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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES-CENTRAL DISTRICT
(UNLIMITED JURISDICTION)

BALTAZAR RECENDIZ LUCENA,

Plaintiff,

vs.

LANDSCAPE SUPPORT SERVICES, a
California corporation; SOHEILA STURM, an
individual; and DOES 1 to 25, inclusive,

Defendants.

Case No.: **24STCV12047**

COMPLAINT FOR DAMAGES FOR:

- 1) Failure to Pay All Wages Earned for All Hours Worked (Lab. Code §§ 510, 1194, 1197, and 1198);
- 2) Failure to Provide Rest Breaks (Lab. Code §§ 226.7 and 1198);
- 3) Failure to Provide Meal Periods (Lab. Code §§ 226.7, 512 and 1198);
- 4) Failure to Indemnify (Lab. Code § 2802);
- 5) Failure to Provide Accurate Itemized Wage Statements (Lab. Code § 226);
- 6) Failure To Pay Wages When Employment Ends (Lab. Code §§ 201–203);
- 7) Failure to Pay Wages Owed Every Pay Period (Lab. Code § 204);
- 8) Failure to Provide Personnel Records;
- 9) Failure to Provide Pay Records;
- 10) Civil Penalties (Lab. Code §§ 2698, *et seq.*); and
- 11) Unfair Competition (Bus. & Prof. Code, § 17200 *et seq.*)

JURY TRIAL DEMANDED

COMES NOW Plaintiff, BALTAZAR RECENDIZ LUCENA (hereafter “Plaintiff”), and complains and alleges as follows:

INTRODUCTION

1. Plaintiff brings this action based on alleged violations of the California Labor Code, Industrial Welfare Commission Order No. 5/16-2001 (hereafter “the Wage Order”), the Business and Professions Code, and public policy against LANDSCAPE SUPPORT SERVICES, a California corporation; SOHEILA STURM, an individual; and DOES 1 to 25, inclusive, (collectively “LSS” or “Defendants”).

JURISDICTION AND VENUE

2. Jurisdiction and venue are proper in this Court and this action is properly filed in the County of Los Angeles – Central District because Defendants LANDSCAPE SUPPORT SERVICES, SOHEILA STURM, and DOES 1 to 25, inclusive, do business in the County of Los Angeles and because Defendants’ obligations and liabilities arise therein, and because the work that was performed by Plaintiff in the County of Los Angeles is the subject of this action. Moreover, Plaintiff’s damages sought herein exceed \$25,000.

THE PARTIES

3. Plaintiff Baltazar Recendiz Lucena is a resident of California. At all relevant times, Plaintiff was an “employee” within the meaning of Title 8 California Code of Regulations Section 11050/11160 and an “Aggrieved Employee” within the meaning of Labor Code Section 2699(c).

4. Defendant LANDSCAPE SUPPORT SERVICES is and was a California corporation, doing business in Los Angeles County, and which employed Plaintiff. As such, it is a citizen of California based on Plaintiff’s information and belief.

5. Defendant SOHEILA STURM is a citizen of California based on Plaintiff’s information and belief.

6. In relevant part, Labor Code section 558.1 states:

(a) Any employer or other person acting on behalf of an employer, who violates, or causes to be violated, any provision regulating minimum wages or hours and days of work in any order of the Industrial Welfare Commission, or violates, or

causes to be violated, Sections 203, 226, 226.7, 1193.6, 1194, or 2802, may be held liable as the employer for such violation.

(b) For purposes of this section, the term “other person acting on behalf of an employer” is limited to a natural person who is an owner, director, officer, or managing agent of the employer, and the term “managing agent” has the same meaning as in subdivision (b) of Section 3294 of the Civil Code.

7. Based on Plaintiff’s information and belief, Defendant SOHEILA STURM is a natural person, and an owner, director, officer, and/or managing agent of LANDSCAPE SUPPORT SERVICES, who directly or indirectly, or through her agent, employed or exercised control over the wages, hours, or working conditions of Plaintiff and the Aggrieved Employees (defined below). Therefore, she is liable to Plaintiff and the Aggrieved Employees for her violations of, or causing Defendants to violate, Labor Code sections 203, 226, 226.7, 1194, and 2802 pursuant to Labor Code section 558.1.

8. The “Aggrieved Employees” are all current and former non-exempt or hourly paid employees who worked for Defendants in California during the relevant time period pursuant to California Labor Code section 2698, *et. seq.*, the Labor Code Private Attorneys General Act of 2004 (“PAGA”).

9. Plaintiff is ignorant of the true names, capacities, relationships, and extents of participation in the conduct alleged herein, of the defendants sued as DOES 1-25, inclusive, but is informed and believes and thereon alleges that said defendants are legally responsible for the wrongful conduct alleged herein and therefore sues these defendants by such fictitious names. Plaintiff will amend the Complaint to allege the true names and capacities of the DOE defendants when ascertained.

10. Plaintiff is informed and believes and thereon alleges that, at all relevant times herein, all Defendants were the agents, employees and/or servants, masters or employers of the remaining Defendants, and in doing the things hereinafter alleged, were acting within the course and scope of such agency or employment, and with the approval and ratification of each of the other Defendants.

11. Plaintiff is informed and believes and thereon alleges that each and every one of the acts and omissions alleged herein were performed by, and/or are attributable to, all

1 Defendants, each acting as agents and/or employees, and/or under the direction and control of
2 each of the other Defendants, and that said acts and failures to act were within the course and
3 scope of said agency, employment, and/or direction and control.

4 12. At all relevant times, in perpetrating the acts and omissions alleged herein,
5 Defendants, and each of them, acted pursuant to and in furtherance of a policy, practice, or a
6 lack of a practice which resulted in Defendants not paying Plaintiff and the Aggrieved
7 Employees in accordance with applicable California labor laws as alleged herein.

8 **GENERAL ALLEGATIONS**

9 13. LSS first began to employ Plaintiff as a laborer on or around May 20, 2022.
10 Plaintiff generally worked Monday through Friday from approximately 7:00 a.m. to 3:30 p.m.
11 or later. Plaintiff's rate of pay was \$37.43 per hour. Plaintiff's employment ended on or around
12 October 23, 2023.

13 14. At all relevant times, LSS issued wages to Plaintiff and all of the other
14 Aggrieved Employees on a weekly basis and paid them by the hour. At all relevant times, LSS
15 classified Plaintiff and all of the other Aggrieved Employees as non-exempt employees entitled
16 to the protections of the Labor Code and the Wage Order.

17 15. LSS failed to pay Plaintiff and the other Aggrieved Employees for all time
18 worked or subject to its control. There was no formal clock-in/clock-out and timekeeping
19 system at the workplace, and, as such, Plaintiff and all of the other Aggrieved Employees were
20 not paid for all hours worked, especially since supervisors would keep track of Plaintiff's and
21 other employees' work hours. LSS management would not only round down but would also
22 shave off hours from the actual times Plaintiff and the other Aggrieved Employees worked,
23 which led to Plaintiff and others not being paid for all hours worked, which would include the
24 minimum wage. Plaintiff's paystubs consistently stated 40.00 hours worked. In addition, to the
25 extent employees such as Plaintiff and others worked through their meal periods and those meal
26 periods were interrupted, they were not compensated for that time, which would be akin to a
27 minimum wage violation. Furthermore, LSS's management, including supervisor James
28 Morales, would often call or text Plaintiff and the other Aggrieved Employees about work-

1 related matters before the start of their shifts or after their shifts had ended. Plaintiff would
2 receive calls and texts from regarding work tasks, instructions, picking up supplies on his way
3 to work, and his work schedule.

4 16. LSS failed to pay Plaintiff and the Aggrieved Employees properly-calculated
5 overtime wages even though they worked more than 8 hours per day and/or 40 hours per week
6 throughout their employment. Plaintiff's and the Aggrieved Employees' actual work hours
7 (including the "off the clock" hours mentioned above) entitled them to overtime compensation.
8 However, LSS did not compensate Plaintiff and the Aggrieved Employees with the correct
9 amount of overtime. It was not company policy to keep accurate track of all hours worked and
10 to pay employees the accurate amount of overtime, especially since the "off the clock" work
11 was not factored into the equation. Furthermore, any incentive payments and/or bonus
12 payments were not factored into employees' regular rate of pay for purposes of deciphering the
13 correct overtime rate of pay. In addition, any bonus and/or incentive payments were not
14 factored into the correct sick pay wages and meal and rest break premium pay per *Ferra v.*
15 *Loews Hollywood Hotel, LLC* (2021) 11 Cal. 5th 858, 863.

16 17. LSS failed to provide all compliant meal periods and authorize and permit all
17 compliant rest periods to which Plaintiff and the other Aggrieved Employees were entitled.
18 Plaintiff and the other Aggrieved Employees were entitled to take off-duty, uninterrupted 30-
19 minute meal periods before the fifth and tenth hours of work and to take uninterrupted 10-
20 minute rest periods for every four hours or major fraction thereof worked. Due to the workload,
21 Plaintiff and the Aggrieved Employees would not be able to take timely, uninterrupted meal
22 periods before the 5th or 10th hour worked. Although Plaintiff and the Aggrieved Employees
23 would start their work shifts at 7:00 a.m., often times Plaintiff and the others would not be able
24 to take their meal breaks until 1:00 p.m. or later, due to the workload. Moreover, when Plaintiff
25 and the other Aggrieved Employees took their meal periods, LSS supervisors/managers would
26 interrupt them with questions about work related matters or their meal periods were cut short
27 due to their work load. On information and belief, LSS did not keep track of Plaintiff's and the
28 Aggrieved Employees' meal periods. Per *Donohue v. AMN Services, LLC*, (2021) 11 Cal.5th

1 58, where time records do not facially show an employee took a compliant meal period, a
2 rebuttable presumption arises that the employer failed to provide it, giving rise to a meal period
3 violation. Similarly, Plaintiff and the other Aggrieved Employees were not able to take their
4 10-minute rest breaks due to the workload. On information and belief, LSS did not provide
5 premium wages for these meal and rest break violations; if LSS did provide premium wages,
6 they were not paid at the correct rate, as explained above.

7 18. LSS failed to reimburse Plaintiff and the other Aggrieved Employees for
8 business expenses they incurred in direct consequence of the discharge of their duties. During
9 his employment, Plaintiff purchased a chainsaw and related parts/chains for the chainsaw. LSS
10 also required Plaintiff and the Aggrieved Employees to use their own personal phones to
11 communicate with management concerning work matters. However, LSS did not reimburse
12 Plaintiff and the other Aggrieved Employees for these tools and mobile phone expenses.
13 Accordingly, LSS was in violation of California Labor Code sections 2800 and 2802.

14 19. LSS failed to pay its employees all wages due to them within any time period
15 specified by California Labor Code section 204, including the minimum wages and overtime as
16 described above as well as meal/rest break premiums.

17 20. LSS did not provide Plaintiff and the other Aggrieved Employees accurate,
18 itemized wage statements in violation of Labor Code 226. Wage statements must include all
19 hours worked, overtime hours worked, all applicable hourly rates, the correct legal name and
20 correct address of employer entity, gross wages earned, all deductions, net wages earned,
21 reimbursement for business expenses, the correct start and end of the applicable pay period, the
22 employee ID numbers or social security numbers, among other items. Labor Code § 226(a)(2).
23 LSS's failure to maintain accurate records as to the hours worked daily by employees also
24 constitutes a violation of Labor Code section 1174(d).

25 21. Finally, because LSS did not properly pay all wages earned as explained herein,
26 LSS also failed to pay final wages owed to the Aggrieved Employees in violation of Labor
27 Code section 203. These earned but unpaid wages include minimum wages and compensation
28 for all hours worked, overtime compensation, premium pay for missed meal and rest breaks,

1 and business expense reimbursement, among others.

2 22. LSS has also violated Labor Code section 558 and engaged in business practices
3 which violate Business and Professions Code Section 17200.

4 **FIRST CAUSE OF ACTION**

5 **FAILURE TO PAY ALL WAGES EARNED FOR ALL HOURS WORKED**

6 **(Lab. Code §§ 510, 1194, 1197, and 1198)**

7 **(By Plaintiff against all Defendants)**

8 23. Plaintiff incorporates all paragraphs of the Complaint as if fully alleged herein.

9 24. At all relevant times, Plaintiff was a non-exempt employee of Defendants and
10 entitled to the benefits and protections of California Labor Code §§ 510, 1194, 1197, and 1198,
11 and the Wage Order.

12 25. Section 2(K)/2(J) of Wage Order 5-2001/16-2001 define “hours worked” as “the
13 time during which an employee is subject to the control of an employer, and includes all the time
14 the employee is suffered or permitted to work, whether or not required to do so.”

15 26. Section 3 of the Wage Order states:

16 **(A) Daily Overtime - General Provisions**

17 (1) The following overtime provisions are applicable to
18 employees 18 years of age or over and to employees 16 or
19 17 years of age who are not required by law to attend
20 school and are not otherwise prohibited by law from
21 engaging in the subject work. Such employees shall not be
22 employed more than eight (8) hours in any workday or
23 more than 40 hours in any workweek unless the employee
24 receives one and one-half (1 ½) times such employee’s
25 regular rate of pay for all hours worked over 40 hours in
26 the workweek. Eight (8) hours of labor constitutes a day’s
27 work. Employment beyond eight (8) hours in any workday
28 or more than six (6) days in any workweek is permissible
provided the employee is compensated for such overtime
at not less than:

(a) One and one-half (1 ½) times the employee’s
regular rate of pay for all hours worked in excess of
eight (8) hours up to and including 12 hours in any
workday, and for the first eight (8) hours worked
on the seventh (7th) consecutive day of work in a

workweek.

(b) Double the employee's regular rate of pay for all hours worked in excess of 12 hours in any workday and for all hours worked in excess of eight (8) hours on the seventh (7th) consecutive day of work in a workweek.

(c) The overtime rate of compensation required to be paid to a nonexempt full-time salaried employee shall be computed by using the employee's regular hourly salary as one-fortieth (1/40) of the employee's weekly salary.

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

28. Labor Code section 510 states:

Eight hours of labor constitutes a day's work. Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee. Nothing in this section requires an employer to combine more than one rate of overtime compensation in order to calculate the amount to be paid to an employee for any hour of overtime work.

29. California Labor Code § 1194 invalidates any agreement between an employer and an employee to work for less than the minimum wage required under the applicable Wage Order.

30. California Labor Code § 1197 makes it unlawful for an employer to pay an employee less than the minimum wage required under the applicable Wage Order for all hours worked during a payroll period.

31. California Labor Code § 1198 makes it unlawful for an employer to employ an

1 employee under conditions that violate the Wage Order.

2 32. In conjunction, these provisions of the California Labor Code require employers
3 to pay non-exempt employees no less than their agreed-upon or statutorily mandated wage rates
4 for all hours worked, including unrecorded hours when the employer knew or reasonably should
5 have known that employees were working during those hours. (*See Morillion v. Royal Packing*
6 *Co.* (2000) 22 Cal.4th 575, 585.)

7 33. Defendants required Plaintiff to work in excess of eight (8) hours in one workday
8 and forty (40) hours in one workweek without compensating him for such time worked at the
9 premium rates required by California law.

10 34. As described more fully above, Defendants failed to pay all minimum, regular,
11 overtime, and double time wages to Plaintiff because Defendants paid wages based on rounded
12 times, did not pay for off-the-clock work, and failed to pay overtime and double time wages
13 based on correct regular rates of pay.

14 35. As a result of Defendants' unlawful conduct, Plaintiff has suffered damages in an
15 amount, subject to proof, to the extent that he was not paid the full amount of wages earned
16 during each pay period during the applicable limitations period, including minimum, overtime,
17 and double-time wages.

18 36. As a result of Defendants' conduct, Plaintiff seeks damages and/or restitution for
19 unpaid wages which Defendants failed to pay him at the rates set forth herein, interest thereon,
20 and costs of suit and reasonable attorney's fees pursuant to California Labor Code §§ 1194.

21 **SECOND CAUSE OF ACTION**

22 **FAILURE TO PROVIDE REST BREAKS**

23 **(Lab. Code §§ 226.7 and 1198)**

24 **(By Plaintiff against all Defendants)**

25 37. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

26 38. At all relevant times during the applicable limitations period, Plaintiff was a
27 non-exempt employee of Defendants and entitled to the benefits and protections of California
28 Labor Code §§ 226.7, 1198, and the Wage Order.

- 1 39. Labor Code § 1198 states,
2 “The maximum hours of work and the standard conditions of labor fixed
3 by the commission shall be the maximum hours of work and the standard
4 conditions of labor for employees. The employment of any employee for
5 longer hours than those fixed by the order or under conditions of labor
6 prohibited by the order is unlawful.”
- 7 40. In relevant part, Section 12 of the Wage Order states:
8 Rest Periods:
9 (A) Every employer shall authorize and permit all employees
10 to take rest periods, which insofar as practicable shall be in the
11 middle of each work period. The authorized rest period time shall
12 be based on the total hours worked daily at the rate often (10)
13 minutes net rest time per four (4) hours or major fraction thereof.
14 However, a rest period need not be authorized for employees
15 whose total daily work time is less than three and one-half (3 1/2)
16 hours. Authorized rest period time shall be counted as hours
17 worked for which there shall be no deduction from wages.
- 18 (B) If an employer fails to provide an employee a rest period
19 in accordance with the applicable provisions of this Order, the
20 employer shall pay the employee one (1) hour of pay at the
21 employee’s regular rate of compensation for each work day that
22 the rest period is not provided.
- 23 41. In addition, Labor Code Section 226.7 states
24 (b) An employer shall not require an employee to work during a
25 meal or rest or recovery period mandated pursuant to an applicable
26 statute, or applicable regulation, standard, or order of the Industrial
27 Welfare Commission, the Occupational Safety and Health Standards
28 Board, or the Division of Occupational Safety and Health.
- (c) If an employer fails to provide an employee a meal or rest or
recovery period in accordance with a state law, including, but not limited
to, an applicable statute or applicable regulation, standard, or order of the
Industrial Welfare Commission, the Occupational Safety and Health
Standards Board, or the Division of Occupational Safety and Health, the
employer shall pay the employee one additional hour of pay at the
employee's regular rate of compensation for each workday that the meal
or rest or recovery period is not provided.
42. Pursuant to the Wage Order, Plaintiff was entitled to be provided with net rest
breaks of at least ten minutes for each four-hour period of work, or major fraction thereof.
43. Defendants failed to authorize and permit Plaintiff to take compliant rest periods

1 and failed to pay one hour of correctly-calculated premium pay for each day such a rest period
2 was not provided.

3 44. As a result of Defendants' unlawful conduct, Plaintiff has suffered damages in
4 an amount subject to proof to the extent he was not paid additional wages owed for all rest
5 breaks not provided to him.

6 45. By reason of the above, Plaintiff is entitled to premium wages for workdays in
7 which one or more rest breaks were not provided to him pursuant to California Labor Code §
8 226.7, plus interest and costs.

9 **THIRD CAUSE OF ACTION**

10 **FAILURE TO PROVIDE MEAL PERIODS**

11 **(Lab. Code §§ 226.7, 512, and 1198)**

12 **(By Plaintiff against all Defendants)**

13 46. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

14 47. At all relevant times during the applicable limitations period, Plaintiff was a
15 non-exempt employee of Defendants and entitled to the benefits and protections of California
16 Labor Code §§ 226.7, 512 and 1198, and the Wage Order.

17 48. Labor Code § 1198 states,

18 "The maximum hours of work and the standard conditions of labor fixed
19 by the commission shall be the maximum hours of work and the standard
20 conditions of labor for employees. The employment of any employee for
longer hours than those fixed by the order or under conditions of labor
prohibited by the order is unlawful."

21 49. In relevant part, Labor Code Section 512 states

22 "An employer may not employ an employee for a work period of more
23 than five hours per day without providing the employee with a meal
24 period of not less than 30 minutes, except that if the total work period
25 per day of the employee is no more than six hours, the meal period may
26 be waived by mutual consent of both the employer and employee. An
27 employer may not employ an employee for a work period of more than
28 10 hours per day without providing the employee with a second meal
period of not less than 30 minutes, except that if the total hours worked
is no more than 12 hours, the second meal period may be waived by
mutual consent of the employer and the employee only if the first meal
period was not waived."

1 50. In relevant part, Section 11 of the Wage Order states:

2 Meal Periods:

3 (A) No employer shall employ any person for a work period of more
4 than five (5) hours without a meal period of not less than 30
5 minutes, except that when a work period of not more than six (6)
6 hours will complete the day's work the meal period may be
7 waived by mutual consent of the employer and the employee...

8 (B) If an employer fails to provide an employee a meal period in
9 accordance with the applicable provisions of this order, the
10 employer shall pay the employee one (1) hour of pay at the
11 employee's regular rate of compensation for each workday that
12 the meal period is not provided.

13 51. Pursuant to California Labor Code § 512 and the Wage Order, Plaintiff was
14 entitled to be provided with uninterrupted meal periods of at least 30 minutes for each day he
15 worked five or more hours. Pursuant to California Labor Code § 512, Plaintiff was also entitled
16 to a second 30-minute meal period when he worked more than ten (10) hours in a workday.

17 52. During the relevant time period, Defendants failed to provide Plaintiff with
18 compliant meal periods before the fifth hour of work and failed to pay one hour of correctly-
19 calculated premium pay for each day such a meal period was not provided.

20 53. As a result of Defendants' unlawful conduct, Plaintiff has suffered damages in
21 an amount subject to proof to the extent he was not paid additional wages owed for all meal
22 periods not provided to him.

23 54. By reason of the above, Plaintiff is entitled to premium wages for workdays in
24 which one or more meal periods were not provided to him pursuant to California Labor Code §
25 226.7, plus interest and costs.

26 **FOURTH CAUSE OF ACTION**

27 **FAILURE TO INDEMNIFY**

28 **(Lab. Code §§ 1198 & 2802)**

(By Plaintiff against all Defendants)

55. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

56. At all relevant times, Plaintiff was a non-exempt employee of Defendants and

1 entitled to the benefits and protections of the California Labor Code §§ 1198 and 2802, and the
2 Wage Order.

3 57. In pertinent part, California Labor Code § 2802(a) states:

4 An employer shall indemnify his or her employee[s] for all
5 necessary expenditures incurred by the employee in direct
6 consequence of the discharge of his or her duties.

7 58. California Labor Code § 1198 prohibits employers from employing their
8 employees under conditions prohibited by the Wage Order.

9 59. LSS failed to reimburse Plaintiff for business expenses he incurred in direct
10 consequence of the discharge of his duties. During his employment, Plaintiff purchased a
11 chainsaw and related parts/chains for the chainsaw. LSS also required Plaintiff and the
12 Aggrieved Employees to use their own personal phones to communicate with management
13 concerning work matters. However, LSS did not reimburse Plaintiff and the other Aggrieved
14 Employees for these tools and mobile phone expenses. Accordingly, LSS was in violation of
15 California Labor Code sections 2800 and 2802.

16 60. Plaintiff is informed and believes and thereon alleges that, at all relevant times,
17 Defendants have maintained a policy, practice, or a lack of a policy which resulted in
18 Defendants' failure to indemnify Plaintiff for the reasonable expenses he incurred in the course
19 of performing his duties.

20 61. By reason of the above, Plaintiff is entitled to reimbursement for all necessary
21 expenditures and losses and interest due and owing to within three years (3) of the date of the
22 filing of the Complaint until the date of entry of judgment pursuant to California Labor Code §
23 2802(b). Further, Plaintiff seeks reasonable attorney's fees pursuant to Labor Code § 2802(c).

24 **FIFTH CAUSE OF ACTION**

25 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**

26 **(California Labor Code Section 226)**

27 **(By Plaintiff against all Defendants)**

28 62. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

63. Pursuant to California Labor Code Section 226, every employer must furnish

1 each employee an itemized statement of wages and deductions at the time of payment of wages.

2 64. Defendants knowingly and intentionally did not furnish Plaintiff with pay stubs
3 that accurately reflected all information required by Labor Code Section 226, including but not
4 limited to, all hours worked, gross wages earned, including overtime, minimum wages, and
5 premium pay for missed meal and rest breaks, net wages earned, total hours worked by the
6 employee, all deductions, and business expense reimbursement. Therefore, Defendants failed to
7 maintain and provide accurate itemized wage statements to Plaintiff in accordance with
8 California Labor Code Section 226(a).

9 65. Pursuant to California Labor Code Section 226(e), Plaintiff is entitled to recover
10 the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a
11 violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent
12 pay period, not exceeding an aggregate amount of four thousand dollars (\$4,000), plus costs and
13 reasonable attorney's fees. Plaintiff only claims damages under this cause of action pursuant to
14 the 1-year period immediately preceding the date this lawsuit was filed.

15 66. As a direct and proximate result of Defendants' unlawful conduct, Plaintiff has
16 sustained damages, including loss of earnings, in an amount to be established at trial. As a
17 further direct and proximate result of Defendants' unlawful conduct, as set forth herein, Plaintiff
18 is entitled to recover penalties, in an amount to be established at trial, as well as costs and
19 attorney's fees pursuant to statute.

20 67. Under this cause of action, Plaintiff prays for penalties due under the statutes
21 alleged along with any allowable interest, penalties, attorney's fees, and costs according to proof
22 at trial.

23 **SIXTH CAUSE OF ACTION**

24 **FAILURE TO PAY WAGES WHEN EMPLOYMENT ENDS**

25 **(California Labor Code Sections 201-203)**

26 **(By Plaintiff against all Defendants)**

27 68. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

28 69. Pursuant to California Labor Code Section 201(a), an employer who discharges

1 an employee must immediately pay for all compensation due and owing.

2 70. Pursuant to California Labor Code Section 202, when an employee resigns, the
3 employer must pay all compensation due and owing within 72 hours of resignation, or on the
4 employee's last day of work, if the employee gives more than 72 hours notice of resignation.

5 71. Pursuant to California Labor Code Section 203, if an employer willfully fails to
6 pay, without abatement or reduction, any wages of an employee whose employment ends, the
7 wages of the employee shall continue as a penalty from the due date at the same rate until paid
8 or until an action is commenced; however, the wages shall not continue for more than 30 days
9 for failure to pay an employee owed wages.

10 72. After Plaintiff's employment with Defendants ended, Defendants willfully
11 refused and continue to refuse to pay him unpaid wages as required by Labor Code Section 203.

12 73. Under this cause of action, Plaintiff prays for penalties due under the statutes
13 alleged along with any allowable interest, penalties, attorney's fees, and costs according to proof
14 at trial. Moreover, Plaintiff prays for the above-mentioned money from 3 years immediately
15 preceding the filing of this lawsuit.

16 74. Under this cause of action, Plaintiff also prays for attorney's fees and costs
17 under California Labor Code Section 218.5 for time spent pursuing the non-payment of wages
18 as set forth herein. Plaintiff also prays for interest under California Labor Code Section 218.6.

19 75. Under this cause of action, Plaintiff prays for penalties due under the statutes
20 alleged along with any allowable interest, penalties, attorney's fees, and costs according to proof
21 at trial.

22 **SEVENTH CAUSE OF ACTION**

23 **FAILURE TO PAY WAGES OWED EVERY PAY PERIOD**

24 **(California Labor Code Section 204)**

25 **(By Plaintiff against all Defendants)**

26 76. Plaintiff incorporates all paragraphs of this complaint as if fully alleged herein.

27 77. California Labor Code Section 204 establishes the fundamental right of all
28 employees in the State of California to be paid wages in a timely fashion for their work.

1 78. At all times relevant during the liability period, Defendants failed to pay
2 Plaintiff the full amount of all owed wages when due as required by California Labor Code
3 Section 204.

4 79. Defendants failed to pay Plaintiff all wages earned each pay period. Plaintiff is
5 informed, believes, and thereon alleges, that all times relevant during the applicable limitations
6 period, Defendants maintained a policy or practice of not paying Plaintiff wages for all hours
7 worked, including the minimum wage, overtime hours, double time hours, and premium pay for
8 missed meal and rest breaks.

9 80. As a result of Defendants' unlawful conduct, Plaintiff has suffered damages in
10 an amount, subject to proof, to the extent he was not paid all wages each pay period. The precise
11 amount of unpaid wages is not presently known to Plaintiff but can be determined directly from
12 Defendants' records or indirectly based on information from Defendants' records.

13 81. Under this cause of action, Plaintiff prays for penalties due under the statutes
14 alleged along with any allowable interest, penalties, attorney's fees, and costs according to proof
15 at trial.

16 **NINTH CAUSE OF ACTION**

17 **FAILURE TO PROVIDE PERSONNEL RECORDS**

18 **(By Plaintiff against all Defendants)**

19 82. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

20 83. Labor Code section 1198.5 dictates "every current and former employee, or his
21 or her representative, has the right to inspect and receive a copy of the personnel records that the
22 employer maintains relating to the employee's performance or to any grievance concerning the
23 employee."

24 84. Moreover, pursuant to sub-part (b)(1) of Labor Code section 1198.5, "the
25 employer shall make the contents of those personnel records available for inspection to the
26 current or former employee, or his or her representative, at reasonable intervals and at
27 reasonable times..." On information and belief, Defendants intentionally failed to provide
28 Plaintiff with personnel records when requested by Plaintiff via letter on March 8, 2024, as

1 required by law. Plaintiff requested his personnel records in accordance with California Labor
2 Code section 1198.5(k) on March 8, 2024 via certified U.S. mail.

3 85. Defendants failed to provide Plaintiff with an opportunity to inspect or copy his
4 records within 30 days. As a direct result of Defendants' violations alleged herein, Plaintiff has
5 suffered and continues to suffer substantial losses related to Defendants' failure to provide
6 personnel records.

7 86. Plaintiff seeks all available remedies for Defendants' violations including, but
8 not limited to penalties, and costs to the extent permitted by law and according to proof at trial.
9 Pursuant to Labor Code section 1198.5, Plaintiff prays for judgment against Defendants in the
10 amount of \$750.00, along with costs and attorney's fees.

11 **TENTH CAUSE OF ACTION**

12 **FAILURE TO PROVIDE PAY RECORDS**

13 **(By Plaintiff against all Defendants)**

14 87. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

15 88. Labor Code section 226 sub-section (b) dictates "an employer...shall afford
16 current and former employees the right to inspect or copy records pertaining to their
17 employment, upon reasonable request to the employer..."

18 89. Moreover, pursuant to sub-section (c) of Labor Code section 226, "an employer
19 who receives a written or oral request to inspect or copy records pursuant to subdivision (b)
20 pertaining to a current or former employee shall comply with the request as soon as practicable,
21 but no later than 21 calendar days from the date of the request." On information and belief,
22 Defendants intentionally failed to provide Plaintiff with pay records when requested by Plaintiff
23 via letter, on March 8 2024, and as required by law. Plaintiff requested his pay records in
24 accordance with California Labor Code section 226 on March 8, 2024, via U.S. certified mail.
25 Defendants failed to provide Plaintiff with an opportunity to inspect or copy his pay records
26 within 21 days.

27 90. As a direct result of Defendants' violations alleged herein, Plaintiff has suffered
28 and continues to suffer substantial losses related to Defendants' failure to provide pay records.

1 Pursuant to Labor Code section 226, Plaintiff prays for judgment against Defendants in the
2 amount of \$750.00, along with costs and attorney's fees.

3 91. Plaintiff seeks all available remedies for Defendants' violations including, but
4 not limited to, penalties and costs to the extent permitted by law and according to proof at trial.

5 **TENTH CAUSE OF ACTION**

6 **CIVIL PENALTIES**

7 **(Lab. Code §§ 2698, *et seq.*)**

8 **(By Plaintiff against all Defendants)**

9 92. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

10 93. Plaintiff is an Aggrieved Employee under the Private Attorneys General Act of
11 2004 ("PAGA") because he was employed by Defendants during the applicable statutory period
12 and suffered one or more of the violations of the Labor Code set forth in this Complaint.
13 Plaintiff seeks to recover on his own behalf, on behalf of the State of California, and on behalf
14 of all current and former Aggrieved Employees of Defendants, the civil penalties provided by
15 PAGA, plus reasonable attorney's fees and costs.

16 94. During the applicable time period, Defendants violated California Labor Code
17 §§ 201, 202, 203, 204, 226, 226.7, 510, 512, 558, 558.1, 1174, 1194, 1197, 1198, and 2802.

18 95. California Labor Code §§ 2699(a) and (g) authorize an aggrieved employee, on
19 behalf of themselves and other current or former employees, to bring a civil action to recover
20 civil penalties pursuant to the procedures specified in California Labor Code § 2699.3.

21 96. Pursuant to California Labor Code §§ 2699(a) and (f), Plaintiff and the
22 Aggrieved Employees are entitled to recover civil penalties for each of the Defendants'
23 violations of California Labor Code §§ 201, 202, 203, 204, 226, 226.7, 510, 512, 558, 558.1,
24 1174, 1194, 1197, 1198, and 2802 during the applicable limitations period in the following
25 amounts:

26 A. For violations of California Labor Code § 204, one hundred dollars
27 (\$100.00) for each Aggrieved Employee for each initial violation and two hundred dollars
28 (\$200.00) for each Aggrieved Employee for each subsequent violation (penalty amounts

1 established by California Labor Code § 210).

2 B. For violations of California Labor Code § 226(a), two hundred fifty
3 dollars (\$250.00) for each Aggrieved Employee for initial violation and one thousand dollars
4 (\$1,000.00) for each Aggrieved Employee for each subsequent violation (penalty amounts
5 established by California Labor Code § 226.3).

6 C. For violations of California Labor Code §§ 510, 512, and 558.1, fifty
7 dollars (\$50.00) for each Aggrieved Employee for initial violation and one hundred dollars
8 (\$100.00) for each Aggrieved Employee for each subsequent violation (penalty amounts
9 established by California Labor Code § 558).

10 D. For violations of California Labor Code § 1174, five hundred dollars
11 (\$500.00) for each Aggrieved Employee for each violation (penalty amounts established by
12 California Labor Code § 1174.5).

13 E. For violations of California Labor Code § 1197, one hundred dollars
14 (\$100.00) for each Aggrieved Employee for each initial and intentional violation and two
15 hundred fifty dollars (\$250.00) for each Aggrieved Employee for each subsequent violation, per
16 pay period (regardless of whether the initial violations were intentionally committed) (penalty
17 amounts established by California Labor Code § 1197.1).

18 F. For violations of California Labor Code §§ 201, 202, 203, 226.7, 1194,
19 1198, and 2802, one hundred dollars (\$100.00) for each Aggrieved Employee per pay period for
20 each initial violation and two hundred dollars (\$200.00) for each Aggrieved Employee per pay
21 period for each subsequent violation (penalty amounts established by California Labor Code §
22 2699(f)(2)).

23 97. Plaintiff has complied with the procedures for bringing suit specified in
24 California Labor Code § 2699.3. By letter dated March 8, 2024, Plaintiff filed written notice
25 online with the Labor and Workforce Development Agency (“LWDA”) and gave written notice
26 by certified mail to Defendants of the specific provisions of the California Labor Code alleged
27 to have been violated, including the facts and theories to support the alleged violations. Plaintiff
28 accompanied his LWDA notice with a fee in the amount of \$75.00. The LWDA has failed to

1 take action in response within 65 calendar days of the date of Plaintiff's notice.

2 98. Pursuant to California Labor Code § 2699(g), Plaintiff and the Aggrieved
3 Employees are entitled to an award of civil penalties and reasonable attorney's fees and costs in
4 connection with their claims for civil penalties.

5 **ELEVENTH CAUSE OF ACTION**

6 **UNFAIR COMPETITION**

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

8 **(By Plaintiff against all Defendants except SOHEILA STURM)**

9 99. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

10 100. At all relevant times during the applicable limitations period, Plaintiff has been
11 an employee of Defendants and entitled to the benefits and protections of the Business and
12 Professions Code §§ 17200, *et seq.*

13 101. Defendants engaged in unfair competition by failing to 1) pay their employees
14 for all hours worked at the correct rates of pay, 2) pay their employees premium wages for
15 workdays during which one or more meal or rest periods were not provided, and 3) reimburse
16 employees for necessary business expenses incurred in the course of performing their duties.

17 102. The unlawful conduct of Defendants alleged herein amounts to and constitutes
18 unfair competition within the meaning of California Business & Professions Code §§ 17200, *et*
19 *seq.* Due to their unfair and unlawful business practices alleged herein, Defendants have
20 unfairly gained a competitive advantage over other comparable companies doing business in
21 California that comply with their legal obligations to, among other things, pay their employees
22 premium wages for workdays in which they did not provide employees with one or more meal
23 and rest periods, indemnify them for all business expenses incurred during the course of
24 performing their duties, including, but not limited to, personal tools and mobile phone
25 expenses, and pay them all wages earned for all hours worked.

26 103. As a result of Defendants' unfair competition as alleged herein, Plaintiff has
27 suffered injuries in fact and lost money or property. Defendants failed to pay Plaintiff for all
28 hours worked, failed to provide him with premium wages for missed meal and rest periods, and

1 failed to reimburse Plaintiff for all expenses he incurred in the course of performing his duties.

2 104. Pursuant to California Business & Professions Code § 17203, Plaintiff is
3 entitled to restitution of all monies rightfully belonging to him that Defendants did not pay him
4 or otherwise retained by means of their unlawful and unfair business practices.

5 105. Plaintiff is entitled to reasonable attorneys' fees in connection with his unfair
6 competition claims pursuant to California Code of Civil Procedure § 1021.5, the substantial
7 benefit doctrine and/or the common fund doctrine.

8 106. Accordingly, with respect to this cause of action, Plaintiff prays for the herein
9 stated relief, and an award of all reasonable costs and attorneys' fees, including interest thereon,
10 as permitted by law, all in amounts subject to proof.

11 **PRAYER FOR RELIEF**

12 WHEREFORE, Plaintiff prays for relief and judgment against Defendants as follows:

- 13 1. For general damages according to proof;
- 14 2. For special and consequential damages to the extent allowed by law;
- 15 3. For punitive and exemplary damages against corporate Defendants in an amount subject
16 to proof;
- 17 4. For damages and penalties under Labor Code Section 226 for Plaintiff in an amount
18 subject to proof at trial;
- 19 5. For damages and penalties pursuant to Labor Code Section 203 in an amount subject to
20 6. proof at trial;
- 21 7. For one hour of wages due to Plaintiff for each work period of more than five (5) hours
22 when Plaintiff did not receive an uninterrupted thirty (30) minute meal period;
- 23 8. For one hour of wages due to Plaintiff for each work period of four (4) hours or major
24 fraction thereof when Plaintiff did not receive a ten (10) minute rest break;
- 25 9. For maximum civil penalties available under the Labor Code and applicable Wage Order
26 against Defendants as described more particularly in the Complaint;
- 27 10. For restitution and disgorgement for all unfair business practices by corporate
28 Defendants against Plaintiff in an amount according to proof;

- 1 11. For an order enjoining corporate Defendants. from further unfair and unlawful business
2 practices in violation of Business and Professions Code Sections 17200, et seq.;
- 3 12. For all remedies available to Plaintiff under the applicable Wage Order and the Labor
4 Code including an award of unpaid wages, attorney's fees, costs, interest, liquidated
5 damages, damages, penalties, and waiting time penalties according to proof to the extent
6 permitted by law;
- 7 13. For the imposition of civil penalties and/or statutory penalties;
- 8 14. For all interest as allowed by law;
- 9 15. For all costs and disbursements incurred in this suit;
- 10 16. Reasonable attorney's fees where available by law, including but not limited to, pursuant
11 to, Labor Code section 2698 *et seq.*, Code of Civil Procedure section 1021.5, and/or
12 other applicable laws; and
- 13 17. For such other and further relief as this Court may deem proper.

14 **DEMAND FOR JURY TRIAL**

15 Plaintiff hereby demands, as a matter of right, a trial by jury in this case.

16
17 Dated: May 14, 2024

MM LAW, APC

18 By Maralle Messrelia
19 Maralle Messrelia, Esq.
20 Attorney for Plaintiff,
21 BALTAZAR RECENDIZ LUCENA
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