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County of San Diego
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Clerk of the Superior Court
By R. Chanez, Deputy Clerk

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO**

LUIS BRISENO, as an individual and on behalf
of all others similarly situated,

Plaintiff,

vs.

SMART & FINAL STORES LLC, a California
limited liability company; and DOES 1 through
100, inclusive,

Defendants.

Case No.: 37-2024-00025308-CU-OE-CTL

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

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

**DEMAND FOR JURY TRIAL
UNLIMITED CIVIL CASE**

1 Plaintiff Luis Briseno ("Plaintiff"), on behalf of himself and all others similarly situated,
2 hereby brings this First Amended Class and Representative Action Complaint ("Complaint")
3 against Defendants Smart & Final Stores LLC, a California limited liability company; and DOES
4 1 to 100, inclusive (collectively "Defendants"), and on information and belief alleges as follows:

5 **JURISDICTION**

6 1. Plaintiff, on behalf of himself and all others similarly situated, hereby brings this
7 action for recovery of unpaid wages, penalties, and unreimbursed expenses under California
8 Labor Code §§ 204, 226 *et seq.*, 226.7, 510, 512, 516, 558, 1182.12, 1194, 1194.2, 1197, 1198,
9 2802, 2804, and 2698 *et seq.*, California Business and Professions Code § 17200 *et seq.* ("Unfair
10 Competition Law"), and Industrial Welfare Commission Wage Order No. 7 ("Wage Order 7"), in
11 addition to seeking declaratory relief, injunctive relief, and restitution. This class action is brought
12 pursuant to California Code of Civil Procedure § 382. This Court has jurisdiction over
13 Defendants' violations of the California Labor Code because the amount in controversy exceeds
14 this Court's jurisdictional minimum.

15 **VENUE**

16 2. Venue is proper in this jurisdictional district pursuant to California Code of Civil
17 Procedure §§ 395(a) and 395.5, as Defendants own, maintain offices, transact business, have an
18 agent or agents within San Diego County, and/or otherwise are found within San Diego County,
19 and Defendants are within the jurisdiction of this Court for purpose of service of process.

20 **PARTIES**

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

1 *et seq.*, California Business and Professions Code § 17200, and Wage Order 7, which sets
2 employment standards for the mercantile industry.

3 4. Plaintiff is informed and believes, and based thereon alleges, that during the four
4 years preceding the filing of this Complaint and continuing to the present, Defendants did (and
5 do) business as a chain of retail stores, and employed Plaintiff and other, similarly situated non-
6 exempt employees within San Diego County and the state of California, and, therefore, were (and
7 are) doing business in San Diego County and the State of California.

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

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

21 7. Plaintiff is further informed and believes, and thereon alleges, that each of the
22 Defendants herein, whether designated by real or fictitious name, are, and at all times relevant
23 hereto, were, the agents servants, and employees and hirelings of each of the co-Defendants, as
24 well as the agents of all Defendants, and in doing things and acts herein alleged and complained
25 of or in failing to do that which they should have done, were acting within the scope of
26 employment. Defendants, and each of them, approved of, condoned, and/or otherwise ratified
27 each and every one of the acts or omissions alleged herein.

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1 8. At all times mentioned herein, Defendants, and each of them, were members of
2 and engaged in a joint venture, partnership, and common enterprise, and acting within the course
3 and scope of and in pursuance of said joint venture, partnership, and common enterprise. Further,
4 Plaintiff alleges that all Defendants were joint employers for all purposes of Plaintiff and all Class
5 Members.

6 **GENERAL FACTUAL ALLEGATIONS**

7 9. Defendants operate a chain of retail grocery stores. Plaintiff has been employed by
8 Defendants in the Produce Department at Defendants' National City location since July 2021.
9 Plaintiff's job duties include opening the store, cleaning, receiving orders, and stocking produce
10 and other merchandise.

11 10. Defendants utilized a timekeeping system, which upon information and belief,
12 resulted in Plaintiff not being compensated for all hours actually worked. Specifically, Plaintiff
13 was only allowed to clock in to Defendants' electronic timekeeping system at the scheduled start
14 of his shift, despite being frequently required to come in early. Plaintiff was specifically told that
15 he could only record his scheduled 8-hour shift in Defendants' electronic timekeeping system
16 despite frequently working in excess of 8-hours, and that he should write down his overtime hours
17 separately by hand but upon information and belief, Plaintiff was not properly credited with all
18 overtime hours actually worked. As a result of Defendants' timekeeping policies/practices,
19 employees consistently performed compensable work off-the-clock for which they were not
20 compensated, resulting in unpaid minimum and overtime wages.

21 11. Defendants failed to provide Plaintiff and other non-exempt employees with all
22 legally-compliant meal periods due to Defendants' unlawful meal period policies/practices that
23 failed to provide timely, duty-free 30-minute meal periods, including second meal periods when
24 working shifts over 10.0 hours. Plaintiff's meals were frequently provided after the end of the
25 fifth hour worked, but upon information and belief, Defendants would adjust Plaintiff's time
26 records to show timely meal periods. Defendants also only provided exactly 30 minutes for meal
27 periods, which resulted in Plaintiff and other non-exempt employees failing to receive a "net" of
28 30 minutes for meal periods, once factoring in the time that it took to walk from the timeclock to

1 the breakroom. Plaintiff was also frequently interrupted while taking meal periods to perform
2 work such as unloading trucks or other tasks. On occasions when Plaintiff and other non-exempt
3 employees were not provided with all lawful meal periods to which they were entitled, Defendants
4 failed to pay Plaintiff and other non-exempt employees an additional hour of premium pay at their
5 respective regular rates of pay for each workday in which a meal period violation occurred, as
6 required by Labor Code section 226.7.

7 12. Plaintiff was not authorized and permitted to take a rest period for every 4 hours
8 worked (or major fraction thereof) due to Defendants' rest period policies/practices. Plaintiff was
9 rarely afforded an opportunity to take rest periods at all. Furthermore, Defendants required
10 Plaintiff and other non-exempt employees to keep their cell phones on during rest periods in case
11 business needs arose. Additionally, Defendants failed to authorize a "net" of at least 10-minutes
12 for rest periods after factoring in the time that it took to walk to and from the breakroom.
13 Defendants failed to pay Plaintiff and other non-exempt employees an additional hour of premium
14 pay at their respective regular rates of pay for each workday in which a rest period violation
15 occurred, as required by Labor Code § 226.7.

16 13. Defendants would frequently call Plaintiff and other non-exempt employees on
17 their personal cellular phones with work-related questions or updates. Plaintiff was also required
18 to purchase his own apron and gloves, which were necessary for the job. Despite requiring
19 Plaintiff and other non-exempt employees to incur these expenses, Defendants did not reimburse
20 Plaintiff and other non-exempt employees for any portion of these expenses in violation of Labor
21 Code § 2802.

22 14. As a result of Defendants' failure to pay all minimum wages, overtime wages,
23 meal period premium wages, and rest period premium wages, Defendants maintained inaccurate
24 payroll records, and issued inaccurate wage statements to Plaintiff and other non-exempt
25 employees.

26 **CLASS ACTION ALLEGATIONS**

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

- 1 a. The Overtime Class consists of all of Defendants' current and former non-exempt
2 employees in California who worked more than eight (8) hours per day and/or
3 forty (40) hours per week were subject to Defendants' timekeeping
4 policies/practices, during the four years immediately preceding the filing of the
5 lawsuit through the present.
- 6 b. The Minimum Wage Class consists of all of Defendants' current and former non-
7 exempt employees in California who were subject to Defendants' timekeeping
8 policies and/or practices, during the four years preceding the filing of the lawsuit
9 through the present.
- 10 c. The Meal Period Class consists of all Defendants' current and former non-exempt
11 employees in California who worked at least one shift in excess of 5.0 hours during
12 the four years immediately preceding the filing of this action through the present.
- 13 d. The Rest Period Class consists of all of Defendants' current and former non-
14 exempt employees in California who worked at least one shift in excess of 3.5
15 hours, during the four years immediately preceding the filing of the lawsuit
16 through the present.
- 17 e. The Reimbursement Class: all of Defendants' current and former non-exempt
18 employees in California who were subject to Defendants' reimbursement
19 policies/practices, during the four years immediately preceding the filing of the
20 lawsuit through the present.
- 21 f. The Wage Statement Class consists of all members of the (i) Overtime Class; (ii)
22 Minimum Wage Class; (iii) Meal Period Class; and/or (iv) Rest Period Class, who
23 received a wage statement from Defendants during the one year immediately
24 preceding the filing of the lawsuit through the present.

25 16. **Numerosity/Ascertainability:** The members of the Classes are so numerous that
26 joinder of all members would be unfeasible and not practicable. The membership of the Classes
27 and subclasses are unknown to Plaintiff at this time; however, it is estimated that the Classes
28

number greater than one hundred (100) individuals as to each Class. The identity of such membership is readily ascertainable via inspection of Defendants' employment records.

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

- i. Whether Defendants' timekeeping policies and/or practices resulted in the failure to properly compensate members of the Overtime and Minimum Wage Classes;
- ii. Whether Defendants provided all legally compliant meal periods to members of the Meal Period Class;
- iii. Whether Defendants authorized and permitted all legally compliant rest periods to members of the Rest Period Class;
- iv. Whether Defendants provided meal and rest period premium payments for non-complaint meal and rest periods;
- v. Whether Defendants failed to properly reimburse the members of the Reimbursement Class for all necessary business expenses incurred; and
- vi. Whether Defendants furnished legally compliant wage statements to members of the Wage Statement Class;

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

19. **Typicality:** Plaintiff's claims are typical of the claims of the Classes because Defendants employed Plaintiff as a non-exempt employee in California during the statute of

1 limitations periods applicable to each cause of action pled herein. As alleged herein, Plaintiff, like
2 the members of the Classes was deprived of all overtime and minimum wages, was not provided
3 all legally required meal and rest breaks, was not reimbursed for necessary business expenditures,
4 and was furnished with inaccurate and incomplete wage statements.

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

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

1 which would, as a practical matter, be dispositive of the interest of the other class members not
2 parties to adjudications or which would substantially impair or impede the ability of the class
3 members to protect their interests. Further, the claims of the individual members of the Classes
4 are not sufficiently large to warrant vigorous individual prosecution considering all of the
5 concomitant costs and expenses attending thereto. As such, the Classes (as defined herein) are
6 maintainable under § 382 of the Code of Civil Procedure. As such, each of the Classes (as defined
7 herein) are maintainable under § 382 of the Code of Civil Procedure.

8 **FIRST CAUSE OF ACTION**

9 **FAILURE TO PAY OVERTIME WAGES**

10 **(AGAINST ALL DEFENDANTS)**

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

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

16 24. At all times relevant herein, Defendants were required to properly pay Plaintiff
17 and members of the Overtime Class for all overtime hours worked pursuant to California Labor
18 Code § 1194 and Wage Order 1. Wage Order 1, § 3 requires an employer to pay an employee
19 “one and one-half (1 ½) times the employee’s regular rate of pay for all hours worked in excess
20 of eight (8) hours” per workday and/or in excess of 40 hours of work in the workweek. Defendants
21 caused Plaintiff to work overtime hours, but did not compensate Plaintiff or members of the
22 Overtime Pay Class at one and one-half times their regular rate of pay for such hours.

23 25. The foregoing policies and practices alleged herein are unlawful and create
24 entitlement to recovery by Plaintiff and the members of the Overtime Class in a civil action for
25 the unpaid amount of overtime wages, including interest thereon, statutory penalties, civil
26 penalties, attorneys’ fees, and costs of suit according to California Labor Code §§ 204, 210, 216,
27 510, 558, 1194, and 1198; and Code of Civil Procedure § 1021.5.

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FAILURE TO PAY ALL MINIMUM WAGES OWED
(AGAINST ALL DEFENDANTS)

27. Wage Order 1, § 4 and California Labor Code §§ 1197 and 1182.12 establish the
of employees to be paid minimum wages for all hours worked, in amounts set by state law.
Code §§ 1194(a) and 1194.2(a) provide that an employee who has not been paid the legal
num wage as required by Labor Code § 1197 may recover the unpaid balance together with
eys' fees and costs of suit, as well as liquidated damages in an amount equal to the unpaid
s and interest accrued thereon.

29. 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.

31. The foregoing practices and policies are unlawful and create an entitlement to recovery by Plaintiff and the members of the Minimum Wage Class in a civil action for the unpaid amount of minimum wages owing, including interest thereon, liquidated damages, statutory and

civil penalties, attorney's fees, and costs of suit according to California Labor Code §§ 204, 558, 1194, 1197, and 1198, Wage Order 1, and Code of Civil Procedure § 1021.5.

THIRD CAUSE OF ACTION

MEAL PERIOD VIOLATIONS

(AGAINST ALL DEFENDANTS)

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

33. 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, § 10, 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.

34. 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)

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

36. Wage Order 1, § 12 and California Labor Code §§ 226.7, 516, 558, and 1198 establish the right of employees to be authorized and permitted to take a paid rest period of at least ten (10) minutes net rest time for each four (4) hour period worked, or major fraction thereof.

37. As alleged herein, Defendants failed to authorize and permit Plaintiff and members of the Rest Period Class to take all required and legally compliant rest periods, and failed to pay rest period premium wages when rest periods were not authorized and permitted.

1 38. The foregoing violations create an entitlement to recovery by Plaintiff and
2 members of the Rest Period Class in a civil action for the unpaid amount of rest period premiums
3 owing, including interest thereon, statutory penalties, civil penalties, and costs of suit according
4 to California Labor Code §§ 226.7, 516, 558, and Civil Code §§ 3287(b) and 3289 and Wage
5 Order 1.

6 **FIFTH CAUSE OF ACTION**

7 **FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENDITURES**
8 **(AGAINST ALL DEFENDANTS)**

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

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

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

19 42. As a proximate result of Defendants’ policies and/or practices in violation of Labor
20 Code §§ 2802 and 2804, and Wage Order 1 § 9, Plaintiff and members of the Reimbursement
21 Class were damaged in sums, which will be shown according to proof.

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

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1 **SIXTH CAUSE OF ACTION**

2 **WAGE STATEMENT VIOLATIONS**

3 **(AGAINST ALL DEFENDANTS)**

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

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

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

15 47. 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 48. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

23 49. 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 failing to pay Plaintiff and the Classes all overtime and minimum wages owed; failing
26 to authorize and permit Plaintiff and the Classes lawful rest periods; and failing to reimburse
27 Plaintiff and the Classes for all necessary business expenses.

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1 50. 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 51. Because Plaintiff is a victim of Defendants' unfair and/or unlawful conduct alleged
7 herein, Plaintiff for herself and on behalf of the members of the Classes, seeks full restitution of
8 monies, as necessary and according to proof, to restore all monies withheld, acquired and/or
9 converted by the Defendants pursuant to Business and Professions Code §§ 17203 and 17208.

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

12 53. Plaintiff was compelled to retain the services of counsel to file this court action to
13 protect Plaintiff's interests and those of the Class, to obtain restitution, to secure injunctive relief
14 on behalf of Defendants' current non-exempt employees, and to enforce important rights affecting
15 the public interest. Plaintiff thereby incurred the financial burden of attorneys' fees and costs,
16 which Plaintiff 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 54. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

21 55. 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 which
8 no civil penalty is specifically provided, based on the following Labor Code violations:

- 9 a. Failing to pay Plaintiff and other aggrieved employees all overtime
10 compensation earned in violation Labor Code §§ 204, 510, 558, 1194, and
11 1198;
- 12 b. Failing to pay Plaintiff and other aggrieved employees the statutory minimum
13 wage for all hours worked in violation of Labor Code §§ 1182.12, 1194,
14 1194.2, and 1197;
- 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

1 4. Upon the First Cause of Action, for compensatory, consequential, general and
2 special damages according to proof pursuant to Labor Code §§ 204, 510, 558, 1194, and 1198;

3 5. Upon the Second Cause of Action, for payment of minimum wages, liquidated
4 damages, and penalties owed according to proof pursuant to Labor Code §§ 558, 1182.12, 1194,
5 1194.2, and 1197;

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

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

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

12 9. Upon the Sixth Cause of Action, for statutory penalties pursuant to Labor Code §
13 226 *et seq.*;

14 10. Upon the Seventh Cause of Action, for restitution to Plaintiff and members of the
15 Classes of all money and/or property unlawfully acquired by Defendants by means of any acts or
16 practices declared by this Court to be in violation of California Business & Professions Code §
17 17200 *et seq.*;

18 11. Upon the Eighth Cause of Action, for civil penalties due to Plaintiff, other
19 aggrieved employees, and the State of California according to proof pursuant to Labor Code §§
20 558 and 2699(a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for
21 each failure to pay each employee and \$200 for each subsequent violation or willful or intentional
22 violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the
23 amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100 for each subsequent
24 violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial
25 violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per
26 employee per pay period; (4) \$250.00 for each initial violation and \$1,000.00 for each subsequent
27 violation pursuant to Labor Code § 226.3 per employee per pay period; and/or (5) \$100.00 for
28 each initial violation and \$200 for each subsequent violation per employee per pay period for

1 those violations of the Labor Code for which no civil penalty is specifically provided, based on
2 the Labor Code violations identified in Paragraph 55 (a)-(i);

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

5 13. On all causes of action, for attorneys' fees and costs as provided by Labor Code
6 §§ 218.5, 226, 1194 *et seq.*, 2802(c), 2698 *et seq.*, and Code of Civil Procedure § 1021.5; and

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

8
9 Dated: August 5, 2024

Respectfully submitted,
HAINES LAW GROUP, APC

10
11 By:



Fletcher W. Schmidt
Attorneys for Plaintiff

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13 **DEMAND FOR JURY TRIAL**

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

15
16 Dated: August 5, 2024

HAINES LAW GROUP, APC

17
18 By:



Fletcher W. Schmidt
Attorneys for Plaintiff