them of the results. Then, he would have to drive back home.
16 Plaintiff would arrive home approximately at 4:00 or 4:30 p.m. However, Defendants did not pay
17 Plaintiff past 3:30 p.m. for the time that he spent driving back from the bids' locations. Plaintiff
18 estimates that he drove to deliver such bids approximately two (2) to three (3) times per week.
19 Defendants did not pay Plaintiff for off-the-clock work and for any time spent while being on call or
20 responding to calls after his shift. Plaintiff is informed and believes that Defendants did not pay
21 Aggrieved Employees for off-the-clock work either. Additionally, Defendants did not require Plaintiff to
22 clock in and out and Defendants did not have a system to clock in and out. Defendants did not have an
23 electronic system to track employee hours and meal periods. Defendants required Plaintiff to fill out
24 timesheets on Fridays, once per week. Plaintiff is informed and believes that Defendants did not require
25 Aggrieved Employees to clock in and out and Aggrieved Employees did not clock in and out. Plaintiff is
26 informed and believes that Aggrieved Employees filled out timesheets once per week.

27 17. As a result, Defendants also did not pay Plaintiff for overtime hours. Defendants did not
28 pay Plaintiff for off-the clock work as explained above and for the time that he spent driving back from

1 bids' locations and for the time responding to texts and calls after work hours. Since Plaintiff worked
2 over eight (8) hours per day and over forty (40) hours per week, the off-the-clock hours were overtime
3 hours. Plaintiff is informed and believes that Defendants did not pay Aggrieved Employees for all
4 overtime hours worked also. Additionally, Plaintiff is informed and believes that Defendants paid
5 Aggrieved Employees prevailing wages during the same week that Aggrieved Employees worked on
6 other non-prevailing wage projects. However, Plaintiff is informed and believes that Defendants did not
7 take into account prevailing wages earned when calculating the regular rate of pay for purposes of
8 calculating the value of the overtime premiums due when working on non-prevailing wage jobs, meal
9 and rest period premiums, and sick leave pay. As a result, Plaintiff is informed and believes that
10 Defendants owe wages to Aggrieved Employees for overtime premiums, meal and rest period
11 premiums, and sick leave pay for the weeks that Aggrieved Employees worked a mix of prevailing wage
12 projects and non-prevailing wage projects.

13 18. Defendants further did not authorize and permit Plaintiff to take all uninterrupted meal
14 and rest periods. Plaintiff had to eat while working. Plaintiff did not take thirty (30) minute
15 uninterrupted meal periods because of time sensitive job duties that typically required him to continue
16 working beyond the completion of the fifth hour of work without a meal period. Plaintiff did not take
17 uninterrupted ten (10) minute rest periods every four (4) hours or fraction of thereof. Plaintiff is
18 informed and believes that Defendants did not authorize and permit Aggrieved Employees to take
19 uninterrupted meal and rest periods. Plaintiff is informed and believes that Aggrieved Employees did not
20 take thirty (30) minute uninterrupted meal periods because of time sensitive job duties that prevented
21 them from taking their meal and rest periods in a timely fashion, if at all. Plaintiff is informed and
22 believes that Aggrieved Employees did not take uninterrupted ten (10) minute rest periods every four (4)
23 hours or fraction of thereof.

24 19. Defendants also did not have a policy to reimburse Plaintiff and Aggrieved Employees
25 for use of their personal cell phones for work purposes. Plaintiff used his personal cell phone to
26 communicate with managers, supervisors, and other Aggrieved Employees regarding work issues.
27 Defendants did not reimburse Plaintiff for using their cell phone for work purposes. Plaintiff is informed
28 and believes that Aggrieved Employees used their personal cell phones to communicate with managers,

1 supervisors, and other Aggrieved Employees regarding work issues. Plaintiff is informed and believes
2 that Defendants did not reimburse Aggrieved Employees for using their cell phone for work purposes.

3 20. As a result of Defendants' failure to pay Plaintiff and Aggrieved Employees all overtime
4 wages, minimum wages, and meal and rest period premiums owed, the wage statements Defendants
5 issued were defective. Specifically, Defendants did not accurately list total hours worked, wages due,
6 total missed meal and rest period premiums earned, accurate accrued sick hours, and the corresponding
7 rates of pay. Moreover, Defendants failed to provide Plaintiff and Aggrieved Employees with the
8 accurate accrual sick hours since accrual of sick hours is based on the number of hours worked.

9 21. As a further result of Defendants' failure to pay Plaintiff and Aggrieved Employees for
10 all regular and overtime hours worked, failure to pay meal and rest period premiums, Defendants failed
11 to provide all final wages owed to Plaintiff and Aggrieved Employees within twenty-four (24) hours of
12 their termination or seventy-two (72) hours of their resignation.

13 22. Plaintiff is informed and believes that JONATHAN BROWN and PATRICK MULLEN
14 were the Chief Executive Officer and President of B&M BUILDERS, INC., during the time that
15 Plaintiff worked for Defendants. Mr. BROWN and Mr. MULLEN were responsible for creating,
16 implementing, and overseeing the wage and hour policies and practices outlined herein that resulted in
17 the violation of the California Labor Code.

18 **CAUSES OF ACTION**

19 **FIRST CAUSE OF ACTION**
20 **FAILURE TO PAY OVERTIME WAGES**
21 **(As to all Defendants)**

22 23. Plaintiff incorporates by reference and re-allege paragraphs 1 through 22 as though fully
23 set forth herein.

24 24. During the period Plaintiff was employed by Defendants, Defendants were required to
25 compensate Plaintiffs at one and one-half (1½) times the regular rate of pay for hours worked in excess
26 of eight (8) hours per day and/or forty (40) hours per week, and two (2) times the regular rate of pay for
27 hours worked in excess of twelve (12) hours per day. *See, e.g.,* IWC Wage Order No. 4, section (3)(A);
28 Cal. Lab. Code §§ 510, 1194.

25. Plaintiff worked in excess of eight (8) hours per day and/or forty (40) hours per week on several occasions while employed by Defendants. However, Defendants failed to compensate Plaintiff and for all overtime hours worked at their regular rate of pay.

26. Plaintiff was not exempt from overtime protections employees under the California Wage Orders and Labor Code.

27. As a proximate result of Defendants' conduct, Plaintiff has been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

SECOND CAUSE OF ACTION
FAILURE TO PAY MINIMUM WAGES
(As to all Defendants)

28. Plaintiff incorporates by reference and re-allege paragraphs 1 through 27 as though fully set forth herein.

29. For the period preceding the filing of this Complaint, Defendants were required to compensate Plaintiff at least California's applicable minimum for every hour worked. *See* MW-Order 2019; IWC Wage Order, No. 4, section 4(A); Cal. Lab. Code § 1194.

30. Plaintiff was not exempt to the State's Minimum Wage Order. Defendants were aware of their obligation to pay the minimum wage for each hour worked but failed to do so.

31. As a proximate result of Defendants' conduct, Plaintiff has been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

THIRD CAUSE OF ACTION
MEAL PERIOD VIOLATIONS
(As to all Defendants)

32. Plaintiff incorporates by reference and re-allege paragraphs 1 through 31 as though fully set forth herein.

33. An employer must provide an employee a meal period in accordance with the applicable Wage Order, and California Labor Code sections 226.7 and 512.

1 34. California Labor Code sections 226.7 and 512 and IWC Wage Order No. 4, section 11(A)
2 require an employer to provide an uninterrupted meal period of not less than thirty (30) minutes for each
3 work period of more than five (5) hours.

4 35. California Labor Code section 512 and Wage Order No. 4 section 11(B) further provide
5 that employers may not employ employees for a work period for more than ten (10) hours per day
6 without providing the employee with a second meal period of at least thirty (30) minutes. However, if
7 the total hours worked is no more than twelve (12) hours, the second meal period may be waived so long
8 as there was no waiver as to the first meal period. Employees are entitled to one (1) hour of pay at their
9 regular rate of compensation for each meal period not provided.

10 36. Defendants employed Plaintiff for periods of more than five (5) hours without providing
11 meal breaks of at least thirty (30) minutes or a second meal period of at least thirty (30) minutes when
12 Plaintiff worked more than ten (10) hours in a day. Defendants also failed to allow Plaintiff to take his
13 first meal period before the completion of his fifth hour of work and failed to allow Plaintiff to take his
14 second meal period before the completion of his tenth hour of work. Plaintiff did not waive his rights to
15 all meal periods throughout their employment.

16 37. Defendants further failed to pay Plaintiff the applicable meal period premiums for any
17 such missed meal breaks.

18 38. As a proximate result of Defendants' conduct, Plaintiff has been damaged as stated in the
19 section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth
20 here in full.

21 **FOURTH CAUSE OF ACTION**
22 **REST PERIOD VIOLATIONS**
23 **(As to all Defendants)**

24 39. Plaintiff incorporates by reference and re-allege paragraphs 1 through 38 as though fully
25 set forth herein.

26 40. An employer must provide an employee a rest period in accordance with the
27 applicable Wage Order and California Labor Code section 226.7.
28

1 41. California Labor Code section 226.7 and Wage Order No. 4, section 12(A) require an
2 employer to provide a rest period of not less than ten (10) minutes for each work period of more than
3 four (4) hours or a major fraction thereof.

4 42. Plaintiff alleges that Defendants failed to authorize and permit Plaintiff to take paid
5 rest periods of at least ten (10) minutes for each work period that he worked more than four (4) hours
6 or a major fraction thereof.

7 43. Defendants further failed to pay Plaintiff the applicable rest period premiums for any
8 such missed rest periods.

9 44. As a proximate result of Defendants' conduct, Plaintiff has been damaged as stated in
10 the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set
11 forth here in full.

12 **FIFTH CAUSE OF ACTION**
13 **WAGE STATEMENT VIOLATIONS**
14 **(As to all Defendants)**

15 45. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 44 as though fully
16 set forth herein.

17 46. Pursuant to California Labor Code section 226(a), an employer must provide an itemized
18 statement to an employee, semimonthly or at the time of each payment of wages, showing:

19 *(1) gross wages earned, (2) total hours worked by the employee, except for*
20 *any employee whose compensation is solely based on a salary and who is*
21 *exempt from payment of overtime under subdivision (a) of Section 515 or*
22 *any applicable order of the Industrial Welfare Commission, (3) the*
23 *number of piece-rate units earned and any applicable piece rate if the*
24 *employee is paid on a piece-rate basis, (4) all deductions, provided that*
25 *all deductions made on written orders of the employee may be aggregated*
26 *and shown as one item, (5) net wages earned, (6) the inclusive dates of the*
27 *period for which the employee is paid, (7) the name of the employee and*
28 *the last four digits of his or her social security number or an employee*
identification number other than a social security number, (8) the name
and address of the legal entity that is the employer and, if the employer is
a farm labor contractor, as defined in subdivision (b) of Section 1682, the
name and address of the legal entity that secured the services of the
employer, and (9) all applicable hourly rates in effect during the pay
period and the corresponding number of hours worked at each hourly rate
by the employee. The deductions made from payment of wages shall be
recorded in ink or other indelible form, properly dated, showing the
month, day, and year, and a copy of the statement and the record of the
deductions shall be kept on file by the employer for at least three years at

1 *the place of employment or at a central location within the State of*
2 *California.*

3 47. Plaintiff alleges that Defendants intentionally and knowingly failed to provide an
4 itemized statement or failed to provide an accurate and complete itemized statement showing the
5 requirements set forth in California Labor Code section 226(a). Specifically, Defendants did not
6 accurately itemize all applicable hourly rates in effect during the pay period, all regular, overtime
7 and double time hours worked and corresponding rates of pay, and gross and net wages earned. The
8 paystubs also did not accurately itemize Plaintiff's total hours worked due to Defendants'
9 timekeeping practices, meal and rest period policies and practices that interrupted Plaintiff during his
10 meal and rest breaks, and Plaintiff's off-the-clock work. Plaintiff was not able to promptly and
11 easily determine her total hours worked from her paystubs alone. Additionally, Plaintiff suffered
12 confusion over whether she received all wages owed and was prevented from effectively challenging
13 information on her wage statements.

14 48. As a proximate result of Defendants' conduct, Plaintiff has been damaged as stated in
15 the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set
16 forth here in full.

17 **SIXTH CAUSE OF ACTION**
18 **WAITING TIME PENALTIES**
19 **(As to all Defendants)**

20 49. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 48 as though fully
21 set forth herein.

22 50. An employer must pay an employee who is terminated all unpaid wages immediately
23 upon termination. *See* Cal. Lab. Code § 201.

24 51. An employer must pay an employee who resigns all unpaid wages within seventy-two
25 (72) hours of their resignation. *See* Cal. Lab. Code § 202.

26 52. Plaintiff did not receive all wages, including minimum and overtime wages, meal and rest
27 period premiums, or all sick leave pay owed at his termination or within the required time after his
28 separation from employment.

1 53. An employer who willfully fails to pay an employee wages in accordance with California
2 Labor Code sections 201 and/or 202 must pay the employee a waiting time penalty of up to thirty (30)
3 days. *See* Cal. Lab. Code § 203.

4 54. Defendants knew of their obligation to pay Plaintiff's his final wages when his
5 employment terminated. Indeed, Defendants had knowledge that Plaintiff worked off the clock and
6 worked through meal and rest periods and took late meal and rest periods because Defendants
7 interrupted Plaintiff during Plaintiff's meal period and rest period times and required Plaintiff to drive to
8 different customers to deliver bids that were located approximately one (1) and one half (1/2) hours
9 away from Defendants' office. Defendants knew that Plaintiff worked thirty (30) to forty-five (45)
10 minutes off the clock at the beginning of his shift about one (1) to two (2) times per week and that
11 Plaintiff was not paid for the time he spent responding to texts and phone calls after work hours. Such
12 conduct shows Defendants had knowledge of earned, but unpaid wages at the time of separation, yet
13 Defendants still refused to pay the remaining wages owed.

14 55. As a proximate result of Defendants' conduct, Plaintiff has been damaged and deprived
15 of his wages and thereby seeks her daily rate of pay multiplied by thirty (30) days for Defendants'
16 failure to pay all wages due.

17 **SEVENTH CAUSE OF ACTION**
18 **FAILURE TO REIMBURSE EXPENSES**
19 **(As to all Defendants)**

20 56. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 55 as though fully
21 set forth herein.

22 57. California Labor Code section 2802(a) states that "An employer shall indemnify his or
23 her employee for all necessary expenditures or losses incurred by the employee in direct consequence of
24 the discharge of his or her duties, or of his or her obedience to the directions of the employer, even
25 though unlawful, unless the employee, at the time of obeying the directions, believed them to be
26 unlawful."

27 58. Defendants required Plaintiff to use his personal cell phone to communicate with
28 managers and supervisors for work purposes. Defendants did not reimburse Plaintiff for using his
personal cell phone for work purposes.

59. As a proximate result of Defendants' conduct, Plaintiff has been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

EIGHTH CAUSE OF ACTION
UNFAIR COMPETITION
(As to B&M BUILDERS, INC., and DOES 1 to 100)

60. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 59 as though fully set forth herein.

61. Unfair competition shall mean and include any unlawful, unfair or fraudulent business act or practice and unfair, deceptive, untrue or misleading advertising and any act prohibited by Chapter 1 (commencing with Section 17500) of Part 3 of Division 7 of the Business and Professions Code. *See* California Business and Professions ("B&P") Code § 17200.

62. Plaintiff was not paid all wages owed, including minimum and overtime wages, and meal and rest period premiums, paid sick leave, or reimbursed for business expenses, during his employment or any time thereafter. Moreover, through Defendants conduct Plaintiff was denied statutory protections regarding meal and rest periods.

63. Plaintiff further alleges that such actions and/or conduct constitute a violation of the California Unfair Competition Law ("UCL") (Business and Professions Code 17200 *et seq.*) pursuant to *Cortez v. Purolator Air Filtration Products Co.*, 23 Cal. 4th 163 (2000).

64. As a direct and legal result of the Defendants' conduct, as alleged herein, pursuant to the UCL (including B&P Code §17203), Plaintiff is entitled to restitution, including, but not limited to, interest and penalties pursuant to Business & Professions Code sections 17203, 17208, violations of California Labor Code sections 226.7, 245 *et seq.*, 510, 512, and 1194 all in an amount as yet unascertained but subject to proof at trial, for four (4) years from the filing of this Action.

NINTH CAUSE OF ACTION
PRIVATE ATTORNEYS GENERAL ACT
(As to all Defendants)

65. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 64 as though fully set forth herein.

66. Plaintiff has alleged to the Labor Commissioner that Defendants have violated the following provisions of the Labor Code in their dealings with Plaintiff and other similarly situated current and former employees:

- Violation of Labor Code §§ 510, 1194; IWC Wage Order 4, § 3 (Failure to Pay Overtime Wages)
- Violation of Labor Code §§ 1194, 1197.1; IWC Wage Order 4, § 4 (Failure to Pay Minimum Wages)
- Violation of Labor Code §§ 226.7, 512 and Wage Order No. 4, §§ 11(A) and 11(B) (Failure to Provide Meal Periods or Pay Premiums in Lieu Thereof)
- Violation of Labor Code § 226.7 and Wage Order No. 4, § 12(A) (Failure to Provide Rest Periods or Pay Premiums in Lieu Thereof)
- Violation of Labor Code §§ 226, 226.3 (Failure to Provide Accurate Wage Statements)
- Violation of Labor Code §§ 201-203, 256 (Failure to Pay Final Wages)
- Violation of Labor Code § 2802 (Failure to Pay Reimbursements for Expenses)
- Violation of Labor Code §§ 558, 558.1 (Provisions Regulating Hours and Days of Work in Any Industrial Welfare Commission Order)
- Violation of Labor Code §§ 226.3, 1174 (Failure to Maintain Accurate Records)
- Violation of Labor Code §§ 246, 246.5, 248.5 (Failure to Provide Paid Sick Leave)

67. Plaintiff seeks civil penalties against Defendants as provided in the California Labor Code, or, if no civil penalty is provided, default penalties pursuant to California Labor Code section 2699(f)(2).

68. Plaintiff seeks these civil penalties from Defendants pursuant to California Labor Code sections 2699(a) and 2699.3.

69. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full

DAMAGES

WHEREFORE Plaintiff requests relief as follows:

1. A jury trial;
2. As to the First Cause of Action:
 - a. Wages in an amount to be proven at trial;
 - b. Interest for the wages due pursuant to California Labor Code section 1194;
 - c. For reasonable attorney's fees and costs incurred pursuant to California Labor Code section 1194;
3. As to the Second Cause of Action:
 - a. Wages in an amount to be proven at trial;
 - b. Interest for the wages due pursuant to California Labor Code section 1194;
 - c. For reasonable attorney's fees and costs incurred pursuant to California Labor Code section 1194;
 - d. Liquidated damages pursuant to California Labor Code section 1194.2;
4. As to the Third Cause of Action:
 - a. Wages in an amount to be proven at trial;
 - b. Attorney's fees, costs and interest pursuant to California Code of Civil Procedure section 1021.5;
5. As to the Fourth Cause of Action:
 - a. Wages in an amount to be proven at trial;
 - b. Attorney's fees, costs and interest pursuant to California Code of Civil Procedure section 1021.5;
6. As to the Fifth Cause of Action:
 - a. Penalties as provided for in Labor Code section 226, including the greater of all actual damages or fifty dollars (\$50.00) for the initial pay period in which the violation occurred and one hundred dollars (\$100.00) per employee for each violation in the subsequent pay periods, but not to exceed four thousand dollars (\$4,000.00);
 - b. For reasonable attorney's fees and costs incurred pursuant to Labor Code section 226(e);

1 7. As to the Seventh Cause of Action:

- 2 a. An amount to be proven at trial;
- 3 b. For attorney's fees, interest, and costs pursuant to Labor Code section 2802(c);

4 8. As to the Ninth Cause of Action:

- 5 a. For civil penalties as provided in the Labor Code for each enumerated
- 6 violation;
- 7 b. For those Labor Code sections where there is no civil penalty provided for their
- 8 violation, the default penalty provided in Labor Code section 2699(f): for any
- 9 initial violation, one hundred dollars (\$100) for each aggrieved employee per pay
- 10 period; For any subsequent violation, two hundred dollars (\$200) for each
- 11 aggrieved employee per pay period;
- 12 c. Reasonable attorney's fees and costs pursuant to Labor Code section 2699;
- 13 d. For any other remedies as allowed by law and/or deemed appropriate by the
- 14 Court;

15 9. For such other and further relief as this Court may deem just and proper,

16 including, but not limited to:

- 17 a. Wages as proved at trial;
- 18 b. Injunctive and Declaratory relief;
- 19 c. Attorney's fees and costs as provided for by law; and
- 20 d. Interest.

21

22

23 Dated: March 27, 2024

Shimoda & Rodriguez Law, PC

24

25 By: _____


Galen T. Shimoda
Justin P. Rodriguez
Renald Konini
Attorneys for Plaintiff