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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

ROSS PEINADO and JOSE AVALOS, as
individuals and on behalf of all others similarly
situated,

Plaintiffs,

vs.

GREEN COAST BUILDING SERVICES,
INC., a California corporation; LEONEL
GARCIA, an individual; and DOES 1 through
50, inclusive,

Defendants.

Case No. 37-2024-00026508-CU-OE-CTL

CLASS ACTION COMPLAINT

1. Failure to Pay All Minimum Wages
2. Failure to Pay All Overtime Wages
3. Meal Period Violations
4. Rest Period Violations
5. Untimely Payment of Wages During Employment
6. Wage Statement Violations
7. Waiting Time Penalties
8. Failure to Reimburse Necessary Expenses
9. Failure to Maintain Accurate Records
10. Unfair Competition
- 11-19. Private Attorneys General Act ("PAGA")

1 Plaintiffs ROSS PEINADO (“Peinado”) and JOSE AVALOS (“Avalos”) (collectively,
2 “Plaintiffs”) bring this class action as individuals and on behalf of all individuals currently or formerly
3 employed by Defendants GREEN COAST BUILDING SERVICES, INC.; and DOES 1 through 50
4 (collectively, “Defendants”) in the State of California as hourly non-exempt employees at any time
5 from four years preceding the filing of this action through the time of trial (the “Class” or “Class
6 Members” and the “Class Period”), and on information and belief alleges as follows:

7 **INTRODUCTION**

8 1. This is a class action brought under California Code of Civil Procedure § 382 for
9 Defendants’ wage and hour violations of the California Labor Code and Industrial Welfare
10 Commission (“IWC”) Wage Orders.

11 2. Defendants failed to pay Plaintiffs and the Class Members for time Defendants forced
12 employees to work “off the clock.”

13 3. Defendants also required Plaintiffs and the Class to work through their meal and rest
14 breaks as a matter of policy, and they failed to pay Plaintiffs and the Class for such time or premiums.
15 This resulted in an underpayment of regular and overtime hours worked each pay period for Plaintiffs
16 and the Class. Defendants thus failed to provide compliant meal and rest periods (or premiums in lieu
17 thereof).

18 4. As a result of these violations, Defendants failed to timely pay Plaintiffs and the Class
19 each pay period on paydays and upon separation of employment, and thus are liable for waiting time
20 and other statutory penalties.

21 5. Defendants also failed to reimburse Plaintiffs and the Class for necessary business
22 expenses for the required use of vehicles, cell phones, and other personal devices.

23 6. Defendants’ employment policies and practices and payroll administration systems
24 enabled and facilitated these violations on a company-wide basis with respect to the aggrieved
25 employees.

7. Defendants' employment policies and practices and payroll administration systems enabled and facilitated these violations on a company-wide basis with respect to the Class Members.

JURISDICTION & VENUE

8. Jurisdiction of this action is proper in this Court under Article VI, Section 10 of the California Constitution.

9. Venue as to each defendant is proper in this judicial district under Code of Civil Procedure §§ 395(a) and 395.5 because Defendants conduct business in this county, employed Plaintiffs in this county, and committed some of the alleged violations in this county.

PARTIES

Plaintiffs

10. Plaintiff Ross Peinado is a citizen of California over 18 years of age who worked for Defendants in California as an hourly, non-exempt employee. Peinado worked for Defendants from December 10, 2019, to December 28, 2022, as a Day Porter.

11. Plaintiff Jose Avalos is a citizen of California over 18 years of age who worked for Defendants in California as an hourly, non-exempt employee. Avalos worked for Defendants as a Quality Assurance Manager from March 2016 until October 23, 2023. Defendants

12. Defendant Green Coast Building Services, Inc. (“GCBS”), is corporation registered to do business in the State of California, doing business and employing labor throughout California, and in San Diego County.

13. Defendant Leonel Garcia (“Garcia,” collectively referred to with GCBS as “Defendants”) is the owner of Defendant GCBS and is responsible for setting the employment policies and practices at issue in this action.

14. The true names and capacities, whether individual, corporate, or otherwise, of the parties sued as DOES 1 through 50, are presently unknown to Plaintiffs, who sue them by such fictitious names under Code of Civil Procedure section 474.

15. Plaintiffs are informed, believe and allege that each of the fictitious defendants is responsible in some manner for the acts and omissions alleged herein. Plaintiffs will seek leave to amend this Complaint to reflect their true names and capacities when they become known.

16. Plaintiffs are informed, believe, and allege that all defendants in this action are employers and/or joint employers and part of an integrated employer enterprise, as each defendant exercises control over the wages, hours, and working conditions of Plaintiffs and other employees, suffers and permits them to work, and engages the workforce creating a common law employment relationship. Additionally, all Defendants have common ownership, common management, interrelationship of operations, and centralized control over labor relations and are therefore part of an integrated enterprise and thus jointly and severally responsible for the acts and omissions alleged herein.

17. Plaintiffs are informed, believe, and allege that each defendant acted in all respects pertinent to this action as an alter-ego, agent, servant, joint employer, joint venturer, co-conspirator, partner, in an integrated enterprise, or in some other capacity on behalf of all other co-defendants, such that the acts and omissions of each defendant are legally attributable to all others.

18. Plaintiffs are informed, believe, and allege that the above-mentioned Defendants violated and/or caused to be violated Labor Code and IWC Wage Order provisions and/or regulating minimum wages and days of work and other provisions of the Labor Code with respect to the Class of aggrieved employees. As a result, they may be held personally liable under Labor Code sections 558, 558.1, and 1197.1. (*See, e.g., Atempa v. Pedrazzani* (2018) 27 Cal. App. 5th 809.)

CLASS ALLEGATIONS

19. Plaintiffs bring this action as individuals and on behalf of the following class under Code of Civil Procedure § 382: All individuals currently or formerly employed by Defendants in the State of California as hourly non-exempt employees at any time from four years preceding the filing of this action through the time of trial (the “Class” or “Class Members” and the “Class Period”).

20. Further, Plaintiffs propose the following subclasses:

- 1 a. Unpaid Minimum or Regular Wage Subclass: All Class Members who were not
2 paid all regular or minimum wages for all hours worked each pay period
3 (including for off-the-clock work).
- 4 b. Misclassification Subclass: All Class Members who [1] were classified as
5 “exempt” from overtime laws and break protections, who [2] were not paid a
6 sufficient salary to qualify for “exempt” status under California law, and who
7 were [3] not paid for all overtime hours worked each pay period.
- 8 c. Unpaid Overtime Subclass: All Class Members who were not paid for all
9 overtime hours worked each pay period.
- 10 d. Meal Period Subclass: All Class Members who [1] worked shifts of five hours
11 or more without a duty-free meal period of at least 30 minutes or worked shifts
12 of 10 hours or more without a second duty-free meal period of at least 30
13 minutes; and [2] who were not paid one hour of pay at the regular rate of
14 compensation for each of those days.
- 15 e. Rest Period Subclass: All Class Members who [1] were not authorized and
16 permitted to take a 10-minute rest period for every four hours or major fraction
17 thereof; and [2] who were not paid one hour at the regular rate of compensation
18 for each of those days.
- 19 f. Untimely Payment of Wages Subclass: All individuals who are members of the
20 following classes: (i) Unpaid Minimum or Regular Wage Subclass; (ii) Unpaid
21 Overtime Subclass; (iii) Meal Period Subclass; and (iv) Rest Period Subclass.
- 22 g. Wage Statement Subclass: All individuals who are members of the following
23 classes who received a wage statement from Defendants at any time during the
24 one-year period preceding the filing of this action through the present:
25 (i) Unpaid Minimum or Regular Wage Subclass; (ii) Unpaid Overtime
26 Subclass; (iii) Meal Period Subclass; and (iv) Rest Period Subclass.

h. Waiting Time Penalty Subclass: All individuals who are members of the following classes at any time during the three-year period preceding the filing of this action through the present, excluding current employees who have never previously separated from employment with Defendants: (i) Unpaid Minimum or Regular Wage Subclass; (ii) Unpaid Overtime Subclass; (iii) Meal Period Subclass; and (iv) Rest Period Subclass.

i. Reimbursement Subclass: All Class Members who used a personal device (e.g., cell phone) or vehicle for work-related purposes and did not receive a reimbursement from Defendants.

j. Accurate Records Subclass: All individuals who are members of the following classes: (i) Unpaid Minimum or Regular Wage Subclass; (ii) Unpaid Overtime Subclass; (iii) Meal Period Subclass; and (iv) Rest Period Subclass.

21. **Numerosity**. The members of the Class are so numerous that joinder of all individuals would be impracticable. The identity of the Class Members is readily ascertainable by inspection of employment and payroll records Defendants maintain and are required to maintain by under the California Labor Code, IWC Wage Orders, and federal law. Plaintiffs are informed, believe, and allege there are more than 50 Class Members.

22. **Adequacy of Representation**. Plaintiffs are adequate class representatives. Plaintiffs will take all necessary steps to adequately and fairly represent and protect the interest of the Class. Plaintiffs are represented by attorneys who have substantial experience prosecuting, defending, resolving and litigating wage and hour class actions in California state and federal courts.

23. **Superiority**. A class action is superior to other means for adjudication of the claims of the Class and is beneficial and efficient for the parties and the Court. Class treatment will allow for the common issues to be resolved in a single forum, simultaneously and without duplication of effort and expense.

24. **Commonality.** Common questions of law and fact and a community of interest exist amongst Plaintiffs and the Class. These common issues arise from the employment relationship with Defendants and predominate over any individual issues.

25. ***Typicality.*** Plaintiffs' claims are typical of the claims of the other Class Members. Plaintiffs and Class Members were subject to the same policies and practices of Defendants, which resulted in losses to Plaintiffs and Class Members. Proof of common unlawful business practices, which Plaintiffs experienced and are representative of, will establish the right of the Class to recover on the causes of action alleged herein.

GENERAL ALLEGATIONS

26. Defendants operate a janitorial services company in California. Defendants employ hourly, non-exempt employees in the State of California, including in San Diego, who are entitled to wage and hour protections under the California Labor Code and IWC Wage Orders.

27. Throughout their employment, Plaintiffs and other employees were required to perform “off the clock” work. Plaintiffs often worked overtime over forty hours per week and/or eight hours per day during their employment. Defendants were aware of the time Plaintiffs and the Class worked off the clock because Defendants directed them to do so and observed them working during hours for which they were not paid.

28. Plaintiff Avalos and other Class Members were misclassified as “exempt” employees. Defendants paid Plaintiff Avalos a flat salary of exactly \$1,857.00 each biweekly pay period, or approximately \$45,500 per year, throughout his employment until March 2023. In March 2023, Defendants gave Plaintiff Avalos a raise to \$54,000 per year. Plaintiff Avalos was paid this flat rate regardless of how many hours he actually worked. At no point during the relevant time period was Plaintiff Avalos paid enough to qualify as “exempt” from California’s overtime laws and other Labor Code protections. Defendants similarly misclassified other supervisors and managers as “exempt.”

29. Plaintiff Peinado and other Class Members were compensated on an hourly basis. If Plaintiff Peinado or other Class Members had not finished by the end of their scheduled shifts, Defendants would not pay for extra time worked and would round down to the time scheduled.

30. Additionally, due to the high volume of tasks and constant pressure during each workday, Plaintiffs and Class Members were often unable to take meal and rest periods in compliance with California law, in violation of Labor Code sections 226.7, 512 and section 11 of the applicable IWC Wage Orders.

31. When Defendants did not provide fully compliant meal periods, Defendants failed to pay Plaintiffs and other aggrieved employees and Class Members a meal period premium at the regular rate of compensation in violation of Labor Code section 226.7. *See Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal. 5th 858, 863 (“We hold that the terms are synonymous: “regular rate of compensation” under section 226.7(c), like “regular rate of pay” under section 510(a), encompasses all nondiscretionary payments, not just hourly wages”).

32. Furthermore, due to the heavy workload and pressures from Defendants, Defendants failed to authorize or permit ten-minute rest periods for every four hours of work or major fraction thereof as required by Labor Code section 226.7 and 516 and section 12 of the applicable IWC Wage Order. Defendants also had a policy and practice of not paying rest period premiums to Plaintiffs and other aggrieved employees and Class Members who were unable to take rest periods.

33. Defendants were aware that Plaintiffs and other aggrieved employees and Class Members worked through meal and rest periods because Defendants set the policies and schedules that prevented employees from taking lawful breaks. Defendants encouraged Plaintiffs and other aggrieved employees and Class Members to work through meal periods and rest periods and assigned them tasks that prevented them from taking any meal or rest breaks.

34. Defendants also failed to reimburse Plaintiff Peinado and other employees for necessary business expenses. Defendants required Plaintiff Peinado and other employees to drive to and from worksites, as well as to communicate with supervisors using their cell phones or other

1 personal devices. At all relevant times, Defendants were required to comply with the reimbursement
2 mandate of Labor Code section 2802. Plaintiff Peinado and other employees were not compensated
3 for the mileage they drove in their own vehicles or for their use of their personal cell phones, and
4 Defendants did not provide a reasonable stipend. (*See, e.g., Cochran v. Schwan Home Service* (2014)
5 228 Cal. App. 4th 1137.)

6 35. With respect to the unpaid regular wages, overtime wages, and meal and rest period
7 premiums owed to Plaintiffs and other employees, Defendants failed to pay those wages on time each
8 pay period or upon separation of employment. (*See Naranjo v. Spectrum Security Services, Inc.* (2022)
9 13 Cal. 5th 93.)

10 36. Because Defendants did not pay Plaintiffs and other employees for all wages/premiums
11 owed each pay period of their employment, Defendants failed to timely pay all wages owed each pay
12 day or upon separation of employment (or within 72 hours thereof), in violation of Labor Code
13 sections 201 through 203 (waiting time) and 204 and 204b (paydays).

14 37. Defendants further failed in their affirmative obligation to provide accurate itemized
15 wage statements each pay period to Plaintiffs and other employees. Defendants issued wage statements
16 to Plaintiffs and, on information and belief, other employees, which contain multiple violations. First,
17 on each wage statement furnished, Defendants failed to accurately state the “gross wages earned” and
18 “net wages earned” in violation of Labor Code § 226(a)(1) and (5). The wage statements also failed
19 to specify the “total hours worked” under subsection (2). Plaintiffs and other employees also were not
20 paid for meal period premiums or rest period premiums earned at the lawful rate, resulting in an
21 inaccurate itemization of gross and net wages earned on those wage statements.

22 38. These issues described rendered the wage statements inaccurate and confusing to
23 Plaintiffs and other employees, concealing the underpayments and presenting a false portrayal of
24 accuracy on the wage statements relied upon by Plaintiffs and other employees as the sole
25 documentary evidence of their respective earnings.

1 44. Plaintiffs are informed, believe, and allege that Defendants' acts and omissions have
2 knowingly and intentionally caused harm to Plaintiffs and other employees. Plaintiffs are informed,
3 believe, and allege that Defendants have engaged in systemic violations of the Labor Code and IWC
4 Wage Orders by maintaining practices, policies, and customs that are inconsistent with their
5 obligations under California law.

6 45. On March 28, Plaintiff Avalos filed a notice of violations contained herein with the
7 Labor Workforce Development Agency ("LWDA").

8 **FIRST CAUSE OF ACTION**

9 **FAILURE TO PAY ALL REGULAR AND MINIMUM WAGES**

10 46. Plaintiffs and the Class incorporate all outside paragraphs of this Complaint as if set
11 forth herein.

12 47. Plaintiffs and the Class were not paid at least minimum wage *for all hours*
13 worked. Plaintiffs and the Class were not paid at their lawful overtime rate (*i.e.*, time and a half or
14 double time based on their regular rate of pay) for all overtime hours worked in excess of 8 hours in a
15 workday, 40 hours in a workweek, or for any hours on any seventh consecutive day of work, to the
16 extent Plaintiffs and the Class worked on a seventh consecutive workday or other such hours as further
17 investigation may reveal.

18 48. Defendants willfully failed in their affirmative obligation to pay Plaintiffs and Class
19 Members at least the lawful minimum wage for each hour worked in violation of Labor Code sections
20 201-204, 210, 510, 558, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 1199, applicable local minimum
21 wage ordinances, and the related sections of the applicable IWC Wage Orders (the "Hours and Days
22 of Work" and "Minimum Wages" sections of the applicable orders), including payment at the lawful
23 local and county minimum wage ordinances in effect.

24 49. Defendants' unlawful acts and omissions deprived Plaintiffs and the Class of minimum,
25 regular, and overtime wages in amounts to be determined at trial. Plaintiffs and the Class are entitled
26 to recover the full amount of the unpaid wages, plus liquidated damages in an amount equal to the

wages unlawfully unpaid (and interest thereon), in addition to interest, attorneys' fees, and costs to the extent permitted by law, including under Labor Code sections 1194 and 1194.2.

SECOND CAUSE OF ACTION

FAILURE TO PAY ALL OVERTIME WAGES

50. Plaintiffs and the Class incorporate all outside paragraphs of this Complaint as if set forth herein.

51. This cause of action is brought pursuant to the IWC Wage Orders and Labor Code §§ 204, 510, 558, 1194, and 1198, which require non-exempt employees be timely paid overtime wages all overtime hours worked, and which further provide a private right of action for an employer's failure to pay all overtime compensation for overtime hours worked.

52. Throughout their employment with Defendants, Plaintiffs and the Class were not paid based on the hours they actually worked. Plaintiff Avalos and the Misclassification Subclass were misclassified as "exempt" employees despite not being paid the required salary under California law. Plaintiffs, the Misclassification Subclass, and the remainder of the Overtime Subclass Members often worked over eight hours per day and over forty hours per week without being paid at the proper overtime rate. Hourly employees were paid for the time they were scheduled, not for the actual time they worked. Defendants were aware of the off-the-clock work performed by employees because Defendants instructed them to do so while only paying them for the time they were scheduled. As a result, Plaintiffs and the Class were not paid all wages owed to them.

53. Defendants failed in their affirmative obligation to pay Plaintiffs and Class Members no less than one and one-half times their respective "regular rate of pay" for all hours worked in excess of eight hours in one day, 40 hours in one week, or the first eight hours worked on the seventh day of work in any one workweek, and no less than twice their respective "regular rate of pay" for all hours over 12 hours in one day and any work in excess of eight hours on any seventh day of a workweek in violation of Labor Code sections 204, 510, 558, 1194, and 1198 and the IWC Wage Orders (the "Hours and Days of Work" sections of the applicable orders).

54. Defendants' unlawful acts and omissions deprived Plaintiffs and the Class of overtime wages in amounts to be determined at trial. Plaintiffs and the Class are entitled to recover the full amount of the unpaid overtime wages, in addition to interest, attorneys' fees, and costs to the extent permitted by law, including under Labor Code section 1194.

THIRD CAUSE OF ACTION

MEAL PERIOD VIOLATIONS

55. Plaintiffs and the Class incorporate all outside paragraphs of this Complaint as if set forth herein.

56. This cause of action is brought pursuant to the IWC Wage Orders (including section 11) and Labor Code §§ 226.7, 558 and 512, which require non-exempt employees be provided complaint meal periods (or meal period premiums in lieu thereof), and which further provide a private right of action for an employer's failure to lawfully provide all meal periods and/or pay meal period premiums at the lawful regular rate of compensation.

57. Plaintiffs and Class Members often could not take timely uninterrupted meal periods within the first five hours of work, if at all.

58. Defendants willfully failed in their affirmative obligation to consistently provide Plaintiffs and Class Members compliant, duty-free meal periods of not less than 30 minutes beginning before the fifth hour of hour for each work period of more than five hours per day and a second duty-free meal period of not less than 30 minutes beginning before the tenth hour of hour of work in violation of Labor Code sections 226.7, 512, 558, 1198 and the IWC Wage Orders (the “Meal Periods” sections of the applicable orders).

59. Further, Defendants willfully failed in their affirmative obligation to consistently pay Plaintiffs and Class Members one additional hour of pay at the respective regular rate of compensation for each workday that a fully compliant meal period was not provided, in violation of Labor Code sections 226.7, 512, 558, and 1198 and the IWC Wage Orders (the “Meal Periods” sections of the applicable orders).

1 60. Plaintiffs and Class Members are entitled to recover the full amount of the meal period
2 premiums owed, in addition to interest, statutory and civil penalties, and attorneys' fees, and costs to
3 the extent permitted by law.

4 **FOURTH CAUSE OF ACTION**

5 **REST PERIOD VIOLATIONS**

6 61. Plaintiffs and the Class incorporate all outside paragraphs of this Complaint as if set
7 forth herein.

8 62. This cause of action is brought pursuant to the IWC Wage Orders (including section
9 12) and Labor Code §§ 226.7, 516, and 1198, which require non-exempt employees be authorized to
10 take complaint rest periods (or rest period premiums in lieu thereof), and which further provide a
11 private right of action for an employer's failure to lawfully provide all rest periods and/or pay rest
12 period premiums at the lawful regular rate of compensation.

13 63. Due to Plaintiffs' and the Class's job responsibilities and pressures from Defendants,
14 Plaintiffs and the Class often were not authorized or permitted to take rest periods. Plaintiffs and the
15 Class rarely took rest breaks due to the non-stop demands of Defendants' operations and the
16 understaffing. Defendants had a policy and practice of not paying rest period premiums to Class
17 Members who were unable to take rest periods.

18 64. Defendants willfully failed in their affirmative obligation to consistently authorize and
19 permit Plaintiffs and Class Members to receive compliant, duty-free rest periods of not less than ten
20 (10) minutes for every four hours worked (or major fraction thereof) in violation of Labor Code
21 sections 226.7, 516, 558, and 1198 and the IWC Wage Orders (the "Rest Periods" sections of the
22 applicable orders).

23 65. Further, Defendants willfully failed in their affirmative obligation to consistently pay
24 Plaintiffs and the Class one additional hour of pay at the respective regular rate of compensation for
25 each workday that a fully compliant rest period was not provided, in violation of Labor Code sections
26 226.7, 516, 558, and 1198 and the IWC Wage Orders.

1 66. Plaintiffs and the Class are entitled to recover the full amount of the rest period
2 premiums owed, in addition to interest, statutory and civil penalties, and attorneys' fees, and costs to
3 the extent permitted by law.

4 **FIFTH CAUSE OF ACTION**

5 **UNTIMELY PAYMENT OF WAGES DURING EMPLOYMENT**

6 67. Plaintiffs and the Class incorporate all outside paragraphs of this Complaint as if set
7 forth herein.

8 68. This cause of action is pursuant to the IWC Wage Orders and Labor Code §§ 204, 204b,
9 and 210 which require non-exempt employees be timely paid all wages owed each pay period, and
10 which further provide a private right of action for an employer's failure to comply with this obligation.

11 69. As explained above, Defendants underpaid Plaintiffs and the Class regular wages and
12 overtime, and they failed to pay meal and rest period premiums. Defendants are separately liable for
13 not paying the full amount owed to Plaintiffs and the Class each payday in violation of Labor Code
14 sections 204 and/or 204b.

15 70. Defendants willfully failed in their affirmative obligation to timely pay all wages,
16 including meal and rest premiums, earned by Plaintiffs and Class Members twice during each calendar
17 month on days designated in advance by the employer as regular paydays (for employees paid on a
18 non-weekly basis) and on the regularly-scheduled weekly payday weekly employees, if any, in
19 violation of Labor Code sections 204 and 204b and the IWC Wage Orders (the "Minimum Wages"
20 sections of the applicable orders).

21 71. Defendants' unlawful acts and omissions deprived Plaintiffs and the Class of timely
22 wages in amounts to be determined at trial. Plaintiffs and the Class are entitled to recover the full
23 amount of the unpaid wages, in addition to a statutory penalty in the amount of \$100 for the initial
24 violation for each failure to pay each employee and \$200 for all subsequent violations and for all
25 willful or intentional violations for each failure to pay each employee, plus 25 percent of the amount
26

1 unlawfully withheld under provided in Labor Code § 210, in addition to interest, attorneys’ fees, and
2 costs to the extent permitted by law.

3 **SIXTH CAUSE OF ACTION**

4 **WAGE STATEMENT VIOLATIONS**

5 55. Plaintiffs and the Class incorporate all outside paragraphs of this Complaint as if set
6 forth herein.

7 56. This cause of action is brought pursuant to Labor Code § 226(a) which requires non-
8 exempt employees be provided accurate itemized wage statements each pay period, and which further
9 provide a private right of action for an employer’s failure to comply with this obligation.

10 57. Throughout the relevant statutory period, as a result of the other Labor Code violations
11 at issue—including unpaid regular and overtime wages and premiums—Defendants violated Labor
12 Code section 226(a)(1) by not listing the correct “gross wages earned,” as the employees earned
13 regular wages, overtime, and premiums, but were instead underpaid, resulting in an inaccurate
14 reflection and recording of “gross wages earned” on those wage statements. Defendants also violated
15 Labor Code Section 226(a) by failing to include the “total hours worked.” Defendants also violated
16 Labor Code section 226(a)(5) with respect to “net wages earned” for the same reasons, as the “net
17 wages earned” are depreciated and underpaid resulting in an inaccurate reflection on the pay stub.

18 58. Defendants knowingly and intentionally failed in their affirmative obligation to provide
19 accurate itemized wage statements to Plaintiffs and the Class Members resulting in injury to Plaintiffs
20 and Class Members. Specifically, the wage statements issued to Plaintiffs and Class Members did not
21 accurately state each pay period all of the information required by Labor Code § 226(a)(1)-(9).

22 59. Plaintiffs and the Class cannot promptly and easily determine from the wage statement
23 alone the wages paid or earned without reference to other documents or information. Defendants’
24 unlawful acts and omissions deprived Plaintiffs and the Class of accurate itemized wage statements,
25 causing confusion and concealing wage and premium underpayments. The wage statements reflect a
26

1 false statement of earnings and concealed the underlying problems and underpayments throughout the
2 relevant period.

3 60. As a result, Plaintiffs and the Class are entitled to recover the statutory penalty of \$50
4 per employee for the initial pay period in which a violation occurred and \$100 per employee for each
5 violation in a subsequent pay period, up to an aggregate penalty of \$4,000 per employee, in addition
6 to interest, attorneys' fees, and costs to the extent permitted by law, including under Labor Code
7 section 226.

8 **SEVENTH CAUSE OF ACTION**

9 **WAITING TIME PENALTIES**

10 61. Plaintiffs and the Class incorporate all outside paragraphs of this Complaint as if set
11 forth herein.

12 62. This cause of action is brought pursuant to Labor Code §§ 201 through 203, which
13 require an employer to timely pay all wages earned upon termination of employment, and which
14 further provide a private right of action to recover statutory waiting time penalties each day an
15 employer fails to comply with this obligation, up to a maximum of 30 days wages.

16 63. Defendants willfully failed and continue to fail in their affirmative obligation to pay all
17 wages, including meal and rest premiums, earned and unpaid to Plaintiffs and members of the Class
18 immediately upon termination of employment or within 72 hours thereafter for employees who did
19 not provide at least 72 hours prior notice of his or her intention to quit, and further failed to pay those
20 sums for 30 days thereafter in violation of Labor Code sections 201 through 203 and the IWC Wage
21 Orders.

22 64. Because Defendants failed to pay all wages owed to Plaintiffs and the Class during
23 their employment and failed to properly pay regular and overtime wages at the lawful respective rates,
24 Defendants failed to timely pay all wages owed upon separation of employment in violation of Labor
25 Code sections 201, 202 and 203.

65. Plaintiffs and the Class are entitled to recover a waiting time penalty for a period of up to 30 days, in addition to interest, attorneys' fees, and costs to the extent permitted by law.

EIGHTH CAUSE OF ACTION

FAILURE TO REIMBURSE BUSINESS EXPENSES

66. Plaintiffs and the Class incorporate all outside paragraphs of this Complaint as if set forth herein.

67. Defendants willfully failed in their affirmative obligation to reimburse Plaintiffs and the Class for all necessary expenditures, losses, expenses, and costs incurred by them in direct discharge of the duties of their employment, in violation of Labor Code section 2802.

68. At all relevant times, Defendants were required to comply with the reimbursement mandate of Labor Code section 2802. Plaintiff Peinado and the Reimbursement Subclass were not compensated for their use of their personal devices, cell phones, and Defendants did not provide a reasonable stipend. (*See, e.g., Cochran v. Schwan Home Service* (2014) 228 Cal. App. 4th 1137.)

69. Defendants required Plaintiff Peinado and the Reimbursement Subclass to use their personal devices (e.g., cell phone) and vehicles for work purposes without reimbursement. Peinado and the Reimbursement Subclass could not have performed their jobs without using their personal devices to communicate with managers, or without using their own vehicles to drive between worksites during each shift. In direct consequence of their job duties, Peinado and the Reimbursement Subclass unavoidably and necessarily incurred losses, expenditures, costs, and expenses that Defendants did not reimburse as a matter of policy and practice. At all relevant times, Defendants were required to comply with the reimbursement mandate of Labor Code section 2802.

70. Defendants' unlawful acts and omissions deprived Plaintiff Peinado and the Reimbursement Subclass of lawful reimbursements for business expenses in amounts to be determined at trial. Plaintiff Peinado and the Class are entitled to recover the amount of the unreimbursed expenses in addition to interest, attorneys' fees, and costs to the extent permitted by law, including under Labor Code section 2802.

1 **NINTH CAUSE OF ACTION**

2 **FAILURE TO MAINTAIN ACCURATE RECORDS**

3 71. Plaintiffs and the Class incorporate all outside paragraphs of this Complaint as if set
4 forth herein.

5 72. Defendants violated Labor Code section 1174 and the IWC wage orders by failing to
6 maintain accurate payroll records showing all hourly rates in effect and hours worked at those rates,
7 and the wages paid to each employee.

8 73. As a result, Defendants violated the Labor Code and IWC Wage Orders and are liable
9 to Plaintiffs and Class Members for civil penalties as required by Labor Code sections 1174.5 and/or
10 2699(a) and (f)(2), in addition to interest, attorneys' fees, and costs to the extent permitted by law,
11 including under Labor Code section 2699(g).

12 **TENTH CAUSE OF ACTION**

13 **UNFAIR COMPETITION**

14 74. Plaintiffs and the Class incorporate all outside paragraphs of this Complaint as if set
15 forth herein.

16 75. Defendants have engaged and continue to engage in unfair and/or unlawful business
17 practices in the State of California in violation of California Business and Professions Code § 17200
18 by failing committing the foregoing wage and hour violations alleged throughout this Complaint.

19 76. Defendants' dependance on these unfair and/or unlawful business practices deprived
20 Plaintiffs and continue to deprive other Class Members of compensation to which they are legally
21 entitled, constitutes unfair and/or unlawful competition, and provides an unfair advantage to
22 Defendants over competitors who have been and/or are currently employing workers in compliance
23 with California's wage and hour laws. These failures constitute unlawful, deceptive, and unfair
24 business acts and practices in violation of Business and Professions Code section 17200, et seq.

25 77. Plaintiffs and the Class are victims of Defendants' unfair and/or unlawful conduct
26 alleged in this Complaint, and Plaintiffs and the Class seek full restitution of the moneys as necessary

1 and according to proof to restore all monies withheld, acquired, and/or converted by Defendants
2 pursuant to Business and Professions Code §§ 17203 and 17208. Plaintiffs and the Class are entitled
3 to injunctive relief against Defendants, restitution, and other equitable relief to return all funds over
4 which Plaintiffs and the Class have an ownership interest and to prevent future damage and the public
5 interest under Business and Professions Code § 17200, et seq. Plaintiffs and the Class are further
6 entitled to recover interest, attorneys' fees, and costs to the extent permitted by law, including under
7 Code of Civil Procedure § 1021.5.

8 **ELEVENTH CAUSE OF ACTION**

9 **CIVIL PENALTIES FOR FAILURE TO PAY**

10 **ALL REGULAR AND MINIMUM WAGES**

11 **Labor Code §§ 1182.12, 1194, 1197**

12 72. Plaintiff Avalos incorporates all outside paragraphs of this Complaint as if set forth
13 herein.

14 73. Labor Code section 2699(f) provides: "For all provisions of this code except those for
15 which a civil penalty is specifically provided, there is established a civil penalty for a violation of these
16 provisions, as follows: ... (2) If, at the time of the alleged violation, the person employs one or more
17 employees, the civil penalty is one hundred dollars (\$100) for each aggrieved employee per pay period
18 for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period
19 for each subsequent violation."

20 74. Labor Code section 558(a) provides: "Any employer or other person acting on behalf
21 of an employer who violates, or causes to be violated, a section of this chapter or any provision
22 regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject
23 to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid
24 employee for each pay period for which the employee was underpaid in addition to an amount
25 sufficient to recover underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100)

1 for each underpaid employee for each pay period for which the employee was underpaid in addition
2 to an amount sufficient to recover underpaid wages.”

3 75. Labor Code section 1197.1(a) provides: “Any employer or other person acting either
4 individually or as an officer, agent, or employee of another person, who pays or causes to be paid to
5 any employee a wage less than the minimum fixed by an applicable state or local law, or by an order
6 of the commission, shall be subject to a civil penalty ... and any applicable penalties imposed pursuant
7 to Section 203 as follows: (1) For any initial violation that is intentionally committed, one hundred
8 dollars (\$100) for each underpaid employee for each pay period for which the employee is underpaid
9 ... and any applicable penalties imposed pursuant to Section 203. (2) For each subsequent violation
10 for the same specific offense, two hundred fifty dollars (\$250) for each underpaid employee for each
11 pay period for which the employee is underpaid regardless of whether the initial violation is
12 intentionally committed.”

13 76. Defendants willfully failed in their affirmative obligation to pay Plaintiffs and
14 aggrieved employees at least the lawful minimum wage for all hours worked in violation of Labor
15 Code sections 1182.12, 1194, 1197 and 1198 and the IWC Wage Orders (the “Hours and Days of
16 Work” and “Minimum Wages” sections of the applicable orders).

17 77. As a result, Defendants violated the Labor Code and IWC Wage Orders and are liable
18 to Plaintiffs, the aggrieved employees and the State of California for civil penalties as required by
19 Labor Code sections 558, 1197.1, and 2699(a) and (f)(2), in addition to interest, attorneys’ fees, and
20 costs to the extent permitted by law, including under Labor Code section 2699(g).

21 **TWELFTH CAUSE OF ACTION**

22 **CIVIL PENALTIES FOR FAILURE TO PAY**

23 **ALL OVERTIME WAGES**

24 **Labor Code §§ 510, 558 1194, 1197.1, 1198, 1199**

25 78. Plaintiff Avalos incorporates all outside paragraphs of this Complaint as if set forth
26 herein.

1 79. Defendants failed in their affirmative obligation to pay Plaintiffs and aggrieved
2 employees no less than one and one-half times their respective “regular rate of pay” for all hours
3 worked in excess of eight hours in one day, 40 hours in one week, or the first eight hours worked on
4 the seventh day of work in any one workweek, and no less than twice their respective “regular rate of
5 pay” for all hours over 12 hours in one day and any work in excess of eight hours on any seventh day
6 of a workweek in violation of Labor Code sections 510, 558, 1194, 1197.1, 1198, 1199 and the IWC
7 Wage Orders (the “Hours and Days of Work” sections of the applicable orders).

8 80. As a result, Defendants violated the Labor Code and IWC Wage Orders and are liable
9 to Plaintiffs, the aggrieved employees and the State of California for civil penalties as required by
10 Labor Code sections 558 and 2699(a) and (f)(2), in addition to interest, attorneys’ fees, and costs to
11 the extent permitted by law, including under Labor Code section 2699(g).

12 **THIRTEENTH CAUSE OF ACTION**

13 **CIVIL PENALTIES FOR MEAL PERIOD VIOLATIONS**

14 **Labor Code §§ 226.7 and 512**

15 81. Plaintiff Avalos incorporates all outside paragraphs of this Complaint as if set forth
16 herein.

17 82. Defendants willfully failed in their affirmative obligation to consistently provide
18 Plaintiff and aggrieved employees compliant, duty-free meal periods of not less than 30 minutes
19 beginning before the fifth hour of hour for each work period of more than five hours per day and a
20 second duty free meal period of not less than 30 minutes beginning before the tenth hour of hour of
21 work in violation of Labor Code sections 226.7, 512, 1198 and the IWC Wage Orders (the “Meal
22 Periods” sections of the applicable orders).

23 83. Further, Defendants willfully failed in their affirmative obligation to consistently pay
24 Plaintiff and aggrieved employees one additional hour of pay at the respective regular rate of
25 compensation for each workday that a fully compliant meal period was not provided, in violation of
26 Labor Code sections 226.7, 1198 and the IWC Wage Orders.

1 84. As a result, Defendants violated the Labor Code and IWC Wage Orders and are liable
2 to Plaintiffs, the aggrieved employees and the State of California for civil penalties as required by
3 Labor Code sections 558 and 2699(a) and (f)(2), in addition to interest, attorneys' fees, and costs to
4 the extent permitted by law, including under Labor Code section 2699(g).

5 **FOURTEENTH CAUSE OF ACTION**

6 **CIVIL PENALTIES FOR REST PERIOD VIOLATIONS**

7 **Labor Code §§ 226.7 and 516**

8 85. Plaintiff Avalos incorporates all outside paragraphs of this Complaint as if set forth
9 herein.

10 86. Defendants willfully failed in their affirmative obligation to consistently authorize and
11 permit Plaintiff and aggrieved employees to receive compliant, duty-free rest periods of not less than
12 ten (10) minutes for every four hours worked (or major fraction thereof) in violation of Labor Code
13 sections 226.7, 516, 1198 and the IWC Wage Orders (the "Rest Periods" sections of the applicable
14 orders)

15 87. Further, Defendants willfully failed in their affirmative obligation to consistently pay
16 Plaintiff and aggrieved employees one additional hour of pay at the respective regular rate of
17 compensation for each workday that a fully compliant rest period was not provided, in violation of
18 Labor Code sections 226.7, 1198 and the IWC Wage Orders.

19 88. As a result, Defendants violated the Labor Code and IWC Wage Orders and are liable to
20 Plaintiffs, the aggrieved employees and the State of California for civil penalties as required by Labor
21 Code sections 558 and 2699(a) and (f)(2), in addition to interest, attorneys' fees, and costs to the extent
22 permitted by law, including under Labor Code section 2699(g).

23 **FIFTEENTH CAUSE OF ACTION**

24 **CIVIL PENALTIES FOR UNTIMELY PAYMENT OF WAGES**

25 **Labor Code §§ 204 and 210**

1 89. Plaintiff Avalos incorporates all outside paragraphs of this Complaint as if set forth
2 herein.

3 90. Defendants willfully failed in their affirmative obligation to timely pay all wages and
4 premiums earned by Plaintiffs and aggrieved employees twice during each calendar month on days
5 designated in advance by the employer as regular paydays (for employees paid on a non-weekly basis)
6 and on the regularly-scheduled weekly payday for any weekly employees, as applicable, in violation
7 of Labor Code sections 204,204b, 210 and the IWC Wage Orders (the “Minimum Wages” sections of
8 the applicable orders).

9 91. As a result, Defendants violated the Labor Code and IWC Wage Orders and are liable
10 to Plaintiffs, the aggrieved employees and the State of California for civil penalties as required by
11 Labor Code sections 558 and 2699(a) and (f)(2), in addition to interest, attorneys’ fees, and costs to
12 the extent permitted by law, including under Labor Code section 2699(g).

13 **SIXTEENTH CAUSE OF ACTION**

14 **CIVIL PENALTIES FOR WAGE STATEMENT VIOLATIONS**

15 **Labor Code §§ 226 and 226.3**

16 92. Plaintiff Avalos incorporates all outside paragraphs of this Complaint as if set forth
17 herein.

18 93. Labor Code section 226.3 provides: “Any employer who violates subdivision (a) of
19 Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per
20 employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each
21 violation in a subsequent citation, for which the employer fails to provide the employee a wage
22 deduction statement or fails to keep the records required in subdivision (a) of Section 226. The civil
23 penalties provided for in this section are in addition to any other penalty provided by law.”

24 94. Defendants failed in their affirmative obligation provide accurate itemized wage
25 statements to Plaintiff and aggrieved employees in violation of Labor Code section 226(a).

1 95. As a result, Defendants violated the Labor Code and IWC Wage Orders and are liable
2 to Plaintiffs, the aggrieved employees and the State of California for civil penalties as required by
3 Labor Code sections 226.3 and 2699(a) and (f)(2), in addition to interest, attorneys' fees, and costs to
4 the extent permitted by law, including under Labor Code section 2699(g).

5 **SEVENTEENTH CAUSE OF ACTION**

6 **CIVIL PENALTIES FOR FAILURE TO TIMELY PAY**
7 **ALL WAGES UPON SEPARATION OF EMPLOYMENT**

8 **Labor Code §§ 201 through 203**

9 96. Plaintiff Avalos incorporates all outside paragraphs of this Complaint as if set forth
10 herein.

11 97. Defendants willfully failed in their affirmative obligation to pay all wages earned and
12 unpaid to Plaintiffs and aggrieved employees immediately upon termination of employment or within
13 72 hours thereafter for employees who did not provide at least 72 hours prior notice of his or her
14 intention to quit, and further failed to pay those sums for 30 days thereafter in violation of Labor Code
15 sections 201 through 203 and the IWC Wage Orders.

16 98. As a result, Defendants violated the Labor Code and IWC Wage Orders and are liable
17 to Plaintiffs, the aggrieved employees and the State of California for civil penalties as required by
18 Labor Code sections 558 and 2699(a) and (f)(2), in addition to interest, attorneys' fees, and costs to
19 the extent permitted by law, including under Labor Code section 2699(g).

20 **EIGHTEENTH CAUSE OF ACTION**

21 **CIVIL PENALTIES FOR FAILURE TO**
22 **REIMBURSE BUSINESS EXPENSES**

23 **Labor Code § 2802**

24 99. Plaintiff Avalos incorporates all outside paragraphs of this Complaint as if set forth
25 herein.

1 100. Defendants willfully failed in their affirmative obligation to reimburse Plaintiffs and
2 aggrieved employees for all necessary expenditures, losses, expenses, and costs incurred by them in
3 direct discharge of the duties of their employment, in violation of Labor Code section 2802.

4 101. As a result, Defendants violated the Labor Code and are liable to Plaintiffs, the
5 aggrieved employees and the State of California for civil penalties as required by Labor Code section
6 2699(a) and (f)(2), in addition to interest, attorneys' fees, and costs to the extent permitted by law,
7 including under Labor Code section 2699(g).

8 **NINETEENTH CAUSE OF ACTION**

9 **CIVIL PENALTIES FOR RECORDKEEPING VIOLATIONS**

10 **Labor Code § 1174**

11 102. Plaintiff Avalos incorporates all outside paragraphs of this Complaint as if set forth
12 herein.

13 103. Labor Code section 1174 provides: "Every person employing labor in this state shall:
14 ... (d) Keep, at a central location in the state or at the plants or establishments at which employees are
15 employed, payroll records showing the hours worked daily by and the wages paid to, and the number
16 of piece-rate units earned by and any applicable piece rate paid to, employees employed at the
17 respective plants or establishments. These records shall be kept in accordance with rules established
18 for this purpose by the commission, but in any case shall be kept on file for not less than three years."

19 104. Labor Code section 1174.5 provides: "Any person employing labor who willfully fails
20 to maintain the records required by subdivision (c) of Section 1174 or accurate and complete records
21 required by subdivision (d) of Section 1174 ..., shall be subject to a civil penalty of five hundred
22 dollars (\$500)."

23 105. Defendants willfully failed in their affirmative obligation to maintain accurate records
24 showing the hours worked daily and wages paid to the aggrieved employees, in violation of Labor
25 Code sections 1174, 1198 and the IWC Wage Orders (the "Records" sections of the applicable orders).

106. As a result, Defendants violated the Labor Code and are liable to Plaintiffs, the aggrieved employees and the State of California for civil penalties as required by Labor Code section 1174.5, in addition to interest, attorneys' fees, and costs to the extent permitted by law, including under Labor Code section 2699(g).

P R A Y E R

Plaintiffs and the Class pray for judgment as follows:

- a. For certification of this action as a class action;
- b. For appointment of Plaintiffs as representatives of the Class;
- c. For appointment of above-captioned counsel for Plaintiffs as Class Counsel;
- d. For recovery of damages in amount according to proof;
- e. For all recoverable pre- and post-judgment interest;
- f. For recovery of all civil and statutory penalties and liquidated damages;
- g. For disgorgement of all amounts wrongfully obtained;
- h. For restitution and injunctive relief;
- i. For reasonable attorneys' fees and costs of suit, including expert fees, to the extent permitted by law, including under California Labor Code sections 218.5, 226, 1194, 2802, 2699(g) and Code of Civil Procedure section 1021.5; and
- j. For such other relief the Court deems just and proper.

Dated: June 6, 2024

WALTMAN EMPLOYMENT LAW

Julia W. W.

Rick A. Waltman
Matthew B. Shields

Attorneys for Plaintiffs Jose Avalos and Ross Peinado