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 Superior Court of California
 County of Los Angeles
06/24/2024
 David W. Slayton, Executive Officer / Clerk of Court
 By: M. Arellanes Deputy

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
 FOR THE COUNTY OF LOS ANGELES**

DARREN CAIN, as an individual and on
 behalf of all others similarly situated,

 Plaintiff,

 vs.
 BELLHOPS MOVING, LLC, a Delaware
 limited liability company; and DOES 1
 through 100,

 Defendants.

CASE NO. 24STCV09965

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

- (1) FAILURE TO PAY ALL OVERTIME
 WAGES (LABOR CODE §§ 204, 510,
 558, 1194, 1198);**
- (2) MINIMUM WAGE VIOLATIONS
 (LABOR CODE §§ 1182.12, 1194,
 1194.2, AND 1197);**
- (3) MEAL PERIOD VIOLATIONS
 (LABOR CODE §§ 226.7, 512, 558);**
- (4) REST PERIOD VIOLATIONS
 (LABOR CODE §§ 226.7, 516, 558);**
- (5) FAILURE TO REIMBURSE
 NECESSARY BUSINESS
 EXPENDITURES (LABOR CODE
 §§ 2802, 2804)**
- (6) WAGE STATEMENT VIOLATIONS
 (LABOR CODE § 226 *et seq.*);**
- (7) WAITING TIME PENALTIES
 (LABOR CODE §§ 201-203);**
- (8) UNFAIR COMPETITION (BUS &
 PROF CODE § 17200 *et seq.*); and**

**(9) CIVIL PENALTIES UNDER THE
PRIVATE ATTORNEYS GENERAL
ACT (LABOR CODE § 2698, *et seq.*)**

**DEMAND FOR JURY TRIAL
UNLIMITED CIVIL CASE**

Plaintiff Darren Cain (“Plaintiff”), on behalf of himself and all others similarly situated, hereby brings this First Amended Class and Representative Action Complaint against Bellhops Moving, LLC, a Delaware limited liability company, and DOES 1 through 100, inclusive (collectively “Defendants”), and on information and belief alleges as follows:

JURISDICTION

1. Plaintiff, on behalf of himself and all others similarly situated, hereby brings this action for recovery of unpaid wages, penalties, and unreimbursed expenses under California Labor Code §§ 201-204, 226 *et seq.*, 226.7, 510, 512, 516, 558, 1182.12, 1194, 1197, 1198, 2802, 2804, and 2698 *et seq.*, California Business and Professions Code § 17200 *et. seq.* (“Unfair Competition Law”), and Industrial Welfare Commission Wage Order 9 (“Wage Order 9”) in addition to seeking declaratory relief, injunctive relief, and restitution. This Complaint is brought pursuant to California Code of Civil Procedure § 382. This Court has jurisdiction over Defendants’ violations of the California Labor Code because the amount in controversy exceeds this Court’s jurisdictional minimum.

VENUE

2. Venue is proper in this judicial district pursuant to California Code of Civil Procedure §§ 395(a) and 395.5, as Defendants’ principal place of business is located in Los Angeles County. Defendants own, maintain offices, transact business, have an agent or agents within Los Angeles County, and/or otherwise are found within the Los Angeles County, and Defendants are within the jurisdiction of this Court for purposes of service of process.

THE PARTIES

3. Plaintiff is an individual over the age of eighteen (18). At all relevant times herein, Plaintiff was, and currently is, a California resident. During the four years immediately preceding the filing of the Complaint in this action, and within the statute of limitations periods applicable to each cause of action pled herein, Defendants employed Plaintiff as a non-exempt employee in

1 Los Angeles County. Plaintiff was, and is, a victim of Defendants' policies and/or practices
2 complained of herein, lost money and/or property, and has been deprived of the rights guaranteed
3 to him by California Labor Code §§ 201-204, 226 *et seq.*, 226.7, 510, 512, 516, 558, 1182.12,
4 1194, 1197, 1198, 2802, 2804, and 2698 *et seq.*, California Business and Professions Code
5 § 17200 *et. seq.*, and Wage Order 9, which sets employment standards for the transportation
6 industry.

7 4. Plaintiff is informed and believes, and based thereon alleges, that during the four
8 years preceding the filing of the Complaint and continuing to the present, Defendants did (and
9 continue to do) business within Los Angeles County by operating a residential and corporate
10 moving service, and employed Plaintiff and other, similarly situated non-exempt employees
11 within Los Angeles County and the state of California and, therefore, were (and are) doing
12 business in Los Angeles County and the State of California.

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

21 6. Plaintiff is informed and believes, and thereon alleges, that all Defendants,
22 however designated whether by real or fictitious name, were and are in some manner responsible
23 for the events, happenings, occurrence and instrumentalities upon and about which this action is
24 made. At all relevant times mentioned herein, Defendants were and are the employers of Plaintiff
25 and all similarly situated employees.

26 7. Plaintiff is further informed and believes, and thereon alleges, that each of the
27 Defendants herein, whether designated by real or fictitious name, are, and at all times relevant
28 hereto, were, the agents, servants, and employees and hirelings of each of the co-Defendants, as

1 well as the agents of all Defendants, and in doing things and acts herein alleged and complained
2 of or in failing to do that which they should have done, were acting within the scope of
3 employment. Defendants, and each of them, approved of, condoned, and/or otherwise ratified
4 each and every one of the acts or omissions alleged herein.

5 8. At all times mentioned herein, Defendants, and each of them, were members of
6 and engaged in a joint venture, partnership, and common enterprise, and acting within the course
7 and scope of and in pursuance of said joint venture, partnership, and common enterprise. Further,
8 Plaintiff alleges that all Defendants were joint employers for all purposes of Plaintiff and all
9 members of the Classes.

10 **GENERAL FACTUAL ALLEGATIONS**

11 9. Defendants operate a residential and corporate moving service throughout
12 California. Defendants employed Plaintiff as a non-exempt Lead Mover from approximately
13 April 2021 to approximately September 2023. Plaintiff's job duties included coordinating with
14 customers regarding their move, directing other movers, and assisting in loading and unloading
15 moving trucks. Unless otherwise stated, all allegations contained herein occurred during
16 Plaintiff's employment with Defendants.

17 10. Defendants' timekeeping policies and/or practices resulted in Plaintiff and other
18 non-exempt employees not being compensated for all hours actually worked, including all hours
19 subject to the control of Defendants and/or suffered or permitted to work. Specifically,
20 Defendants failed to pay Plaintiff and other non-exempt employees for all time spent traveling to
21 their initial jobsite each work day, which varied each day, instead requiring Plaintiff and other
22 non-exempt employees to drive to the assigned work location before being permitted to clock in
23 for their work shift. Further, Defendants require Plaintiff and other non-exempt employees to use
24 their personal cell phones for work-related tasks while off-the-clock, again without paying
25 Plaintiff and other non-exempt employees for all time spent on this required work activity.
26 Specifically, Defendants instructed Plaintiff and other non-exempt employees to use their
27 personal cell phones to contact customers on the night prior to performing work for the client,
28 while off the clock, in order to discuss any logistics concerning the client's move. Additionally,

1 Defendants require Plaintiff and other non-exempt employees to use the company's cell phone
2 application while off the clock in order to view any available work shifts and to reserve or request
3 being assigned to specific work assignments, while not compensating for that time. Finally,
4 Defendants require Plaintiff and other non-exempt employees to use their personal cell phones to
5 coordinate with each other regarding joint work assignments while off the clock and without
6 additional compensation. As a result of these policies and practices, Defendants have deprived
7 Plaintiff and other non-exempt employees of all minimum and overtime wages earned.

8 11. Defendants failed to provide Plaintiff and other non-exempt employees with all
9 required meal periods. Specifically, Plaintiff and other non-exempt employees regularly work
10 shifts in excess of 5.0 hours, but Defendants do not provide any lawful, duty-free meal periods
11 for Plaintiff and other non-exempt employees. Defendants also failed to provide Plaintiff and
12 other non-exempt employees with an additional hour of premium pay for each workday in which
13 a meal period violation occurred, as required by Labor Code § 226.7.

14 12. Plaintiff and other non-exempt employees were also not authorized and permitted
15 to take a rest period for every 4 hours worked (or major fraction thereof) due to Defendants'
16 unlawful rest period policies/practices. Specifically, Defendants failed to authorize and permit
17 any rest breaks throughout the workday in violation of California law, even though Plaintiff and
18 other non-exempt employees regularly worked shifts in excess of 3.5 hours in length. Defendants
19 also failed to provide Plaintiff and other non-exempt employees with an additional hour of
20 premium pay for each workday in which a rest period violation occurred, as required by Labor
21 Code § 226.7.

22 13. Defendants also required Plaintiff and other non-exempt employees to use their
23 personal cellular phones, vehicle and tools for work. Specifically, Defendants required employees
24 to use their personal cellular phones to communicate with supervisors and other movers, and to
25 clock in and out of shifts every day. Also, Defendants require Plaintiff and other non-exempt
26 employees to drive their personal vehicle to various job sites during their work days. While
27 Defendant did pay a mileage reimbursement, all mileage reimbursement paid to Plaintiff and other
28 non-exempt employees was underpaid, as it was paid below the mileage reimbursement rate set

1 by the Internal Revenue Service. Additionally, Plaintiff used his own tools such as hammers,
2 screwdrivers, straps, dollies and moving blankets. However, Defendants never reimbursed
3 Plaintiff for a reasonable portion of his cellular phone expenses or for the cost of necessary work
4 tools, as mandated by Labor Code § 2802. *See also Cochran v. Schwan's Home Service, Inc.*
5 (2014) 228 Cal.App.4th 1137, 1144 (holding that an employer must reimburse a reasonable
6 portion of an employee's cell phone bill when its use is necessary for the job).

7 14. As a result of Defendants' failure to pay all overtime wages, minimum wages, and
8 meal and rest period premiums, Defendants maintained inaccurate payroll records, issued
9 inaccurate wage statements, and failed to pay all final wages to Plaintiff and other non-exempt
10 employees upon their separation of employment.

11 **CLASS ACTION ALLEGATIONS**

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

- 14 a. The Overtime Class consists of all Defendants' current and former non-exempt
15 employees in California who worked more than 8.0 hours per day and/or 40.0
16 hours per workweek and were subject to Defendants' timekeeping policies and/or
17 practices, during the four years immediately preceding the filing of this action
18 through the present.
- 19 b. The Minimum Wage Class consists of all Defendants' current and former non-
20 exempt employees in California who were subject to Defendants' timekeeping
21 policies and/or practices, during the four years immediately preceding the filing of
22 this action through the present.
- 23 c. The Meal Period Class consists of all Defendants' current and former non-exempt
24 employees in California who: (i) worked at least one shift in excess of 5.0 hours
25 without a recorded meal period of at least 30 minutes commencing prior to the end
26 of the fifth hour of work; or (ii) worked at least one shift in excess of 10.0 hours
27 without a recorded second meal period of at least 30 minutes commencing prior to
28

the end of the tenth hour of work, during the four years immediately preceding the filing of this action through the present.

d. The Rest Period Class consists of all Defendants' current and former non-exempt employees in California who worked at least one shift in excess of 3.5 hours, during the four years immediately preceding the filing of this action through the present.

e. The Expense Reimbursement Class consists of all Defendants' current and former non-exempt employees in California who were subject to Defendants' reimbursement policies/practices, during the four years immediately preceding the filing of this action through the present.

f. The Wage Statement Class consists of all members of the (i) Overtime Class; (ii) Minimum Wage Class; (iii) Meal Period Class; and/or (iv) Rest Period Class, who received a wage statement from Defendants during the one year immediately preceding the filing of the action through the present.

g. The Waiting Time Class consists of all members of the (i) Overtime Class; (ii) Minimum Wage Class; (iii) Meal Period Class; and/or (iv) Rest Period Class, who separated their employment from Defendants during the three years immediately preceding the filing of the action through the present.

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

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

- i. Whether Defendants lawfully paid for all overtime hours worked to members of the Overtime Class pursuant to Labor Code §§ 204, 510, 558, 1194 and 1198;
- ii. Whether Defendants lawfully paid all minimum wages for all hours worked to members of the Minimum Wage Class pursuant to Labor Code §§ 1182.12, 1194, 1194.2 and 1197;
- iii. Whether Defendants provided all legally compliant meal periods to members of the Meal Period Class;
- iv. Whether Defendants authorized and permitted all legally compliant rest periods to members of the Rest Period Class;
- v. Whether Defendants provided meal and/or rest period premium payments for non-compliant meal and/or rest periods;
- vi. Whether Defendants failed to reimburse members of the Expense Reimbursement Class for all necessary business expenses;
- vii. Whether Defendants furnished legally compliant wage statements to members of the Wage Statement; and
- viii. Whether Defendants' policies and/or practices for the timing and payment of final wages to members of the Waiting Time Class were unlawful.

18. **Predominance of Common Questions:** Common questions of law and fact predominate over questions that affect only individual members of the Classes. The common questions of law set forth above are numerous and substantial and stem from Defendants' policies and/or practices applicable to each individual class member, such as Defendants' overtime, minimum wage, meal and rest period, and reimbursement policies/practices. As such, the common questions predominate over individual questions concerning each individual class member's showing as to his or her eligibility for recovery or as to the amount of his or her damages.

19. **Typicality:** Plaintiff's claims are typical of the claims of the Classes because Plaintiff, like the members of the Classes, was employed by Defendants in California during the

1 applicable statute of limitations period and was not paid all wages, provided all legally required
2 meal and rest periods, reimbursed for her personal cell phone use, did not receive accurate,
3 compliant wage statements, and was not paid all final wages owed at the time of separation of
4 employment.

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

11 21. **Superiority:** The California Labor Code is broadly remedial in nature and serves
12 an important public interest in establishing minimum working conditions and standards in
13 California. These laws and labor standards protect the average working employee from
14 exploitation by employers who have the responsibility to follow the laws, and who may seek to
15 take advantage of superior economic and bargaining power in setting onerous terms and
16 conditions of employment. The nature of this action and the format of laws available to Plaintiff
17 and members of the Classes make the class action format a particularly efficient and appropriate
18 procedure to redress the violations alleged herein. If each employee was required to file an
19 individual lawsuit, Defendants would necessarily gain an unconscionable advantage since they
20 would be able to exploit and overwhelm the limited resources of each individual plaintiff with
21 their vastly superior financial and legal resources. Moreover, requiring each member of the
22 Classes to pursue an individual remedy would also discourage the assertion of lawful claims by
23 employees who would be disinclined to file an action against their former and/or current employer
24 for real and justifiable fear of retaliation and permanent damages to their careers at subsequent
25 employment. Further, the prosecution of separate actions by the individual class members, even
26 if possible, would create a substantial risk of inconsistent or varying verdicts or adjudications
27 with respect to the individual class members against Defendants herein; and which would
28 establish potentially incompatible standards of conduct for Defendants; and/or legal

determinations with respect to individual class members which would, as a practical matter, be dispositive of the interest of the other class members not parties to adjudications or which would substantially impair or impede the ability of the class members to protect their interests. Further, the claims of the individual members of the Classes are not sufficiently large to warrant vigorous individual prosecution considering all of the concomitant costs and expenses attending thereto. As such, the Classes identified herein are maintainable under Code of Civil Procedure § 382.

FIRST CAUSE OF ACTION

FAILURE TO PAY ALL OVERTIME WAGES

(AGAINST ALL DEFENDANTS)

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

23. This cause of action is brought pursuant to Labor Code §§ 204, 510, 558, 1194, and 1198, which provide that non-exempt employees are entitled to all overtime wages and compensation for hours worked, and provide a private right of action for the failure to pay all overtime compensation for overtime work performed.

24. At all times relevant herein, Defendants were required to properly compensate non-exempt employees, including Plaintiff and members of the Overtime Class, for all overtime hours worked pursuant to Labor Code § 1194 and Wage Order 9. Wage Order 9, § 3 requires an employer to pay an employee “one and one-half (1½) times the employee’s regular rate of pay” for work in excess of eight hours per workday and/or in excess of forty hours of work in the workweek. Wage Order 9, § 3 also requires an employer to pay an employee double the employee’s regular rate of pay for work in excess of twelve hours each work day and/or for work in excess of eight hours on the seventh consecutive day of work in the workweek. Defendants caused Plaintiff to work overtime hours, but did not compensate Plaintiff or members of the Overtime Pay Class at one and one-half times their regular rate of pay for such hours or double their regular rate of pay for those hours worked in excess of 12 hours in a single workday.

25. The foregoing policies and practices alleged herein are unlawful and create entitlement to recovery by Plaintiff and the members of the Overtime Class in a civil action for the unpaid amount of overtime wages, including interest thereon, statutory penalties, civil

1 penalties, attorneys' fees, and costs of suit according to California Labor Code §§ 204, 210, 216,
2 510, 558, 1194, and 1198; and Code of Civil Procedure § 1021.5.

3 **SECOND CAUSE OF ACTION**

4 **MINIMUM WAGE VIOLATIONS**

5 **(AGAINST ALL DEFENDANTS)**

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

7 27. Wage Order 9, § 4 and California Labor Code §§ 1197 and 1182.12 establish the
8 right of employees to be paid minimum wages for all hours worked, in amounts set by state law.
9 Labor Code §§ 1194(a) and 1194.2(a) provide that an employee who has not been paid the legal
10 minimum wage as required by Labor Code § 1197 may recover the unpaid balance together with
11 attorneys' fees and costs of suit, as well as liquidated damages in an amount equal to the unpaid
12 wages and interest accrued thereon.

13 28. At all relevant times herein, Defendants failed to conform their pay practices to
14 the requirements of the law by failing to compensate Plaintiff and members of the Minimum
15 Wage Class for all hours worked including, but not limited to, all hours they were subject to the
16 control of Defendants and/or suffered or permitted to work under the California Labor Code and
17 Wage Order 9.

18 29. California Labor Code § 1198 makes unlawful the employment of an employee
19 under conditions that the IWC prohibits. California Labor Code §§ 1194(a) and 1194.2(a) provide
20 that an employer who has failed to pay its employees the legal minimum wage is liable to pay
21 those employees the unpaid balance of the unpaid wages as well as liquidated damages in an
22 amount equal to the wages due and interest thereon.

23 30. As a direct and proximate result of Defendants' unlawful conduct as alleged
24 herein, Plaintiff and the Minimum Wage Class have sustained economic damages including, but
25 not limited to, unpaid wages and lost interest, in an amount to be established at trial, and are
26 entitled to recover economic and statutory damages and penalties and other appropriate relief as
27 a result of Defendants' violations of the California Labor Code and Wage Order 9.

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1 31. The foregoing practices and policies are unlawful and create an entitlement to
2 recovery by Plaintiff and the members of the Minimum Wage Class in a civil action for the unpaid
3 amount of minimum wages owing, including interest thereon, liquidated damages, statutory and
4 civil penalties, attorney's fees, and costs of suit according to California Labor Code §§ 204, 558,
5 1194, 1197, and 1198, Wage Order 9, and Code of Civil Procedure § 1021.5

6 **THIRD CAUSE OF ACTION**

7 **MEAL PERIOD VIOLATIONS**

8 **(AGAINST ALL DEFENDANTS)**

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

10 33. Plaintiff is informed and believes, and based thereon alleges, that Defendants
11 failed in their affirmative obligation to provide all of their non-exempt employees in California,
12 including Plaintiff and members of the Meal Period Class, with all legally compliant meal periods
13 in accordance with the mandates of the California Labor Code and Wage Order 9, § 11. Despite
14 Defendants' violations, Defendants did not pay an additional hour of pay to Plaintiff and members
15 of the Meal Period Class at their respective regular rates of pay, in accordance with California
16 Labor Code §§ 204, 210, 226.7, and 512.

17 34. As a result, Defendants are responsible for paying premium compensation for meal
18 period violations pursuant to Labor Code §§ 226.7, 512, 558, and 1198, and Wage Order 9,
19 including interest thereon, statutory penalties, civil penalties, and costs of suit.

20 **FOURTH CAUSE OF ACTION**

21 **REST PERIOD VIOLATIONS**

22 **(AGAINST ALL DEFENDANTS)**

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

24 36. Wage Order 9, § 12 and California Labor Code §§ 226.7, 516, 558, and 1198
25 establish the right of employees to be authorized and permitted to take a paid rest period of at
26 least ten (10) minutes net rest time for each four (4) hour period worked, or major fraction thereof.

27 37. As alleged herein, Defendants failed to authorize and permit Plaintiff and members
28 of the Rest Period Class to take all required and legally compliant rest periods, and failed to pay

1 rest period premium wages when rest periods were not authorized and permitted.

2 38. The foregoing violations create an entitlement to recovery by Plaintiff and
3 members of the Rest Period Class in a civil action for the unpaid amount of rest period premiums
4 owing, including interest thereon, statutory penalties, civil penalties, and costs of suit according
5 to California Labor Code §§ 226.7, 516, 558, and Civil Code §§ 3287(b) and 3289.

6 **FIFTH CAUSE OF ACTION**

7 **FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENSES**

8 **(AGAINST ALL DEFENDANTS)**

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

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

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

19 42. As a proximate result of Defendants’ policies and/or practices in violation of Labor
20 Code §§ 2802 and 2804, and Wage Order 9 § 9, Plaintiff and members of the Classes were
21 damaged in sums, which will be shown according to proof.

22 43. Plaintiff and members of the class are entitled to attorney’s fees and costs of suit
23 pursuant to Labor Code § 2802(c) for bringing this action. Pursuant to Labor Code § 2802(b), any
24 action brought for the reimbursement of necessary expenditures carries interest at the same rate
25 as judgments in civil actions. Thus, Plaintiff is entitled to interest, which shall accrue from the
26 date on which Plaintiff incurred the necessary expenditure.

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SIXTH CAUSE OF ACTION
WAGE STATEMENT VIOLATIONS
(AGAINST ALL DEFENDANTS)

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

45. Plaintiff is informed and believes, and based thereon alleges, that Defendants knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Plaintiff and the Wage Statement Class with accurate and complete itemized wage statements that included, among other requirements, all minimum and overtime wages earned, and all meal and rest period premium wages earned, in violation of Labor Code § 226.

46. Defendants' failure to furnish Plaintiff and members of the Wage Statement Class with complete and accurate itemized wage statements resulted in actual injury, as said failures led to, among other things, all overtime wages, minimum wages, meal and rest period premium wages, and deprived them of the information necessary to identify the discrepancies in Defendants' reported data.

47. Defendants' failures create an entitlement to recovery by Plaintiff and members of the Wage Statement Class in a civil action for all damages and/or penalties pursuant to Labor Code § 226 *et seq.*, including statutory penalties, civil penalties, reasonable attorneys' fees, and costs of suit according to California Labor Code § 226 *et seq.*

SEVENTH CAUSE OF ACTION
WAITING TIME PENALTIES
(AGAINST ALL DEFENDANTS)

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

49. This cause of action is brought pursuant to Labor Code §§ 201-203, which require an employer to pay all wages earned immediately at the time of separation of employment in the event the employer discharges the employee, or if the employee provides at least 72 hours of notice of his/her intent to quit. In the event the employee provides less than 72 hours of notice of his/her intent to quit, said employee's wages become due and payable not later than 72 hours upon said employee's last date of employment.

1 50. Plaintiff is informed and believes, and based thereon alleges, that Defendants
2 failed to timely pay Plaintiff and members of the Waiting Time Class all final wages due to them
3 at the time of their separation including, among other things unpaid overtime wages, minimum
4 wages, meal and rest period premium wages. Further, Plaintiff is informed and believes, and based
5 thereon alleges, that as a matter of uniform policy and practice, Defendants continue to fail to pay
6 members of the Waiting Time Class all earned wages at the end of employment in a timely manner
7 pursuant to the requirements of Labor Code §§ 201-203. Defendants' failure to pay all final wages
8 was willful within the meaning of Labor Code § 203.

9 51. Defendants' willful failure to timely pay Plaintiff and members of the Waiting
10 Time Class all earned wages upon separation from employment results in a continued payment
11 of wages up to thirty (30) days from the time the wages were due. Therefore, Plaintiff and
12 members of the Waiting Time Class are entitled to compensation pursuant to Labor Code § 203,
13 plus reasonable attorneys' fees and costs of suit.

14 **EIGHTH CAUSE OF ACTION**
15 **UNFAIR COMPETITION**
16 **(AGAINST ALL DEFENDANTS)**

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

18 53. Defendants have engaged and continue to engage in unfair and/or unlawful
19 business practices in California in violation of California Business and Professions Code § 17200
20 *et seq.*, by failing to pay Plaintiff and the Classes all minimum and overtime wages owed, failing
21 to provide Plaintiff and the Classes lawful meal periods, failing to authorize and permit Plaintiff
22 and the Classes lawful rest periods, failing to reimburse all necessary business expenses incurred,
23 knowingly failing to furnish accurate itemized wage statements, and failing to timely pay all final
24 wages owed upon separation.

25 54. Defendants' utilization of these unfair and/or unlawful business practices deprived
26 Plaintiff and continues to deprive members of the Classes of compensation to which they are
27 legally entitled, constitutes unfair and/or unlawful competition, and provides an unfair advantage
28

over Defendants' competitors who have been and/or are currently employing workers and attempting to do so in honest compliance with applicable wage and hour laws.

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

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

57. Plaintiff was compelled to retain the services of counsel to file this court action to protect Plaintiff's interests and those of the Class, to obtain restitution, to secure injunctive relief on behalf of Defendants' current non-exempt employees, and to enforce important rights affecting the public interest. Plaintiff thereby incurred the financial burden of attorneys' fees and costs, which Plaintiff is entitled to recover under Code of Civil Procedure § 1021.5.

NINTH CAUSE OF ACTION

PRIVATE ATTORNEYS GENERAL ACT

(AGAINST ALL DEFENDANTS)

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

59. Defendants have committed several Labor Code violations against Plaintiff, members of the Classes, and other aggrieved employees. Plaintiff, an "aggrieved employee" within the meaning of Labor Code § 2698 *et seq.*, acting on behalf of himself and other aggrieved employees, brings this representative action against Defendants to recover the civil penalties due to Plaintiff, the members of the Classes, other aggrieved employees, and the State of California according to proof pursuant to Labor Code §§ 558 and 2699 (a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for each failure to pay each employee and \$200 for each subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100 for each subsequent violation pursuant to Labor Code § 558 per employee pay period; (3) \$100.00 for each initial violation and \$250.00 for each subsequent

violation pursuant to Labor Code § 1197.1 per employee per pay period; (4) \$250.00 for each initial violation and \$1,000.00 for each subsequent violation pursuant to Labor Code § 226.3 per employee per pay period; and/or (5) \$100.00 for each initial violation and \$200 for each subsequent violation per employee per pay period for those violations of the Labor Code for which no civil penalty is specifically provided, based on the following Labor Code violations:

- a. Defendants violated Labor Code §§ 204, 510, 558, 1194 and 1198 by failing to pay Plaintiff and other aggrieved employees all overtime compensation earned;
- b. Defendants violated Labor Code §§ 1182.12, 1194, 1194.2, and 1197 by failing to pay Plaintiff and other aggrieved employees the statutory minimum wage for all hours worked;
- c. Defendants violated Labor Code §§ 226.7, 512, and 558, by failing to provide meal periods as required by law and failing to pay meal period premiums to Plaintiff and other aggrieved employees at these employees' respective regular rates of compensation for meal period violations;
- d. Defendants violated Labor Code §§ 226.7, 516, and 558 by failing to authorize and permit Plaintiff and other aggrieved employees to take all lawful rest periods to which they are entitled, and failing to pay rest period premiums to Plaintiff and other aggrieved employees at these employees' respective regular rates of compensation for rest period violations;
- e. Defendants violated Labor Code §§ 2802 and 2804 by failing to reimburse Plaintiff and other aggrieved employees for all work-related expenses incurred;
- f. Defendants violated Labor Code § 226 by failing to furnish Plaintiff and other aggrieved employees with accurate and compliant itemized wage statements;
- g. Defendants violated Labor Code §§ 201-203 by failing to timely pay all final wages due to Plaintiff and other aggrieved employees;
- h. Defendants violated Labor Code §§ 558 and 1174 by failing to maintain accurate records on behalf of Plaintiff and other aggrieved employees; and
- i. Defendants violated Labor Code § 204 by failing to pay Plaintiff and other aggrieved employees all wages earned at least twice during each calendar month.

60. On April 19, 2024, Plaintiff notified Defendants via certified mail, and notified the California Labor and Workforce Development Agency (“LWDA”) via its website, of Defendants’ violations of the California Labor Code and Plaintiff’s intent to bring a claim for civil penalties under California Labor Code § 2698 *et seq.* with respect to the violations of the California Labor Code identified in Paragraph 59 (a)-(i). Now that sixty-five days have passed from Plaintiff notifying Defendants and the LWDA of these violations, and the LWDA has not provided notice that it intends to investigate the violations, Plaintiff has exhausted his administrative requirements for bringing a claim under the Private Attorneys General Act with respect to these violations.

61. Based on the foregoing, Plaintiff seeks to represent himself and all Aggrieved Employees, as defined by Labor Code § 2699(c), which includes all of Defendants' current and former employees who worked for Defendants in California at any time between April 19, 2023, and the present.

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

PRAYER

WHEREFORE, Plaintiff prays for judgment for himself and for all others on whose behalf this suit is brought against Defendants, as follows:

1. For an order certifying the proposed Classes;
2. For an order appointing Plaintiff as representative of the Classes;
3. For an order appointing counsel for Plaintiff as counsel for the Classes;
4. Upon the First Cause of Action for compensatory, consequential, general and special damages according to proof pursuant to Labor Code §§ 204, 510, 558, 1194, and 1198;
5. Upon the Second Cause of Action, for payment of minimum wages, liquidated damages, and penalties owed according to proof pursuant to Labor Code §§ 558, 1182.12, 1194, 1194.2 and 1197;

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1 6. Upon the Third Cause of Action for compensatory, consequential, general and
2 special damages according to proof pursuant to Labor Code §§ 226.7, 512, and 558;

3 7. Upon the Fourth Cause of Action for compensatory, consequential, general and
4 special damages according to proof pursuant to Labor Code §§ 226.7, 516, and 558;

5 8. Upon the Fifth Cause of Action for compensatory, consequential, general and special
6 damages according to proof pursuant to Labor Code §§ 2802 and 2804;

7 9. Upon the Sixth Cause of Action, for statutory penalties pursuant to Labor Code
8 § 226 *et seq.*;

9 10. Upon the Seventh Cause of Action for statutory waiting time penalties pursuant to
10 Labor Code § 201-203;

11 11. Upon the Eighth Cause of Action for restitution to Plaintiff and members of the
12 Classes of all money and/or property unlawfully acquired by Defendants by means of any acts or
13 practices declared by this Court to be in violation of California Business and Professions Code
14 § 17200 *et seq.*;

15 12. Upon the Ninth Cause of Action, for civil penalties due to Plaintiff, other aggrieved
16 employees, and the State of California according to proof pursuant to Labor Code §§ 558 and
17 2699(a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for each failure
18 to pay each employee and \$200 for each subsequent violation or willful or intentional violation
19 pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the amount
20 unlawfully withheld; (2) \$50.00 for each initial violation and \$100 for each subsequent violation
21 pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial violation
22 and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per employee per
23 pay period; (4) \$250.00 for each initial violation and \$1,000.00 for each subsequent violation
24 pursuant to Labor Code § 226.3 per employee per pay period; and/or (5) \$100.00 for each initial
25 violation and \$200 for each subsequent violation per employee per pay period for those violations
26 of the Labor Code for which no civil penalty is specifically provided, based on the Labor Code
27 violations identified in Paragraph 59 (a)-(i);

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1 13. Prejudgment interest on all due and unpaid wages pursuant to California Labor Code
2 § 218.6, and Civil Code §§ 3287 and 3289;

3 14. On all causes of action, for attorneys' fees and costs as provided by Labor Code
4 §§ 218.5, 226, 1194 *et seq.*, 2802(c), and 2698 *et seq.*, and Code of Civil Procedure § 1021.5; and

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

6
7 Dated: June 24, 2024

Respectfully submitted,
HAINES LAW GROUP, APC

8
9 By:


Fletcher W. Schmidt
Attorney for Plaintiff

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11
12 **DEMAND FOR JURY TRIAL**

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

14
15 Dated: June 24, 2024

Respectfully submitted,
HAINES LAW GROUP, APC

16
17 By:


Fletcher W. Schmidt
Attorney for Plaintiff