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Superior Court of California,
County of San Diego

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Clerk of the Superior Court
By J. Walters ,Deputy Clerk

Attorneys for Plaintiff ADOLFO HERNANDEZ, an Individual

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

ADOLFO HERNANDEZ, an Individual,

CASE NO. 25CU014067C

Plaintiff,

COMPLAINT FOR:

v.

1. MEAL AND REST PERIOD VIOLATIONS

CALIBER BODYWORKS LLC D.B.A.
CALIBER COLLISION CENTERS, a
California Limited Liability Company;
CALIBER HOLDINGS L.L.C., a California
Limited Liability Company; CALIBER
HOLDINGS OF CALIFORNIA, a Delaware
Limited Liability Company; and DOES 1-10,
inclusive

2. MINIMUM WAGE VIOLATIONS

3. OVERTIME VIOLATIONS

4. FAILURE TO REIMBURSE FOR BUSINESS EXPENSES

5. FAILURE TO PAY WAGES UPON SEPARATION

Defendants

6. BUSINESS AND PROFESSIONS CODE § 17200 VIOLATIONS

Demand for Jury Trial

COMES NOW Plaintiff ADOLFO HERNANDEZ ("Plaintiff"), and alleges for his complaint as follows:

PARTIES, JURISDICTION, AND VENUE

1. This Court has jurisdiction over this matter in that all parties are residents of, or do business within, the State of California and the amount in controversy exceeds the statutory minimum limit of this Court. The monetary damages and restitution sought by Plaintiff exceed the minimal jurisdiction limits of the Superior Court and will be established according to proof at trial. Furthermore, there is no federal question at issue as Wage and Hour protections and remedies related thereto are based solely on California Law and Statutes, including the Labor Code, Civil Code, and IWC Wage Order(s).
2. Venue before this Court is proper in that certain wrongful acts which gave rise to Plaintiff's injuries occurred in the County of San Diego, State of California.
3. At all relevant times herein, Plaintiff was an individual residing in the County of San Diego, State of California.
4. Plaintiff is informed and believes and thereon alleges that at all relevant times mentioned herein, Defendant CALIBER BODYWORKS LLC D.B.A. CALIBER COLLISION CENTERS, ("Defendant" or "CALIBER") was and is a California Limited Liability Company doing business in the County of San Diego, State of California. Plaintiff is informed and believes and thereon alleges that at all relevant times mentioned herein, Defendant CALIBER HOLDINGS L.L.C., ("Defendant" or "CALIBER") was and is a California Limited Liability Company doing business in the County of San Diego, State of California. Plaintiff is informed and believes and thereon alleges that at all relevant times mentioned herein, Defendant CALIBER HOLDINGS OF CALIFORNIA, ("Defendant" or "CALIBER") was and is a Delaware Limited Liability Company doing business in the County of San Diego, State of California.
5. Plaintiff is presently unaware of the true names, capacities and liability of Defendants named herein as DOES 1 through 10, inclusive. Accordingly, Plaintiff will seek leave of court to amend this complaint to allege their true names and capacities after the same have been

ascertained.

6. Plaintiff is informed and believes and thereon alleges that each of the fictitiously named Defendants is responsible in some manner for the wrongs and damages as herein alleged, and in so acting was functioning as the agent, servant, partner, and employee of the co-defendants, and in doing the actions mentioned below, was acting within the course and scope of his or her authority as such agent, servant, partner, and employee with the permission and consent of the co-defendants. Plaintiff's injuries as herein alleged were proximately caused by said Defendants. Wherever it is alleged herein that any act or omission was done or committed by any specially named Defendant or Defendants, Plaintiff intends thereby to allege and does allege that the same act or omission was also done and committed by each and every defendant named as a DOE, both separately and in concert or conspiracy with the named defendant or Defendants.

7. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, including DOES 1 through 10, are and at all times herein mentioned were either individuals, sole proprietorships, partnerships, registered professionals, corporations, alter egos or other legal entities which were licensed to do and/or were doing business in the County of San Diego, state of California at all times relevant to the subject matter of this action.

FACTUAL BACKGROUND

8. In or about December 2020, Plaintiff ADOLFO HERNANDEZ commenced working for Defendants. Plaintiff's employment with Defendants continued through May, 2022. Throughout his employment with Defendants, Plaintiff performed his job in a capable and competent manner and was commended for doing so.

9. Throughout the term of his employment, Plaintiff was denied the benefits and protections of the Labor Code due to Defendants' labor practices.

10. Throughout the operative limitations period, Plaintiff was denied the protections and benefits of the Labor Code due to Defendants' practices. Throughout his employment, Plaintiff was denied full and accurate compensation, including overtime compensation, in violation of, *inter alia*, Labor Code sections 510 and 1197. Plaintiff was denied Meal and Rest Periods and Meal

1 and Rest Period payments, in violation of, *inter alia*, Labor Code sections 226.7 and 512 and
2 the applicable IWC Wage Orders. Defendants failed to furnish accurate itemized wage
3 statements in violation of, *inter alia*, Labor Code section 226. Defendants failed to reimburse
4 Plaintiff for necessary business expenditures in violation of, *inter alia*, Labor Code section
5 2802.

- 6 11. Plaintiff brings this action on the grounds that he was improperly denied the mandated wages
7 resulting from the above-referenced violations. Code Civ. Proc. § 2699; *Arias*, 46 Cal. 4th at
8 980-981.

9 **FIRST CAUSE OF ACTION**
10 **Meal and Rest Period Violations Pursuant to Labor Code §§ 226.7, 512 et seq.**
11 **(By Plaintiff against Defendants and DOES 1 through 10)**

- 12 12. Plaintiff hereby incorporates by reference paragraphs 1 through 11 as though fully set forth
13 herein.

- 14 13. Labor Code section 1198 states:

15 The maximum hours of work and the standard conditions of labor fixed
16 by the commission shall be the maximum hours of work and the
17 standard conditions of labor for employees. The employment of any
18 employee for longer hours than those fixed by the order or under
19 conditions of labor prohibited by the order is unlawful.

20 Defendants violated this section by establishing working conditions below the standard of the
21 applicable Wage Order.

- 22 14. Under applicable California law, “An employer may not employ an employee for a work period
23 of more than five hours per day without providing the employee with a meal period of not less
24 than 30 minutes [...] An employer may not employ an employee for a work period of more than
25 10 hours per day without providing the employee with a second meal period of not less than
26 30 minutes” Lab. Code § 512(a); see also 8 Cal. Code Regs. § 11040 (11)(A). Unless the
27 employee is relieved of all duty during a thirty (30) minute meal period, the meal period shall
28 be considered an “on duty” meal period and counted as time worked. Unless the employee is
relieved of all duty during for a full thirty (30) minute meal period, the meal period shall be
considered an “on duty” meal period and counted as time worked. 8 Cal. Code Regs. § 11040
(11); *See Safeway Inc. v. Superior Court* (2015) 238 Cal.App.4th 1138, 1160.

- 1 15. California law requires employers to provide nonexempt employees with a 10-minute rest
2 break for every four hours worked, or “major fraction thereof.” 8 Cal. Code Regs. § 11040
3 (12). Additionally, during rest periods employers must relieve employees of all duties and
4 relinquish control over how employees spend their time. *Augustus v. ABM Security Services,*
5 *Inc.* (2016) 2 Cal.5th 257, 269.
- 6 16. An employer who fails to provide meal or rest periods as required by an applicable Wage Order
7 must pay the employee one additional hour of pay at the employee’s regular rate of pay for
8 each workday that the meal or rest period was not provided. Lab. Code § 226.7(b); 8 Cal. Code
9 Regs. § 11040 (11), (12).
- 10 17. Within the operative time period, Defendants failed to possess compliant Meal and Rest period
11 policies.
- 12 18. These violations are due, in part, to the fact that Defendants do not possess a legal Rest Period
13 policy or practice, as its purported Rest Period policy lacks required language, resulting in
14 employees failing to receive all Rest Periods legally due. Defendants do not provide Rest
15 Periods, as defined by California law. Further, Defendants have never provided a Rest Period
16 penalty payment to Plaintiff.
- 17 19. Additionally, Defendants do not possess a legal Meal Period policy, and make no attempt to
18 ensure that its employees are either timely or wholly provided Meal Periods. Plaintiff would
19 often either miss a Meal Period entirely, be provided a short or untimely Meal Period, or be
20 provided only one Meal Period, even where he would work in excess of 10 hours a day.
- 21 20. Moreover, Defendants’ policies and practices preclude “duty-free” Meal and Rest Periods.
22 These institutional and established practices of Defendants are illegal, in that Plaintiff was
23 denied proper and/or timely Meal and Rest Periods.
- 24 21. Defendants willfully failed and refused to pay Plaintiff one additional hour of pay at their
25 regular rate of pay for all workdays that a Meal or Rest Period was not provided, as required
26 by Labor Code section 226.7 and 8 Cal. Code Regs. § 11040 (11), (12).
- 27 22. Any payments made by Defendants for missed or late Meal Periods were not paid at an
28 employee’s regular rate in violation of Labor Code section 226.7 and the operative IWC Wage

1 Orders. Instead, these payments were made at Plaintiff's base rate and did not include the value
2 of, *inter alia*, employee benefits or other non-discretionary compensation provided.

3 23. As a direct result of Defendants' failure to comply with the foregoing provisions of the Labor
4 Code, Plaintiff has been damaged in an amount to be proven at trial.

5 24. Plaintiff also seeks an award of reasonable attorneys' fees and costs.

6 **SECOND CAUSE OF ACTION**
7 **Minimum Wage Violations**
8 **(By Plaintiff against Defendants and DOES 1 through 10)**

9 25. Plaintiff hereby incorporates by reference paragraphs 1 through 24 as though fully set forth
10 herein.

11 26. Defendants failed to pay Plaintiff all compensation due in violation of, among other statutes,
12 Labor Code section 1197. This failure was caused - in part - by and through Defendants failure
13 to maintain accurate Time Records (as required by California law), to the detriment of the
14 employee. Specifically, although Defendants would receive "to-the-minute" start and end times
15 (from its employees required actions), Defendants would thereafter alter - and deduct time
16 from - the Time Records, prior to payment of compensation to the employees. Additionally,
17 Plaintiff was denied compensation as a result of Defendants self-defined "workday," as
18 described below. These actions, and instructions, caused Plaintiff to lose compensation,
19 including the proper minimum wage compensation.

20 27. As a direct result of Defendants failure to comply with the foregoing provisions of the Labor
21 Code, Plaintiff has been damaged in an amount to be proven at trial.

22 28. Plaintiff also seeks an award of reasonable attorneys' fees and costs.

23 **THIRD CAUSE OF ACTION**
24 **Overtime Violations Pursuant to Labor Code § 510**
25 **(By Plaintiff against Defendants and DOES 1 through 10)**

26 29. Plaintiff hereby incorporates by reference paragraphs 1 through 28 as though fully set forth
27 herein.

28 30. Defendants failed to pay Plaintiff all compensation, including Overtime Compensation, due
in violation of, among other statutes, Labor Code section 510. These violations occurred due
to Defendants' illegal policies, referenced above, whereby Plaintiff experienced monetary

under-compensation.

31. Additionally, Defendants failed to properly calculate Plaintiff's regular rate of pay for purposes of overtime compensation such that the value of employee benefits were not included in the calculation of Plaintiff's regular rate of pay. Plaintiff is informed and believes and thereon alleges that at all relevant times herein, Defendants failed to take into account the value of all employee benefits when calculating the regular rates of pay, for purposes of overtime compensation, in violation of Labor Code section 510.

32. As a direct result of Defendants' failure to comply with the foregoing provisions of the Labor Code, Plaintiff has been damaged in an amount to be proved at trial.

33. Plaintiff also seeks an award of reasonable attorneys' fees and costs.

FOURTH CAUSE OF ACTION
Failure to Reimburse Business Expenses Pursuant to Labor Code § 2802
(By Plaintiff against Defendants and DOES 1 through 10)

34. Plaintiff hereby incorporates by reference paragraphs 1 through 33 as though fully set forth herein.

35. Defendants failed to reimburse Plaintiff for all necessary business expenditures incurred in direct consequence of the discharge of his duties in violation of, among other statutes, Labor Code section 2802. These expenditures are the result of, *inter alia*, Defendants' standard policies which require its employees to purchase or charge for items, without full reimbursement. These expenditures are the result of, *inter alia*, Defendants standard policies which require its employees to use their own cell phones for work-related purposes, and to purchase required work uniforms, without reimbursement.

36. As a direct result of Defendants failure to comply with the foregoing provisions of the Labor Code, Plaintiff has been damaged in an amount to be proven at trial.

37. Plaintiff also seeks an award of reasonable attorneys' fees and costs.

FIFTH CAUSE OF ACTION
Failure to Pay Wages Upon Separation Pursuant to Labor Code § 203
(By Plaintiff against Defendants and DOES 1 through 10)

38. Plaintiff hereby incorporates by reference paragraphs 1 through 37 as though fully set forth herein.

1 39. Defendants failed to provide Plaintiff with all wages earned and unpaid at termination in
2 violation of, among other statutes, Labor Code sections 201 through 203. These violations
3 resulted from, among other unlawful actions, Defendants willful failure to provide accurate and
4 complete compensation to aggrieved employees under Labor Code sections 226.7, 510, 512,
5 1197, and 2802.

6 40. As a direct result of Defendants failure to comply with the foregoing provisions of the Labor
7 Code, Plaintiff has been damaged in an amount to be proven at trial.

8 41. Plaintiff also seeks an award of reasonable attorneys' fees and costs.

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10 **SIXTH CAUSE OF ACTION**
Violation of Business and Professions Code § 17200 et seq.
(By Plaintiff against Defendants and DOES 1 through 10)

11 42. Plaintiff hereby incorporates by reference paragraphs 1 through 41 as though fully set forth
12 herein.

13 43. Plaintiff is an ex-employee and direct victim of Defendants' illegal and/or unfair business acts
14 and practices referenced in this Complaint, has lost money as a result of such practices, and is
15 suing in his individual capacity.

16 44. Plaintiff has suffered an injury in fact pursuant to Business and Professions Code section
17 17204, and has lost money as a result of Defendants' illegal and/or unfair practices.

18 45. As set forth above, during the course of Plaintiff's employment, Defendants failed and refused
19 to properly pay Plaintiff, and Defendant also failed to comply with fundamentally protective
20 California laws including, but not limited to, Labor Code sections 204, 510, 221, 226, 1197,
21 and 2802 and Business and Professions Code section 16600.

22 46. Business and Professions Code section 17200, *et seq.*, prohibits any unlawful, unfair or
23 fraudulent business act or practice.

24 47. Plaintiff's allegations herein are based upon the institutional business acts and practices of
25 Defendants.

26 48. Defendants' acts and practices, as described herein above, are unlawful and unfair, in that they
27 violate the California Labor Code and the California Industrial Welfare Commission Wage
28 Orders.

1 49. As a direct result of Defendants' unlawful and unfair business acts and practices, Plaintiff has
2 been denied wages earned and penalties owed, and has therefore been damaged in an amount
3 to be proven.

4 50. Plaintiff is informed and believes, and on that basis alleges, that Defendants' unlawful and
5 unfair business practices, alleged above, are continuing in nature and are widespread.

6 51. Plaintiff is entitled to restitution of monies due, as well as disgorgement of the ill-gotten gains
7 obtained by Defendants, for a period of four years predating the filing of this Complaint.

8 52. Plaintiff is entitled to attorneys' fees and costs for promoting the interests of the general public
9 in causing Defendant to cease its fraudulent and/or unlawful and/or unfair business practices,
10 in an amount according to proof, pursuant to California Code of Civil Procedure section 1021.5
11 and any other applicable law.

12 **PRAYER FOR RELIEF**

13 WHEREFORE, Plaintiff prays for relief as follows:

- 14 1. Compensatory damages according to proof, as set forth under Labor Code sections 201, 226.7,
15 227.3, 510, 512, 1194 and 2802 among other statutes;
- 16 2. All statutory penalties pursuant to the California Labor Code;
- 17 3. Statutory penalties pursuant to, *inter alia*, Labor Code section 226;
- 18 4. For compensatory and special damages in an amount to be proven at trial, but in no event less
19 than the jurisdictional minimum of this Court;
- 20 5. For restitution damages;
- 21 6. For costs of suit herein incurred;
- 22 7. For reasonable attorneys' fees incurred;
- 23 8. For an award of interest, including prejudgment interest;
- 24 9. An order reinstating Plaintiff to the position (and level of benefits) he would have held had
25 there been no wrongdoing by Defendant;
- 26 10. For punitive damages where available; and
- 27 11. For any further relief as to the court may seem just and proper.

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Dated: March 18, 2025

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Eric K. Yaeckel
Ryan T. Kuhn
Attorneys for Plaintiff ADOLFO HERNANDEZ, an
individual