

D.LAW, INC.
Emil Davtyan (SBN 299363)
emil@d.law
David Yeremian (SBN 226337)
d.yeremian@d.law
David Keledjian (SBN 309135)
d.keledjian@d.law
Kevin Burns (SBN 352713)
k.burns@d.law
450 N Brand Blvd., Suite 840
Glendale, CA 91203
Telephone: (818) 962-6465
Facsimile: (818) 962-6469

Attorneys for Plaintiff RODERICK HENDERSON, CALVIN CROUCH, AND JEFFREY RICHARDS

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

RODERICK HENDERSON, CALVIN CROUCH, and JEFFREY RICHARDS on behalf of themselves and all others similarly situated, and the general public,

Plaintiffs,

v.

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

Defendants.

Case No.: 5:24-cv-00595

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

THIRD 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 RICHARDS
2 (“Plaintiffs”), on behalf of themselves, all others similarly situated, and the general public, complains
3 and alleges as follows:

4 **INTRODUCTION**

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

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

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

24 **JURISDICTION AND VENUE**

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

28 3. Venue is proper in the County of Riverside in that liability arose this county because

1 at least some of the transactions that are the subject matter of this Complaint occurred therein and/or
2 each defendant is found, maintains offices, transacts business and/or has an agent therein.

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

6 **PARTIES**

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

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

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

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

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

1 defendants.

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

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

10 12. Plaintiff is informed and believes and thereon alleges that each Defendant acted in all
11 respects pertinent to this action as the agent of the other Defendants, that Defendants carried out a
12 joint scheme, business plan, or policy in all respects pertinent hereto, and that the acts of each
13 Defendant are legally attributable to the other Defendants. Furthermore, Defendants acted in all
14 respects as the employers or joint employers of Employees. Defendants, and each of them, exercised
15 control over the wages, hours or working conditions of Employees, or suffered or permitted
16 Employees to work, or engaged, thereby creating a common law employment relationship, with
17 Employees. Therefore, Defendants, and each of them, employed or jointly employed Employees.

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

- 20 a. **Hourly Employee Class:** All persons employed by Defendants, collectively or
21 separately, in hourly or non-exempt positions in California four years prior to the
22 filing of this action and ending on the date that final judgment is entered in this
23 action (“Hourly Employee Class”).
- 24 b. **Meal Period Sub-Class:** All **Hourly Employee Class** members who worked in
25 a shift in excess of five (5) hours during the four years prior to the filing of this
26 action and ending on the date that final judgment is entered in this action.
- 27 c. **Rest Period Sub-Class:** All **Hourly Employee Class** members who worked a
28 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 ending on the date that final judgment is entered in this action.

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

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

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

- a. Whether Defendants failed to pay minimum and/or overtime wages to class members for all time worked;
- b. Whether Defendants maintained a policy or practice of failing to provide employees with lawful meal periods;
- c. Whether Defendants maintained a policy or practice of failing to provide employees with lawful rest periods;
- d. Whether Defendants failed to pay premium wages to class members when they

- 1 have not been provided with meal and rest periods at the appropriate rates of pay;
- 2 e. Whether Defendants failed to pay proper sick time pay;
- 3 f. Whether Defendants failed to reimburse class members for all necessary business
- 4 expenses incurred during the discharge of their duties;
- 5 g. Whether Defendants failed to provide class members with accurate written wage
- 6 statements including, among other things, the correct amounts of gross and net
- 7 wages, total hours worked, and applicable hourly rates of pay;
- 8 h. Whether Defendants applied policies or practices that result in late and/or
- 9 incomplete final wage payments;
- 10 i. Whether Defendants are liable to class members for waiting time penalties under
- 11 Labor Code section 203; and
- 12 j. Whether class members are entitled to restitution of money or property that
- 13 Defendants may have acquired from them through unfair competition.

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

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

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

26 20. **Superiority:** A class action is vastly superior to other available means for fair and
27 efficient adjudication of the class members' claims and would be beneficial to the parties and the
28 Court. Class action treatment will allow a number of similarly situated persons to simultaneously and

1 efficiently prosecute their common claims in a single forum without the unnecessary duplication of
2 effort and expense that numerous individual actions would entail. In addition, the monetary amounts
3 due to many individual class members are likely to be relatively small and would thus make it
4 difficult, if not impossible, for individual class members to both seek and obtain relief. Moreover, a
5 class action will serve an important public interest by permitting class members to effectively pursue
6 the recovery of monies owed to them. Further, a class action will prevent the potential for inconsistent
7 or contradictory judgments inherent in individual litigation.

8 **GENERAL ALLEGATIONS**

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

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

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

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

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

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

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

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

21 28. Similarly, Defendants had a common policy and practice of systemically denying
22 Plaintiffs and Class Members the opportunity to take rest periods in compliance with California Law.
23 Plaintiffs and Class Members were not provided with rest periods of at least ten (10) minutes for each
24 four (4) hour work period, or major fraction thereof, due to (1) Defendants' policy and practice of not
25 scheduling each rest period as part of each work shift, including second rest breaks for shifts of six
26 (6) hours or more; and (2) Defendants' policy and practice of requiring putative class members to
27 continue working through their rest breaks due to the excessive workload.

28 29. Defendants had a common policy and practice of systemically failing to pay Plaintiffs

1 and Class Members the requisite sick time pay at the proper rate of pay in accordance with California
2 Law. Additionally, the sick pay paid to Plaintiffs and Class Members did not account for the incentive
3 and non-discretionary bonus pay, which was never factored into the rate upon which sick pay was
4 accrued and paid.

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

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

14 32. Specifically, Defendants failed to comply with Labor Code section 226(a)(1), (a)(2),
15 (a)(5) and (a)(9) as Defendants failed to provide Plaintiffs and Class members wage statements that
16 accurately reported all hours worked, including overtime, and the applicable hourly rates. Further,
17 Defendants failed to properly itemize "total hours worked" pursuant to Labor Code section 226(a)(2)
18 as Defendants included non-working hours as "total hours worked" on Plaintiffs' and Class members'
19 wage statements.

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

23 **FIRST CAUSE OF ACTION**

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

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

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

27 34. Plaintiffs incorporate the preceding paragraphs of the Complaint as if fully alleged
28 herein.

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

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

7 37. Section 4 of the applicable Wage Order requires an employer to pay non-exempt
8 employees at least the minimum wage set forth therein for all hours worked, which consist of all hours
9 that an employer has actual or constructive knowledge that employees are working.

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

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

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

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

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

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

26 44. Labor Code section 510 and Section 3 of the applicable Wage Order require employees
27 to pay non-exempt employees overtime wages of no less than one and one-half (1.5) times their
28 respective regular rates of pay for all hours worked in excess of eight (8) hours in one workday, all

1 hours worked in excess of forty (40) hours in one workweek, and/or for the first eight (8) hours
2 worked on the seventh consecutive day of one workweek.

3 45. Labor Code section 510 and Section 3 of the applicable Wage Order also require
4 employers to pay non-exempt employees overtime wages of no less than two (2) times their respective
5 regular rates of pay for all hours worked in excess of twelve (12) hours in one workday and for all
6 hours worked in excess of eight (8) hours on a seventh consecutive workday during the workweek.

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

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

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

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

1 and control of Defendants, for which no wages were paid.

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

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

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

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

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

23 **SECOND CAUSE OF ACTION**

24 **FAILURE TO PROVIDE MEAL PERIODS**

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

26 **(Plaintiff and Meal Period Sub-Class)**

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

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

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

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

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

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

17 61. Section 11 of the applicable Wage Order states:

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

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

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

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

13 65. Upon information and belief, Plaintiffs allege that, at all relevant times during the
14 applicable limitations period, Defendants maintained a policy or practice of not providing Plaintiffs
15 and members of the **Meal Period Sub-Class** with a second meal period when they worked shifts of
16 ten (10) or more hours and failed to pay them premium wages as required by Labor Code 512 and the
17 applicable Wage Order.

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

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

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THIRD CAUSE OF ACTION

FAILURE TO PROVIDE REST PERIODS

(Lab. Code §§ 204, 223, 226.7 and 1198)

(Plaintiff and Rest Period Sub-Class)

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

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

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

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

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

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

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

75. Plaintiffs and **Rest Period Sub-Class** members were not provided with rest periods of at least ten (10) minutes for each four (4) hour work period, or major fraction thereof, due to (1) Defendants' policy and practice of not scheduling each rest period as part of each work shift, including

1 second rest breaks for shifts of six (6) hours or more; and (2) Defendants' policy and practice of
2 requiring **Rest Period Sub-Class** members to continue working through their rest breaks due to the
3 excessive workload.

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

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

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

12
13 **FOURTH CAUSE OF ACTION**

14 **FAILURE TO PROPERLY PAY SICK PAY**

15 **(Lab. Code § 246)**

16 **(Plaintiff and Sick Pay Class)**

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

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

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

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

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

///

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).

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

1 restitution for all unpaid amounts due and owing to within four (4) years of the date of the filing of
2 the Complaint and until the date of entry of judgment.

3 87. Plaintiffs, on behalf of themselves, and **Expense Reimbursement Class** members,
4 seek interest thereon and costs pursuant to Labor Code section 218.6, and reasonable attorneys' fees
5 and costs pursuant to Code of Civil Procedure section 1021.5.

6
7 **SIXTH CAUSE OF ACTION**

8 **FAILURE TO PROVIDE ACCURATE WAGE STATEMENTS**

9 **(Lab. Code § 226)**

10 **(Plaintiff and Wage Statement Penalties Sub-Class)**

11 88. Plaintiffs incorporate the preceding paragraphs of the Complaint as if fully alleged
12 herein.

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

14 An employer, semimonthly or at the time of each payment of wages,
15 shall furnish to his or her employee, either as a detachable part of the
16 check, draft, or voucher paying the employee's wages, or separately if
17 wages are paid by personal check or cash, an accurate itemized
18 statement in writing showing (1) gross wages earned, (2) total hours
19 worked by the employee, except as provided in subdivision (j), (3) the
20 number of piece-rate units earned and any applicable piece rate if the
21 employee is paid on a piece-rate basis, (4) all deductions, provided that
22 all deductions made on written orders of the employee may be
23 aggregated and shown as one item, (5) net wages earned, (6) the
24 inclusive dates of the period for which the employee is paid, (7) the
25 name of the employee and only the last four digits of his or her social
26 security number or an employee identification number other than a
27 social security number, (8) the name and address of the legal entity that
28 is the employer and, if the employer is a farm labor contractor, as
defined in subdivision (b) of Section 1682, the name and address of the
legal entity 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

1 kept 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 California. For
3 purposes of this subdivision, 'copy' includes a duplicate of the itemized
4 statement provided to an employee or a computer-generated record that
5 accurately shows all of the information required by this subdivision.

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

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

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

23 93. Pursuant to Labor Code section 226(e), Plaintiffs, on behalf of themselves and **Wage**
24 **Statement Class** members, seeks the greater of actual damages or \$50.00 for the initial pay period in
25 which a violation of Labor Code section 226(a) occurred, and \$100.00 for each subsequent pay period
26 in which a violation of Labor Code section 226(a) occurred, not to exceed an aggregate penalty of
27 \$4000.00 per class member, as well as awards of reasonable attorneys' fees and costs.
28

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

101. Pursuant to Labor Code sections 203 and 218.6, Plaintiffs, on behalf of themselves and **Waiting Time Penalties Sub-Class** members, seeks waiting time penalties from the dates that

1 their final wages have first become due until paid, up to a maximum of thirty days, and interest
2 thereon.

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

6
7 **EIGHTH CAUSE OF ACTION**

8 **UNFAIR COMPETITION**

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

10 **(Plaintiff and UCL Class)**

11 103. Plaintiffs incorporate the preceding paragraphs of the Complaint as if fully alleged
12 herein.

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

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

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

22 107. Plaintiffs and the **UCL Class** members re-allege and incorporate the FIRST,
23 SECOND, THIRD, FOURTH, and FIFTH causes of action herein.

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

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

26 110. Plaintiffs are informed and believes, and thereupon alleges that by committing the
27 Labor Code violations described in this Complaint, Defendants violated Labor Code sections 204,
28 215, 216, 225, 226.6, 226.7, 246, 512, 510, 553, 1175, 1174, 1194, 1194.2, 1197, 1197.1, 1198, 1199

1 and 2802, as well as applicable Wage Orders, which make it a misdemeanor to commit the violations
2 alleged herein.

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

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

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

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

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

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

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

1 118. Accordingly, pursuant to Bus. & Prof. Code sections 17200 and 17203, Plaintiffs
2 requests the issuance of temporary, preliminary and permanent injunctive relief enjoining
3 Defendants, and each of them, and their agents and employees, from further violations of the Labor
4 Code and applicable Industrial Welfare Commission Wage Orders; and upon a final hearing seeks
5 an order permanently enjoining Defendants, and each of them, and their respective agents and
6 employees, from further violations of the Labor Code and applicable Industrial Welfare Commission
7 Wage Orders.

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

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

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

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

22 **PRAYER FOR RELIEF**

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

- 25 a. An order that the action be certified as a class action;
26 b. An order that Plaintiff be appointed class representative;
27 c. An order that counsel for Plaintiff be appointed class counsel;
28 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.

Dated: November 4, 2024

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

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: November 4, 2024

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