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SUPERIOR COURT OF CALIFORNIA, COUNTY OF FRESNO
CIVIL UNLIMITED DIVISION

VERONICA BASURTO PIMENTEL, an
individual and on behalf of others similarly
situated,

Plaintiff,

vs.

AGUSTIN MADRIGAL JR., an individual;
and Does 1 through 100, inclusive,

Defendants.

Case No. 24CECG00675

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR:**

- 1. FAILURE TO PAY WAGES WHEN DUE [CAL. LAB. CODE §§ 201, 202 AND 203];**
- 2. FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS [CAL. LAB. CODE §226];**
- 3. FAILURE TO PAY ALL OVERTIME HOURS WORKED [CAL. LAB. CODE §§ 1194 (A), 510];**
- 4. FAILURE TO PAY MINIMUM WAGE [CAL. LAB. CODE. §§ 1194, 1197 & 1197.1];**
- 5. FAILURE TO PROVIDE MEAL PERIODS AND PAID REST BREAKS [CAL. LAB. CODE §§ 512];**
- 6. UNFAIR COMPETITION [CAL. BUS. & PROF CODE § 17200, et seq.];**
- 7. FAILURE TO REIMBURSE EMPLOYEES FOR REQUIRED EXPENSES IN VIOLATION OF CAL. LAB. CODE § 2802**
- 8. VIOLATION OF PRIVATE**

**ATTORNEY GENERAL ACT [CAL.
LAB. CODE §§ 2698, 2699]**

DEMAND FOR JURY TRIAL

Plaintiff VERONICA BASURTO PIMENTEL (hereinafter referred to as “Plaintiff” or “Pimentel”) alleges the following on behalf of herself, and on behalf of all others similarly situated. Plaintiff brings this class action complaint against Defendants AGUSTIN MADRIGAL JR., an individual, also known as “El Dorado Farm Labor,” and DOES 1 through 100 (hereinafter collectively as “Defendants”), on behalf of himself and the Putative Class (“Putative Class” shall refer to the class and any and all subclasses set forth in this Complaint) of others similarly situated including current and former employees of Defendants, **and on a representative basis for the aggrieved employees under the Private Attorneys General Act of 2004, Labor Code §2699 *et seq.*** Plaintiff alleges as follows:

THE PARTIES

1. Plaintiff and proposed Class Representative VERONICA BASURTO PIMENTEL was employed by Defendants from August 2017 through November 8, 2023, and performed work for Defendant in Fresno, Madera, and Tulare County, California.

2. On or around August 18, 2019, Defendant AGUSTIN MADRIGAL JR., an individual, registered with the County of Tulare under the fictitious business name of “El

1 Dorado Farm Labor.” Defendant AGUSTIN MADRIGAL JR. employed Plaintiff and other
2 similarly situated employees under the fictitious business name “El Dorado Farm Labor.”

3 3. Plaintiff is informed and believes, and thereon alleges, that DOES 1 through 50
4 are persons, corporations, or other entities which reside or are authorized to do and are doing
5 business in the State of California. The true identities of DOES 1 through 50 are currently
6 unknown to Plaintiff; therefore, Plaintiff now sues DOES 1 through 50 by fictitious names.
7 Plaintiff will amend this Complaint to state the proper names of each DOE Defendant when its
8 identity is discovered.

9 4. Plaintiff is informed and believes, and thereon alleges, that DOES 51 through
10 100 are persons, corporations, or other entities which reside or are authorized to do and are
11 doing business in the State of California. The true identities of DOES 51 through 100 are
12 currently unknown to Plaintiff; therefore, Plaintiff now sues DOES 51 through 100 by fictitious
13 names. Plaintiff will amend this Complaint to state the proper names of each Doe Defendant
14 when its identity is discovered. Plaintiff is informed and believes, and thereon alleges, that
15 DOES 51 through 100 were the managerial agents, employees, predecessors, subsidiary
16 successors, joint venturers, co-conspirators, alter egos, and/or representatives of each and every
17 other Defendant named herein or identified as DOES 1 through 50, and acted with the
18 permission, authorization, and/or ratification and consent of each and every other Defendant at
19 all relevant times herein.

20 **JURISDICTION AND VENUE**

21 5. This Court has jurisdiction over the claims for relief of Plaintiff and the Putative
22 Class pursuant to California Labor Code §§ 201-204, 221, 226, 226.7, 2802, 1194, and the
23 California Business and Professions Code §17200, *et seq.* (Unfair Competition Law (“UCL”)),
24 and the applicable wage order(s) issued by the Industrial Welfare Commission (“IWC”),
25 including IWC Wage Order No. 4-2001.

26 6. Venue is proper in this Court pursuant to Code of Civil Procedure section 395
27 (a). Defendants transact business in Fresno County and the unlawful acts alleged herein have a
28 direct effect on Plaintiff and the Putative Class in Fresno County. Plaintiff is a resident of

Fresno County. Furthermore, Defendant employed or employs Plaintiff and the other members of the Putative Class in Fresno County.

PAGA

7. As required by Labor Code §2699.3, on April 23, 2024, Plaintiff VERONICA BASURTO PIMENTEL filed her PAGA claims with the Department of Industrial Relations and gave written notice via U.S. certified mail to the DEFENDANTS, AGUSTIN MADRIGAL JR. with specific provisions of this code alleged to be violated. Pursuant to Labor Code §2699.3 (a) (2) (C) Plaintiff may, as a matter of right, amend her Complaint without leave to amend to add this cause of action. (A true and correct copy of Plaintiff Pimentel's PAGA notice is attached hereto as Exhibit "1" and incorporated herein by reference.)

GENERAL ALLEGATIONS

8. This Complaint contests systemic illegal employment practices resulting in violations of the California Labor Code, Business and Professions Code, and applicable IWC wage orders against employees of Defendants.

9. Defendants, jointly and severally, have acted intentionally and with deliberate indifference and conscious disregard to the rights of all employees in failure to pay all hours worked, failure to provide meal periods, failure to pay all overtime hours worked, and failure to pay minimum wage.

10. Defendants have engaged in, among other things, a system of willful violations of the California Labor Code, Business and Professions Code and applicable IWC wage orders by creating and maintaining policies, practices and customs that knowingly deny pay all hours worked, failure to provide meal periods, failure to pay all overtime hours worked, and failure to pay minimum wage.

11. The policies, practices and customs of Defendants described herein have resulted in unjust enrichment of Defendants and an unfair business advantage over businesses that routinely adhere to the parameters of the California Labor Code, Business and Professions Code and applicable IWC wage orders.

1 12. At all relevant times, Plaintiff and other similarly situated employees, were hired
2 to work as non-exempt employees for Defendant.

3 13. Plaintiff and other similarly situated employees, were employed as field pickers
4 and packers of produce and were compensated at an hourly rate of fifteen dollars (\$15.00) per
5 hour. In addition to hourly rates, Plaintiff and the Putative Class Members were expected to
6 complete a specific number of produce box pieces every day and were additionally
7 compensated in a piece-rate fashion for extra boxes packed on that same day. Plaintiff and
8 other similarly situated employees were paid at a rate consisting of \$0.55 for each additional
9 box of produce packed from Monday through Saturday, and \$2.75 for each additional box of
10 produce packed on Sunday.

11 14. Due to Plaintiff's role as a field picker and packer, her responsibilities included,
12 but not were limited to, picking fruit, cleaning the fruit, packing them in boxes, and inserting
13 wire along the fields.

14 15. Plaintiff alleges that she and other similarly situated employees, were required to
15 regularly work six (6) days per week in excess of forty (40) hours in a workweek. Due to the
16 Plaintiff and other similarly situated employees strenuous work schedule, they were frequently
17 required to work shifts in excess of eight (8) hours. This meant that on average, the Plaintiff
18 and the class were required to perform work in excess of eight (8) hours in a workday and/or
19 forty (40) hours in a workweek. Although Plaintiff and the Class were required to work
20 overtime, the Defendants failed to include all overtime pay and or double time pay on paystubs.
21 As a result, Plaintiff and other similarly situated employees were not paid all overtime hours
22 worked.

23 16. In addition, Plaintiff alleges that they and other similarly situated employees
24 were required to work on the weekends due to the workload demanded from them by
25 Defendants. As a result, Plaintiff regularly worked shifts in excess of eight (8) hours in a
26 workday from August 1, 2017, through November 8, 2023, for Defendants. Plaintiff alleges
27 that she and the Putative Class at least were compensated at a regular wage instead of the
28 applicable overtime wage for the pay period. Defendants would also pay Plaintiff and the

1 Putative Class in cash for their overtime hours worked over the weekend to avoid recording
2 overtime hours and payment to Plaintiff and the Putative Class at the applicable overtime rate.

3 17. Plaintiff and other similarly situated employees had different schedules
4 according to the harvest season requirements. During harvest season, Plaintiff and other
5 similarly situated employees would begin their workday at 5:40AM to set up their work station,
6 pick produce in the fields from 6:00AM to 4:00PM, and stay an additional 30 minutes after the
7 end of their shift to clean up their work station. During the off-season, Plaintiff and other
8 similarly situated employees would begin their workday at 5:50 for an uncompensated job
9 security class, then proceed to pick produce in the fields from 6:00AM until 3:30PM.

10 18. In essence, the Defendant deliberately and intentionally provided Plaintiff and
11 the Class with inaccurate paystubs that did not show all hours and overtime hours worked to
12 avoid the payment of these wages at the applicable regular and overtime rate.

13 19. Plaintiff further alleges that he and other similarly situated employees were not
14 given accurate itemized wage statements mandated by the California Labor Code § 226.

15 20. In the course of their employment, Plaintiff and the Putative Class Members
16 were required by Defendant to use their personal vehicle as a result of and furtherance of their
17 job duties as employees for Defendant but were not reimbursed by Defendant for mileage at the
18 applicable federal rate. Plaintiff and other similarly situated employees were required to travel
19 from Defendant's place of business to private farms around Madera, Fresno, and Tulare County
20 to perform field work for Defendant.

21 21. In addition to unreimbursed mileage, Plaintiff and the Putative Class were
22 required to provide their own tools and supplies necessary to perform their job duties for
23 Defendants. For instance, Plaintiff and the Putative Class Members were required to provide
24 their own scissors, shovels, and protective eyewear. Scissors would need to be replaced every
25 few weeks due to their regular use during harvest season. On average, Plaintiff would spend
26 over \$200 per year on supplies necessary to perform her job duties for Plaintiff. As a result, in
27 the course of their employment with Defendant, Plaintiff incurred unreimbursed business
28 expenses, which included, but were not limited to mileage, tools, and supplies on behalf of and

1 for the benefit of Defendant. Defendants had a policy of refusing to compensate employees for
2 gas mileage or equipment necessary to carry out their job duties for Defendants.

3 22. Plaintiff also alleges that they and the Class were not paid all wages due and
4 owing each pay period and upon separation of employment within the applicable time
5 requirement by the Labor Code. Plaintiff further allege that Defendants engaged in practice of
6 failing to pay all wages due and owing to Plaintiff and the Putative Class at the time their
7 employment ended with Defendants, including but not limited to, minimum, regular, and
8 overtime wages, wage premiums, reimbursements, among others.

9 23. Furthermore, to date, Plaintiff has not received her final paycheck upon her
10 employment termination with Defendant mandated by the California Labor Code § 201.

11 24. Lastly, Plaintiffs alleges that Defendant's violations of the wage and hour
12 components of the Labor Code and IWC wage orders enabled it to decrease expenses and to
13 increase its level of productivity and profits, thereby allowing Defendants to gain an unfair
14 advantage over its competitors. Accordingly, Plaintiffs and other similarly situated employees
15 are a victim of Defendants' policies, practices and customs complained of in this action in ways
16 that deprive Plaintiffs and the class rights guaranteed by California Labor Code §§ 201-204,
17 221, 226, 226.7, 1194, the UCL, and the applicable wage orders issued by the IWC.

18 **CLASS ACTION ALLEGATIONS**

19 25. Plaintiff realleges and incorporates by reference all prior paragraphs and
20 allegations in this Complaint, inclusive, as though fully set forth herein.

21 26. Plaintiff brings these causes of action on behalf of herself, and all others
22 similarly situated as a class action pursuant to Code of Civil Procedure § 382.

23 27. The relevant time period for this class action is defined as the period beginning
24 four (4) years prior to the filing of this action until final judgment (the "Class Time Period").

25 28. The Putative Class, also referred to "Represented Employees," that Plaintiff
26 seeks to represent is defined as follows:

27 All current and former non-exempt employees employed by Defendants in California
28 during the Class Time Period.

Plaintiffs also seeks to certify the following sub-classes:

- (a) Meal Period Subclass 1: All Represented Employees who worked a shift in excess of five (5) hours during the Class Period.
- (b) Meal Period Subclass 2: All Represented employees who worked a shift in excess of ten (10) hours during the Class Period.
- (c) Rest Break Subclass: All Represented Employees who worked a shift in excess of 3.5 hours during the Class Period.
- (d) Waiting Time Subclass: All Represented Employees who separated from their employment with Defendants during the period three years before the filing of this action and ending when final Judgment is entered.
- (e) Wage Statement Subclass: All Represented Employees who worked during the period of one year before filing of this action and ending when final Judgment is entered.
- (f) Reimbursement Subclass: All Represented Employees to whom Defendants failed to fully reimburse all expenses for work-related duties.

29. Plaintiff reserves the right to amend or modify the class description with greater or further division into subclasses or limitation to particular issues as appropriate.

30. Plaintiff, as the proposed class representative, is a member of the class and subclass that he seeks to represent.

31. This action has been brought and may properly be maintained as a class action under the Code of Civil Procedure § 382 because there is a well-defined community of interest in this litigation and the proposed class is easily ascertainable from Defendants' records.

32. **Numerosity**: The potential members of the Class and Sub-Classes as defined are so numerous that a joinder of all Represented Employees is impracticable. Although the exact number is currently unknown to Plaintiff, this information is easily ascertainable from Defendant's payroll and personnel records.

33. **Commonality**: There are predominant common questions of law and fact and a community of interest amongst Plaintiff and the claims of the Class concerning Defendant:

- (i) Whether Defendants violated the California Labor Code and applicable IWC Wage Order by failing to pay wages, including minimum wages to Plaintiff and the Represented Employees for all hours worked;
- (ii) Whether Defendants violated the California Labor Code and applicable IWC Wage Order by failing to pay proper overtime or double time wages to Plaintiff and the Represented Employees for hours above 8 per day and/or 40 per week;
- (iii) Whether Defendants violated the California Labor Code and applicable IWC Wage Order by failing to provide compliant meal periods to Plaintiff and the Meal Break Subclasses (1 and 2) and whether Defendants failed to compensate Plaintiff and the Meal Break Subclasses with one (1) additional hour of wages at the regular rate of pay for each instance when a compliant meal period was not provided;
- (iv) Whether Defendants violated the California Labor Code and applicable IWC Wage Order by failing to provide compliant rest breaks to Plaintiff and the Rest Break Subclass and whether Defendants failed to compensate Plaintiff and the Rest Break Subclass with one (1) additional hour of wages at the regular rate of pay for each instance when a paid rest break was not provided;
- (v) Whether Defendants violated the California Labor Code by failing to timely pay all wages due upon separation of employment between Defendants and Plaintiff and the Waiting Time Penalties Subclass;
- (vi) Whether Defendants failed to properly reimburse Plaintiff and the Reimbursement Subclass for necessary business-related expenditures and costs;
- (vii) Whether Defendants violated the California Labor Code by failing to provide Plaintiff and the Wage Statement Penalties Subclass with complete, accurate, itemized wage statements;
- (viii) Whether Defendants violated California Business & Professions Code §§ 17200 et seq. due to the: failure to pay all wages owed (including minimum wage and overtime), failure to provide mandated paid rest breaks, failure to provide

mandated meal periods, failure to provide reimbursements, and failure to timely pay final wages; and by making unlawful deductions from employees' wages; and

(ix) Whether Plaintiff and Represented Employees are entitled to equitable relief pursuant to California Business & Professions Code §§ 17200 et seq.

34. **Adequacy of Representation:** The named Plaintiff is fully prepared to take all necessary steps to represent fairly and adequately the interests of the Class defined above. Plaintiff's attorneys are ready, willing, and able to fully and adequately represent the Putative Class and the individual Plaintiff. Plaintiff's attorneys are competent and experience litigating large employment class actions and other complex litigation matters, including cases like this case.

35. **Typicality:** Plaintiff's claims, as the Class Representatives, are typical of the Class. Plaintiff, like other members of the Class, were subjected to Defendant's ongoing Labor Code and Wage Order violations including failure to pay wages for all hours worked, failure to provide mandated meal periods, failure to timely pay final wages, and failure to provide accurate itemized wage statements.

36. The California Labor Code and Wage Order provisions upon which Plaintiff base their claims are broadly remedial in nature. These laws and labor standards serve an important public interest in establishing minimum working conditions and standards in California. These laws and labor standards protect employees from exploitation by employers who may seek to take advantage of superior economic and bargaining power in setting onerous terms and conditions of employment.

37. The nature of this action and the format of laws available to Plaintiff and members of the Class identified herein make the class action format particularly efficient and appropriate procedure to redress the wrongs alleged herein. If each employee were required to file an individual lawsuit, the corporate Defendant would necessarily gain an unconscionable advantage since they would be able to explant and overwhelm the limited resources of each individual Plaintiff with their vastly superior financial and legal resources. Requiring each

1 Class member to pursue an individual remedy would also discourage the assertion of lawful
2 claims by employees would be disinclined to file an action against their former and/or current
3 employer for real and justifiable fear of retaliation and permanent damage to their careers and
4 subsequent employment.

5 38. The prosecution of separate actions by the individual Putative Class Members,
6 even if possible, would create a substantial risk of: 1) inconsistent or varying adjudications with
7 respect to individual Putative Class Members against the Defendant and which would establish
8 potentially incompatible standards of conduct for the Defendant; and/or 2) adjudications with
9 respect to individual Putative Class Members which would be dispositive of the interest of the
10 other Putative Class Members not parties to the adjudications or which would substantially
11 impair or impede the ability of the Putative Class Members to protect their interests.

12 39. The Class is commonly entitled to a specific fund with respect to the
13 compensation illegally and unfairly retained by Defendant. The Class is commonly entitled to
14 restitution of those funds being improperly withheld by Defendant. This action is brought for
15 the benefit of the entire Class and will result in the creation of a common fund.

16 **FIRST CAUSE OF ACTION**

17 **FAILURE TO PAY WAGES WHEN DUE**

18 **(LABOR CODE §§ 201, 202 AND 203)**

19 **(By Plaintiff and the Putative Class Against All Defendants)**

20 40. Plaintiff realleges and incorporates by reference all prior paragraphs and
21 allegations in this Complaint, inclusive, as though fully set forth herein.

22 41. As a result of Defendants failure to pay all wages due, the Defendants have
23 violated Labor Code §203. The Waiting Time Subclass thus brings this claim as a result of
24 unpaid wages and waiting time penalties that are due and owing.

25 42. Cal. Lab. Code § 201 provides, in relevant part, that “[i]f an employer discharges
26 an employee, the wages earned and unpaid at the time of discharge are due and payable
27 immediately.”

28 43. Cal. Lab. Code § 202 provides, in relevant part, that:

If an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous 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. Notwithstanding any other provision of law, an employee who quits without providing a 72-hour notice shall be entitled to receive payment by mail if he or she so requests and designates a mailing address. The date of the mailing shall constitute the date of payment for purposes of the requirement to provide payment within 72 hours of the notice of quitting.

44. There was no definite term in Plaintiff's or any of the Putative Class members' employment contract. Cal. Lab. Code § 203 provides:

If an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.5, 202, and 205.5, any wages of an employee who is discharged or who quits, 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 therefor is commenced; but the wages shall not continue for more than 30 days.

45. Since Plaintiff's termination and many of the Putative Class members, Defendants have not tendered an accurate payment to him for all wages earned and to these employees, as required by law.

46. Therefore, as provided by Cal Lab. Code § 203, Plaintiff and the Putative Class, specifically the Waiting Time Subclass, demands up to thirty days of pay as penalty for not paying all wages due at time of termination and demands an accounting and payment of all wages due, plus interest and statutory costs as allowed by law.

SECOND CAUSE OF ACTION

FAILURE TO PROVIDE ACCURATE ITEMIZED WAGES STATEMENTS

[LABOR CODE § 226]

(By Plaintiffs And The Putative Class Against All Defendants)

47. Plaintiff realleges and incorporates by reference all prior paragraphs and allegations in this Complaint, inclusive, as though fully set forth herein.

48. Plaintiffs and the Putative Class are and/or were employees of Defendants who did not receive proper protections and benefits of the laws governing the provision of accurate.

1 itemized wage statements. The Wage Statement Subclass brings these claims as they were
2 deprived the proper accurate itemized wage statements by Defendants.

3 49. Labor Code § 226(a) requires that employers furnish its employees with written
4 itemized wage statements, semimonthly or at the time of each payment of wages, that show the
5 gross wages earned, total hours worked, the number of piece-rate units earned and any
6 applicable piece rate, all deductions, net wages earned, the inclusive dates of the period for
7 which the employee is paid, the name of the employee and the portion of his or her social
8 security number as required by law, the legal name and address of the legal entity that is the
9 employer, and all applicable hourly rates in effect during the pay period and the corresponding
10 number of hours worked at each hourly rate by the employee.

11 50. Defendants violate Labor Code § 226(a) every pay period with respect to
12 Plaintiffs and the Putative Class because Defendants failed to provide a wage statement to
13 Plaintiffs and the Putative Class that complied with the requirements of Labor Code § 226(a)
14 by failing to accurately state gross wages earned, failure to accurately state total hours worked,
15 failure to accurately state all deductions, failure to accurately state net wages earned, and
16 failure to state all applicable hourly rates in effect during the pay period and failing to state the
17 accurate number of corresponding number of hours at each hourly rate by the employee.

18 51. Defendants violates Labor Code § 226 every pay period with respect to
19 Plaintiffs and the Putative Class because Defendants failed to provide a wage statement to
20 Plaintiffs and the Putative Class that complied with the requirements of Labor Code §
21 226.2(a)(2).

22 52. Defendants' failure to provide the required writing deprived the Putative Class,
23 including Plaintiffs, of the ability to know, understand, and question the calculation and rate of
24 pay and hours used to calculate the wages paid by Defendants. Therefore, the Putative Class,
25 including Plaintiffs, had no way to dispute the resulting miscalculation of wages, all of which
26 resulted in an unjustified economic enrichment to said Defendants. As a direct result, the
27 Putative Class have suffered and continue to suffer, substantial losses related to the use and
28 enjoyment of such wages, lost interest on such wages and expenses and attorney's fees in

1 seeking to compel Defendants to fully perform its obligation under state law, all to their
2 respective damages in amounts according to proof at trial.

3 53. As a result of Defendants' knowing and intentional failure to comply with Labor
4 Code § 226(a), the Putative Class, including Plaintiffs, have suffered an injury in that each was
5 prevented from knowing, understanding and disputing the wage payments paid to them.
6 Furthermore, the Putative Class and Plaintiffs have each suffered an injury in that the failure to
7 show all wages earned on the itemized wage statements resulted in each Putative Class member
8 being denied all necessary deductions, payments, and withholdings owed by the employer,
9 including, but not limited to, the failure to make all necessary contributions for unemployment
10 benefits, social security benefits, proper payment of taxes and withholdings, and other
11 mandated state and federal benefits.

12 54. Plaintiffs has also been injured as a result of having to bring this action to
13 attempt to obtain correct wage information following Defendants' refusal to comply with many
14 of the mandates of California's Labor Code and related laws and regulations.

15 55. Labor Code § 226(e) requires said Defendants to pay the greater of all actual
16 damages or fifty dollars (\$50.00) per employee for the initial pay period in which a violation
17 occurred, and one hundred dollars (\$100.00) per employee for each violation in subsequent pay
18 periods, plus attorney's fees and costs, to each Putative Class member, specifically the Wage
19 Statement Subclass, including Plaintiffs, who was injured by Defendants' failure to comply
20 with Labor Code § 226(a). The exact amount of the applicable penalty is all in an amount to be
21 shown according to proof at trial.

22 **THIRD CAUSE OF ACTION**

23 **FAILURE TO PAY ALL OVERTIME HOURS WORKED**

24 **[CAL. LAB. CODE §§ 1194 (A), 510]**

25 **(By Plaintiffs And The Putative Class Against All Defendants)**

26 56. Plaintiff realleges and incorporates by reference all prior paragraphs and
27 allegations in this Complaint, inclusive, as though fully set forth herein.
28

1 57. Plaintiff and the Putative Class bring this claim for Defendants' willful and
2 intentional violations of the California Labor Code and IWC requirements for Defendants'
3 failure to accurately calculate and pay minimum and overtime wages to Plaintiff and the
4 Putative Class.

5 58. Pursuant to Cal. Lab. Code §204, other applicable laws and regulations, and
6 public policy, an employer must timely pay its employees for all hours worked.

7 59. Cal. Lab. Code §510 provides that employees shall not be employed more than
8 eight (8) hours per workday and more than forty (40) hours per workweek unless they receive
9 additional compensation beyond their regular wages in amounts specified by law.

10 60. Cal. Lab. Code § 1197 provides the minimum wage for employees fixed by the
11 commission is the minimum wage to be paid to employees, and the payment of a less wage
12 than the minimum so fixed is unlawful.

13 61. Cal. Lab. Code § 1194 establishes an employee's right to recover unpaid wages
14 including minimum and overtime compensation and interest thereon, together with costs of
15 suit. Cal. Lab. Code § 1198 further states that the employment of an employee for longer hours
16 than those fixed by the IWC is unlawful.

17 62. Defendants maintains a uniform wage practice of paying Plaintiff and the
18 Putative Class without regard to the correct amount of time or number of hours worked,
19 including hours spent doing preparation, non-productive tasks, and/or time spent traveling to
20 job site locations after Plaintiff's required initial appearance at Defendants' place of business.
21 Additionally, Defendants failed to properly pay overtime rates and/or incorporate all wages
22 earned in order to calculate the regular rate of pay as set forth in Cal. Lab. Code §510. As set
23 forth herein, Defendants' uniform policy and practice is to unlawfully and intentionally deny
24 timely payment of wages due to Plaintiff and the Putative Class.

25 63. Defendants' uniform pattern of unlawful wage and hour practices applicable to
26 Plaintiff and the Putative Class, are the result of a uniform policy and practice that denies
27 accurate compensation to the Plaintiff and the Putative Class in regard to minimum and
28 overtime pay.

1 64. In committing these violations of the California Labor Code, Defendants failed
2 to pay the required 1.5x rate per hour for that work performed and/or completed after eight (8)
3 hours in a single day and forty (40) hours in one week and consequently underpays Plaintiff
4 and the Putative Class. Defendants' act is an illegal attempt to avoid the payment of all earned
5 wages, and other benefits in violation of the California Labor Code, the IWC requirements and
6 other applicable laws and regulations.

7 65. For example, on Saturday shifts, when Plaintiff and the Putative Class Members
8 had already worked for Defendant for five days and over 40 hours in that work week,
9 Defendant would pay Plaintiff and the Putative Class Members "under the table," in cash at
10 their regular rate of pay (as opposed to the legally required 1.5x rate of pay).

11 66. As a direct result of Defendants' unlawful wage practices as alleged herein,
12 Plaintiff and the Class did not receive the correct minimum wage and overtime compensation
13 for work performed for Defendants.

14 67. Defendants knew or should have known that Plaintiff and the Putative Class
15 were under-compensated for their hours worked. Defendants systematically elected, either
16 through intentional malfeasance or gross negligence, to not pay Plaintiff and the Putative Class
17 for their labor as a matter of uniform company policy, practice and procedure, and Defendants
18 perpetrated this systematic scheme by refusing to pay Plaintiff and the Putative Class the
19 correct minimum and overtime wages for hours worked.

20 68. In performing the acts and practices herein alleged in violation of California
21 labor laws, and refusing to compensate Plaintiff and the Class for all hours worked, including
22 non-productive time, and provide them with the requisite compensation, Defendants acted and
23 continues to act intentionally, oppressively, and maliciously toward Plaintiff and the Class with
24 an utter disregard for their legal rights, and with the despicable intent of depriving Plaintiff and
25 the Class of their property and legal rights, and otherwise causing them injury in order to
26 increase company profits at the expense of Plaintiff and the Putative Class.

27 69. Plaintiff and the Class therefore request recovery of all unpaid wages, including
28 overtime wages, according to proof, interest, statutory costs, attorney's fees, as well as the

1 assessment of any statutory penalties against Defendants in the amount as provided by the
2 California Labor Code and/or other applicable statutes. To the extent minimum and overtime
3 compensation is determined to be owed to Plaintiff prior to his termination, Defendants'
4 conduct also violates Labor Code §§ 201 and/or 202, and therefore Plaintiff and the Putative
5 Class are also entitled to waiting time penalties under Cal. Lab. Code § 203, which are sought
6 herein.

7 **FOURTH CAUSE OF ACTION**

8 **FAILURE TO PAY MINIMUM WAGE**

9 **[CAL. LAB. CODE §§ 1194, 1197, & 1197.1]**

10 **(By Plaintiffs And The Putative Class Against All Defendants)**

11 70. Plaintiff realleges and incorporates by reference all prior paragraphs and
12 allegations in this Complaint, inclusive, as though fully set forth herein.

13 71. Plaintiff and the Putative Class brings a claim for Defendants' willful and
14 intentional violations of the California Labor Code and the Industrial Welfare Commission
15 requirements for Defendants' failure to accurately calculate and pay minimum wages to
16 Plaintiff and the Putative Class.

17 72. Pursuant to Cal. Lab. Code § 204, other applicable laws and regulations, and
18 public policy, an employer must timely pay its employees for all hours worked.

19 73. Cal. Lab. Code § 1197 provides the minimum wage for employees fixed by the
20 commission is the minimum wage to be paid to employees, and the payment of a less wage than the
21 minimum so fixed is unlawful.

22 74. Cal. Lab. Code § 1194 establishes an employee's right to recover unpaid wages,
23 including minimum wage compensation and interest thereon, together with the costs of suit.

24 75. Defendants paid Plaintiff and the Putative Class for less hours than Plaintiff and
25 the Putative Class worked and failed to compensate Plaintiff and the Putative Class for all time
26 spent working for Defendants. Defendants had no system in place to accurately record the
27 number of hours worked by Plaintiff and the Putative Class, no system in place to compensate
28 for hours worked that were in excess of the typical eight hours. As set forth herein, Defendants'

1 uniform policy was to unlawfully and intentionally deny timely payment of wages due to
2 Plaintiff and the Putative Class.

3 76. Defendants' uniform pattern of unlawful wage and hour practices manifested,
4 without limitation, applicable to the California Class as a whole, as a result of implementing a
5 uniform policy practice that denied accurate compensation to Plaintiff and the Putative Class in
6 regard to minimum wage pay.

7 77. In committing these violations of the California Labor Code, Defendants
8 inaccurately calculated the correct time worked and consequently underpaid the actual time
9 worked by Plaintiff and the Putative Class. Defendants acted in an illegal attempt to avoid the
10 payment of all earned wages, and other benefits in violation of the California Labor Code, the
11 Industrial Welfare Commission requirements and other applicable laws and regulations.

12 78. As a direct result of Defendants' unlawful wage practices as alleged herein,
13 Plaintiff and the Putative Class did not receive the correct minimum wage compensation for
14 their time worked for Defendants.

15 79. During the California Class Period, Plaintiff and the Putative Class were paid less
16 for time worked that they were entitled to, constituting a failure to pay all earned wages.

17 80. By virtue of Defendants' unlawful failure to accurately pay all earned
18 compensation to the Plaintiff and the Putative Class for the true time they worked, Plaintiff and
19 the Putative Class have suffered and will continue to suffer an economic injury in amounts
20 which are presently unknown to them, and which will be ascertained according to proof at trial.

21 81. As evidenced by their own averaging paid practice records, Defendants knew or
22 should have known that Plaintiff and the Putative Class were under compensated for their time
23 worked. Defendant systematically elected, either through intentional malfeasance or gross
24 nonfeasance, to not pay employees for their labor as a matter of uniform company policy,
25 practice and procedure, and Defendants perpetrated this systematic scheme by refusing to pay
26 Plaintiff and the Putative Class the correct minimum wages for their time worked.

27 82. In performing the acts and practices herein alleged in violation of California labor
28 laws, and refusing to compensate the members of the Putative Class for all time worked and

1 provide them with the requisite compensation, Defendants acted and continue to act
2 intentionally, oppressively, and maliciously toward Plaintiff and the Putative Class with a
3 conscious and utter disregard for their legal rights, or the consequences to them, and with the
4 despicable intent of depriving them of their property and legal rights, and otherwise causing
5 them injury in order to increase company profits at the expense of these employees.

6 83. Plaintiff and the Putative Class therefore request recovery of all unpaid wages,
7 according to proof, interest, statutory costs, as well as the assessment of any statutory penalties
8 against Defendants in a sum as provided by the California Labor Code and/or other applicable
9 statutes. To the extent minimum wage compensation is determined to be owed to the California
10 Class Members who have terminated their employment, Defendant's conduct also violates Labor
11 Code §§ 201 and/or 202, and therefore these individuals are also entitled to waiting time
12 penalties under Cal. Lab. Code § 203, which penalties are sought herein on behalf of these
13 Putative Class Members. Defendant's conduct as alleged herein was willful, intentional and not
14 in good faith. Further, Plaintiff and the Putative Class are entitled to seek and recover statutory
15 costs.

16 **FIFTH CAUSE OF ACTION**

17 **FAILURE TO PROVIDE MEAL PERIODS AND PAID REST BREAKS**

18 **[CAL. LAB. CODE §§ 226.7 & 512]**

19 **(By Plaintiffs And The Putative Class Against All Defendants)**

20 84. Plaintiff realleges and incorporates by reference all prior paragraphs and
21 allegations in this Complaint, inclusive, as though fully set forth herein.

22 85. Plaintiff and the Putative Class are and/or were "non-exempt" employees of
23 Defendants who did not receive proper protections and benefits of the laws governing
24 mandatory meal periods or rest breaks. Defendants violated the rights of the Meal Break
25 Subclass and Rest Break Subclass under the Labor Code and as such they bring these claims.

26 86. Labor Code § 226.7 requires employers, including Defendants, to provide non-
27 exempt employees with meal periods as mandated by the Industrial Welfare Commission.
28 Labor Code § 512(a), in part, provides that employers, including Defendants, may not employ

1 an employee for a work period of more than five (5) hours per day without providing an
2 employee the opportunity to take uninterrupted meal period of not less than 30 minutes, except
3 that if the total work period per day of the employee is no more than six (6) hours, the meal
4 period may be waived by mutual consent of both employer and employee. Employers may not
5 employ an employee for a work period more than ten (10) hours a day without providing the
6 employee with a second meal period of not less than 30 minutes.

7 87. Pursuant to Labor Code § 226.7(b), employers shall pay an employee one
8 additional hour of pay at the employee's regular rate of compensation of each meal period that
9 is missed.

10 88. Additionally, Labor Code § 226.7 requires employers, including Defendants, to
11 provide rest period to its non-exempt employees as mandated by Order of the Industrial
12 Welfare Commission.

13 89. The IWC wage order § 4 states, in part, that every employer shall authorize and
14 permit all employees to take rest periods, which insofar as practicable shall be in the middle of
15 each work period. Employees shall receive a 10-minute rest period every four (4) hours or
16 major fraction thereof that they are required to work. Authorized rest period time shall be
17 counted, as hours worked, for which there shall be no deduction from wages.

18 90. Pursuant to Labor Code § 226.7(b) and Section 4 of the applicable wage order,
19 Defendants shall pay Plaintiff and the Putative Class one additional hour of pay at their regular
20 rate of compensation for each day the rest period is not provided.

21 91. At all relevant times herein, Plaintiff and the Putative Class was not provided
22 with all mandatory meal and rest periods although Plaintiff and the Putative Class consistently
23 worked an eight (8) hour labor shift.

24 92. Additionally, Plaintiff and the Putative class were not paid a separate hourly rate
25 for their rest-breaks when they were paid on an hourly rate, essentially depriving them of a paid
26 rest break as guaranteed by the Labor Code. As a result, the Putative Class was deprived of a
27 paid rest break under *Bluford v. Safeway Stores, Inc.*, 216 Cal. App. 4th 864.

1 93. Furthermore, Defendants’ failure to provide Plaintiff with legally required meal
2 breaks prior to his fifth (5th) hour of work is evidenced by Defendants’ business records. As a
3 result, Plaintiff forfeited meal breaks without additional compensation and in accordance with
4 Defendants’ strict corporate policy and practice.

5 94. Defendants violated Labor Code §§ 226.7, 512, and the applicable IWC wage
6 order every pay period with respect to Plaintiff and the Putative Class because he was not
7 provided with all mandatory meal and/or rest periods and Defendants failed to pay Plaintiff and
8 the Putative Class one additional hour of compensation in lieu thereof.

9 95. At all relevant times herein, Defendants failed to pay Plaintiffs and the Putative
10 Class all mandated paid rest breaks and failed to pay wage premiums in lieu of mandated meal
11 or rest periods, thereby receiving an economic benefit.

12 96. By Defendants’ failure to provide Plaintiffs and the Putative Class, specifically
13 the Meal Break Subclass and Rest Break Subclass with meal periods and paid rest breaks
14 required by California law, and failing to pay one (1) hour of additional wages in lieu of each
15 meal period and/or paid rest break not provided, Defendants willfully violated Labor Code
16 sections 226.7 and 512, and IWC Wage Order section 4. Accordingly, Defendants are liable for
17 one hour of additional wages at the employee’s regular rate of compensation for each workday
18 that a meal period and/or paid rest break was not lawfully provided in an amount to be proven
19 at trial.

20 **SIXTH CAUSE OF ACTION**

21 **UNFAIR COMPETITION**

22 **[CAL. BUS. & RPOF CODE § 17200, et. seq.]**

23 **(By Plaintiffs And The Putative Class Against All Defendants)**

24 97. Plaintiff realleges and incorporates by reference all prior paragraphs and
25 allegations in this Complaint, inclusive, as though fully set forth herein.

26 98. Defendants are a “person” as that term is defined under Cal. Bus. and Prof. Code
27 § 17021.

28 99. California Business & Professions Code §§ 17200, et seq. (the “UCL”) defines

1 unfair competition as any unlawful, unfair, or fraudulent business act or practice. Section 17203
2 authorizes injunctive, declaratory, and/or other equitable relief with respect to unfair
3 competition as follows:

4 Any person who engages, has engaged, or proposes to engage in
5 unfair competition may be enjoined in any court of competent
6 jurisdiction. The court may make such orders or judgments,
7 including the appointment of a receiver, as may be necessary to
8 prevent the use or employment by any person of any practice
9 which constitutes unfair competition, as defined in this chapter, or
10 as may be necessary to restore to any person in interest any money
11 or property, real or personal, which may have been acquired by
12 means of such unfair competition.

13 Cal. Bus. & Prof. Code § 17203.

14 100. By the conduct alleged herein, Defendants have engaged and continues to
15 engage in a business practice which violates California law, including but not limited to, the
16 applicable Wage Order(s), the California Code of Regulations and the California Labor Code
17 including Sections 203, 204, 210, 226, 226.7, 510, 512, 1194, 1197, and 1197.1 for which this
18 Court should issue declaratory and other equitable relief pursuant to Cal. Bus. & Prof. Code §
19 17203 as may be necessary to prevent and remedy the conduct held to constitute unfair
20 competition, including restitution of wages wrongfully withheld.

21 101. By the conduct alleged herein, Defendants' practices were unlawful and unfair
22 in that these practices violated public policy, were immoral, unethical, oppressive,
23 unscrupulous or substantially injurious to employees, and were without valid justification or
24 utility for which this Court should issue equitable and injunctive relief pursuant to Section
25 17203 of the California Business & Professions Code, including restitution of wages
26 wrongfully withheld.

27 102. By the conduct alleged herein, Defendants' practices were deceptive and
28 fraudulent in that Defendants' policy and practice failed to pay Plaintiff and the Putative Class,
minimum, reporting time and overtime wages for all time worked, failed to accurately to record
the applicable rate of all overtime worked, and failed to provide the required amount of
overtime compensation due to a miscalculation of the overtime rate that cannot be justified,

1 pursuant to the applicable Cal. Lab. Code, and Industrial Welfare Commission requirements in
2 violation of Cal. Bus. Code §§ 17200, et seq., and for which this Court should issue injunctive
3 and equitable relief, pursuant to Cal. Bus. & Prof. Code § 17203, including restitution of wages
4 wrongfully withheld.

5 103. By the conduct alleged herein, Defendants' practices were also unlawful, unfair
6 and deceptive in that Defendants' employment practices caused Plaintiff and the Putative Class
7 to be underpaid during their employment with Defendants.

8 104. By the conduct alleged herein, Defendants' practices were also unfair and
9 deceptive in that Defendants' policies, practices and procedures failed to provide mandatory
10 meal and/or rest breaks to Plaintiff and the Putative Class.

11 105. Therefore, Plaintiffs and the Putative Class demand on behalf of themselves, one
12 (1) hour of pay for each workday in which an off-duty meal period was not timely provided for
13 each shift in excess of five (5) hours of work, and/or one (1) hour of pay for each workday in
14 which a second off-duty meal period was not timely provided for each ten (10) hour shift.

15 106. Plaintiff and the Putative Class further demands on behalf of themselves, one (1)
16 hour of pay for each workday in which an off duty paid rest period was not timely provided as
17 required by law.

18 107. By and through the unlawful and unfair business practices described herein,
19 Defendants have obtained valuable property, money and services from Plaintiff and the
20 Putative Class, including earned wages for all overtime worked, and has deprived them of
21 valuable rights and benefits guaranteed by law and contract, all to the detriment of these
22 employees and to the benefit of Defendants to allow Defendants to unfairly compete against
23 competitors who comply with the law.

24 108. All the acts described herein as violations of, among other things, the Industrial
25 Welfare Commission Wage Orders, the California Code of Regulations, and the California
26 Labor Code, were unlawful and in violation of public policy, were immoral, unethical,
27 oppressive, and unscrupulous, were deceptive, and thereby constitute unlawful, unfair and
28 deceptive business practices in violation of Cal. Bus. & Prof. Code §§ 17200, et seq.

1 109. Plaintiff and the Putative Class are entitled to, and do, seek such relief as may be
2 necessary to restore to them the money and property which Defendants have acquired, or of
3 which Plaintiff and the Putative Class have been deprived, by means of the above described
4 unlawful and unfair business practices, including earned but unpaid wages for all overtime
5 worked.

6 110. Plaintiff and the Putative Class are further entitled to, and do, seek a declaration
7 that the described business practices are unlawful, unfair and deceptive, and that injunctive
8 relief should be issued restraining Defendants' from engaging in any unlawful and unfair
9 business practices in the future.

10 111. Plaintiffs and the Putative Class have no plain, speedy and/or adequate remedy
11 at law that will end the unlawful and unfair business practices of Defendants. Further, the
12 practices herein alleged presently continue to occur unabated. As a result of the unlawful and
13 unfair business practices described herein, Plaintiffs and the Putative Class have suffered and
14 will continue to suffer irreparable legal and economic harm unless Defendants are restrained
15 from continuing to engage in these unlawful and unfair business practices.

16 **SEVENTH CAUSE OF ACTION**

17 **FAILURE TO REIMBURSE EMPLOYEES FOR REQUIRED EXPENSES**

18 **[CAL. LAB. CODE § 2802]**

19 **(By Plaintiff Against All Defendants)**

20 112. Plaintiff realleges and incorporates by reference all prior paragraphs and
21 allegations in this Complaint, inclusive, as though fully set forth herein.

22 113. Cal. Lab. Code § 2802 provides, in relevant part, that:

23 An employer shall indemnify his or her employee for all necessary
24 expenditures or losses incurred by the employee in direct consequence of the
25 discharge of his or her duties, or of his or her obedience to the directions of
26 the employer, even though unlawful, unless the employee, at the time of
27 obeying the directions, believed them to be unlawful.

28 114. Defendants violated Cal. Lab. Code § 2802 by failing to indemnify and reimburse
Plaintiff for required expenses incurred in discharge of her job duties or as a direct consequence
of his obedience to the directions of Defendants. Specifically, Defendants failed to reimburse

Plaintiff for expenses, which included, but were not limited to, costs related to use of personal vehicle expenses on behalf of and for the benefit of Defendants. Defendants' uniform policy, practice, and procedure was to not reimburse Plaintiff expenditures for Defendants within the course and scope of his employment for Defendants. These expenses were necessary to complete the principal job duties of Plaintiff and the Putative Class members, Specifically, Defendants required Plaintiff to purchase work tools such as scissors, field scissors, shovels, gloves, and protective eyewear to fulfill their job duties at the various work locations and then failed to reimburse them for these expenses. In addition, Defendants failed to reimburse Plaintiff and the members of the Putative Class for mileage at the applicable federal rate and/or for use of their personal cell phones for work-related communications while on the clock.

115. Plaintiff seeks recovery for expenditures or losses incurred by Plaintiff in the discharge of Plaintiff's job duties for Defendants, or Plaintiff's obedience to the directions of Defendants for an amount to be proven at trial, but in an amount no less than \$200.00.

EIGHTH CAUSE OF ACTION

VIOLATION OF PRIVATE ATTORNEY GENERAL ACT

[CAL. LAB. CODE §§ 2698, 2699]

(By Plaintiff Against All Defendants)

116. Plaintiff VERONICA BASURTO PIMENTEL realleges and incorporates by reference paragraphs 1 through 115 as though fully set forth herein.

117. Plaintiff VERONICA BASURTO PIMENTEL was not properly paid for their time or expenses, afforded appropriate rest/meal breaks, nor provided adequate itemized wage statements.

118. PAGA is not used to recover damages or restitution, but to create a means of deputizing citizens as the private attorneys general to enforce the Labor Code. The State of California itself, through PAGA, can enforce state labor laws through the employees suing under PAGA who do so as proxy or agent of the state's labor law enforcement agencies.

1 119. Plaintiff VERONICA BASURTO PIMENTEL brings this action on behalf
2 of the State of California with respect to themselves as a result of being improperly paid
3 by Defendants.

4 120. As required by Labor Code § 2699.3, on April 23, 2024, Plaintiff
5 VERONICA BASURTO PIMENTEL filed her PAGA claims with the Department of
6 Industrial Relations and gave written notice via U.S. certified mail to Defendant,
7 AGUSTIN MADRIGAL JR., with specific provisions of this code alleged to be violated.
8 (See "Exhibit 1".)

9 121. The statutory waiting period for Plaintiff VERONICA BASURTO
10 PIMENTEL to add these allegations to the complaint has expired. As a result, Plaintiff
11 may now commence a civil action under PAGA pursuant to section 2699 as the proxy of
12 the State of California.

13 122. The policies, acts, and practices hereto described were and are an unlawful
14 business act or practice, because DEFENDANT AGUSTIN MADRIGAL JR.'s failure to
15 properly record and pay Plaintiff VERONICA BASURTO PIMENTEL for all hours
16 worked, specifically, failing to pay overtime, failure to provide accurate itemized wage
17 statements, and failure to timely provide wages, violates the applicable Labor Code
18 sections listed in Labor Code § 2699.5, including but not limited to Labor Code §§ 201,
19 202, 203, 226, 226.2, 226.7, 510, 512, 1193.6, 1194, 1197, 1197.1, 1198, 2802, and the Wage
20 Order No 4-2001, and thereby seeks recovery of civil penalties as prescribed by the Labor
21 Code Private General Act of 2004 as the representatives of the State of California for the
22 illegal conduct perpetuated on Plaintiff VERONICA BASURTO PIMENTEL.

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, on behalf of himself and the Putative Class, prays for judgment and relief against Defendants, and each of them, as follows:

1. For an Order certifying the proposed Classes and Subclasses;
2. For an Order appointing Plaintiff as the Representative of the Classes and Subclasses;
3. For an Order appointing Counsel for Plaintiff as Class Counsel;
4. For all applicable statutory penalties recoverable under each of the causes of action to the extent permitted by law, including those pursuant to Labor Code and Orders of the Industrial Welfare Commission, including but not limited to penalties pursuant to statutes set forth in California Labor Code §§ 201 – 204, 221, 222, 223, 226, 226.3, 226.4, 226.7, 450, 511, 512, 558, 1193.6, 1194.42, 1194.5, 1197.1, and other sections inadvertently omitted;
5. All funds unlawfully acquired by Defendants by means of any acts or practices declared by this Court to be in violation of the mandate established by the UCL;
6. That Defendants be ordered and enjoined to make restitution to each Class due to their unfair competition, pursuant to California Business and Professions Code §§ 17203 and 17204;
7. The greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000), and an award of costs for violation of Cal. Lab. Code § 226;
8. The amount of the expenses Plaintiffs and the Reimbursement Subclass incurred in the course of their job duties for Defendants, plus interest;
9. An award of exemplary and/or punitive damages against Defendants;
10. For liquidated damages;
11. For prejudgment and post judgment interest;
12. For costs and attorneys' fees; and

1 13. For such other relief as the Court deems just and proper.

2 **14. Recovery of civil penalties as prescribed by the Labor Code Private Attorneys**
3 **General Act of 2004.**
4

5 Dated: July 12, 2024

WEBB LAW GROUP, APC

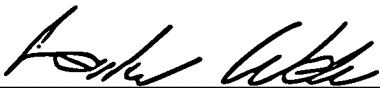
6
7 By 
8 LENDEN F. WEBB
9 KATHERINE E. CERVANTES
10 Attorneys for Plaintiff

EXHIBIT 1

WEBB LAW GROUP APC
ATTORNEYS AT LAW

466 W. FALLBROOK AVENUE, SUITE 102
FRESNO, CA 93711
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LENDEN F. WEBB
KATHERINE E. CERVANTES

Email: LWebb@WebbLawGroup.com
Email: KCervantes@WebbLawGroup.com

April 23, 2024

Via U.S. Certified Mail

LABOR WORKFORCE DEVELOPMENT
AGENCY
ATTN: PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612

Via U.S Certified Mail

AGUSTIN MADRIGAL
39437 RD 128
Cutler, CA. 93615

Re: Former Employee VERONICA BASURTO PIMENTEL.
Notice of Violations of California Labor Code Sections §§ 201, 202, 203,
266(a), 226.7, 510, 512, 1194, 1198, Applicable Industrial Welfare Commission
Wage Order(s), and Pursuant to California Labor Code Section 2699.5

Dear Mr. Madrigal:

Webb Law Group, APC represents the interests of **VERONICA BASURTO PIMENTEL** (*hereinafter referred to as "Plaintiff"*), and other employees in a proposed class action lawsuit against **AGUSTIN MADRIGAL** (*hereinafter referred to as "Defendant"*).

Defendant employed Plaintiff during the time period of August 2017 to on or about November 2023 as a FIELD PICKER/PACKER. Defendant classified Plaintiff as an hourly employee, exempt from receiving overtime wages and other related benefits. Defendants unlawfully failed to record and pay Plaintiffs, and other similarly situated employees, for all of the hours he worked, including overtime hours. As a consequence of the above-mentioned violations, the Plaintiff asserts that the Defendant failed to provide accurate wage statements to him, and other aggrieved employees, in violation of labor code §266(a). Said conduct, in addition to the foregoing, violated Labor Code §§ 201, 202, 203, 204, 226(a), 226.7, 510, 512, 515.5, 1194, 1198 and Violation of Industrial Welfare Commission Wage Order No. 4-2001, and is therefore actionable under California Labor Code §2699.3.

A true and correct copy of the Complaint that was filed by Plaintiff against Defendant, (i) identifies the alleged violations, (ii) details the facts and theories which support the alleged violations, (iii) details the specific work performed by Plaintiff, (iii) sets forth the people/

entities, dates, classifications, violations, events and actions which are at issue to the extent known to Plaintiff, and (iv) sets forth the illegal practices used by Defendant is attached hereto as **Exhibit A**.

This information provides notice to the Labor and Workforce Development Agency of the facts and theories supporting the alleged violations for the agency's reference. Plaintiff therefore incorporates the allegations of the attached Complaint into this letter as if fully set forth herein. If the agency needs any further information, please do not hesitate to ask.

This notice is provided to enable the Plaintiff to proceed with the Complaint against Defendant as authorized by California Labor Code § 2695, *et seq.* The proposed class action lawsuit consists of a class of other aggrieved employees. As class counsel, our intention is to vigorously prosecute the class wide claims as alleged in the Complaint, and to procure civil penalties as provided by the Private Attorney General Statute of 2004 on behalf of Plaintiff and all aggrieved California employees and Class Members.

Notice and Good Faith Reasonable Attempt to Settle Pursuant to Catalyst Theory, codified as Cal. Code Civil Procedure, Section 1021.5

In relevant part, the California Code of Civil Procedure, section 1021.5 states the following:

Upon motion, a court may award attorneys' fees to a successful party against one or more opposing parties in any action which has resulted in the enforcement of important right affecting the public interest if: (a) a significant benefit, whether pecuniary or nonpecuniary, has been conferred on the general public or a large class of persons, (b) the necessity and financial burden of private enforcement, or of enforcement by one public entity against another public entity, are such as to make the award appropriate, and (c) such fees should not in the interest of justice be paid out of the recovery, any.

VERONICA BASURTO PIMENTEL Reasonable Settlement Demand and Opportunity to Cure:

VERONICA BASURTO PIMENTEL seeks to engage in a good faith opportunity to resolve the issues **VERONICA BASURTO PIMENTEL** presented above. To this end, **VERONICA BASURTO PIMENTEL** will provide 30 days from your receipt of this letter for **EL DORADO FARM LABOR** to respond and, hopefully, work toward a resolution that is fair for **EL DORADO FARM LABOR** and the employees who were not adequately compensated.

WEBB LAW GROUP, APC

El Dorado Farms

April 23, 2024

Page 3 of 3

Your earliest response to this notice is appreciated. Should you have any questions please feel free to contact our office.

Very truly yours,

Read But Not Signed To Avoid Delay

Katherine E. Cervantes, Esq.
WEBB LAW GROUP, APC

KEC:pri

EXHIBIT A

Lenden F. Webb, Esq (236377)
Christopher E. Nichols (316417)
Katherine E. Cervantes (333940)
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E-FILED
2/15/2024 8:56 AM
Superior Court of California
County of Fresno
By: Valerie Renteria, Deputy

Attorneys for Plaintiff, VERONICA BASURTO PIMENTEL,
Individually and on behalf of other similarly situated.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF FRESNO

CIVIL UNLIMITED DIVISION

VERONICA BASURTO PIMENTEL, an
individual and on behalf of others similarly
situated,

Plaintiff,

vs.

AGUSTIN MADRIGAL JR., an individual;
and Does 1 through 100, inclusive,

Defendants.

CASE NO. **24CECG00675**

CLASS ACTION COMPLAINT FOR:

- 1. FAILURE TO PAY WAGES WHEN DUE [CAL. LAB. CODE §§ 201, 202 AND 203];**
- 2. FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS [CAL. LAB. CODE §226];**
- 3. FAILURE TO PAY ALL OVERTIME HOURS WORKED [CAL. LAB. CODE §§ 1194 (A), 510];**
- 4. FAILURE TO PAY MINIMUM WAGE [CAL. LAB. CODE. §§ 1194, 1197 & 1197.1];**
- 5. FAILURE TO PROVIDE MEAL PERIODS AND PAID REST BREAKS [CAL. LAB. CODE §§ 512];**
- 6. UNFAIR COMPETITION [CAL. BUS. & PROF CODE § 17200, et seq.];**
- 7. FAILURE TO REIMBURSE EMPLOYEES FOR REQUIRED EXPENSES IN VIOLATION OF CAL. LAB. CODE § 2802**

DEMAND FOR JURY TRIAL

1 Plaintiff VERONICA BASURTO PIMENTEL (hereinafter referred to as “Plaintiff” or
2 “Pimentel”) alleges the following on behalf of himself, and on behalf of all others similarly
3 situated. Plaintiff brings this class action complaint against Defendants AGUSTIN
4 MADRIGAL JR., an individual, also known as “El Dorado Farm Labor,” and DOES 1 through
5 100 (hereinafter collectively as “Defendants”), on behalf of himself and the Putative Class
6 (“Putative Class” shall refer to the class and any and all subclasses set forth in this Complaint)
7 of others similarly situated including current and former employees of Defendants as follows:

8 **THE PARTIES**

9 1. Plaintiff and proposed Class Representative VERONICA BASURTO
10 PIMENTEL was employed by Defendants from August 2017 through November 8, 2023, and
11 performed work for Defendant in Fresno, Madera, and Tulare County, California.

12 2. On or around August 18, 2019, Defendant AGUSTIN MADRIGAL JR., an
13 individual, registered with the County of Tulare under the fictitious business name of “El
14 Dorado Farm Labor.” Defendant AGUSTIN MADRIGAL JR. employed Plaintiff and other
15 similarly situated employees under the fictitious business name “El Dorado Farm Labor.”

16 3. Plaintiff is informed and believes, and thereon alleges, that DOES 1 through 50
17 are persons, corporations, or other entities which reside or are authorized to do and are doing
18 business in the State of California. The true identities of DOES 1 through 50 are currently
19 unknown to Plaintiff; therefore, Plaintiff now sues DOES 1 through 50 by fictitious names.
20 Plaintiff will amend this Complaint to state the proper names of each DOE Defendant when its
21 identity is discovered.

22 4. Plaintiff is informed and believes, and thereon alleges, that DOES 51 through
23 100 are persons, corporations, or other entities which reside or are authorized to do and are
24 doing business in the State of California. The true identities of DOES 51 through 100 are
25 currently unknown to Plaintiff; therefore, Plaintiff now sues DOES 51 through 100 by fictitious
26 names. Plaintiff will amend this Complaint to state the proper names of each Doe Defendant
27 when its identity is discovered. Plaintiff is informed and believes, and thereon alleges, that
28 DOES 51 through 100 were the managerial agents, employees, predecessors, subsidiary

1 successors, joint venturers, co-conspirators, alter egos, and/or representatives of each and every
2 other Defendant named herein or identified as DOES 1 through 50, and acted with the
3 permission, authorization, and/or ratification and consent of each and every other Defendant at
4 all relevant times herein.

5 **JURISDICTION AND VENUE**

6 5. This Court has jurisdiction over the claims for relief of Plaintiff and the Putative
7 Class pursuant to California Labor Code §§ 201-204, 221, 226, 226.7, 2802, 1194, and the
8 California Business and Professions Code §17200, *et seq.* (Unfair Competition Law (“UCL”)),
9 and the applicable wage order(s) issued by the Industrial Welfare Commission (“IWC”),
10 including IWC Wage Order No. 4-2001.

11 6. Venue is proper in this Court pursuant to Code of Civil Procedure section 395
12 (a). Defendants transact business in Fresno County and the unlawful acts alleged herein have a
13 direct effect on Plaintiff and the Putative Class in Fresno County. Plaintiff is a resident of
14 Fresno County. Furthermore, Defendant employed or employs Plaintiff and the other members
15 of the Putative Class in Fresno County.

16 **GENERAL ALLEGATIONS**

17 7. This Complaint contests systemic illegal employment practices resulting in
18 violations of the California Labor Code, Business and Professions Code, and applicable IWC
19 wage orders against employees of Defendants.

20 8. Defendants, jointly and severally, have acted intentionally and with deliberate
21 indifference and conscious disregard to the rights of all employees in failure to pay all hours
22 worked, failure to provide meal periods, failure to pay all overtime hours worked, and failure to
23 pay minimum wage.

24 9. Defendants have engaged in, among other things, a system of willful violations
25 of the California Labor Code, Business and Professions Code and applicable IWC wage orders
26 by creating and maintaining policies, practices and customs that knowingly deny pay all hours
27 worked, failure to provide meal periods, failure to pay all overtime hours worked, and failure to
28 pay minimum wage.

1 10. The policies, practices and customs of Defendants described herein have
2 resulted in unjust enrichment of Defendants and an unfair business advantage over businesses
3 that routinely adhere to the parameters of the California Labor Code, Business and Professions
4 Code and applicable IWC wage orders.

5 11. At all relevant times, Plaintiff and other similarly situated employees, were hired
6 to work as non-exempt employees for Defendant.

7 12. Plaintiff and other similarly situated employees, were employed as field pickers
8 and packers of produce and were compensated at an hourly rate of fifteen dollars (\$15.00) per
9 hour. In addition to hourly rates, Plaintiff and the Putative Class Members were expected to
10 complete a specific number of produce box pieces every day and were additionally
11 compensated in a piece-rate fashion for extra boxes packed on that same day. Plaintiff and
12 other similarly situated employees were paid at a rate consisting of \$0.55 for each additional
13 box of produce packed from Monday through Saturday, and \$2.75 for each additional box of
14 produce packed on Sunday.

15 13. Due to Plaintiff's role as a field picker and packer, her responsibilities included,
16 but not were limited to, picking fruit, cleaning the fruit, packing them in boxes, and inserting
17 wire along the fields.

18 14. Plaintiff alleges that she and other similarly situated employees, were required to
19 regularly work six (6) days per week in excess of forty (40) hours in a workweek. Due to the
20 Plaintiff and other similarly situated employees strenuous work schedule, they were frequently
21 required to work shifts in excess of eight (8) hours. This meant that on average, the Plaintiff
22 and the class were required to perform work in excess of eight (8) hours in a workday and/or
23 forty (40) hours in a workweek. Although Plaintiff and the Class were required to work
24 overtime, the Defendants failed to include all overtime pay and or double time pay on paystubs.
25 As a result, Plaintiff and other similarly situated employees were not paid all overtime hours
26 worked.

27 15. In addition, Plaintiff alleges that they and other similarly situated employees
28 were required to work on the weekends due to the workload demanded from them by

1 Defendants. As a result, Plaintiff regularly worked shifts in excess of eight (8) hours in a
2 workday from August 1, 2017, through November 8, 2023, for Defendants. Plaintiff alleges
3 that she and the Putative Class at least were compensated at a regular wage instead of the
4 applicable overtime wage for the pay period. Defendants would also pay Plaintiff and the
5 Putative Class in cash for their overtime hours worked over the weekend to avoid recording
6 overtime hours and payment to Plaintiff and the Putative Class at the applicable overtime rate.

7 16. Plaintiff and other similarly situated employees had different schedules
8 according to the harvest season requirements. During harvest season, Plaintiff and other
9 similarly situated employees would begin their workday at 5:40AM to set up their work station,
10 pick produce in the fields from 6:00AM to 4:00PM, and stay an additional 30 minutes after the
11 end of their shift to clean up their work station. During the off-season, Plaintiff and other
12 similarly situated employees would begin their workday at 5:50 for an uncompensated job
13 security class, then proceed to pick produce in the fields from 6:00AM until 3:30PM.

14 17. In essence, the Defendant deliberately and intentionally provided Plaintiff and
15 the Class with inaccurate paystubs that did not show all hours and overtime hours worked to
16 avoid the payment of these wages at the applicable regular and overtime rate.

17 18. Plaintiff further alleges that he and other similarly situated employees were not
18 given accurate itemized wage statements mandated by the California Labor Code § 226.

19 19. In the course of their employment, Plaintiff and the Putative Class Members
20 were required by Defendant to use their personal vehicle as a result of and furtherance of their
21 job duties as employees for Defendant but were not reimbursed by Defendant for mileage at the
22 applicable federal rate. Plaintiff and other similarly situated employees were required to travel
23 from Defendant's place of business to private farms around Madera, Fresno, and Tulare County
24 to perform field work for Defendant.

25 20. In addition to unreimbursed mileage, Plaintiff and the Putative Class were
26 required to provide their own tools and supplies necessary to perform their job duties for
27 Defendants. For instance, Plaintiff and the Putative Class Members were required to provide
28 their own scissors, shovels, and protective eyewear. Scissors would need to be replaced every

1 few weeks due to their regular use during harvest season. On average, Plaintiff would spend
2 over \$200 per year on supplies necessary to perform her job duties for Plaintiff. As a result, in
3 the course of their employment with Defendant, Plaintiff incurred unreimbursed business
4 expenses, which included, but were not limited to mileage, tools, and supplies on behalf of and
5 for the benefit of Defendant. Defendants had a policy of refusing to compensate employees for
6 gas mileage or equipment necessary to carry out their job duties for Defendants.

7 21. Plaintiff also alleges that they and the Class were not paid all wages due and
8 owing each pay period and upon separation of employment within the applicable time
9 requirement by the Labor Code. Plaintiff further allege that Defendants engaged in practice of
10 failing to pay all wages due and owing to Plaintiff and the Putative Class at the time their
11 employment ended with Defendants, including but not limited to, minimum, regular, and
12 overtime wages, wage premiums, reimbursements, among others.

13 22. Furthermore, to date, Plaintiff has not received her final paycheck upon her
14 employment termination with Defendant mandated by the California Labor Code § 201.

15 23. Lastly, Plaintiffs alleges that Defendant's violations of the wage and hour
16 components of the Labor Code and IWC wage orders enabled it to decrease expenses and to
17 increase its level of productivity and profits, thereby allowing Defendants to gain an unfair
18 advantage over its competitors. Accordingly, Plaintiffs and other similarly situated employees
19 are a victim of Defendants' policies, practices and customs complained of in this action in ways
20 that deprive Plaintiffs and the class rights guaranteed by California Labor Code §§ 201-204,
21 221, 226, 226.7, 1194, the UCL, and the applicable wage orders issued by the IWC.

22 **CLASS ACTION ALLEGATIONS**

23 24. Plaintiff realleges and incorporates by reference all prior paragraphs and
24 allegations in this Complaint, inclusive, as though fully set forth herein.

25 25. Plaintiff brings these causes of action on behalf of herself, and all others
26 similarly situated as a class action pursuant to Code of Civil Procedure § 382.

27 26. The relevant time period for this class action is defined as the period beginning
28 four (4) years prior to the filing of this action until final judgment (the "Class Time Period").

1 27. The Putative Class, also referred to “Represented Employees,” that Plaintiff
2 seeks to represent is defined as follows:

3 All current and former non-exempt employees employed by Defendants in California
4 during the Class Time Period.

5 Plaintiffs also seeks to certify the following sub-classes:

6 (a) Meal Period Subclass 1: All Represented Employees who worked a shift in
7 excess of five (5) hours during the Class Period.

8 (b) Meal Period Subclass 2: All Represented employees who worked a shift in
9 excess of ten (10) hours during the Class Period.

10 (c) Rest Break Subclass: All Represented Employees who worked a shift in
11 excess of 3.5 hours during the Class Period.

12 (d) Waiting Time Subclass: All Represented Employees who separated from
13 their employment with Defendants during the period three years before the
14 filing of this action and ending when final Judgment is entered.

15 (e) Wage Statement Subclass: All Represented Employees who worked during
16 the period of one year before filing of this action and ending when final
17 Judgment is entered.

18 (f) Reimbursement Subclass: All Represented Employees to whom Defendants
19 failed to fully reimburse all expenses for work-related duties.

20 28. Plaintiff reserves the right to amend or modify the class description with greater
21 or further division into subclasses or limitation to particular issues as appropriate.

22 29. Plaintiff, as the proposed class representative, is a member of the class and
23 subclass that he seeks to represent.

24 30. This action has been brought and may properly be maintained as a class action
25 under the Code of Civil Procedure § 382 because there is a well-defined community of interest
26 in this litigation and the proposed class is easily ascertainable from Defendants’ records.

27 31. **Numerosity:** The potential members of the Class and Sub-Classes as defined are
28 so numerous that a joinder of all Represented Employees is impracticable. Although the exact

number is currently unknown to Plaintiff, this information is easily ascertainable from Defendant's payroll and personnel records.

32. **Commonality:** There are predominant common questions of law and fact and a community of interest amongst Plaintiff and the claims of the Class concerning Defendant:

- (i) Whether Defendants violated the California Labor Code and applicable IWC Wage Order by failing to pay wages, including minimum wages to Plaintiff and the Represented Employees for all hours worked;
- (ii) Whether Defendants violated the California Labor Code and applicable IWC Wage Order by failing to pay proper overtime or double time wages to Plaintiff and the Represented Employees for hours above 8 per day and/or 40 per week;
- (iii) Whether Defendants violated the California Labor Code and applicable IWC Wage Order by failing to provide compliant meal periods to Plaintiff and the Meal Break Subclasses (1 and 2) and whether Defendants failed to compensate Plaintiff and the Meal Break Subclasses with one (1) additional hour of wages at the regular rate of pay for each instance when a compliant meal period was not provided;
- (iv) Whether Defendants violated the California Labor Code and applicable IWC Wage Order by failing to provide compliant rest breaks to Plaintiff and the Rest Break Subclass and whether Defendants failed to compensate Plaintiff and the Rest Break Subclass with one (1) additional hour of wages at the regular rate of pay for each instance when a paid rest break was not provided;
- (v) Whether Defendants violated the California Labor Code by failing to timely pay all wages due upon separation of employment between Defendants and Plaintiff and the Waiting Time Penalties Subclass;
- (vi) Whether Defendants failed to properly reimburse Plaintiff and the Reimbursement Subclass for necessary business-related expenditures and costs;

(vii) Whether Defendants violated the California Labor Code by failing to provide Plaintiff and the Wage Statement Penalties Subclass with complete, accurate, itemized wage statements;

(viii) Whether Defendants violated California Business & Professions Code §§ 17200 et seq. due to the: failure to pay all wages owed (including minimum wage and overtime), failure to provide mandated paid rest breaks, failure to provide mandated meal periods, failure to provide reimbursements, and failure to timely pay final wages; and by making unlawful deductions from employees' wages; and

(ix) Whether Plaintiff and Represented Employees are entitled to equitable relief pursuant to California Business & Professions Code §§ 17200 et seq.

33. **Adequacy of Representation:** The named Plaintiff is fully prepared to take all necessary steps to represent fairly and adequately the interests of the Class defined above. Plaintiff's attorneys are ready, willing, and able to fully and adequately represent the Putative Class and the individual Plaintiff. Plaintiff's attorneys are competent and experience litigating large employment class actions and other complex litigation matters, including cases like this case.

34. **Typicality:** Plaintiff's claims, as the Class Representatives, are typical of the Class. Plaintiff, like other members of the Class, were subjected to Defendant's ongoing Labor Code and Wage Order violations including failure to pay wages for all hours worked, failure to provide mandated meal periods, failure to timely pay final wages, and failure to provide accurate itemized wage statements.

35. The California Labor Code and Wage Order provisions upon which Plaintiff base their claims are broadly remedial in nature. These laws and labor standards serve an important public interest in establishing minimum working conditions and standards in California. These laws and labor standards protect employees from exploitation by employers who may seek to take advantage of superior economic and bargaining power in setting onerous terms and conditions of employment.

36. The nature of this action and the format of laws available to Plaintiff and members of the Class identified herein make the class action format particularly efficient and appropriate procedure to redress the wrongs alleged herein. If each employee were required to file an individual lawsuit, the corporate Defendant 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. Requiring each Class member to pursue an individual remedy would also discourage the assertion of lawful claims by employees would be disinclined to file an action against their former and/or current employer for real and justifiable fear of retaliation and permanent damage to their careers and subsequent employment.

37. The prosecution of separate actions by the individual Putative Class Members, even if possible, would create a substantial risk of: 1) inconsistent or varying adjudications with respect to individual Putative Class Members against the Defendant and which would establish potentially incompatible standards of conduct for the Defendant; and/or 2) adjudications with respect to individual Putative Class Members which would be dispositive of the interest of the other Putative Class Members not parties to the adjudications or which would substantially impair or impede the ability of the Putative Class Members to protect their interests.

38. The Class is commonly entitled to a specific fund with respect to the compensation illegally and unfairly retained by Defendant. The Class is commonly entitled to restitution of those funds being improperly withheld by Defendant. This action is brought for the benefit of the entire Class and will result in the creation of a common fund.

FIRST CAUSE OF ACTION

FAILURE TO PAY WAGES WHEN DUE

(LABOR CODE §§ 201, 202 AND 203)

(By Plaintiff and the Putative Class Against All Defendants)

39. Plaintiff realleges and incorporates by reference all prior paragraphs and allegations in this Complaint, inclusive, as though fully set forth herein.

1 40. As a result of Defendants failure to pay all wages due, the Defendants have
2 violated Labor Code §203. The Waiting Time Subclass thus brings this claim as a result of
3 unpaid wages and waiting time penalties that are due and owing.

4 41. Cal. Lab. Code § 201 provides, in relevant part, that “[i]f an employer discharges
5 an employee, the wages earned and unpaid at the time of discharge are due and payable
6 immediately.”

7 42. Cal. Lab. Code § 202 provides, in relevant part, that:

8 If an employee not having a written contract for a definite period quits his or
9 her employment, his or her wages shall become due and payable not later
10 than 72 hours thereafter, unless the employee has given 72 hours previous
11 notice of his or her intention to quit, in which case the employee is entitled to
12 his or her wages at the time of quitting. Notwithstanding any other provision
13 of law, an employee who quits without providing a 72-hour notice shall be
14 entitled to receive payment by mail if he or she so requests and designates a
15 mailing address. The date of the mailing shall constitute the date of payment
16 for purposes of the requirement to provide payment within 72 hours of the
17 notice of quitting.

18 43. There was no definite term in Plaintiff’s or any of the Putative Class members’
19 employment contract. Cal. Lab. Code § 203 provides:

20 If an employer willfully fails to pay, without abatement or reduction, in
21 accordance with Sections 201, 201.5, 202, and 205.5, any wages of an
22 employee who is discharged or who quits, the wages of the employee shall
23 continue as a penalty from the due date thereof at the same rate until paid or
24 until an action therefor is commenced; but the wages shall not continue for
25 more than 30 days.

26 44. Since Plaintiff’s termination and many of the Putative Class members,
27 Defendants have not tendered an accurate payment to him for all wages earned and to these
28 employees, as required by law.

 45. Therefore, as provided by Cal Lab. Code § 203, Plaintiff and the Putative Class,
specifically the Waiting Time Subclass, demands up to thirty days of pay as penalty for not
paying all wages due at time of termination and demands an accounting and payment of all
wages due, plus interest and statutory costs as allowed by law.

SECOND CAUSE OF ACTION

FAILURE TO PROVIDE ACCURATE ITEMIZED WAGES STATEMENTS

[LABOR CODE § 226]

(By Plaintiffs And The Putative Class Against All Defendants)

46. Plaintiff realleges and incorporates by reference all prior paragraphs and allegations in this Complaint, inclusive, as though fully set forth herein.

47. Plaintiffs and the Putative Class are and/or were employees of Defendants who did not receive proper protections and benefits of the laws governing the provision of accurate itemized wage statements. The Wage Statement Subclass brings these claims as they were deprived the proper accurate itemized wage statements by Defendants.

48. Labor Code § 226(a) requires that employers furnish its employees with written itemized wage statements, semimonthly or at the time of each payment of wages, that show the gross wages earned, total hours worked, the number of piece-rate units earned and any applicable piece rate, all deductions, net wages earned, the inclusive dates of the period for which the employee is paid, the name of the employee and the portion of his or her social security number as required by law, the legal name and address of the legal entity that is the employer, and all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

49. Defendants violate Labor Code § 226(a) every pay period with respect to Plaintiffs and the Putative Class because Defendants failed to provide a wage statement to Plaintiffs and the Putative Class that complied with the requirements of Labor Code § 226(a) by failing to accurately state gross wages earned, failure to accurately state total hours worked, failure to accurately state all deductions, failure to accurately state net wages earned, and failure to state all applicable hourly rates in effect during the pay period and failing to state the accurate number of corresponding number of hours at each hourly rate by the employee.

50. Defendants violates Labor Code § 226 every pay period with respect to Plaintiffs and the Putative Class because Defendants failed to provide a wage statement to

1 Plaintiffs and the Putative Class that complied with the requirements of Labor Code §
2 226.2(a)(2).

3 51. Defendants' failure to provide the required writing deprived the Putative Class,
4 including Plaintiffs, of the ability to know, understand, and question the calculation and rate of
5 pay and hours used to calculate the wages paid by Defendants. Therefore, the Putative Class,
6 including Plaintiffs, had no way to dispute the resulting miscalculation of wages, all of which
7 resulted in an unjustified economic enrichment to said Defendants. As a direct result, the
8 Putative Class have suffered and continue to suffer, substantial losses related to the use and
9 enjoyment of such wages, lost interest on such wages and expenses and attorney's fees in
10 seeking to compel Defendants to fully perform its obligation under state law, all to their
11 respective damages in amounts according to proof at trial.

12 52. As a result of Defendants' knowing and intentional failure to comply with Labor
13 Code § 226(a), the Putative Class, including Plaintiffs, have suffered an injury in that each was
14 prevented from knowing, understanding and disputing the wage payments paid to them.
15 Furthermore, the Putative Class and Plaintiffs have each suffered an injury in that the failure to
16 show all wages earned on the itemized wage statements resulted in each Putative Class member
17 being denied all necessary deductions, payments, and withholdings owed by the employer,
18 including, but not limited to, the failure to make all necessary contributions for unemployment
19 benefits, social security benefits, proper payment of taxes and withholdings, and other
20 mandated state and federal benefits.

21 53. Plaintiffs has also been injured as a result of having to bring this action to
22 attempt to obtain correct wage information following Defendants' refusal to comply with many
23 of the mandates of California's Labor Code and related laws and regulations.

24 54. Labor Code § 226(e) requires said Defendants to pay the greater of all actual
25 damages or fifty dollars (\$50.00) per employee for the initial pay period in which a violation
26 occurred, and one hundred dollars (\$100.00) per employee for each violation in subsequent pay
27 periods, plus attorney's fees and costs, to each Putative Class member, specifically the Wage
28 Statement Subclass, including Plaintiffs, who was injured by Defendants' failure to comply

1 with Labor Code § 226(a). The exact amount of the applicable penalty is all in an amount to be
2 shown according to proof at trial.

3 **THIRD CAUSE OF ACTION**

4 **FAILURE TO PAY ALL OVERTIME HOURS WORKED**

5 **[CAL. LAB. CODE §§ 1194 (A), 510]**

6 **(By Plaintiffs And The Putative Class Against All Defendants)**

7 55. Plaintiff realleges and incorporates by reference all prior paragraphs and
8 allegations in this Complaint, inclusive, as though fully set forth herein.

9 56. Plaintiff and the Putative Class bring this claim for Defendants' willful and
10 intentional violations of the California Labor Code and IWC requirements for Defendants'
11 failure to accurately calculate and pay minimum and overtime wages to Plaintiff and the
12 Putative Class.

13 57. Pursuant to Cal. Lab. Code §204, other applicable laws and regulations, and
14 public policy, an employer must timely pay its employees for all hours worked.

15 58. Cal. Lab. Code §510 provides that employees shall not be employed more than
16 eight (8) hours per workday and more than forty (40) hours per workweek unless they receive
17 additional compensation beyond their regular wages in amounts specified by law.

18 59. Cal. Lab. Code § 1197 provides the minimum wage for employees fixed by the
19 commission is the minimum wage to be paid to employees, and the payment of a less wage
20 than the minimum so fixed is unlawful.

21 60. Cal. Lab. Code § 1194 establishes an employee's right to recover unpaid wages
22 including minimum and overtime compensation and interest thereon, together with costs of
23 suit. Cal. Lab. Code § 1198 further states that the employment of an employee for longer hours
24 than those fixed by the IWC is unlawful.

25 61. Defendants maintains a uniform wage practice of paying Plaintiff and the
26 Putative Class without regard to the correct amount of time or number of hours worked,
27 including hours spent doing preparation, non-productive tasks, and/or time spent traveling to
28 job site locations after Plaintiff's required initial appearance at Defendants' place of business.

1 Additionally, Defendants failed to properly pay overtime rates and/or incorporate all wages
2 earned in order to calculate the regular rate of pay as set forth in Cal. Lab. Code §510. As set
3 forth herein, Defendants' uniform policy and practice is to unlawfully and intentionally deny
4 timely payment of wages due to Plaintiff and the Putative Class.

5 62. Defendants' uniform pattern of unlawful wage and hour practices applicable to
6 Plaintiff and the Putative Class, are the result of a uniform policy and practice that denies
7 accurate compensation to the Plaintiff and the Putative Class in regard to minimum and
8 overtime pay.

9 63. In committing these violations of the California Labor Code, Defendants failed
10 to pay the required 1.5x rate per hour for that work performed and/or completed after eight (8)
11 hours in a single day and forty (40) hours in one week and consequently underpays Plaintiff
12 and the Putative Class. Defendants' act is an illegal attempt to avoid the payment of all earned
13 wages, and other benefits in violation of the California Labor Code, the IWC requirements and
14 other applicable laws and regulations.

15 64. For example, on Saturday shifts, when Plaintiff and the Putative Class Members
16 had already worked for Defendant for five days and over 40 hours in that work week,
17 Defendant would pay Plaintiff and the Putative Class Members "under the table," in cash at
18 their regular rate of pay (as opposed to the legally required 1.5x rate of pay).

19 65. As a direct result of Defendants' unlawful wage practices as alleged herein,
20 Plaintiff and the Class did not receive the correct minimum wage and overtime compensation
21 for work performed for Defendants.

22 66. Defendants knew or should have known that Plaintiff and the Putative Class
23 were under-compensated for their hours worked. Defendants systematically elected, either
24 through intentional malfeasance or gross negligence, to not pay Plaintiff and the Putative Class
25 for their labor as a matter of uniform company policy, practice and procedure, and Defendants
26 perpetrated this systematic scheme by refusing to pay Plaintiff and the Putative Class the
27 correct minimum and overtime wages for hours worked.
28

1 67. In performing the acts and practices herein alleged in violation of California
2 labor laws, and refusing to compensate Plaintiff and the Class for all hours worked, including
3 non-productive time, and provide them with the requisite compensation, Defendants acted and
4 continues to act intentionally, oppressively, and maliciously toward Plaintiff and the Class with
5 an utter disregard for their legal rights, and with the despicable intent of depriving Plaintiff and
6 the Class of their property and legal rights, and otherwise causing them injury in order to
7 increase company profits at the expense of Plaintiff and the Putative Class.

8 68. Plaintiff and the Class therefore request recovery of all unpaid wages, including
9 overtime wages, according to proof, interest, statutory costs, attorney's fees, as well as the
10 assessment of any statutory penalties against Defendants in the amount as provided by the
11 California Labor Code and/or other applicable statutes. To the extent minimum and overtime
12 compensation is determined to be owed to Plaintiff prior to his termination, Defendants'
13 conduct also violates Labor Code §§ 201 and/or 202, and therefore Plaintiff and the Putative
14 Class are also entitled to waiting time penalties under Cal. Lab. Code § 203, which are sought
15 herein.

16 **FOURTH CAUSE OF ACTION**

17 **FAILURE TO PAY MINIMUM WAGE**

18 **[CAL. LAB. CODE §§ 1194, 1197, & 1197.1]**

19 **(By Plaintiffs And The Putative Class Against All Defendants)**

20 69. Plaintiff realleges and incorporates by reference all prior paragraphs and
21 allegations in this Complaint, inclusive, as though fully set forth herein.

22 70. Plaintiff and the Putative Class brings a claim for Defendants' willful and
23 intentional violations of the California Labor Code and the Industrial Welfare Commission
24 requirements for Defendants' failure to accurately calculate and pay minimum wages to
25 Plaintiff and the Putative Class.

26 71. Pursuant to Cal. Lab. Code § 204, other applicable laws and regulations, and
27 public policy, an employer must timely pay its employees for all hours worked.
28

1 72. Cal. Lab. Code § 1197 provides the minimum wage for employees fixed by the
2 commission is the minimum wage to be paid to employees, and the payment of a less wage than the
3 minimum so fixed is unlawful.

4 73. Cal. Lab. Code § 1194 establishes an employee's right to recover unpaid wages,
5 including minimum wage compensation and interest thereon, together with the costs of suit.

6 74. Defendants paid Plaintiff and the Putative Class for less hours than Plaintiff and
7 the Putative Class worked and failed to compensate Plaintiff and the Putative Class for all time
8 spent working for Defendants. Defendants had no system in place to accurately record the
9 number of hours worked by Plaintiff and the Putative Class, no system in place to compensate
10 for hours worked that were in excess of the typical eight hours. As set forth herein, Defendants'
11 uniform policy was to unlawfully and intentionally deny timely payment of wages due to
12 Plaintiff and the Putative Class.

13 75. Defendants' uniform pattern of unlawful wage and hour practices manifested,
14 without limitation, applicable to the California Class as a whole, as a result of implementing a
15 uniform policy practice that denied accurate compensation to Plaintiff and the Putative Class in
16 regard to minimum wage pay.

17 76. In committing these violations of the California Labor Code, Defendants
18 inaccurately calculated the correct time worked and consequently underpaid the actual time
19 worked by Plaintiff and the Putative Class. Defendants acted in an illegal attempt to avoid the
20 payment of all earned wages, and other benefits in violation of the California Labor Code, the
21 Industrial Welfare Commission requirements and other applicable laws and regulations.

22 77. As a direct result of Defendants' unlawful wage practices as alleged herein,
23 Plaintiff and the Putative Class did not receive the correct minimum wage compensation for
24 their time worked for Defendants.

25 78. During the California Class Period, Plaintiff and the Putative Class were paid less
26 for time worked that they were entitled to, constituting a failure to pay all earned wages.

27 79. By virtue of Defendants' unlawful failure to accurately pay all earned
28 compensation to the Plaintiff and the Putative Class for the true time they worked, Plaintiff and

1 the Putative Class have suffered and will continue to suffer an economic injury in amounts
2 which are presently unknown to them, and which will be ascertained according to proof at trial.

3 80. As evidenced by their own averaging paid practice records, Defendants knew or
4 should have known that Plaintiff and the Putative Class were under compensated for their time
5 worked. Defendant systematically elected, either through intentional malfeasance or gross
6 nonfeasance, to not pay employees for their labor as a matter of uniform company policy,
7 practice and procedure, and Defendants perpetrated this systematic scheme by refusing to pay
8 Plaintiff and the Putative Class the correct minimum wages for their time worked.

9 81. In performing the acts and practices herein alleged in violation of California labor
10 laws, and refusing to compensate the members of the Putative Class for all time worked and
11 provide them with the requisite compensation, Defendants acted and continue to act
12 intentionally, oppressively, and maliciously toward Plaintiff and the Putative Class with a
13 conscious and utter disregard for their legal rights, or the consequences to them, and with the
14 despicable intent of depriving them of their property and legal rights, and otherwise causing
15 them injury in order to increase company profits at the expense of these employees.

16 82. Plaintiff and the Putative Class therefore request recovery of all unpaid wages,
17 according to proof, interest, statutory costs, as well as the assessment of any statutory penalties
18 against Defendants in a sum as provided by the California Labor Code and/or other applicable
19 statutes. To the extent minimum wage compensation is determined to be owed to the California
20 Class Members who have terminated their employment, Defendant's conduct also violates Labor
21 Code §§ 201 and/or 202, and therefore these individuals are also entitled to waiting time
22 penalties under Cal. Lab. Code § 203, which penalties are sought herein on behalf of these
23 Putative Class Members. Defendant's conduct as alleged herein was willful, intentional and not
24 in good faith. Further, Plaintiff and the Putative Class are entitled to seek and recover statutory
25 costs.

26 **FIFTH CAUSE OF ACTION**

27 **FAILURE TO PROVIDE MEAL PERIODS AND PAID REST BREAKS**

28 **[CAL. LAB. CODE §§ 226.7 & 512]**

(By Plaintiffs And The Putative Class Against All Defendants)

83. Plaintiff realleges and incorporates by reference all prior paragraphs and allegations in this Complaint, inclusive, as though fully set forth herein.

84. Plaintiff and the Putative Class are and/or were “non-exempt” employees of Defendants who did not receive proper protections and benefits of the laws governing mandatory meal periods or rest breaks. Defendants violated the rights of the Meal Break Subclass and Rest Break Subclass under the Labor Code and as such they bring these claims.

85. Labor Code § 226.7 requires employers, including Defendants, to provide non-exempt employees with meal periods as mandated by the Industrial Welfare Commission. Labor Code § 512(a), in part, provides that employers, including Defendants, may not employ an employee for a work period of more than five (5) hours per day without providing an employee the opportunity to take uninterrupted meal period of not less than 30 minutes, except that if the total work period per day of the employee is no more than six (6) hours, the meal period may be waived by mutual consent of both employer and employee. Employers may not employ an employee for a work period more than ten (10) hours a day without providing the employee with a second meal period of not less than 30 minutes.

86. Pursuant to Labor Code § 226.7(b), employers shall pay an employee one additional hour of pay at the employee’s regular rate of compensation of each meal period that is missed.

87. Additionally, Labor Code § 226.7 requires employers, including Defendants, to provide rest period to its non-exempt employees as mandated by Order of the Industrial Welfare Commission.

88. The IWC wage order § 4 states, in part, that every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. Employees shall receive a 10-minute rest period every four (4) hours or major fraction thereof that they are required to work. Authorized rest period time shall be counted, as hours worked, for which there shall be no deduction from wages.

1 89. Pursuant to Labor Code § 226.7(b) and Section 4 of the applicable wage order,
2 Defendants shall pay Plaintiff and the Putative Class one additional hour of pay at their regular
3 rate of compensation for each day the rest period is not provided.

4 90. At all relevant times herein, Plaintiff and the Putative Class was not provided
5 with all mandatory meal and rest periods although Plaintiff and the Putative Class consistently
6 worked an eight (8) hour labor shift.

7 91. Additionally, Plaintiff and the Putative class were not paid a separate hourly rate
8 for their rest-breaks when they were paid on an hourly rate, essentially depriving them of a paid
9 rest break as guaranteed by the Labor Code. As a result, the Putative Class was deprived of a
10 paid rest break under *Bluford v. Safeway Stores, Inc.*, 216 Cal. App. 4th 864.

11 92. Furthermore, Defendants' failure to provide Plaintiff with legally required meal
12 breaks prior to his fifth (5th) hour of work is evidenced by Defendants' business records. As a
13 result, Plaintiff forfeited meal breaks without additional compensation and in accordance with
14 Defendants' strict corporate policy and practice.

15 93. Defendants violated Labor Code §§ 226.7, 512, and the applicable IWC wage
16 order every pay period with respect to Plaintiff and the Putative Class because he was not
17 provided with all mandatory meal and/or rest periods and Defendants failed to pay Plaintiff and
18 the Putative Class one additional hour of compensation in lieu thereof.

19 94. At all relevant times herein, Defendants failed to pay Plaintiffs and the Putative
20 Class all mandated paid rest breaks and failed to pay wage premiums in lieu of mandated meal
21 or rest periods, thereby receiving an economic benefit.

22 95. By Defendants' failure to provide Plaintiffs and the Putative Class, specifically
23 the Meal Break Subclass and Rest Break Subclass with meal periods and paid rest breaks
24 required by California law, and failing to pay one (1) hour of additional wages in lieu of each
25 meal period and/or paid rest break not provided, Defendants willfully violated Labor Code
26 sections 226.7 and 512, and IWC Wage Order section 4. Accordingly, Defendants are liable for
27 one hour of additional wages at the employee's regular rate of compensation for each workday
28

1 that a meal period and/or paid rest break was not lawfully provided in an amount to be proven
2 at trial.

3 **SIXTH CAUSE OF ACTION**

4 **UNFAIR COMPETITION**

5 **[CAL. BUS. & RPOF CODE § 17200, et. seq.]**

6 **(By Plaintiffs And The Putative Class Against All Defendants)**

7 96. Plaintiff realleges and incorporates by reference all prior paragraphs and
8 allegations in this Complaint, inclusive, as though fully set forth herein.

9 97. Defendants are a “person” as that term is defined under Cal. Bus. and Prof. Code
10 § 17021.

11 98. California Business & Professions Code §§ 17200, et seq. (the “UCL”) defines
12 unfair competition as any unlawful, unfair, or fraudulent business act or practice. Section 17203
13 authorizes injunctive, declaratory, and/or other equitable relief with respect to unfair
14 competition as follows:

15 Any person who engages, has engaged, or proposes to engage in
16 unfair competition may be enjoined in any court of competent
17 jurisdiction. The court may make such orders or judgments,
18 including the appointment of a receiver, as may be necessary to
19 prevent the use or employment by any person of any practice
20 which constitutes unfair competition, as defined in this chapter, or
21 as may be necessary to restore to any person in interest any money
22 or property, real or personal, which may have been acquired by
23 means of such unfair competition.

24 Cal. Bus. & Prof. Code § 17203.

25 99. By the conduct alleged herein, Defendants have engaged and continues to
26 engage in a business practice which violates California law, including but not limited to, the
27 applicable Wage Order(s), the California Code of Regulations and the California Labor Code
28 including Sections 203, 204, 210, 226, 226.7, 510, 512, 1194, 1197, and 1197.1 for which this
Court should issue declaratory and other equitable relief pursuant to Cal. Bus. & Prof. Code §
17203 as may be necessary to prevent and remedy the conduct held to constitute unfair
competition, including restitution of wages wrongfully withheld.

1 100. By the conduct alleged herein, Defendants’ practices were unlawful and unfair
2 in that these practices violated public policy, were immoral, unethical, oppressive,
3 unscrupulous or substantially injurious to employees, and were without valid justification or
4 utility for which this Court should issue equitable and injunctive relief pursuant to Section
5 17203 of the California Business & Professions Code, including restitution of wages
6 wrongfully withheld.

7 101. By the conduct alleged herein, Defendants’ practices were deceptive and
8 fraudulent in that Defendants’ policy and practice failed to pay Plaintiff and the Putative Class,
9 minimum, reporting time and overtime wages for all time worked, failed to accurately to record
10 the applicable rate of all overtime worked, and failed to provide the required amount of
11 overtime compensation due to a miscalculation of the overtime rate that cannot be justified,
12 pursuant to the applicable Cal. Lab. Code, and Industrial Welfare Commission requirements in
13 violation of Cal. Bus. Code §§ 17200, et seq., and for which this Court should issue injunctive
14 and equitable relief, pursuant to Cal. Bus. & Prof. Code § 17203, including restitution of wages
15 wrongfully withheld.

16 102. By the conduct alleged herein, Defendants’ practices were also unlawful, unfair
17 and deceptive in that Defendants’ employment practices caused Plaintiff and the Putative Class
18 to be underpaid during their employment with Defendants.

19 103. By the conduct alleged herein, Defendants’ practices were also unfair and
20 deceptive in that Defendants’ policies, practices and procedures failed to provide mandatory
21 meal and/or rest breaks to Plaintiff and the Putative Class.

22 104. Therefore, Plaintiffs and the Putative Class demand on behalf of themselves, one
23 (1) hour of pay for each workday in which an off-duty meal period was not timely provided for
24 each shift in excess of five (5) hours of work, and/or one (1) hour of pay for each workday in
25 which a second off-duty meal period was not timely provided for each ten (10) hour shift.

26 105. Plaintiff and the Putative Class further demands on behalf of themselves, one (1)
27 hour of pay for each workday in which an off duty paid rest period was not timely provided as
28 required by law.

1 106. By and through the unlawful and unfair business practices described herein,
2 Defendants have obtained valuable property, money and services from Plaintiff and the
3 Putative Class, including earned wages for all overtime worked, and has deprived them of
4 valuable rights and benefits guaranteed by law and contract, all to the detriment of these
5 employees and to the benefit of Defendants to allow Defendants to unfairly compete against
6 competitors who comply with the law.

7 107. All the acts described herein as violations of, among other things, the Industrial
8 Welfare Commission Wage Orders, the California Code of Regulations, and the California
9 Labor Code, were unlawful and in violation of public policy, were immoral, unethical,
10 oppressive, and unscrupulous, were deceptive, and thereby constitute unlawful, unfair and
11 deceptive business practices in violation of Cal. Bus. & Prof. Code §§ 17200, et seq.

12 108. Plaintiff and the Putative Class are entitled to, and do, seek such relief as may be
13 necessary to restore to them the money and property which Defendants have acquired, or of
14 which Plaintiff and the Putative Class have been deprived, by means of the above described
15 unlawful and unfair business practices, including earned but unpaid wages for all overtime
16 worked.

17 109. Plaintiff and the Putative Class are further entitled to, and do, seek a declaration
18 that the described business practices are unlawful, unfair and deceptive, and that injunctive
19 relief should be issued restraining Defendants' from engaging in any unlawful and unfair
20 business practices in the future.

21 110. Plaintiffs and the Putative Class have no plain, speedy and/or adequate remedy
22 at law that will end the unlawful and unfair business practices of Defendants. Further, the
23 practices herein alleged presently continue to occur unabated. As a result of the unlawful and
24 unfair business practices described herein, Plaintiffs and the Putative Class have suffered and
25 will continue to suffer irreparable legal and economic harm unless Defendants are restrained
26 from continuing to engage in these unlawful and unfair business practices.

27 **SEVENTH CAUSE OF ACTION**

28 **FAILURE TO REIMBURSE EMPLOYEES FOR REQUIRED EXPENSES**

[CAL. LAB. CODE § 2802]

(By Plaintiff Against All Defendants)

111. Plaintiff realleges and incorporates by reference all prior paragraphs and allegations in this Complaint, inclusive, as though fully set forth herein.

112. Cal. Lab. Code § 2802 provides, in relevant part, that:

An employer shall indemnify his or her employee 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, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful.

113. Defendants violated Cal. Lab. Code § 2802 by failing to indemnify and reimburse Plaintiff for required expenses incurred in discharge of her job duties or as a direct consequence of his obedience to the directions of Defendants. Specifically, Defendants failed to reimburse Plaintiff for expenses, which included, but were not limited to, costs related to use of personal vehicle expenses on behalf of and for the benefit of Defendants. Defendants' uniform policy, practice, and procedure was to not reimburse Plaintiff expenditures for Defendants within the course and scope of his employment for Defendants. These expenses were necessary to complete the principal job duties of Plaintiff and the Putative Class members. Specifically, Defendants required Plaintiff to purchase work tools such as scissors, field scissors, shovels, gloves, and protective eyewear to fulfill their job duties at the various work locations and then failed to reimburse them for these expenses. In addition, Defendants failed to reimburse Plaintiff and the members of the Putative Class for mileage at the applicable federal rate and/or for use of their personal cell phones for work-related communications while on the clock.

114. Plaintiff seeks recovery for expenditures or losses incurred by Plaintiff in the discharge of Plaintiff's job duties for Defendants, or Plaintiff's obedience to the directions of Defendants for an amount to be proven at trial, but in an amount no less than \$200.00.

PRAYER FOR RELIEF

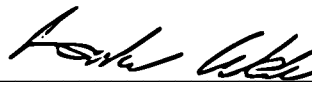
WHEREFORE, Plaintiff, on behalf of himself and the Putative Class, prays for judgment and relief against Defendants, and each of them, as follows:

1. For an Order certifying the proposed Classes and Subclasses;
2. For an Order appointing Plaintiff as the Representative of the Classes and Subclasses;
3. For an Order appointing Counsel for Plaintiff as Class Counsel;
4. For all applicable statutory penalties recoverable under each of the causes of action to the extent permitted by law, including those pursuant to Labor Code and Orders of the Industrial Welfare Commission, including but not limited to penalties pursuant to statutes set forth in California Labor Code §§ 201 – 204, 221, 222, 223, 226, 226.3, 226.4, 226.7, 450, 511, 512, 558, 1193.6, 1194.42, 1194.5, 1197.1, and other sections inadvertently omitted;
5. All funds unlawfully acquired by Defendants by means of any acts or practices declared by this Court to be in violation of the mandate established by the UCL;
6. That Defendants be ordered and enjoined to make restitution to each Class due to their unfair competition, pursuant to California Business and Professions Code §§ 17203 and 17204;
7. The greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000), and an award of costs for violation of Cal. Lab. Code § 226;
8. The amount of the expenses Plaintiffs and the Reimbursement Subclass incurred in the course of their job duties for Defendants, plus interest;
9. An award of exemplary and/or punitive damages against Defendants;
10. For liquidated damages;
11. For prejudgment and post judgment interest;
12. For costs and attorneys' fees; and

1 13. For such other relief as the Court deems just and proper.
2

3 Dated: February 9, 2024

WEBB LAW GROUP, APC

4
5 By 
6 LENDEN F. WEBB
7 CHRISTOPHER E. NICHOLS
8 KATHERINE E. CERVANTES
9 Attorneys for Plaintiff.
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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF FRESNO

I am employed in the County of San Diego, State of California. I am over the age of 18 and not a party to the within action; my primary business address is: **10509 Vista Sorrento Parkway, Suite 450, San Diego, CA 92121**. My email address is **Service@WebbLawGroup.com**.

On **April 23, 2024** I caused the service of document(s) described as:

I. El Dorado Letter to 2024 04 April 23 PAGA Notice

on the interested parties in this action by placing a true copy thereof enclosed in a sealed envelope at: San Diego, California, addressed as follows:

Dan C. Stein
Mark Kruthers
Kelly Ridenour
FENNEMORE LAW
8080 N Palm Avenue, Third Floor
Fresno, CA 93711
Telephone: (559) 446-3285
Email: dstein@fennemorelaw.com
Email: mkruthers@fennemorelaw.com
Email: kridenour@fennemorelaw.com
Attorneys for Defendant

Brooke B. Nevels
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Telephone (619) 374-1100
Email: BNevels@NevelsNichols.com
Email: CNichols@NevelsNichols.com
Email: Service@NevelsNichols.com
Attorneys for Plaintiffs

____ (BY MAIL) I am readily familiar with this business' practice for collection and processing of correspondence for mailing, and that correspondence, with postage thereon fully prepaid, will be deposited with the U.S. Postal Service on the date hereinabove in the ordinary course of business, at Fresno, California.

____ (BY PERSONAL SERVICE) I caused such envelope to be delivered by hand to the offices of the addressee(s).

XX (BY E-MAIL) I caused the above-referenced document(s) to be electronically mailed to the offices of the addressee(s) **pursuant to CCP § 1010.6**. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

Executed on **April 23, 2024**, at San Diego, California.

XX (STATE) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.



PRISCILLA GLAZE

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF FRESNO

I am employed in the County of San Diego, State of California. I am over the age of 18 and not a party to the within action; my primary business address is: **10509 Vista Sorrento Parkway, Suite 450, San Diego, CA 92121**. My email address is **Service@WebbLawGroup.com**.

On **July 12, 2024** I caused the service of document(s) described as:

1. FIRST AMENDED CLASS ACTION COMPLAINT

on the interested parties in this action by placing a true copy thereof enclosed in a sealed envelope at: San Diego, California, addressed as follows:

Dan C. Stein
Mark Kruthers
Kelly Ridenour
FENNEMORE LAW
8080 N Palm Avenue, Third Floor
Fresno, CA 93711
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Email: mkruthers@fennemorelaw.com
Email: kridenour@fennemorelaw.com
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Email: CNichols@NevelsNichols.com
Email: Service@NevelsNichols.com
Attorneys for Plaintiffs

____ (BY MAIL) I am readily familiar with this business' practice for collection and processing of correspondence for mailing, and that correspondence, with postage thereon fully prepaid, will be deposited with the U.S. Postal Service on the date hereinabove in the ordinary course of business, at Fresno, California.

____ (BY PERSONAL SERVICE) I caused such envelope to be delivered by hand to the offices of the addressee(s).

XX (BY E-MAIL) I caused the above-referenced document(s) to be electronically mailed to the offices of the addressee(s) **pursuant to CCP § 1010.6**. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

Executed on **July 12, 2024**, at San Diego, California.

XX (STATE) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.


MORGAN V. EDGAR