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ELECTRONICALLY FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT
8/6/2024 11:40 AM
By: Leanne Landeros, DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO

JOSE MARQUEZ, individually and as a
Private Attorney General,

Plaintiff,

vs.

PURFOODS, LLC dba MOM'S MEALS, an
Iowa limited liability company; PURFOODS
HOLDINGS, LLC, a Delaware limited
liability company and DOES 1 through 50,
inclusive,

Defendants.

Case No.: CIVSB2414847

**FIRST AMENDED REPRESENTATIVE
COMPLAINT**

DEMAND FOR TRIAL BY JURY

- (1) Violation of Cal. Labor Code §§ 510 and 1198 (Unpaid Overtime)
- (2) Violation of Cal. Labor Code §§ 226.7 and 512(a) (Unpaid Meal Period Premiums)
- (3) Violation of Cal. Labor Code § 226.7 (Unpaid Rest Period Premiums)
- (4) Violation of Cal. Labor Code §§ 1194, 1197 and 1197.1 (Unpaid Minimum Wages)
- (5) Violation of Cal. Labor Code §§ 201, 202 and 203 (Final Wages Not Timely Paid)
- (6) Violation of Labor Code §§ 204 and 210 (Wages Not Timely Paid During Employment)
- (7) Violation of Cal. Labor Code § 226(a) (Failure to Provide Accurate Wage Statements)
- (8) Violation of Cal. Business & Professions Code § 17200, et seq.
- (9) Violation of Cal. Labor Code § 2699, (Private Attorneys General Act)

1 Plaintiff JOSE MARQUEZ (“Plaintiff”), individually and as Private Attorney General,
2 based upon facts that either have evidentiary support or are likely to have evidentiary support
3 after a reasonable opportunity for further investigation and discovery, alleges as follows:

4 **JURISDICTION AND VENUE**

5 1. Plaintiff brings this action against Defendants PURFOODS, LLC dba MOM’S
6 MEALS, PURFOODS HOLDINGS, LLC, and DOES 1 THROUGH 50 (hereinafter also
7 collectively referred to as “Defendants”) for California Labor Code violations, unfair business
8 practices, and civil penalties stemming from Defendants’ failure to pay overtime compensation,
9 failure to provide meal periods, failure to authorize and permit rest periods, failure to pay
10 minimum wage, failure to timely pay wages, failure to provide accurate wage statements, failure
11 to maintain accurate time and payroll records.

12 2. Plaintiff’s First through Eighth Causes of Action are brought on behalf of himself
13 individually. The monetary damages and restitution sought by Plaintiff exceeds the minimal
14 jurisdiction limits of the Superior Court and will be established according to proof at trial.

15 3. Plaintiff’s Ninth Cause of Action is brought solely as a representative action, and
16 solely as a Private Attorney General, on behalf of the State of California for all aggrieved
17 employees, including himself and other aggrieved employees of Defendants against whom one
18 or more of the alleged violations was committed (hereinafter collectively referred to as the
19 “Aggrieved Employees”) pursuant to California Labor Code sections 2698, *et seq.*; *Balderas v.*
20 *Fresh Start Harvesting, Inc.* (Cal. Ct. App., Mar. 20, 2024, No. 2D CRIM. B326759) 2024 WL
21 1673112, as modified (April 18, 2024); and *Johnson v. Maxim Healthcare Services, Inc.*, 66
22 Cal.App.5th 924 (2021). Plaintiff is an aggrieved employee against whom one or more of the
23 alleged violations occurred. The civil penalties sought by Plaintiff exceed the minimal jurisdiction
24 limits of the Superior Court and will be established according to proof at trial.

25 4. The Court has jurisdiction over this action pursuant to the California Constitution,
26 Article VI, Section 10, which grants the superior court “original jurisdiction in all other causes”
27 except those given by statute to other courts. The statutes under which this action is brought do
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1 not specify any other basis for jurisdiction.

2 5. This Court has jurisdiction over Defendants because, upon information and belief,
3 Defendants are citizens of California, have sufficient minimum contacts in California, or
4 otherwise intentionally avail themselves of the California market so as to render the exercise of
5 jurisdiction over them by the California courts consistent with traditional notions of fair play and
6 substantial justice.

7 6. Venue is proper in this Court because, upon information and belief, Defendants
8 maintain offices, have agents, and/or transact business in the State of California, County of San
9 Bernardino.

10 **PARTIES**

11 7. Plaintiff JOSE MARQUEZ is an individual residing in the County of Los Angeles,
12 State of California. Mr. Marquez is not suing in his individual capacity with respect to his Ninth
13 Cause of Action. Instead, he is proceeding therein solely under the PAGA, on behalf of the State
14 of California for all aggrieved employees, including himself and other aggrieved employees

15 8. Defendant PURFOODS, LLC dba MOM'S MEALS, is and at all times herein
16 mentioned was, a limited liability company organized and existing under the laws of the State of
17 Iowa, and registered to do business in the state of California.

18 9. Defendant PURFOODS HOLDINGS, LLC, is and at all times herein mentioned
19 was, a limited liability company organized and existing under the laws of the State of Delaware,
20 and registered to do business in the state of California.

21 10. Plaintiff is ignorant of the identities of defendants Does 1 through 50, inclusive,
22 and therefore sues these defendants by such fictitious names. The Doe defendants may be
23 individuals, partnerships, or corporations. Plaintiff is informed and believes, and thereon alleges,
24 that, at all times mentioned herein, each of the Doe defendants was the parent, subsidiary, agent,
25 servant, employee, co-venturer, and/or co-conspirator of each of the other defendants, and was at
26 all times mentioned acting within the scope, purpose, consent, knowledge, ratification and
27 authorization of such agency, employment, joint venture and conspiracy. Plaintiff will amend this
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1 Complaint to allege their true names and capacities when ascertained. Plaintiff is informed and
2 believes and thereon alleges that each of the fictitiously named Doe defendants is responsible in
3 some manner for the occurrences herein alleged, and that Plaintiff's damages as herein alleged
4 were proximately caused by its conduct. PURFOODS, LLC dba MOM'S MEALS, PURFOODS
5 HOLDINGS, LLC and Doe Defendants 1 through 50 are collectively referred to herein as
6 "Defendants."

7 11. Defendants are and at all times herein mentioned were, (a) conducting business in
8 the County of San Bernardino, State of California, and (b) the employer of Plaintiff consistent
9 with the California Labor Code and Industrial Welfare Commission Wage Orders ("Wage
10 Orders").

11 12. Plaintiff further alleges that Defendants, directly or indirectly controlled or
12 affected the working conditions, wages, working hours, and conditions of employment of Mr.
13 Marquez, and the Aggrieved Employees so as to make each of said Defendants employers and
14 employers jointly liable under the statutory provisions set forth herein.

15 **GENERAL ALLEGATIONS**

16 13. Defendants prepare, pack, and ship prepared meals.

17 14. Defendants employed Plaintiff to work as a Delivery Driver between
18 approximately January 23, 2023 and May 4, 2024.

19 15. At all relevant times set forth herein, Defendants employed Mr. Marquez and the
20 Aggrieved Employees as hourly-paid or non-exempt employees.

21 16. Throughout the time period involved in this case, Defendants had the authority to
22 hire and terminate Mr. Marquez and the Aggrieved Employees; to directly or indirectly control
23 work rules, working conditions, wages, working hours, and conditions of employment of Mr.
24 Marquez and the Aggrieved Employees; and to hire and terminate the employment of Mr.
25 Marquez and the Aggrieved Employees.

26 17. At all times herein mentioned, Defendants were subject to the Labor Code of the
27 State of California and the applicable Industrial Welfare Commission Orders.
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1 18. Plaintiff is informed and believes, and thereon alleges that Defendants engaged in
2 an ongoing and systematic scheme of wage abuse against their hourly-paid or non-exempt
3 employees. As set forth in more detail below, this scheme involved, *inter alia*, requiring Mr.
4 Marquez and the Aggrieved Employees to work off the clock without compensation thereby
5 failing to pay them for all hours worked, including minimum and overtime wages. Defendants
6 also failed to include all applicable compensation into employees regular rate of pay thereby
7 failing to pay employees overtime compensation at their correct rate of pay and failing to pay all
8 wages owed. In addition, Defendants routinely failed to permit Mr. Marquez and the Aggrieved
9 Employees to take timely and duty-free meal periods and rest periods in violation of California
10 law.

11 19. Throughout the time period involved in this case, Defendants have implemented
12 policies and practices which failed to provide Mr. Marquez and the Aggrieved Employees with
13 timely and duty-free meal periods. Defendants routinely failed to relieve Mr. Marquez and the
14 Aggrieved Employees of all duties during their meal periods, regularly failed to relinquish control
15 over Mr. Marquez and the Aggrieved Employees during their meal periods, regularly failed to
16 permit Mr. Marquez and the Aggrieved Employees a reasonable opportunity to take their meal
17 periods, and regularly impeded or discouraged Mr. Marquez and the Aggrieved Employees from
18 taking thirty (30) minute uninterrupted meal breaks no later than the end of their fifth hour of
19 work and/or from taking a second thirty (30) minute uninterrupted meal break no later than their
20 tenth hour of work for shifts lasting more than ten (10) hours. Defendants also failed to maintain
21 accurate records of meal periods taken by Mr. Marquez and the Aggrieved Employees.

22 20. Throughout the time period involved in this case, Defendants did not adequately
23 inform Mr. Marquez and the Aggrieved Employees of their right to take meal periods under
24 California law. Moreover, Defendants systematically disregarded their own written policies
25 regarding the provision and timing of meal periods for Mr. Marquez and the Aggrieved
26 Employees. Instead, Defendants' actual policy and practice was to schedule Mr. Marquez and the
27 Aggrieved Employees in a way that prohibited them from taking timely and duty-free meal
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1 periods, and to require Mr. Marquez and the Aggrieved Employees to work through their meal
2 periods, for which they were not compensated.

3 21. Throughout the time period involved in this case, Defendants failed to pay Mr.
4 Marquez and the Aggrieved Employees premium wages for meal periods that were missed, late,
5 interrupted, or shortened in violation of California law. Defendants knew or should have known
6 that Mr. Marquez and the Aggrieved Employees were entitled to receive all meal periods or
7 payment of one additional hour of pay at their regular rate of pay when a meal period was missed,
8 short, late, and/or interrupted. Notwithstanding this knowledge, Defendants routinely failed to
9 provide legally compliant meal periods to Mr. Marquez and the Aggrieved Employees, and
10 routinely failed to pay one additional hour of pay to Mr. Marquez and the Aggrieved Employees
11 at their regular rate of pay when a meal period was missed, short, late, and/or interrupted.

12 22. Throughout the time period involved in this case, Defendants have implemented
13 policies and practices which prohibited Mr. Marquez and the Aggrieved Employees from taking
14 timely and duty-free rest periods. Defendants regularly failed to provide, authorize, and permit
15 Mr. Marquez and the Aggrieved Employees to take full, uninterrupted, off-duty rest periods for
16 every shift lasting three and one-half (3.5) to six (6) hours and/or two full, uninterrupted, off-duty
17 rest periods for every shift lasting six (6) to ten (10) hours, and failed to make a good faith effort
18 to authorize, permit, and provide such rest breaks in the middle of each work period.

19 23. Throughout the time period involved in this case, Defendants did not adequately
20 inform Mr. Marquez and the Aggrieved Employees of their right to take rest periods under
21 California law. Moreover, Defendants systematically disregarded their own written policies
22 regarding the provision and timing of rest periods for Mr. Marquez and the Aggrieved Employees.
23 Instead, Defendants' actual policy and practice was to schedule Mr. Marquez and the Aggrieved
24 Employees in a way that regularly prohibited them from taking timely and duty free rest periods,
25 and to regularly require Mr. Marquez and the Aggrieved Employees to work through their rest
26 periods.

27 24. Throughout the time period involved in this case, Defendants failed to pay Mr.
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1 Marquez and the Aggrieved Employees premium wages for rest periods that were missed, late,
2 interrupted, or shortened in violation of California law. Defendants knew or should have known
3 that Mr. Marquez and the Aggrieved Employees were entitled to receive all rest periods or
4 payment of one additional hour of pay at their regular rate of pay when a rest period was missed,
5 short, late, and/or interrupted. Notwithstanding this knowledge, Defendants routinely failed to
6 authorize and permit Mr. Marquez and the Aggrieved Employees to take duty-free rest periods,
7 and failed to pay one additional hour of pay to Mr. Marquez and the Aggrieved Employees at
8 their regular rate of pay when a rest period was missed, short, late and/or interrupted.

9 25. Throughout the time period involved in this case, Defendants regularly required
10 Mr. Marquez and the Aggrieved Employees to perform work off the clock including during meal
11 periods and in responding to work related requests while off-the-clock.

12 26. Throughout the time period involved in this case, Defendants implemented policies
13 that failed to incorporate all non-discretionary bonuses and other incentive based compensation
14 into employees regular rate of pay, resulting in a failure to pay Mr. Marquez and the Aggrieved
15 Employees all wages owed including overtime at one and a half times employees correct regular
16 rate of pay.

17 27. Throughout the time period involved in this case, Mr. Marquez and the Aggrieved
18 Employees worked more than eight (8) hours in a day, and/or forty (40) hours in a week.

19 28. Throughout the time period involved in this case, Defendants regularly failed to
20 pay all overtime compensation owed to Mr. Marquez and the Aggrieved Employees when they
21 worked in excess of eight (8) hours in a single work day and/or forty (40) hours in a single work
22 week, or in excess of twelve (12) hours in a single work day and/or eighty (80) hours in a single
23 work week. Defendants knew or should have known that Mr. Marquez and the Aggrieved
24 Employees were entitled to receive certain wages for overtime compensation and that they were
25 not receiving wages for overtime compensation.

26 29. Throughout the time period involved in this case, Defendants failed to pay
27 overtime to Mr. Marquez and the Aggrieved Employees for all overtime hours worked based on
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1 regular rates of pay correctly calculated to include all applicable remuneration.

2 30. Throughout the time period involved in this case, Defendants regularly failed to
3 pay Mr. Marquez and the Aggrieved Employees at least minimum wages for all hours worked.
4 Defendants knew or should have known that Mr. Marquez and the Aggrieved Employees were
5 entitled to receive at least minimum wages for all hours worked and that they were not receiving
6 at least minimum wages for all hours worked. Defendants' failure to pay minimum wages
7 included, *inter alia*, failing to pay Mr. Marquez and the Aggrieved Employees at the required
8 minimum wage pursuant to California law for work performed off-the-clock while employees
9 were clocked out for meal periods.

10 31. Throughout the time period involved in this case, Defendants regularly failed to
11 pay Mr. Marquez and the Aggrieved Employees all wages owed to them upon discharge or
12 resignation. Defendants knew or should have known that Mr. Marquez and the Aggrieved
13 Employees were entitled to receive all wages owed to them upon termination within the time
14 permissible under California Labor Code section 202. Mr. Marquez and the Aggrieved
15 Employees did not receive payment of all final wages owed to them upon discharge or resignation,
16 including overtime compensation and minimum wages within any time permissible under
17 California Labor Code section 202.

18 32. Throughout the time period involved in this case, Defendants regularly failed to
19 pay Mr. Marquez and the Aggrieved Employees all wages within any time permissible under
20 California law, including, *inter alia*, California Labor Code section 204. Defendants knew or
21 should have known that Mr. Marquez and the Aggrieved Employees were entitled to receive all
22 wages owed to them during their employment. Mr. Marquez and the Aggrieved Employees did
23 not receive payment of all wages, including overtime compensation, minimum wages, meal and
24 rest period premiums.

25 33. Throughout the time period involved in this case, Defendants regularly failed to
26 provide complete or accurate wage statements to Mr. Marquez and the Aggrieved Employees.
27 Defendants knew or should have known that Mr. Marquez and the Aggrieved Employees were
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entitled to receive complete and accurate wage statements in accordance with California law, but, in fact, they did not receive complete and accurate wage statements from Defendants. The deficiencies included, *inter alia*, the failure to include the total number of hours worked, the actual gross wages earned, the correct rates of pay, all applicable hourly rates, amongst others.

34. Throughout the time period involved in this case, Defendants regularly failed to keep complete or accurate payroll records for Mr. Marquez and the Aggrieved Employees. Defendants knew or should have known that Defendants were required to keep complete and accurate payroll records for Mr. Marquez and the Aggrieved Employees in accordance with California law, but, in fact, did not keep complete and accurate payroll records.

35. Throughout the time period involved in this case, Defendants regularly failed to maintain accurate records relating to Mr. Marquez and the Aggrieved Employees' work periods, meal periods, total daily hours, hours per pay period, and applicable pay rates.

36. Throughout the time period involved in this case, Defendants knew or should have known that they had a duty to compensate Mr. Marquez and the Aggrieved Employees pursuant to California law. Defendants had the financial ability to pay such compensation, but willfully, knowingly, and intentionally failed to do so, and falsely represented to Mr. Marquez and the Aggrieved Employees that they paid all wages owed to them, all in order to increase Defendants' profits.

37. California Labor Code section 218 states that nothing in Article 1 of the Labor Code shall limit the right of any wage claimant to "sue directly ... for any wages or penalty due to him [or her] under this article."

FIRST CAUSE OF ACTION

(Violation of California Labor Code §§ 510 and 1198)

(Against All Defendants)

38. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every allegation set forth above.

39. California Labor Code section 1198 and the applicable Industrial Welfare

Commission ("IWC") Wage Order provide that it is unlawful to employ persons without compensating them at a rate of pay either time-and-one-half or two-times that person's regular rate of pay, depending on the number of hours worked by the person on a daily or weekly basis.

40. Specifically, the applicable IWC Wage Order provides that Defendants are and were required to pay Plaintiff at the rate of time-and-one-half for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek.

41. The applicable IWC Wage Order further provides that Defendants are and were required to pay Plaintiff overtime compensation at a rate of two times their regular rate of pay for all hours worked in excess of twelve (12) hours in a day and for all hours worked in excess of eight (8) hours on the seventh day of work in a workweek.

42. California Labor Code section 510 codifies the right to overtime compensation at one-and-one-half times the regular hourly rate for hours worked in excess of eight (8) hours in a day or forty (40) hours in a week or for the first eight (8) hours worked on the seventh day of work, and no overtime compensation at twice the regular hourly rate for hours worked in excess of twelve (12) hours in a day or in excess of eight (8) hours in a day on the seventh day of work.

43. During the relevant time period, Plaintiff worked in excess of eight (8) hours in a day, and/or in excess of forty (40) hours in a week.

44. During the relevant time period, Defendants intentionally and willfully failed to pay overtime and double time wages owed to Plaintiff at one and a half or two times the correct regular rate of pay.

45. Defendants' failure to pay Plaintiff the unpaid balance of overtime compensation, as required by California laws, violates the provisions of California Labor Code sections 510 and 1198, and is therefore unlawful.

46. Pursuant to California Labor Code section 1194, Plaintiff is entitled to recover unpaid overtime compensation, as well as interest, costs, and attorneys' fees.

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1 Plaintiff to miss his meal periods and to take meal periods that were late, shortened, or interrupted,
2 and failed to compensate Plaintiff the full meal period premium for missed, shortened, late, or
3 interrupted meal periods.

4 54. During the relevant time period, Defendants failed to pay Plaintiff the full meal
5 period premiums due pursuant to California Labor Code section 226.7.

6 55. Defendants' conduct violates the applicable IWC Wage Order and California
7 Labor Code sections 226.7 and 512(a).

8 56. Pursuant to the applicable IWC Wage Order and California Labor Code section
9 226.7(b), Plaintiff is entitled to recover from Defendants one additional hour of pay at the
10 employee's regular rate of compensation for each work day that the meal period was not provided.

11 **THIRD CAUSE OF ACTION**

12 **(Violation of California Labor Code § 226.7)**

13 **(Against All Defendants)**

14 57. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and
15 every allegation set forth above.

16 58. At all times herein set forth, the applicable IWC Wage Order and California Labor
17 Code section 226.7 were applicable to Plaintiff's employment by Defendants.

18 59. At all relevant times, California Labor Code section 226.7 provides that no
19 employer shall require an employee to work during any rest period mandated by an applicable
20 order of the California IWC.

21 60. At all relevant times, the applicable IWC Wage Order provides that "[e]very
22 employer shall authorize and permit all employees to take rest periods, which insofar as
23 practicable shall be in the middle of each work period" and that the "rest period time shall be
24 based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4)
25 hours or major fraction thereof unless the total daily work time is less than three and one-half
26 (3.5) hours."

27 61. During the relevant time period, Defendants required Plaintiff to work four (4) or
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1 more hours without authorizing or permitting a ten (10) minute rest period per each four (4) hour
2 period worked.

3 62. During the relevant time period, Defendants willfully required Plaintiff to work
4 during rest periods, failed to allow Plaintiff to take any rest period and/or failed to authorize and
5 permit Plaintiff to take uninterrupted, duty-free rest breaks.

6 63. During the relevant time period, Defendants failed to pay Plaintiff the full rest
7 period premium due pursuant to California Labor Code section 226.7 for work performed during
8 rest periods, and/or for failure to authorize and permit Plaintiff from taking uninterrupted rest
9 periods.

10 64. Defendants' conduct violates applicable IWC Wage Orders and California Labor
11 Code section 226.7.

12 65. Pursuant to the applicable IWC Wage Orders and California Labor Code section
13 226.7(b), Plaintiff is entitled to recover from Defendants one additional hour of pay at the
14 employees' regular hourly rate of compensation for each work day that the rest period was not
15 provided.

16 **FOURTH CAUSE OF ACTION**

17 **(Violation of California Labor Code §§ 1194, 1197, and 1197.1)**

18 **(Against All Defendants)**

19 66. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and
20 every allegation set forth above.

21 67. At all relevant times, California Labor Code sections 1194, 1197, and 1197.1
22 provide that the minimum wage to be paid to employees and the payment of a lesser wage than
23 the minimum so fixed is unlawful.

24 68. During the relevant time period, Defendants regularly failed to pay minimum wage
25 to Plaintiff as required pursuant to California Labor Code sections 1194, 1197, and 1197.1.

26 69. Defendants' failure to pay Plaintiff the minimum wage as required violates
27 California Labor Code sections 1194, 1197, and 1197.1. Pursuant to those sections, Plaintiff is
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entitled to recover the unpaid balance of his minimum wage compensation as well as interest, costs, and attorneys' fees, and liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

70. Pursuant to California Labor Code section 1194.2, Plaintiff is entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

FIFTH CAUSE OF ACTION

(Violation of California Labor Code §§ 201, 202, 203)

(Against All Defendants)

71. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every allegation set forth above.

72. At all relevant times herein set forth, California Labor Code sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and if an employee quits his or her employment, his or her wages shall become due and payable not later seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours' notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

73. During the relevant time period, the employment of Plaintiff was terminated by quitting or discharge. Defendants intentionally and willfully failed to pay Plaintiff all wages, earned and unpaid, including but not limited to minimum wages, straight time wages, overtime wages, within seventy-two (72) hours of leaving Defendants' employ.

74. Defendants' failure to pay Plaintiff wages earned and unpaid within seventy-two (72) hours of leaving Defendants' employ, is in violation of California Labor Code sections 201 and 202.

75. California Labor Code section 203 provides that if an employer willfully fails to pay wages owed, in accordance with sections 201 and 202, then the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action is commenced; but the wages shall not continue for more than thirty (30) days.

76. Plaintiff is entitled to recover from Defendants the statutory penalty wages for each day he was not paid, up to a thirty (30) day maximum pursuant to California Labor Code section 203.

SIXTH CAUSE OF ACTION

(Violation of California Labor Code §§ 204 and 210)

(Against All Defendants)

77. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every allegation set forth above

78. At all times herein set forth, California Labor Code section 204 provides that all wages earned by any person in any employment between the 1st and 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and 26th day of the month during which the labor was performed.

79. At all times herein set forth, California Labor Code section 204 provides that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month.

80. At all times herein set forth, California Labor Code section 204 provides that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period.

81. During the relevant time period, Defendants intentionally and willfully failed to pay Plaintiff all wages due, within any time period permissible under California Labor Code section 204.

82. Plaintiff is entitled to recover all available remedies for Defendant's violations of California Labor Code section 204, including statutory penalties pursuant to Labor Code section 210(b).

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1 to California Labor Code section 226(a).

2 88. Plaintiff is entitled to recover from Defendants the greater of the actual damages
3 caused by Defendants' failure to comply with California Labor Code section 226(a), or an
4 aggregate penalty not exceeding four thousand dollars per employee.

5 89. Plaintiff is also entitled to injunctive relief to ensure compliance with this section,
6 pursuant to California Labor Code section 226(g).

7 **EIGHTH CAUSE OF ACTION**

8 **(Violation of Cal. Business & Professions Code §§ 17200, et seq.)**

9 **(Against All Defendants)**

10 90. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and
11 every allegation set forth above.

12 91. Defendants' conduct, as alleged herein, has been, and continues to be, unfair,
13 unlawful and harmful to Plaintiff, to the general public, and Defendants' competitors.
14 Accordingly, Plaintiff seeks to enforce important rights affecting the public interest within the
15 meaning of Code of Civil Procedure section 1021.5.

16 92. Defendants' activities as alleged herein are violations of California law, and
17 constitute unlawful business acts and practices in violation of California Business & Professions
18 Code section 17200, *et seq.*

19 93. A violation of California Business & Professions Code section 17200, *et seq.* may
20 be predicated on the violation of any state or federal law. In this instant case, Defendants' policies
21 and practices of requiring employees, including Plaintiff, to work overtime without proper
22 compensation violate California Labor Code sections 510 and 1198. Additionally, Defendants'
23 policies and practices of requiring employees, including Mr. Marquez, to work through meal and
24 rest periods without paying him proper compensation violate California Labor Code sections
25 226.7 and 512(a). Moreover, Defendants' policies and practices of failing to timely pay wages to
26 Plaintiff violate California Labor Code sections 201, 202, 203 and 204.

27 94. Defendants also violated California Labor Code sections 221, 226(a), 1194, 1197,
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1 1197.1, 510, and 1174(d).

2 95. As a result of the herein described violations of California law, Defendants
3 unlawfully gained an unfair advantage over other businesses.

4 96. Plaintiff has been personally injured by Defendants' unlawful business acts and
5 practices as alleged herein, including but not necessarily limited to the loss of money and/or
6 property.

7 97. Pursuant to California Business & Professions Code sections 17200, *et seq.*,
8 Plaintiff is entitled to restitution of the wages withheld and retained by Defendants during a period
9 that commences four years prior to the filing of this Complaint; an award of attorneys' fees
10 pursuant to California Code of Civil Procedure section 1021.5 and other applicable laws; and an
11 award of costs.

12 **NINTH CAUSE OF ACTION**

13 **(Violation of California Labor Code § 2699, Et Seq.)**

14 **(Against All Defendants)**

15 98. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and
16 every allegation set forth above.

17 99. Plaintiff brings his ninth cause of action solely as a representative action pursuant
18 to the Private Attorneys General Act of 2004, California Labor Code section 2698, *et seq.*
19 ("PAGA"), on behalf of the State of California for all aggrieved employees, including himself
20 and other aggrieved employees of Defendants against whom one or more of the alleged violations
21 was committed.

22 100. PAGA specifically provides for a private right of action to recover civil penalties
23 for violations of the Labor Code as follows: "Notwithstanding any other provision of law, any
24 provision of this code that provides for a civil penalty to be assessed and collected by the Labor
25 and Workforce Development Agency or any of its departments, divisions, commissions, boards,
26 agencies, or employees, for a violation of this code, may, as an alternative, be recovered through
27 a civil action brought by an aggrieved employee on behalf of himself or herself and other current
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1 or former employees pursuant to the procedures specified in Section 2699.3.” Cal. Lab. Code §
2 2699(a).

3 101. Mr. Marquez was employed by Defendants and the Labor Code violations alleged
4 above were committed against him during his time of employment and is therefore, an “Aggrieved
5 Employee” under PAGA.

6 102. As set forth in detail above, during all times relevant to this Action, Defendants
7 have routinely subjected Mr. Marquez and the Aggrieved Employees to violations of California
8 Labor Codes by:

- 9 a. Failing to pay the Aggrieved Employees all earned minimum wage compensation
10 in violation of Labor Code §§ 1194 and 1198 *et seq.*
- 11 b. Failing to pay the Aggrieved Employees all earned overtime compensation in
12 violation of Labor Code §§ 204, 510, 1194, and 1198 *et seq.*
- 13 c. Failing to provide legally required meal periods to the Aggrieved Employees, and
14 failing to pay the Aggrieved Employees an additional hour of premium pay for
15 meal period violations in violation of Labor Code §§ 226.7 and 512.
- 16 d. Failing to provide authorize and permit the Aggrieved Employees to take duty-
17 free rest periods, and failing to pay the Aggrieved Employees an additional hour
18 of premium pay for rest period violations in violation of Labor Code §§ 226.7 and
19 512.
- 20 e. Failing to timely pay the Aggrieved Employees all wages at the end of their
21 employment in violation of Labor Code § 203.
- 22 f. Failing to timely pay the Aggrieved Employees all wages owed during
23 employment in violation of Labor Code § 204.
- 24 g. Failing to furnish the Aggrieved Employees with complete, accurate, itemized
25 wage statements in violation of Labor Code § 226.
- 26 h. Failing to maintain accurate records relating to the Aggrieved Employees’ work
27 periods, meal periods, total daily hours, hours per pay period, total wages and
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1 compensation, and applicable pay rates in violation of Labor Code § 1174(d) and
2 the applicable IWC Wage Order.

3 103. Pursuant to California Labor Code sections 2699 and 2699.5, Plaintiff requests
4 and is entitled to recover penalties against Defendants for the Labor Code violations described
5 above, including but not limited to penalties under California Code of Regulations Title 8 sections
6 11010, 11070 and 11090, penalties under California Labor Code sections 2699, 558, 210, 1197.1,
7 226, 226.3 and 1174.5, and 1197.1, and any and all additional penalties and sums as provided by
8 the California Labor Code and/or other statutes. The exact amount of the applicable penalties, in
9 all, is in an amount to be shown according to proof at trial.

10 104. Mr. Marquez has exhausted his administrative remedies pursuant to Labor Code §
11 2699.3. On April 24, 2024, Mr. Marquez, through his counsel of record, by online filing with the
12 Labor and Workforce Development Agency (“LWDA”) and by certified mail to the Defendants,
13 notified Defendants and the LWDA of the specific provisions of the Labor Code and IWC Wage
14 Orders that Defendants have violated, including the facts and theories to support the violations,
15 and intent to bring a claim for civil penalties under PAGA. Mr. Marquez also sent his PAGA
16 Notice Letter to Defendants on April 24, 2024, by certified mail, to Defendants’ Registered
17 Corporate Agent for Service of Process, C T Corporation System at 330 N. Brand Blvd., Glendale,
18 CA 91203, which is the address listed on C T Corporation Systems’ 2023 Statement of Information
19 that they filed with the California Secretary of State. However, Mr. Marquez’s PAGA Notice
20 Letters to C T Corporation Systems were returned as undeliverable. On May 1, 2024, Mr. Marquez,
21 through his counsel of record, by online filing with the Labor and Workforce Development Agency
22 (“LWDA”) and by certified mail to the Defendants, sent his Amended PAGA Notice Letter to
23 Defendants’ Registered Corporate Agent for Service of Process, C T Corporation System at 330
24 North Brand Blvd., Suite 700, Glendale, CA 91203.

25 105. Mr. Marquez also paid the filing fee required under Labor Code § 2699.3. As of the
26 filing of this Complaint, more than sixty-five (65) days have elapsed since the mailing of the May
27 1, 2024, amended PAGA notice, and the Labor and Workforce Development Agency has not
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1 indicated that it intends to investigate the violations discussed in the notice. Accordingly, Mr.
2 Marquez may commence this representative action on behalf of the state to recover penalties
3 pursuant to Labor Code § 2699.3.

4 106. Plaintiff was compelled to retain the services of counsel to file this court action to
5 assess and collect the civil penalties owed by Defendants. Plaintiff therefore seeks an award of
6 reasonable attorneys' fees and costs pursuant to Labor Code § 2699(g)(1), and any other
7 applicable statute.

8 107. Plaintiff may amend this complaint as a matter of right pursuant to California
9 Labor Code § 2699.3 as this complaint has been filed within sixty days of the time periods
10 specified in Labor Code §2699.3.

11 **PRAYER FOR RELIEF**

12 WHEREFORE, Plaintiff, individually and on behalf of all other members of the general
13 public similarly situated, prays for relief and judgment against Defendants, jointly and severally,
14 as follows:

15 **As to the First Cause of Action**

16 1. That the Court declare, adjudge and decree that Defendants violated California
17 Labor Code sections 510 and 1198 and applicable IWC Wage Orders by willfully failing to pay
18 all overtime wages due to Plaintiff;

19 2. For general unpaid wages at overtime wage rates and such general and special
20 damages as may be appropriate;

21 3. For pre-judgment interest on any unpaid overtime compensation commencing
22 from the date such amounts were due;

23 4. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
24 California Labor Code section 1194; and

25 5. For such other and further relief as the Court may deem just and proper.

26 **As to the Second Cause of Action**

27 6. That the Court declare, adjudge and decree that Defendants violated California
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1 Labor Code sections 226.7 and 512 and applicable IWC Wage Orders by willfully failing to
2 provide all meal periods (including second meal periods) to Plaintiff;

3 7. That the Court make an award to Plaintiff of one (1) hour of pay at each
4 employee's regular rate of compensation for each workday that a meal period was not provided;

5 8. For all actual, consequential, and incidental losses and damages, according to
6 proof;

7 9. For premium wages pursuant to California Labor Code section 226.7;

8 10. For pre-judgment interest on any unpaid wages from the date such amounts were
9 due;

10 11. For reasonable attorneys' fees and costs of suit incurred herein; and

11 12. For such other and further relief as the Court may deem just and proper.

12 **As to the Third Cause of Action**

13 13. That the Court declare, adjudge and decree that Defendants violated California
14 Labor Code section 226.7 and applicable IWC Wage Orders by willfully failing to provide all rest
15 periods to Plaintiff;

16 14. That the Court make an award to Plaintiff of one (1) hour of pay at each
17 employee's regular rate of compensation for each workday that a rest period was not provided;

18 15. For all actual, consequential, and incidental losses and damages, according to
19 proof;

20 16. For premium wages pursuant to California Labor Code section 226.7;

21 17. For pre-judgment interest on any unpaid wages from the date such amounts were
22 due; and

23 18. For such other and further relief as the Court may deem just and proper.

24 **As to the Fourth Cause of Action**

25 19. That the Court declare, adjudge and decree that Defendants violated California
26 Labor Code sections 1194, 1197, and 1197.1 by willfully failing to pay minimum wages to
27 Plaintiff;

20. For general unpaid wages and such general and special damages as may be appropriate;

21. For statutory wage penalties pursuant to California Labor Code section 1197.1 for Plaintiff in the amount as may be established according to proof at trial;

22. For pre-judgment interest on any unpaid compensation from the date such amounts were due;

23. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California Labor Code section 1194(a);

24. For liquidated damages pursuant to California Labor Code section 1194.2; and

25. For such other and further relief as the Court may deem just and proper.

As to the Fifth Cause of Action

26. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 201, 202, and 203 by willfully failing to pay all compensation owed at the time of termination of the employment of Plaintiff no longer employed by Defendants;

27. For all actual, consequential, and incidental losses and damages, according to proof;

28. For statutory wage penalties pursuant to California Labor Code section 203 for Plaintiff who have left Defendants' employ;

29. For pre-judgment interest on any unpaid compensation from the date such amounts were due; and

30. For such other and further relief as the Court may deem just and proper.

As to the Sixth Cause of Action

31. That the Court declare, adjudge and decree that Defendants violated California Labor Code section 204 by willfully failing to pay all compensation owed at the time required by California Labor Code section 204 to Plaintiff;

32. For statutory penalties pursuant to California Labor Code section 210;

33. For such other and further relief as the Court deems just and proper.

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35. For actual, consequential and incidental losses and damages, according to proof;

37. For such other and further relief as the Court may deem just and proper.

38. That the Court declare, adjudge and decree that Defendants violated California Business and Professions Code sections 17200, *et seq.* by failing to provide Plaintiff all overtime compensation due, failing to provide all meal and rest periods to Plaintiff, failing to pay at least minimum wages to Plaintiff, failing to pay Mr. Marquez's wages timely as required by California Labor Code section 201, 202 and 204 and by violating California Labor Code sections 226(a), and 1174(d);

40. For the appointment of a receiver to receive, manage and distribute any and all funds disgorged from Defendants and determined to have been wrongfully acquired by Defendants as a result of violation of California Business and Professions Code sections 17200, *et seq.*;

42. For injunctive relief to ensure compliance with this section, pursuant to California Business and Professions Code sections 17200, *et seq.*; and

43. For such other and further relief as the Court may deem just and proper.

44. For statutory attorneys' fees and costs pursuant to 2699(g)(1) of California Labor

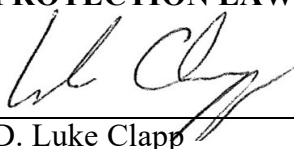
1 Code;

2 45. For the imposition of civil penalties pursuant to California Labor Code §§ 2699,
3 210, 558, 226, 226.3, 1174.5, 1197.1, and all other penalties allowed by the California Labor
4 Code and/or other applicable statutes; and

5 46. For such other relief as the Court deems just and proper.

6
7 Dated: July 8, 2024

PROTECTION LAW GROUP, LLP

8
9 By: 

D. Luke Clapp
Arnel O. Tan
Joseph Marshall
Attorneys for Plaintiff