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JEFFREY RICHARDS

11 **UNITED STATES DISTRICT COURT**

12 **CENTRAL DISTRICT OF CALIFORNIA**

13
14
15 RODERICK HENDERSON, CALVIN
CROUCH, and JEFFREY RICHARDS
16 on behalf of themselves and all others
similarly situated, and the general
17 public,

18 *Plaintiffs,*

19 v.

20 SAMUEL, SON & CO. USA, INC., a
Delaware corporation; SIERRA
21 ALUMINUM COMPANY, a California
22 corporation; and DOES 1 through 50,
23 inclusive,

24 *Defendants.*

Case No.: 5:24-cv-00595

*[Assigned for all purposes to Hon. Kenly
Kiya Kato]*

**FOURTH AMENDED CLASS ACTION
COMPLAINT**

1. Failure to Pay Hourly Wages and Overtime (Lab. Code §§ 204, 223, 510, 1194, 1194.2, 1197, 1197.1 and 1198);
2. Failure to Provide Meal Periods (Lab. Code §§ 204, 223, 226.7, 512 and 1198);
3. Failure to Provide Rest Periods (Lab. Code §§ 204, 223, 226.7 and 1198);
4. Failure to Pay Proper Sick Pay (Lab. Code § 246);
5. Failure to Indemnify (Lab. Code § 2802);

6. Failure to Provide Accurate Wage Statements (Lab. Code §§ 226(a));
7. Failure to Timely Pay All Final Wages (Lab. Code §§ 201, 202 and 203); and
8. Unfair Competition (Bus. & Prof. Code §§ 17200 *et seq.*).

JURY TRIAL DEMANDED

1 Plaintiffs RODERICK HENDERSON, CALVIN CROUCH, and JEFFREY
2 RICHARDS (“Plaintiffs”), on behalf of themselves, all others similarly situated, and
3 the general public, complains and alleges as follows:

4 **INTRODUCTION**

5 1. Plaintiffs bring this class action against Defendants SAMUEL, SON &
6 CO. USA, INC., a Delaware corporation; SIERRA ALUMINUM COMPANY, a
7 California corporation; and DOES 1 through 50, inclusive, (collectively referred to as
8 “Defendants”) for alleged violations of the California Labor Code and California
9 Business and Professions Code. As set forth below, Plaintiff alleges that Defendants
10 have:

- 11 a. failed to pay all wages owed, including minimum and overtime
12 wages, for all time worked;
- 13 b. failed to pay overtime and/or double time wages by failing to
14 include all applicable remuneration in calculating the regular rate
15 of pay;
- 16 c. failed to provide lawful meal periods;
- 17 d. failed to provide lawful rest periods;
- 18 e. failed to properly pay premium wages for missed meal and rest
19 periods;
- 20 f. failed to pay proper sick time pay;
- 21 g. failed to reimburse for necessary business expenditures;
- 22 h. failed to provide accurate wage statements; and
- 23 i. failed to timely pay all final wages owed following separation of
24 employment.

25 Based on these alleged Labor Code violations, Plaintiffs now brings this class
26 action to recover unpaid wages, liquidated damages, penalties, restitution, and related
27 relief on behalf of themselves, all others similarly situated, and the general public.

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JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction to hear this case because the monetary damages and restitution sought by Plaintiff from Defendants' conduct exceeds the minimal jurisdiction.

3. Venue is proper in the County of Riverside in that liability arose this county because at least some of the transactions that are the subject matter of this Complaint occurred therein and/or each defendant is found, maintains offices, transacts business and/or has an agent therein.

4. Venue is proper in the Central District of California because Defendants' have at all times alleged herein, conducted business in Riverside County, and throughout California. As such, venue is proper.

PARTIES

5. Plaintiff RODERICK HENDERSON, CALVIN CROUCH, and JEFFREY RICHARDS are, and at all relevant times mentioned herein, are individuals residing in the State of California.

6. Plaintiffs are informed and believe, and thereupon allege that Defendant SAMUEL, SON & CO. USA, INC. is, and at all relevant times mentioned herein, a Delaware corporation doing business in the State of California.

7. Plaintiffs are informed and believe, and thereupon allege that Defendant SIERRA ALUMINUM COMPANY is, and at all relevant times mentioned herein, a California corporation doing business in the State of California.

8. Plaintiffs are ignorant of the true names and capacities of the defendants sued herein as DOES 1 through 50, inclusive, and therefore sues these defendants by such fictitious names. Plaintiffs will amend this Complaint to allege the true names and capacities of the DOE defendants when ascertained. Plaintiffs are informed and believe and thereupon alleges that each of the fictitiously named defendants are responsible in some manner for the occurrences, acts and omissions alleged herein and that Plaintiffs' alleged damages were proximately caused by these defendants, and each

1 of them. Plaintiffs will amend this complaint to allege both the true names and
2 capacities of the DOE defendants when ascertained.

3 9. Plaintiffs are informed and believe, and thereupon alleges that, at all
4 relevant times mentioned herein, some or all of the defendants were the representatives,
5 agents, employees, partners, directors, associates, joint venturers, joint employers,
6 owners, principals or co-participants of some or all of the other defendants, and in doing
7 the things alleged herein, were acting within the course and scope of such relationship
8 and with the full knowledge, consent, and ratification by such other defendants.

9 10. Plaintiffs are informed and believe, and thereupon alleges that, at all
10 relevant times mentioned herein, some of the defendants pursued a common course of
11 conduct, acted in concert and conspired with one another, and aided and abetted one
12 another to accomplish the occurrences, acts and omissions alleged herein.

13 11. This action has been brought and may be maintained as a class action
14 because there is a well-defined community of interest among the persons who comprise
15 the readily ascertainable classes defined below and because Plaintiff is unaware of any
16 difficulties likely to be encountered in managing this case as a class action.

17 12. Plaintiff is informed and believes and thereon alleges that each Defendant
18 acted in all respects pertinent to this action as the agent of the other Defendants, that
19 Defendants carried out a joint scheme, business plan, or policy in all respects pertinent
20 hereto, and that the acts of each Defendant are legally attributable to the other
21 Defendants. Furthermore, Defendants acted in all respects as the employers or joint
22 employers of Employees. Defendants, and each of them, exercised control over the
23 wages, hours or working conditions of Employees, or suffered or permitted Employees
24 to work, or engaged, thereby creating a common law employment relationship, with
25 Employees. Plaintiffs base this belief on all three of their jobsite addresses being owned
26 and operated by Sierra Aluminum Company and by Defendant Sierra Aluminum
27 Company merging into Defendant Samuel, Son & Co. USA, INC. on December 31,
28 2019. Therefore, Defendants, and each of them, employed or jointly employed

Employees.

13. **Relevant Time Period:** The relevant time period is defined as the time period beginning four years prior to the filing of this action until judgment is entered.

- a. **Hourly Employee Class:** All persons employed by Defendants, collectively or separately, in hourly or non-exempt positions in California four years prior to the filing of this action and ending on the date that final judgment is entered in this action (“Hourly Employee Class”).
- b. **Meal Period Sub-Class:** All **Hourly Employee Class** members who worked in a shift in excess of five (5) hours during the four years prior to the filing of this action and ending on the date that final judgment is entered in this action.
- c. **Rest Period Sub-Class:** All **Hourly Employee Class** members who worked a shift of at least three and one-half (3.5) hours the four years prior to the filing of this action and ending on the date that final judgment is entered in this action.
- d. **Sick-Pay Class:** All persons employed by Defendants in California who, at any time from four years prior to the filing of this action and ending on the date that final judgment is entered in this action, worked for more than 30 days for Defendants.
- e. **Expense Reimbursement Class:** All persons employed by Defendants in California who incurred business expenses during the Relevant Time Period.
- f. **Waiting Time Penalties Sub-Class:** All **Hourly Employee Class** members who separated from their employment with Defendants during the period beginning three years before the filing of this action and ending when final judgment is entered.
- g. **Wage Statement Class:** All persons employed by Defendants in California during the period beginning one year before the filing of this action and ending when final judgment is entered.
- h. **UCL Class:** All **Hourly Employee Class** and **Expense Reimbursement Class** members employed by Defendants in California during the four years prior to the filing of this action and

1 ending on the date that final judgment is entered in this action.

2 14. **Reservation of Rights:** Plaintiff reserves the right to amend or modify
3 the class definitions with greater specificity, by further division into sub-classes and/or
4 by limitation to particular issues.

5 15. **Numerosity:** The class members are so numerous that the individual
6 joinder of each individual class member is impractical. While Plaintiffs do not
7 currently know the exact number of class members, Plaintiffs are informed and believe,
8 and thereupon allege that the actual number exceeds the minimum required for
9 numerosity under California law.

10 16. **Commonality and Predominance:** Common questions of law and fact
11 exist as to all class members and predominate over any questions which affect only
12 individual class members. These common questions include, but are not limited to:

- 13 a. Whether Defendants failed to pay minimum and/or overtime wages to
14 class members for all time worked;
- 15 b. Whether Defendants maintained a policy or practice of failing to
16 provide employees with lawful meal periods;
- 17 c. Whether Defendants maintained a policy or practice of failing to
18 provide employees with lawful rest periods;
- 19 d. Whether Defendants failed to pay premium wages to class members
20 when they have not been provided with meal and rest periods at the
21 appropriate rates of pay;
- 22 e. Whether Defendants failed to pay proper sick time pay;
- 23 f. Whether Defendants failed to reimburse class members for all
24 necessary business expenses incurred during the discharge of their
25 duties;
- 26 g. Whether Defendants failed to provide class members with accurate
27 written wage statements including, among other things, the correct
28

1 amounts of gross and net wages, total hours worked, and applicable
2 hourly rates of pay;

3 h. Whether Defendants applied policies or practices that result in late
4 and/or incomplete final wage payments;

5 i. Whether Defendants are liable to class members for waiting time
6 penalties under Labor Code section 203; and

7 j. Whether class members are entitled to restitution of money or property
8 that Defendants may have acquired from them through unfair
9 competition.

10 17. **Typicality:** Plaintiffs' claims are typical of the other class members'
11 claims. Plaintiffs are informed and believe and thereupon allege that Defendants have
12 a policy or practice of failing to comply with the California Labor Code and Business
13 and Professions Code as alleged in this Complaint.

14 18. **Adequacy of Class Representative:** Plaintiffs are adequate class
15 representatives and has no interests that are adverse to, or otherwise conflict with, the
16 interests of absent class members and is dedicated to vigorously prosecuting this action
17 on their behalf. Plaintiffs will fairly and adequately represent and protect the interests
18 of the other class members.

19 19. **Adequacy of Class Counsel:** Plaintiffs' counsel is adequate class
20 counsel in that they have no known conflicts of interest with Plaintiffs or absent class
21 members, are experienced in wage and hour class action litigation, and are dedicated
22 to vigorously prosecuting this action on behalf of Plaintiffs and absent class members.

23 20. **Superiority:** A class action is vastly superior to other available means
24 for fair and efficient adjudication of the class members' claims and would be beneficial
25 to the parties and the Court. Class action treatment will allow a number of similarly
26 situated persons to simultaneously and efficiently prosecute their common claims in a
27 single forum without the unnecessary duplication of effort and expense that numerous
28 individual actions would entail. In addition, the monetary amounts due to many

1 individual class members are likely to be relatively small and would thus make it
2 difficult, if not impossible, for individual class members to both seek and obtain relief.
3 Moreover, a class action will serve an important public interest by permitting class
4 members to effectively pursue the recovery of monies owed to them. Further, a class
5 action will prevent the potential for inconsistent or contradictory judgments inherent in
6 individual litigation.

7 **GENERAL ALLEGATIONS**

8 21. Plaintiffs worked for Defendants as non-exempt employees during the
9 relevant and statutory periods.

10 22. Defendants had a common policy and practice of systemically failing to
11 pay Plaintiffs and Class Members proper wages and overtime for all hours worked at
12 the proper rates of pay. First, Defendants implemented an unlawful time-rounding
13 policy and practice which rounded down and reduced the actual working hours
14 recorded by Plaintiffs and Class Members, and upon which their pay was based, and
15 generally did so to the detriment of the Plaintiffs and Class Members, and these
16 unlawfully rounded time entries were inputted into Defendants' payroll system from
17 which wage statements and payroll checks were created. Defendants did so with the
18 ostensible intent of paying Plaintiffs and Class members only for the hours they were
19 scheduled to work, rather than the hours they were actually under Defendants' control.
20 Plaintiff contends this policy is not neutral and results, over time, to the detriment of
21 the Plaintiffs and Class members by systematically undercompensating them.

22 23. Next, Plaintiffs and Class Members were consistently required to perform
23 work, off-the-clock, for which they were not paid wages. By way of example, Plaintiffs
24 and Class Members were systemically required to arrive to work 5-10 minutes early
25 due to the amount of time it took to stand in line and clock in. The forgoing time it took
26 for Plaintiffs and Class Members to clock in was uncompensated working time under
27 the direction and control of Defendants, for which no wages were paid.

28 24. This uncompensated time caused Plaintiffs and Class Members to work in

1 excess of eight (8), ten (10) and/or twelve (12) hours a day and/or forty (40) hours a
2 week, entitling Plaintiffs and Class Members to minimum and overtime wages, which
3 they were systemically denied.

4 25. Moreover, Defendants failed to pay Plaintiffs and Class Members
5 overtime wages at the proper and applicable regular rates of pay. Specifically, Plaintiffs
6 and Class Members earned incentive pay, as well as performance-based non-
7 discretionary bonuses, in addition to their hourly pay. However, these supplemental
8 earnings were not accounted for when determining Plaintiffs and Class Members'
9 regular rates of pay, and respective and proper overtime rates of pay. As a result,
10 Plaintiffs and Class Members were not fully compensated for all hours worked.

11 26. Defendants had a common policy and practice of systemically denying
12 Plaintiffs and Class Members the opportunity to take meal periods in compliance with
13 the California Law. Specifically, due to understaffing and heavy workloads, Plaintiffs
14 and Class Members were denied the opportunity to take timely meal periods altogether,
15 and/or prior to the completion of their fifth hour of work. Additionally, the
16 uncompensated pre-shift duties, discussed herein, further delayed Plaintiffs and Class
17 Members' meal periods to commence after to the completion of the fifth and tenth
18 hours of work.

19 27. Plaintiffs and Class Members were not provided with meal periods of at
20 least thirty (30) minutes for each five (5) hour work period due to (1) Defendants'
21 policy and practice of not scheduling each meal period as part of each work shift; and
22 (2) Defendants' policy and practice of requiring putative class members to continue
23 working through their meal and rest periods due to the excessive workload.

24 28. Similarly, Defendants had a common policy and practice of systemically
25 denying Plaintiffs and Class Members the opportunity to take rest periods in
26 compliance with California Law. Plaintiffs and Class Members were not provided with
27 rest periods of at least ten (10) minutes for each four (4) hour work period, or major
28 fraction thereof, due to (1) Defendants' policy and practice of not scheduling each rest

1 period as part of each work shift, including second rest breaks for shifts of six (6) hours
2 or more; and (2) Defendants' policy and practice of requiring putative class members
3 to continue working through their rest breaks due to the excessive workload.

4 29. Defendants had a common policy and practice of systemically failing to
5 pay Plaintiffs and Class Members the requisite sick time pay at the proper rate of pay
6 in accordance with California Law. Additionally, the sick pay paid to Plaintiffs and
7 Class Members did not account for the incentive and non-discretionary bonus pay, which
8 was never factored into the rate upon which sick pay was accrued and paid.

9 30. Plaintiffs and Class Members were not reimbursed for business expenses
10 incurred in executing their duties under Defendant's employ. Specifically, Plaintiffs
11 and Class Members were required to purchase and maintain protective gear, including
12 steel toe boots, fire resistant garments, gloves, face shields, hard hats, and various other
13 safety gear all necessary to perform their duties under Defendants' employ. Plaintiffs
14 and Class members also had to purchase and use some of their own tools and equipment
15 necessary to perform their job duties, such as a flashlight. Plaintiffs and Class members
16 were not reimbursed for these necessary work-related expenses. Plaintiffs allege that
17 these expenses and materials were necessary for executing their duties because the
18 nature of Plaintiffs' duties required tools, but there were not a sufficient number of
19 tools available for employees to use to execute their job duties. Plaintiffs would inform
20 Defendants that more tools were required, but Defendant failed to do use. Additionally,
21 Plaintiffs were required to use the protective gear due to department safety standards,
22 as well as personal safety standards, in order to work in their potentially dangerous
23 work environment. Plaintiffs would be reprimanded for not having the requisite safety
24 gear, but Defendants would not provide enough gear, or safe enough gear, for the
25 dangerous nature of Plaintiffs' work. Plaintiffs would receive work orders for
26 customers, take machines apart and examined, and put them back together, or would
27 be stacking tools for machinery. Plaintiffs would need the tools to operate on the
28 machinery and needed the safety gear because of the weight and danger of the heavy

1 metal pieces, which could cause cuts and broken bones easily.

2 31. Plaintiffs and Class Members were not provided with accurate wage
3 statements as mandated by law pursuant to Labor Code section 226.

4 32. Specifically, Defendants failed to comply with Labor Code section
5 226(a)(1), (a)(2), (a)(5) and (a)(9) as Defendants failed to provide Plaintiffs and Class
6 members wage statements that accurately reported all hours worked, including
7 overtime, and the applicable hourly rates. Further, Defendants failed to properly
8 itemize “total hours worked” pursuant to Labor Code section 226(a)(2) as Defendants
9 included non-working hours as “total hours worked” on Plaintiffs’ and Class members’
10 wage statements.

11 33. Defendants have had a consistent policy of failing to pay all wages fur and
12 owed to Employees at the time of their termination of within seventy-two (72) hours
13 of their resignation, as required by California wage-and-hour laws.

14 **FIRST CAUSE OF ACTION**

15 **FAILURE TO PAY HOURLY MINIMUM AND OVERTIME WAGES**

16 **(Lab. Code §§ 204, 223, 510, 1194, 1197 and 1198)**

17 **(Plaintiff and Hourly Employee Class)**

18 34. Plaintiffs incorporate the preceding paragraphs of the Complaint as if fully
19 alleged herein.

20 35. At all relevant times, Plaintiffs and **Hourly Employee Class** members are
21 or have been non-exempt employees of Defendants entitled to the full protections of
22 the Labor Code and the applicable Wage Order.

23 36. Section 2 of the applicable Wage Order defines “hours worked” as “the
24 time during which an employee is subject to the control of the employer and includes
25 all the time the employee is suffered or permitted to work, whether or not required to
26 do so.”

27 37. Section 4 of the applicable Wage Order requires an employer to pay non-
28 exempt employees at least the minimum wage set forth therein for all hours worked,

1 which consist of all hours that an employer has actual or constructive knowledge that
2 employees are working.

3 38. Labor Code section 1194 invalidates any agreement between an employer
4 and an employee to work for less than the minimum or overtime wage required under
5 the applicable Wage Order.

6 39. Labor Code section 1194.2 entitles non-exempt employees to recover
7 liquidated damages in amounts equal to the amounts of unpaid minimum wages and
8 interest thereon in addition to the underlying unpaid minimum wages and interest
9 thereon.

10 40. Labor Code section 1197 makes it unlawful for an employer to pay an
11 employee less than the minimum wage required under the applicable Wage Order for
12 all hours worked during a payroll period.

13 41. Labor Code section 1197.1 provides that it is unlawful for any employer
14 or any other person acting either individually or as an officer, agent or employee of
15 another person, to pay an employee, or cause an employee to be paid, less than the
16 applicable minimum wage.

17 42. Labor Code section 1198 makes it unlawful for employers to employ
18 employees under conditions that violate the applicable Wage Order.

19 43. Labor Code section 223 makes it unlawful for employers to pay their
20 employees lower wages than required by contract or statute while purporting to pay
21 them legal wages.

22 44. Labor Code section 510 and Section 3 of the applicable Wage Order
23 require employees to pay non-exempt employees overtime wages of no less than one
24 and one-half (1.5) times their respective regular rates of pay for all hours worked in
25 excess of eight (8) hours in one workday, all hours worked in excess of forty (40) hours
26 in one workweek, and/or for the first eight (8) hours worked on the seventh consecutive
27 day of one workweek.

28 45. Labor Code section 510 and Section 3 of the applicable Wage Order also

1 require employers to pay non-exempt employees overtime wages of no less than two
2 (2) times their respective regular rates of pay for all hours worked in excess of twelve
3 (12) hours in one workday and for all hours worked in excess of eight (8) hours on a
4 seventh consecutive workday during the workweek.

5 46. Plaintiffs are informed and believe that, at all relevant times, Defendants
6 have applied centrally devised policies and practices to Plaintiffs and **Hourly**
7 **Employee Class** members with respect to working conditions and compensation
8 arrangements.

9 47. At all relevant times, Defendants failed to pay hourly wages to Plaintiffs
10 and **Hourly Employee Class** members for all time worked, including but not limited
11 to, overtime hours at statutory and/or agreed rates.

12 48. Plaintiffs and **Hourly Employee Class** members were not paid proper
13 wages and overtime for all hours worked. First, Defendants implemented an unlawful
14 time-rounding policy and practice which rounded down and reduced the actual working
15 hours recorded by Plaintiffs and **Hourly Employee Class** members, and upon which
16 their pay was based, and generally did so to the detriment of the Plaintiffs and **Hourly**
17 **Employee Class** members, and these unlawfully rounded time entries were inputted
18 into Defendants' payroll system from which wage statements and payroll checks were
19 created. Defendants did so with the ostensible intent of paying Plaintiffs and **Hourly**
20 **Employee Class** members only for the hours they were scheduled to work, rather than
21 the hours they were actually under Defendants' control. Plaintiffs contend this policy
22 is not neutral and results, over time, to the detriment of the Plaintiffs and **Hourly**
23 **Employee Class** members by systematically undercompensating them.

24 49. Next, Plaintiffs and **Hourly Employee Class** members were consistently
25 required to perform work, off-the-clock, for which they were not paid wages. By way
26 of example, Plaintiffs and Class Members were systemically required to arrive to work
27 5-10 minutes early due to the amount of time it took to stand in line and clock in. The
28 forgoing time it took for Plaintiffs and **Hourly Employee Class** members to enter and

1 exit the building was uncompensated working time under the direction and control of
2 Defendants, for which no wages were paid.

3 50. This uncompensated time caused Plaintiffs and **Hourly Employee Class**
4 members to work in excess of eight (8), ten (10), and twelve (12) hours a day and/or
5 forty (40) hours a week, entitling Plaintiffs and **Hourly Employee Class** members to
6 minimum and overtime wages, which they were systemically denied.

7 51. Moreover, Defendants failed to Plaintiffs and Class Members overtime
8 wages at the proper and applicable regular rates of pay. Specifically, Plaintiffs and
9 Class Members earned incentive pay, as well as performance-based non-discretionary
10 bonuses, in addition to their hourly pay. However, these supplemental earnings were
11 not accounted for when determining Plaintiffs and **Hourly Employee Class** members'
12 regular rates of pay, and respective and proper overtime rates of pay. As a result,
13 Plaintiff and **Hourly Employee Class** members were not fully compensated for all
14 hours worked.

15 52. As a result of Defendants' unlawful conduct, Plaintiffs and **Hourly**
16 **Employee Class** members have suffered damages in an amount, subject to proof, to
17 the extent they were not paid the full amount of wages earned during each pay period
18 during the applicable limitations period, including overtime wages.

19 53. Pursuant to Labor Code sections 204, 218.6, 223, 510, 1194, 1194.2,
20 1197.1 and 1198 Plaintiffs, on behalf of themselves and **Hourly Employee Class**
21 members, seek to recover unpaid straight time and overtime wages, interest thereon
22 and costs of suit.

23 54. Pursuant to Labor Code section 1194, Code of Civil Procedure section
24 1021.5, the substantial benefit doctrine, and/or the common fund doctrine, Plaintiff, on
25 behalf of himself and **Hourly Employee Class** members, seeks to recover reasonable
26 attorneys' fees.

27 **SECOND CAUSE OF ACTION**
28 **FAILURE TO PROVIDE MEAL PERIODS**

(Lab. Code §§ 204, 226.7, 512, 1174, and 1198)

(Plaintiff and Meal Period Sub-Class)

55. Plaintiffs incorporate by reference the preceding paragraphs of the Complaint as if fully alleged herein.

56. At all relevant times, Plaintiffs and the **Meal Period Sub-Class** members have been non-exempt employees of Defendant entitled to the full meal period protections of both the Labor Code and the applicable Industrial Welfare Commission Wage Order.

57. Labor Code section 512 and Section 11 of the applicable Industrial Welfare Commission Wage Order impose an affirmative obligation on employers to provide non-exempt employees with uninterrupted, duty-free meal periods of at least thirty minutes for each work period of five hours, and to provide them with two uninterrupted, duty-free meal periods of at least thirty minutes for each work period of ten hours.

58. Labor Code section 226.7 and Section 11 of the applicable Industrial Welfare Commission Wage Order (“Wage Order”) both prohibit employers from requiring employees to work during required meal periods and require employers to pay non-exempt employees an hour of premium wages on each workday that the employee is not provided with the required meal period.

59. Compensation for missed meal periods constitutes wages within the meaning of Labor Code section 200.

60. Labor Code section 1198 makes it unlawful to employ a person under conditions that violate the applicable Wage Order.

61. Section 11 of the applicable Wage Order states:

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

1 employee. Unless the employee is relieved of all duty during
2 a 30 minute meal period, the meal period shall be considered
3 an 'on duty' meal period and counted as time worked. An
4 'on duty' meal period shall be permitted only when the nature
5 of the work prevents an employee from being relieved of all
6 duty and when by written agreement between the parties an
7 on-the-job paid meal period is agreed to. The written
8 agreement shall state that the employee may, in writing,
9 revoke the agreement at any time.

10 62. At all relevant times, Plaintiffs were not subject to a valid on-duty meal
11 period agreement. Plaintiffs are informed and believe that, at all relevant times, **Meal**
12 **Period Sub-Class** members were not subject to valid on-duty meal period agreements
13 with Defendants.

14 63. Upon information and belief, Plaintiffs allege that, at all relevant times
15 during the applicable limitations period, Defendants maintained a policy or practice of
16 not providing Plaintiffs and members of the **Meal Period Sub-Class** with
17 uninterrupted, duty-free meal periods for at least thirty (30) minutes for each five (5)
18 hour work period, as required by Labor Code section 512 and the applicable Wage
19 Order. Specifically, due to understaffing and heavy workloads, Plaintiffs and **Meal**
20 **Period Sub-Class** members were denied the opportunity to take timely meal periods
21 altogether and/or prior to the completion of their fifth hour of work. Additionally, the
22 uncompensated pre-shift duties, discussed herein, further delayed Plaintiffs and **Meal**
23 **Period Sub-Class** members' meal periods to commence after to the completion of the
24 fifth and tenth hours of work.

25 64. Upon information and belief, Plaintiffs allege that, at all relevant times
26 during the applicable limitations period, Defendants maintained a policy or practice of
27 failing to pay premium wages to **Meal Period Sub-Class** members when they worked
28 five (5) hours without a meal period.

65. Upon information and belief, Plaintiffs allege that, at all relevant times
during the applicable limitations period, Defendants maintained a policy or practice of

1 not providing Plaintiffs and members of the **Meal Period Sub-Class** with a second
2 meal period when they worked shifts of ten (10) or more hours and failed to pay them
3 premium wages as required by Labor Code 512 and the applicable Wage Order.

4 66. Pursuant to Labor Code section 204, 218.6, 226.7 and 512, Plaintiffs, on
5 behalf of themselves and the **Meal Period Sub-Class** members, seeks to recover
6 unpaid premium wages, interest thereon, and costs of suit.

7 67. Pursuant to Labor Code section 1194, Code of Civil Procedure section
8 1021.5, the substantial benefit doctrine, and/or the common fund doctrine, Plaintiffs,
9 on behalf of themselves and the **Meal Period Sub-Class** members, seeks to recover
10 reasonable attorneys' fees.

11 **THIRD CAUSE OF ACTION**
12 **FAILURE TO PROVIDE REST PERIODS**
13 **(Lab. Code §§ 204, 223, 226.7 and 1198)**
14 **(Plaintiff and Rest Period Sub-Class)**

15 68. Plaintiffs incorporate the preceding paragraphs of the Complaint as if fully
16 alleged herein.

17 69. At all relevant times, Plaintiffs and the **Rest Period Sub-Class** members
18 have been non-exempt employees of Defendants entitled to the full rest period
19 protections of both the Labor Code and the applicable Wage Order.

20 70. Section 12 of the applicable Wage Order imposes an affirmative
21 obligation on employers to permit and authorize employees to take required rest
22 periods at a rate of no less than ten (10) minutes of net rest time for each four (4) hour
23 work period, or major fraction thereof, that must be in the middle of each work period
24 insofar as practicable.

25 71. Labor Code section 226.7 and Section 12 of the applicable Wage Order
26 both prohibit employers from requiring employees to work during required rest periods
27 and require employers to pay non-exempt employees an hour of premium wages at the
28 employees' regular rates of pay, on each workday that the employee is not provided

1 with the required rest period(s).

2 72. Compensation for missed rest periods constitutes wages within the
3 meaning of Labor Code section 200.

4 73. Labor Code section 1198 makes it unlawful to employ a person under
5 conditions that violate the Wage Order.

6 74. Plaintiffs allege that, at all relevant times during the applicable limitations
7 period, Defendants maintained a policy or practice of not providing members of the
8 **Rest Period Sub-Class** with net rest period of at least ten (10) uninterrupted minutes
9 for each four (4) hour work period, or major fraction thereof, as required by the
10 applicable Wage Order.

11 75. Plaintiffs and **Rest Period Sub-Class** members were not provided with
12 rest periods of at least ten (10) minutes for each four (4) hour work period, or major
13 fraction thereof, due to (1) Defendants' policy and practice of not scheduling each rest
14 period as part of each work shift, including second rest breaks for shifts of six (6) hours
15 or more; and (2) Defendants' policy and practice of requiring **Rest Period Sub-Class**
16 members to continue working through their rest breaks due to the excessive workload.

17 76. At all relevant times, Defendants failed to pay Plaintiffs and the **Rest**
18 **Period Sub-Class** members additional premium wages when required rest periods
19 were not provided.

20 77. Pursuant to Labor Code section 204, 218.6 and 226.7, Plaintiffs, on behalf
21 of themselves and **Rest Period Sub-Class** members, seek to recover unpaid premium
22 wages, interest thereon, and costs of suit.

23 78. Pursuant to Labor Code section 1194, Code of Civil Procedure section
24 1021.5, the substantial benefit doctrine, and/or the common fund doctrine, Plaintiff, on
25 behalf of himself and **Rest Period Sub-Class** members, seeks to recover reasonable
26 attorneys' fees.

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FOURTH CAUSE OF ACTION

FAILURE TO PROPERLY PAY SICK PAY

(Lab. Code § 246)

(Plaintiff and Sick Pay Class)

79. Plaintiffs re-allege and incorporate all preceding paragraphs, as though set forth in full herein.

80. Labor Code Section 246 affords an employee “who works in California for 30 or more days within a year from the commencement of employment [] paid sick days . . . of not less than one hour per every 30 hours worked” and “no less than 24 hours of accrued sick leave or paid time off by the 120th calendar day of employment or each calendar year, or in each 12-month period.”

81. Additionally, Subsection (l) of Section 246 provides:

For the purposes of this section, an employer shall calculate paid sick leave using any of the following calculations:

(1) Paid sick time for nonexempt employees shall be calculated in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually works overtime in that workweek.

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82. Defendants had a common policy and practice of systemically failing to pay Plaintiffs and **Sick Pay Class** Members the requisite sick time pay in accordance with California Law. Specifically, the sick pay paid to Plaintiffs and **Sick Pay Class** Members did not account for the shift differential pay, which was never factored into the rate upon which sick pay was accrued and paid.

Therefore, **Sick Pay Class** Members are owed the unpaid balance of said wages pursuant to the Wage order according to proof at trial, interest pursuant to Labor Code §§ 218.6 and 1194(a), Civil Code §§ 3287 and § 3289, and reasonable attorneys' fees and costs and/or penalties pursuant to Labor Code § 558(a).

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FIFTH CAUSE OF ACTION

FAILURE TO INDEMNIFY

(Lab. Code § 2802)

(Plaintiff and Reimbursement Class)

83. Plaintiffs incorporate the preceding paragraphs of the Complaint as if fully alleged herein.

84. Labor Code section 2802(a) states:

An employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful.

85. Plaintiffs and **Expense Reimbursement Class** members were not reimbursed for business expenses incurred in executing their duties under Defendants' employ. Specifically, Plaintiffs and **Expense Reimbursement Class** members were required to purchase and maintain protective gear, including steel toe boots, fire resistant garments, gloves, face shields, hard hats, and various other safety gear all necessary to perform their duties under Defendants' employ. Plaintiffs and **Expense Reimbursement Class** members also had to purchase and use some of their own tools and equipment necessary to perform their job duties, such as a flashlight. Plaintiffs and **Expense Reimbursement Class** members were not reimbursed for these necessary work-related expenses.

86. Accordingly, Plaintiffs and **Expense Reimbursement Class** members are entitled to restitution for all unpaid amounts due and owing to within four (4) years of the date of the filing of the Complaint and until the date of entry of judgment.

87. Plaintiffs, on behalf of themselves, and **Expense Reimbursement Class** members, seek interest thereon and costs pursuant to Labor Code section 218.6, and reasonable attorneys' fees and costs pursuant to Code of Civil Procedure section

1 1021.5.

2 **SIXTH CAUSE OF ACTION**
3 **FAILURE TO PROVIDE ACCURATE WAGE STATEMENTS**
4 **(Lab. Code § 226)**
5 **(Plaintiff and Wage Statement Penalties Sub-Class)**

6 88. Plaintiffs incorporate the preceding paragraphs of the Complaint as if fully
7 alleged herein.

8 89. Labor Code section 226(a) states:

9 An employer, semimonthly or at the time of each payment of
10 wages, shall furnish to his or her employee, either as a
11 detachable part of the check, draft, or voucher paying the
12 employee's wages, or separately if wages are paid by
13 personal check or cash, an accurate itemized statement in
14 writing showing (1) gross wages earned, (2) total hours
15 worked by the employee, except as provided in subdivision
16 (j), (3) the number of piece-rate units earned and any
17 applicable piece rate if the employee is paid on a piece-rate
18 basis, (4) all deductions, provided that all deductions made
19 on written orders of the employee may be aggregated and
20 shown as one item, (5) net wages earned, (6) the inclusive
21 dates of the period for which the employee is paid, (7) the
22 name of the employee and only the last four digits of his or
23 her social security number or an employee identification
24 number other than a social security number, (8) the name and
25 address of the legal entity that is the employer and, if the
26 employer is a farm labor contractor, as defined in subdivision
27 (b) of Section 1682, the name and address of the legal entity
28 that secured the services of the employer, and (9) all
applicable hourly rates in effect during the pay period and the
corresponding number of hours worked at each hourly rate
by the employee and, beginning July 1, 2013, if the employer
is a temporary services employer as defined in Section 201.3,
the rate of pay and the total hours worked for each temporary
services assignment. The deductions made from payment of
wages shall be recorded in ink or other indelible form,
properly dated, showing the month, day, and year, and a copy
of the statement and the record of the deductions shall be kept

1 on file by the employer for at least three years at the place of
2 employment or at a central location within the State of
3 California. For purposes of this subdivision, 'copy' includes
4 a duplicate of the itemized statement provided to an
5 employee or a computer-generated record that accurately
6 shows all of the information required by this subdivision.

7 90. Plaintiffs are informed and believes that, at all relevant times during the
8 applicable limitations period, Defendants have failed to provide Plaintiffs and **Wage**
9 **Statement Class** members with accurate statements as the wage statements issued to
10 class members failed to account for the unpaid minimum wages, overtime, and
11 premium pay wages described above.

12 91. Plaintiffs are informed and believes that Defendants' failure to provide
13 Plaintiffs and **Wage Statement Class** members with accurate written wage statements
14 was intentional in that Defendants have the ability to provide them with accurate wage
15 statements but have intentionally provided them with written wage statements that
16 Defendants have known do not comply with Labor Code section 226(a).

17 92. Plaintiffs and **Wage Statement Class** members have suffered injuries, in
18 that Defendants have violated their legal rights to receive accurate wage statements and
19 have misled them about their actual rates of pay and wages earned. In addition,
20 inaccurate information on their wage statements has prevented immediate challenges
21 to Defendants' unlawful pay practices, has required discovery and mathematical
22 computations to determine the amount of wages owed, has caused difficulty and
23 expense in attempting to reconstruct time and pay records, and/or has led to the
24 submission of inaccurate information about wages and deductions to federal and state
25 government agencies.

26 93. Pursuant to Labor Code section 226(e), Plaintiffs, on behalf of themselves
27 and **Wage Statement Class** members, seeks the greater of actual damages or \$50.00
28 for the initial pay period in which a violation of Labor Code section 226(a) occurred,
and \$100.00 for each subsequent pay period in which a violation of Labor Code section

226(a) occurred, not to exceed an aggregate penalty of \$4000.00 per class member, as well as awards of reasonable attorneys' fees and costs.

SEVENTH CAUSE OF ACTION

FAILURE TO TIMELY PAY ALL FINAL WAGES

(Lab. Code §§ 201-203)

(Plaintiff and Waiting Time Penalties Sub-Class)

94. Plaintiffs incorporate the preceding paragraphs of the Complaint as if fully alleged herein.

95. At all relevant times, Plaintiffs and **Waiting Time Penalties Sub-Class** members have been entitled, upon the end of their employment with Defendants, to timely payment of all wages earned and unpaid before termination or resignation.

96. At all relevant times, pursuant to Labor Code section 201, employees who have been discharged have been entitled to payment of all final wages immediately upon termination.

97. At all relevant times, pursuant to Labor Code section 202, employees who have resigned after giving at least seventy-two (72) hours' notice of resignation have been entitled to payment of all final wages at the time of resignation.

98. Plaintiffs are informed and believes that, at all relevant times during the applicable limitations period, Defendants have failed to timely pay **Waiting Time Penalties Sub-Class** members all their final wages in accordance with the Labor Code.

99. Plaintiffs are informed and believes that, at all relevant times during the applicable limitations period, Defendants have maintained a policy or practice of paying **Waiting Time Penalties Sub-Class** members their final wages without regard to the requirements of Labor Code sections 201 or 202 by failing to timely pay them all final wages.

100. Plaintiffs are informed and believes and thereupon alleges that Defendants' failure to timely pay all final wages to Plaintiffs and **Waiting Time Penalties Sub-Class** members has been willful in that Defendants have the ability to

1 pay final wages in accordance with Labor Code sections 201 and/or 202 but have
2 intentionally adopted policies or practices that are incompatible with those
3 requirements.

4 101. Pursuant to Labor Code sections 203 and 218.6, Plaintiffs, on behalf of
5 themselves and **Waiting Time Penalties Sub-Class** members, seeks waiting time
6 penalties from the dates that their final wages have first become due until paid, up to a
7 maximum of thirty days, and interest thereon.

8 102. Pursuant to Code of Civil Procedure section 1021.5, the substantial benefit
9 doctrine and/or the common fund doctrine, Plaintiff, on behalf of himself and **Waiting**
10 **Time Penalties Sub-Class** members, seeks awards of reasonable attorneys' fees and
11 costs.

12 **EIGHTH CAUSE OF ACTION**

13 **UNFAIR COMPETITION**

14 **(Bus. & Prof. Code §§ 17200 *et seq.*)**

15 **(Plaintiff and UCL Class)**

16 103. Plaintiffs incorporate the preceding paragraphs of the Complaint as if fully
17 alleged herein.

18 104. Business and Professions Code section 17200 defines "unfair
19 competition" to include any unlawful business practice.

20 105. Business and Professions Code sections 17203-17204 allow a person who
21 has lost money or property as a result of unfair competition to bring a class action in
22 accordance with Federal Rules of Civil Procedure, Rule 23, to recover money or
23 property that may have been acquired from similarly situated persons by means of
24 unfair competition.

25 106. California law requires employers to pay hourly, non-exempt employees
26 for all hours they are permitted or suffered to work, including hours that the employer
27 knows or reasonable should know that employees have worked.

28 107. Plaintiffs and the **UCL Class** members re-allege and incorporate the

1 FIRST, SECOND, THIRD, FOURTH, and FIFTH causes of action herein.

2 108. Plaintiffs lost money or property as a result of the aforementioned unfair
3 competition.

4 109. Defendants have or may have acquired money by means of unfair
5 competition.

6 110. Plaintiffs are informed and believes, and thereupon alleges that by
7 committing the Labor Code violations described in this Complaint, Defendants violated
8 Labor Code sections 204, 215, 216, 225, 226.6, 226.7, 246, 512, 510, 553, 1175, 1174,
9 1194, 1194.2, 1197, 1197.1, 1198, 1199 and 2802, as well as applicable Wage Orders,
10 which make it a misdemeanor to commit the violations alleged herein.

11 111. Defendants have committed criminal conduct through their policies and
12 practices of, *inter alia*, failing to comport with their affirmative obligations as an
13 employer to: pay for all hours worked at the proper rates of pay; provide non-exempt
14 employees with compliant meal and rest periods; pay sick time at the proper rate of
15 pay; and reimburse for necessary business expenditures.

16 112. Defendants' unlawful conduct as alleged in this Complaint amounts to and
17 constitutes unfair competition within the meaning of Business and Professions Code
18 section 17200 *et seq.* Business and Professions Code section 17200 *et seq.* protects
19 against unfair competition and allows a person who has suffered an injury-in-fact and
20 has lost money or property as a result of an unfair, unlawful or fraudulent business
21 practice to seek restitution on his own behalf and on behalf of similarly situated persons
22 in a class action proceeding.

23 113. As a result of Defendants' violations of the Labor Code during the
24 applicable limitations period, Plaintiffs have suffered an injury-in-fact and has lost
25 money or property in the form of earned wages. Specifically, Plaintiffs have lost
26 money or property as a result of Defendants' conduct.

27 114. Plaintiffs are informed and believes that other similarly situated persons
28 have been subject to the same unlawful policies or practices of Defendants.

1 115. Due to the unfair and unlawful business practices in violation of the Labor
2 Code, Defendants have gained a competitive advantage over other comparable
3 companies doing business in the State of California that comply with their legal
4 obligations.

5 116. California's Unfair Competition Law ("UCL") permits civil recovery and
6 injunctive relief for "any unlawful, unfair or fraudulent business act or practice,"
7 including if a practice or act violates or is considered unlawful under any other state or
8 federal law.

9 117. Accordingly, pursuant to Business and Professions Code sections 17200
10 and 17203, Plaintiffs request the issuance of temporary, preliminary and permanent
11 injunctive relief enjoining Defendants, and each of them, and their agents and
12 employees, from further violations of the Labor Code and applicable Wage Orders.

13 118. Accordingly, pursuant to Bus. & Prof. Code sections 17200 and 17203,
14 Plaintiffs requests the issuance of temporary, preliminary and permanent injunctive
15 relief enjoining Defendants, and each of them, and their agents and employees, from
16 further violations of the Labor Code and applicable Industrial Welfare Commission
17 Wage Orders; and upon a final hearing seeks an order permanently enjoining
18 Defendants, and each of them, and their respective agents and employees, from further
19 violations of the Labor Code and applicable Industrial Welfare Commission Wage
20 Orders.

21 119. Pursuant to Business and Professions Code section 17203, Plaintiffs, on
22 behalf of themselves and **UCL Class** members, seeks declaratory relief and restitution
23 of all monies rightfully belonging to them that Defendants did not pay them or
24 otherwise retained by means of its unlawful and unfair business practices.

25 120. Pursuant to Code of Civil Procedure section 1021.5, the substantial benefit
26 doctrine and/or the common fund doctrine, Plaintiffs and **UCL Class** members are
27 entitled to recover reasonable attorneys' fees in connection with their unfair
28 competition claims.

121. Pursuant to Business and Professions Code section 17203, Plaintiffs, on behalf of themselves and **UCL Class** members, seek declaratory relief and restitution of all monies rightfully belonging to them that Defendants did not pay them or otherwise retained by means of its unlawful and unfair business practices.

122. Pursuant to Code of Civil Procedure section 1021.5, the substantial benefit doctrine and/or the common fund doctrine, Plaintiff and **UCL Class** members are entitled to recover reasonable attorneys' fees in connection with their unfair competition claims.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, on behalf of themselves, all others similarly situated, and the general public, pray for relief and judgment against Defendants as follows:

- a. An order that the action be certified as a class action;
- b. An order that Plaintiff be appointed class representative;
- c. An order that counsel for Plaintiff be appointed class counsel;
- d. Unpaid wages and overtime;
- e. Unreimbursed expenses;
- f. Actual damages;
- g. Liquidated damages;
- h. Restitution;
- i. Declaratory relief;
- j. Pre-judgment interest;
- k. Statutory penalties;
- l. Costs of suit;
- m. Reasonable attorneys' fees; and
- n. Such other relief as the Court deems just and proper.

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1 Dated: March 7, 2025

D.LAW, INC.

2
3 /s/ David Keledjian

4 _____
5 Emil Davtyan
6 David Yermian
7 David Keledjian
8 Attorneys for Plaintiff
9 RODERICK HENDERSON, CALVIN
10 CROUCH, JEFFREY RICHARDS, and
11 the putative class
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DEMAND FOR JURY TRIAL

Plaintiffs, on behalf of themselves, all other similarly situated, and the general public, hereby demand a jury trial on all issues so triable.

Dated: March 7, 2025

D.LAW, INC.

/s/ David Keledjian

Emil Davtyan
David Yeremian
David Keledjian
Attorneys for Plaintiff
RODERICK HENDERSON, CALVIN
CROUCH, JEFFREY RICHARDS, and
the putative class