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Attorneys for Plaintiff and Putative Class

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

Ronald Robles, individually and on behalf of all
similarly situated individuals,

Plaintiff,

vs.

**Integrated Demolition and Remediation
Incorporated**, a California corporation; and
Does 1-10, inclusive;

Defendants.

CASE NO. **24STCV07208**

CLASS ACTION COMPLAINT FOR:

- 1) Failure to Pay Minimum Wages;
- 2) Failure to Pay Overtime Wages;
- 3) Failure to Provide Meal Periods;
- 4) Failure to Provide Rest Periods;
- 5) Failure to Provide and Maintain Complete and Accurate Wage Statements;
- 6) Failure to Reimburse Necessary Business Expenses;
- 7) PAGA Penalties; and
- 8) Violation of California Business & Professions Code §§ 17200, et seq.

Jury Trial Requested

1 Plaintiff, Ronald Robles hereby brings this action on behalf of himself and all other similarly
2 situated current and former employees, by and through his counsel of record, alleges as follows:

3 **PARTIES**

4 1. At all relevant times for this Complaint, Plaintiff **Ronald Robles**, (“Plaintiff”) is a resident
5 of Los Angeles County, California. Plaintiff worked for Defendants from approximately August 2022 to
6 September 2023 as non-exempt employee at various job sites. Plaintiff was subject to the policies and
7 practices described in this complaint at all times during his employment at Defendants.

8 2. Defendant **Integrated Demolition and Remediation Incorporated** (“IDR”), is a
9 California corporation with a principal place of business of 4938 E. La Palma Avenue, Anaheim, CA 92807.
10 **IDR** is a demolition and remediation contractor offering services in all phases of pre-construction. On
11 information and belief, IDR has employed at least 150 non-exempt employees during the Class Period.

12 3. Plaintiff is not currently aware of the names and true identities of defendants Does 1-10.
13 Plaintiff reserves the right to amend this complaint to allege their true names and capacities when this
14 information is available. Each Doe defendant is responsible for the damages alleged pursuant to each of
15 the causes of action asserted, either through its own conduct, or vicariously through the conduct of others.
16 All further references in this complaint to any of the named Defendants includes the fictitiously named
17 defendants.

18 4. At all times alleged herein, each Defendant was an agent, servant, joint employer,
19 employee, partner, and/or joint venture of every other Defendant and was acting within the scope of the
20 Defendants’ relationship. Moreover, the conduct of every Defendant was ratified by each other
21 Defendant.

22 **VENUE AND JURISDICTION**

23 5. The court has jurisdiction over all causes of action in this complaint pursuant to Article VI,
24 § 10 of the California Constitution. No federal question is at issue; Plaintiff relies solely on California
25 statutes and law, including the Labor Code and the Business & Professions Code. Because putative class
26 members were employed by Defendants, the policies and practices complained of herein were
27 implemented in Los Angeles, and Defendants transact business within Los Angeles County, Defendant is
28 within the jurisdiction of the court for service of process. Moreover, Business & Professions Code § 17204

1 provides that any person acting on their own behalf may bring an action in any court of competent
2 jurisdiction.

3 6. Venue as to Defendant is proper in this Superior Court pursuant to California Code of Civil
4 Procedure § 395. Defendants transact business and/or have offices in this county, employ putative class
5 members in this County, and the acts and omissions alleged herein took place in this county. Moreover,
6 this action is brought on behalf of the State of California as a private attorney general and has jurisdiction
7 in this venue.

8 CLASS ACTION ALLEGATIONS

9 7. As a matter of uniform and systemic policy, Defendants purposefully failed to accurately
10 record the actual working hours of Class Members, including Plaintiff, by having supervisors manually
11 populate Class Member's time sheets based not on hours actually worked but on pre-determined
12 schedules. As a result, Defendants consistently failed to compensate Class Members, including Plaintiff,
13 for off-the-clock work that was performed either before the start or after the end of their scheduled shift.

14 8. In conjunction with this policy and practice, Defendants also implemented a tardiness
15 policy and practice whereby Class Members were penalized if they arrived late by having time deducted
16 from their timecards. That is, if a Class Member arrived late to their shift, Defendants would deduct
17 anywhere from 15-minutes to an hour of time worked that shift—even as the employee was immediately
18 put to work under Defendants' direction and control upon their arrival.

19 9. As a result of these practices, Defendants also failed to pay all required overtime
20 compensation to employees, either by not including the time employees spent working on their meal
21 periods as compensable time and by refusing to pay applicable overtime rates for time worked in excess of
22 40 hours per week or 8 hours per day.

23 10. Defendants failed to authorize and/or permit non-exempt employees to take bona fide meal
24 and rest breaks pursuant to Labor Code § 226.7.

25 11. Defendants have consistently denied their non-exempt employees the opportunities to take
26 compliant 30-minute meal periods in accordance with California's Labor Code. Upon information and
27 belief, Class Members, including Plaintiff, were required to interrupt their meal periods to service
28 customers, answer phone calls, otherwise interrupt or cut short their meal periods, or remain on duty and

under Defendants' control during their meal periods to perform other tasks at Defendants' directions due to Defendants' policies and practices, including their scheduling and staffing practices and policies.¹

12. Moreover, Class Members were instructed that during meal periods they had to remain close by and were expressly placed on-call by being instructed to monitor and respond to radio traffic or calls/texts to their cellphones.²

13. As a matter of uniform and systemic policy, Defendants failed to authorize or permit Class Members to take rest periods, by expressly requiring them to work through them and denying Class Members the opportunity or permission to take rest periods.

14. In failing to authorize and/or permit meal and rest periods, Defendants have also implemented a uniform policy of denying compensation in lieu of meal and rest periods to its non-exempt employees, notwithstanding its actual knowledge that such employees were uniformly denied compliant meal and rest periods.

15. Plaintiff and Class Members were also required to use a personal cellphone for work and to purchase their own equipment but were not reimbursed for such expenditures.

16. As a matter of uniform and systemic policy, Defendants failed to provide its non-exempt employees with accurate itemized wage statements in accordance with California's Labor Code by failing to include applicable rates of pay (including tipped pay), meal and rest premium payments, and overtime pay and hours, among other deficiencies. Additionally, Defendants failed to produce records in response to Plaintiff request under Labor Code §§ 226, 1174, and 1198.5 and, under information and belief, have a policy of refusing to respond to such requests.

17. Plaintiff therefore brings this action on behalf of himself and as a class action on behalf of the following defined Class:

¹ Additionally, as a matter of uniform and systemic policy, Class Members were not paid all wages due when they were forced to interrupt, cut short, or work through their meal periods because they remained off the clock for their meal periods despite having to perform work for Defendants. Upon information and belief, Defendants failed to pay all wages due employees based on other practices and policies not currently known to Plaintiff.

² Plaintiff was told to "stay on guard" in case they were required by supervisors to interrupt or cut short their meal period to return to work, which happened periodically.

1 **Non-Exempt Employee Class:**

2 *All persons who worked at least one 3.5-hour shift as a non-exempt employee for Defendants in the*
3 *State of California during the period four years prior to the filing of the Action through trial.*

4 18. Common methods of proof exist for determining these issues on a class-wide basis,
5 including but not limited to, Defendants' employment records, payroll records, timesheets, policies, and
6 disciplinary records.

7 19. **Numerosity.** Plaintiff is informed and believes that, during the class period, at least 165
8 Class Members have been employed as non-exempt employees by Defendants within the state of
9 California. The number of Class Members is sufficiently numerous such that joinder of all members is
10 impossible or impracticable.

11 20. **Typicality.** Plaintiff's claims are typical of all Class Members. Plaintiff, like all other Class
12 Members, was subjected to the policies and practices set forth above. Plaintiff's job duties were typical of
13 Class Members in all relevant respects.

14 21. **Adequacy.** There are no material conflicts between the claims of the representative
15 Plaintiff and Class Members that would make class certification inappropriate. Plaintiff understands his
16 obligation to inform the Court of any relationship, conflicts, or differences with any Class Member.
17 Plaintiff will fairly and adequately protect the interests of the Class Members. Plaintiff is invested in
18 redressing Defendants' illegal practices on behalf of all Class Members. Moreover, Plaintiff has retained
19 competent counsel experienced in both class action and employment litigation. Plaintiff's attorneys, the
20 proposed class counsel, are versed in the rules governing class action discovery, certification, and
21 settlement, and will vigorously assert the claims of all Class Members. Plaintiff have incurred, and will
22 continue to incur, costs and attorneys' fees that have been, are, and will be necessarily expended for the
23 prosecution of this action for the substantial benefit of each Class Member.

24 22. **Existence and Predominance of Common Issues.** Common questions of law and fact
25 exist as to all Class Members and predominate over issues affecting individual Class Members, including,
26 but not limited to:

- 27 a. Whether Defendants had a common policy and/or practice of requiring Plaintiff
28 and Class Members to work-off-the-clock;

- b. Whether Defendants had a common policy and/or practice of depriving Plaintiff and Class Members of required minimum and overtime wages;
- c. Whether Defendants unlawfully and/or willfully failed to compensate Plaintiff and Class Members required minimum and overtime wages;
- d. Whether Defendants had a common policy and/or practice of depriving Plaintiff and Class Members of compliant, off-duty meal and/or rest periods;
- e. Whether Defendants unlawfully and/or willfully deprived Plaintiff and Class Members of compliant, off-duty meal and/or rest periods;
- f. Whether Defendants had a common policy and/or practice of failing to pay premium pay to Plaintiff and Class Members when not provided a compliant, off-duty meal and/or rest periods;
- g. Whether Defendants unlawfully and/or willfully deprived Plaintiff and Class Members of owed premium pay for not providing a compliant, off-duty meal and/or rest periods;
- h. Whether Defendants have a common policy and/or practice of failing to maintain accurate payroll records in the State of California;
- i. Whether Defendants unlawfully and/or willfully failed to maintain accurate payroll records in the State of California;
- j. Whether Defendants have a common policy and/or practice of failing to provide accurate wage statements reflecting hours worked and wages earned to Plaintiff and Class Members;
- k. Whether Defendants unlawfully and/or willfully failed to provide accurate wage statements reflecting hours worked and wages earned to Plaintiff and Class Members;
- l. Whether Defendants have a common policy and/or practice of failing to reimburse Plaintiff and Class Members for reasonable business expenses;
- m. Whether Defendants unlawfully and/or willfully failed to reimburse Plaintiff and Class Members for reasonable business expenses;

- 1 n. Whether Plaintiff and Class Members sustained damages as a result of any of the
2 aforementioned violations, and, if so, the proper measure of those damages,
3 including interest, penalties, costs, attorneys' fees, and equitable relief; and
4 o. Whether Defendants violated the Unfair Competition Law, Cal. Bus. & Prof. Code
5 § 17200, et seq., by violating the above provisions of law.

6 23. **Superiority.** A class action is superior to other available means for the fair and efficient
7 adjudication of this dispute. The damages suffered by individual Class Members, while substantial, are
8 small compared to the burden and expense of individual prosecution of the complex and expensive
9 litigation necessary to address Defendants' conduct. Even if Class Members themselves could afford
10 individual litigation, the court system would be overwhelmed by individual lawsuits if all Class Members
11 sought redress. In addition, individualized litigation increases the delay and expense to all parties and to
12 the court system resulting from the complex legal and factual issues of this case. Individualized litigation
13 also presents a potential for inconsistent or contradictory judgments. By contrast, the class action device
14 presents far fewer management difficulties; it allows the hearing of claims which might otherwise go
15 unaddressed because of the relative expense of bringing individual lawsuits, and it provides the benefits of
16 single adjudication, economies of scale, and comprehensive supervision by a single court. Plaintiff
17 contemplates providing notice to members of the Class identified through Defendants' records.

18 **CAUSES OF ACTION**

19 **FIRST CAUSE OF ACTION**

20 ***California Labor Code §§ 1182.12, 1194, 1194.2, 1197, 1197.1, and 1198***

21 ***Failure to Pay Minimum Wages for All Hours Worked***

22 **(Plaintiff and Class Against Defendants)**

23 24. Plaintiff incorporates by reference all the allegations of this Complaint.

24 25. California law requires employers to compensate employees for all time that an employee
25 is "suffered or permitted to work," which includes all time "when any employer 'directs, commands or
26 restrains' an employee." *See, e.g., Morillion v. Royal Packing Co.*, 22 Cal. 4th 575, 583 (2000), as modified
27 (May 10, 2000); see also Code Regs. tit. 8, § 11070 ("Hours worked" means the time during which an
28 employee is subject to the control of an employer and includes all the time the employee is suffered or

permitted to work, whether or not required to do so.”).

26. Defendants failed to compensate Plaintiff and the Class for all hours worked because Defendants had a policy and/or practice whereby they required and/or pressured Class Members to work under Defendants’ control while off-the-clock. This included requiring its non-exempt employees to work through their legally mandated meal period or remain on duty and under Defendants’ control during their meal periods to perform other tasks at Defendants’ directions due to Defendants’ policies and practices. Defendants further failed to pay Plaintiff and Class Members any wages for time engaged in this and other off-the-clock work, including work done before the start and after the end of their scheduled shifts. Additionally, Defendants illegally penalized employees for tardiness to the job site by deducting 15 minutes to one hour of time worked by tardy Class Members from their hours worked that shift. Upon information and belief, Defendants took other actions that resulted in the failure to pay all wages due to Class Members that are presently unknown to Plaintiff.

27. Accordingly, Defendants failed to pay Plaintiff or Class Members for all hours worked where they were under the control of Defendants.

28. As a result of Defendants’ failure and refusal to comply with California law, Plaintiff and Class Members are entitled to recover actual and liquidated damages for the unpaid time, plus injunctive relief and reasonable attorney’s fees and costs. Lab. Code §§ 1194, 1197.1.

SECOND CAUSE OF ACTION

California Labor Code §§ 510 and 1198

Unpaid Overtime

(Plaintiff and Class Against Defendants)

29. Plaintiff incorporates by reference all the allegations of this Complaint.

30. California Labor Code §§ 510 and 1198 provide that it is unlawful to employ persons without compensating them at a rate of pay either time-and-one-half or two-times that person’s regular rate of pay, depending on the number of hours worked by the person on a daily or weekly basis.

31. Plaintiff and Class Members who work more than eight hours in a day or more than forty hours in a workweek are to be paid at the rate of time and one-half (1½) for all hours worked in excess of eight hours in a day or more than forty hours in a workweek. An employee’s regular rate of pay includes

1 all remuneration for employment paid to, or on behalf of, the employee, including commissions, non-
2 discretionary bonuses and incentive pay. *Alvarado v. Dart Container Corp. of California*, 4 Cal. 5th 542, 573
3 (2018), as modified (Apr. 25, 2018).

4 32. Throughout the Class Period, Plaintiff and other Class Members were not paid overtime
5 premiums for all of the hours they worked in excess of eight hours in a day, in excess of twelve hours in a
6 day, in excess of eight hours on the seventh consecutive day of work in a workweek, and in excess of forty
7 hours in a week due to the off-the-clock work identified above.

8 33. As Class Members sometimes worked shifts of more than eight hours a day or forty hours
9 a week, this off-the-clock work should have been adequately compensated at their appropriate overtime
10 rate of pay.

11 34. Defendants knew or should have known that Plaintiff and Class Members did not receive
12 overtime compensation.

13 35. Accordingly, Defendants' failure to pay overtime compensation resulted in Plaintiff and
14 Class Members being deprived of earned overtime wages. Pursuant to Labor Code § 1194, Plaintiff and
15 Class Members are entitled to recover their unpaid overtime compensation, as well as interest, costs, and
16 attorneys' fees.

17 **THIRD CAUSE OF ACTION**

18 ***California Labor Code §§ 226.7, 512(a), and 1198***

19 ***Meal Period Violations***

20 **(Plaintiff and Class Against Defendants)**

21 36. Plaintiff incorporates by reference all the allegations of this Complaint.

22 37. At all times relevant to this complaint, Defendants knew they were obligated to provide
23 legally-compliant meal breaks to its non-exempt employees pursuant to Labor Code §§ 512 and 226.7.
24 Labor Code § 512(a) states in pertinent part: "[A]n employer may not employ an employee for a work
25 period of more than five hours per day without providing the employee with a meal period of not less than
26 30 minutes. An employer may not employ an employee for a work period of more than 10 hours per day
27 without providing the employee with a second meal period of not less than 30 minutes."

28 38. Labor Code section 226.7, 512(a), and 1198 provide that no employer shall require an

employee to work during any meal period mandated by an applicable order of the IWC. “An off-duty meal period, therefore, is one in which the employee is relieved of all duty during the 30-minute meal period . . . an employer’s obligation is to provide an off-duty meal period: an uninterrupted 30-minute period during which the employee is relieved of all duty,” including being permitted to leave the premises. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1035-36 (2012).

39. Defendants’ policies and practices served to deprive the Class of a full 30-minute break period free of employer control or relieved of all duties.

40. Upon information and belief, Class Members were required to skip breaks, take breaks after the fifth hour of work, interrupt them, work through them, or remain under Defendant’s control during breaks due to Defendants’ policies and practices. Upon information and belief, Class Members were also denied the right to use their meal periods as they wished and were tethered to the job site or nearby environs and were expressly placed on-call³ by being instructed to monitor and respond to radio traffic or calls/texts to their cellphones.

41. Accordingly, Plaintiff and Class Members were uniformly denied meal periods as a result of Defendants’ formal policies and practices. By failing to consistently provide uninterrupted, off-duty 30-minute meal periods, Defendants violated the Labor Code as to Plaintiff and Class Members.

42. Pursuant to Labor Code § 226.7(b), Plaintiff and Class Members are entitled to recover from Defendants an additional hour of pay at their regular rates of pay for each shift in which a required meal period was not provided.

FOURTH CAUSE OF ACTION

Labor Code §§ 226.7 and 1198

Failure to Provide Rest Periods or Premium Pay in Lieu Thereof

(Plaintiff and Class Against Defendants)

43. Plaintiff incorporates by reference all the allegations of this Complaint.

44. At all times relevant to this complaint, Defendants knew they were obligated to provide compliant rest breaks to its non-exempt employees pursuant to Labor Code § 226.7.

³ Plaintiff was told to “stay on guard” in case they had to interrupt or cut short their meal period to return to work.

1 45. Labor Code § 226.7 provides:

2 (a) No employer shall require any employee to work during any meal or rest
3 period mandated by an applicable order of the Industrial Welfare Commission.

4 (b) If any employer fails to provide an employee a meal period or rest period
5 in accordance with an applicable order of the Industrial Welfare Commission, the
6 employer shall pay the employee one additional hour of pay at the employee's
7 regular rate of compensation for each work day that the meal or rest period is not
8 provided.

9 46. Labor Code § 226.7, 512(a), and 1198 provide that no employer shall require an employee
10 to work during any rest or meal period mandated by an applicable order of the IWC, including Wage Order
11 No. 1. Employers must authorize and permit employees to be relieved of all duty during their rest and meal
12 periods: "A rest period, in short, must be a period of rest."⁴ *Augustus v. ABM Sec. Servs., Inc.*, 385 P.3d
13 823, 834 (2016).

14 47. Employees must also be free to leave the employer's premises during their rest period. *See*
15 *id.* at 270 ("In the context of a 10-minute break that employers must provide during the work period, a
16 broad and intrusive degree of control exists when an employer requires employees to remain on call and
17 respond during breaks. An employee on call cannot take a brief walk—five minutes out, five minutes
18 back—if at the farthest extent of the walk he or she is not in a position to respond. Employees similarly
19 cannot use their 10 minutes to take care of other personal matters that require truly uninterrupted time.");
20 *see also* Department of Industrial Relations, "Rest Periods," *available at*
21 https://www.dir.ca.gov/dlse/FAQ_RestPeriods.htm ("Q. Can my employer require that I stay on the work
22 premises during my rest period? A. No, your employer cannot impose any restraints not inherent in the
23 rest period requirement itself.").

24 48. Upon information and belief, Defendants failed to authorize or permit all required
25 compliant paid rest periods for shifts between 3.5 and ten hours, or subjected employees to interrupted or

26 ⁴ Employees must also be free to leave the premises. *Augustus*, 2 Cal. 5th at 270; *see also* Department of
27 Industrial Relations, "Rest Periods/Lactation Accommodations," *available at*
28 https://www.dir.ca.gov/dlse/FAQ_RestPeriods.htm ("Q. Can my employer require that I stay on the work
 premises during my rest period? A. No, your employer cannot impose any restraints not inherent in the
 rest period requirement itself.")

1 shortened rest periods. Defendants further failed to authorize or permit a compliant second and third rest
2 period for shifts in excess of 6 and 10 hours, respectively.

3 49. Pursuant to Wage Order No. 16 and Labor Code § 226.7(b), Plaintiff and Class Members
4 are entitled to recover from Defendants an additional hour of pay at their regular rates of pay for each shift
5 that a compliant rest period was not provided. Defendants were aware that their actions were a violation
6 of applicable law but consistently refused to pay premium pay as required by law.

7 **FIFTH CAUSE OF ACTION**

8 ***Labor Code §§ 226. 226.3, and 1174***

9 ***Failure to Provide Complete and Accurate Wage Statements***

10 **(Plaintiff and Class Against Defendants)**

11 50. Plaintiff incorporates by reference all the allegations of this Complaint.

12 51. Labor Code § 226 requires employers to furnish employees with an accurate, itemized
13 statement in writing showing, among other things, (1) gross wages earned; (2) total hours worked by the
14 employee (for hourly-paid, non-exempt employees); (3) all deductions; (4) net wages earned; (5) the
15 inclusive dates of the period for which the employee is paid; (6) the name of the employee and the last four
16 digits of his or his social security number; (7) the name and address of the legal entity that is the employer;
17 and (8) all applicable hourly rates in effect during the pay period and the corresponding number of hours
18 worked at each hourly rate by the employee.

19 52. Labor Code § 226 additionally provides that employers “shall afford current and former
20 employees the right to inspect or receive a copy of records pertaining to their employment, upon
21 reasonable request to the employer” and that employers “shall comply with the request as soon as
22 practicable, but no later than 21 calendar days from the date of the request.”

23 53. Labor Code § 226(f) and (h) sets forth that if an employer fails to permit a current or former
24 employee to inspect or copy records required to be kept under that section within 21 days of a request to
25 inspect, that employer is liable to the employee for a penalty of \$750, and the employee is entitled to bring
26 an action for injunctive relief to enforce compliance and shall be entitled to an award of costs and
27 reasonable attorney’s fees in doing so. Labor Code § 1198.5(k) sets forth that if an employer fails to permit
28 a current or former employee to inspect or copy records relating to the employee’s performance or to any

1 grievance concerning the employee within 30 days of a request to inspect, that employer is liable to the
2 employee for a penalty of \$750, and the employee is entitled to bring an action for injunctive relief to
3 enforce compliance and shall be entitled to an award of costs and reasonable attorney's fees in doing so.

4 54. Labor Code § 1198.5 provides that "[u]pon a written request from a current or former
5 employee, or her or her representative, the employer shall also provide a copy of the personnel records, at
6 a charge not to exceed the actual cost of reproduction, not later than 30 calendar days from the date the
7 employer receives the request . . ."

8 55. Labor Code § 432 provides that "[i]f an employee or applicant signs any instrument
9 relating to the obtaining or holding of employment, he shall be given a copy of the instrument upon
10 request."

11 56. Labor Code § 1174 requires employers to maintain payroll records showing the hours
12 worked daily by all employees, for a time not less than three years. Industrial Wage Order No. 5, Section
13 7 requires that an employer maintain "time records showing when the employee begins and ends each
14 work period" and make those records available to any employee upon reasonable request. *Id.*

15 57. At all times relevant to this complaint, Defendants' failure to pay premium wages for
16 missed meal and/or rest periods further ensured that Class Members' wage statements inaccurately
17 reflected gross and net wages earned. Defendants' failure to compensate all hours worked and/or pay all
18 required overtime rates further left the wage statements they provided to employees to be inaccurate.

19 58. Upon information and belief, Defendants have also failed to keep accurate payroll records
20 for Plaintiff and Class Members in accordance with Labor Code §§ 1174 and 1198.5.

21 59. Defendants' failure to keep and maintain accurate payroll records reflecting hours worked
22 and wages earned has impeded Plaintiff and Class Members' ability to calculate unpaid wages earned.

23 60. Injury. Defendants knowingly and intentionally failed to comply with Labor Code § 226,
24 causing injury and damages to Plaintiff and Class Members. Plaintiff and all those similarly situated were
25 injured by these failures because, among other things, they were confused about whether they were paid
26 properly and/or they were misinformed about how much compensation was owed. These damages
27 include, but are not limited to, costs incurred calculating the correct net wages for each pay period and the
28 amount of employment taxes that were not paid to state and federal tax authorities.

61. Relief. Labor Code § 226(e)(1) provides that an employee suffering injury as a result of not being provided with an accurate itemized wage statement is entitled to recover the greater of all actual damages suffered or fifty (\$50) dollars for the initial violation and one hundred (\$100) dollars for each subsequent violation, up to \$4,000. Pursuant to Labor Code §§ 226(e) and (g), Plaintiff and all others similarly situated are entitled to injunctive relief to ensure Defendant's compliance with Labor Code § 226, as well as attorney's fees and costs of suit.

62. Failure to Respond to Requests For Records. Plaintiff, through counsel, requested copies of his records kept in accordance with Labor Code §§ 226, 432, 1174, and 1198.5 by certified letter on December 21, 2023.

63. Defendants did not provide Plaintiff with any records required to be produced by these statutes by statutory deadline(s). As of the date of this Complaint, Defendants have still not provided those records.

64. Upon information and belief, Defendants have a policy and practice of denying requests for employee records to their current and former employees in California that violates Labor Code §§ 226, 432, 1174, and 1198.5 and the Wage Orders entitling Class Members to a statutory penalty of \$750 for violation of Section 226, a statutory penalty of \$750 for violation of Section 1198.5, as well as injunctive relief and an award attorney's fees and costs.

SIXTH CAUSE OF ACTION

California Labor Code § 2802

Failure to Reimburse Necessary Business Expenses

(Plaintiff and Class Against Defendants)

65. Plaintiff repeats, repleads, and incorporates by reference, as though fully set forth in this paragraph, all the allegations of this Complaint.

66. Labor Code section 2802 provides that "[a]n employer shall indemnify his or his employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or his duties, or of his or his obedience to the directions of the employer." Lab. Code § 2802. The purpose of Labor Code section 2802 is to prevent employers from passing off their cost of doing business and operating expenses on to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th

1 1137, 1144 (2014).

2 67. Defendants required non-exempt employees to utilize their personal cell phones for work-
3 related purposes, including answering texts and calls from their supervisors while at work or on a break,
4 scheduling and re-scheduling future work, being assigned tasks, and general administrative matters.

5 68. Defendants failed to reimburse a reasonable portion of the Class Members' cellphone
6 related expenses despite requiring the use of the device and/or applications that required a data plan.

7 69. Defendant further failed to reimburse Plaintiff and the Class Members for the purchase of
8 work-related equipment, including but not limited to protective gear, tools, and power tools.

9 70. By unlawfully failing to pay Plaintiff and Class Members, Defendants are liable for a
10 reasonable portion of the incurred expenses, to be determined upon trial, plus reasonable attorneys' fees
11 and costs. Lab. Code § 2802. *See Cochran v. Schwan's Home Serv., Inc.*, 228 Cal. App. 4th 1137, 1144
12 (“[W]hen employees must use their personal cell phones for work related calls, Labor Code section 2802
13 requires the employer to reimburse them. Whether the employees have cell phone plans with unlimited
14 minutes or limited minutes, the reimbursement owed is a reasonable percentage of their cell phone bills.”).

15 **SEVENTH CAUSE OF ACTION**

16 ***Labor Code §§ 558, 2698, et seq.***

17 ***Private Attorneys General Act (“PAGA”) Penalties***

18 **(Plaintiff and Class Against Defendants)**

19 71. Plaintiff incorporates by reference all the allegations of this Complaint.

20 72. Entitlement to Penalties. Under the California Private Attorneys General Act (“PAGA”),
21 Labor Code § 2698, *et seq.*, an aggrieved employee may bring a representative action as a private attorney
22 general, on behalf of himself and other current or former employees as well as the general public, to recover
23 penalties for an employer's violations of the Labor Code and IWC Wage Orders. These penalties are in
24 addition to any other relief available under the Labor Code and are allocated seventy-five percent to the
25 Labor and Workforce Development Agency and twenty-five percent to the affected employees.

26 73. These penalties may be “stacked” separately for each of Defendants' violations of the
27 Labor Code. *See, e.g., Hernandez v. Towne Park, Ltd.*, No. CV 12-02972, 2012 WL 2373372, at *17 n.77
28 (C.D. Cal. June 22, 2012) (“[F]ederal courts applying California law have concluded that stacking is

appropriate.”); *see also O’Connor v. Uber Techs., Inc.*, No. 13-CV-03826-EMC, 2016 WL 3548370, at *7 (N.D. Cal. June 30, 2016) (“Finally, Plaintiff ignore the potential for stacking of PAGA penalties related to wage-and-hour claims other than the gratuities and expense reimbursement claim, i.e., meal and rest breaks, minimum wage and overtime, and workers’ compensation.”).

74. Plaintiff is an “aggrieved employee” under PAGA, as he was employed by Defendants during the applicable statutory period and suffered the Labor Code violations alleged herein. Accordingly, he seeks to recover, on behalf of himself and all other current and former aggrieved employees of Defendants, the civil penalties provided by PAGA, including civil penalties for Defendants’ violations of Labor Code §§ 201, 202, 203, 204, 226, 226.3, 226.7, 510, 512, 558, 1182.12, 1174, 1194, 1194.2, 1197, 1198, 1198.5, 1401, and 2802, plus reasonable attorneys’ fees and costs.

75. Representative Action. Plaintiff seeks to recover the PAGA civil penalties through a representative action as permitted by PAGA and the California Supreme Court in *Arias v. Superior Court*, 46 Cal. 4th 969 (2009). Therefore, class certification of the PAGA claims is not required, but Plaintiff may choose to seek certification of the PAGA claims.

76. Labor Code § 2699(a), which is part of PAGA, provides:

Notwithstanding any other provision of law, any provision of this code that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency or any of its departments, divisions, commissions, boards, agencies, or employees, for a violation of this code, may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of themselves or themselves and other current or former employees pursuant to the procedures specified in § 2699(a).

77. Penalties. Labor Code § 2699(f), which is part of PAGA, provides:

For all provisions of this code except those for which a civil penalty is specifically provided, there is established a civil penalty for a violation of these provisions, as follows: . . . (2) If, at the time of the alleged violation, the person employs one or more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation.

78. Based on the foregoing, Plaintiff and aggrieved employees are entitled to civil penalties, to be paid by Defendants and allocated as required by PAGA in the following formula: (a) in an amount set forth as a civil penalty in the underlying statute; or (b) \$100 per initial violation per employee per pay

1 period, and \$200 for each subsequent violation per employee per pay period. Plaintiff, the aggrieved
2 employees, and the State of California are entitled to recover the maximum civil penalties allowed by law
3 for the violations of the Labor Code and IWC Wage Orders as alleged in this Complaint.

4 79. Plaintiff is also entitled to recover for himself, other aggrieved employees, and the State of
5 California, civil penalties pursuant to Labor Code § 210 (entirely independent and apart from, any other
6 penalty provided in this article) in the amount of \$100 per employee per initial violation of the timely
7 payment requirements of Labor Code § 240 (semimonthly payments) and \$200 per employee for each
8 subsequent violation, plus 25% of the amount unlawfully withheld, and Labor Code § 558 in the amount
9 \$50 per underpaid employee for each pay period for which the employee was underpaid and for each
10 subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for
11 which the employee was underpaid.

12 80. Procedural Requirements Met. Plaintiff electronically filed a notice of claims with the
13 LWDA contemporaneously with this Complaint and sent a copy to Defendants by certified mail. Plaintiff
14 has not received notice from the LWDA that it was exercising jurisdiction over the allegations set forth in
15 the notice. As of 65 days from date of electronic filing, all requirements for administrative exhaustion for
16 bringing these PAGA claims will have been met. Labor Code § 2699.3(a)(2).

17 **EIGHTH CAUSE OF ACTION**

18 ***California Business & Professions Code §§ 17200, et seq.***

19 ***Unlawful Business Practices***

20 **(Plaintiff and Class Against Defendants)**

21 81. Plaintiff incorporates by reference all the allegations of this Complaint.

22 82. Defendants are “persons” as defined by California Business & Professions Code § 17201,
23 as they are a natural person, corporations, firms, partnerships, joint stock companies, and/or associations.

24 83. Unlawful Business Practices. Defendants’ knowing violations of the Labor Code
25 constitutes an unlawful business practice as set forth in Business & Professions Code § 17200, et seq.

26 84. Defendants’ failure to abide by the laws discussed herein provided Defendants an unfair
27 advantage over their competitors at the expense of their workers. Instead, Defendants cuts corners in the
28 name of higher profits and at the expense of employee well-being. Defendants’ actions thereby constitute

an unfair, fraudulent, and/or unlawful business practice under Business & Professions Code § 17200.

85. Relief. Plaintiff brings this cause of action seeking equitable and injunctive relief to stop Defendant's willful and ongoing misconduct, and to seek restitution of the amounts Defendants acquired through the unfair, unlawful, and fraudulent business practices described herein. In addition, Plaintiff seeks an award of costs and attorneys' fees pursuant to California Code of Civil Procedure § 1021.5.

DEMAND FOR JURY TRIAL

Pursuant to California Code of Civil Procedure § 631, Plaintiff demands a trial by jury.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays judgment as follows:

- A. For an Order:
 - a. Certifying the Class;
 - b. Appointing Plaintiff as representative of the Class;
 - c. Appointing Plaintiff's counsel as Class Counsel;
- B. For actual and liquidated damages according to proof at trial;
- C. For statutory and civil penalties and special damages, according to proof at trial;
- D. For pre- and post-judgment interest on monetary damages;
- E. For preliminary and permanent injunctive relief;
- F. For reasonable attorney's fees and costs and expert fees and costs as allowed by law; and
- G. For such other relief as this Court deems just and proper.

Dated: March 21, 2024

Respectfully submitted,
KING & SIEGEL LLP

By: Elliot J. Siegel
Elliot J. Siegel, Esq.
Attorneys for Plaintiff and Putative Class