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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE**

KENNETH ZIEG, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

W/S PACKAGING GROUP, INC., a
Wisconsin Corporation; MULTI-COLOR
CORPORATION, an Ohio Corporation; and
DOES 1 through 100,

Defendants.

Case No.: 30-2024-01394886-CU-OE-CXC

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION COMPLAINT**

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

**DEMAND FOR JURY TRIAL
UNLIMITED CIVIL CASE**

1 Plaintiff Kenneth Zieg ("Plaintiff") on behalf of himself and all others similarly situated,
2 hereby brings this First Amended Class and Representative Action Complaint against W/S
3 Packaging Group, Inc., a Wisconsin Corporation, Multi-Color Corporation, an Ohio Corporation,
4 and DOES 1 to 100, inclusive (collectively "Defendants"), and on information and belief alleges
5 as follows:

6 **JURISDICTION**

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

15 **VENUE**

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

21 **PARTIES**

22 3. Plaintiff is an individual over the age of eighteen (18). At all relevant times herein,
23 Plaintiff was and currently is, a California resident. During the four years immediately preceding
24 the filing of this action and within the statute of limitations periods applicable to each cause of
25 action pled herein, Plaintiff was employed by Defendants as a non-exempt employee. Plaintiff
26 was, and is, a victim of Defendants' policies and/or practices complained of herein, lost money
27 and/or property, and has been deprived of the rights guaranteed by Labor Code §§ 204, 226 *et*
28 *seq.*, 226.7, 510, 512, 516, 558, 1182.12, 1194, 1194.2, 1197, 1198, 2802, 2804, and 2698 *et seq.*,

1 California Business and Professions Code § 17200 *et seq.* (“Unfair Competition Law”), and Wage
2 Order 1, which sets employment standards for the manufacturing industry.

3 4. Plaintiff is informed and believes, and based thereon alleges, that during the four
4 years preceding the filing of this action and continuing to the present, Defendants did (and
5 continue to do) business within the County of Orange and the State of California by operating an
6 international network of label manufacturing and packaging facilities, including three locations
7 within California, and therefore, were (and are) doing business in the County of Orange and the
8 State of California.

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

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

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

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

1 and scope of and in pursuance of said joint venture, partnership, and common enterprise. Further,
2 Plaintiff alleges that all Defendants were joint employers for all purposes of Plaintiff and all
3 members of the Classes.

4 **GENERAL FACTUAL ALLEGATIONS**

5 9. Defendants operate an international network of label manufacturing and packaging
6 facilities, including three locations within California. Plaintiff was employed by Defendants as a
7 non-exempt employee at Defendants' Fullerton, CA location from approximately October 2021,
8 until commencing a medical leave of absence in approximately February 2024. Plaintiff's primary
9 job duties include maintaining and operating industrial label printing machines.

10 10. Throughout Plaintiff's employment with Defendants, Defendants have failed to
11 pay Plaintiff and other non-exempt employees for all hours actually worked, including all hours
12 subject to the control of Defendants and/or suffered or permitted to work. Specifically,
13 Defendants require Plaintiff and other non-exempt employees to don protective gear, such as
14 gloves, hearing protection, boots, and eye protection, prior to clocking in for their shifts, and
15 require Plaintiff and other non-exempt employees to doff their protective gear after clocking out
16 at the end of their shift. Moreover, for a portion of the relevant time period, Defendants have
17 maintained a single timeclock that is located inside one of two possible entrances to Defendants'
18 facility, which Plaintiff and other non-exempt employees are required to use to clock in/out.
19 However, in instances when Plaintiff and other non-exempt employees enter or exit Defendants'
20 facility through the entrance without the timeclock, the employees are required to walk
21 approximately two (2) minutes through Defendants' facility to reach the other entrance to clock
22 in and out without being paid for this time. As a result, Defendants require Plaintiff and other
23 non-exempt employees to perform work while off-the-clock, resulting in Defendants' failure to
24 compensate Plaintiff and other non-exempt employees for all minimum and overtime wages
25 owed.

26 11. Throughout Plaintiff's employment, Defendants have failed to provide Plaintiff
27 and other non-exempt employees with all legally compliant meal periods due to Defendants'
28 unlawful meal period policies/practices, which have resulted in late (commencing after the fifth

hour of work), short (less than 30 minutes of net rest) and missed meal periods. Specifically, Defendants require Plaintiff and other non-exempt employees to don and doff their protective gear while off-the-clock during purported meal periods. *See Kaanaana v. Barrett Business Services, Inc.* (2018) 29 Cal.App.5th 778, 808 (holding that requiring employees to work through any portion of meal period entitles them to payment for actual time worked as well as an additional hour of pay for the meal period premium). Further, Defendants also fail to provide Plaintiff and other non-exempt employees with meal periods that are “net” 30 minutes in length, as required by law for the same reasons discussed below pertaining to rest periods. Defendants have also failed to provide Plaintiff and other non-exempt employees with any second meal periods, even though Plaintiff and other non-exempt employees frequently worked shifts in excess of 10.0 hours. On those occasions when Defendants fail to provide Plaintiff and other non-exempt employees with all legally compliant meal periods to which they are entitled, Defendants failed to always compensate Plaintiff and other non-exempt employees with an additional hour of premium pay at the employees’ regular rate of pay for each workday there was a meal period violation, as mandated by Labor Code § 226.7.

12. Moreover, throughout Plaintiff’s employment, Defendants have maintained an unlawful practice/policy whereby Plaintiff and other non-exempt employees are required to carry a radio and/or walkie-talkie on their persons at all times, and respond to any incoming radio calls regardless of when the call came in, including during Plaintiff’s and the other non-exempt employees’ purported meal periods and rest periods. If a call comes in over the radio, Defendants require Plaintiff and other non-exempt employees to immediately respond and inform Defendants of their whereabouts and status, even during their meal period or rest periods. However, Defendants have failed to provide Plaintiff and other non-exempt employees with an alternative opportunity to take a lawful meal period or rest period. This policy fails to relinquish all control over how Plaintiff and other non-exempt employees spend their meal and rest periods, in violation of *Augustus v. ABM Security Services, Inc.* (2016) 2 Cal.5th 257.

13. Defendants pay Plaintiff and other non-exempt employees shift differential incentive pay, “Premium,” and/or other forms of pay that are not excludable from an employee’s

1 “regular rate” of pay (hereinafter the aforementioned forms of pay are collectively referred to as
2 “Incentive Pay”). However, Defendants fail to properly incorporate the value of all earned
3 Incentive Pay into the employees’ “regular rate” of compensation when paying meal period
4 premiums, instead paying meal period premiums at the base rate of pay, thereby underpaying
5 Plaintiff’s and other non-exempt employees’ meal period premiums under Labor Code § 226.7.
6 *See Ferra v. Loews Hollywood Hotel, LLC*, 11 Cal.5th 858 (2021) (holding “regular rate of
7 compensation” in Labor Code § 226.7 to be synonymous with “regular rate of pay” in Labor Code
8 § 510, and encompasses not only hourly wages but all nondiscretionary payments for work
9 performed by the employee.). As a result, Defendants have failed to pay Plaintiff and other non-
10 exempt employees an additional hour of premium pay at their respective regular rates of pay for
11 each workday in which a meal period violation occurred, as required by Labor Code § 226.7.

12 14. Defendants have also failed to authorize and permit all lawful rest periods of at
13 least 10 minutes for every four hours worked, or major fraction thereof for Plaintiff and other
14 non-exempt employees due to Defendants’ unlawful rest period policies/practices. As with meal
15 periods, Defendants failed to authorize and permit Plaintiff and other non-exempt employees to
16 take rest periods for a full ten minutes of “net rest” in an area appropriate for rest away from the
17 workstation. Under California law, Defendants are required to authorize and permit a “net” rest
18 period of 10-minutes that begins when the employee reaches a rest area away from his or her
19 workstation and must be uninterrupted during the duration of the rest period. *See e.g.*, Division
20 of Labor Standards Enforcement Manual (“DLSE Manual”) §45.3.3; *Vaquero v. Stoneledge*
21 *Furniture LLC*, (2017) 9 Cal.App.5th 98, 111-112 (citing DLSE Manual § 45.3.3 for the
22 proposition that “the rest period begins when the employee reaches an area away from the
23 workstation that is appropriate for rest”); *Augustus v. ABM Security Services, Inc.*, (2016) 2
24 Cal.5th 257, 260 (“[D]uring required rest periods, employers must relieve their employees of all
25 duties and relinquish any control over how employees spend their break time”). Defendants only
26 authorize and permit Plaintiff and other non-exempt employees to take rest periods of exactly 10
27 minutes in length, beginning the moment they leave their workstation and requiring Plaintiff and
28 other non-exempt employees to return to their workstations by the completion of the 10-minutes.

1 However, after leaving their workstations, Plaintiff and other non-exempt employees are required
2 to walk to and from the breakroom, a distance that could take up to nearly two minutes to traverse,
3 thereby shortening their purported rest periods to less than 10 minutes “net” in the designated rest
4 area away from the employee’s workstation. Furthermore, on occasions when Plaintiff and other
5 non-exempt employees are not authorized and permitted to take all lawful rest periods to which
6 they are entitled, Defendants fail to compensate Plaintiff and other non-exempt employees with
7 an additional hour of rest period premium pay at their respective regular rates of pay for each
8 workday in which a rest period violation occurs, as mandated by Labor Code § 226.7.

9 15. Defendants have also failed to reimburse Plaintiff and other non-exempt
10 employees for the use of their personal cellular phones for necessary work activities, as required
11 by Labor Code § 2802. Specifically, for a portion of the relevant time period, Defendants required
12 Plaintiff and other non-exempt employees to communicate with coworkers and their supervisors
13 regarding work-related matters through their personal cellular phones and use the “Dayforce”
14 mobile application to record their hours worked. However, Defendants fail to reimburse Plaintiff
15 and other non-exempt employees for a reasonable portion of their monthly cellular phone bills
16 despite requiring the use of their personal cellular phones for business purposes, as required by
17 *Cochran v. Schwan’s Home Service, Inc.*, (2014) 228 Cal.App.4th 1137.

18 16. Defendants also fail to pay Plaintiff and other non-exempt employees all sick pay
19 wages owed to them. Defendants’ policies and practices dictate that sick pay payments be made
20 at an employee’s base rate of pay, as opposed to their regular rate of pay. Because Plaintiff and
21 other non-exempt employees receive Incentive Pay that is required to be included when
22 calculating their respective regular rates of pay, but were not, Plaintiff and other non-exempt
23 employees have not been paid all sick pay wages owed to them.

24 17. As a result of Defendants’ failure to accurately compensate Plaintiff and other non-
25 exempt employees for all minimum and overtime wages, all meal and rest period premium wages,
26 and sick pay wages, Defendants have maintained inaccurate payroll records and failed to issue
27 accurate itemized wage statements. Moreover, Defendants also issue facially deficient wage
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statements to Plaintiff and other non-exempt employees that fail to list the complete address of the legal entity that is the employer in violation of Labor Code § 226(a)(8).

CLASS ACTION ALLEGATIONS

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

- a. The Minimum Wage Class consists of all of Defendants' current and former non-exempt employees in California who were subject to Defendants' timekeeping policies and/or practices, during the four years immediately preceding the filing of this action through the present.
- b. The Overtime Class consists of all of Defendants' current and former non-exempt employees in California who worked more than 8.0 hours per day and/or 40.0 hours per week and were subject to Defendants' timekeeping policies and/or practices, during the four years immediately preceding the filing of this action through the present.
- c. The Meal Period Class consists of all of Defendants' current and former non-exempt employees in California who: (i) worked at least one shift in excess of 5.0 hours; and/or (ii) worked at least one shift in excess of 10.0 hours; (iii) earned Incentive Pay and received a meal period premium during the same time period; (iv) worked at least one shift in excess of 5.0 hours and were required to carry a radio on their persons during a meal period, and who did not receive a corresponding meal period premium payment for such shifts, during the four years immediately preceding the filing of this action through the present.
- d. The Rest Period Class consists of all of 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 of 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: (i) all members of the Overtime Class, Minimum Wage Class, Meal Period Class, and/or Rest Period Class who received a wage statement from Defendants during the one year immediately preceding the filing of this action through the present; or (ii) all of Defendants' current and former non-exempt employees in California who have received a wage statement that did not list the full address of the legal entity that is the employer, during the one year immediately preceding the filing of the Complaint through the present.

19. **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 members of the Classes number greater than one hundred (100) individuals. The identity of such membership is readily ascertainable via inspection of Defendants' employment records.

20. **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 non-exempt employees, which predominate over questions affecting only individual members including, without limitation to:

- i. Whether Defendants paid all minimum wages owed to members of the Minimum Wage Class for all hours worked pursuant to Labor Code §§ 1182.12, 1194, 1194.2 and 1197;
- ii. Whether Defendants lawfully paid premium wages for all overtime hours worked to members of the Overtime Class pursuant to Labor Code §§ 204, 510, 558, 1194 and 1198;
- iii. Whether Defendants provided all legally compliant meal periods to members of the Meal Period Class pursuant to Labor Code §§ 226.7 and 512;
- iv. Whether Defendants authorized and permitted all lawful rest periods to members of the Rest Period Class pursuant to Labor Code §§ 226.7 and 516;

- 1 v. Whether Defendants correctly paid meal and/or rest period premium payments for
2 non-compliant meal and/or rest periods pursuant to Labor Code § 226.7;
- 3 vi. Whether Defendants' reimbursement policies accurately and fully reimbursed the
4 members of the Expense Reimbursement Class for all necessary business expenses
5 incurred pursuant to Labor Code §§ 2802 and 2804; and
- 6 vii. Whether Defendants furnished legally compliant wage statements to members of
7 the Wage Statement Class pursuant to Labor Code § 226.

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

16 22. **Typicality:** Plaintiff's claims are typical of the claims of the Classes because
17 Plaintiff was employed by Defendants as a non-exempt employee in California during the
18 statute(s) of limitations period applicable to each cause of action pled in the action. As alleged
19 herein, Plaintiff, like the members of the Classes, was deprived of all minimum and overtime
20 wages owed, was not provided all required meal periods, was not authorized and permitted to take
21 all required rest periods, did not receive meal and rest period premium wages at his regular rate
22 of pay for missed or non-compliant meal and rest periods, was not reimbursed for all required
23 business expenses, and did not receive accurate wage statements.

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

24. **Superiority:** The California Labor Code is broadly remedial in nature and serves an important public interest in establishing minimum working conditions and standards in California. These laws and labor standards protect the average working employee from exploitation by employers who have the responsibility to follow the laws and who may seek to take advantage of superior economic and bargaining power in setting onerous terms and conditions of employment. The nature of this action and the format of laws available to Plaintiff and members of the Classes make the class action format a particularly efficient and appropriate procedure to redress the violations alleged herein. If each employee were required to file an individual lawsuit, Defendants would necessarily gain an unconscionable advantage since they would be able to exploit and overwhelm the limited resources of each individual plaintiff with their vastly superior financial and legal resources. Moreover, requiring each member of the Classes to pursue an individual remedy would also discourage the assertion of lawful claims by employees who would be disinclined to file an action against their former and/or current employer for real and justifiable fear of retaliation and permanent damages to their careers at subsequent employment. Further, the prosecution of separate actions by the individual class members, even if possible, would create a substantial risk of inconsistent or varying verdicts or adjudications with respect to the individual class members against Defendants herein; and which would 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 as a Class under § 382 of the Code of Civil Procedure.

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FIRST CAUSE OF ACTION
MINIMUM WAGE VIOLATIONS
(AGAINST ALL DEFENDANTS)

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

26. Wage Order 1, § 4 and California Labor Code §§ 1197 and 1182.12 establish the right of employees to be paid minimum wages for all hours worked, in amounts set by state law. Labor Code §§ 1194(a) and 1194.2(a) provide that an employee who has not been paid the legal minimum wage as required by Labor Code § 1197 may recover the unpaid balance together with attorneys' fees and costs of suit, as well as liquidated damages in an amount equal to the unpaid wages and interest accrued thereon. At all relevant times herein, Defendants failed to conform their pay practices to the requirements of the law by failing to pay Plaintiff and members of the Minimum Wage Class for all hours worked, including, but not limited to, all hours they were subject to the control of Defendants and/or suffered or permitted to work under the California Labor Code and Wage Order 1.

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

28. As a direct and proximate result of Defendants' non-payment of minimum wages, Plaintiff and members of the Minimum Wage Class have sustained economic damages, including, but not limited to unpaid wages and lost interest, in an amount to be established at trial pursuant to Wage Order 1 and California Labor Code § 1199; interest pursuant to California Labor Code §§ 218.6 and 1194 and Civil Code §§ 3287 and 3289; liquidated damages pursuant to California Labor Code § 1194.2; attorneys' fees and costs of suit pursuant to California Labor Code § 1194 *et seq.*; and damages and/or penalties pursuant to California Labor Code § 558(a).

29. The foregoing policies/practices are unlawful and create an entitlement to recovery by Plaintiff and members of the Minimum Wage Class in a civil action for the unpaid amount of

1 minimum wages, liquidated damages, including interest thereon, statutory penalties, civil
2 penalties, attorney's fees, and costs of suit according to California Labor Code §§ 204, 210, 216,
3 558, 1194, 1194.2, and 1198, and Code of Civil Procedure § 1021.5.

4 **SECOND CAUSE OF ACTION**

5 **FAILURE TO PAY ALL OVERTIME WAGES**

6 **(AGAINST ALL DEFENDANTS)**

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

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

12 32. At all relevant times, Defendants were required to properly pay Plaintiff and
13 members of the Overtime Class for all overtime hours worked pursuant to California Labor Code
14 § 1194 and Wage Order 1. Wage Order 1, § 3(A) requires an employer to pay an employee "one
15 and one-half (1½) times such employee's regular rate of pay" for work in excess of 8 hours per
16 work day and/or in excess of 40 hours in a workweek. Labor Code § 510 and Wage Order 1, § 3
17 also require an employer to pay an employee double the employee's regular rate of work in excess
18 of 12 hours each workday and/or any work in excess of eight (8) hours on the seventh day of the
19 workweek. As alleged herein, Defendants caused Plaintiff and the members of the Overtime Class
20 to work overtime and/or double-time hours but did not properly compensate Plaintiff and the
21 members of the Overtime Class at one and one-half times their regular rate of pay (or double-
22 time, in the case of double-time hours) for such hours.

23 33. The foregoing policies and practices are unlawful and create entitlement to
24 recovery by Plaintiff and the Overtime Class members in a civil action for the unpaid amount of
25 overtime premiums owing, including interest thereon, statutory penalties, attorneys' fees, and
26 costs of suit according to California Labor Code §§ 204, 210, 216, 218.6, 510, 1194, and 1198;
27 Code of Civil Procedure § 1021.5; and Civil Code §§ 3287 and 3289.

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THIRD CAUSE OF ACTION
MEAL PERIOD VIOLATIONS
(AGAINST ALL DEFENDANTS)

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

35. Plaintiff is informed and believes, and based thereon alleges, that Defendants failed in their affirmative obligation to provide all of their non-exempt employees in California, including Plaintiff and members of the Meal Period Class, with all legally compliant meal periods in accordance with the mandates of the California Labor Code and Wage Order 1, § 11, for the reasons set forth in the factual allegations and class definitions sections of this Complaint. Despite Defendants' violations, Defendants did not pay an additional hour of premium pay to Plaintiff and members of the Meal Period Class at their respective regular rates of pay, in accordance with California Labor Code §§ 226.7 and 512.

36. As a result, Defendants are responsible for paying premium compensation for meal period violations, including interest thereon, statutory penalties, civil penalties, and costs of suit, pursuant to Labor Code §§ 226.7, 512, and 558, Wage Order 1, and Code of Civil Procedure § 1021.5.

FOURTH CAUSE OF ACTION
REST PERIOD VIOLATIONS
(AGAINST ALL DEFENDANTS)

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

38. Wage Order 1, § 12 and California Labor Code §§ 226.7, 516 and 558 establish the right of employees to be provided with a rest period of at least ten (10) minutes for each four (4) hour period worked, or major fraction thereof. Despite Defendants' failure to authorize and permit Plaintiff and members of the Rest Period Class to take all legally complaint rest periods as alleged herein, Defendants did not pay these individuals an additional hour of pay at their respective regular rate for the rest periods that they failed to authorize and permit them to take, as required by Labor Code § 226.7.

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39. The foregoing violations create an entitlement to recovery by Plaintiff and members of the Rest Period Class in a civil action for the unpaid amount of rest period premiums owing, including interest thereon, statutory penalties, civil penalties, and costs of suit according to Labor Code §§ 226.7, 516, and 558, Wage Order 1, and Code of Civil Procedure § 1021.5.

FIFTH CAUSE OF ACTION

FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENDITURES

(AGAINST ALL DEFENDANTS)

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

41. At all relevant times herein, Defendants were subject to Labor Code § 2802, which states that, “[a]n 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.”

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

43. As alleged herein, due to Defendants’ unlawful reimbursement policies/practices, Defendants failed to indemnify Plaintiff and members of the Expense Reimbursement Class for all necessary business expenses incurred, including, among other things, personal cellular phone usage.

44. As a proximate result of Defendants’ policies and/or practices in violation of Labor Code §§ 2802 and 2804, Plaintiff and members of the Expense Reimbursement Class were damaged in sums, which will be shown according to proof.

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

46. Pursuant to Labor Code § 2802(b), any action brought for the reimbursement of necessary expenditures carries interest at the same rate as judgments in civil actions. Thus,

1 Plaintiff and members of the Expense Reimbursement Class are entitled to interest, which shall
2 accrue from the date on which they incurred the necessary expenditure.

3 **SIXTH CAUSE OF ACTION**

4 **WAGE STATEMENT VIOLATIONS**

5 **(AGAINST ALL DEFENDANTS)**

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

7 48. Plaintiff is informed and believes, and based thereon alleges, that Defendants
8 knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Plaintiff
9 and members of the Wage Statement Class with wage statements that complied with the
10 requirements of Labor Code § 226(a).

11 49. Defendants' failure to furnish Plaintiff and members of the Wage Statement Class
12 with compliant wage statements resulted in actual injury, as said failures rendered Plaintiff and
13 members of the Wage Statement Class unable to readily ascertain the information on their wage
14 statements.

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

19 **SEVENTH CAUSE OF ACTION**

20 **UNFAIR COMPETITION**

21 **(AGAINST ALL DEFENDANTS)**

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

23 52. Defendants have engaged and continue to engage in unfair and/or unlawful
24 business practices in California in violation of California Business and Professions Code § 17200
25 *et seq.* by, amongst other things, failing to pay Plaintiff and the Classes all minimum and overtime
26 wages owed; failing to pay all meal and rest period premium wages owed; failing to reimburse
27 all necessary business expenses incurred; and knowingly failing to furnish accurate itemized wage
28 statements.

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

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

10 55. The acts complained of herein occurred within the last four years immediately
11 preceding the filing this action.

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

17 **EIGHTH CAUSE OF ACTION**

18 **PRIVATE ATTORNEYS GENERAL ACT**

19 **(AGAINST ALL DEFENDANTS)**

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

21 58. Defendants have committed several Labor Code violations against Plaintiff,
22 members of the Classes, and other aggrieved employees. Plaintiff, an "aggrieved employee"
23 within the meaning of Labor Code § 2698 *et seq.*, acting on behalf of himself and other aggrieved
24 employees, brings this representative action against Defendants to recover the civil penalties due
25 to Plaintiff, the members of the Classes, other aggrieved employees, and the State of California
26 according to proof pursuant to Labor Code §§ 558 and 2699 (a) and (f) including, but not limited
27 to: (1) \$100.00 for each initial violation for each failure to pay each employee and \$200 for each
28 subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for each

1 failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) \$50.00 for each
2 initial violation and \$100 for each subsequent violation pursuant to Labor Code § 558 per
3 employee pay period; (3) \$100.00 for each initial violation and \$250.00 for each subsequent
4 violation pursuant to Labor Code § 1197.1 per employee per pay period; (4) \$250.00 for each
5 initial violation and \$1,000.00 for each subsequent violation pursuant to Labor Code § 226.3 per
6 employee per pay period; and/or (5) \$100.00 for each initial violation and \$200 for each
7 subsequent violation per employee per pay period for those violations of the Labor Code for
8 which no civil penalty is specifically provided, based on the following Labor Code violations:

- 9 a. Failing to pay Plaintiff and other aggrieved employees the statutory minimum
10 wage for all hours worked in violation of Labor Code §§ 1182.12, 1194,
11 1194.2, and 1197;
- 12 b. Failing to pay Plaintiff and other aggrieved employees all overtime
13 compensation earned in violation of Labor Code §§ 204, 510, 558, 1194 and
14 1198;
- 15 c. Failing to provide meal periods as required by law and failing to pay meal
16 period premiums to Plaintiff and other aggrieved employees at these
17 employees' respective regular rates of compensation for meal period violations
18 in violation of Labor Code §§ 226.7, 512, and 558;
- 19 d. Failing to authorize and permit Plaintiff and other aggrieved employees to take
20 all lawful rest periods to which they are entitled, and failing to pay rest period
21 premiums to Plaintiff and other aggrieved employees at these employees'
22 respective regular rates of compensation for rest period violations in violation
23 of Labor Code §§ 226.7, 516, and 558;
- 24 e. Failing to reimburse Plaintiff and other aggrieved employees for all work-
25 related expenses incurred in violation of Labor Code §§ 2802 and 2804;
- 26 f. Failing to furnish Plaintiff and other aggrieved employees with accurate and
27 compliant itemized wage statements in violation of Labor Code § 226;
- 28

- g. Failing to pay Plaintiff and other aggrieved employees sick time pay at their regular rate of compensation in violation of Labor Code § 246;
- h. Failing to maintain accurate records on behalf of Plaintiff and other aggrieved employees in violation of Labor Code §§ 558 and 1174;
- i. Failing to timely pay the aggrieved employees all final wages owed upon separation from employment in violation of Labor Code §§ 201, 202, and 203; and
- j. Failing to pay Plaintiff and other aggrieved employees all wages earned at least twice during each calendar month in violation of Labor Code § 204.

59. On April 18, 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 58 (a)-(j). 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.

60. 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 18, 2023, and the present.

61. 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 payment of minimum wages, liquidated damages, and penalties owed according to proof pursuant to Labor Code §§ 1182.12, 1194, 1194.2, 1197, and 1198;
5. Upon the Second Cause of Action, for compensatory, consequential, general and special damages according to proof pursuant to Labor Code §§ 204, 510, 558, 1194, and 1198;
6. Upon the Third Cause of Action, for compensatory, consequential, general and special damages according to proof pursuant to Labor Code §§ 226.7, 512 and 558;
7. Upon the Fourth Cause of Action, for compensatory, consequential, general and special damages according to proof pursuant to Labor Code §§ 226.7, 516, and 558;
8. Upon the Fifth Cause of Action, for compensatory, consequential, general, and special damages according to proof pursuant to Labor Code §§ 2802 and 2804;
9. Upon the Sixth Cause of Action, for statutory penalties pursuant to Labor Code § 226 *et seq.*;
10. Upon the Seventh Cause of Action, for restitution to Plaintiff and members of the Classes of all money and/or property unlawfully acquired by Defendants by means of any acts or practices declared by this Court to be in violation of California Business and Professions Code § 17200 *et seq.*;
11. Upon the Eighth Cause of Action, for civil penalties due to Plaintiff, other aggrieved employees, and the State of California according to proof pursuant to Labor Code §§ 558 and 2699(a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for each failure to pay each employee and \$200 for each subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100 for each subsequent violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per

employee per pay period; (4) \$250.00 for each initial violation and \$1,000.00 for each subsequent violation pursuant to Labor Code § 226.3 per employee per pay period; and/or (5) \$100.00 for each initial violation and \$200 for each subsequent violation per employee per pay period for those violations of the Labor Code for which no civil penalty is specifically provided, based on the Labor Code violations identified in Paragraph 58 (a)-(j);

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

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

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

Dated: June 24, 2024

Respectfully submitted,
HAINES LAW GROUP, APC

By:


Fletcher W. Schmidt
Attorneys for Plaintiff

DEMAND FOR JURY TRIAL

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

Dated: June 24, 2024

Respectfully submitted,
HAINES LAW GROUP, APC

By:


Fletcher W. Schmidt
Attorneys for Plaintiff