

JUL 19 2024

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19 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
20 **COUNTY OF SAN JOAQUIN**

21 DONOVAN HOPKINS, Individually, and On
22 Behalf of All Others Similarly Situated,

23 Plaintiff,

24 v.

25 LIMEGUYS, INC. D/B/A GRIFFIN
26 MATERIALS, a California Corporation; and
DOES 1 through 100, Inclusive,

27 Defendants.
28

Case No. STK-CV-UOE-2024-0004093

**STIPULATED REQUEST FOR LEAVE
TO FILE FIRST AMENDED
COMPLAINT AND ~~PROPOSED~~ ORDER**

*Assigned for All Purposes to Hon. Jayne Lee,
Dept. 10C*

Action Filed; April 3, 2024
Trial Date: None Set

Filed JUL 22 2024
STEPHANIE BOHRER, CLERK
By  DEPUTY

ORIGINAL **FAXED**

1 TO THE HONORABLE COURT:

2 Plaintiff Donovan Hopkins ("Plaintiff"), by and through his attorneys of record, and
3 Defendant Limeguys, Inc. D/B/A Griffin Materials ("Defendant"), by and through its attorneys of
4 record, hereby submits this stipulated request for an order granting Plaintiff leave to file a First
5 Amended Complaint:

6 **STIPULATION**

7 WHEREAS, Plaintiff filed his Complaint against Defendant in this matter on April 3, 2024
8 ("Complaint");

9 WHEREAS, Plaintiff provided notice of his intent to pursue civil penalties California Labor
10 Code Private Attorneys General Act of 2004 ("PAGA" or "the Act") (Lab. Code § 2698 *et seq.*), on
11 behalf of himself and all other similarly aggrieved current and former non-exempt employees of
12 Defendant to the Labor Workforce Development Agency ("LWDA") on February 26, 2024;

13 WHEREAS, Labor Code section 2699.3(a) provides in pertinent part that: "The [LWDA] shall
14 notify the employer and the aggrieved employee or representative by certified mail that it does not
15 intend to investigate the alleged violation within 60 calendar days of the postmark date of the notice
16 received... [u]pon receipt of that notice or if no notice is provided within 65 calendar days of the
17 postmark date of the notice given... the aggrieved employee may commence a civil action pursuant to
18 Section 2699[]";

19 WHEREAS, Defendant filed its Answer to Plaintiff's Complaint on May 10, 2024;

20 WHEREAS, Sixty-five calendar days passed since Plaintiff served notice upon the LWDA and
21 Defendant of his intent to seek penalties under PAGA, and the LWDA did not provide notice of its
22 intent to investigate Plaintiff's claims.

23 WHEREAS, Plaintiff exhausted his obligation to provide administrative notice and is
24 authorized to commence a representative action seeking civil penalties on behalf of himself against
25 Defendant;

26 WHEREAS, Plaintiff now intends to amend his Complaint to add a cause of action seeking
27 PAGA penalties for the underlying Labor Code claims asserted in his Complaint;

28 WHEREAS, Plaintiff's [Proposed] First Amended Complaint is attached hereto as **Exhibit 1**;

1 WHEREAS, Defendant does not object to Plaintiff's request for leave to file the [Proposed]
2 First Amended Complaint, though it denies all such allegations; and

3 WHEREAS, the parties wish to avoid burdening the Court with an otherwise unnecessary
4 Motion for Leave to File a First Amended Complaint.

5 NOW THEREFORE, given the foregoing, the parties, by and through their respective
6 attorneys of record, hereby Stipulate and Agree to the following:

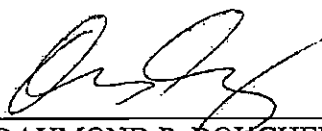
7 1. Good cause exists for granting Plaintiff leave to file the [Proposed] First Amended
8 Complaint at this time in the form attached hereto as **Exhibit 1**;

9 2. Defendant shall have 30 calendar days from the date of service of Plaintiff's filed
10 [Proposed] First Amended Complaint to file a response thereto;

11 **IT IS SO STIPULATED.**

12
13 DATED: July 17, 2024

BOUCHER LLP

14
15 By: 
16 RAYMOND P. BOUCHER
ALEXANDER GAMEZ

17
18 *Attorneys for Plaintiff Donovan Hopkins*

19
20
21 DATED: July 17, 2024

LITTLER MENDELSON, P.C.

22
23
24 By: 
25 BARBARA A. BLACKBURN
NATHANIEL H. JENKINS

26
27 *Attorneys for Defendant Limeguys, Inc. D/B/A*
Griffin Materials

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~~PROPOSED~~ ORDER

The Court, having considered the foregoing stipulation between the parties and finding good cause exists to allow Plaintiff leave to amend his complaint, hereby GRANTS the parties' stipulated request granting Plaintiff leave to file a First Amended Complaint and enters the following orders:

1. Plaintiff's First Amended Complaint in the form attached hereto as **Exhibit 1** is deemed filed as of the date of entry of this Order;

2. Defendant shall have 30 calendar days from the date of service of Plaintiff's filed ~~Proposed~~ First Amended Complaint to file a response thereto.

IT IS SO ORDERED.

DATED: July 22, 2024

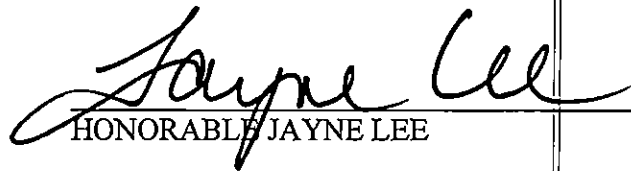

HONORABLE JAYNE LEE

EXHIBIT 1

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN JOAQUIN

DONOVAN HOPKINS, Individually, and On
Behalf of All Others Similarly Situated,

Plaintiff,

v.

LIMEGUYS, INC. D/B/A GRIFFIN
MATERIALS, a California Corporation; and
DOES 1 through 100, Inclusive,

Defendants.

Case No. STK-CV-UOE-2024-0004093

**[PROPOSED] FIRST AMENDED CLASS
ACTION COMPLAINT**

1. Failure To Pay For All Hours Worked [Lab. Code §§ 1194, 1197, 1198, And 1199];
2. Failure To Pay Overtime Compensation [Lab. Code § 510];
3. Failure To Provide Meal Periods [Lab. Code §§ 226.7 and 512];
4. Failure To Authorize and Permit Rest Periods [Lab. Code § 226.7];
5. Failure to Indemnify for Business Expenses [Lab. Code § 2802];
6. Failure To Furnish Complete and Accurate Wage Statements [Lab. Code § 226(a)];
7. Failure To Timely Pay Wages Upon Termination Or Resignation [Lab. Code §§ 201, 202, And 203];
8. Unfair Business Practices [Bus. & Prof. Code §§ 17200, *Et Seq.*]; and
9. Violation of The Private Attorneys general Act of 2004 ("PAGA") [Lab. Code §§ 2699, *Et Seq.*]

DEMAND FOR JURY TRIAL

Plaintiff DONOVAN HOPKINS ("Plaintiff"), an individual, on behalf of himself and all others similarly situated, and aggrieved employees hereby alleges the following facts and claims against LIMEGUYS, INC. D/B/A GRIFFIN MATERIALS ("GRIFFIN") and DOES 1 through 100, inclusive ("Defendants"), and respectfully requests a trial by jury of all issues and causes of action so triable:

I. INTRODUCTION

1. This class action and representative action complaint challenges Defendants' past and ongoing unlawful employment practices and policies on behalf of Plaintiff, aggrieved employees, and similarly situated current and former non-exempt employees of Defendants in California, whose rights Defendants violated and continue to violate under California laws.

2. Specifically, with regard to Plaintiff and similarly situated current and former non-exempt employees, Defendants have uniformly and systematically:

- a. Failed to pay all wages owed in violation of Labor Code sections 1194 and 1197 and Sections 4 and 5 of the IWC Wage Order(s);
- b. Failed and continue to fail to pay all overtime compensation owed for time worked in excess of either eight hours in one work day or forty hours in one work week in violation of Labor Code section 510 and Section 3 of the applicable IWC Wage Order(s);
- c. Failed and continue to fail to provide meal periods in violation of Labor Code sections 226.7 and 512 and Section 11 of the IWC Wage Order(s);
- d. Failed and continue to fail to authorize and permit all paid rest periods in violation of Labor Code section 226.7 and Section 12 of the IWC Wage Order(s);
- e. Failed and continue to fail to indemnify for business expenses in violation of Labor Code section 2802;
- f. Failed and continue to fail to furnish complete and accurate itemized wage

statements in violation of Labor Code section 226, subdivision (a);

g. With regard to former non-exempt employees only, willfully failed and continue to fail to pay, without abatement or reduction, all final wages owed in accordance with Labor Code sections 201 and 202, in violation of Labor Code section 203; and

h. Committed and continue to commit unfair business practices in violation of California Business & Professions Code section 17200, *et seq.*

3. The acts complained of herein occurred, occur and will occur, at least in part, within the time period from four (4) years preceding the filing of the original Complaint herein, up to and through the time of trial for this matter, although this should not automatically be considered the statute of limitations for any cause of action herein.

4. As a result of the foregoing, Plaintiff seeks monetary damages, civil penalties, injunctive relief, restitution, reasonable attorneys' fees, costs, and interest.

5. On February 26, 2024, Plaintiff submitted notice to the California Labor and Workforce Development Agency ("LWDA"), identifying Defendants' alleged violations of California's Labor Code together with facts and theories supporting the alleged violation, pursuant to Labor Code 2699.3. Because the LWDA did not respond with advisement of its intent to investigate the alleged violations within the requisite time, Plaintiff hereby files this first amended Complaint to allege a representative action claim pursuant to the California Private Attorneys General Act of 2004 (Lab. Code § 2698 *et seq.*) on behalf of the LWDA for Defendants' aggrieved employees. PAGA permits an aggrieved employee to bring a lawsuit on behalf of himself and other current and former non-exempt employees ("aggrieved employees") to recover civil penalties for an employer's violation of the California Labor Code.

II. PARTIES

6. Plaintiff DONOVAN HOPKINS is an individual over the age of eighteen (18), and is now and/or at all times mentioned in this Complaint a California citizen residing in San Joaquin County, California. Plaintiff worked for Defendants as a non-exempt field worker at Griffin's shop location in Redwood City from approximately October 2, 2023 to January 8 2024. At all times herein,

1 Plaintiff was and is an “employee” as that term is used in the Labor Code and IWC Wage Orders
2 regulating wages, hours, and working conditions.

3 7. Plaintiff seeks the recovery alleged herein from Defendants because, at all times
4 while working for Defendants in his capacity as a non-exempt employee, Defendants:

- 5 a. Failed to pay all wages owed in violation of Labor Code sections 1194 and
6 1197 and Sections 4 and 5 of the IWC Wage Order(s);
- 7 b. Failed to fail to pay all overtime compensation owed for time worked in excess
8 of either eight hours in one work day or forty hours in one work week in
9 violation of Labor Code section 510 and Section 3 of the IWC Wage Order(s);
- 10 c. Failed to provide meal periods in violation of Labor Code sections 226.7 and
11 512 and Section 11 of the IWC Wage Order(s);
- 12 d. Failed to authorize and permit all paid rest periods in violation of Labor Code
13 sections 226.7 and Section 12 of the IWC Wage Order(s);
- 14 e. Failed to indemnify for business expenses incurred in violation of Labor Code
15 section 2802;
- 16 f. Failed to furnish complete and accurate itemized wage statements in violation
17 of Labor Code section 226, subdivision (a), and Section 7 of the IWC Wage
18 Order(s);
- 19 g. Violated Labor Code section 203 by willfully failing to pay, without abatement
20 or reduction, all final wages owed in accordance with Labor Code sections 201
21 and 202; and
- 22 h. Conducted unfair business practices in violation of Business & Professions
23 Code section 17200, *et seq.*

24 8. Defendant LIMEGUYS, INC. D/B/A GRIFFIN MATERIALS (“GRIFFIN”) is a
25 California corporation headquartered in Stockton, California, and is registered with the California
26 Secretary of State to do business within California. GRIFFIN, at all relevant times herein has
27 conducted business within California, and is the owner and operator of an industry, business
28 and/or facility licensed to do business and actually doing business in the State of California as a

1 convalescent home. On information and belief, GRIFFIN's principal place of business is, as listed
2 on the California Secretary of State's website, 248 Industrial Drive, Stockton, CA 95206.
3 However, GRIFFIN maintains divisions throughout California, including Redwood City.
4 Defendant GRIFFIN is an "employer" as the term is used in the Labor Code and IWC Wage
5 Orders.

6 9. The Defendants sued by the fictitious names DOES 1 through 100, inclusive, are on
7 information and belief now, and/or at all times mentioned in this Complaint were licensed to do
8 business and/or actually doing business in California, including San Joaquin County, and each of
9 the fictitiously named Defendants is responsible for the conduct alleged in this Complaint.
10 Plaintiff does not know the true names or capacities, whether individual, partner or corporate, of
11 DOES 1 through 100, inclusive and for that reason, DOES 1 through 100 are sued under such
12 fictitious names pursuant to Code of Civil Procedure section 474. Plaintiff will seek leave of court
13 to amend this Complaint to allege such names and capacities as soon as they are ascertained.

14 10. Defendants, and each of them, are now and/or at all times mentioned in this
15 Complaint were in some manner legally responsible for the events, happenings and circumstances
16 alleged in this Complaint.

17 11. Defendants, and each of them, proximately subjected Plaintiff to the unlawful
18 practices, wrongs, complaints, injuries and/or damages alleged in this Complaint.

19 12. Defendants, and each of them, are now and/or at all times mentioned herein were
20 the agents, servants and/or employees of some or all other Defendants, or vice-versa, and in doing
21 the things alleged in this Complaint, Defendants are now and/or at all times mentioned in this
22 Complaint were acting within the course and scope of that agency, servitude and/or employment.

23 13. Defendants, and each of them, are now and/or at all times mentioned in this
24 Complaint were members of and/or engaged in a joint venture, partnership and common
25 enterprise, and were acting within the course and scope of, and in pursuance of said joint venture,
26 partnership and common enterprise.

27 14. Defendants, and each of them, at all times mentioned in this Complaint concurred
28 and contributed to the various acts and omissions of each and every one of the other Defendants in

1 proximately causing the complaints, injuries and/or damages alleged in this Complaint.

2 15. Defendants, and each of them, at all times mentioned in this Complaint approved
3 of, condoned and/or otherwise ratified each and every one of the acts and/or omissions alleged in
4 this Complaint.

5 16. Defendants, and each of them, at all times mentioned in this Complaint aided and
6 abetted the acts and omissions of each and every one of the other Defendants thereby proximately
7 causing the damages alleged in this Complaint.

8 **III. JURISDICTION AND VENUE**

9 17. The California Superior Court has jurisdiction in this matter pursuant to California
10 Constitution Article VI, Section 10, which grants the Superior Court "original jurisdiction in all
11 causes except those given by statute to other trial courts." The statutes under which this action is
12 brought do not specify any other specific basis for jurisdiction.

13 18. The California Superior Court also has jurisdiction in this matter because both the
14 individual and aggregate monetary damages and restitution sought herein exceed the minimal
15 jurisdictional limits of the Superior Court and will be established at trial, according to proof.

16 19. The California Superior Court also has jurisdiction over Defendants because they are
17 corporations and/or entities and/or persons with sufficient minimum contacts in California, are
18 citizens of California, or otherwise intentionally availed themselves of the California market so as to
19 render the exercise of jurisdiction over them by the California courts consistent with traditional
20 notions of fair play and substantial justice.

21 20. Venue is proper in the Superior Court of California, County of San Joaquin pursuant
22 to Code of Civil Procedure section 395(a) and Code of Civil Procedure section 395.5 in that
23 liability arose there because at least some of the acts and omissions that are the subject matter of this
24 Complaint occurred therein and/or each Defendant either is found, maintains offices, transacts
25 business, exists, and/or has an agent therein.

26 **IV. GENERAL ALLEGATIONS**

27 21. Plaintiff and the class members are current and former non-exempt, hourly paid
28 employees of Defendants and thus have performed work for Defendants, and/or on Defendants'

1 behalf, in the State of California.

2 22. Plaintiff alleges that Defendants adopted and maintained uniform policies, practices
3 and procedures governing the working conditions of, and payment of wages to, Plaintiff and the
4 class members. As alleged below, Defendants' uniform policies, practices and procedures violated
5 California's labor laws and constituted unfair, fraudulent or illegal business practices under
6 Business & Professions Code section 17200 *et seq.*

7 23. During the relevant statutory period, Defendants failed to pay Plaintiff and non-
8 exempt employees all wages including all overtime compensation owed for time worked in excess
9 of either eight hours in one work day or forty hours in one work week due to its illegal time
10 rounding policy. For example, Plaintiff's manager physically wrote down all of Plaintiff's time
11 entries in his weekly time sheets. However, all time entries were for full hour periods with start
12 and stop time and auto 30 minute meal deduction irrespective of what time Plaintiff began or
13 completed the portions of his shift and whether a compliant meal period was provided.

14 24. During the relevant statutory period, Defendants failed to pay Plaintiff and non-
15 exempt employees all wages including all overtime compensation owed for time worked in excess
16 of either eight hours in one work day or forty hours in one work week due to its off the clock
17 policy. For example, Plaintiff would often arrive 5 to 15 minutes prior to the start of his scheduled
18 shift to acquire tools for his work and would continue working beyond the scheduled shift without
19 compensation for this time.

20 25. During the relevant statutory period, Defendants failed to pay Plaintiff and non-
21 exempt employees all reporting time pay. For example, Plaintiff regularly worked shifts of at least
22 8 hours. However, on or around Saturday December 9, 2023, Plaintiff attended a 3 hour safety
23 meeting and Defendants only paid him 3 hours instead of the minimum of 4 hours reporting time
24 pay pursuant to section 5 of the applicable wage order.

25 26. During the relevant statutory period, Defendants failed to compensate Plaintiff and
26 non-exempt employees for all overtime hours worked after eight hours in a day and/or after forty
27 hours in a week due to Defendants' policy and practice of failing to compensate them all overtime
28 compensation based upon the appropriate regular rate of pay by not taking into account all

1 remuneration paid, including non-discretionary bonuses earned.

2 27. During the relevant statutory period, Defendants failed to provide Plaintiff and its
3 non-exempt hourly employees with a meal period within five (5) hours of commencing work and a
4 second meal period within ten (10) hours of commencing work, as required by California law and
5 failed to pay meal period premiums for the in compliant meal periods. For example, Defendants
6 automatically deducts 30 minutes from Plaintiff's time worked when meal periods were not
7 recorded irrespective of whether the meal period was taken or not and if it was either taken late or
8 is actually less than 30 minutes. Furthermore, Plaintiff worked multiple shifts of over ten hours
9 without being provided a second meal period or paid a meal period premium for the missed meal
10 period. In addition, if meal periods are taken, they were effectively short given the walk time
11 required for Plaintiff to and from the break area.

12 28. During the relevant statutory period, Defendants failed to relinquish control over
13 Plaintiff and its non-exempt employees to provide them with legally-compliant ten (10) minute
14 off-duty rest periods for every four (4) hours of work or major fraction thereof, as required by
15 California law and failed to pay meal period premiums for the in compliant meal periods. Plaintiff
16 and other hourly non-exempt employees typically worked and work eight hours per day, and
17 Defendants' policies and practices routinely prevented and prevent them from taking the off-duty
18 ten minute rest periods they are entitled to by making non-exempt employees either miss their rest
19 periods altogether, work through their rest periods, take untimely rest periods, or take shortened
20 rest periods.

21 29. During the relevant statutory period, Defendants failed to indemnify Plaintiff and
22 non-exempt employees for necessary expenditures incurred in direct consequence of the discharge
23 of work duties. For example, Plaintiff was required to use his cell phone and service data to notify
24 supervisors of the amount of trucks unloaded and photos of job-related tasks and was not
25 reasonably reimbursed for the costs incurred.

26 30. During the relevant statutory period, Defendants furnished Plaintiffs and non-
27 exempt employees with inaccurate itemized wage statements. For example, Plaintiff's wage
28 statements are in compliant as the total hours therein include "Hourly - Vacation" in the total hours

1 column. Lastly, as a result of alleged violations discussed above, Defendants furnished wage
2 statements that failed to correctly show, among other items: (1) the gross wages earned, (2) all
3 deductions, and (3) net wages earned.

4 31. During the relevant statutory period, Defendants failed to pay its former non-
5 exempt hourly employees all wages owed at the time of separation of employment. For example,
6 Plaintiff's employment concluded on or around January 8, 2024 and he has yet to receive all wage
7 owed as a result of the violations described above.

8 32. Plaintiff is informed and believes, and based thereon alleges, that each and every
9 one of the acts and omissions alleged herein was performed by, and/or attributable to, Defendants
10 GRIFFIN and/or DOES 1-100 acting as agents and/or employees, and/or under the direction and
11 control of Defendants, and that said acts and failure to act were within the course and scope of said
12 agency, employment, and/or direction and control, and were committed willfully.

13 33. As a direct and proximate result of Defendants' unlawful actions, Plaintiff and the
14 class members have suffered and continue to suffer from loss of earnings and penalties in amounts
15 as yet to be ascertained, but subject to proof at trial in amounts in excess of the minimum
16 jurisdiction of this Court.

17 **V. CLASS ACTION ALLEGATIONS**

18 34. Plaintiff brings this class action complaint against Defendants, individually, and on
19 behalf of all others similarly situated pursuant to Code of Civil Procedure section 382. This action
20 may be brought and properly maintained as a class action because as set forth herein Plaintiff
21 satisfies the numerosity, adequacy, typicality, and commonality pre-requisites for suing as
22 representative parties pursuant to Code of Civil Procedure section 382.

23 35. Description of the Classes: The classes Plaintiff will seek to certify are currently
24 composed of and defined as follows:

- 25 a. All persons employed by Defendants as hourly non-exempt employees in the
26 state of California who, at any time from April 2, 2020 through the conclusion
27 of this action, were subject to Defendants' policies and practices regarding the
28 rounding of employee time records (hereinafter, the "Rounding Class");

- b. All persons employed by Defendants as hourly non-exempt employees in the state of California who, at any time from April 2, 2020 through the conclusion of this action, were subject to Defendants' policies and practices regarding reporting time pay (hereinafter, the "Reporting Time Pay Class");
- c. All persons employed by Defendants as hourly non-exempt employees in the state of California who, at any time from April 2, 2020 through the conclusion of this action, were subject to Defendants' policies and practices regarding off the clock work (hereinafter, the "Off The Clock Class");
- d. All persons employed by Defendants as hourly non-exempt employees in the state of California who, at any time from April 2, 2020 through the conclusion of this action, were subject to Defendants' policies and practices regarding the calculation of the regular rate of pay for overtime compensation (hereinafter, the "Regular Rate Class");
- e. All persons employed by Defendants as hourly non-exempt employees in the state of California who, at any time from April 2, 2020 through the conclusion of this action, were subject to Defendants' policies and practices regarding meal periods (hereinafter, the "Meal Period Class");
- f. All persons employed by Defendants as hourly non-exempt employees in the state of California who, at any time from April 2, 2020 through the conclusion of this action, were subject to Defendants' policies and practices regarding rest periods (hereinafter, the "Rest Period Class");
- g. All persons employed by Defendants as hourly non-exempt employees in the state of California who, at any time from April 2, 2020 through the conclusion of this action, were subject to Defendants' policies and practices regarding reimbursement of business expenses (hereinafter, the "Business Expense Reimbursement Class");
- h. All persons employed by Defendants as hourly non-exempt employees in the state of California, who at any time from April 2, 2020 through the conclusion

of this action, were subject to Defendants' policies and practices regarding wage statements (hereinafter, the "Wage Statement Class");

- i. All persons employed by Defendants as hourly non-exempt employees in the state of California who, at any time from April 2, 2021 through the conclusion of this action, were subject to Defendants' policies and practices regarding final payment of wages (hereinafter, the "Final Pay Class");

36. Each of the aforementioned classes are referred to collectively herein as "the Classes."

37. As a consequence of obtaining information and documents through discovery in this litigation, Plaintiff may find it appropriate and/or necessary to amend the definition of the Class(es) and/or add additional classes and/or subclasses. Plaintiff will formally define and designate a class definition(s) at such time when Plaintiff seeks to certify the Classes alleged herein.

38. Numerosity: The potential number of members of each Class alleged herein is so numerous that joinder of all members is unfeasible and impractical. The exact quantity of members in each Class and the identity of all members is readily ascertainable via inspection of Defendant's records.

39. Well-defined Community of Interest: Plaintiff also meets the established standards for class certification, as follows:

- a. Typicality: The claims of Plaintiff are typical of the claims of all members of each Class she seeks to represent because all members of each Class sustained injuries and damages arising out of Defendant's common course of conduct in violation of law and the injuries and damages of all members of each Class were caused by Defendants' wrongful conduct in violation of law, as alleged herein.
- b. Adequacy: Plaintiff is an adequate representative of each Class he seeks to represent and will fairly protect the interests of the members of each Class. Plaintiff has no interest antagonistic to each Class and will vigorously pursue favorable resolution of this suit on behalf of himself and members of each Class

1 via attorneys who are competent, skilled and experienced in litigating class
2 actions.

3 c. Predominant Common Questions of Law and/or Fact: There are common
4 questions of law and/or fact as to each Class that predominate over questions
5 affecting only individual members of each Class, including, without limitation:

- 6 i) Whether Defendants failed and continue to fail to pay all wages
7 owed due in violation of Labor Code sections 1194 and 1197 and
8 the IWC Wage Order(s);
- 9 ii) Whether Defendants failed and continue to fail to pay all overtime
10 compensation in violation of Labor Code section 510 and the IWC
11 Wage Order(s);
- 12 iii) Whether Defendants failed and continue to fail to provide all meal
13 periods in violation of Labor Code sections 226.7 and 512 and the
14 IWC Wage Order(s);
- 15 iv) Whether Defendants failed and continue to fail to authorize and
16 permit all paid rest periods in violation of Labor Code sections
17 226.7 and the IWC Wage Order(s);
- 18 v) Whether Defendants failed and continue to fail to indemnify
19 employees for all business expenses incurred in violation of Labor
20 Code section 2802;
- 21 vi) Whether Defendants failed and continue to fail to provide
22 complete and accurate itemized wage statements in violation of
23 Labor Code section 226, subdivision (a);
- 24 vii) With regard to Defendants' former non-exempt employees,
25 whether Defendants have violated Labor Code section 203 by
26 willfully failing to pay, without abatement or reduction, all final
27 wages owed in accordance with Labor Code sections 201, 201.3,
28 201.5, 202, and 205.5;

1 incurred in this action.

2 **SECOND CAUSE OF ACTION**

3 **FAILURE TO PAY ALL OVERTIME COMPENSATION**

4 **(By Plaintiff, individually, and on behalf of the Rounding Class, Off The Clock Class, and**
5 **Regular Rate Class against Defendant GRIFFIN and DOES 1 to 100, inclusive)**

6 56. Plaintiff incorporates by reference and realleges each and every one of the
7 allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set
8 forth herein.

9 57. California Labor Code section 510 provides non-exempt employees, including
10 Plaintiff and members of the Rounding Class, Off The Clock Class, and Regular Rate Class the
11 right to overtime compensation at one-and-one-half times the regular hourly rate for hours worked
12 in excess of 8 hours in a day or 40 hours in a week or for the first 8 hours worked on the seventh
13 day of work, and to overtime compensation at twice the regular hourly rate for hours worked in
14 excess of 12 hours in a day or in excess of 8 hours in a day on the seventh day of work.

15 58. California Labor Code section 1198 and the applicable Industrial Welfare
16 Commission ("IWC") Wage Order provide that it is unlawful to employ persons, such as Plaintiff
17 and members of the Rounding Class, Off The Clock Class, and Regular Rate Class, without
18 compensating them at a rate of pay either one-and-one-half times or twice that person's regular
19 rate of pay, depending on the number of hours worked by the person on a daily or weekly basis.

20 59. Upon information and belief, as a matter of policy and practice across Defendants'
21 locations in California, Defendants consistently administered a uniform company policy and
22 practice of requiring Plaintiff and members of the Rounding Class, Off The Clock Class, and
23 Regular Rate Class to work in excess of 8 hours per day or 40 hours per week.

24 60. Defendants, as a matter of established company policy and procedure, consistently
25 administered a uniform company policy and practice as to the rounding policies regarding Plaintiff
26 and members of the Rounding Class in rounding the actual time worked such that during the
27 course of the their employment, Plaintiff and members of the Rounding Class were paid far less
28 overtime than they would have been paid had they been paid for actual recorded time rather than

1 “rounded” time.

2 61. Defendants, as a matter of established company policy and procedure, consistently
3 administered a uniform company policy and practice of requiring Plaintiff and members of the Off
4 The Clock Class to perform work duties while off the clock, which resulted in them being
5 subjected to the control of Defendants without compensation

6 62. Defendants, as a matter of established company policy and procedure, consistently
7 administered a uniform company policy and practice of failing to compensate Plaintiff and
8 members of the Regular Rate Class all overtime compensation based upon the appropriate regular
9 rate of pay by not taking into account all remuneration paid, including non-discretionary bonuses
10 earned.

11 63. Because Defendants required Plaintiff and members of the Rounding Class, Off
12 The Clock Class, and Regular Rate Class to remain under Defendants’ control without paying
13 therefore, this resulted in Plaintiff and members of the Rounding Class, Off The Clock Class, and
14 Regular Rate Class earning less than the legal minimum wage in the State of California.

15 64. As a result of Defendants’ conduct alleged herein, Plaintiff and members of the
16 Rounding Class, Off The Clock Class, and Regular Rate Class have suffered damages and are
17 entitled to recover the full amount of unpaid wages in an amount to be proven at trial and interest
18 thereon, applicable penalties, liquidated damages, and costs of suit including attorney’s fees.

19 **THIRD CAUSE OF ACTION**

20 **FAILURE TO PROVIDE MEAL PERIODS**

21 **(By Plaintiff, individually, and on behalf of the Meal Period Class against**
22 **Defendant GRIFFIN and DOES 1 to 100, inclusive)**

23 65. Plaintiff incorporates by reference and realleges each and every one of the
24 allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set
25 forth herein.

26 66. Labor Code section 226.7, subdivision (b), provides that “An employer shall not
27 require an employee to work during a meal or rest or recovery period mandated pursuant to an
28 applicable statute, or applicable regulation, standard, or order of the Industrial Welfare

1 Commission, the Occupational Safety and Health Standards Board, or the Division of
2 Occupational Safety and Health.”

3 67. Labor Code section 512 provides that “An employer may not employ an employee
4 for a work period of more than five hours per day without providing the employee with a meal
5 period of not less than 30 minutes, except that if the total work period per day of the employee is
6 no more than six hours, the meal period may be waived by mutual consent of both the employer
7 and employee. An employer may not employ an employee for a work period of more than 10
8 hours per day without providing the employee with a second meal period of not less than 30
9 minutes, except that if the total hours worked is no more than 12 hours, the second meal period
10 may be waived by mutual consent of the employer and the employee only if the first meal period
11 was not waived.”

12 68. Labor Code section 516 provides that the Industrial Welfare Commission “may
13 adopt or amend working condition orders with respect to break periods, meal periods, and days of
14 rest for any workers in California consistent with the health and welfare of those workers.”

15 69. Section 11(A) of the IWC Wage Order(s) provides that “Unless the employee is
16 relieved of all duty during a 30 minute meal period, the meal period shall be considered an “on
17 duty” meal period and counted as time worked. An “on duty” meal period shall be permitted only
18 when the nature of the work prevents an employee from being relieved of all duty and when by
19 written agreement between the parties an on-the-job paid meal period is agreed to. The written
20 agreement shall state that the employee may, in writing, revoke the agreement at any time.”

21 70. Section 11(B) of the IWC Wage Order(s) provides that “If an employer fails to
22 provide an employee a meal period in accordance with the applicable provisions of this order, the
23 employer shall pay the employee one (1) hour of pay at the employee’s regular rate of
24 compensation for each workday that the meal period is not provided.”

25 71. On one or more occasions, Plaintiff and members of the Meal Period Class worked
26 over five (5) hours per shift and therefore were entitled to a meal period of not less than thirty (30)
27 minutes prior to exceeding five (5) hours of employment.

28 72. On one or more occasions, Plaintiff and members of the Meal Period Class worked

1 over ten (10) hours per shift and therefore were entitled to a second meal period of not less than
2 thirty (30) minutes prior to exceeding ten (10) hours of employment.

3 73. On information and belief, Plaintiff and members of the Meal Period Class did not
4 validly or legally waive their meal periods, by mutual consent with Defendants or otherwise.

5 74. On information and belief, Plaintiff and members of the Meal Period Class did not
6 enter into any written agreement with Defendants agreeing to an on-the-job paid meal period.

7 75. As a matter of Defendants' established company policy implemented, Defendants
8 failed to comply with the meal period requirements established by Labor Code sections 226.7,
9 512, and 516, and Section 11 of the IWC Wage(s) by failing to provide Plaintiff and members of
10 the Meal Period Class with a first and a second legally compliant meal period.

11 76. Section 11(B) of the IWC Wage Order(s) and Labor Code section 226.7,
12 subdivision (c), provides that "If an employer fails to provide an employee a meal or rest or
13 recovery period in accordance with a state law, including, but not limited to, an applicable statute
14 or applicable regulation, standard, or order of the Industrial Welfare Commission, the
15 Occupational Safety and Health Standards Board, or the Division of Occupational Safety and
16 Health, the employer shall pay the employee one additional hour of pay at the employee's regular
17 rate of compensation for each workday that the meal or rest or recovery period is not provided."

18 77. As a matter of Defendants' established company policy, Defendants failed to
19 comply with the requirements of Section 11(B) of the IWC Wage Order(s) and Labor Code
20 section 226.7, subdivision (c), by failing to pay Plaintiff and members of the Meal Period Class
21 one additional hour of pay at each employee's regular rate of compensation for each workday that
22 a compliant meal period was not provided.

23 78. Therefore, Plaintiff and members of the Meal Period Class are entitled to damages
24 in an amount equal to one (1) additional hour of pay at each employee's regular rate of
25 compensation for each work day that a compliant meal period was not provided, in a sum to be
26 proven at trial.

27 79. Pursuant to Labor Code section 218.6 and Civil Code section 3287, Plaintiff,
28 individually, and on behalf of members of the Meal Period Class, seeks recovery of pre-judgment

1 interest on all amounts recovered herein.

2 80. Pursuant to Labor Code section 218.5, Plaintiff, individually, and on behalf of
3 members of the Meal Period Class, requests that the Court award reasonable attorneys' fees and
4 costs incurred in this action.

5 **FOURTH CAUSE OF ACTION**

6 **FAILURE TO AUTHORIZE AND PERMIT REST PERIODS**

7 **(By Plaintiff, individually, and on behalf of the Rest Period Class against**
8 **Defendant GRIFFIN and DOES 1 to 100, inclusive)**

9 81. Plaintiff incorporates by reference and realleges each and every one of the
10 allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set
11 forth herein.

12 82. Labor Code section 226.7, subdivision (b), provides that "An employer shall not
13 require an employee to work during a meal or rest or recovery period mandated pursuant to an
14 applicable statute, or applicable regulation, standard, or order of the Industrial Welfare
15 Commission, the Occupational Safety and Health Standards Board, or the Division of
16 Occupational Safety and Health."

17 83. Labor Code section 516 provides that the Industrial Welfare Commission "may
18 adopt or amend working condition orders with respect to break periods, meal periods, and days of
19 rest for any workers in California consistent with the health and welfare of those workers."

20 84. Section 12(A) of the IWC Wage Order(s) provides that "Every employer shall
21 authorize and permit all employees to take rest periods, which insofar as practicable shall be in the
22 middle of each work period. The authorized rest period time shall be based on the total hours
23 worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction
24 thereof. However, a rest period need not be authorized for employees whose total daily work time
25 is less than three and one-half (3 ½) hours. Authorized rest period time shall be counted as hours
26 worked for which there shall be no deduction from wages."

27 85. Section 12(B) of the IWC Wage Order(s) provides that "If an employer fails to
28 provide an employee a rest period in accordance with the applicable provisions of this order, the

1 employer shall pay the employee one (1) hour of pay at the employee's regular rate of
2 compensation for each workday that the rest period is not provided."

3 86. Plaintiff and members of the Rest Period Class often worked over three and one-
4 half (3 1/2) hours per shift and therefore were entitled to a rest period of not less than ten (10)
5 minutes prior to exceeding four (4) hours of employment, and additional rest periods of not less
6 than ten (10) minutes per four (4) hours worked or major fraction thereof. Upon information and
7 belief, Defendants' policies and practices failed and fail to provide Plaintiff and class members
8 with off-duty net rest periods of at least ten minutes for each four hours worked, or major fraction
9 thereof, and failed and fail to pay them a premium wage at their regular rates of pay on workdays
10 Defendants failed to provide them with an opportunity to take rest periods.

11 87. As a matter of Defendants' established company policy, Defendants failed to
12 authorize and permit required off-duty rest periods established by Labor Code sections 226.7 and
13 516 and Section 12 of the IWC Wage Order(s). Pursuant to *Augustus v. ABM Security Services,*
14 *Inc.*, (2017) 2 Cal.5th 257, 260, "[d]uring required rest periods, employers must relieve their
15 employees of all duties and relinquish any control over how employees spend their break time."

16 88. Section 12 of the IWC Wage Order(s) and Labor Code section 226.7, subdivision
17 (b), provides that "If an employer fails to provide an employee a meal or rest or recovery period in
18 accordance with a state law, including, but not limited to, an applicable statute or applicable
19 regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and
20 Health Standards Board, or the Division of Occupational Safety and Health, the employer shall
21 pay the employee one additional hour of pay at the employee's regular rate of compensation for
22 each workday that the meal or rest or recovery period is not provided."

23 89. As a matter of Defendants' policies and procedures, Defendants failed to comply
24 with the requirements of Section 12(B) of the IWC Wage Order(s) and Labor Code section 226.7,
25 subdivision (c), by failing to pay Plaintiff and members of the Rest Period Class one additional
26 hour of pay at each employee's regular rate of compensation for each workday that an off-duty
27 rest period was not provided.

28 90. Therefore, pursuant to Section 12 of the IWC Wage Order(s) and Labor Code

1 section 226.7, Plaintiff and members of the Rest Period Class are entitled to damages in an amount
2 equal to one (1) additional hour of pay at each employee's regular rate of compensation for each
3 work day that a legally compliant rest period was not so provided.

4 91. Pursuant to Labor Code section 218.6 and Civil Code section 3287, Plaintiff,
5 individually, and on behalf of the Rest Period Class, seeks recovery of pre-judgment interest on all
6 amounts recovered herein.

7 92. Pursuant to Labor Code section 218.5, Plaintiff, individually, and on behalf of the
8 Rest Period Class, requests that the Court award reasonable attorneys' fees and costs incurred in
9 this action.

10 **FIFTH CAUSE OF ACTION**

11 **FAILURE TO INDEMNIFY FOR NECESSARY BUSINESS EXPENSES**

12 **(By Plaintiff, individually, and on behalf of the Business Expense Reimbursement Class**
13 **against Defendant GRIFFIN and DOES 1 to 100, inclusive)**

14 93. Plaintiff incorporates by reference and realleges each and every one of the
15 allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set
16 forth therein.

17 94. Pursuant to California Labor Code section 2802, subd. (a), an employer must
18 indemnify his or her employee for all necessary expenditures or losses incurred by the employee
19 in direct consequence of the discharge of his or her duties, or of his or her obedience to the
20 directions of the employer.

21 95. As alleged herein, Plaintiff and the Business Expense Reimbursement Class
22 members were forced to make expenditures. Specifically, on information and belief, Defendants
23 required Plaintiff and members of the Business Expense Class to pay, among other things, the
24 costs of their personal cellular phones that Defendants required them to use in the course of their
25 employment. These expenditures occurred as a condition of employment with Defendants.
26 Defendants, however, failed to indemnify and reimburse Plaintiff and Business Expense
27 Reimbursement Class members in violation of Labor Code section 2802.

28 96. As a result of Defendants' conduct alleged herein, Plaintiff and members of the

1 Business Expense Class have suffered damages and are entitled to recover the full amount of
2 business-related expenses charged to them in an amount to be proven at trial and interest thereon,
3 and costs of suit including attorney's fees pursuant to California Labor Code section 2802.

4 **SIXTH CAUSE OF ACTION**

5 **FAILURE TO TIMELY FURNISH COMPLETE AND ACCURATE**
6 **ITEMIZED WAGE STATEMENTS**

7 **(By Plaintiff, individually, and on behalf of the Wage Statement Class against**
8 **Defendant GRIFFIN and DOES 1 to 100, inclusive)**

9 97. Plaintiff incorporates by reference and realleges each and every one of the
10 allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set
11 forth herein.

12 98. Labor Code section 226(a) states in pertinent part: "Every employer shall,
13 semimonthly or at the time of each payment of wages, furnish each of his or her employees, either
14 as a detachable part of the check, draft, or voucher paying the employee's wages, or separately
15 when wages are paid by personal check or cash, an accurate itemized statement in writing showing
16 (1) gross wages earned, (2) total hours worked by the employee... (4) all deductions... (5) net
17 wages earned, (6) the inclusive dates of the period for which the employee is paid... (8) the name
18 and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect
19 during each the pay period and the corresponding number of hours worked at each hourly rate by
20 the employee...."

21 99. As a pattern and practice, in violation of Labor Code section 226(a), Defendants
22 did not and still do not furnish each of the members of the Wage Statement Class with an accurate
23 itemized statement in writing correctly showing: (1) gross wages earned, (2) total hours worked by
24 the employee, except as provided in subdivision (j), (3) the number of piece-rate units earned and
25 any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided
26 that all deductions made on written orders of the employee may be aggregated and shown as one
27 item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7)
28 the name of the employee and only 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

1 the legal entity that is the employer and, if the employer is a farm labor contractor, as defined in
2 subdivision (b) of Section 1682, the name and address of the legal entity that secured the services
3 of the employer, and (9) all applicable hourly rates in effect during the pay period and the
4 corresponding number of hours worked at each hourly rate by the employee.

5 100. As a pattern and practice, in violation of Labor Code section 226(a) and Section 7,
6 subdivision (A), of the IWC Wage Order(s), Defendants did not and do not maintain accurate
7 records pertaining to the total hours worked for Defendants by Plaintiff and members of the Wage
8 Statement Class, including but not limited to, gross wages earned, total hours worked by the
9 employee, all deductions, net wages earned.

10 101. As of January 1, 2013, SB 1255 amended Labor Code section 226 to clarify that an
11 employee suffers injury if the employer fails to provide accurate and complete information as
12 required by any one or more items listed in Labor Code section 226(a)(1)-(9) and the employee
13 cannot promptly and easily ascertain requisite information without reference to other documents or
14 information.

15 102. Here, Plaintiff and members of the Wage Statement Class suffered injury because
16 Defendants failed to provide accurate and complete information as required by one or more items
17 listed in Labor Code section 226(a)(1)-(9) as set forth herein and Plaintiff and members of the
18 Wage Statement Class could not and cannot promptly and easily ascertain requisite information
19 without reference to other documents or information.

20 103. In addition, Plaintiff and members of the Wage Statement Class have suffered
21 injury as a result of Defendants' failure to maintain accurate records in that Plaintiff and members
22 of the Wage Statement Class were not provided written accurate itemized statements showing all
23 requisite information as set forth herein in violation of Labor Code section 226 and Section 7,
24 subdivision (A), of the IWC Wage Order(s), such that Plaintiff and members of the Wage
25 Statement Class were misled by Defendants as to the correct information regarding the various
26 items, including but not limited to, the total hours worked by the employee, gross wages earned,
27 net wages earned, all deductions, all applicable hourly rates in effect during the pay period and the
28 corresponding number of hours worked at each hourly rate.

1 104. The actual injuries suffered by Plaintiff and members of the Wage Statement Class
2 as a result of Defendants' knowing and intentional failure to maintain accurate records include but
3 are not limited to:

- 4 a. Confusion over whether they received all wages owed them by Defendants;
5 b. The difficulty and expense of attempting to reconstruct time and pay records;
6 c. Being forced to engage in mathematical computations to analyze whether
7 Defendants' wages in fact compensated for all hours worked;
8 d. The inability to accurately calculate wage rates complicated by the fact that
9 wage statement information required by Labor Code section 226 is missing;
10 e. That such practice prevents Plaintiff and members of the Classes from being
11 able to effectively challenge information on their wage statements; and/or
12 f. The difficulty and expense of filing and maintaining this lawsuit, and the
13 discovery required to collect and analyze the very information that California
14 law requires.

15 105. Pursuant to Labor Code section 226, subdivision (e), Plaintiff and members of the
16 Wage Statement Class are entitled to fifty dollars (\$50.00) per individual employee for the initial
17 pay period in which a violation hereunder occurred and one hundred dollars (\$100.00) per
18 individual employee for each violation in a subsequent pay period, not exceeding an aggregate
19 penalty of four thousand dollars (\$4,000.00) per individual employee.

20 106. Pursuant to Labor Code section 226, subdivision (g), currently-employed members
21 of the Wage Statement Class are entitled to injunctive relief to ensure Defendants' compliance
22 with Labor Code section 226.

23 107. Pursuant to Labor Code section 226, subdivisions (e) and/or (g), Plaintiff and
24 members of the Wage Statement Class are also entitled to an award of costs and reasonable
25 attorneys' fees.

26 **SEVENTH CAUSE OF ACTION**

27 **VIOLATIONS OF LABOR CODE §§ 201, 202, 203**

28 **(By Plaintiff, individually, and on behalf of the Final Pay Class against
Defendant GRIFFIN and DOES 1 to 100, inclusive)**

1 108. Plaintiff incorporates by reference and realleges each and every one of the
2 allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set
3 forth herein.

4 109. Labor Code section 203 provides that if an employer willfully fails to pay, without
5 abatement or reduction, in accordance with Labor Code sections 201 and 202, any wages of an
6 employee who is discharged or who quits, the wages of the employee shall continue at the same
7 rate, for up to thirty (30) days from the due date thereof, until paid or until an action therefore is
8 commenced.

9 110. Defendants have a consistent and uniform policy, practice and procedure of
10 willfully failing to pay the earned wages of Defendants' former employees according to
11 amendment or proof.

12 111. Defendants willfully failed to pay Plaintiff and members of the Final Pay Class that
13 are former employees their entire wages due and owing at the time of their termination or within
14 seventy-two (72) hours of their resignation, and failed to pay those sums for up to thirty (30) days
15 thereafter.

16 112. Defendants' willful failure to pay wages to Plaintiff and members of the Final Pay
17 Class that are former employees violates Labor Code section 203 because Defendants knew or
18 should have known such wages were due, but Defendants failed to pay them.

19 113. Thus, Plaintiff and members of the Final Pay Class are entitled to recovery
20 pursuant to Labor Code section 203.

21 **EIGHTH CAUSE OF ACTION**

22 **UNFAIR BUSINESS PRACTICES**

23 **(By Plaintiff, individually, and on behalf of the Classes against**
24 **Defendant GRIFFIN and DOES 1 to 100, inclusive)**

25 114. Plaintiff incorporates by reference and realleges each and every one of the
26 allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set
27 forth herein.

28 115. Business & Professions Code section 17200 provides in pertinent part "unfair

1 competition shall mean and include any unlawful, unfair or fraudulent business act or practice.”

2 116. Defendants are a “person” as defined under Business & Professions Code section
3 17201.

4 117. Business & Professions Code section 17204 provides that an action for any relief
5 from unfair competition may be prosecuted by any person who has suffered injury in fact and has
6 lost money or property as a result of such unfair competition.

7 118. Business & Professions Code section 17205 provides that unless otherwise
8 expressly provided, the remedies or penalties provided for unfair competition “are cumulative to
9 each other and to the remedies or penalties available under all other laws of this state.”

10 119. Defendants have engaged in unlawful, unfair and fraudulent business acts or
11 practices prohibited by Business & Professions Code section 17200, including those set forth in
12 the preceding and foregoing paragraphs of the complaint, thereby depriving Plaintiff and members
13 of the Classes of the minimum working standards and conditions due to them under the Labor
14 Code and/or the IWC Wage Orders, as specifically described herein.

15 120. Defendants have engaged in unfair business practices in California by practicing,
16 employing and utilizing the employment practices outlined in the preceding paragraphs,
17 specifically, by requiring employees to perform the labor services complained of herein without
18 the requisite compensation.

19 121. Defendants’ use of such practices constitutes an unfair business practice, unfair
20 competition and provides an unfair advantage over Defendants’ competitors.

21 122. Plaintiff and members of the Classes have suffered injury in fact and have lost
22 money or property as a result of such unfair competition.

23 123. Plaintiff, individually, and on behalf of members of the Classes, seeks full
24 restitution from Defendants, as necessary and according to proof, to restore any and all monies
25 withheld, acquired and/or converted by Defendants by means of the unfair practices complained of
26 herein.

27 124. Further, if Defendants are not enjoined from the conduct set forth above,
28 Defendants will continue to practice, employ and utilize the employment practices outlined in the

1 preceding paragraphs.

2 125. Therefore, Plaintiff requests that the Court issue a preliminary and permanent
3 injunction prohibiting Defendants from engaging in the foregoing conduct.

4 126. Plaintiff seeks the appointment of a receiver, as necessary, to establish the total
5 monetary relief sought from Defendant.

6 **NINTH CAUSE OF ACTION**

7 **VIOLATIONS OF THE PRIVATE ATTORNEYS GENERAL ACT OF 2004 ("PAGA")**

8 **(By Plaintiff, as an aggrieved employee and on behalf of the LWDA for all Aggrieved**
9 **Employees against Defendant GRIFFIN and DOES 1 to 100, inclusive)**

10 127. Plaintiff incorporates by reference and realleges each and every one of the
11 allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set
12 forth herein.

13 128. Pursuant to Labor Code section 2698, *et seq.*, Plaintiff seeks to recover all
14 applicable civil penalties and reasonable attorneys' fees and costs, permitted under PAGA through
15 a representative action on behalf of all aggrieved employees that work or worked for Defendants
16 during the relevant time period.

17 129. In accordance with *Arias v. Superior Court*, 46 Cal.4th 969 (2009), a representative
18 action is not subject to the formalities required of a class action and class certification of PAGA
19 claims is not required.

20 130. Plaintiff is an "aggrieved employee" within the meaning of Labor Code section
21 2699(c) because she was employed by Defendants during the applicable statutory period and
22 suffered one or more of the Labor Code violations, as alleged herein. Thus, Plaintiff is well suited
23 to represent the interests of all other aggrieved employees in in this PAGA representative action.

24 131. Pursuant to Labor Code section 2699(i), seventy-five percent (75%) of civil
25 penalties recovered by aggrieved employees shall be distributed to the Labor and Workforce
26 Development Agency (hereinafter "LWDA") for enforcement of labor laws and education of
27 employers and employees about their rights and responsibilities under this code, and twenty-five
28 percent (25%) shall be distributed to the aggrieved employees.

1 132. Plaintiff's representative action alleges violations of certain Labor Code sections
2 that are listed within Labor Code section 2699.5. Accordingly, Labor Code section 2699.3(a)
3 applies to this action, and Labor Code section 2699.3(b)-(c) do not apply.

4 133. On February 26, 2024, Plaintiff complied with Labor Code section 2699.3(a) by
5 electronically filing written notice with the LWDA upon the LWDA regarding the specific
6 provisions of the Labor Code alleged to have been violated by Defendants and Plaintiff's intent to
7 pursue civil penalties against Defendants on behalf of aggrieved employees pursuant to PAGA.
8 Attached hereto as **Exhibit A** is a true and correct copy of Plaintiff's notice letter.

9 134. Labor Code section 2699.3(a) provides in pertinent part that: "The agency shall
10 notify the employer and the aggrieved employee or representative by certified mail that it does not
11 intend to investigate the alleged violation within 60 calendar days of the postmark date of the
12 notice received... [u]pon receipt of that notice or if no notice is provided within 65 calendar days
13 of the postmark date of the notice given... the aggrieved employee may commence a civil action
14 pursuant to Section 2699." More than sixty-five calendar days have passed since Plaintiff served
15 notice upon the LWDA and Defendants, and the LWDA did not provide notice of its intent to
16 investigate Plaintiff's claims. Accordingly, Plaintiff exhausted his obligation to provide
17 administrative notice and is authorized to commence this representative action seeking civil
18 penalties on behalf of himself and all other aggrieved employees of Defendants.

19 135. Pursuant to Labor Code section 2699(a), any provision of the Labor Code that
20 provides for a civil penalty to be assessed and collected by the LWDA or any of its departments,
21 divisions, commissions, boards, agencies or employees for violation of the code may, as an
22 alternative, be recovered through a civil action brought by an aggrieved employee on behalf of
23 himself and other current or former employees pursuant to the procedures specified in Labor Code
24 section 2699.3.

25 136. Pursuant to Labor Code section 2699(f)(2), for all provisions of the Labor Code for
26 which a civil penalty is not specifically provided, there is established a civil penalty that imposes a
27 penalty of one hundred dollars (\$100) for each aggrieved employee per pay period for the initial
28 violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each

1 subsequent violation.

2 137. Pursuant to Labor Code sections 2699(a) and (f), Plaintiff, on behalf of herself and
3 aggrieved employees, seeks applicable civil penalties for violations of Labor Code sections 201,
4 202, 203, 204, 226, 226.7, 510, 512, 1194, 1197, 1198, 1199 and 2802 during the statutory period
5 as set forth below:

6 138. For violations of Labor Code section 201, 202, 203, 226.7, 510, 512, 1194, 1197
7 1198, 1199, and 2802 Labor Code section 2699(f)(2) imposes a civil penalty of one hundred
8 dollars (\$100) for each aggrieved employee per pay period for each initial violation and two
9 hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation;

10 139. For violations of Labor Code section 204, Labor Code section 210 imposes a civil
11 penalty of one hundred dollars (\$100) for each aggrieved employee for each initial violation that
12 was neither willful nor intentional, and two hundred dollars (\$200) for each aggrieved employee,
13 for each subsequent violation, regardless of whether the subsequent violation was willful or
14 intentional;

15 140. For violations of Labor Code section 226(a), Labor Code section 226.3 imposes a
16 civil penalty, in addition to any other penalty provided by law, of two hundred fifty dollars (\$250)
17 per aggrieved employee for the first violation, and one thousand dollars (\$1,000) per aggrieved
18 employee for each subsequent violation.

19 141. Defendants violated Labor Code sections 204, 510, 1194, 1197, and 1198 by not
20 paying Plaintiff and aggrieved employees all wages owed for all hours worked including overtime
21 for each pay period as a result of Defendants' illegal time rounding policy. For example,
22 Plaintiff's manager physically wrote down all of Plaintiff's time entries in his weekly time sheets.
23 However, all time entries were for full hour periods with start and stop time and auto 30 minute
24 meal deduction irrespective of what time Plaintiff began or completed the portions of his shift and
25 whether a compliant meal period was provided. Further, Defendants failed to pay Plaintiff and
26 non-exempt employees all wages including all overtime compensation owed for time worked in
27 excess of either eight hours in one work day or forty hours in one work week due to its off the
28 clock policy. For example, Plaintiff would often arrive 5 to 15 minutes prior to the start of his

1 scheduled shift to acquire tools for his work and would continue working beyond the scheduled
2 shift without compensation for this time. Lastly, Defendants failed to compensate Plaintiff and
3 non-exempt employees for all overtime hours worked after eight hours in a day and/or after forty
4 hours in a week due to Defendants' policy and practice of failing to compensate them all overtime
5 compensation based upon the appropriate regular rate of pay by not taking into account all
6 remuneration paid, including non-discretionary bonuses earned. Thus, pursuant to Labor Code
7 section 2699(f)(2), Defendants are subject to a civil penalty of one hundred dollars (\$100) for each
8 aggrieved employee per pay period for the initial violation, and two hundred dollars (\$200) for
9 each aggrieved employee per pay period for each subsequent violation.

10 142. Defendants violated Labor Code sections 226.7 and 512 by denying Plaintiff and
11 all other aggrieved employees an opportunity to take timely off-duty and uninterrupted thirty
12 minute meal periods for every five hours worked, including timely off-duty and uninterrupted
13 thirty minute long meal periods before the end of the fifth hour of work, and by failing to pay a
14 premium wage equivalent to an additional hour of pay at the regular rate of pay for each day a
15 compliant meal period was not provided. Thus, pursuant to Labor Code section 2699(f)(2),
16 Defendants are subject to a civil penalty of one hundred dollars (\$100) for each aggrieved
17 employee per pay period for the initial violation, and two hundred dollars (\$200) for each
18 aggrieved employee per pay period for each subsequent violation.

19 143. Defendants violated Labor Code sections 226.7 and 512 by denying Plaintiff and
20 all other aggrieved employees an opportunity to take second timely off-duty and uninterrupted
21 thirty minute long meal periods before the end of the tenth hour of work, and by failing to pay a
22 premium wage equivalent to an additional hour of pay at the regular rate of pay for each day a
23 compliant second meal period was not provided. Thus, pursuant to Labor Code section
24 2699(f)(2), Defendants are subject to a civil penalty of one hundred dollars (\$100) for each
25 aggrieved employee per pay period for the initial violation, and two hundred dollars (\$200) for
26 each aggrieved employee per pay period for each subsequent violation.

27 144. Defendants violated Labor Code section 226.7 by denying Plaintiff and all other
28 aggrieved employees of Defendants a ten minute off-duty rest period for every four hours worked,

1 or major fraction thereof, and by failing to provide a premium wage equivalent to an additional
2 hour of pay at the regular rate of pay for each workday that a compliant rest period was not
3 provided. Thus, pursuant to Labor Code section 2699(f)(2), Defendants are subject to a civil
4 penalty of one hundred dollars (\$100) for each aggrieved employee per pay period for the initial
5 violation, and two hundred dollars (\$200) for each aggrieved employee per pay period for each
6 subsequent violation.

7 145. Defendants violated Labor Code section 226(a) by failing to provide Plaintiff and
8 aggrieved employees with accurate itemized wage statements correctly identifying, among other
9 things, the total hours worked, wages earned, the correct amount of net wages earned, and the
10 correct amount of deductions that were paid or should have been paid. Thus, pursuant to Labor
11 Code sections 226.3 and 2699(a), Defendants, in addition to, and entirely independent and apart
12 from any other penalty, are subject to a civil penalty for violation Labor Code section 226(a) in the
13 amount of two hundred and fifty dollars (\$250) per aggrieved employee per violation in an initial
14 citation and one thousand dollars (\$1,000) per aggrieved employee for each violation in a
15 subsequent citation.

16 146. Defendants violated Labor Code section 2802 by forcing Plaintiff and aggrieved
17 employees to make business related expenditures without reimbursement. Thus, pursuant to Labor
18 Code section 2699(f)(2), Defendants are subject to a civil penalty of one hundred dollars (\$100)
19 for each aggrieved employee per pay period for the initial violation, and two hundred dollars
20 (\$200) for each aggrieved employee per pay period for each subsequent violation.

21 147. Defendants violated Labor Code sections 201, 202, and 203 by willfully failing to
22 timely pay Plaintiff and aggrieved employees all wages owed upon separation of employment by
23 failing to pay all overtime compensation, and Defendants' failure to pay meal and rest period
24 premium wages owed. Thus, pursuant to Labor Code section 2699(f)(2), Defendants are subject to
25 a civil penalty of one hundred dollars (\$100) for each aggrieved employee per pay period for the
26 initial violation of these sections, and two hundred dollars (\$200) for each aggrieved employee per
27 pay period for each subsequent violation.

28 148. Labor Code section 1198 states, in pertinent part, "The employment of any

1 employee... under conditions of labor prohibited by the [Wage Order] is unlawful.” Section 5 of
2 the applicable Wage Order provides in relevant part that: Each workday an employee is required
3 to report for work and does report, but is not put to work or is furnished less than half said
4 employee’s usual or scheduled day’s work, the employee shall be paid for half the usual or
5 scheduled day’s work, but in no event for less than two (2) hours nor more than four (4) hours, at
6 the employee’s regular rate of pay, which shall not be less than the minimum wage.” Defendants
7 failed to pay Plaintiff and non-exempt employees all reporting time pay. For example, Plaintiff
8 regularly worked shifts of at least 8 hours. However, on or around Saturday December 9, 2023,
9 Plaintiff attended a 3 hour safety meeting and Defendants only paid him 3 hours instead of the
10 minimum of 4 hours reporting time pay pursuant to section 5 of the applicable wage order. Thus,
11 pursuant to Labor Code section 2699(f)(2), Defendants are subject to a civil penalty of one
12 hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation, and
13 two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent
14 violation.

15 149. At all material times, Defendants were Plaintiff and all other aggrieved employees’
16 employers, or persons acting on their behalf, within the meaning of Labor Code section 558, who
17 violated or caused to be violated, a section of Part 2, Chapter 1 of the Labor Code or any provision
18 regulating hours and days of work in the applicable IWC Wage Order and, as such, are subject to
19 civil penalties for each underpaid employee as set forth in Labor Code section 558. The civil
20 penalties provided for under Labor Code section 558 are in addition to any other civil penalty
21 provided by law.

22 150. Pursuant to Labor Code sections 558 and 2699(a), Defendants are subject to a civil
23 penalty of fifty dollars (\$50) for each initial violation and one hundred dollars (\$100) for each
24 subsequent violation of Labor Code sections 510 and 1194 for each pay period for which Plaintiff
25 and all other aggrieved employees of Defendants were not paid all wages owed as a result of
26 Defendants’ failure to pay wages owed for all overtime, as alleged herein.

27 151. Pursuant to Labor Code sections 558 and 2699(a), Defendants are subject to a civil
28 penalty of fifty dollars (\$50) for each initial violation and one hundred dollars (\$100) for each

1 subsequent violation of Labor Code section 226.7 for each pay period for which Plaintiff and all
2 other aggrieved employees of Defendants were not provided with a compliant timely off-duty and
3 uninterrupted thirty minute meal period and/or ten minute long rest periods for every four hours
4 worked, or major fraction thereof, as alleged herein.

5 152. Defendants violated Labor Code section 1198 by failing to comply with the
6 maximum hours of work and the standards conditions of labor fixed by the IWC under the "Hours
7 and Days of Work", the "Meal Period", the "Rest Period" and "Record" sections of the applicable
8 IWC Wage Order, by failing to provide compliant meal periods, failing to pay meal periods
9 premium wages, failing to provide compliant rest periods, failing to pay rest period premium
10 wages, failing to keep and provide accurate records, and failing to timely pay owed wages upon
11 separation of employment, as alleged herein. Thus pursuant to Labor Code section 2699(f)(2),
12 Defendants are subject to a civil penalty in the amount of one hundred dollars (\$100) for each
13 aggrieved employee per pay period for the initial violation, and two hundred dollars (\$200) for
14 each aggrieved employee per pay period for each subsequent violation.

15 **VII. PRAYER FOR RELIEF**

16 WHEREFORE, Plaintiff prays:

17 That the Court issue an Order certifying the Classes herein, appointing Plaintiff as
18 representative of all others similarly situated, and appointing the law firm representing Plaintiff as
19 counsel for the members of the Classes;

20 **As to the First Cause of Action for Failure to Pay All Wages:**

21 a. For recovery of the unpaid balance of the full amount of the straight time
22 compensation due and owing, according to proof;

23 b. For liquidated damages on the straight-time portion of uncompensated hours of
24 work (not including the overtime portion thereof), as authorized by Labor Code section 1194.2,
25 subdivision (a);

26 c. For recovery of the unpaid balance of the full amount of the earned overtime
27 compensation due and owing, calculated at the appropriate rate and according to proof;

28 d. For pre-judgment interest as allowed by Labor Code section 218.6, Labor Code

1 section 1194, subdivision (a) and Civil Code section 3287;

2 e. For an award of reasonable attorneys' fees and costs pursuant to Labor Code
3 section 218.5 and/or Labor Code section 1194, subdivision (a);

4 As to the Second Cause of Action for Failure to Pay Overtime:

5 f. For recovery of the full amount of unpaid wages in an amount to be proven at trial
6 and interest thereon, applicable penalties, liquidated damages, and costs of suit including
7 attorney's fees;

8 As to the Third Cause of Action for Failure to Provide Meal Periods:

9 g. For one (1) hour of pay at the regular rate of compensation for each member of the
10 Meal Period Class for each workday that a full meal period was not provided;

11 h. For pre-judgment interest as authorized by Labor Code section 218.6 and Civil
12 Code section 3287;

13 i. For an award of reasonable attorneys' fees and costs pursuant to Labor Code
14 section 218.5;

15 As to the Fourth Cause of Action for Failure to Provide Rest Periods:

16 j. For one (1) hour of pay at the regular rate of compensation for each member of the
17 Rest Period Class for each workday that a full rest period was not provided;

18 k. For pre-judgment interest as authorized by Labor Code section 218.6 and Civil
19 Code section 3287;

20 l. For an award of reasonable attorneys' fees and costs pursuant to Labor Code
21 section 218.5;

22 As to the Fifth Cause of Action for Failure to Indemnify for Business Expenses:

23 m. For the full amount of business-related expenses charged to them in an amount to
24 be proven at trial and interest thereon, and costs of suit including attorney's fees pursuant to
25 California Labor Code section 2802;

26 As to the Sixth Cause of Action for Failure to Provide Complete and Accurate Itemized Wage

27 Statements:

28 n. For recovery as authorized by Labor Code section 226(e);

1 o. For an award of costs and reasonable attorneys' fees pursuant to Labor Code
2 section 226, subdivision (e) and/or subdivision (g);

3 As to the Seventh Cause of Action for Violations of Labor Code section 203:

4 p. For recovery as authorized by Labor Code section 203;

5 As to the Eighth Cause of Action for Unfair Business Practices:

6 q. For an accounting, under administration of Plaintiff and/or the receiver and subject
7 to Court review, to determine the amount to be returned by Defendants, and the amounts to be
8 refunded to members of the Classes who are owed monies by Defendants;

9 r. For an Order requiring Defendants to identify each of the members Classes by
10 name, home address, and home telephone number;

11 s. For an Order requiring Defendants to make full restitution and payment pursuant to
12 California law;

13 t. For the creation of an administrative process wherein each injured member of the
14 Classes may submit a claim in order to receive his/her money;

15 u. For all other appropriate injunctive, declaratory and equitable relief;

16 v. For interest to the extent permitted by law;

17 w. For an award of attorneys' fees and costs incurred in the investigation, filing and
18 prosecution of this action pursuant to Code of Civil Procedure section 1021.5, Business &
19 Professions Code section 17200, *et seq.*, Labor Code section 1194 and/or any other applicable
20 provision of law;

21 As to the Ninth Cause of Action for Violation of PAGA:

22 For all civil penalties authorized by Labor Code section 2698, *et seq.*;

23 x. For civil penalties under Labor Code section 226.3 in the amount two hundred fifty
24 dollars (\$250) per aggrieved employee for the first violation, and one thousand dollars (\$1,000)
25 per aggrieved employee for each subsequent violation;

26 y. For civil penalties under Labor Code section 210 in the amount of one hundred
27 dollars (\$100.00) for each aggrieved employee for each initial violation that was neither willful
28 nor intentional, and two hundred dollars (\$200.00) for each aggrieved employee, plus twenty-five

1 percent (25%) of the amount unlawfully withheld from each aggrieved employee, for each
2 subsequent violation, regardless of whether the subsequent violation was willful or intentional;

3 z. For civil penalties under Labor Code section 2699(f), for Labor Code violations
4 without a specific civil penalty, in the amount of one hundred dollars (\$100.00) for each aggrieved
5 employee per pay period for each initial violation and two hundred dollars (\$200.00) for each
6 aggrieved employee per pay period for each subsequent violation;

7 aa. For civil penalties under Labor Code section 558, as follows: (1) for an initial
8 violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the
9 employee was underpaid; and (2) for each subsequent violation, one hundred dollars (\$100) for
10 each underpaid employee for each pay period for which the employee was underpaid;

11 bb. For an award of reasonable attorneys' fees and costs pursuant to Labor Code
12 section 2699(g)(1), or other applicable laws, and pre-judgment and post-judgment interest as
13 provided by law;

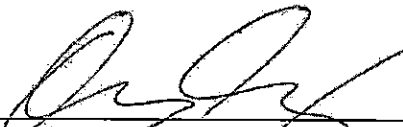
14 As to All Causes of Action:

15 cc. For such relief as this Court may deem just and proper, including reasonable
16 attorneys' fees and costs incurred.

17
18 DATED: July 17, 2024

BOUCHER LLP

19
20 By:


21 RAYMOND P. BOUCHER
22 ALEXANDER GAMEZ

23 *Attorneys for Plaintiff Donovan Hopkins*
24
25
26
27
28

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury of all claims alleged in Plaintiff's Complaint to the fullest extent authorized by law.

DATED: July 17, 2024

BOUCHER LLP

By:


RAYMOND P. BOUCHER
ALEXANDER GAMEZ

Attorneys for Plaintiff Donovan Hopkins

EXHIBIT A

BOUCHER LLP

21600 Oxnard Street, Suite 600
Woodland Hills, California 91367

Telephone 818.340.5400
Facsimile 818.340.5401

February 26, 2024

ELECTRONICALLY FILED

Attn: PAGA Administrator
Labor and Workforce Development Agency
1515 Clay Street, Suite 801
Oakland, California 94612
<https://dir.tfaforms.net/308>

VIA CERTIFIED MAIL

Limeguys Inc. D/B/A
Griffin Materials
c/o Agent for Service of Process
William Howard
248 Industrial Dr.
Stockton, CA 95206

Re: *Hopkins v. Limeguys, Inc., et al.*
Notice Regarding Private Attorneys General Act of 2004 Claim

To Whom It May Concern:

Pursuant to section 2699.3 of the California Labor Code Private Attorneys General Act of 2004 ("PAGA" or "the Act") (Lab. Code § 2698 *et seq.*), this letter shall serve as written notice of claims for civil penalties that will be pursued by Mr. Donovan Hopkins as proxy for the Labor and Workforce Development Agency ("LWDA") on behalf of all non-exempt aggrieved employees employed by Limeguys Inc. D/B/A Griffin Materials ("Griffin") in California during the statutory period against Griffin.

Griffin provides construction related services such as soil stabilization, engineering, design and project development at multiple sites in California and is headquartered at 248 Industrial Drive, Stockton, CA 95206. Mr. Hopkins was employed as a non-exempt field worker at Griffin's shop location in Redwood City from approximately October 2, 2023 to January 8 2024. Pursuant to California law, Griffin was at all relevant times Mr. Hopkins's employer during the statutory period.

In his representative action, Mr. Hopkins will seek civil penalties pursuant to PAGA as a result of Griffin's failure to: (1) compensate for all hours worked, including overtime (Lab. Code §§ 204, 510, 1194, 1197, 1198); (2) provide proper meal periods and/or premium pay for non-

compliant meal periods (Lab. Code §§ 226.7, 512, 558, 1198, 1199); (3) provide proper rest periods and/or premium pay for non-compliant rest periods (Lab. Code §§ 226.7, 558, 1197, 1198, 1199); (4) indemnify for business expenses (Lab. Code § 2802); (5) furnish complete and accurate itemized wage statements (Lab. Code § 226(a)); and (6) timely pay all wages due within the time permitted upon separation of employment (Lab. Code §§ 201-203).

FAILURE TO PAY HOURLY AND OVERTIME WAGES

(Labor Code §§ 204, 510, 1194, 1197, 1198, 2699 and the "Reporting Time Pay" Section of the Applicable Wage Order)

Labor Code section 204 states that "all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period."

Pursuant to Labor Code section 510, non-exempt employees are entitled to 1.5 times their hourly rate of pay for any work performed in excess of 8 hours in a day or any work performed in excess of 40 hours per week, and twice their regular hourly rate for any work performed past 12 hours in one day or past 8 hours on the seventh consecutive day.

Labor Code section 1194(a) states, "Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees, and costs of suit."

Labor Code section 1197 states, in pertinent part, "The minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a less wage than minimum wage so fixed is unlawful."

Labor Code section 1198 states, in pertinent part, "The employment of any employee... under conditions of labor prohibited by the [Wage Order] is unlawful."

In relevant part, Section 2 of the applicable Wage Order states that, "Hours worked means the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work."

In relevant part, Section 4 of the applicable Wage Order states that, "Every employer shall pay to each employee, on the established payday for the period involved, not less than the applicable minimum wage for all hours worked in the payroll period, whether the remuneration is measured by time, piece, commission or otherwise."

In relevant part, Section 5 of the applicable Wage Order states that, "Each workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee's usual or scheduled day's work, the employee shall be paid for half

the usual or scheduled day's work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee's regular rate of pay, which shall not be less than the minimum wage."

In conjunction, the provisions of the applicable Wage Order and Labor Code require employers to pay non-exempt employees no less than their agreed upon or statutorily mandated wage rates for all hours worked, including hours spent working "off-the-clock" when the employer knows or reasonably should know that employees are working during those hours. *Morillion v. Royal Packing Co.* (2000) 22 Cal.4th 575, 585.

Upon information and belief, during Mr. Hopkins' employment, Griffin failed and fails to compensate him and aggrieved employees for all hours worked and overtime hours worked after eight hours in a day and/or after forty hours in a week due to Griffin's policy and practice of rounding time in Griffin's favor. For example, Mr. Hopkin's manager physically wrote down all of Mr. Hopkins' time entries in his weekly time sheets. However, all time entries were for full hour periods with start and stop time and auto 30 minute meal deduction irrespective of what time Mr. Hopkins began or completed the portions of his shift and whether a compliant meal period was provided.

Moreover, Mr. Hopkins would often arrive 5 to 15 minutes prior to the start of his scheduled shift to acquire tools for his work and would continue working beyond the scheduled shift without compensation for this time.

Additionally, Griffin failed to pay Mr. Hopkins and aggrieved employees all reporting time pay. For example, Mr. Hopkins regularly worked shifts of at least 8 hours. However, on or around Saturday December 9, 2023, Mr. Hopkins attended a 3 hour safety meeting and Griffin only paid him 3 hours instead of the minimum of 4 hours reporting time pay pursuant to section 5 of the applicable wage order.

Lastly, upon information and belief, during Mr. Hopkins' employment, Griffin failed and fails to compensate him and aggrieved employees for all overtime hours worked after eight hours in a day and/or after forty hours in a week due to Griffin's policy and practice of failing to compensate him and aggrieved employees all overtime compensation based upon the appropriate regular rate of pay by not taking into account all remuneration paid, including non-discretionary bonuses earned by Mr. Hopkins and aggrieved employees.

Accordingly, Mr. Hopkins, on behalf of aggrieved employees, will pursue civil penalties and all available remedies to the extent allowed by law for the alleged violations.

FAILURE TO PROVIDE MEAL PERIODS

(Labor Code §§ 226.7, 512(a), 558, 1198, 2699, and the "Meal Periods" Section of the Applicable Wage Order)

Labor Code section 226.7(b) states, in pertinent part, "An employer shall not require an employee to work during meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission"

Labor Code section 226.7(c), provides that if an employer fails to provide an employee a meal period in accordance with statute or an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each work day that the meal period is not provided.

Labor Code section 512(a) states, in pertinent part, "An employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes... [a]n employer may not employ an employee for a work period of more than ten hours per day without providing the employee with a second meal period of not less than thirty minutes, except that if the total hours worked is no more than twelve hours, the second meal period may be waived by mutual consent of the employer and employee only if the first meal period was not waived."

Labor Code section 1198 states, in pertinent part, "The employment of any employee... under conditions of labor prohibited by the [Wage Order] is unlawful."

In relevant part, Section 2 of the applicable Wage Order states that, "Hours worked means the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work."

Section 11 of the applicable Wage Order provides that:

(A) No employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes, except that when a work period of not more than six (6) hours will complete the day's work the meal period may be waived by mutual consent of the employer and the employee. Unless the employee is relieved of all duty during a 30 minute meal period, the meal period shall be considered an "on-duty" meal period and counted as time worked. An "on-duty" meal period shall be permitted only when the nature of the work prevents an employee from being relieved of all duty and when by written agreement between the parties an on-the-job paid meal period is agreed to. The written agreement shall state that the employee may, in writing, revoke the agreement at any time.

(B) If an employer fails to provide an employee a meal period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employer's regular rate of compensation for each workday that the meal period is not provided.

Upon information and belief, Griffin failed and fail to provide Mr. Hopkins and aggrieved employees with compliant thirty minute off-duty meal periods for work periods and failed to pay them premium wages at their regular rates of pay thereto. For example, Griffin automatically deducts 30 minutes from Mr. Hopkins and aggrieved employees' time worked when meal periods are not recorded irrespective of whether the meal period is taken or not and if it is either taken late or is actually less than 30 minutes. Furthermore, Mr. Hopkins worked multiple shifts of over ten hours without being provided a second meal period or paid a meal period premium for the missed meal period. In addition, if meal periods are taken, they are effectively short given the walk time required for Mr. Hopkins and aggrieved employees to and from the break area.

Accordingly, Mr. Hopkins, on behalf of himself and aggrieved employees, will pursue civil penalties and all available remedies to the extent allowed by law for the alleged violations.

FAILURE TO PROVIDE REST PERIODS

(Labor Code §§ 226.7, 1198, 2699, and the "Rest Periods" Section of the Applicable Wage Order)

Labor Code section 1198 states, in pertinent part, "The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful."

Labor Code section 226.7(b) states, in pertinent part, "An employer shall not require an employee to work during meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission."

Pursuant to *Augustus v. ABM Security Services, Inc.*, (2017) 2 Cal.5th 257, 260, "[d]uring required rest periods, employers must relieve their employees of all duties and relinquish any control over how employees spend their break time."

Labor Code section 226.7(c), provides that if an employer fails to provide an employee a rest period in accordance with statute or an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each work day that the rest period is not provided.

Section 12 of the applicable Wage Order provides that:

(A) Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle each work period. The authorized rest period shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof.

(B) If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensations for each workday that the rest period is not provided.

Upon information and belief, Griffin's policies and practices failed and fail to provide Mr. Hopkins and aggrieved employees with off-duty net rest periods of at least ten minutes for each four hours worked, or major fraction thereof, and failed and fail to pay them a premium wage at their regular rates of pay on workdays.

Accordingly, Mr. Hopkins, on behalf of himself and aggrieved employees, will pursue civil penalties and all available remedies to the extent allowed by law for the alleged violations.

FAILURE TO REIMBURSE BUSINESS EXPENSES

(Labor Code § 2802)

In pertinent part, Labor Code section 2802(a) states that, "An employer shall indemnify his or her employee(s) for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her duties. At relevant times during the statutory period, Griffin required Mr. Hopkins and aggrieved employees to incur business expenses which Griffin failed and/or refused to reimburse them for. For example, Mr. Hopkins and aggrieved employees were and are required to use their cell phone and service data to notify supervisors of the amount of trucks unloaded and photos of job-related tasks and were and are not reasonably reimbursed for the costs incurred.

Accordingly, Mr. Hopkins, on behalf of himself and aggrieved employees, will pursue civil penalties and all available remedies to the extent allowed by law for the alleged violations.

FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS

(Labor Code §§ 226, 226.3, and 2699)

Labor Code section 226(a) requires an employer to provide an employee with an accurate itemized wage statement that shows: (1) gross wages earned; (2) total hours worked by the employee; (3) the number of piece-rate units earned and any applicable piece-rate if the employee is paid on a piece-rate basis; (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item; (5) net wages earned; (6) the inclusive dates of the period for which the employee is pay; (7) the name of the employee

and 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 (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each rate by the employee.

For violations of Labor Code section 226(a), Labor Code section 226.3 imposes a civil penalty on any employer that violates section 226(a) in the amount of \$250.00 per employee per violation in an initial citation and \$1,000.00 per employee for each subsequent violation. The civil penalties provided for in Labor Code section 226.3 are in addition to any other penalty provided by law.

Mr. Hopkins and aggrieved employees were and continue to be furnished with inaccurate itemized wage statements during the statutory period. For example, Mr. Hopkins' wage statements are incompliant as the total hours therein include "Hourly - Vacation" in the total hours column. Lastly, as a result of alleged violations discussed above, Griffin furnished wage statements that failed to correctly show, among other items: (1) the gross wages earned, (2) all deductions, and (3) net wages earned.

Accordingly, Mr. Hopkins on behalf of aggrieved employees, will seek to recover available civil penalties for violations of Labor Code 226(a).

FAILURE TO TIMELY PAY WAGES UPON SEPARATION OF EMPLOYMENT

(Labor Code §§ 201, 202, 203, and 2699)

Labor Code section 201 states, in pertinent part, "If an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately."

Labor Code section 202 states, in pertinent part, "If an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting."

Labor Code section 203 provides that an employee's wages shall continue as a penalty from when they first become due at the same rate until paid for up to 30 days when an employer willfully fails to timely pay all earned and unpaid wages in accordance with Labor Code section 201 or 202.

Upon information and belief, Griffin willfully failed and fails to provide aggrieved employees all wages due and owed upon separation of employment. By furnishing aggrieved employees with a final check that failed to include all earned and owed minimum wages, overtime, meal and rest period premiums, and vacation pay – as described above, Griffin violated Labor Code sections 201 or 202.

Accordingly, Mr. Hopkins on behalf of himself and aggrieved employees, will pursue civil penalties and all available remedies to the extent allowed by law for the alleged violations.

CIVIL PENALTIES FOR VIOLATION OF THE LABOR CODE AND IWC WAGE

ORDERS

(Labor Code § 558)

Labor Code section 558 subjects any employer or other person acting on behalf of an employer who violates Part 2, Chapter 1, of the Labor Code (Labor Code §§ 500-558), or any provision regulating the hours and days in any IWC Wage Order, to a civil penalty in the amount of \$50 for any initial violation for each pay period in which an employee is underpaid, and \$100 for each subsequent violation.

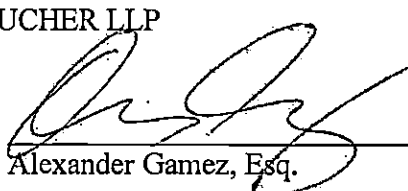
As set forth above, Griffin failed to pay all overtime compensation and provide Mr. Hopkins and aggrieved employees compliant meal periods and/or rest periods and failed to pay premium wages owed. Accordingly, Mr. Hopkins, on behalf of aggrieved employees, will seek to recover civil penalties under Labor Code section 558.

CONCLUSION

The allegations set forth herein are supported by, among other things, records and documents from Mr. Hopkins's employment with Griffin, including but not limited to earning statements and Mr. Hopkins's confirmation of Griffin's unlawful practices and policies. As a result of the foregoing violations, Mr. Hopkins is entitled to file a Complaint and invoke the protections of the Act. Mr. Hopkins has placed Griffin on notice by mailing a certified copy of this notice to their corporate headquarters and/or authorized agents.

Very truly yours,

BOUCHER LLP

By: 

Alexander Gamez, Esq.

cc via email:
Sahag Majarian II
Garen Majarian
Majarian Law Group, APC
18250 Ventura Boulevard
Tarzana, California 91356
sahagii@aol.com
garen@majarianlawgroup.com

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PROOF OF SERVICE

**Hopkins v. Limeguys, Inc., d/b/a Griffin Materials
STK-CV-UOE-2024-0004093**

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Los Angeles, State of California. My business address is 21600 Oxnard Street, Suite 600, Woodland Hills, CA 91367-4903.

On July 18, 2024, I served true copies of the following document(s) described as **STIPULATED REQUEST FOR LEAVE TO FILE FIRST AMENDED COMPLAINT AND [PROPOSED] ORDER** on the interested parties in this action as follows:

SEE ATTACHED SERVICE LIST

BY E-MAIL OR ELECTRONIC TRANSMISSION: Pursuant to Code of Civil Procedure section 1010.6 and California Rule of Court 2.251, or pursuant to the Court's order authorizing electronic service, or by an agreement of the parties, I caused the document(s) to be sent from e-mail address yue@boucher.la to the persons at the e-mail addresses listed in the Service List. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on July 18, 2024, at Woodland Hills, California.

/s/ Tricia Yue

Tricia Yue

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SERVICE LIST
Hopkins v. Limeguys, Inc., d/b/a Griffin Materials
STK-CV-UOE-2024-0004093

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STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

On July 25, 2024, I served true copies of the following document(s) described as **STIPULATED REQUEST FOR LEAVE TO FILE FIRST AMENDED COMPLAINT AND ORDER** on the interested parties in this action as follows:

BY E-MAIL OR ELECTRONIC TRANSMISSION: Pursuant to Code of Civil Procedure section 1010.6 and California Rule of Court 2.251, or pursuant to the Court's order authorizing electronic service, or by an agreement of the parties, I caused the document(s) to be sent from e-mail address yue@boucher.la to the persons at the e-mail addresses listed in the Service List. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

Executed on July 25, 2024, at Woodland Hills, California.

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STIPULATED REQUEST FOR LEAVE TO FILE FIRST AMENDED COMPLAINT AND ORDER

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SERVICE LIST
Hopkins v. Limeguys, Inc., d/b/a Griffin Materials
STK-CV-UOE-2024-0004093

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