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Attorneys for Plaintiff PEDRO NUNEZ,
individually and on behalf of all others similarly situated.

SUPERIOR COURT OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

PEDRO NUNEZ, individually, and on behalf
of all others similarly situated,

Plaintiff,

vs.

F.G. MEDITERRANEAN, INC d/b/a Fresh
Grill Mediterranean, a California corporation;
FARZAD CHESHMAGHIL, an individual,
and DOES 1 through 50, inclusive,

Defendants.

CASE NO.: 24STCV05626

CLASS ACTION

1. FAILURE TO PAY COMPENSATION FOR ALL HOURS WORKED (LABOR CODE §§ 216 AND 1194)
2. FAILURE TO PAY MINIMUM WAGE (LABOR CODE §§ 216 and 1194 et seq.);
3. FAILURE TO PAY OVERTIME COMPENSATION (LABOR CODE §510)
4. FAILURE TO FURNISH ACCURATE WAGE AND HOUR STATEMENTS (LABOR CODE § 226);
5. WAITING TIME PENALTIES (LABOR CODE §§ 201-203);
6. FAILURE TO PROVIDE MEAL & REST PERIODS (LABOR CODE § 226.7 and 512); and
7. UNFAIR COMPETITION (BUSINESS AND PROFESSIONS CODE § 17200, et seq.)

JURY TRIAL DEMANDED

Plaintiff PEDRO NUNEZ ("Plaintiff"), individually, and on behalf of all similarly situated individuals, alleges as follows:

1 **GENERAL ALLEGATIONS**

2 1. This is a proposed class action brought against Defendants F.G.
3 MEDITERRANEAN, INC., d/b/a Fresh Grill Mediterranean, a California corporation, FARZAD
4 CHESHMAGHIL, an individual, and DOES 1 through 50, inclusive (hereinafter collectively,
5 “Defendants” or “Fresh Grill”), on behalf of Plaintiff and all other individuals who were employed
6 as non-exempt, hourly restaurant employees or any other similarly situated non-exempt, hourly
7 positions (collectively, “Putative Class Members” or “Putative Class”), at any time from September
8 10, 2019¹, and continuing while this action is pending (“Class Period”), and who were denied the
9 benefits and protections required under the Labor Code and other statutes and regulations applicable
10 to employees in the State of California.

11 2. During the Class Period, Defendants:

- 12 a. failed to pay wages for all hours worked, including for hours worked in
13 excess of eight hours a day or forty hours a week, by the Putative Class
14 Members;
- 15 b. failed to pay minimum wages due to the Putative Class Members;
- 16 c. failed to pay overtime compensation due to the Putative Class Members who
17 worked on the seventh consecutive day;
- 18 d. failed to provide the Putative Class Members with timely and accurate wage
19 and hour statements;
- 20 e. failed to pay the Putative Class Members compensation in a timely manner
21 upon their termination or resignation;
- 22 f. failed to maintain complete and accurate payroll records for the Putative
23 Class Members;
- 24 g. failed to provide reporting time pay to the Putative Class Members in
25 violation of the applicable Industrial Welfare Commission wage orders, and
26 California Labor Code sections 204 and 1198;

27
28 ¹ Pursuant to California Emergency Rule of Court 9, the statute of limitations for this matter was
tolled beginning on April 6, 2020 and continuing to October 1, 2020, for a period of 178 days.

- 1 h. failed to provide meal periods and rest periods in accordance with and in
2 violation of the applicable Industrial Welfare Commission wage orders, and
3 California Labor Code sections 226.7 and 510.
- 4 i. failed to pay the additional hour of pay for not providing meal periods and
5 rest periods in accordance with and in violation of the applicable Industrial
6 Welfare Commission wage orders, and California Labor Code sections 226.7;
7 j. failed to indemnify the Putative Class Members for all necessary
8 expenditures or losses;
- 9 k. wrongfully withheld wages and compensation due to the Putative Class
10 Members; and
- 11 l. committed unfair business practices in an effort to increase profits and to
12 gain an unfair business advantage at the expense of the Putative Class and the
13 public;

14 3. The foregoing acts and other acts by Defendants - committed throughout California
15 and Los Angeles County - violated numerous provisions of California law, including Labor Code
16 §§ 200, 201, 202, 203, 204, 210, 216, 221, 223, 225.5, 226, 226.3, 226.7, 510, 512, 516, 558, 558.1,
17 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2800, 2804, and 2698 *et seq.* and
18 the applicable Wage Orders issued by the Industrial Welfare Commission (collectively,
19 “Employment Laws and Regulations”), Business & Professions Code §§ 17200 *et seq.*, and violated
20 Plaintiff’s rights and the rights of the Putative Class.

21 **JURISDICTION AND VENUE**

22 4. This Court has jurisdiction over all causes of action herein pursuant to the California
23 Constitution, Article VI, § 10, Code of Civil Procedure § 410.10 and Business and Professions
24 Code § 17203.

25 5. Venue is proper in this Court under Code of Civil Procedure §§ 395 and 395.5
26 because Defendants operate and reside in this County, Plaintiff PEDRO NUNEZ resides in and/or
27 worked in this county and the injuries that are the subject of this lawsuit arose in this county.

28 **THE PARTIES**

1 6. Plaintiff PEDRO NUNEZ was employed by Defendants as a Food Preparer from in
2 or around October 2019 until on or around December 22, 2023 at Defendants restaurant located in
3 the city of Van Nuys, California. At the beginning of his employment with Defendants, Plaintiff's
4 hourly rate was \$13.25, eventually received a raise to \$16.00, and more recently was earning an
5 hourly rate of \$24.50. Plaintiff resided in and performed duties in the County of Los Angeles
6 during the last year preceding the filing of this action.

7 7. Defendant F.G. MEDITERRANEAN, INC., d/b/a Fresh Grill Mediterranean was,
8 and at all relevant times was, a corporation conducting business in the State of California, including
9 the County of Los Angeles, as "Fresh Grill". Upon information and belief, F.G.
10 MEDITERRANEAN, INC., maintains a franchise as "Fresh Grill" and has three locations total in
11 Los Angeles County with plans to open more.

12 8. At all relevant times, Defendant FARZAD CHESHMAGHIL is and was an
13 individual listed as the Chief Executive Officer, Secretary, and Chief Financial Officer of
14 Defendant F.G. MEDITERRANEAN INC. At all relevant times, FARZAD CHESHMAGHIL was
15 the owner, director, officer and managing agent of the Fresh Grill restaurant and eateries within the
16 meaning of California Civil Code section 3294. Defendant FARZAD CHESHMAGHIL is sued
17 herein in his individual capacity and as the legal representative of Defendant F.G.
18 MEDITERRANEAN INC. California Labor Code section 558.1 imposes personal liability for
19 officers, directors and managing agents of an employer that violate Labor Code sections 203, 226,
20 226.7, 1193.6, 1194.

21 9. Plaintiff is currently unaware of the true names and capacities of the defendants sued
22 in this action by the fictitious names DOES 1 through 50, inclusive, and therefore sues those
23 defendants by such fictitious names. Plaintiff will amend this Complaint to allege the true names
24 and capacities of such fictitiously named defendants when they are ascertained. Plaintiff is
25 informed and believes and based thereon states that the persons sued herein as DOES are in some
26 manner responsible for the conduct, injuries and damages herein alleged.

27 10. Plaintiff is informed and believes and based thereon alleges that each defendant sued
28 in this action, including each defendant sued by the fictitious names DOES 1 through 50, inclusive,

1 is responsible in some manner for the occurrences, controversies and damages alleged below.

2 11. Plaintiff is informed and believes and based thereon alleges that DOES 1 through 50,
3 inclusive, were the agents, servants and/or employees of Defendants and, in doing the things
4 hereinafter alleged and at all times, were acting within the scope of their authority as such agents,
5 servants and employees, and with the permission and consent of Defendants.

6 12. Plaintiff is informed and believes and based thereon alleges that Defendants ratified,
7 authorized, and consented to each and all of the acts and conduct of each other as alleged herein.
8 Each of the defendants were the agent and/or employee of the others, and the conduct of each
9 defendant herein alleged was authorized and/or ratified by the others. The conduct of the Company
10 was carried on by and through its authorized agents, including owners, officers, directors, managers
11 and supervisors.

12 **COMMON FACTS APPLICABLE TO ALL CAUSES OF ACTION**

13 13. Plaintiff is an individual who resided in the County of Los Angeles, during the four
14 years preceding the filing of this action. Plaintiff was employed by Defendants as a non-exempt,
15 hourly employee with the position of Food Preparer in Los Angeles County within the last four
16 years preceding the filing of this action.

17 14. During Plaintiff's employment with Fresh Grill, Defendants did not provide Putative
18 Class Members, including Plaintiff, with legally compliant meal periods and rest breaks. In
19 addition, during Plaintiff's employment with Defendants, Defendants lacked any formalized
20 system, framework, or protocol for documenting meal and rest breaks for himself and the Putative
21 Class. Notably, there was an absence of any established mechanism for accurately recording the
22 hours or meal/rest periods of Putative Class Members. The deficiency extended to the absence of
23 timesheets, clock-in/out punch data, or any documented timekeeping records for the Plaintiff and
24 other restaurant employees in similar roles. This absence of a standardized recording system
25 resulted in discrepancies between hours worked and those compensated for, owing to the lack of a
26 conventional method to record any hours logged.

27 15. With respect to rest breaks, Plaintiff and other similarly situated hourly employees
28 are not provided any training about statutory breaks under California law, are not scheduled to take

1 rest breaks, and in fact, rest breaks are not made available to them. Further, throughout the
2 Relevant Time Period, Plaintiff and other Putative Class Members were routinely denied the rest
3 breaks they were entitled to under California law, including: (a) failing to provide paid rest periods
4 of ten (10) minutes during which Plaintiff and other Putative Class Members were relieved of all
5 duty for each four (4) hours of work or major fraction thereof; (b) failing to pay Plaintiff and other
6 Putative Class Members one (1) hour of pay at their regular rate of compensation for each workday
7 that a rest period was not permitted.

8 15. With respect to meal periods, Putative Class Members typically work 8-12 hours per
9 day. Defendants fail to schedule a meal period where Putative Class Members, including Plaintiff,
10 are relieved of all duty for a 30-minute period within the first five hours of their shift or pay the
11 premium compensation for the missed or late meal period. In addition, Putative Class Members
12 never receive a second meal period for shifts in excess of ten hours or pay premium compensation
13 for the missed second meal period. Concerning the second meal period, there is no evidence that
14 Putative Class Members have agreed to waive their right to a second meal period with respect to
15 shifts lasting more than 10 hours but less than 12 hours. Putative Class Members are also prevented
16 from taking legally compliant meal and rest breaks due to Defendants' policies, procedures, and
17 practices in staffing their store locations. Finally, Plaintiff and Putative Class Members do not
18 contemporaneously record any time entries when working at Defendants' Fresh Grill locations for
19 purposes of work performed or documenting meal periods.

20 16. Defendants also do not provide Putative Class Members with a legally compliant
21 ten-minute, work-free rest period for shifts lasting between two to six hours. Defendants
22 discourage meal and rest periods by requiring Putative Class Members, including Plaintiff, to accept
23 all assignments given to them and disciplining them for not doing so. Putative Class Members,
24 including Plaintiff, are also not provided with a second rest period for shifts lasting six to ten hours,
25 or a third rest period for shifts in excess of ten hours. Defendants do not provide Putative Class
26 Members with paid rest periods as required by law. Defendants likewise fail to authorize work-free
27 rest periods to Putative Class Members where employees are relieved of all duties, and do not pay
28 the premium compensation for the missed rest periods. In addition, Putative Class Members are

1 also not paid their regular hourly rate for their recovery time/rest periods, in violation of Labor
2 Code section 226.2.

3 17. Defendants have established a policy which does not compensate Putative Class
4 Members, including Plaintiff, for the time they actually worked and as a result Defendants have
5 failed to pay all wages due including overtime wages for all hours worked and failed to pay the
6 required minimum wage for all hours worked. Furthermore, the Defendants instituted a policy
7 wherein the Plaintiff and other Putative Class Members in similar positions were compensated for
8 80 hours of labor, for a payroll cycle of 11 days, via a secretly disbursed “under the table” cash
9 payment. In addition, Defendants’ owner informed Plaintiff, and other Putative Class Members that
10 they were paid “well enough” and therefore did not qualify for tips and additional gratuities.

11 18. Putative Class Members are also paid according and corresponding to their assigned
12 schedule. Due to the fact that Defendants had no formal timekeeping system whether written
13 timesheets, online automated system, or timecard or time punch system, there is simply no evidence
14 of all hours worked being properly recorded and accounted for. That means Putative Class
15 Members are not paid for pre-shift work and post-shift work. There are many instances in which
16 Putative Class Members, are under Defendants’ control but are not compensated, such as the time
17 assisting other Putative Class Members with customers, cleaning the food prepping areas, and
18 conducting necessary sanitization steps.

19 19. Putative Class Members, such as the Plaintiff, frequently found themselves
20 exceeding the standard 8-hour workday without receiving the requisite overtime premium pay, as
21 stipulated by the pertinent wage order. Additionally, despite work exceeding eight hours in a day or
22 even ten hours in a day, payment was disbursed covertly, “under the table,” in cash at the regular
23 rate and not paid by the required overtime premium pay. Defendants’ payment practices are
24 unequivocally unlawful as it is designed to evade the payment of overtime and for all hours worked.
25 Additionally, Defendants improperly calculated the amount of overtime wages owed, and thus
26 failed to pay Plaintiff any and all overtime wages due.

27 20. During Plaintiff’s employment with Defendants, Defendants failed and refused to
28 provide Plaintiff and the Putative Class with timely and accurate wage and hour statements in

1 violation of the Employment Laws and Regulations, including the wage and hour statements’
2 failure to show all wages earned, all hours worked, or all applicable rates. Moreover, Defendants
3 did not maintain adequate records of all wages earned, hours worked and breaks taken.

4 21. During Plaintiff’s employment with Defendants, Defendants wrongfully withheld
5 from Plaintiff and failed to pay wages and other compensation due for all hours worked, and as
6 otherwise required per Employment Laws and Regulations. Defendants wrongfully established a
7 policy that Plaintiff, and other similarly situated Putative Class Members would be paid for 80
8 hours of work, “under the table” with cash payments. In addition, Plaintiff, and other similarly
9 situated employees were told by Defendants’ owner, that they were paid “well enough” and
10 therefore did not qualify for tips. Defendants willfully and knowingly failed to pay Plaintiff and
11 other Putative Class Members upon termination of employment, all accrued compensation
12 including, but not limited to, payment of minimum wage compensation, overtime compensation,
13 missed meal and rest period compensation and for time spent performing work off the clock at
14 Defendants’ direction.

15 22. To the extent that any Putative Class Members, including Plaintiff, entered into any
16 arbitration agreement with any Defendant, such agreement is void and unenforceable. Any such
17 agreement was one of adhesion, executed under duress, lacked consideration and mutuality, and is
18 otherwise void under both Labor Code § 229, 432.6 and the California Supreme Court case of
19 *Armendariz v. Foundation Health Psychare Services, Inc.* (2000) 24 Cal.4th 83.

20 **CLASS ACTION ALLEGATIONS**

21 23. All current and former non-exempt, hourly restaurant employees who were
22 employed by Defendants in California during the Class Period, including Plaintiff, are proposed
23 class members (henceforth, “Putative Class Members”). Putative Class Members include, but are
24 not limited to, the titles and positions of including, “server”, “cooks”, “food runner”, “busser”, “bus
25 boy”, “food preparer”, or any other similarly-sounding title or position that is situated within the
26 restaurant locations and is classified or categorized as a non-exempt, hourly position.

27 24. Putative Class Members’ duties and activities during their respective working hours
28 and each shift are known to and directed by Defendants, and are set and controlled by Defendants.

1 25. During the Class Period, Defendants have routinely failed to provide Putative Class
2 Members with legally compliant and mandated meal and rest breaks.

3 26. During the Class Period, the Company refused to compensate Putative Class
4 Members for all wages earned (“off-the-clock” work) and for all hours worked including time
5 during which Putative Class Members were subject to Defendants’ control and were suffered or
6 permitted to work for the Company. The Company failed and refused to pay Putative Class
7 Members for all hours worked, including but not limited to time worked before, during, and after
8 the official end times of their shifts, and during their meal and rest periods.

9 27. During the Class Period, Defendants have failed and refused to provide Putative
10 Class Members with timely and accurate wage and hour statements.

11 28. During the Class Period, Defendants have failed and refused to pay accrued wages
12 and other compensation earned and due immediately to Putative Class Members who were
13 terminated, and Defendants have failed and refused to pay accrued wages and other compensation
14 earned and due within seventy-two hours to Putative Class Members who ended their employment.

15 29. During the Class Period, Defendants have failed and refused to maintain complete
16 and accurate payroll records for Putative Class Members showing gross hours earned, total hours
17 worked, all deductions made, net wages earned, and all applicable hourly rates in effect during each
18 pay period and the corresponding number of hours worked at each hourly rate.

19 30. During the Class Period, Defendants have failed and refused to indemnify the
20 Putative Class Members for all necessary expenditures or losses incurred by them in direct
21 consequence of the discharge of their duties, or of their obedience to the directions of Defendants.

22 31. During the Class Period, Defendants have wrongfully withheld and failed to pay
23 Putative Class Members wages and other compensation earned and due them for all hours worked
24 and as otherwise required pursuant to the Employment Laws and Regulations, including the
25 payment of reporting time pay and the correct amounts of overtime wages owed.

26 32. During the Class Period, Defendants have refused and failed to fully compensate
27 Putative Class Members with reporting time pay.

28 33. Defendants’ conduct violated the Employment Laws and Regulations. Defendants’

1 systematic acts and practices also violated, inter alia, Business & Professions Code §§ 17200, *et*
2 *seq.*

3 34. Plaintiff also seeks all other compensation and all benefits required pursuant to the
4 Employment Laws and Regulations, plus penalties and interest, owed to Putative Class Members.

5 35. The duties and business activities of the Putative Class Members were essentially the
6 same as the duties and activities of the Plaintiff. At all times during the Class Period, all of the
7 Class Members were employed in the same or similar job as Plaintiff (as a non-exempt, hourly
8 restaurant employees) and were paid in the same manner and under the same standard employment
9 procedures and practices as Plaintiff.

10 36. During the Class Period, Defendants were fully aware that Plaintiff and the Putative
11 Class Members were performing “off-the-clock” unpaid work and not being paid for all hours
12 worked in violation of the provisions of the Labor Code.

13 37. Defendants’ violations of the Employment Laws and Regulations were repeated,
14 willful and intentional.

15 38. Plaintiff and the Putative Class Members have been damaged by Defendants’
16 conduct.

17 39. While the exact number of Class Members are unknown to Plaintiff at the present
18 time, based on information and belief, there are more than 40 such persons. A class action is the
19 most efficient mechanism for resolution of the claims of the Putative Class Members.

20 40. In addition, a class action is superior to other available methods for the fair and
21 efficient adjudication of this controversy because the damages suffered by individual Putative Class
22 Members may be relatively small, and the expense and burden of individual litigation would make
23 it impossible for such Putative Class Members individually to redress the wrongs done to them.
24 Moreover, because of the similarity of the Putative Class Members’ claims, individual actions
25 would present the risk of inconsistent adjudications subjecting the Defendants to incompatible
26 standards of conduct.

27 41. Plaintiff is currently unaware of the identities of all the Putative Class Members.
28 Accordingly, Defendants should be required to provide to Plaintiff a list of all persons employed as

1 a non-exempt, hourly restaurant employee in each of Defendants' Fresh Grill restaurant locations in
2 California during the Class Period, stating their last known addresses and telephone numbers, so
3 that Plaintiff may give such Putative Class Members notice of the pendency of this action and an
4 opportunity to make an informed decision about whether to participate in it.

5 42. The proposed Class that Plaintiff seeks to represent is defined as follows:

6 **All current or former non-exempt, hourly employee or any**
7 **other similarly titled, non-exempt, hourly positions employed**
8 **by Defendants in the State of California at any of Defendants'**
9 **Fresh Grill restaurant locations, from September 10, 2019 and**
10 **continuing while this Action is pending.**

11 43. There is a well-defined community of interest in the litigation and the proposed
12 Class is easily ascertainable:

13 a. Numerosity: While the precise number of Class Members has not been
14 determined at this time, Plaintiff is informed and believes that Defendants have employed in excess
15 of 40 persons as Putative Class Members in California during the proposed Class Period.

16 b. Commonality: There are questions of law and fact common to Plaintiff and
17 the Class that predominate over any questions affecting only individual Class Members. These
18 common questions of law and fact include, without limitation:

- 19 i. Whether Defendants failed to compensate Plaintiff and the Putative
20 Class Members for all hours worked;
- 21 ii. Whether Defendants failed to pay Plaintiff and the Putative Class
22 Members for all hours worked, including overtime premium pay by
23 evading payment for all hours worked, including overtime pay, or
24 otherwise correctly calculated wages and overtime premium pay in
25 accordance with California law.
- 26 iii. Whether Defendants failed to pay Plaintiff and the Putative Class
27 Members the required minimum wage for all times where work was
28 performed;
- iv. Whether Defendants failed to provide Plaintiff and the Putative Class
Members with accurate itemized statements;

- 1 v. Whether Defendants failed to provide meal and rest breaks for
2 Plaintiff and the Putative Class Members;
- 3 vi. Whether Defendants owe Plaintiff and the Putative Class Members
4 waiting time penalties pursuant to Labor Code §203;
- 5 vii. Whether Defendants engaged in unfair business practices under
6 Business and Professions Code §17200;
- 7 viii. The effect upon and the extent of damages suffered by Plaintiff and
8 the Putative Class Members and the appropriate amount of
9 compensation.
- 10 c. Typicality: Plaintiff's claims are typical of the claims of the proposed Class.
11 Plaintiff and all Class Members sustained injuries and damages arising out of and caused by
12 Defendant's common course of conduct in violation of law as alleged herein.
- 13 d. Adequacy of Representation: Plaintiff is a member of the proposed Putative
14 Class and will fairly and adequately represent and protect the interests of the Putative Class
15 Members. Counsel who represents Plaintiff are competent and experienced in litigating large wage
16 and hour and other employment class actions.
- 17 e. Superiority of Class Action: A class action is superior to other available
18 means for the fair and efficient adjudication of this controversy. Questions of law and fact common
19 to the proposed Class predominate over any questions affecting only individual Putative Class
20 Members. Each proposed Class Member has been damaged and is entitled to recovery by reason of
21 Defendants' illegal policies and/or practices of failing to pay full and correct wages, including the
22 minimum wage and overtime premium wages, as required by law. A class action will allow those
23 similarly situated persons to litigate their claims in the manner that is most efficient and economical
24 for the parties and the judicial system.

25 **FIRST CAUSE OF ACTION**

26 **(Failure to Pay Compensation For All Hours Worked - Labor Code §§ 216 and 1194**

27 **By Plaintiff Individually and on Behalf of All Class Members)**

28 44. As a separate and distinct cause of action, Plaintiff complains and realleges all of the

1 allegations contained in this complaint, and incorporates them by reference into this cause of action
2 as though fully set forth herein, excepting those allegations which are inconsistent with this cause of
3 action.

4 45. Plaintiff brings this action to recover unpaid compensation for all hours worked,
5 including for work over eight hours in a day and over forty hours in a workweek.

6 46. Defendants' conduct described in this Complaint violates, among other things, Labor
7 Code §§ 204, 216, 218, 218.5, 218.6, 510, 1194, and 1198 and the IWC Wage Orders, and are liable
8 as the employer pursuant to California Labor Code section 558.1 for such violations.

9 47. Defendants failed to pay Plaintiff and the Putative Class Members for all of the
10 actual hours worked, including for work over eight hours in a day and over forty hours in a
11 workweek. Defendants knew or should have known that Plaintiff and the Putative Class Members
12 were working these hours.

13 48. Plaintiff and the Putative Class Members are also entitled to penalties pursuant to
14 Paragraph No. 20 of the applicable IWC Wage Order which provides, in addition to any other civil
15 penalties provided by law, any employer or any other person acting on behalf of the employer who
16 violates, or causes to be violated, the provisions of the IWC Wage Order, shall be subject to a civil
17 penalty of \$50.00 (for initial violations) or \$100.00 (for subsequent violations) for each underpaid
18 employee for each pay period during which the employee was underpaid in addition to the amount
19 which is sufficient to recover unpaid wages.

20 49. As a result of Defendants' unlawful acts, Plaintiff and the Putative Class Members
21 have been deprived of compensation in an amount according to proof at the time of trial, and are
22 entitled to recovery of such amounts, plus interest thereon, liquidated damages pursuant to Labor
23 Code § 1194.2, and attorneys' fees and costs, pursuant to Labor Code §§ 1194 and 2698, in an
24 amount according to proof at the time of trial. Plaintiff and the Putative Class Members are also
25 entitled to additional penalties and/or liquidated damages pursuant to statute.

26 50. For purposes of California Labor Code section 558.1, the term "other person acting
27 on behalf of any employer" is limited to a natural person who is an owner, director, officer, or
28 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.

51. Defendants' pattern, practice and uniform administration of unlawful corporate policy regarding employee compensation as described herein creates an entitlement to recovery by Plaintiff and Class Members for damages and wages owed, liquidated damages, and for penalties, interest, costs and attorneys' fees

SECOND CAUSE OF ACTION

(Failure to Pay Minimum Wages - Labor Code § 1194

By Plaintiff Individually and on Behalf of All Class Members)

50. As a separate and distinct cause of action, Plaintiff complains and realleges all of the allegations contained in this complaint and incorporates them by reference into this cause of action as though fully set forth herein, excepting those allegations which are inconsistent with this cause of action.

51. At all relevant times, the IWC Wage Orders contained in Title 8 of the Code of Regulations ("Wage Orders") applied to Plaintiff in Plaintiff's capacity as an employee of Defendants. The Wage Orders and California law provided, among other things, that Plaintiff must receive minimum wage earnings for all hours worked.

52. During the Class Period, Defendants have routinely failed to pay Putative Class Members, including Plaintiff, the minimum wage required by the Employment Laws and Regulations for all hours worked and are liable as the employer pursuant to California Labor Code section 558.1 for such violations.

53. The Putative Class Members, including Plaintiff, have been deprived of their rightfully earned minimum wages as a direct and proximate result of Defendants' policies and practices and Defendants' failure and refusal to pay said wages for all hours worked. The Putative Class Members, including Plaintiff, are entitled to recover the past wages owed to them, under the minimum wage laws, plus an additional equal amount as liquidated damages as permitted under the Wage Orders and California law, plus interest thereon and attorneys' fees and costs pursuant to Labor Code §§ 1194 and 2698, in an amount according to proof at the time of trial.

54. For purposes of California Labor Code section 558.1, the term "other person acting

on behalf of any 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.

55. Defendants’ pattern, practice and uniform administration of unlawful corporate policy regarding employee compensation as described herein creates an entitlement to recovery by Plaintiff and Class Members for damages and wages owed, liquidated damages, and for penalties, interest, costs and attorneys’ fees.

THIRD CAUSE OF ACTION

(Failure to Pay Overtime Compensation - By Plaintiff Individually and on Behalf of All Class Members: California Labor Code §§ 510 and 1194)

54. As a separate and distinct cause of action, Plaintiff complains and realleges all the allegations contained in this complaint, and incorporates them by reference into this cause of action as though fully set forth herein, excepting those allegations which are inconsistent with this cause of action.

55. During the Class Period, Defendants, including Defendant FARZAD CHESHMAGHIL routinely required Putative Class Members, including Plaintiff, to work over eight hours in a day and over forty hours in a workweek. However, Defendants have failed and refused to pay the Putative Class Members, including Plaintiff, the overtime compensation required by the Employment Laws and Regulations.

56. Separately, Putative Class Members including Plaintiff, are being compensated for what appears to be “overtime” work they incur as part of their employment with Defendants, however, these payments, which are made by way of “under the table” cash payments from Defendants, including Defendant FARZAD CHESHMAGHIL, do not take into account the total overtime hours worked. The cash payments written only accounted for work above and beyond 80 hours, and any hours above that threshold, including overtime, was paid by cash and at the regular rate of pay. Neither the cash payment nor Defendants’ business records provide any indication as to the total number of hours worked by Plaintiff and Putative Class Members during the Class Period thereby deprive Putative Class Members, including Plaintiff, of the overtime compensation owed

1 for the work performed. Plaintiff and other Putative Class Members, payment was disbursed
2 covertly, “under the table,” in cash at their regular rate and not paid by the required premium pay.
3 Defendants’ scheduling and payment practices are unequivocally unlawful as it is designed to evade
4 the payment of overtime. Accordingly, Defendants failed to pay Plaintiff and Putative Class
5 Members for all hours worked. Additionally, Defendants improperly calculated the amount of
6 overtime wages owed, and thus failed to pay Plaintiff all overtime wages due.

7 57. The cash payments made out to Plaintiff and Putative Class Members for purported
8 overtime payments are devoid of any tax treatment and are made solely to avoid proper and full
9 payment of the overtime work incurred by Plaintiff and Class Members.

10 58. Putative Class Members, including Plaintiff, have been deprived of their rightfully
11 earned overtime compensation as a direct and proximate result of Defendants’ policies and practices
12 and Defendants’ failure and refusal to pay that compensation. The Putative Class Members,
13 including Plaintiff, are entitled to recover such amounts, plus interest, attorney’s fees and costs.

14 54. For purposes of California Labor Code section 558.1, the term “other person acting
15 on behalf of any employer” is limited to a natural person who is an owner, director, officer, or
16 managing agent of the employer, and the term “managing agent” has the same meaning as in
17 subdivision (b) of Section 3294 of the Civil Code.

18 55. Defendants’ pattern, practice and uniform administration of unlawful corporate
19 policy regarding employee compensation as described herein creates an entitlement to recovery
20 by Plaintiff and Putative Class Members for damages and wages owed, liquidated damages, and for
21 penalties, interest, costs and attorneys’ fees.

22 **FOURTH CAUSE OF ACTION**

23 **(Failure to Furnish Accurate Wage and Hour Statements - Labor Code § 226**

24 **By Plaintiff Individually and on Behalf of All Class Members)**

25 59. As a separate and distinct cause of action, Plaintiff complains and realleges all of the
26 allegations contained in this complaint, and incorporates them by reference into this cause of action
27 as though fully set forth herein, excepting those allegations which are inconsistent with this cause of
28 action.

60. During the Class Period, Defendants have routinely failed to provide Putative Class Members, including Plaintiff, with timely and accurate wage and hour statements showing gross hours earned, total hours worked, all deductions made, net wages earned, and all applicable hourly rates in effect during each pay period and the corresponding number of hours worked at each hourly rate, and are liable as the employer pursuant to California Labor Code section 558.1 for such violations.

61. As a consequence of Defendants' actions, Putative Class Members are entitled to all available statutory penalties, costs and reasonable attorneys' fees, including those provided in Labor Code § 226(e), as well as all other available remedies.

54. For purposes of California Labor Code section 558.1, the term “other person acting on behalf of any 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.

55. Defendants' pattern, practice and uniform administration of unlawful corporate policy regarding employee compensation as described herein creates an entitlement to recovery by Plaintiff and Putative Class Members for damages and wages owed, liquidated damages, and for penalties, interest, costs and attorneys' fees.

FIFTH CAUSE OF ACTION

(For Waiting Time Penalties - Labor Code §§ 201-203)

By Plaintiff Individually and on Behalf of All Class Members)

62. As a separate and distinct cause of action, Plaintiff complains and realleges all of the allegations contained in this complaint, and incorporate them by reference into this cause of action as though fully set forth herein, excepting those allegations which are inconsistent with this cause of action.

63. During the Class Period, Defendants failed to pay accrued wages and other compensation due immediately to each Class Member who was terminated, and failed to pay accrued wages and other compensation due within seventy-two hours to each Class Member, including Plaintiff, who ended their employment.

64. Labor Code § 201 requires an employer who discharges an employee to pay compensation due and owing to said employee immediately upon discharge. Labor Code § 203 provides that if an employer willfully fails to pay compensation promptly upon discharge, as required by § 201, the employer is liable for waiting time penalties in the form of continued compensation for up to 30 work days.

65. Defendants, and each of them, willfully failed and refused, and continue to willfully fail and refuse, to timely pay compensation due to Class Members upon termination or resignation, as required by Labor Code § 201. As a result, Defendants, and each of them, are liable to Plaintiff and all Class Members similarly situated for waiting time penalties, together with interest thereon, pursuant to Labor Code § 203, and are liable as the employer pursuant to California Labor Code section 558.1 for such violations. as well as all other available remedies, in an amount according to proof at the time of trial.

54. For purposes of California Labor Code section 558.1, the term “other person acting on behalf of any 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.

55. Defendants' pattern, practice and uniform administration of unlawful corporate policy regarding employee compensation as described herein creates an entitlement to recovery by Plaintiff and Class Members for damages and wages owed, liquidated damages, and for penalties, interest, costs and attorneys' fees.

SIXTH CAUSE OF ACTION

(Failure to Provide Meal and Rest Periods - Labor Code §§ 226.7 and 512)

By Plaintiff Individually and on Behalf of All Class Members)

66. As a separate and distinct cause of action, Plaintiff complains and realleges all of the allegations contained in this complaint, and incorporates them by reference into this cause of action as though fully set forth herein, excepting those allegations which are inconsistent with this cause of action.

67. During the Class Period, Defendants have failed to provide Putative Class Members ,

1 including Plaintiff, legally compliant meal and rest periods during their work shifts, and have failed
2 to compensate Putative Class Members , including Plaintiff, for those meal and rest periods, as
3 required by Labor Code § 226.7 and the other applicable sections of the Employment Laws and
4 Regulations, and are liable as the employer pursuant to California Labor Code section 558.1 for
5 such violations.

6 68. The Putative Class Members , including Plaintiff, have been deprived of their
7 rightfully earned compensation for meal and rest periods as a direct and proximate result of
8 Defendants' policies and practices and Defendants' failure and refusal to pay that compensation.
9 The Putative Class Members , including Plaintiff, are entitled to recover such amounts pursuant to
10 Labor Code § 226.7(b), plus interest.

11 54. For purposes of California Labor Code section 558.1, the term “other person acting
12 on behalf of any employer” is limited to a natural person who is an owner, director, officer, or
13 managing agent of the employer, and the term “managing agent” has the same meaning as in
14 subdivision (b) of Section 3294 of the Civil Code.

15 55. Defendants’ pattern, practice and uniform administration of unlawful corporate
16 policy regarding employee compensation as described herein creates an entitlement to recovery
17 by Plaintiff and Class Members for damages and wages owed, liquidated damages, and for
18 penalties, interest, costs and attorneys’ fees.

19 **SEVENTH CAUSE OF ACTION**

20 **(For Unfair Competition - Business & Professions Code § 17200, et seq.**

21 **By Plaintiff Individually and on Behalf of All Class Members)**

22 56. As a separate and distinct cause of action, Plaintiff complains and realleges all of the
23 allegations contained in this complaint, and incorporates them by reference into this cause of action
24 as though fully set forth herein, excepting those allegations which are inconsistent with this cause of
25 action.

26 57. As a result of Defendants’ unfair business practices, Defendants have reaped unfair
27 benefits and illegal profits at the expense of Class Members, including Plaintiff, and members of the
28 public. Defendants should be made to disgorge their ill-gotten gains and to restore them to Class

Members, including Plaintiff.

58. Defendants' unfair business practices violate the Unfair Competition Laws and entitle Plaintiff to seek preliminary and permanent injunctive relief including, but not limited to, orders that Defendants account for, disgorge and restore to the Class Members, including Plaintiff, the wages and other compensation unlawfully withheld from them.

59. In addition to the actual damages caused by the unlawful conversion, the Class Members, including Plaintiff, are entitled to recover exemplary damages for the sake of example and by way of punishing Defendants.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually and on behalf of the Class, prays for judgment against Defendants as follows:

1. For an Order certifying the First through Seventh Causes of Action as a class action;
2. For an Order appointing Plaintiff's counsel as Class counsel;
3. For compensatory damages in an amount to be ascertained at trial;
4. For restitution in an amount to be ascertained at trial;
5. For punitive and exemplary damages in an amount to be ascertained at trial;
6. For all penalties allowed by law;
7. For prejudgment interest;
8. For reasonable attorneys' fees pursuant to Labor Code §§ 1194, 226(e), 510, and 2802;
9. For costs of suit incurred herein;
10. For disgorgement of profits garnered as a result of Defendants' unlawful failure to pay wages, including overtime wages, earned; and
11. For such further relief as the Court may deem appropriate.

DATED: March 6, 2024

BOYAMIAN LAW, INC.

By:


MICHAEL H. BOYAMIAN
TAMAR CHOBANIAN

Attorneys for Plaintiff PEDRO NUNEZ,
individually and on behalf of all others
similarly situated

DEMAND FOR JURY TRIAL

Plaintiff PEDRO NUNEZ, individually, and on behalf of all similarly situated individuals,
demands jury trial of this matter.

DATED: March 6, 2024

BOYAMIAN LAW, INC.

By:



MICHAEL H. BOYAMIAN

TAMAR CHOBANIAN

Attorneys for Plaintiff PEDRO NUNEZ,
individually and on behalf of all others similarly
situated