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

OBED PAVON, on behalf of himself and all
 others similarly situated, and the general
 public,

Plaintiff,

v.

ACTION PROPERTY MANAGEMENT,
 INC., a California corporation; and DOES 1
 through 50, inclusive,

Defendants.

FILED
 Superior Court of California
 County of Los Angeles

06/07/2024

David W. Slayton, Executive Officer / Clerk of Court

By: R. Lozano Deputy

Case No.: 24STCV08671

**FIRST AMENDED CLASS AND
 REPRESENTATIVE ACTION COMPLAINT**

1. Failure to Pay Hourly Wages and Overtime (Lab. Code §§ 204, 223, 510, 1194, 1194.2, 1197, 1197.1 and 1198);
2. Failure to Provide Meal Periods (Lab. Code §§ 204, 223, 226.7, 512 and 1198);
3. Failure to Provide Rest Periods (Lab. Code §§ 204, 223, 226.7 and 1198);
4. Failure to Pay Proper Reporting Time Wages;
5. Failure to Properly Pay Vacation Wages (Lab. Code § 227.3);
6. Failure to Properly Pay Sick Pay (Lab. Code § 246);
7. Failure to Indemnify (Lab. Code § 2802);
8. Failure to Provide Accurate Wage Statements (Lab. Code §§ 226(a));
9. Failure to Timely Pay All Final Wages (Lab. Code §§ 201, 202 and 203);
10. Unfair Competition (Bus. & Prof. Code §§ 17200 *et seq.*);
11. Civil Penalties (Lab. Code § 2698, *et seq.*).

JURY TRIAL DEMANDED

1 Plaintiff OBED PAVON (“Plaintiff”), on behalf of himself, all others similarly situated, the
2 State of California, and the general public, complains and alleges as follows:

3 **INTRODUCTION**

4 1. Plaintiff brings this class and representative action against Defendants ACTION
5 PROPERTY MANAGEMENT, INC., a California corporation; and DOES 1 through 50, inclusive,
6 (collectively referred to as “Defendants”) for alleged violations of the California Labor Code and
7 California Business and Professions Code. As set forth below, Plaintiff alleges that Defendants
8 have:

- 9 a. failed to pay all wages owed, including minimum and overtime wages, for all
10 time worked;
11 b. failed to pay overtime and/or double time wages by failing to include all
12 applicable remuneration in calculating the regular rate of pay;
13 c. failed to provide lawful meal periods;
14 d. failed to provide lawful rest periods;
15 e. failed to properly pay premium wages for missed meal and rest periods;
16 f. failed to pay reporting time pay;
17 g. failed to properly pay vacation wages;
18 h. failed to properly pay sick time pay;
19 i. failed to reimburse for necessary business expenditures;
20 j. failed to provide accurate wage statements; and
21 k. failed to timely pay all final wages owed following separation of employment.

22 Based on these alleged Labor Code violations, Plaintiff now brings this class and
23 representative action to recover unpaid wages, liquidated damages, civil and statutory penalties,
24 restitution, and related relief on behalf of himself, all others similarly situated, and the general public.

25 **JURISDICTION AND VENUE**

26 2. This Court has subject matter jurisdiction to hear this case because the monetary
27 damages and restitution sought by Plaintiff from Defendants’ conduct exceeds the minimal
28 jurisdiction of the Superior Court of the State of California.

3. Venue is proper in the County of Los Angeles pursuant to Code of Civil Procedure sections 395(a) and 395.5 in that liability arose this county because at least some of the transactions that are the subject matter of this Complaint occurred therein and/or each defendant is found, maintains offices, transacts business and/or has an agent therein.

4. Venue is proper in Los Angeles County because Defendants' have at all times alleged herein, conducted business in Los Angeles County, and throughout California. As such, venue is proper in any county in California.

PARTIES

5. Plaintiff OBED PAVON is, and at all relevant times mentioned herein, an individual residing in the State of California.

6. Plaintiff is informed and believes, and thereupon alleges that Defendant ACTION PROPERTY MANAGEMENT, INC. is, and at all relevant times mentioned herein, a California corporation doing business in the State of California.

7. Plaintiff is ignorant of the true names and capacities of the defendants sued herein as DOES 1 through 50, inclusive, and therefore sues these defendants by such fictitious names. Plaintiff will amend this Complaint to allege the true names and capacities of the DOE defendants when ascertained. Plaintiff is informed and believes, and thereupon alleges that each of the fictitiously named defendants are responsible in some manner for the occurrences, acts and omissions alleged herein and that Plaintiff's alleged damages were proximately caused by these defendants, and each of them. Plaintiff will amend this complaint to allege both the true names and capacities of the DOE defendants when ascertained.

8. Plaintiff is informed and believes, and thereupon alleges that, at all relevant times mentioned herein, some or all of the defendants were the representatives, agents, employees, partners, directors, associates, joint venturers, joint employers, owners, principals or co-participants of some or all of the other defendants, and in doing the things alleged herein, were acting within the course and scope of such relationship and with the full knowledge, consent, and ratification by such other defendants.

9. Plaintiff is informed and believes, and thereupon alleges that, at all relevant times

mentioned herein, some of the defendants pursued a common course of conduct, acted in concert and conspired with one another, and aided and abetted one another to accomplish the occurrences, acts and omissions alleged herein.

10. This action has been brought and may be maintained as a class action pursuant to Code of Civil Procedure section 382 because there is a well-defined community of interest among the persons who comprise the readily ascertainable classes defined below and because Plaintiff is unaware of any difficulties likely to be encountered in managing this case as a class action.

11. **Relevant Time Period:** The relevant time period is defined as the time period beginning four years, plus 178 days, prior to the filing of this action until judgment is entered.

- a. **Hourly Employee Class:** All persons employed by Defendants, collectively or separately, in hourly or non-exempt positions in California four years prior to the filing of this action and ending on the date that final judgment is entered in this action (“Hourly Employee Class”).
- b. **Meal Period Sub-Class:** All **Hourly Employee Class** members who worked in a shift in excess of five (5) hours during the four years prior to the filing of this action and ending on the date that final judgment is entered in this action.
- c. **Rest Period Sub-Class:** All **Hourly Employee Class** members who worked a shift of at least three and one-half (3.5) hours the four years prior to the filing of this action and ending on the date that final judgment is entered in this action.
- d. **Reporting Time Pay Sub-Class:** All **Hourly Employee Class** members who were required to call in or otherwise show up to work without being paid half of their usual or scheduled day's work from four years prior to the filing of this action and ending on the date that final judgment is entered in this action.
- e. **Vacation Wages Class:** All persons employed by Defendants in California who earned paid vacation time and/or paid time off without receiving compensation for all vested paid vacation time at the proper rate during the **Relevant Time Period**.
- f. **Sick-Pay Class:** All persons employed by Defendants in California who, at any time from four years prior to the filing of this action and ending on the date that final judgment is entered in this action, worked for more than 30 days for Defendants, and were not paid for at least one hour of sick time for every 30 hours of work thereafter, or at least 3 days of sick time for every 12-month period of employment at the appropriate hourly rate.
- g. **Expense Reimbursement Class:** All persons employed by Defendants in California who incurred business expenses during the **Relevant Time Period**.

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- 1 h. **Waiting Time Penalties Sub-Class**: All **Hourly Employee Class** members who
2 separated from their employment with Defendants during the period beginning
3 three years before the filing of this action and ending when final judgment is
4 entered.
5 i. **Wage Statement Class**: All persons employed by Defendants in California during
6 the period beginning one year before the filing of this action and ending when final
7 judgment is entered.
8 j. **UCL Class**: All **Hourly Employee Class** and **Expense Reimbursement Class**
9 members employed by Defendants in California during the four years prior to the
10 filing of this action and ending on the date that final judgment is entered in this
11 action.

12 12. **Reservation of Rights**: Pursuant to Rule of Court 3.765(b), Plaintiff reserves the right
13 to amend or modify the class definitions with greater specificity, by further division into sub-classes
14 and/or by limitation to particular issues.

15 13. **Numerosity**: The class members are so numerous that the individual joinder of each
16 individual class member is impractical. While Plaintiff does not currently know the exact number
17 of class members, Plaintiff is informed and believes, and thereupon alleges that the actual number
18 exceeds the minimum required for numerosity under California law.

19 14. **Commonality and Predominance**: Common questions of law and fact exist as to all
20 class members and predominate over any questions which affect only individual class members.
21 These common questions include, but are not limited to:

- 22 a. Whether Defendants failed to pay minimum and/or overtime wages to class
23 members for all time worked;
24 b. Whether Defendants maintained a policy or practice of failing to provide
25 employees with lawful meal periods;
26 c. Whether Defendants maintained a policy or practice of failing to provide
27 employees with lawful rest periods;
28 d. Whether Defendants failed to pay premium wages to class members when they
have not been provided with meal and rest periods at the appropriate rates of pay;
e. Whether Defendants failed to pay reporting time pay;
f. Whether Defendants failed to pay vacation wages at the proper rate;

- g. Whether Defendants failed to pay sick time pay at the proper rate;
- h. Whether Defendants failed to reimburse class members for all necessary business expenses incurred during the discharge of their duties;
- i. Whether Defendants failed to provide class members with accurate written wage statements including, among other things, the correct amounts of gross and net wages, total hours worked, and applicable hourly rates of pay;
- j. Whether Defendants applied policies or practices that result in late and/or incomplete final wage payments;
- k. Whether Defendants are liable to class members for waiting time penalties under Labor Code section 203; and
- l. Whether class members are entitled to restitution of money or property that Defendants may have acquired from them through unfair competition.

15. **Typicality:** Plaintiff's claims are typical of the other class members' claims. Plaintiff is informed and believes, and thereupon alleges that Defendants have a policy or practice of failing to comply with the California Labor Code and Business and Professions Code as alleged in this Complaint.

16. **Adequacy of Class Representative:** Plaintiff is an adequate class representative and has no interests that are adverse to, or otherwise conflict with, the interests of absent class members and is dedicated to vigorously prosecuting this action on their behalf. Plaintiff will fairly and adequately represent and protect the interests of the other class members.

17. **Adequacy of Class Counsel:** Plaintiff's counsel is adequate class counsel in that they have no known conflicts of interest with Plaintiff or absent class members, are experienced in wage and hour class action litigation, and are dedicated to vigorously prosecuting this action on behalf of Plaintiff and absent class members.

18. **Superiority:** A class action is vastly superior to other available means for fair and efficient adjudication of the class members' claims and would be beneficial to the parties and the Court. Class action treatment will allow a number of similarly situated persons to simultaneously and efficiently prosecute their common claims in a single forum without the unnecessary

1 duplication of effort and expense that numerous individual actions would entail. In addition, the
2 monetary amounts due to many individual class members are likely to be relatively small and would
3 thus make it difficult, if not impossible, for individual class members to both seek and obtain relief.
4 Moreover, a class action will serve an important public interest by permitting class members to
5 effectively pursue the recovery of monies owed to them. Further, a class action will prevent the
6 potential for inconsistent or contradictory judgments inherent in individual litigation.

7 **GENERAL ALLEGATIONS**

8 19. Plaintiff worked for Defendants as a non-exempt employee during the relevant and
9 statutory periods.

10 20. Defendants had a common policy and practice of systemically failing to pay Plaintiff
11 and Class Members proper wages and overtime for all hours worked at the proper rates of pay. First,
12 Defendants implemented an unlawful time-rounding policy and practice which rounded down and
13 reduced the actual working hours recorded by Plaintiff and Class Members, and upon which their
14 pay was based, and generally did so to the detriment of the Plaintiff and Class Members, and these
15 unlawfully rounded time entries were inputted into Defendants' payroll system from which wage
16 statements and payroll checks were created. Defendants did so with the ostensible intent of paying
17 Plaintiff and Class members only for the hours they were scheduled to work, rather than the hours
18 they were actually under Defendants' control. Plaintiff contends this policy is not neutral and
19 results, over time, to the detriment of the Plaintiff and Class members by systematically
20 undercompensating them.

21 21. Next, Plaintiff and Class Members were consistently required to perform work, off-
22 the-clock, for which they were not paid wages. By way of example, Plaintiff and Class Members
23 were systemically required to arrive to work early to access the facility, wait for the computers to
24 boot up and load the time keeping software, and wait in line to clock in. Defendants also expected
25 Plaintiff and Class Members to respond to call and text messages at all times, including while off
26 the clock. The foregoing time it took for Plaintiff and Class Members to participate in these
27 activities was uncompensated working time under the direction and control of Defendants, for
28 which no wages were paid.

1 22. This uncompensated time caused Plaintiff and Class Members to work in excess of
2 eight (8), ten (10) and/or twelve (12) hours a day and/or forty (40) hours a week, entitling Plaintiff
3 and Class Members to minimum and overtime wages, which they were systemically denied.

4 23. Defendants failed to pay Plaintiff and Class Members overtime wages at the proper
5 and applicable regular rates of pay. Specifically, Plaintiff and Class Members earned incentive pay
6 and shift differentials, as well as performance-based non-discretionary bonuses, in addition to their
7 hourly pay. However, these supplemental earnings were not accounted for when determining
8 Plaintiff and Class Members' regular rates of pay, and respective and proper overtime, premium,
9 vacation and sick rates of pay. Defendants also failed to pay Class Members "premium pay" wages,
10 i.e. one hour of wages at each Class Member's effective hourly rate of pay, for each meal period
11 and/or rest break that Defendants failed to provide or deficiently provided. As a result, Plaintiff and
12 Class Members were not fully compensated for all hours worked.

13 24. Defendants had a common policy and practice of systemically denying Plaintiff and
14 Class Members the opportunity to take meal periods in compliance with the California Law.
15 Specifically, the uncompensated pre-shift duties, discussed herein, caused Plaintiff and Class
16 Members' meal periods to commence after the completion of their fifth hour of work.

17 25. Plaintiff and Class Members were not provided with meal periods of at least thirty (30)
18 minutes for each five (5) hour work period due to (1) Defendants' policy and practice of not
19 scheduling each meal period as part of each work shift; and (2) Defendants' policy and practice of
20 requiring putative class members to continue working through their meal and rest periods due to the
21 excessive workload.

22 26. Similarly, Defendants had a common policy and practice of systemically denying
23 Plaintiff and Class Members the opportunity to take rest periods in compliance with California Law.
24 Plaintiff and Class Members were not provided with rest periods of at least ten (10) minutes for
25 each four (4) hour work period, or major fraction thereof, due to (1) Defendants' policy and practice
26 of not scheduling each rest period as part of each work shift, including second rest breaks for shifts
27 of six (6) hours or more; and (2) Defendants' policy and practice of requiring putative class
28 members to continue working through their rest breaks due to the excessive workload. Thus, Class

1 Members were consistently denied of their rest breaks.

2 27. Defendants also had a common policy and practice of failing to pay Plaintiff and Class
3 Members all reporting time pay to which they were entitled under California Law. Specifically,
4 Plaintiff and Class Members were required to call in or otherwise show up to work without being
5 paid half of their usual or scheduled day's work when sent home without being put to work or
6 working less than half of the scheduled day's work.

7 28. Defendants also had a common policy and practice of systemically failing to pay
8 Plaintiff and Class Members the requisite and accrued vacation time pay in accordance with
9 California Law. Specifically, Plaintiff and Class Members accrued vested vacation time and/or paid
10 time off. However, Defendants failed to incorporate all remunerations, including incentive pay, shift
11 differentials and/or non-discretionary bonuses, into the calculation of the regular rate of pay for
12 purposes of calculating sick pay. Therefore, during times when Plaintiff and Class Members worked
13 overtime and received incentive pay, shift differentials and/or non-discretionary bonuses,
14 Defendants failed to pay all accrued vacation time and/or paid time off owed to Plaintiff and Class
15 Members upon their separation from employment by paying a lower overtime rate than required.

16 29. Defendants had a common policy and practice of systemically failing to pay Plaintiff
17 and Class Members the requisite sick time pay at the proper rate of pay in accordance with
18 California Law. Specifically, Defendants failed to incorporate all remunerations, including
19 incentive pay, shift differentials and/or non-discretionary bonuses, into the calculation of the regular
20 rate of pay for purposes of calculating sick pay. Therefore, during times when Plaintiff and Class
21 Members worked overtime and received incentive pay, shift differentials and/or non-discretionary
22 bonuses, Defendants failed to pay all sick pay by paying a lower overtime rate than required.

23 30. Plaintiff and Class Members were not reimbursed for business expenses incurred in
24 executing their duties under Defendants' employ. Specifically, Plaintiff, and upon information and
25 belief, Class Members were required to use their personal cell phones for work related purposes.
26 Plaintiff and Class Members were also required to use their personal vehicles for work related
27 purposes, such as picking up supplies from the store. Plaintiff was also required to purchase his own
28 tools and equipment necessary for carrying out his job duties, such as a screwdriver, dry wall saw,

1 hammer, and voltage testers. Plaintiff and Class members were not reimbursed for these necessary
2 work-related expenses.

3 31. Plaintiff and Class Members were not provided with accurate wage statements as
4 mandated by law pursuant to Labor Code section 226.

5 32. Specifically, Defendants failed to comply with Labor Code section 226(a)(1), (a)(2),
6 (a)(5) and (a)(9) as Defendants failed to provide Plaintiff and Class members wage statements that
7 accurately reported all hours worked, including overtime, and the applicable hourly rates.
8 Specifically, Defendants failed to list “all applicable hourly rates” pursuant to Labor Code section
9 226(a)(9) as Defendants failed to provide rates for hourly incentive pay and shift differentials.

10 33. Finally, Defendants have had a consistent policy of failing to pay all wages due and
11 owed to Plaintiff and Class Members at the time of their termination of within seventy-two (72)
12 hours of their resignation, as required by California wage-and-hour laws.

13 **FIRST CAUSE OF ACTION**

14 **FAILURE TO PAY HOURLY MINIMUM AND OVERTIME WAGES**

15 **(Lab. Code §§ 204, 223, 510, 1194, 1197 and 1198)**

16 **(Plaintiff and Hourly Employee Class)**

17 34. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged
18 herein.

19 35. At all relevant times, Plaintiff and **Hourly Employee Class** members are or have been
20 non-exempt employees of Defendants entitled to the full protections of the Labor Code and the
21 applicable Wage Order.

22 36. Section 2 of the applicable Wage Order defines “hours worked” as “the time during
23 which an employee is subject to the control of the employer, and includes all the time the employee
24 is suffered or permitted to work, whether or not required to do so.”

25 37. Section 4 of the applicable Wage Order requires an employer to pay non-exempt
26 employees at least the minimum wage set forth therein for all hours worked, which consist of all
27 hours that an employer has actual or constructive knowledge that employees are working.

28 38. Labor Code section 1194 invalidates any agreement between an employer and an

1 employee to work for less than the minimum or overtime wage required under the applicable Wage
2 Order.

3 39. Labor Code section 1194.2 entitles non-exempt employees to recover liquidated
4 damages in amounts equal to the amounts of unpaid minimum wages and interest thereon in addition
5 to the underlying unpaid minimum wages and interest thereon.

6 40. Labor Code section 1197 makes it unlawful for an employer to pay an employee less
7 than the minimum wage required under the applicable Wage Order for all hours worked during a
8 payroll period.

9 41. Labor Code section 1197.1 provides that it is unlawful for any employer or any other
10 person acting either individually or as an officer, agent or employee of another person, to pay an
11 employee, or cause an employee to be paid, less than the applicable minimum wage.

12 42. Labor Code section 1198 makes it unlawful for employers to employ employees under
13 conditions that violate the applicable Wage Order.

14 43. Labor Code section 223 makes it unlawful for employers to pay their employees lower
15 wages than required by contract or statute while purporting to pay them legal wages.

16 44. Labor Code section 510 and Section 3 of the applicable Wage Order require employees
17 to pay non-exempt employees overtime wages of no less than one and one-half (1.5) times their
18 respective regular rates of pay for all hours worked in excess of eight (8) hours in one workday, all
19 hours worked in excess of forty (40) hours in one workweek, and/or for the first eight (8) hours
20 worked on the seventh consecutive day of one workweek.

21 45. Labor Code section 510 and Section 3 of the applicable Wage Order also require
22 employers to pay non-exempt employees overtime wages of no less than two (2) times their
23 respective regular rates of pay for all hours worked in excess of twelve (12) hours in one workday
24 and for all hours worked in excess of eight (8) hours on a seventh consecutive workday during the
25 workweek.

26 46. Plaintiff is informed and believes that, at all relevant times, Defendants have applied
27 centrally devised policies and practices to Plaintiff and **Hourly Employee Class** members with
28 respect to working conditions and compensation arrangements.

1 47. At all relevant times, Defendants failed to pay hourly wages to Plaintiff and **Hourly**
2 **Employee Class** members for all time worked, including but not limited to, overtime hours at
3 statutory and/or agreed rates.

4 48. Plaintiff and **Hourly Employee Class** members were not paid proper wages and
5 overtime for all hours worked. First, Defendants implemented an unlawful time-rounding policy
6 and practice which rounded down and reduced the actual working hours recorded by Plaintiff and
7 Class Members, and upon which their pay was based, and generally did so to the detriment of the
8 Plaintiff and Class Members, and these unlawfully rounded time entries were inputted into
9 Defendants' payroll system from which wage statements and payroll checks were created.
10 Defendants did so with the ostensible intent of paying Plaintiff and Class members only for the
11 hours they were scheduled to work, rather than the hours they were actually under Defendants'
12 control. Plaintiff contends this policy is not neutral and results, over time, to the detriment of the
13 Plaintiff and Class members by systematically undercompensating them.

14 49. Next, Plaintiff and **Hourly Employee Class** members were consistently required to
15 perform work, off-the-clock, for which they were not paid wages. By way of example, Plaintiff and
16 **Hourly Employee Class** members were systemically required to arrive to work early to access the
17 facility, wait for the computers to boot up and load the time keeping software, and wait in line to
18 clock in. Defendants also expected Plaintiff and **Hourly Employee Class** to respond to call and text
19 messages at all times, including while off the clock. The foregoing time it took for Plaintiff and
20 **Hourly Employee Class** members to participate in these activities was uncompensated working
21 time under the direction and control of Defendants, for which no wages were paid.

22 50. This uncompensated time caused Plaintiff and **Hourly Employee Class** members to
23 work in excess of eight (8), ten (10), and twelve (12) hours a day and/or forty (40) hours a week,
24 entitling Plaintiff and **Hourly Employee Class** members to minimum and overtime wages, which
25 they were systemically denied.

26 51. Defendants failed to pay Plaintiff and **Hourly Employee Class** members overtime
27 wages at the proper and applicable regular rates of pay. Specifically, Plaintiff and **Hourly**
28 **Employee Class** members earned incentive pay and shift differentials, as well as performance-

1 based non-discretionary bonuses, in addition to their hourly pay. However, these supplemental
2 earnings were not accounted for when determining Plaintiff and **Hourly Employee Class** members'
3 regular rates of pay, and respective and proper overtime rates of pay. Defendants also failed to pay
4 **Hourly Employee Class** members "premium pay" wages, i.e. one hour of wages at each **Hourly**
5 **Employee Class** members' effective hourly rate of pay, for each meal period and/or rest break that
6 Defendants failed to provide or deficiently provided. As a result, Plaintiff and **Hourly Employee**
7 **Class** members were not fully compensated for all hours worked.

8 52. As a result of Defendants' unlawful conduct, Plaintiff and **Hourly Employee Class**
9 members have suffered damages in an amount, subject to proof, to the extent they were not paid the
10 full amount of wages earned during each pay period during the applicable limitations period,
11 including overtime wages.

12 53. Pursuant to Labor Code sections 204, 218.6, 223, 510, 1194, 1194.2, 1197.1 and 1198
13 Plaintiff, on behalf of himself and **Hourly Employee Class** members, seeks to recover unpaid
14 straight time and overtime wages, interest thereon and costs of suit.

15 54. Pursuant to Labor Code section 1194, Code of Civil Procedure section 1021.5, the
16 substantial benefit doctrine, and/or the common fund doctrine, Plaintiff, on behalf of himself and
17 **Hourly Employee Class** members, seeks to recover reasonable attorneys' fees.

18 **SECOND CAUSE OF ACTION**

19 **FAILURE TO PROVIDE MEAL PERIODS**

20 **(Lab. Code §§ 204, 226.7, 512, 1174, and 1198)**

21 **(Plaintiff and Meal Period Sub-Class)**

22 55. Plaintiff incorporates by reference the preceding paragraphs of the Complaint as if
23 fully alleged herein.

24 56. At all relevant times, Plaintiff and the **Meal Period Sub-Class** members have been
25 non-exempt employees of Defendant entitled to the full meal period protections of both the Labor
26 Code and the applicable Industrial Welfare Commission Wage Order.

27 57. Labor Code section 512 and Section 11 of the applicable Industrial Welfare
28 Commission Wage Order impose an affirmative obligation on employers to provide non-exempt

employees with uninterrupted, duty-free meal periods of at least thirty minutes for each work period of five hours, and to provide them with two uninterrupted, duty-free meal periods of at least thirty minutes for each work period of ten hours.

58. Labor Code section 226.7 and Section 11 of the applicable Industrial Welfare Commission Wage Order (“Wage Order”) both prohibit employers from requiring employees to work during required meal periods and require employers to pay non-exempt employees an hour of premium wages on each workday that the employee is not provided with the required meal period.

59. Compensation for missed meal periods constitutes wages within the meaning of Labor Code section 200.

60. Labor Code section 1198 makes it unlawful to employ a person under conditions that violate the applicable Wage Order.

61. Section 11 of the applicable Wage Order states:

No employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes, except that when a work period of not more than six (6) hours will complete the day’s work the meal period may be waived by mutual consent of the employer and employee. Unless the employee is relieved of all duty during a 30 minute meal period, the meal period shall be considered an ‘on duty’ meal period and counted as time worked. An ‘on duty’ meal period shall be permitted only when the nature of the work prevents an employee from being relieved of all duty and when by written agreement between the parties an on-the-job paid meal period is agreed to. The written agreement shall state that the employee may, in writing, revoke the agreement at any time.

62. At all relevant times and upon information and belief, Plaintiff was not subject to a valid on-duty meal period agreement. Plaintiff is informed and believes that, at all relevant times, **Meal Period Sub-Class** members were not subject to valid on-duty meal period agreements with Defendants.

63. Upon information and belief, Plaintiff alleges that, at all relevant times during the applicable limitations period, Defendants maintained a policy or practice of not providing Plaintiff and members of the **Meal Period Sub-Class** with uninterrupted, duty-free meal periods for at least thirty (30) minutes for each five (5) hour work period, as required by Labor Code section 512 and

1 the applicable Wage Order. Specifically, due to understaffing and heavy workloads, Plaintiff and
2 **Meal Period Sub-Class** members were denied the opportunity to take timely meal periods
3 altogether and/or prior to the completion of their fifth hour of work. Additionally, the
4 uncompensated pre-shift duties, discussed herein, further delayed Plaintiff and **Meal Period Sub-**
5 **Class** members' meal periods to commence after to the completion of the fifth and tenth hours of
6 work.

7 64. Upon information and belief, Plaintiff alleges that, at all relevant times during the
8 applicable limitations period, Defendants maintained a policy or practice of failing to pay premium
9 wages to **Meal Period Sub-Class** members when they worked five (5) hours without a meal period.

10 65. Upon information and belief, Plaintiff alleges that, at all relevant times during the
11 applicable limitations period, Defendants maintained a policy or practice of not providing Plaintiff
12 and members of the **Meal Period Sub-Class** with a second meal period when they worked shifts of
13 ten (10) or more hours and failed to pay them premium wages as required by Labor Code 512 and
14 the applicable Wage Order.

15 66. Pursuant to Labor Code section 204, 218.6, 226.7 and 512, Plaintiff, on behalf of
16 himself and the **Meal Period Sub-Class** members, seeks to recover unpaid premium wages, interest
17 thereon, and costs of suit.

18 67. Pursuant to Labor Code section 1194, Code of Civil Procedure section 1021.5, the
19 substantial benefit doctrine, and/or the common fund doctrine, Plaintiff, on behalf of himself and
20 the **Meal Period Sub-Class** members, seeks to recover reasonable attorneys' fees.

21 **THIRD CAUSE OF ACTION**

22 **FAILURE TO PROVIDE REST PERIODS**

23 **(Lab. Code §§ 204, 223, 226.7 and 1198)**

24 **(Plaintiff and Rest Period Sub-Class)**

25 68. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged
26 herein.

27 69. At all relevant times, Plaintiff and the **Rest Period Sub-Class** members have been
28 non-exempt employees of Defendants entitled to the full rest period protections of both the Labor

Code and the applicable Wage Order.

70. Section 12 of the applicable Wage Order imposes an affirmative obligation on employers to permit and authorize employees to take required rest periods at a rate of no less than ten (10) minutes of net rest time for each four (4) hour work period, or major fraction thereof, that must be in the middle of each work period insofar as practicable.

71. Labor Code section 226.7 and Section 12 of the applicable Wage Order both prohibit employers from requiring employees to work during required rest periods and require employers to pay non-exempt employees an hour of premium wages at the employees' regular rates of pay, on each workday that the employee is not provided with the required rest period(s).

72. Compensation for missed rest periods constitutes wages within the meaning of Labor Code section 200.

73. Labor Code section 1198 makes it unlawful to employ a person under conditions that violate the Wage Order.

74. Plaintiff alleges that, at all relevant times during the applicable limitations period, Defendants maintained a policy or practice of not providing members of the **Rest Period Sub-Class** with net rest period of at least ten (10) uninterrupted minutes for each four (4) hour work period, or major fraction thereof, as required by the applicable Wage Order.

75. Plaintiff and **Rest Period Sub-Class** members were not provided with rest periods of at least ten (10) minutes for each four (4) hour work period, or major fraction thereof, due to (1) Defendants' policy and practice of not scheduling each rest period as part of each work shift, including second rest breaks for shifts of six (6) hours or more; and (2) Defendants' policy and practice of requiring **Rest Period Sub-Class** members to continue working through their rest breaks due to the excessive workload. Thus, **Rest Period Sub-Class** members were consistently denied of their rest breaks.

76. At all relevant times, Defendants failed to pay Plaintiff and the **Rest Period Sub-Class** members additional premium wages when required rest periods were not provided.

77. Pursuant to Labor Code section 204, 218.6 and 226.7, Plaintiff, on behalf of himself and **Rest Period Sub-Class** members, seeks to recover unpaid premium wages, interest thereon,

1 and costs of suit.

2 78. Pursuant to Labor Code section 1194, Code of Civil Procedure section 1021.5, the
3 substantial benefit doctrine, and/or the common fund doctrine, Plaintiff, on behalf of himself and
4 **Rest Period Sub-Class** members, seeks to recover reasonable attorneys' fees.

5 **FOURTH CAUSE OF ACTION**

6 **RECOVERY OF REPORTING TIME PAY**

7 **(Plaintiff and Reporting Time Pay Sub-Class)**

8 79. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged
9 herein.

10 80. The IWC Wage Orders, require that reporting time pay be provided to any employee
11 who is required to report for work and does report, but is not put to work or is furnished less than
12 half said employee's usual or scheduled day's work.

13 81. Plaintiff is informed and believes and thereon alleges that all or substantially all the
14 **Reporting Time Pay Sub-Class** are subject to Defendants' policies and practices requiring them
15 to call in or otherwise show up to work but not being paid half said their usual or scheduled day's
16 work.

17 82. Therefore, **Reporting Time Pay Sub-Class** Members are owed the unpaid balance
18 of said wages pursuant to the Wage order according to proof at trial, Interest pursuant to Labor
19 Code §§ 218.6 and 1194(a), Civil Code §§ 3287 and § 3289, and reasonable attorneys' fees and
20 costs and/or penalties pursuant to Labor Code § 558(a).

21 **FIFTH CAUSE OF ACTION**

22 **FAILURE TO PAY VACATION WAGES**

23 **(Lab. Code § 227.3)**

24 **(Plaintiff and Vacation Pay Class)**

25 83. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged
26 herein.

27 84. California Labor Code section 227.3 provides:
28

1 Unless otherwise provided by a collective-bargaining agreement, whenever
2 a contract of employment or employer policy provides for paid vacations,
3 and an employee is terminated without having taken off his vested vacation
4 time, all vested vacation shall be paid to him as wages at his final rate in
5 accordance with such contract of employment or employer policy
6 respecting eligibility or time served; provided, however, that an
employment contract or employer policy shall not provide for forfeiture of
vested vacation time upon termination. The Labor Commissioner or a
designated representative, in the resolution of any dispute with regard to
vested vacation time, shall apply the principles of equity and fairness.

7 85. Pursuant to California Labor Code § 227.3, whenever a contract of employment or
8 employment policy provides for paid vacation and an employee is terminated without having taken
9 off his vested vacation time, all vested vacation shall be paid to his as wages at his final rate in
10 accordance with said contract of employment or policy respecting eligibility or time served.

11 86. Defendants paid non-discretionary bonuses and/or commissions to the **Vacation Pay**
12 **Class** but Defendants failed to include these forms of remuneration in the regular rate of pay upon
13 which vacation wages were calculated and paid.

14 87. Therefore, pursuant to, Plaintiff and the **Vacation Pay Class** seek to recover penalties
15 pursuant to Labor Code § 227.3.

16 **SIXTH CAUSE OF ACTION**

17 **FAILURE TO PROPERLY PAY SICK PAY**

18 **(Lab. Code § 246)**

19 **(Plaintiff and Sick Pay Class)**

20 88. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged
21 herein.

22 89. Labor Code Section 246 affords an employee “who works in California for 30 or more
23 days within a year from the commencement of employment [] paid sick days . . . of not less than
24 one hour per every 30 hours worked” and “no less than 24 hours of accrued sick leave or paid time
25 off by the 120th calendar day of employment or each calendar year, or in each 12-month period.”

26 90. Additionally, Subsection (l) of Section 246 provides:

27 For the purposes of this section, an employer shall calculate paid sick leave
28 using any of the following calculations:

1
2 (1) Paid sick time for nonexempt employees shall be calculated in the same
3 manner as the regular rate of pay for the workweek in which the employee
4 uses paid sick time, whether or not the employee actually works overtime
5 in that workweek.

6
7 91. Defendants had a common policy and practice of systemically failing to pay Plaintiff
8 and **Sick Pay Class** Members the requisite sick time pay in accordance with California Law.
9 Specifically, Defendants failed to incorporate all remunerations, including incentive pay, shift
10 differentials and/or non-discretionary bonuses, into the calculation of the regular rate of pay for
11 purposes of calculating sick pay. Therefore, during times when Plaintiff and **Sick Pay Class**
12 Members worked overtime and received incentive pay, shift differentials and/or non-discretionary
13 bonuses, Defendants failed to pay all sick pay by paying a lower overtime rate than required.

14 92. Therefore, **Sick Pay Class** Members are owed the unpaid balance of said wages
15 pursuant to the Wage order according to proof at trial, interest pursuant to Labor Code §§ 218.6 and
16 1194(a), Civil Code §§ 3287 and § 3289, and reasonable attorneys' fees and costs and/or penalties
17 pursuant to Labor Code § 558(a).

18 **SEVENTH CAUSE OF ACTION**

19 **FAILURE TO INDEMNIFY**

20 **(Lab. Code § 2802)**

21 **(Plaintiff and Reimbursement Class)**

22 93. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged
23 herein.

24 94. Labor Code section 2802(a) states:

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

95. Plaintiff and **Expense Reimbursement Class** members were not reimbursed for
business expenses incurred in executing their duties under Defendants' employ. Specifically,
Plaintiff and **Expense Reimbursement Class** members were required to use their personal cell

1 phones for work related purposes. Plaintiff and **Expense Reimbursement Class** were also required
2 to use their personal vehicles for work related purposes, such as picking up supplies from the store.
3 Plaintiff was also required to purchase his own tools and equipment necessary for carrying out his
4 job duties, such as a screwdriver, dry wall saw, hammer, and voltage testers. Plaintiff and **Expense**
5 **Reimbursement Class** members were not reimbursed for these necessary work-related expenses.

6 96. Accordingly, Plaintiff and **Expense Reimbursement Class** members are entitled to
7 restitution for all unpaid amounts due and owing to within four (4) years of the date of the filing of
8 the Complaint and until the date of entry of judgment.

9 97. Plaintiff, on behalf of himself, and **Expense Reimbursement Class** members, seeks
10 interest thereon and costs pursuant to Labor Code section 218.6, and reasonable attorneys' fees and
11 costs pursuant to Code of Civil Procedure section 1021.5.

12 **EIGHTH CAUSE OF ACTION**

13 **FAILURE TO PROVIDE ACCURATE WAGE STATEMENTS**

14 **(Lab. Code § 226)**

15 **(Plaintiff and Wage Statement Penalties Sub-Class)**

16 98. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged
17 herein.

18 99. Labor Code section 226(a) states:

19 An employer, semimonthly or at the time of each payment of wages,
20 shall furnish to his or her employee, either as a detachable part of the
21 check, draft, or voucher paying the employee's wages, or separately if
22 wages are paid by personal check or cash, an accurate itemized
23 statement in writing showing (1) gross wages earned, (2) total hours
24 worked by the employee, except as provided in subdivision (j), (3) the
25 number of piece-rate units earned and any applicable piece rate if the
26 employee is paid on a piece-rate basis, (4) all deductions, provided that
27 all deductions made on written orders of the employee may be
28 aggregated and shown as one item, (5) net wages earned, (6) the
inclusive dates of the period for which the employee is paid, (7) the
name of the employee and only the last four digits of his or her social
security number or an employee identification number other than a
social security number, (8) the name and address of the legal entity that
is the employer and, if the employer is a farm labor contractor, as
defined in subdivision (b) of Section 1682, the name and address of the

1 legal entity that secured the services of the employer, and (9) all
2 applicable hourly rates in effect during the pay period and the
3 corresponding number of hours worked at each hourly rate by the
4 employee and, beginning July 1, 2013, if the employer is a temporary
5 services employer as defined in Section 201.3, the rate of pay and the
6 total hours worked for each temporary services assignment. The
7 deductions made from payment of wages shall be recorded in ink or
8 other indelible form, properly dated, showing the month, day, and year,
9 and a copy of the statement and the record of the deductions shall be
10 kept on file by the employer for at least three years at the place of
11 employment or at a central location within the State of California. For
12 purposes of this subdivision, 'copy' includes a duplicate of the itemized
13 statement provided to an employee or a computer-generated record that
14 accurately shows all of the information required by this subdivision.

15 100. Plaintiff is informed and believes that, at all relevant times during the applicable
16 limitations period, Defendants have failed to provide Plaintiff and **Wage Statement Class** members
17 with accurate statements as the wage statements issued to class members failed to account all hours
18 worked, including overtime, and the applicable hourly rates. Specifically, Defendants failed to to
19 list "all applicable hourly rates" pursuant to Labor Code section 226(a)(9) as Defendants failed to
20 provide rates for hourly incentive pay and shift differentials.

21 101. Plaintiff is informed and believes that Defendants' failure to provide Plaintiff and
22 **Wage Statement Class** members with accurate written wage statements was intentional in that
23 Defendants have the ability to provide them with accurate wage statements but have intentionally
24 provided them with written wage statements that Defendants have known do not comply with Labor
25 Code section 226(a).

26 102. Plaintiff and **Wage Statement Class** members have suffered injuries, in that
27 Defendants have violated their legal rights to receive accurate wage statements and have misled
28 them about their actual rates of pay and wages earned. In addition, inaccurate information on their
wage statements has prevented immediate challenges to Defendants' unlawful pay practices, has
required discovery and mathematical computations to determine the amount of wages owed, has
caused difficulty and expense in attempting to reconstruct time and pay records, and/or has led to
the submission of inaccurate information about wages and deductions to federal and state
government agencies.

1 103. Pursuant to Labor Code section 226(e), Plaintiff, on behalf of himself and **Wage**
2 **Statement Class** members, seeks the greater of actual damages or \$50.00 for the initial pay period
3 in which a violation of Labor Code section 226(a) occurred, and \$100.00 for each subsequent pay
4 period in which a violation of Labor Code section 226(a) occurred, not to exceed an aggregate
5 penalty of \$4000.00 per class member, as well as awards of reasonable attorneys' fees and costs.

6 **NINTH CAUSE OF ACTION**

7 **FAILURE TO TIMELY PAY ALL FINAL WAGES**

8 **(Lab. Code §§ 201-203)**

9 **(Plaintiff and Waiting Time Penalties Sub-Class)**

10 104. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged
11 herein.

12 105. At all relevant times, Plaintiff and **Waiting Time Penalties Sub-Class** members have
13 been entitled, upon the end of their employment with Defendants, to timely payment of all wages
14 earned and unpaid before termination or resignation.

15 106. At all relevant times, pursuant to Labor Code section 201, employees who have been
16 discharged have been entitled to payment of all final wages immediately upon termination.

17 107. At all relevant times, pursuant to Labor Code section 202, employees who have
18 resigned after giving at least seventy-two (72) hours' notice of resignation have been entitled to
19 payment of all final wages at the time of resignation.

20 108. Plaintiff is informed and believes that, at all relevant times during the applicable
21 limitations period, Defendants have failed to timely pay **Waiting Time Penalties Sub-Class**
22 members all their final wages in accordance with the Labor Code.

23 109. Plaintiff is informed and believes that, at all relevant times during the applicable
24 limitations period, Defendants have maintained a policy or practice of paying **Waiting Time**
25 **Penalties Sub-Class** members their final wages without regard to the requirements of Labor Code
26 sections 201 or 202 by failing to timely pay them all final wages.

27 110. Plaintiff is informed and believes, and thereupon alleges that Defendants' failure to
28 timely pay all final wages to Plaintiff and **Waiting Time Penalties Sub-Class** members has been

1 willful in that Defendants have the ability to pay final wages in accordance with Labor Code
2 sections 201 and/or 202 but have intentionally adopted policies or practices that are incompatible
3 with those requirements.

4 111. Pursuant to Labor Code sections 203 and 218.6, Plaintiff, on behalf of himself and
5 **Waiting Time Penalties Sub-Class** members, seeks waiting time penalties from the dates that their
6 final wages have first become due until paid, up to a maximum of thirty days, and interest thereon.

7 112. Pursuant to Code of Civil Procedure section 1021.5, the substantial benefit doctrine
8 and/or the common fund doctrine, Plaintiff, on behalf of himself and **Waiting Time Penalties Sub-**
9 **Class** members, seeks awards of reasonable attorneys' fees and costs.

10 **TENTH CAUSE OF ACTION**

11 **UNFAIR COMPETITION**

12 **(Bus. & Prof. Code §§ 17200 *et seq.*)**

13 **(Plaintiff and UCL Class)**

14 113. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged
15 herein.

16 114. Business and Professions Code section 17200 defines "unfair competition" to include
17 any unlawful business practice.

18 115. Business and Professions Code sections 17203-17204 allow a person who has lost
19 money or property as a result of unfair competition to bring a class action in accordance with Code
20 of Civil Procedure section 382 to recover money or property that may have been acquired from
21 similarly situated persons by means of unfair competition.

22 116. California law requires employers to pay hourly, non-exempt employees for all hours
23 they are permitted or suffered to work, including hours that the employer knows or reasonable
24 should know that employees have worked.

25 117. Plaintiff and the **UCL Class** members re-allege and incorporate the FIRST, SECOND,
26 THIRD, FOURTH, FIFTH, SIXTH, and SEVENTH causes of action herein.

27 118. Plaintiff lost money or property as a result of the aforementioned unfair competition.

28 119. Defendants have or may have acquired money by means of unfair competition.

1 120. Plaintiff is informed and believes, and thereupon alleges that by committing the Labor
2 Code violations described in this Complaint, Defendants violated Labor Code sections 204, 215,
3 216, 225, 226.6, 226.7, 227.3, 246, 512, 510, 553, 1175, 1174, 1194, 1194.2, 1197, 1197.1, 1198,
4 1199 and 2802, as well as applicable Wage Orders, which make it a misdemeanor to commit the
5 violations alleged herein.

6 121. Defendants have committed criminal conduct through their policies and practices of,
7 *inter alia*, failing to comport with their affirmative obligations as an employer to: pay for all hours
8 worked at the proper rates of pay; provide non-exempt employees with compliant meal and rest
9 periods; pay sick time at the proper rate of pay; and reimburse for necessary business expenditures.

10 122. Defendants' unlawful conduct as alleged in this Complaint amounts to and constitutes
11 unfair competition within the meaning of Business and Professions Code section 17200 *et seq.*
12 Business and Professions Code section 17200 *et seq.* protects against unfair competition and allows
13 a person who has suffered an injury-in-fact and has lost money or property as a result of an unfair,
14 unlawful or fraudulent business practice to seek restitution on his own behalf and on behalf of
15 similarly situated persons in a class action proceeding.

16 123. As a result of Defendants' violations of the Labor Code during the applicable
17 limitations period, Plaintiff has suffered an injury-in-fact and has lost money or property in the form
18 of earned wages. Specifically, Plaintiff has lost money or property as a result of Defendants'
19 conduct.

20 124. Plaintiff is informed and believes that other similarly situated persons have been
21 subject to the same unlawful policies or practices of Defendants.

22 125. Due to the unfair and unlawful business practices in violation of the Labor Code,
23 Defendants have gained a competitive advantage over other comparable companies doing business
24 in the State of California that comply with their legal obligations.

25 126. California's Unfair Competition Law ("UCL") permits civil recovery and injunctive
26 relief for "any unlawful, unfair or fraudulent business act or practice," including if a practice or act
27 violates or is considered unlawful under any other state or federal law.

28 127. Accordingly, pursuant to Business and Professions Code sections 17200 and 17203,

1 Plaintiff requests the issuance of temporary, preliminary and permanent injunctive relief enjoining
2 Defendants, and each of them, and their agents and employees, from further violations of the Labor
3 Code and applicable Wage Orders.

4 128. Accordingly, pursuant to Bus. & Prof. Code sections 17200 and 17203, Plaintiff
5 requests the issuance of temporary, preliminary and permanent injunctive relief enjoining
6 Defendants, and each of them, and their agents and employees, from further violations of the Labor
7 Code and applicable Industrial Welfare Commission Wage Orders; and upon a final hearing seeks
8 an order permanently enjoining Defendants, and each of them, and their respective agents and
9 employees, from further violations of the Labor Code and applicable Industrial Welfare
10 Commission Wage Orders.

11 129. Pursuant to Business and Professions Code section 17203, Plaintiff, on behalf of
12 himself and **UCL Class** members, seeks declaratory relief and restitution of all monies rightfully
13 belonging to them that Defendants did not pay them or otherwise retained by means of its unlawful
14 and unfair business practices.

15 130. Pursuant to Code of Civil Procedure section 1021.5, the substantial benefit doctrine
16 and/or the common fund doctrine, Plaintiff and **UCL Class** members are entitled to recover
17 reasonable attorneys' fees in connection with their unfair competition claims.

18 131. Pursuant to Business and Professions Code section 17203, Plaintiff, on behalf of
19 himself and **UCL Class** members, seeks declaratory relief and restitution of all monies rightfully
20 belonging to them that Defendants did not pay them or otherwise retained by means of its unlawful
21 and unfair business practices.

22 132. Pursuant to Code of Civil Procedure section 1021.5, the substantial benefit doctrine
23 and/or the common fund doctrine, Plaintiff and **UCL Class** members are entitled to recover
24 reasonable attorneys' fees in connection with their unfair competition claims.

25 **ELEVENTH CAUSE OF ACTION**

26 **CIVIL PENALTIES**

27 **(Lab. Code §§ 2698, *et seq.*)**

28 133. Plaintiff incorporates the preceding paragraphs as if fully alleged herein.

1 134. During the applicable limitations period, Defendants have violated Labor Code §§
2 201, 202, 203, 204, 210, 226, 226.3, 226.7, 227.3, 246, 510, 512, 515, 558, 558.1, 1174, 1174.5,
3 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1199, 2698, 2699, *et seq.*, and 2802.¹

4 135. Labor Code §§ 2699(a) and (g) authorize an aggrieved employee, on behalf of himself
5 and other current and former employees, to bring a representative civil action to recover civil penalties
6 pursuant to the procedures set forth in Labor Code § 2699.3 that may, but need not, be brought or
7 maintained as a class action pursuant to Code of Civil Procedure section 382.

8 136. Plaintiff, a former employee against whom Defendants committed one or more of the
9 alleged Labor Code violations during the applicable limitations period, is an aggrieved employee
10 within the meaning of Labor Code § 2699(c). Plaintiff was employed by Defendants as a non-exempt
11 hourly employee in California. Aggrieved Employees include all non-exempt hourly employees of
12 Defendants within the state of California from one year prior to the date of this letter and continuing
13 through the present (Plaintiff and Aggrieved Employees are collectively referred to herein as
14 “Aggrieved Employees”)

15 137. Plaintiff has complied with the procedures for bringing suit specified in Labor Code §
16 2699.3. Notice was provided to the California Labor & Workforce Development Agency (“LWDA”)
17 and 65 days have elapsed without the LWDA providing Plaintiff with any notice of an intent to
18 investigate.

19 138. Pursuant to Labor Code sections 2699(a) and (f), Plaintiff seeks the following civil
20 penalties for Defendants’ violations of Labor Code §§ 201, 202, 203, 204, 223, 226.7, 226(a), 227.3,
21 246, 510, 512, 1174, 1194, 1194.2, 1197, 1197.1, 1198, and 2802:

- 22 i. For violations of Labor Code §§ 201, 202, 203, 226.7, 227.3, 246 1174, 1194,
23 1198 and 2802, one hundred dollars (\$100) for each employee per pay period
24 for each initial violation and two hundred dollars (\$200) for each employee per

26 ¹ Plaintiff hereby reserves the right to seek penalties on behalf of all Aggrieved Employees, for
27 Defendants’ violations of the applicable provisions of the Labor Code, suffered by Aggrieved
28 Employees, but not directly suffered by Plaintiff under *Huff v. Securitas Security Services USA, Inc.*
(2018) 23 Cal.App.5th 745.

1 pay period for each subsequent violation (penalties set by Labor Code §
2 2699(f)(2));

3 ii. For violations of Labor Code § 203, a penalty in an amount not exceeding thirty
4 (30) days' pay as waiting time (penalties set by Labor Code § 256);

5 iii. For violations of Labor Code § 204, one hundred dollars (\$100) for each
6 employee for each initial violation that was neither willful nor intentional, two
7 hundred dollars (\$200) for each employee, plus 25% of the amount unlawfully
8 withheld from each employee, for each initial violation that was either willful
9 or intentional, and two hundred dollars (\$200) for each employee, plus twenty-
10 five percent (25%) of the amount unlawfully withheld from each employee,
11 for each subsequent violation, regardless of whether the subsequent violation
12 was either willful or intentional (penalties set by Labor Code § 210);

13 iv. For violations of Labor Code § 223, one hundred dollars (\$100) for each
14 employee for each initial violation that was neither willful nor intentional, two
15 hundred dollars (\$200) for each employee, plus twenty-five percent (25%) of
16 the amount unlawfully withheld from each employee, for each initial violation
17 that was either willful or intentional, and two hundred dollars (\$200) for each
18 employee, plus twenty-five percent (25%) of the amount unlawfully withheld
19 from each employee, for each subsequent violation, regardless of whether the
20 subsequent violation was either willful or intentional (penalties set by Labor
21 Code § 225.5);

22 v. For violations of Labor Code § 226(a), if this action is deemed to be an initial
23 citation, two hundred and fifty dollars (\$250) for each employee for each
24 violation. Alternatively, if an initial citation or its equivalent occurred before
25 the filing of this action, one thousand dollars (\$1,000) for each employee for
26 each violation (penalties set by Labor Code § 226.3);

27 vi. For violation of Labor Code §§ 510 and 512, fifty dollars (\$50) for each
28 employee for each initial pay period for which the employee was underpaid,

1 and one hundred dollars (\$100) for each employee for each subsequent pay
2 period for which the employee was underpaid (penalties set by Labor Code §
3 558);

4 vii. For violations of Labor Code § 1197, one hundred dollars (\$100) for each
5 aggrieved employee for each initial violation of Labor Code § 1197 that was
6 intentional and two hundred and fifty dollars (\$250) for each aggrieved
7 employee per pay period for each subsequent violation of Labor Code § 1197,
8 regardless of whether the initial violation was intentional (penalties set by
9 Labor Code § 1197.1);

10 viii. Pursuant to Labor Code § 2699(g), Plaintiff seeks an award of reasonable
11 attorneys' fees and costs in connection with Plaintiff's claims for civil
12 penalties.

13 **PRAYER FOR RELIEF**

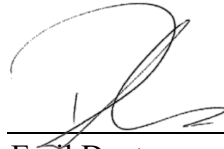
14 WHEREFORE, Plaintiff, on behalf of himself, all others similarly situated, and the general
15 public, prays for relief and judgment against Defendants as follows:

- 16 a. An order that the action be certified as a class action;
17 b. An order that Plaintiff be appointed class representative;
18 c. An order that counsel for Plaintiff be appointed class counsel;
19 d. Unpaid wages and overtime;
20 e. Unreimbursed expenses;
21 f. Actual damages;
22 g. Liquidated damages;
23 h. Restitution;
24 i. Declaratory relief;
25 j. Pre-judgment interest;
26 k. Statutory penalties;
27 l. Civil penalties;
28 m. Costs of suit;

- 1 n. Reasonable attorneys' fees; and
2 o. Such other relief as the Court deems just and proper.
3

4 Dated: June 7, 2024

D.LAW, INC.

5
6 

7 _____
8 Emil Davtyan
9 David Yeremian
10 David Keledjian
11 Pola Bernabe
12 Attorneys for Plaintiff
13 OBED PAVON and the putative class
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DEMAND FOR JURY TRIAL

Plaintiff, on behalf of himself, all other similarly situated, and the general public, hereby demands a jury trial on all issues so triable.

Dated: June 7, 2024

D.LAW, INC.



Emil Davtyan
David Yeremian
David Keledjian
Pola Bernabe
Attorneys for Plaintiff
OBED PAVON and the putative class

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I am employed in the aforesaid county, State of California; I am over the age of 18 years and not a party to the within action; my business address is 880 E Broadway, Glendale, CA 91205.

ACTION PROPERTY MANAGEMENT, INC.
c/o Matthew Holbrook
Agent for Service of Process
2603 Main Street, Suite 500
Irvine, CA 92614

☐ **(BY OVERNIGHT DELIVERY)** I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the address above. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

[X] (STATE) I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct.


Jordan Floyd