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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

10 JESUS JAVIER PENA GAMEZ, an individual,

11 Plaintiff,

12 v.

13 A.E.B.T. INVESTMENTS, INC., a California
14 corporation; FEDEX GROUND PACKAGE
15 SYSTEM, INC., a Delaware corporation; ABE
TAWIL, an individual; and DOES 1 through 20,
inclusive,

16 Defendants.
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Case No. **24STCV08053**

COMPLAINT FOR DAMAGES FOR:

1. **FAILURE TO PAY WAGES (CAL. LABOR CODE §§201, 1194);**
2. **FAILURE TO PAY MINIMUM WAGES (CAL. LABOR CODE §§1182.12, 1194, 1194.2, 1197);**
3. **FAILURE TO PAY OVERTIME COMPENSATION (CAL. LABOR CODE §§510, 1194);**
4. **FAILURE TO PROVIDE ITEMIZED WAGE AND HOUR STATEMENTS (CAL. LABOR CODE §§226, ET SEQ.);**
5. **WAITING TIME PENALTIES (CAL. LABOR CODE §§201-203);**
6. **PRIVATE ATTORNEY GENERAL ACT (CAL. LABOR CODE §2699, ET SEQ);**
7. **FAILURE TO PERMIT INSPECTION OF PERSONNEL AND PAYROLL RECORDS (CAL. LABOR CODE §1198.5);**
8. **UNFAIR COMPETITION (BUS. & PROF. CODE §17200 ET SEQ.); AND**

DEMAND OVER \$25,000

[DEMAND FOR JURY TRIAL]

1 **COMES NOW PLAINTIFF, JESUS JAVIER PENA GAMEZ**, and for causes of action
2 against the Defendants and each of them, alleges as follows:

3
4 **JURISDICTION**

5 1. This Court is the proper court, and this action is properly filed in Los Angeles County,
6 because Defendants' obligations and liability arise therein, because Defendants maintain offices and
7 transact business within Los Angeles County, and because the work that is the subject of this action was
8 performed by Plaintiff in Los Angeles County.

9
10 **THE PARTIES**

11 2. Plaintiff, JESUS JAVIER PENA GAMEZ, is and at all times relevant hereto was a
12 resident of the County of Los Angeles, State of California.

13 3. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant
14 hereto, Defendant A.E.B.T. INVESTMENTS, INC. (hereinafter referred to as "A.E.B.T.") was and is a
15 California corporation doing business at 830 E Alosta Ave, in the County of Los Angeles, State of
16 California.

17 4. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant
18 hereto, Defendant FEDEX GROUND PACKAGE SYSTEM, INC. (hereinafter referred to as "Fedex")
19 was and is a California corporation doing business at 830 E Alosta Ave, in the County of Los Angeles,
20 State of California.

21 5. A.E.B.T. and Fedex are hereinafter collectively referred to as "Employers."

22 6. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant
23 hereto, Employers owned and operated a private parcel delivery service.

24 7. At all times relevant herein, Employers and DOES 1-20 were Plaintiff's employers, joint
25 employers and/or special employers within the meaning of Government Code §§12926, subdivision (d),
26 12940, subdivisions (a),(h),(1), (h)(3)(A), and (i), and 12950, and regularly employ five (5) or more
27 persons and are therefore subject to the jurisdiction of this Court.

1 8. At all times relevant herein, Employers and DOES 1-20 were Plaintiff's employers, joint
2 employers and/or special employers within the meaning of the Labor Code and Industrial Welfare
3 Commission Order No. 9-2001, and are each an "employer or other person acting on behalf of an
4 employer" as such term is used in Labor Code sections 558 and 558.1, and liable to Plaintiff on that basis.

5 9. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant
6 hereto, Defendants ABE TAWIL, and DOES 1-20, were and are individual residents of the County of
7 Los Angeles, State of California, and are hereinafter individually referred to by last name and collectively
8 referred to as the "INDIVIDUAL DEFENDANTS." The INDIVIDUAL DEFENDANTS were
9 Employers' managers, corporate agents, supervisors, and/or employees.

10 10. The true names and capacities, whether individual, corporate, associate, or otherwise, of
11 the Defendants named herein as DOES 1-20, inclusive, are unknown to Plaintiff at this time and therefore
12 said Defendants are sued by such fictitious names. Plaintiff will seek leave to amend this complaint to
13 insert the true names and capacities of said Defendants when the same become known to Plaintiff.
14 Plaintiff is informed and believes, and based thereupon alleges, that each of the fictitiously named
15 Defendants is responsible for the wrongful acts alleged herein, and is therefore liable to Plaintiff as
16 alleged hereinafter.

17 11. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant
18 hereto, Defendants, and each of them, were the agents, employees, managing agents, supervisors,
19 coconspirators, parent corporation, joint employers, alter egos, successors, and/or joint ventures of the
20 other Defendants, and each of them, and in doing the things alleged herein, were acting at least in part
21 within the course and scope of said agency, employment, conspiracy, joint employer, alter ego status,
22 successor status and/or joint venture and with the permission and consent of each of the other Defendants.

23 12. Plaintiff is informed and believes, and based thereupon alleges, that Defendants, and each
24 of them, including those defendants named as DOES 1-20 and the INDIVIDUAL DEFENDANTS, acted
25 in concert with one another to commit the wrongful acts alleged herein, and aided, abetted, incited,
26 compelled and/or coerced one another in the wrongful acts alleged herein, and/or attempted to do so,
27 including pursuant to Government Code §12940(i). Plaintiff is further informed and believes, and based
28 thereupon alleges, that Defendants, and each of them, including those defendants named as DOES 1-20

1 and the INDIVIDUAL DEFENDANTS, and each of them, formed and executed a conspiracy or common
2 plan pursuant to which they would commit the unlawful acts alleged herein, with all such acts alleged
3 herein done as part of and pursuant to said conspiracy, intended to cause and actually causing Plaintiff
4 harm.

5 13. Whenever and wherever reference is made in this complaint to any act or failure to act by
6 a Defendant or co-Defendant, such allegations and references shall also be deemed to mean the acts
7 and/or failures to act by each Defendant acting individually, jointly and severally.

8 14. Plaintiff has filed a PAGA Letter and has thus satisfied Plaintiff's administrative
9 prerequisites with respect to these and all related filings.

10
11 **ALTER EGO, AGENCY, SUCCESSOR AND JOINT EMPLOYER**

12 15. Plaintiff is informed and believes, and based thereon alleges, that there exists such a unity
13 of interest and ownership between Employers and DOES 1-20 that the individuality and separateness of
14 defendants have ceased to exist.

15 16. Plaintiff is informed and believes, and based thereon alleges, that despite the formation of
16 purported corporate existence, Employers and DOES 1-20 are, in reality, one and the same, including,
17 but not limited to because:

18 a. Employers are completely dominated and controlled by one another and DOES 1-
19 20, who personally committed the frauds and violated the laws as set forth in this complaint, and who
20 have hidden and currently hide behind Defendants to perpetrate frauds, circumvent statutes, or
21 accomplish some other wrongful or inequitable purpose.

22 b. Employers and DOES 1-20 derive actual and significant monetary benefits by and
23 through one another's unlawful conduct, and by using one another as the funding source for their own
24 personal expenditures.

25 c. Employers and DOES 1-20, while really one and the same, were segregated to
26 appear as though separate and distinct for purposes of perpetrating a fraud, circumventing a statute, or
27 accomplishing some other wrongful or inequitable purpose.

1 d. Employers do not comply with all requisite corporate formalities to maintain a
2 legal and separate corporate existence.

3 e. The business affairs of Employers and DOES 1-20 are, and at all times relevant
4 were, so mixed and intermingled that the same cannot reasonably be segregated, and the same are in
5 inextricable confusion. Employers are, and at all times relevant hereto were, used by one another and
6 DOES 1-20 as a mere shell and conduit for the conduct of certain of Defendants' affairs, and are, and
7 were, the alter ego of one another and DOES 1-20. The recognition of the separate existence of
8 Defendants would not promote justice, in that it would permit Defendants to insulate themselves from
9 liability to Plaintiff for violations of the Government Code and other statutory violations. The corporate
10 existence of Employers and DOES 1-20 should be disregarded in equity and for the ends of justice
11 because such disregard is necessary to avoid fraud and injustice to Plaintiff herein.

12 17. Accordingly, Employers constitute the alter ego of one another and DOES 1-20, and the
13 fiction of their separate corporate existence must be disregarded.

14 18. As a result of the aforementioned facts, Plaintiff is informed and believes, and based
15 thereon alleges that Employers and DOES 1-20 are Plaintiff's joint employers by virtue of a joint
16 enterprise, and that Plaintiff was an employee of Employers and DOES 1-20. Plaintiff performed services
17 for each and every one of Defendants, and to the mutual benefit of all Defendants, and all Defendants
18 shared control of Plaintiff as an employee, either directly or indirectly, and the manner in which
19 Defendants' business was and is conducted.

20 19. Alternatively, Plaintiff is informed and believes and, based thereupon alleges, that as and
21 between DOES 1-20, Employers, or any of them, (1) there is an express or implied agreement of
22 assumption pursuant to which Employers and/or DOES 1-20 agreed to be liable for the debts of the other
23 Defendants, (2) the transaction between Employers and/or DOES 1-20 and the other Defendants amounts
24 to a consolidation or merger of the two corporations, (3) Employers and/or DOES 1-20 are a mere
25 continuation of the other Defendants, or (4) the transfer of assets to Employers and/or DOES 1-20 is for
26 the fraudulent purpose of escaping liability for Defendants' debts. Accordingly, Employers and/or DOES
27 1-20 are the successors of one or more of the other Defendants, and are liable on that basis.

FACTUAL ALLEGATIONS

20. On or about March 13, 2023, Employers hired Plaintiff to work as a driver. Plaintiff was a full-time, non-exempt employee, and performed all of Plaintiff's job duties satisfactorily before Plaintiff separated from his employment on or around November 10, 2023.

21. Between March 13, 2023 and November 10, 2023, Plaintiff's hourly wage rate was \$17.00. During this time period, Plaintiff's fixed schedule was six days per week, Tuesday through Sunday, for approximately 7 to 14 hours per day.

22. Plaintiff worked approximately ten unpaid hours each week, for which Plaintiff received no wages at all, not Plaintiff's hourly wage rate, or even the requisite minimum wage.

23. Plaintiff worked approximately ten overtime hours each week, but was not paid for these hours at all.

24. Defendants' conduct described herein was undertaken, authorized, and/or ratified by Defendants' officers, directors and/or managing agents, including, but not limited to ABE TAWIL and those identified herein as DOES 1 through 20, who were authorized and empowered to make decisions that reflect and/or create policy for Defendants. The aforementioned conduct of said managing agents and individuals was therefore undertaken on behalf of Defendants who further had advanced knowledge of the actions and conduct of said individuals whose actions and conduct were ratified, authorized, and approved by managing agents whose precise identities are unknown to Plaintiff at this time and are therefore identified and designated herein as DOES 1 through 20, inclusive.

25. As a result of Defendants' actions, Plaintiff has suffered and will continue to suffer general and special damages, and past and future lost wages and benefits.

26. As a result of the above, Plaintiff is entitled to past and future lost wages, bonuses, commissions, benefits.

27. Plaintiff claims general damages in a sum in excess of the jurisdictional minimum of this Court.

28. Because the acts taken toward Plaintiff were carried out by officers, directors and/or managing agents acting in a deliberate, cold, callous, cruel and intentional manner, in conscious disregard of Plaintiff's rights and in order to injure and damage Plaintiff, Plaintiff requests that punitive damages

1 be levied against Defendants and each of them, in sums in excess of the jurisdictional minimum of this
2 Court.

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5 **FIRST CAUSE OF ACTION**
6 **FOR FAILURE TO PAY WAGES DUE**
7 **LABOR CODE §§201, 1182.12, 1194, 1194.2**
8 **AGAINST ALL DEFENDANTS**

9 29. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as
10 though set forth in full herein.

11 30. At all relevant times, Defendants failed and refused to pay Plaintiff wages earned and
12 required by 8 Code of Regulations §11090, as set forth hereinabove. As alleged herein, Defendants
13 routinely failed to pay Plaintiff for hours worked beyond eight in a day or 40 per week.

14 31. As alleged herein, Plaintiff was not exempt from the requirements of Labor Code §510, 8
15 Code of Regulations §11090, and Industrial Welfare Commission Order No. 9-2001.

16 32. Plaintiff has been deprived of Plaintiff's rightfully earned compensation as a direct and
17 proximate result of Defendants' failure and refusal to pay said compensation. Plaintiff is entitled to
18 recover such amounts, plus interest thereon, attorneys' fees and costs.

19 33. Labor Code §558(a) provides that any person acting on behalf of an employer who
20 violates, or causes to be violated, any statute or provision regulating hours and days of work in any order
21 of the Industrial Welfare Commission pay a civil penalty in the amount of \$50 for each underpaid
22 employee for each pay period in which the employee was underpaid in addition to an amount sufficient
23 to recover underpaid wages. Also, Labor Code §558(a) for each subsequent violation, the person acting
24 on behalf of an employer is liable in the amount of \$100 for each underpaid employee for each pay period
25 for which the employee was underpaid in addition to an amount sufficient to recover the underpaid wages.

26 34. In addition to the unpaid wages, Plaintiff is entitled to civil penalties in this amount stated
27 above based upon Defendants' underpayment of minimum and overtime wages. Within the one year
28 immediately preceding the filing of this Complaint, Defendants, and each of them, violated Labor Code

§558 on 18 pay periods, the first of which Defendants are penalized \$50.00, and the remainder of which Defendants are penalized \$100.00 each, for a total due in Labor Code §558 penalties of \$1750.00.

SECOND CAUSE OF ACTION
FOR FAILURE TO PAY MINIMUM WAGES
LABOR CODE §§1182.12, 1194, 1194.2, 1197
AGAINST ALL DEFENDANTS

35. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as though set forth in full herein.

36. Pursuant to Labor Code §1197, payment of less than the minimum wage fixed by law is unlawful. An employer violates the minimum wage statute even if the average rate for paid and unpaid hours exceeded the minimum wage. Under California law, Plaintiff is entitled to at least the minimum wage for every hour worked.

37. The historical minimum wage requirements in California are as follows:

Schedule for California Minimum Wage rate 2017-2023.

Date	Minimum Wage for Employers with 25 Employees or Less	Minimum Wage for Employers with 26 Employees or More
January 1, 2017	\$10.00/hour	\$10.50/hour
January 1, 2018	\$10.50/hour	\$11.00/hour
January 1, 2019	\$11.00/hour	\$12.00/hour
January 1, 2020	\$12.00/hour	\$13.00/hour
January 1, 2021	\$13.00/hour	\$14.00/hour
January 1, 2022	\$14.00/hour	\$15.00/hour
January 1, 2023	\$15.00/hour	

38. In the four years immediately preceding the filing of this complaint, Employers failed and refused to pay Plaintiff the legal minimum wage in the State of California, as set forth in Labor Code §1182.12, in each of the following ways:

a. From March 13, 2023 to November 10, 2023, Plaintiff worked approximately ten hours per week without getting paid anything. Therefore, Plaintiff is owed \$5950.00 calculated at ten unpaid hours per week for 35 weeks, at \$17.00 per hour.

1 39. Thus, for the entirety of the time periods set forth above, Plaintiff is owed unpaid minimum
2 wages in the amount of \$5950.00.

3 40. Defendants' failure to pay the legal minimum wage to Plaintiff as alleged herein is
4 unlawful and creates entitlement, pursuant to Labor Code §1197, to recovery by Plaintiff in a civil action
5 for the unpaid balance of the full amount of the unpaid wages owed, calculated as the difference between
6 the straight time compensation paid and applicable minimum wage, including interest thereon.

7 41. Pursuant to Labor Code §1194, Plaintiff requests that the court award reasonable
8 attorneys' fees and costs incurred by Plaintiff in this action.

9 42. In addition, pursuant to Labor Code §1194.2, Plaintiff is entitled to recover liquidated
10 damages in an amount equal to the minimum wages unlawfully unpaid as previously alleged, an
11 additional \$5950.00, plus interest thereon.

12
13 **THIRD CAUSE OF ACTION**
14 **FOR FAILURE TO PAY OVERTIME COMPENSATION**
15 **LABOR CODE §§510, 1194**
16 **AGAINST ALL DEFENDANTS**

17 43. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as
18 though set forth in full herein.

19 44. Labor Code §510 requires employers to pay their non-exempt employees one and one-half
20 times their regular hourly rate (overtime) for time worked in excess of eight hours in a single day, or 40
21 hours per week, and double their regular hourly rate (double-time) for all hours worked in excess of 12
22 hours in a single day. It also requires employers to pay their non-exempt employees overtime
23 compensation for the first eight hours of work done on the seventh consecutive day of work done in any
24 work week, and double-time compensation for any work done beyond the first eight hours on the seventh
25 consecutive day of work.

26 45. At all relevant times, Defendants required Plaintiff to work more than eight hours per
27 day and/or more than 40 hours per workweek.
28

1 46. At all relevant times, Defendants failed and refused to pay Plaintiff all the overtime
2 compensation required by Labor Code §510, 8 Code of Regulations §11090, and Industrial Welfare
3 Commission Order No. 9-2001.

4 47. In the four years last past, Plaintiff worked ten hours of overtime each week, all of which
5 should have been paid at 1.5 times Plaintiff's regular hourly wage rate at that time. Defendants failed
6 to pay Plaintiff the requisite overtime wages in each of the following ways in the four years
7 immediately preceding the filing of this complaint:

8 a. From approximately March 13, 2023 to November 10, 2023, Plaintiff's hourly
9 overtime rate was \$25.50. During this time period, Plaintiff worked an average of ten hours of overtime
10 each week, for 35 weeks, or 350 hours, but did not receive any wages for these hours at all. Therefore,
11 less the minimum wage portion of \$17.00 per hour which Plaintiff has already claimed in the preceding
12 cause of action, Plaintiff is owed \$8.50 for each of those hours, totaling \$2975.00.

13 48. As alleged herein, Plaintiff is not exempt from the overtime pay requirements of Labor
14 Code §510, 8 Code Regulations §11090, and Industrial Welfare Commission Order No. 9-2001.

15 49. Thus, for the entirety of the time periods set forth above, Plaintiff is owed overtime wages
16 of \$2975.00, above and beyond the minimum wages sought in the preceding cause of action for these
17 same hours.

18 50. Plaintiff has been deprived of Plaintiff's rightfully earned overtime compensation as a
19 direct and proximate result of Defendants' failure and refusal to pay said compensation. Plaintiff is
20 entitled to recover such amounts, plus interest thereon, attorneys' fees, and costs.

21
22 **FOURTH CAUSE OF ACTION**
23 **FOR FAILURE TO PROVIDE ITEMIZED WAGE AND HOUR STATEMENTS**
24 **LABOR CODE §§226 ET SEQ.**
25 **AGAINST ALL DEFENDANTS**

26 51. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as
27 though set forth in full herein.

1 52. Pursuant to Labor Code §§226 and 1174, employers have a duty to provide their non-
2 exempt employees with itemized statements showing total hours worked, hourly wages, gross wages,
3 total deductions and net wages earned. An employer who violates these code sections is liable to its
4 employees for the greater of actual damages suffered by the employee, or, for those violations occurring
5 within the one year immediately preceding the filing of a complaint pursuant to this section, \$50.00 in
6 civil penalties for the initial pay period in which a violation occurred, and \$100.00 per employee for each
7 subsequent pay period, up to a statutory maximum of \$4,000.00. Pursuant to Labor Code §226(e)(2), an
8 employee is deemed to suffer injury for purposes of this subdivision if the employer fails to provide a
9 wage statement at all.

10 53. In addition thereto, pursuant to Labor Code §226.3, an employer who willfully violates
11 Labor Code §226 during the one year immediately preceding the filing of a civil complaint alleging
12 violations of this section, is subject to a \$250.00 civil penalty for the initial pay period in which a violation
13 occurred, and \$1,000.00 per employee for each subsequent pay period, with no maximum.

14 54. At all relevant times, Defendants failed to provide the Plaintiff with timely and accurate
15 wage and hour statements showing gross wages earned, total hours worked, all deductions made, net
16 wages earned, the name and address of the legal entity employing Plaintiff, and all applicable hours and
17 rates in effect during each pay period and the corresponding number of hours worked at each hourly rate
18 by Plaintiff. For the majority of the time and as to nearly all of Plaintiff's wages, Defendants knowingly
19 and intentionally, not inadvertently, failed to provide Plaintiff with accurate paystubs reflecting the actual
20 hours he worked, instead paying Plaintiff according to how much time they believed he should have
21 worked for loading. Not one of the paystubs that Plaintiff received complied with Labor Code §226, and
22 contained almost none of the required information, including hours actually worked.

23 55. As alleged herein, Plaintiff is not exempt from the requirements of Labor Code §226.

24 56. This failure has injured Plaintiff, by misrepresenting and depriving Plaintiff of hour, wage,
25 and earnings information to which Plaintiff is entitled, causing Plaintiff difficulty and expense in
26 attempting to reconstruct time and pay records, causing Plaintiff not to be paid wages Plaintiff is entitled
27 to, causing Plaintiff to be unable to rely on earnings statements in dealings with third parties, eviscerating
28 Plaintiff's right under Labor Code §226(b) to review itemized wage statement information by inspecting

1 the employer's underlying records, and deceiving Plaintiff regarding Plaintiff's entitlement to overtime,
2 meal period, and rest period wages.

3 57. Plaintiff was paid on a bi-weekly basis, and therefore Defendants violated Labor Code
4 §226 approximately 18 times during the one year preceding the filing of this complaint. Consequently,
5 Defendants are liable to Plaintiff for Plaintiff's actual damages, or penalties up to the statutory maximum
6 amount of \$4,000.00, whichever is greater.

7 58. In addition, for Defendant's 18 violations, Defendants are penalized \$250.00 for the first
8 violation, and the remainder for which Defendants are penalized \$1000.00 each, for a total due in Labor
9 Code §226.3 penalties of \$17,250.00.

10 59. Based on Defendants' conduct as alleged herein, Defendants are liable for damages and
11 statutory penalties pursuant to Labor Code §226, civil penalties pursuant to Labor Code §226.3, and other
12 applicable provisions, as well as attorneys' fees and costs.

13
14
15 **FIFTH CAUSE OF ACTION**
16 **FOR WAITING TIME PENALTIES**
17 **LABOR CODE §§201-203**
18 **AGAINST ALL DEFENDANTS**

19 60. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as
20 though set forth in full herein.

21 61. At all relevant times, Defendants failed to pay all of the Plaintiff's accrued wages and
22 other compensation due immediately upon termination or within 72 hours of resignation, as required.
23 These wages refer to, at a minimum, unpaid minimum wages, overtime compensation, and meal and rest
24 period compensation that Defendants should have paid, but did not pay to Plaintiff during the term of
25 Plaintiff's employment and which were, at the latest, due within the time restraints of Labor Code §§201-
26 203.

27 62. As alleged herein, Plaintiff is not exempt from the requirements of Labor Code §§201-
28 203.

1 63. As a direct and proximate result of Defendants' willful failure to pay these wages, Plaintiff
2 is entitled to payment of Plaintiff's overtime, meal and rest periods as previously pleaded herein, and
3 more than \$5610.00 in wait time penalties, calculated based on 30 days of Plaintiff's daily wage rate of
4 \$187.00, inclusive of overtime.

5 64. Based on Defendants' conduct as alleged herein, Defendants are liable for \$5610.00 in
6 statutory penalties pursuant to Labor Code §203 and other applicable provisions, as well as attorneys'
7 fees and costs.

8
9 **SIXTH CAUSE OF ACTION**
10 **FOR PRIVATE ATTORNEY GENERAL ACT**
11 **LABOR CODE §2699**
12 **AGAINST ALL DEFENDANTS**

13 65. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as
14 though set forth in full herein.

15 66. Under Labor Code §2699, Plaintiff, as an aggrieved employee, may bring an action against
16 Defendants, on behalf of himself and other current or former employees, seeking statutory civil penalties
17 for Defendants' violations of the California Labor Code.

18 67. Plaintiff was an aggrieved employee within the meaning of Labor Code §§2699(c) and
19 2699.3(a), as Defendants have committed multiple California Labor Code violations against Plaintiff, as
20 previously pleaded in this Complaint.

21 68. On January 17, 2024, more than 65 calendar days before filing this Complaint, Plaintiff
22 provided written notice by certified mail to the Labor and Workforce Development Agency and to
23 Defendants of the specific provisions of the California Labor Code that Defendants violated, thereby
24 satisfying the requirements of Labor Code §2699.3(a). These violations included Labor Code §§ 201,
25 202, 203, 226, 510, 1174, 1182.12, 1194, 1194.2, and 1197, each of which is enumerated among the
26 serious violations set forth in Labor Code §2699.5.

1 69. As of the filing of this Complaint, Plaintiff has not received any response from the Labor
2 and Workforce Development Agency on its intent to pursue an action against Defendants. Consequently,
3 Plaintiff may now commence a civil action, pursuant to Labor Code §2699.3.

4 70. As a direct and proximate result of Defendants' California Labor Code violations as set
5 forth in this Complaint, Plaintiff is entitled to civil penalties of \$100 for each aggrieved employee per
6 pay period for initial violation of each Labor Code section pleaded above and occurring within the year
7 immediately preceding the filing of the Complaint, and \$200 for each aggrieved employee per pay period
8 for each subsequent violation, pursuant to Labor Code §2699(f), for those Labor Code sections not
9 expressly providing for a penalty (201-203, 1174/226, 510, 1194/1197, and civil penalties provided by
10 the specific Labor Code sections that do expressly provide for a penalty.

11 71. These penalties are recoverable for Plaintiff alone for each of the violations occurring
12 within the calendar year immediately preceding the filing of this Complaint. Further, Plaintiff may also
13 seek these same penalties on behalf of all other aggrieved employees.

14 72. Plaintiff is also entitled to reasonable attorney's fees and costs, and 25% of the recovered
15 civil penalties, pursuant to Labor Code §§2699(g)(1)-(i).

16
17 **SEVENTH CAUSE OF ACTION**
18 **FAILURE TO PERMIT INSPECTION OF PERSONNEL AND PAYROLL RECORDS**
19 **LABOR CODE §1198.5**
20 **AGAINST ALL DEFENDANTS**

21 73. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as
22 though set forth in full herein.

23 74. Labor Code §1198.5 requires an employer, within thirty (30) days of a written request
24 thereof, to inspect or receive a copy of an employee's personnel and payroll records. An employer's
25 failure to do so subjects the employer to a \$750.00 penalty, payable to the employee.

26 75. On January 11, 2024, Plaintiff made a written request to inspect or receive a copy of
27 Plaintiff's personnel and payroll records from Defendants, which Defendants received.

1 76. Defendants failed and refused to permit Plaintiff's inspection of Plaintiff's personnel and
2 payroll records, and failed to provide a copy of Plaintiff's personnel and payroll records to Plaintiff within
3 the time required by Labor Code §1198.5, or ever.

4 77. As a result of Defendants' failure and refusal to comply with Labor Code §1198.5,
5 Plaintiff is entitled to recover from Defendants a civil penalty of \$750.00.

6
7 **EIGHTH CAUSE OF ACTION**
8 **FOR UNFAIR COMPETITION**
9 **BUSINESS & PROFESSIONS CODE §§17200, ET SEQ.**
10 **AGAINST ALL DEFENDANTS**

11 78. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as
12 though set forth in full herein.

13 79. Defendants' violations of 8 Code of Regulations §11090, Industrial Welfare Commission
14 Order No. 9-2001, Labor Code §§201-203, 226, 510, 1182.12, 1194, 1194.2, 1197, 1198.5, 2699, and
15 other applicable provisions, as alleged herein, including: Defendants' failure and refusal to pay minimum
16 wages, overtime wages, Defendants' failure to provide timely and accurate wage and hour statements,
17 Defendants' failure to pay compensation due in a timely manner upon termination or resignation, and
18 Defendants' failure to maintain complete and accurate payroll records for the Plaintiff, constitute unfair
19 business practices in violation of Business & Professions Code §§17200, et seq.

20 80. As a result of Defendants' unfair business practices, Defendants have reaped unfair
21 benefits and illegal profits at the expense of Plaintiff and members of the public. Defendants should be
22 made to disgorge their ill-gotten gains and restore such monies to Plaintiff.

23 81. Defendants' unfair business practices entitle Plaintiff to seek preliminary and permanent
24 injunctive relief, including but not limited to orders that the Defendants account for, disgorge, and restore
25 to the Plaintiff the overtime compensation and other monies and benefits unlawfully withheld from
26 Plaintiff.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff seeks judgment against Defendants and each of them, in an amount according to proof as follows:

1. For a money judgment representing compensatory damages including lost wages, earnings, commissions, retirement benefits, and other employee benefits, and all other sums of money, together with interest on these amounts; for other special damages; and for general damages;

2. For payment of unpaid minimum wage compensation pursuant to Labor Code §§1182.12, 1194, 1194.2, 1197, and Industrial Welfare Commission Order No. 9-2001, in the amount of no less than \$5950.00;

3. For liquidated damages pursuant to Labor Code §1194.2 in the amount of \$5950.00, plus interest;

4. For payment of unpaid overtime compensation pursuant to Labor Code §§201, 510, 1194, Industrial Welfare Commission Order No. 9-2001, and 8 Code of Regulations §11090, in the amount of no less than \$2975.00;

5. For statutory penalties or damages pursuant to Labor Code §558 in the amount of no less than \$1750.00;

6. For statutory penalties or damages pursuant to Labor Code §226.3 in the amount of no less than \$17,250.00;

7. For waiting time penalties pursuant to Labor Code §§201-203 in the amount of no less than \$5610.00;

8. For statutory penalties pursuant to Labor Code §2699(f), on Plaintiff's own behalf, and similar amounts on behalf of all of Defendants' aggrieved employees, according to proof;

9. For statutory penalties pursuant to Labor Code §1198.5 in the amount of no less than \$750.00;

10. For prejudgment interest on each of the foregoing at the legal rate from the date the obligation became due through the date of judgment in this matter.

WHEREFORE, Plaintiff further seeks judgment against Defendants, and each of them, in an amount according to proof, as follows:

1 11. For a declaratory judgment reaffirming Plaintiff's equal standing under the law and
2 condemning Defendants' discriminatory practices;

3 12. For injunctive relief barring Defendants' discriminatory employment policies and
4 practices in the future, and restoring Plaintiff to Plaintiff's former position with Defendants;

5 13. For punitive damages, pursuant to Civil Code §§3294 in amounts sufficient to punish
6 Defendants for the wrongful conduct alleged herein and to deter such conduct in the future;

7 14. For injunctive relief compelling Defendants to report to federal and state authorities wages
8 earned by Plaintiff, and other employees, and pay all state and federal taxes owing, employer matching
9 funds, unemployment premiums, social security, Medicare, and workers' compensation premiums, all
10 this in an amount according to the proof;

11 15. For restitutionary disgorgement of profits garnered as a result of Defendants' unlawful
12 conduct, misclassification of Plaintiff as an independent contractor, and failure to pay wages and other
13 compensation in accordance with the law;

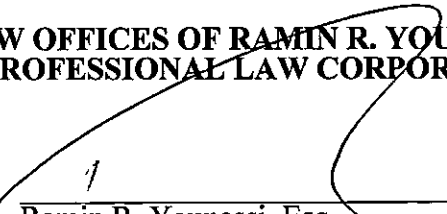
14 16. For costs of suit, attorneys' fees, and expert witness fees pursuant to the FEHA, Labor
15 Code and/or any other basis;

16 17. For post-judgment interest; and

17 18. For any other relief that is just and proper.

18 DATED: March 11, 2024

LAW OFFICES OF RAMIN R. YOUNESSI
A PROFESSIONAL LAW CORPORATION

19
20 By: 

Ramin R. Younessi, Esq.
Attorney for Plaintiff
JESUS JAVIER PENA GAMEZ

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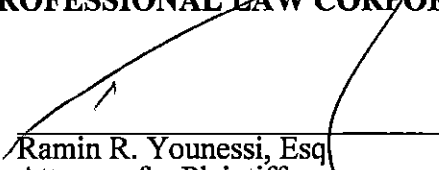
JURY TRIAL DEMANDED

Plaintiff demands trial of all issues by jury.

DATED: March 11, 2024

**LAW OFFICES OF RAMIN R. YOUNESSI
A PROFESSIONAL LAW CORPORATION**

By:



Ramin R. Younessi, Esq
Attorney for Plaintiff
JESUS JAVIER PENA GAMEZ