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Superior Court of California,
County of San Diego

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Clerk of the Superior Court
By Shiela Retez, Deputy Clerk

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO**

DANIEL CRUZ, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

MAGNUS LANDSCAPING
CORPORATION D.B.A. LABAHN'S
LANDSCAPING, a California Corporation;
and DOES 1 through 100,

Defendants.

CASE NO. 37-2024-00009720-CU-OE-CTL

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION
COMPLAINT:**

- (1) MINIMUM WAGE VIOLATIONS
(LABOR CODE §§ 1182.12, 1194,
1194.2, 1197);**
- (2) FAILURE TO PAY ALL OVERTIME
WAGES (LABOR CODE §§ 204, 510,
1194, 1198);**
- (3) MEAL PERIOD VIOLATIONS
(LABOR CODE §§ 226.7, 512, 558);**
- (4) REST PERIOD VIOLATIONS (LABOR
CODE §§ 226.7, 516, 558);**
- (5) FAILURE TO REIMBURSE ALL
NECESSARY BUSINESS
EXPENDITURES (LABOR CODE §§
2802, 2804);**
- (6) WAGE STATEMENT PENALTIES
(LABOR CODE § 226 *et seq.*);**
- (7) UNFAIR COMPETITION (BUS &
PROF CODE § 17200 *et seq.*);and**
- (8) CIVIL PENALTIES UNDER THE
PRIVATE ATTORNEYS GENERAL
ACT (LABOR CODE § 2698 *et seq.*).**

**DEMAND FOR JURY TRIAL
UNLIMITED CIVIL CASE**

1 Plaintiff Daniel Cruz (“Plaintiff”), on behalf of himself and all others similarly situated,
2 hereby brings this First Amended Class and Representative Action Complaint (“Complaint”)
3 against Defendants Magnus Landscaping Corporation d.b.a. Labahn’s Landscaping, a California
4 corporation, and DOES 1 to 100, inclusive (collectively “Defendants”), and on information and
5 belief alleges as follows:

6 **JURISDICTION**

7 1. Plaintiff, on behalf of himself and all others similarly situated, hereby brings this
8 Complaint for recovery of unpaid wages and penalties under California Business and Professions
9 Code § 17200 *et. seq.*, Labor Code §§ 204, 226, 226.7, 510, 512, 516, 558, 1182.12, 1194, 1194.2,
10 1197, 1198, 2802, 2804, and 2698 *et seq.*; and Industrial Welfare Commission Wage Order 5
11 (“Wage Order 5”), in addition to seeking injunctive relief, declaratory relief, and restitution. This
12 Complaint is brought pursuant to California Code of Civil Procedure § 382. This Court has
13 jurisdiction over Defendants’ violations of the California Labor Code because the amount in
14 controversy exceeds this Court's jurisdictional minimum.

15 **VENUE**

16 2. Venue is proper in this judicial district pursuant to California Code of Civil
17 Procedure §§ 395(a) and 395.5, as at least some of the acts and omissions complained of herein
18 occurred in San Diego County. Defendants own, maintain offices, transact business, have an agent
19 or agents within San Diego County, and/or otherwise are found within Salinas County, and
20 Defendants are within the jurisdiction of this Court for purposes of service of process.

21 **PARTIES**

22 3. Plaintiff is, and at all times relevant herein was, an individual over the age of
23 eighteen (18). At all relevant times herein, Plaintiff was, and currently is, a California resident.
24 Within the statute of limitations periods applicable to each cause of action pled herein, Plaintiff
25 was employed by Defendants as a non-exempt employee. Plaintiff was, and is, a victim of
26 Defendants’ policies and/or practices complained of herein, lost money and/or property, and has
27 been deprived of the rights guaranteed by California Business and Professions Code § 17200 *et.*
28 *seq.*, Labor Code §§ 204, 226, 226.7, 510, 512, 516, 558, 1182.12, 1194, 1194.2, 1197, 1198,

2802, 2804, and 2698 *et seq.*; and Wage Order 5, which sets employment standards for establishments contracting for the development, maintenance or cleaning of grounds.

4. Plaintiff is informed and believes, and based thereon alleges, that during the applicable statute of limitations for each cause of action pled herein and continuing to the present, Defendants engage in and continue to engage in providing landscaping services to residential and commercial clients, and employed Plaintiff and other, similarly-situated non-exempt employees within San Diego County, and the State of California and, therefore, were (and are) doing business in San Diego County and the State of California.

5. Plaintiff does not know the true names or capacities, whether individual, partner, or corporate, of the defendants sued herein as DOES 1 to 100, inclusive, and for that reason, said defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to amend this Complaint when such true names and capacities are discovered. Plaintiff is informed, and believes, and based thereon alleges, that each of said fictitious defendants, whether individual, partners, or corporate, were responsible in some manner for the acts and omissions alleged herein, and proximately caused Plaintiff and the Classes (as defined in Paragraph 15) to be subject to the unlawful employment practices, wrongs, injuries and damages complained of herein.

6. Plaintiff is informed, and believes, and thereon alleges, that at all times mentioned herein, Defendants were and are the employers of Plaintiff and all members of the Classes.

7. At all relevant times, each of said Defendants participated in the doing of the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the Defendants, and each of them, were the agents, servants, and employees of each and every one of the other Defendants, as well as the agents of all Defendants, and at all times herein mentioned were acting within the course and scope of said agency and employment. Defendants, and each of them, approved of, condoned, and/or otherwise ratified each and every one of the acts or omissions complained of herein.

8. At all times mentioned herein, Defendants, and each of them, were members of and engaged in a joint venture, partnership, and common enterprise, and acting within the course and scope of and in pursuance of said joint venture, partnership, and common enterprise. Further,

1 Plaintiff alleges that all Defendants were joint employers for all purposes of Plaintiff and all
2 members of the Classes.

3 **GENERAL FACTUAL ALLEGATIONS**

4 9. Defendants specialize in residential and commercial landscape maintenance and
5 serve locations throughout Southern California. Plaintiff has been employed by Defendants at its
6 Santee, California location as a non-exempt employee since approximately September 2023.

7 10. Throughout Plaintiff's employment with Defendants, Defendants' timekeeping
8 policies and/or practices resulted in Plaintiff and other non-exempt employees not being
9 compensated for all hours actually worked, whether by rounding, time-shaving, or otherwise.
10 Upon information and belief, Defendants required Plaintiff and other non-exempt employees to
11 sign a sign-in sheet indicating that they were present for their scheduled workday, however,
12 Defendants failed to record the actual start and end times of Plaintiff's work shifts. Upon
13 information and belief, Defendants' supervisors recorded the hours worked for Plaintiff and other
14 non-exempt employees, but did not accurately record the hours worked, resulting in a failure to
15 compensate for all hours actually worked. As a result, Plaintiff and other non-exempt employees
16 were not compensated for all earned minimum and overtime wages.

17 11. Defendants failed to provide Plaintiff and other non-exempt employees with all
18 legally compliant meal periods due to Defendants' meal period policies/practices, which have
19 frequently resulted in late (commencing after the fifth hour of work), short (less than 30 minutes),
20 and missed meal periods. Specifically, Plaintiff's and other non-exempt employees' meal periods
21 frequently commenced after the completion of five hours of work. Additionally, upon information
22 and belief, Defendants' meal period policies/practices do not provide for a second meal period
23 for shifts in excess of 10.0 hours, nor were Plaintiff and other non-exempt employees provided
24 with a second meal period for shifts over 10.0 hours. Moreover, Defendants do not keep accurate
25 records of Plaintiff's and other non-exempt employees' hours worked, including time records
26 showing when employees take their meal periods. Defendants did not require Plaintiff and other
27 non-exempt employees to record their meal periods. Instead, upon information and belief,
28 Defendants automatically deducted 30 minutes from the total hours worked for each shift worked

1 regardless of whether the employee took a timely, full 30-minute compliant meal period. On those
2 occasions when Plaintiff was not provided with all legally compliant meal periods to which he
3 was entitled, Defendants failed to compensate Plaintiff with the required meal period premium(s)
4 for each workday there was a meal period violation as mandated by Labor Code § 226.7. Upon
5 information and belief, Defendants maintained no mechanism for the payment of meal period
6 premium payments as required by Labor Code § 226.7, in the event that a legally compliant meal
7 period was not provided to their non-exempt employees.

8 12. Plaintiff and other non-exempt employees were not authorized and permitted to
9 take all required rest periods due to Defendants' unlawful rest period policies/practices, which
10 failed to authorize and permit a net 10-minute rest period for every four hours worked, or major
11 fraction thereof. Plaintiff and other non-exempt employees were not able to take their legally
12 compliant rest breaks due to work demands imposed by Defendants. On those occasions when
13 Plaintiff was not authorized and permitted to take all legally compliant rest periods to which he
14 was entitled, Defendants failed to compensate Plaintiff with the required rest period premium(s)
15 for each workday there was a rest period violation as mandated by Labor Code § 226.7. Upon
16 information and belief, Defendants maintained no mechanism for the payment of rest period
17 premium payments as required by Labor Code § 226.7, in the event that a legally compliant rest
18 period was not authorized and permitted to their non-exempt employees.

19 13. Defendants also failed to reimburse Plaintiff and other non-exempt employees for
20 use of their personal cellular phones for work activities. Upon information and belief, Defendants
21 required Plaintiff and other non-exempt employees to communicate with coworkers and their
22 supervisors through their personal cellular phones; however, Defendants failed to reimburse
23 Plaintiff and other non-exempt employees for the use of their personal cellular phones for business
24 purposes.

25 14. As a result of Defendants' failure to pay all minimum and overtime wages and
26 failure to pay all meal and rest period premium wages, Defendants maintained inaccurate payroll
27 records and issued inaccurate wage statements to Plaintiff and other non-exempt employees.

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1 **CLASS ACTION ALLEGATIONS**

2 15. **Class Definitions:** Plaintiff brings this action on behalf of himself and the
3 following Classes pursuant to § 382 of the Code of Civil Procedure:

- 4 a. The Minimum Wage Class consists of all of Defendants' current and former non-
5 exempt employees in California who were subject to Defendants' timekeeping
6 policies and/or practices, during the four years immediately preceding the filing of
7 this action through the present.
- 8 b. The Overtime Class consists of all of Defendants' current and former non-exempt
9 employees in California who worked more than eight (8) hours per day and/or
10 forty (40) hours per week, and were subject to Defendants' timekeeping policies
11 and/or practices, during the four years immediately preceding the filing of this
12 action through the present.
- 13 c. The Meal Period Class consists of all of Defendants' current and former non-
14 exempt employees in California who: (i) worked at least one shift in excess of 5.0
15 hours; and/or (ii) worked at least one shift in excess of 10.0 hours, during the four
16 years immediately preceding the filing of this action through the present.
- 17 d. The Rest Period Class consists of all of Defendants' current and former non-
18 exempt employees in California who worked at least one shift in excess of 3.5
19 hours, during the four years immediately preceding the filing of this action through
20 the present.
- 21 e. The Employee Expense Class consists of all of Defendants' current and former
22 non-exempt employees in California who were not reimbursed for the use of their
23 personal cellular phones, during the four years immediately preceding the filing of
24 this action through the present.
- 25 e. The Wage Statement Class consists of all members of the Minimum Wage Class,
26 Overtime Class, Meal Period Class and/or Rest Period Class, during the one year
27 immediately preceding the filing of this action through the present.
- 28 16. **Numerosity/Ascertainability:** The members of the Classes are so numerous that

joinder of all members would be unfeasible and not practicable. The membership of the Classes and Subclasses are unknown to Plaintiff at this time; however, it is estimated that the members of the Classes number greater than one hundred (100) individuals. The identity of such membership is readily ascertainable via inspection of Defendants' employment records.

17. **Common Questions of Law and Fact Predominate/Well Defined Community of Interest:** There are common questions of law and fact as to Plaintiff and all other similarly situated employees, which predominate over questions affecting only individual members including, without limitation to:

- i. Whether Defendants properly paid all overtime wages to members of the Overtime Class;
- ii. Whether Defendants paid at least the minimum wage for all hours worked to members of the Minimum Wage Class;
- iii. Whether Defendants provided all legally compliant meal periods to members of the Meal Period Class pursuant to Labor Code §§ 226.7 and 512;
- iv. Whether Defendants authorized and permitted all legally compliant rest periods to members of the Rest Period Class pursuant to Labor Code §§ 226.7 and 516;
- v. Whether Defendants provided meal and rest period premium payments for non-compliant meal and rest periods;
- vi. Whether Defendants failed to reimburse members of the Employee Expense Class for necessary work expenses; and
- vii. Whether Defendants furnished legally compliant wage statements to members of the Wage Statement Class pursuant to Labor Code § 226.

18. **Predominance of Common Questions:** Common questions of law and fact predominate over questions that affect only individual members of the Classes. The common questions of law set forth above are numerous and substantial and stem from Defendants' policies and/or practices applicable to each individual class member, including but not limited to Defendants' timekeeping policies/practices, and meal and rest period policies/practices. As such, the common questions predominate over individual questions concerning each individual class

member's showing as to their eligibility for recovery or as to the amount of their damages.

19. **Typicality:** The claims of Plaintiff are typical of the claims of the Classes because Plaintiff was employed by Defendants as a non-exempt employee in California during the statute(s) of limitations period applicable to each cause of action pled in the Complaint. As alleged herein, Plaintiff, like the members of the Classes, was not paid all minimum and overtime wages owed due to Defendants' timekeeping policies/practices, was not provided all required meal periods, was not authorized and permitted all rest periods, did not receive premium pay for non-compliant meal and rest periods, and was not provided with accurate, compliant, itemized wage statements.

20. **Adequacy of Representation:** Plaintiff is fully prepared to take all necessary steps to represent fairly and adequately the interests of the members of the Classes. Moreover, Plaintiff's attorneys are ready, willing and able to fully and adequately represent the members of the Classes and Plaintiff. Plaintiff's attorneys have prosecuted and defended numerous wage-and-hour class actions in state and federal courts in the past and are committed to vigorously prosecuting this action on behalf of the members of the Classes.

21. **Superiority:** The California Labor Code is broadly remedial in nature and serves an important public interest in establishing minimum working conditions and standards in California. These laws and labor standards protect the average working employee from exploitation by employers who have the responsibility to follow the laws and who may seek to take advantage of superior economic and bargaining power in setting onerous terms and conditions of employment. The nature of this action and the format of laws available to Plaintiff and members of the Classes make the class action format a particularly efficient and appropriate procedure to redress the violations alleged herein. If each employee were required to file an individual lawsuit, Defendants would necessarily gain an unconscionable advantage since they would be able to exploit and overwhelm the limited resources of each individual plaintiff with their vastly superior financial and legal resources. Moreover, requiring each member of the Class(es) to pursue an individual remedy would also discourage the assertion of lawful claims by employees who would be disinclined to file an action against their former and/or current employer

1 for real and justifiable fear of retaliation and permanent damages to their careers at subsequent
2 employment. Further, the prosecution of separate actions by the individual class members, even
3 if possible, would create a substantial risk of inconsistent or varying verdicts or adjudications
4 with respect to the individual class members against Defendants herein; and which would
5 establish potentially incompatible standards of conduct for Defendants; and/or legal
6 determinations with respect to individual class members which would, as a practical matter, be
7 dispositive of the interest of the other class members not parties to adjudications or which would
8 substantially impair or impede the ability of the class members to protect their interests. Further,
9 the claims of the individual members of the Class are not sufficiently large to warrant vigorous
10 individual prosecution considering all of the concomitant costs and expenses attending thereto.
11 As such, the Classes identified in Paragraph 15 are maintainable as classes under § 382 of the
12 Code of Civil Procedure.

13 **FIRST CAUSE OF ACTION**

14 **MINIMUM WAGE VIOLATIONS**

15 **(AGAINST ALL DEFENDANTS)**

16 22. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

17 23. Wage Order 5, § 4 and California Labor Code §§ 1197 and 1182.12 establish the
18 right of employees to be paid minimum wages for all hours worked, in amounts set by state law.
19 Labor Code §§ 1194(a) and 1194.2(a) provide that an employee who has not been paid the legal
20 minimum wage as required by Labor Code § 1197 may recover the unpaid balance together with
21 attorneys' fees and costs of suit, as well as liquidated damages in an amount equal to the unpaid
22 wages and interest accrued thereon. At all relevant times herein, Defendants failed to conform its
23 pay practices to the requirements of the law by failing to pay Plaintiff and members of the
24 Minimum Wage Class for all hours worked, including, but not limited to, all hours they were
25 subject to the control of Defendants and/or suffered or permitted to work under the California
26 Labor Code and Wage Order 5.

27 24. California Labor Code § 1198 makes unlawful the employment of an employee
28 under conditions that the IWC prohibits. California Labor Code §§ 1194(a) and 1194.2(a) provide

1 that an employer who has failed to pay its employees the legal minimum wage is liable to pay
2 those employees the unpaid balance of the unpaid wages as well as liquidated damages in an
3 amount equal to the wages due and interest thereon.

4 25. As a consequence of Defendants' non-payment of minimum wages, Plaintiff and
5 members of the Minimum Wage Class seek penalties pursuant to Wage Order 5 § 18(A) and
6 California Labor Code § 1199; interest pursuant to California Labor Code §§ 218.6 and 1194 and
7 Civil Code §§ 3287 and 3289; liquidated damages pursuant to California Labor Code § 1194.2;
8 attorneys' fees and costs of suit pursuant to California Labor Code § 1194 *et seq.*; and damages
9 and/or penalties pursuant to California Labor Code § 558(a).

10 **SECOND CAUSE OF ACTION**

11 **FAILURE TO PAY ALL OVERTIME WAGES**

12 **(AGAINST ALL DEFENDANTS)**

13 26. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

14 27. This cause of action is brought pursuant to Labor Code §§ 204, 510, 1194, and
15 1198, which provide that non-exempt employees are entitled to all overtime wages and
16 compensation for all overtime hours worked and provide a private right of action for the failure
17 to pay all overtime compensation for overtime work performed.

18 28. At all times relevant herein, Defendants were required to properly compensate
19 non-exempt employees, including Plaintiff and members of the Overtime Class, for all overtime
20 hours worked pursuant to California Labor Code § 1194 and Wage Order 5. Wage Order 5, § 3
21 requires an employer to pay an employee "one and one-half (1½) times the employee's regular
22 rate of pay" for all overtime hours work. Defendants caused Plaintiff and members of the
23 Overtime Class to work overtime hours, but failed to credit these employees with all overtime
24 hours actually worked.

25 29. The foregoing policies and practices are unlawful and create entitlement to
26 recovery by Plaintiff and the Overtime Class members in a civil action for the unpaid amount of
27 overtime premiums owing, including interest thereon, statutory penalties, attorneys' fees, and
28 costs of suit according to California Labor Code §§ 204, 210, 216, 218.6, 510, 1194, and 1198;

Code of Civil Procedure § 1021.5; and Civil Code §§ 3287 and 3289.

THIRD CAUSE OF ACTION

MEAL PERIOD VIOLATIONS

(AGAINST ALL DEFENDANTS)

30. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

31. Plaintiff is informed and believes, and based thereon alleges, that Defendants failed in their affirmative obligation to provide all of their non-exempt employees in California, including Plaintiff and members of the Meal Period Class, with all legally compliant meal periods in accordance with the mandates of the California Labor Code and Wage Order 5, § 11. Despite Defendants' violations, Defendants did not pay an additional hour of pay to Plaintiff and members of the Meal Period Class at their respective regular rates of compensation, in accordance with California Labor Code §§ 204, 210, 226.7, and 512.

32. As a result, Defendants are responsible for paying premium compensation for meal period violations including interest thereon, statutory penalties, civil penalties, and costs of suit, pursuant to Labor Code §§ 226.7, 512, 558, Wage Order 5, and Civil Code §§ 3287(b) and 3289.

FOURTH CAUSE OF ACTION

REST PERIOD VIOLATIONS

(AGAINST ALL DEFENDANTS)

33. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

34. Wage Order 5, § 12 and California Labor Code §§ 226.7, 516 and 558 establish the right of employees to be provided with a rest period of at least ten (10) minutes for each four (4) hour period worked, or major fraction thereof. Despite Defendants' failure to authorize and permit Plaintiff and members of the Rest Period Class to take all legally complaint rest periods as alleged herein, Defendants did not pay these individuals an additional hour of pay at their respective regular rate for the rest periods that they failed to authorize and permit them to take, as required by Labor Code § 226.7.

35. Defendants' policies and practices described herein are unlawful and create an entitlement to recovery by Plaintiff and members of the Rest Period Class in a civil action for the

unpaid amount of rest period premiums owing, including interests thereon, statutory penalties, civil penalties, attorneys' fees, and costs of suit according to California Labor Code §§ 226.7, 516, 558, Wage Order 5, and Civil Code §§ 3287(b) and 3289.

FIFTH CAUSE OF ACTION

**FAILURE TO REIMBURSE FOR ALL NECESSARY BUSINESS EXPENDITURES
(AGAINST ALL DEFENDANTS)**

36. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

37. At all relevant times herein, Defendants were subject to Labor Code § 2802, which states that "an employer shall indemnify his or her employees for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer."

38. At all relevant times herein, Defendants were subject to Labor Code § 2804, which states that "any contract or agreement, express or implied, made by any employee to waive the benefits of this article or any part thereof, is null and void, and this article shall not deprive any employee or his personal representative of any right or remedy to which he is entitled under the laws of this State."

39. Due to Defendants' unlawful policy and practice of requiring employees to use their personal cellular phones for work purposes and failing to compensate employees for the use of their personal cellular phones, Defendants have violated Labor Code § 2802.

40. As a proximate result of Defendants' policies and/or practices in violation of Labor Code §§ 2802 and 2804, Plaintiff and members of the Employee Expense Class suffered damages in sums, which will be shown according to proof.

41. Plaintiff and members of the Employee Expense Class are entitled to attorneys' fees and costs of suit pursuant to Labor Code § 2802(c) for bringing this action.

42. Pursuant to Labor Code §2802(b), any action brought for the reimbursement of necessary expenditures carries interest at the same rate as judgments in civil actions. Thus, Plaintiff and members of the Employee Expense Class are entitled to interest, which shall accrue from the date on which they incurred the initial necessary expenditure.

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1 which they are entitled, and failing to pay them meal period premium payments; (d) failing to
2 authorize and permit Plaintiff and members of the Rest Period Class all rest periods to which they
3 are entitled, and failing to pay them rest period premium payments; (e) failing to reimburse the
4 Employee expense Class for all necessary business expenditures; and (f) failing to issue accurate
5 and itemized wage statements to the Wage Statement Class.

6 49. Defendants' utilization of these unfair and/or unlawful business practices deprived
7 Plaintiff and continues to deprive members of the Classes of compensation to which they are
8 legally entitled, constitutes unfair and/or unlawful competition, and provides an unfair advantage
9 over Defendants' competitors who have been and/or are currently employing workers and
10 attempting to do so in honest compliance with applicable wage and hour laws.

11 50. Because Plaintiff is a victim of Defendants' unfair and/or unlawful conduct alleged
12 herein, Plaintiff for himself and on behalf of the members of the Classes, seeks full restitution of
13 monies, as necessary and according to proof, to restore any and all monies withheld, acquired
14 and/or converted by Defendants pursuant to Business and Professions Code §§ 17203 and 17208.

15 51. The acts complained of herein occurred within the last four years immediately
16 preceding the filing of the Complaint in this action.

17 52. Plaintiff was compelled to retain the services of counsel to file this court action to
18 protect his interests and those of the Classes, to obtain restitution and injunctive relief on behalf
19 of Defendants' current non-exempt employees, and to enforce important rights affecting the
20 public interest. Plaintiff has thereby incurred the financial burden of attorneys' fees and costs,
21 which he is entitled to recover under Code of Civil Procedure § 1021.5.

22 **EIGHTH CAUSE OF ACTION**
23 **PRIVATE ATTORNEYS GENERAL ACT**
24 **(AGAINST ALL DEFENDANTS)**

25 53. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

26 54. Defendants have committed several Labor Code violations against Plaintiff,
27 members of the Classes, and other aggrieved employees. Plaintiff, an "aggrieved employee"
28 within the meaning of Labor Code § 2698 *et seq.*, acting on behalf of himself and other aggrieved

employees, brings this representative action against Defendants to recover the civil penalties due to Plaintiff, the members of the Classes, other aggrieved employees, and the State of California according to proof pursuant to Labor Code § 558 and § 2699 (a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for each failure to pay each employee and \$200 for each subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100 for each subsequent violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per employee per pay period; (4) \$250.00 for each initial violation and \$1,000.00 for each subsequent violation pursuant to Labor Code § 226.3 per employee per pay period; and/or (5) \$100.00 for each initial violation and \$200 for each subsequent violation per employee per pay period for those violations of the Labor Code for which no civil penalty is specifically provided, based on the following Labor Code violations:

- a. Failing to pay minimum wages for all hours worked to Plaintiff, the Minimum Wage Class, and other aggrieved employees in violation of Labor Code §§ 1182.12, 1194, 1194.2, and 1197;
- b. Failing to pay Plaintiff, the Overtime Class, and other aggrieved employees all earned overtime compensation in violation of Labor Code §§ 204, 510, 1194, and 1198;
- c. Failing to provide all legally required meal periods, and failure to pay meal period premium wages, to Plaintiff, the Meal Period Class, and other aggrieved employees at the regular rate of compensation in violation of Labor Code §§ 226.7, 512, 558, and 1198;
- d. Failing to authorize and permit all legally required rest periods, and failure to pay rest period premium wages, to Plaintiff, the Rest Period Class, and other aggrieved employees at the regular rate of compensation in violation of Labor Code §§ 226.7, 516, 558, and 1198;
- e. Failing to reimburse Plaintiff, the Employee Expense Class, and other

aggrieved employees for all necessary business expenses incurred in violation of Labor Code §§ 2802 and 2804;

- f. Failing to furnish Plaintiff, the Wage Statement Class, and other aggrieved employees with complete, accurate, itemized wage statements in violation of Labor Code § 226;
- g. Failing to timely pay all final wages and compensation earned by Plaintiff, the Waiting Time Class, and other aggrieved employees at the time of separation in violation of Labor Code §§ 201, 202, and 203;
- h. Failing to pay Plaintiff and other aggrieved employees all earned wages at least twice during each calendar month in violation of Labor Code § 204; and
- i. Failing to maintain accurate records on behalf of Plaintiff and other aggrieved employees in violation of Labor Code § 1174 and 1198.

55. On March 1, 2024, Plaintiff notified Defendants via certified mail, and notified the California Labor and Workforce Development Agency (“LWDA”) via its website, of Defendants’ violations of the California Labor Code and Plaintiff’s intent to bring a claim for civil penalties under California Labor Code § 2698 *et seq.* with respect to the violations of the California Labor Code identified in Paragraph 54 (a)-(i). Now that sixty-five days have passed from Plaintiff notifying Defendants and the LWDA of these violations, and the LWDA has not provided notice that it intends to investigate the violations, Plaintiff has exhausted his administrative requirements for bringing a claim under the Private Attorneys General Act with respect to these violations.

56. Based on the foregoing, Plaintiff seeks to represent himself and all Aggrieved Employees, as defined by Labor Code § 2699(c).

57. Plaintiff was compelled to retain the services of counsel to file this court action to protect his interests and the interests of other aggrieved employees, and to assess and collect the civil penalties owed by Defendants. Plaintiff has thereby incurred attorneys’ fees and costs, which he is entitled to receive under California Labor Code § 2699(g).

PRAYER

WHEREFORE, Plaintiff prays for judgment for himself and for all others on whose behalf

1 this suit is brought against Defendants, as follows:

- 2 1. For an order certifying the proposed Classes;
- 3 2. For an order appointing Plaintiff as representative of the Classes;
- 4 3. For an order appointing Counsel for Plaintiff as Counsel for the Classes;
- 5 4. Upon the First Cause of Action, for payment of minimum wages, liquidated
6 damages, and penalties according to proof pursuant to Labor Code §§ 1182.12, 1194, 1194.2, and
7 1197;
- 8 5. Upon the Second Cause of Action, for compensatory, consequential, general and
9 special damages according to proof pursuant to Labor Code §§ 204, 510, 558, 1194, and 1198;
- 10 6. Upon the Third Cause of Action, for compensatory, consequential, general and
11 special damages according to proof pursuant to Labor Code §§ 226.7, 512, and 558;
- 12 7. Upon the Fourth Cause of Action, for compensatory, consequential, general, and
13 special damages according to proof pursuant to Labor Code §§ 226.7, 516, and 558;
- 14 8. Upon the Fifth Cause of Action, for compensatory, consequential, general, and
15 special damages according to proof pursuant to Labor Code §§ 2802 and 2804;
- 16 9. Upon the Sixth Cause of Action, for statutory penalties pursuant to Labor Code §
17 226 *et seq.*;
- 18 10. Upon the Seventh Cause of Action, for restitution to Plaintiff and members of the
19 Classes of all money and/or property unlawfully acquired by Defendants by means of any acts or
20 practices declared by this Court to be in violation of Business and Professions Code § 17200 *et*
21 *seq.*;
- 22 11. Upon the Eighth Cause of Action, for civil penalties due to Plaintiff, other aggrieved
23 employees, and the State of California according to proof pursuant to Labor Code §§ 558 and
24 2699(a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for each failure
25 to pay each employee and \$200 for each subsequent violation or willful or intentional violation
26 pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the amount
27 unlawfully withheld; (2) \$50.00 for each initial violation and \$100 for each subsequent violation
28 pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial violation

1 and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per employee per
2 pay period; (4) \$250.00 for each initial violation and \$1,000.00 for each subsequent violation
3 pursuant to Labor Code § 226.3 per employee per pay period; and/or (5) \$100.00 for each initial
4 violation and \$200 for each subsequent violation per employee per pay period for those violations
5 of the Labor Code for which no civil penalty is specifically provided, based on the Labor Code
6 violations identified in Paragraph 54 (a)-(i);

7 12. Prejudgment interest on all due and unpaid wages pursuant to California Labor
8 Code § 218.6 and Civil Code §§ 3287 and 3289;

9 13. On all causes of action, for attorneys' fees and costs as provided by Labor Code
10 §§ 226, 1194 *et seq.*, 2802(c), and 2699(g); and Code of Civil Procedure § 1021.5; and

11 14. For such other and further relief, the Court may deem just and proper.

12
13 Dated: May 6, 2024

Respectfully submitted,
HAINES LAW GROUP, APC

14
15 By:


Paul K. Haines

16 Attorneys for Plaintiff

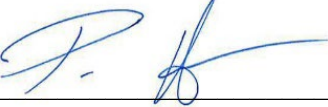
17
18 **DEMAND FOR JURY TRIAL**

19 Plaintiff hereby demands a jury trial with respect to all issues triable by jury.

20
21 Dated: May 6, 2024

Respectfully submitted,
HAINES LAW GROUP, APC

22
23 By:


Paul K. Haines
Attorneys for Plaintiff