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ALI MOISES BALLEZA,
and all putative class members

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF RIVERSIDE

ALI MOISES BALLEZA, an individual, on
behalf of himself and all others similarly
situated,

Plaintiff,

vs.

THE PEGGS COMPANY, a California
corporation, and DOES 1-50, inclusive,

Defendant.

Case No.: **CVRI 2402371**

CLASS ACTION COMPLAINT FOR:

- 1. Failure to Pay all Hours Worked, Including Overtime Hours Worked**
- 2. Failure to Pay Minimum Wage**
- 3. Failure to Pay All Wages Owed Twice Per Month**
- 4. Failure to Timely Pay All Wages Owed**
- 5. Meal Break Violations**
- 6. Rest Break Violations**
- 7. Failure to Reimburse for Required Business Expenses**
- 8. Failure to Provide Accurate Itemized Wage Statements & Violation of Record Keeping Requirements**
- 9. Unlawful Business Practices Bus & Prof. Code §17200**
- 10. Statutory Penalties Pursuant To Private Attorneys General Act, Labor Code §2698 et seq.**

JURY TRIAL DEMANDED

1 Plaintiff ALI MOISES BALLEZA, individually, and on behalf of all others similarly
2 situated (collectively “Plaintiff”), alleges as follows:

3 NATURE OF THE ACTION

4 1. This is an employment class action on behalf of over 100 hourly, non-exempt employees
5 against their employer for violations of numerous wage and hour laws. Plaintiff brings this
6 employment class action complaint on behalf of himself, and all others similarly situated against
7 THE PEGGS COMPANY, and DOES 1-50, inclusive, (hereafter collectively “Defendant” or
8 “Defendants”).

9 2. Defendant THE PEGGS COMPANY designs and manufactures shopping carts in
10 California. Plaintiff ALI MOISES BALLEZA worked as an employee for Defendant as a Repair
11 Technician from 2019 until March 2023, on an hourly, non-exempt basis. Plaintiff and the
12 proposed class earn at or near minimum wage.

13 3. As described further below, Defendant has violated the California Labor Code by (1)
14 failing to pay for all hours worked, including overtime hours worked (§218, 248, 510, 558, 1194,
15 1197, 1198, 1199, 2698 *et seq.*); (2) failing to pay minimum wage (§200, 218.5, 226, 558, 1194,
16 1194.2, 1197, 1197.2, 1198, 1199, 2698 *et seq.*); (3) failing to pay all wages owed twice per month
17 (§204, 210, and 2698 *et seq.*); (4) failing to timely pay all wages owed (§201, 202 and 2698 *et*
18 *seq.*); (5) failing to provide timely meal breaks (§226 (a), 226.7, 512, 558, 1198, 2698 *et seq.*,
19 Wage Order); (6) failing to provide rest breaks (§226, 226.7, 512, 558, 1198, 2350, 2441, 2698 *et*
20 *seq.*, 3457, 6712); (7) failing to reimburse for required business expenses (§1198, 2802, 2699 *et*
21 *seq.*); (8) failing to provide accurate itemized wage statements and violating record keeping
22 requirements (§226, 1174(d), 2699 *et seq.*) and; (9) unlawful and unfair business practices (Bus.
23 & Prof. Code §17200, *et. seq.*).

24 4. The class claims in this action are brought pursuant to Code of Civil Procedure (“CCP”)
25 §382, seeking recovery for unpaid wages, including overtime wages, missed meal and rest period
26 penalty pay, statutory and waiting time penalties, injunctive and other equitable relief, interest, and
27 reasonable attorneys’ fees and costs. Pursuant to the class action procedures provided for under
28 California law, Plaintiff, on behalf of himself and proposed Class Members (also referred to as

1 “Class”), also seeks injunctive relief and restitution of all benefits Defendant has received from
2 their unlawful actions as alleged herein.

3 5. The “Class Period” is designated as the four-year period prior to the filing of this
4 Complaint through the date of the final disposition of this action. From the start of the Class Period
5 through the present, Defendant has had a policy and/or practice of among other violations: late
6 and/or interrupted meal breaks, untimely and/or interrupted rest breaks, issuing inaccurate wage
7 statements, and ignoring and violating California wage and hour laws, in their business as more
8 fully set forth below.

9 6. Defendant has treated all persons employed in California in such a way as to violate
10 California’s laws governing conditions of employment and payment of wages owed. Plaintiff
11 asserts that Defendant has knowingly and with conscious disregard of the law refused to pay the
12 Class Members all wages owed, including overtime wages and meal and rest break penalty wages.
13 Defendant has violated numerous Labor Code provisions, as set forth herein. Class Members are
14 owed their back pay, plus interest and/or premiums and penalties under Business and Professions
15 Code section 17203 to compensate Class Members and Class Members for the delay in receiving
16 wages due.

17 7. Defendant, by and through their actions, has engaged in unfair competition, requiring
18 restitution to persons affected and disgorgement of profits so obtained.

19 **THE PARTIES**

20 8. Plaintiff ALI MOISES BALLEZA is an individual who resides in California and worked
21 for Defendant as a Repair Technician from 2019 until March 2023.

22 9. Defendant THE PEGGS COMPANY, is a California corporation doing business in
23 California with the capacity to sue and to be sued and doing business, in Riverside County, State
24 of California. Defendant exercised control over the wages, hours, and/or working conditions of
25 Plaintiff and members of the proposed class throughout the liability period.

26 10. Defendant Does 1-50, inclusive, are sued herein under fictitious names. Their true
27 names and capacities are unknown to Plaintiff. When their true names and capacities are
28 ascertained, Plaintiff will amend this complaint by inserting their true names and capacities herein.

1 Plaintiff is informed and believes, and thereon alleges, that each of the fictitiously named
2 Defendant is responsible in some manner for the occurrences herein alleged, and that the damages
3 sustained by Plaintiff and the Class Members herein alleged were proximately caused by such Doe
4 Defendants.

5 11. Plaintiff is informed and believes and thereon alleges that each Defendant, directly or
6 indirectly, or through agents or other persons, employed Plaintiff and other members of the Class,
7 and exercised control over their wages, hours, and working conditions. Plaintiff is informed and
8 believes and thereon alleges that each Defendant acted in all respects pertinent to this action as the
9 agent of the other Defendants, carried out a joint scheme, business plan, or policy in all respects
10 pertinent hereto, and the acts of each Defendant is legally attributable to the other Defendants.

11 **JURISDICTION AND VENUE**

12 12. Venue is proper in this judicial district because Defendant conducts business in this
13 County and Defendant has legal obligations to Plaintiff and many of the Class Members in this
14 case that arose in this county.

15 13. The monetary damages, restitution, and statutory penalties sought by Plaintiff exceed
16 the minimal jurisdictional limits of the Superior Court and will be established according to proof
17 at trial. Based on information, investigation, and analysis, Plaintiff alleges that the amount in
18 controversy, including claims for monetary damages, penalties, and attorney's fees, is more than
19 twenty-five thousand dollars (\$25,000) and less than five million dollars (\$5,000,000).

20 14. The California Superior Court has jurisdiction in this matter because Plaintiff is a
21 resident of California and Defendant is incorporated in and/or qualified to do business in California
22 and regularly conduct business in California. Further, there is no federal question at issue as the
23 claims herein are based solely on California law.

24 **GENERAL ALLEGATIONS**

25 15. During the Class Period, Defendant committed various violations of the California
26 Labor Code, the UCL and the applicable IWC Wage Order, as alleged below in more detail.
27 Defendant enforces multiple policies that violate state law which are intended to increase its own
28 profits to the detriment of its employees.

1 16. Defendant failed to pay for overtime hours worked. Plaintiff, Aggrieved Employees
2 and Class Members were required to work off the clock frequently without pay. For example,
3 Plaintiff was often pressured to clock out for meal periods but to continue working.

4 17. Defendant also failed to pay minimum wage due to their practices.

5 18. Defendant failed to pay all wages owed twice per month.

6 19. Defendant failed to timely pay all wages owed.

7 20. Defendant failed to maintain a policy and practice that provides its employees with
8 timely meal breaks as required by California law.

9 21. Defendant failed to maintain a policy and practice that provides its employees with off-
10 duty rest periods as required by California law.

11 22. Defendant failed to reimburse for required business expenses. Plaintiff, aggrieved
12 employees and class members were required to download an app on their mobile phones to use to
13 clock in and out and use their personal phones when working off site. Plaintiff, aggrieved
14 employees and class members were not reimbursed for this mandatory use of their personal
15 phones.

16 23. Defendant further failed to provide timely, accurate, itemized wage statements to
17 employees, as well as maintain accurate records, in accordance with Labor Code §§ 226 and 1174.

18 24. Based upon the above allegations, Defendant engaged in unfair competition.

19 **CALIFORNIA CLASS ACTION ALLEGATIONS**

20 25. Plaintiff brings this action on behalf of himself, and all other persons similarly situated,
21 to recover from Defendant for failure to comply with California wage and hour laws, and for claims
22 under Business and Professions Code § 17200.

23 26. This action has been brought and may properly be maintained as a class action
24 pursuant to the provisions of Code of Civil Procedure § 382 because the proposed class is
25 ascertainable and there is a well-defined community of interest. Plaintiff is among in excess of 100
26 employees who have been similarly injured by Defendant's unlawful employment policies and
27 practices.
28

1 27. The “Relevant Time Period” or proposed “Class Period” as defined herein commences
2 four years prior to the date of filing this Complaint.

3 28. Plaintiff brings this action on their behalf and as a class action under Cal. Code of
4 Civil Procedure §382 on behalf of the following defined groups:

5 29. Proposed Class: “All persons who are employed or have been employed by Defendant
6 in the State of California as hourly, non-exempt workers during the period of the relevant statute
7 of limitations.”

8 30. Proposed Sub-classes:

9 A. All persons who are employed or have been employed by Defendant in the State
10 of California as hourly, non-exempt workers during the period of the relevant
11 statute of limitations, who worked one or more shift in excess of five (5) hours.

12 B. All persons who are employed or have been employed by Defendant in the State
13 of California as hourly, non-exempt workers during the period of the relevant
14 statute of limitations, who worked one or more shifts in excess of six (6) hours.

15 C. All persons who are employed or have been employed by Defendant in the State
16 of California as hourly, non-exempt workers during the period of the relevant
17 statute of limitations, who worked one or more shifts in excess of eight (8)
18 hours.

19 D. All persons who are employed or have been employed by Defendant in the State
20 of California as hourly, non-exempt workers during the period of the relevant
21 statute of limitations, who worked one or more shifts in excess of three and one-
22 half hours (3 ½), but less than or equal to six (6) hours.

23 E. All persons who are employed or have been employed by Defendant in the State
24 of California as hourly, non-exempt workers during the period of the relevant
25 statute of limitations, who worked one or more shifts in excess of six (6) hours,
26 but less than or equal to ten (10) hours.

1 F. All persons who are employed or have been employed by Defendant in the State
2 of California as hourly, non-exempt workers during the period of the relevant
3 statute of limitations, who separated their employment from Defendant.

4 G. All persons who are employed or have been employed by Defendant in the State
5 of California as hourly, non-exempt workers during the period of the relevant
6 statute of limitations, who received pay for one or more pay periods.

7 31. This action is brought, and may properly be maintained, as a class action under CCP
8 §382 because there is a well-defined community of interest in the litigation, and the proposed Class
9 and Subclasses (collectively “Class”) are easily ascertainable.

10 32. Numerosity: The Proposed Class is so numerous that joinder of all members is
11 impractical. Plaintiff is informed and believes, and on that basis alleges, that during the relevant
12 time period, Defendant employed over 100 putative Class Members who are geographically
13 dispersed and who satisfy the definition of the proposed Class. As such, a class action is the only
14 available method for the fair and efficient adjudication of this controversy. Membership in the
15 Proposed Class can be easily ascertained by an examination and analysis of employee and payroll
16 records, among other records within Defendant’s possession and control.

17 33. Typicality: Plaintiff’s claims are typical of the claims of the Class Members. Plaintiff,
18 like others similarly situated, was subjected to Defendant’s common, unlawful policies, practices,
19 and procedures described above. The Plaintiff’s positions at the company was typical of those of
20 other Class Members. Plaintiff’s claims are typical of the claims of each Class Member because
21 each have sustained damages arising out of and caused by Defendant’s common course of conduct,
22 as alleged herein. As such, Plaintiff has the same interests in this matter as all members of the
23 Class.

24 34. Adequacy: Plaintiff will fairly and adequately protect the interests of the members of
25 the Class. Plaintiff has retained counsel competent and experienced in complex class actions and
26 California labor and employment litigation.

27 35. Commonality: Common questions of law and fact exist, including but not limited to
28 the following:

- i. Whether Defendant violated wage and hour laws by failing to pay overtime wages;
- ii. Whether Defendant violated wage and hour laws by failing to pay minimum wage;
- iii. Whether Defendant violated wage and hour laws by failing to pay all wages owed twice per month;
- iv. Whether Defendant violated wage and hour laws by failing to timely pay all wages owed;
- v. Whether Defendant violated wage and hour laws by failing to provide timely meal breaks;
- vi. Whether Defendant's policy and practice concerning meal breaks was unlawful;
- vii. Whether Defendant violated wage and hour laws by failing to provide rest breaks;
- viii. Whether Defendant's policy and practice concerning rest breaks was unlawful;
- ix. Whether Defendant violated wage and hour laws by failing to reimburse for required business expenses;
- x. Whether Defendant unlawfully failed to keep and furnish Class Members with accurate, itemized records of hours worked, in violation of Labor Code §§ 226 and 1174;
- xi. The proper measure of damages sustained and the proper measure of restitution recoverable by Plaintiff, the Class Members, and Subclass Members;
- xii. Whether the Class Members are entitled to injunctive relief to enjoin any further violations of wage and labor laws;
- xiii. Whether Defendant, and each of them, are/were participants in the alleged unlawful and/or tortious conduct;

xiv. Whether Defendant's conduct was willful and reckless;

xv. The effect upon and the extent of injuries suffered by Plaintiff and the Plaintiff Class and the appropriate amount of reimbursement, restitution, damages, or other compensation; and

xvi. What is the extent of liability of each Defendant, including DOE defendants, to each Class and Subclass member?

36. Superiority: A class action is superior to other available methods of the fair and efficient adjudication of the controversy, particularly in the context of wage and hour litigation where the damage suffered by individual plaintiffs, while not inconsequential, makes individual actions impracticable given the expenses and burdens associated with seeking individual relief. Prosecuting over 100 identical, individual lawsuits does not promote judicial efficiency or equity and consistency in judicial results. Moreover, the Class is a group of hourly, low-wage earning employees who rely on their wages and requiring that each individual take time away from work to prosecute individual actions would be inequitable and result in undue hardship for the individual Class members and their families. Public policy favors efficient resolution of their claims and uniform enforcement of California Labor laws against entities skirting their legal obligations at the expense of a vulnerable working population.

37. Manageability: Plaintiff is informed and believes that all allegations in this Complaint are capable of being determined on the same evidence and based primarily on review of corporate records and key testimony of Defendant's corporate representatives. To the extent statistical analysis and representative evidence is necessary, Plaintiff and proposed class counsel will employ competent experts and consultants in the field to determine and review evidence for both issues of liability and damages in a scientifically reliable manner.

38. Plaintiff requests, pursuant to Rule 1857(a)(1) and Rule 3.766 of the California Rules of Court, that the absent Class and Subclass Members be notified by the best notice practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort. The names and address of the Class and Subclass Members are available from Defendant.

1 **FIRST CAUSE OF ACTION**

2 **FAILURE TO PAY FOR ALL HOURS WORKED INCLUDING OVERTIME HOURS**
3 **WORKED**

4 Cal. Labor Code §§218, 248, 510, 558, 1194, 1197, 1198, 1199, 2698 *et seq.*

5 (Plaintiff Against All Defendants)

6 39. Plaintiff incorporates by reference in this cause of action each allegation of the
7 preceding paragraphs as though fully set forth herein.

8 40. Defendant's conduct described in this complaint violates the provisions of Labor Code
9 §§ 218, 248, 510, 558, 1194, 1197, 1198, 1199, 2698 *et seq.*

10 41. The Wage Orders define "hours worked" as "the time during which an employee is
11 subject to the control of an employer and including all the time the employee is suffered or
12 permitted to work, whether or not required to do so." Labor Code §§1194 and 1197 require
13 Defendant to compensate employees for all hours worked at least at a minimum wage as
14 established by the Wage Order.

15 42. Defendant has been engaged in many unlawful employment practices which resulted
16 in underpayment for hours worked each pay period as more fully set forth below:

17 43. Off-the-Clock Hours Worked. Plaintiff, Aggrieved Employees and Class Members
18 were required to work off the clock frequently without pay. For example, Plaintiff was often
19 pressured to clock out for meal periods but to continue working. Plaintiff, Aggrieved Employees
20 and Class Members were not paid for this time worked, resulting in failure to pay wages, including
21 overtime and minimum wages. Defendant has violated Labor Code §§510 1194, 1194.2, 1197,
22 1198, 1199 and Wage Orders. Defendant is liable for civil penalties pursuant to Labor Code §2698
23 *et seq*

24 44. Failure to Pay Overtime Wages. Defendant has required Plaintiff, Aggrieved
25 Employees and Class Members to work hours in excess of eight hours in a shift and forty in a week
26 but has not paid these employees overtime compensation, including for off the clock work as
27 described above.
28

1 45. Defendant also failed to pay overtime and sick wages at the required regular rate of pay
2 resulting in underpaid wages.

3 **SECOND CAUSE OF ACTION**

4 **FAILURE TO PAY MINIMUM WAGE**

5 Cal. Lab. Code §§200, 218.5, 226, 558, 1194, 1194.2, 1197, 1197.2, 1198, 1199, 2698 *et seq.*

6 (Plaintiff Against All Defendants)

7 46. Plaintiff incorporates by reference in this cause of action each allegation of the
8 preceding paragraphs as though fully set forth herein.

9 47. Defendant's conduct described in this complaint violates the provisions of Labor Code
10 §§ 200, 218.5, 226, 558, 1194, 1194.2, 1197, 1197.2, 1198, 1199, 2698 *et seq.*

11 48. Pursuant to Labor Code sections 1194, 1194.2, and 1197, it is unlawful for an employer
12 to suffer or permit a California employee to work without paying wages at the proper minimum
13 wage for all time worked as required by the applicable IWC Wage Order.

14 49. Defendant failed to pay Plaintiff, Aggrieved Employees and Class Members for all
15 hours worked as a result of Defendant's practices described herein. Based on Defendant's unlawful
16 conduct, and because Plaintiff, Aggrieved Employees and Class Members were paid at or near
17 minimum wage, employer's failure to pay for all hours worked, including overtime, resulted in a
18 payment of less than the minimum wage for all hours worked, in violation of Labor Code §1197,
19 1197.1, 1199 and the Wage Order. Defendant is liable for civil penalties pursuant to Labor Code
20 §§558 and 2699 *et seq.*

21 **THIRD CAUSE OF ACTION**

22 **FAILURE TO PAY ALL WAGES OWED TWICE PER MONTH**

23 Cal. Lab. Code §§204, 210, and 2698 *et seq.*

24 (Plaintiff Against All Defendants)

25 50. Plaintiff incorporates by reference in this cause of action each allegation of the
26 preceding paragraphs as though fully set forth herein.

27 51. Defendant's conduct described in this complaint violates the provisions of Labor Code
28 §§ 204, 210, and 2698 *et seq.*

1 52. Defendant was required to pay Plaintiff, Aggrieved Employees and Class Members all
2 wages earned twice during each calendar month pursuant to Labor Code §204(a).

3 53. Defendant failed to pay all wages earned to employees as a result of the unlawful
4 employment policies and practices discussed herein. As a result of these practices, employees were
5 underpaid for hours worked, including overtime and penalty wages, and this underpayment
6 resulted in a failure to pay all wages owed twice per month.

7 54. Due to these failures, Defendant is liable under Labor Code §204, 210 and 2698 *et seq.*
8 for failure to pay wages as required by law.

9 **FOURTH CAUSE OF ACTION**

10 **FAILURE TO TIMELY PAY ALL WAGES OWED**

11 Cal. Lab. Code §§201 – 203, 227.3 and 2698 *et seq.*

12 (Plaintiff Against All Defendants)

13 55. Plaintiff incorporates by reference in this cause of action each allegation of the
14 preceding paragraphs as though fully set forth herein.

15 56. Defendant's conduct described in this complaint violates the provisions of Labor Code
16 §§ 201, 202 and 2698 *et seq.*

17 57. As set forth above, Defendant knowingly and willfully failed to pay all compensation
18 due and owing, including payment for all hours worked, vacation wages, and penalty pay, to
19 Plaintiff at the time employment terminated. Defendant willfully failed to pay aggrieved
20 employees and class members who are no longer employed by it all compensation due upon
21 termination of employment as required by Cal. Lab. Code §§201 and 202. Pursuant to §§203,
22 claimant and similarly situated individuals are now also entitled to recover up to thirty (30) days
23 of wages due to Defendant's "willful" failure to comply with the statutory requirements of §§201
24 and 202 of the Labor Code. Moreover, because Defendant violated §§201, 202 and 203, Defendant
25 is liable for civil penalties pursuant to Cal. Lab. Code § 2698 *et. Seq.*

26 58. Plaintiff believes that other employees who separated from the company, whether
27 voluntary or involuntary, were also denied payment of wages, including vacation wages, in a
28 timely manner as required by §§201-203, and 227.3. Plaintiff will seek restitution pursuant to §558

(a)(3) for himself, class members and other aggrieved employees for each violation and will seek civil penalties under PAGA pursuant to §2698 *et. seq.*, on behalf of the Labor and Workforce and Development Agency (LWDA) against Defendant if authorized to file a representative action on behalf of the State of California.

FIFTH CAUSE OF ACTION

FAILURE TO PROVIDE TIMELY MEAL BREAKS

Cal. Lab. Code §§226 (a), 226.7, 512, 558, 1198, 2698 *et seq.*, Wage Order)

(Plaintiff Against All Defendants)

59. Plaintiff incorporates by reference in this cause of action each allegation of the preceding paragraphs as though fully set forth herein.

60. Defendant's conduct described in this complaint violates the provisions of Labor Code §§ 226 (a), 226.7, 512, 558, 1198, 2698 *et seq.*, Wage Order.

61. Labor Code §512 provides, "[a]n 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..." Labor Code §226.7(a) provides, "[n]o employer shall require an employee to work during any meal... period mandated by an applicable order of the Industrial Welfare Commission." Paragraph 11 of the Wage Order provides, in pertinent part, "[u]nless an 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."

62. In this case, Plaintiff and his coworkers frequently took noncompliant meal periods. Meal periods were often missed, late, and interrupted. On occasion, Plaintiff and his coworkers were required to clock out for lunch but keep working due to the press of work.

63. Full, uninterrupted, off-duty, thirty-minute meal periods were not provided because Defendant: (1) did not account for all hours worked that were unaccounted for on their timecard; (2) did not adequately inform and train employees about their rights to meal periods and premium payments for non-compliant meal periods; (3) did not adequately inform and train employees about when, where and how to take timely and uninterrupted thirty-minute meal periods; (4) because Defendant did not staff enough people to schedule all timely and uninterrupted thirty-minute meal

1 periods; and/or (5) because management at various levels, affecting all hourly, non-exempt
2 employees, refused to offer, permit, or enforce a lawfully compliant meal period policy.

3 64. The Wage Orders require employers to authorize and permit employees to take an
4 uninterrupted 30-minute meal period after no more than 5 hours of work. Pursuant to Labor Code
5 §1198, “the employment of any employee... under conditions of labor prohibited by the order is
6 unlawful.” Defendant failed to permit Plaintiff and others to take timely, off-duty, meal breaks of
7 “not less than 30 minutes” for each five consecutive hours of work in violation of Labor Code
8 §§226.7 and 512. Defendant never paid penalty pay to Plaintiff, class members or aggrieved
9 employees for noncompliant meal periods. As a derivative claim, Plaintiff alleges that pay
10 statements were inaccurate, failing to include required meal period penalties, thus failing the
11 requirements of Labor Code §226(a). As a result of these violations, Defendant is liable for civil
12 penalties pursuant to Cal. Labor Code §558 and §2698 *et. Seq.*

13 **SIXTH CAUSE OF ACTION**

14 **FAILURE TO PROVIDE REST BREAKS**

15 Cal. Labor Code §§ 226, 226.7, 512, 558, 1198, 2350, 2441, 2698 *et seq.*, 3457, 6712

16 **(Plaintiff Against All Defendants)**

17 65. Plaintiff incorporates by reference in this cause of action each allegation of the
18 preceding paragraphs as though fully set forth herein.

19 66. Defendant’s conduct described in this complaint violates the provisions of Labor Code
20 §§ 226, 226.7, 512, 558, 1198, 2350, 2441, 2698 *et seq.*, 3457, 6712.

21 67. Defendant has failed to maintain a policy and practice that provides or permits its
22 employees to take off-duty rest periods as required by California law. Plaintiff, aggrieved
23 employees and class members are entitled to at least a ten-minute rest period in which they are
24 relieved of all duties, as required by Cal. Lab. Code §226.7, §512 and the Wage Order.

25 68. Plaintiff never received a rest break while working for Defendant. The only break in
26 his day was a meal period, which was often late, short, or interrupted.

27 69. Rest periods were either less than ten minutes, not provided, interrupted or late, “on
28 duty,” or not scheduled before and after a meal period for shifts greater than six hours, as

1 prescribed by California law because Defendant: (1) did not account for all hours worked that were
2 unaccounted for on their timecard; (2) did not adequately inform and train employees about their
3 rights to rest breaks and premium payments for non-compliant rest breaks; (3) did not adequately
4 inform and train employees about when, where and how to take timely and uninterrupted ten-
5 minute rest breaks; (4) because Defendant did not staff enough people to schedule all timely and
6 uninterrupted ten-minute rest breaks; and/or (5) because management at various levels, affecting
7 all hourly, non-exempt employees, refused to offer, permit, or enforce a lawfully compliant rest
8 break policy.

9 70. Defendant failed to pay Plaintiff and similarly situated employees all premium
10 compensation (one hour of pay at the employee's regular rate of pay for missed, untimely rest,
11 interrupted, or noncompliant rest periods) mandated by Labor Code §226.7 (b). As a derivative
12 claim, Plaintiff alleges that pay statements were inaccurate, failing to include required rest period
13 penalties, thus failing the requirements of Labor Code §226(a) and §1198. As a result of these
14 violations, Defendant is liable for civil penalties pursuant to Cal. Labor Code §558 and §2698 *et*
15 *Seq.*

16 **SEVENTH CAUSE OF ACTION**

17 **FAILURE TO REIMBURSE FOR REQUIRED BUSINESS EXPENSES**

18 Cal. Labor Code §§ 1198, 2802, 2699 *et seq.*

19 (Plaintiff Against All Defendants)

20 71. Plaintiff incorporates by reference in this cause of action each allegation of the
21 preceding paragraphs as though fully set forth herein.

22 72. Defendant's conduct described in this complaint violates the provisions of Labor Code
23 §§ 1198, 2802, 2699 *et seq.*

24 73. Labor Code §2802 requires employers to indemnify employees for necessary
25 expenditures or losses incurred by employees in direct consequence of discharge of duties. Plaintiff
26 and his coworkers were required to download an app on their mobile phones to use to clock in and
27 out and use their personal phones when working off site. Plaintiff and his coworkers were not
28

1 reimbursed for this mandatory use of their personal phones. Accordingly, Defendant is liable for
2 civil penalties under PAGA §2698 *et seq.*

3 **EIGHTH CAUSE OF ACTION**

4 **PAYSTUB AND RECORD KEEPING VIOLATIONS**

5 Cal. Labor Code §§ 226, 1174(d), 2699 *et seq.*

6 **(Plaintiff Against All Defendants)**

7 74. Plaintiff incorporates by reference in this cause of action each allegation of the
8 preceding paragraphs as though fully set forth herein.

9 75. Defendant's conduct described in this complaint violates the provisions of Labor Code
10 §§ 226, 1174(d), 2699 *et seq.*

11 76. Defendant knowingly and intentionally failed to provide timely, accurate, itemized
12 wage statements to Plaintiff, class members and the aggrieved employees in accordance with
13 Labor Code §§ 226 and keep accurate records as required by §1174(d). The statements provided
14 to Plaintiff, Aggrieved Employees and Class Members, and the records maintained by Defendant,
15 have not accurately reflected actual gross wages earned, including pay for all hours worked, and
16 overtime. They also state the incorrect total hours because they include sick pay and other items
17 in the calculation. Moreover, when employees like Plaintiff work the overnight shift, Defendant is
18 required to report the hours worked accurately when the overnight shift spans over one pay period
19 to the next. Defendant failed to correctly record and list total hours worked during these pay
20 periods.

21 77. Such failures caused injury to Plaintiff and others, by, among other things, impeding
22 them from knowing the total hours worked and the amount of wages to which they are and were
23 entitled. Defendant knowingly and intentionally failed to correctly itemize the gross wages earned,
24 net wages earned, and total hours worked. Defendant is liable for civil penalties pursuant to Labor
25 Code § 2698 *et seq.*

1 **NINTH CAUSE OF ACTION**

2 **UNFAIR BUSINESS PRACTICES IN VIOLATION OF**

3 California Business and Professions Code section 17200, et seq.

4 **(Plaintiff Against All Defendants)**

5 78. Plaintiff incorporates by reference in this cause of action each allegation of the
6 preceding paragraphs as though fully set forth herein.

7 79. Defendant knowingly committed, and upon information and belief continue to commit,
8 ongoing unlawful business practices within the meaning of the UCL, including, but not limited to
9 unlawful practices as described in the causes of action articulated above, and hereby incorporated
10 herein.

11 80. Plaintiff lost money and property as a result of Defendant's unlawful business practices
12 described above.

13 81. Pursuant to the UCL, Plaintiff and all Class Members are entitled to restitution of
14 money or property acquired by Defendant by means of such unlawful business practices, in
15 amounts not yet known, but to be ascertained at trial.

16 82. Pursuant to the UCL, Plaintiff and Class Members are entitled to injunctive relief
17 against Defendant's ongoing unlawful business practices. If an injunction does not issue enjoining
18 Defendant from engaging in the unlawful business practices described above, Plaintiff and the
19 general public will be irreparably injured.

20 83. Plaintiff has no plain, speedy, and adequate remedy at law. Defendant, if not enjoined
21 by this Court, will continue to engage in the unlawful business practices described above in
22 violation of the UCL, in derogation of the rights of Plaintiff and Class Members and of the general
23 public.

24 84. Plaintiff's success in this action will result in the enforcement of important rights
25 affecting the public interest by conferring a significant benefit upon the general public.

26 85. Defendant's numerous violations of local and California law, as well as the other
27 statutory and regulatory violations alleged herein, constitute unlawful business actions and
28 practices in violation of Business and Professions Code § 17200, et seq.

1 86. Pursuant to Business and Professions Code § 17200, et seq., Plaintiff and the Class
2 Members are entitled to restitution of unpaid wages and penalty pay, among other relief alleged
3 herein, that were withheld and retained by Defendant during a period that commences four years
4 prior to the filing of this action. Plaintiff is further entitled to a permanent injunction requiring
5 Defendant to comply with all provisions of California labor law, including properly paying the
6 lawful rate of pay for all hours worked, providing rest periods to all workers as defined herein,
7 timely paying due wages upon termination, maintaining accurate wages statements and payroll
8 records, in addition to an award of attorneys' fees and costs pursuant to Code of Civil Procedure
9 § 1021.5 and other applicable law, and costs.

10 **TENTH CAUSE OF ACTION**

11 **STATUTORY PENALTIES PURSUANT TO PRIVATE ATTORNEYS**

12 **GENERAL ACT, LABOR CODE §2698 et seq.**

13 **(Plaintiff Against All Defendant)**

14 66. Plaintiff incorporates by reference in this cause of action each allegation of the
15 preceding paragraphs as though fully set forth herein.

16 67. Under the Private Attorneys General Act of 2006, Labor Code §§2698-2699.5, an
17 aggrieved employee, on behalf of himself and other current or former employees, may recover
18 penalties under any provision of the Labor Code that provides for civil penalties. These penalties
19 are in addition to any other relief available under the Labor Code. Plaintiff is an aggrieved
20 employee under PAGA.

21 68. As set forth above, Defendant has committed numerous violations for which the
22 Labor Code provides for penalties, including violations of all applicable Labor Code provisions
23 set forth in the foregoing causes of action. Labor Code §2699.5 identifies the aforementioned
24 Labor Code provisions as statutes to which §2699.3's procedural requirements must be met before
25 a penalty may be assessed under §2699(f). Plaintiff has complied with the procedural requirements
26 specified in §2699.3 by providing written notice to the Defendant and the Labor & Workforce
27 Development Agency ("LWDA"). See Exhibit 1 attached hereto, which is a true and correct copy
28 of the Notice correspondence showing compliance with §2699.3. No notice of intent to investigate

1 the alleged violations was provided within the statutory period. Consequently, Plaintiff has
2 exhausted administrative remedies, and on behalf of themselves and all other aggrieved current
3 and former employees of Defendant. Plaintiff, therefore, now pursues this cause of action as
4 permitted by §2698, *et seq.*

5 69. Enforcement of statutory provisions enacted to protect workers and to ensure proper
6 and prompt payment of wages due to employees is a fundamental public interest in California.
7 Consequently, Plaintiff's success in this action will result in the enforcement of important rights
8 affecting the public interest and will confer a significant benefit upon the general public. Private
9 enforcement of the rights enumerated herein is necessary, as no public agency has pursued
10 enforcement. Plaintiff is incurring a financial burden in pursuing this action and it would be against
11 the interests of justice to require payment of attorneys' fees and costs from any recover that might
12 be obtained herein, pursuant to, *inter alia*, Labor Code §§2698, *et seq.*, and Code of Civil Procedure
13 §1021.5

14 70. In addition, if Plaintiff succeeds in enforcing these rights affecting the public
15 interest, then attorneys' fees may be awarded to Plaintiff and against Defendant under Code of
16 Civil Procedure §1021.5 and other applicable law in part, because:

- 17 A. A successful outcome in this action will result in the enforcement of important
18 rights affecting the public interest by requiring Defendant to comply with the
19 wage and hour laws and California's unfair business practice law;
- 20 B. This action will result in a significant benefit to Plaintiff, the Class, and the
21 general public by bringing to a halt unlawful and/or unfair activity;
- 22 C. Unless this action is prosecuted, members of the Class and general public will
23 not recover those moneys, and many of Defendant's employees would not be
24 aware that the acts and practices they were subjected to by Defendant was
25 wrongful;
- 26 D. Unless this action is prosecuted, Defendant will continue to mislead their
27 employees about the true nature of their rights and remedies under the wage and
28 hour laws; and

1 E. An award of attorneys' fees and costs is necessary for the prosecution of this
2 action and will result in a benefit to Plaintiff, the Class, Aggrieved Employees,
3 and to consumers in general, by preventing Defendant from continuing to
4 circumvent the wage and hour statutes and frustrate the long-standing
5 recognition by the California legislature and the courts that such statutes, as
6 pled herein, are not merely a matter of private concern between employer and
7 employee to be eviscerated by considerations of waiver, contributory
8 negligence, good or bad faith, and private agreements. Rather, the wage and
9 hour statutes have been described as a matter of public concern, were designed
10 to provide minimum substantive guarantees to individual workers and are
11 essential to public welfare.

12 REQUEST FOR RELIEF

13 WHEREFORE, Plaintiff, on behalf of himself and the Proposed Class, request judgment
14 and the following specific relief against Defendant as follows:

- 15 A. That the Court determine that this action may be maintained as a class action
16 under Code of Civil Procedure § 382;
- 17 B. Provision of class notice to all members of the Class;
- 18 C. That Defendant is found to have violated the above-referenced provisions of the
19 Labor Code, CCR and the IWC Wage Order as to Plaintiff, Class Members and
20 relevant subclass Members;
- 21 D. For compensatory damages, in an amount according to proof at trial, with
22 interest thereon;
- 23 E. For compensation for not being paid overtime;
- 24 F. For compensation for not being paid minimum wage;
- 25 G. For compensation for not being paid all wages owed twice per month;
- 26 H. For compensation for not being timely paid all wages owed, including vacation
27 wages;
- 28 I. For compensation for not being provided timely meal breaks;

- 1 J. For compensation for not being provided rest breaks;
- 2 K. For compensation for not being reimbursed for required business expenses;
- 3 L. For compensation for not being paid penalty wages;
- 4 M. That Defendant's actions are found to be willful and/or in bad faith to the extent
- 5 necessary under §§ 201, 202, 203, 227.3, and 558 of the California Labor Code
- 6 for willful failure to pay all compensation owed at the time of separation to
- 7 Plaintiff and Class Members no longer employed by Defendant;
- 8 N. That Plaintiff and Class Members receive penalties for Defendant's violation of
- 9 §226 and 1174 of the California Labor Code for willful failure to provide and
- 10 maintain the required accurate and itemized wage statements;
- 11 O. That Plaintiff and Class Members receive an award in the amount of unpaid
- 12 wages owed, including interest thereon, and penalties as provided in the Labor
- 13 Code, CCR and Wage Order, including under Labor Code §§ 203, 510, and
- 14 558, subject to proof at trial;
- 15 P. That Plaintiff and Class Members receive damages pursuant to §§248.5 in
- 16 addition to reasonable attorneys' fees, and costs of suit pursuant to Labor Code
- 17 § 218.5 and CCP 1021.5;
- 18 Q. That Defendant be ordered to pay restitution to Plaintiff and Class Members for
- 19 amounts acquired through Defendant's unlawful activities pursuant to Business
- 20 and Professions Code §§ 17200-05 and enjoined to cease and desist from
- 21 unlawful and unfair activities in violation of California Business and
- 22 Professions Code § 17200 et. seq.;
- 23 R. That Plaintiff and Class Members receive an award of reasonable attorneys'
- 24 fees and costs pursuant to Code of Civil Procedure §1021.5, Labor Code §226,
- 25 218.5, and 1194 and/or applicable laws;
- 26 S. That the Court issue declaratory relief that Defendant's challenged policies are
- 27 unlawful; and
- 28

1 T. That the Court order further relief, in law and equity, as it deems appropriate
2 and just.
3

4 DATED: April 29, 2024

KOUL LAW FIRM, APC

5 
6 BY: Nazo Koulloukian, Esq.
7 Attorneys for Plaintiff ALI MOISES
8 BALLEZA and putative class members
9

10
11 ***DEMAND FOR JURY TRIAL***

12 Plaintiff, on behalf of himself and the putative class, hereby demands trial by jury to the
13 full extent permitted by law.
14

15 DATED: April 29, 2024

KOUL LAW FIRM, APC

16 
17 BY: Nazo Koulloukian, Esq.
18 Attorneys for Plaintiff ALI MOISES
19 BALLEZA and putative class members
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