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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN BERNARDINO

CIVSB2417682

JONATHAN QUENGA, as an individual, and
on behalf of all others similarly situated,

Plaintiff,

v.

SCORPION SERVICES, INC., a California
corporation; and DOES 1 through 100,
inclusive,

Defendants.

ELECTRONICALLY FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

5/28/2024 5:49 PM

By: Michelle Gomez-Casillas, DEPUTY

Case No. _____

CLASS ACTION COMPLAINT:

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

**DEMAND FOR JURY TRIAL
UNLIMITED CIVIL CASE**

1 Plaintiff Jonathan Quenga (hereinafter “Plaintiff”), as an individual, and on behalf of all
2 others similarly situated, hereby brings this Class Action Complaint against Scorpion Services,
3 Inc., a California corporation; and DOES 1 to 100, inclusive (collectively “Defendants”), and on
4 information and belief alleges as follows:

5 **JURISDICTION**

6 1. Plaintiff hereby brings this Class Action Complaint for recovery of unpaid wages
7 and penalties under California Business and Professions Code § 17200 *et seq.*, Labor Code §§
8 201-203, 204, 226 *et seq.*, 226.7, 510, 512, 516, 558, 1182.12, 1194, 1194.2, 1197, and 1198, and
9 Industrial Welfare Commission Wage Order 4 (“Wage Order 4”), in addition to seeking
10 declaratory relief and restitution. This Complaint is brought pursuant to California Code of Civil
11 Procedure § 382. This Court has jurisdiction over Defendants’ violations of the California Labor
12 Code because the amount in controversy exceeds this Court’s jurisdictional minimum.

13 **VENUE**

14 2. Venue is proper in this judicial district pursuant to California Code of Civil
15 Procedure §§ 395(a) and 395.5, as at least some of the acts and omissions complained of herein
16 occurred in the County of San Bernardino. Defendants own, maintain offices, transact business,
17 have an agent or agents within the County of San Bernardino, and/or otherwise are found within
18 the County of San Bernardino, and Defendants are within the jurisdiction of this Court for
19 purposes 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 the Complaint in this action and within the statute of limitations periods applicable
24 to each cause of action pled herein, Plaintiff was employed by Defendants as a non-exempt
25 employee. Plaintiff was and is a victim of Defendants’ policies and/or practices complained of
26 herein, lost money and/or property, and has been deprived of the rights guaranteed by Labor Code
27 201-203, 204, 226 *et seq.*, 226.7, 510, 512, 516, 558, 1182.12, 1194, 1194.2, 1197, and 1198,
28 California Business and Professions Code § 17200 *et seq.* (“Unfair Competition Law”), and Wage

Order 4, which sets employment standards for security service companies.

4. Plaintiff is informed and believes, and based thereon alleges, that during the four years preceding the filing of the Complaint and continuing to the present, Defendants did (and continue to do) business by providing security services in California and the United States, employed Plaintiff within San Bernardino County and the state of California and, therefore, were (and are) doing business in San Bernardino County and the State of California.

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

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

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

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

GENERAL FACTUAL ALLEGATIONS

9. Plaintiff worked for Defendants between approximately April 4, 2022 and July 30, 2023 as a security guard. Plaintiff's job responsibilities included providing security services at a residential complex, patrolling the premises, responding to disturbances and observing and reporting the conditions on the premises. Plaintiff generally worked Wednesday through Sunday from approximately 11:00 p.m. to 7:00 a.m. or approximately 7:00 p.m. to 7:00 a.m.

10. Throughout the duration of Plaintiff's employment with Defendants, Plaintiff and other non-exempt employees were not paid for all hours worked as Defendants did not accurately keep track of all hours worked. Upon information and belief, the time records maintained by Defendants were not reflective of the actual number of hours that Plaintiff and other non-exempt employees actually worked. Plaintiff and other non-exempt employees clocked in to work through an app on their phones. Plaintiff and other non-exempt employees were generally required to arrive at work every day prior to their start times. For example, if Plaintiff was scheduled to start his shift at 11:00 p.m., he might arrive at 10:20 p.m. or 10:40 p.m. During this time, residents of the complex or his employer approached him with questions. During this time, Plaintiff also covered some of the closing duties of other non-exempt employees finishing their shifts. Plaintiff and other non-exempt employees spent at least approximately 20 to 40 minutes per work day approximately 5 days per week performing work prior to beginning their shifts.

11. Furthermore, Plaintiff and other non-exempt employees worked overtime hours, but did not receive all overtime compensation equal to one and one-half times their regular rates of pay for all overtime hours worked. As discussed above, Defendants maintained a policy/practice of not compensating Plaintiff and other non-exempt employees for their work performed before their pre-scheduled start times even though that time generally constituted time worked beyond 8 hours in one day. As a result, Defendants failed to ensure that Plaintiff and other non-exempt employees were being paid at least the minimum wage for all hours worked, and failed to ensure that Plaintiff and other non-exempt employees received proper overtime wages for all overtime hours worked.

1 12. Plaintiff and other non-exempt employees were not authorized to take all legally
2 required rest periods. This practice was pervasive throughout Plaintiff's employment. Plaintiff
3 and other non-exempt employees almost never received a full, uninterrupted rest period because
4 there was no one available to cover or relieve them during their shifts and they were regularly
5 interrupted to address security alerts or concerns raised by residents and/or their employer.
6 Defendants also instructed Plaintiff and other non-exempt employees that they had to be available
7 to address concerns raised and security alerts and therefore, when they took their rest periods,
8 they could not leave the premises. Also, Defendants required Plaintiff and other non-exempt
9 employees to clock in and out for their rest periods even though they rarely received a full rest
10 period. Even though Plaintiff often worked more than 10 hours in one day, Plaintiff almost never
11 received a full, uninterrupted first, second or third rest period throughout his employment with
12 Defendants. Despite Defendants' failure to authorize and permit Plaintiff and other non-exempt
13 employees to take all lawful paid rest periods, due to their uniform and unlawful practices,
14 Defendants never provided Plaintiff and other non-exempt employees with an hour of pay at their
15 regular rate for each rest period violation as required by Labor Code § 226.7. Upon information
16 and belief, during at least a portion of the class period, Defendants maintained no payroll code or
17 another mechanism for the payment of rest period premiums in the event Plaintiff and other non-
18 exempt employees were not authorized to take lawful rest periods.

19
20 13. Defendants also almost never provided Plaintiff and other non-exempt employees
21 with a legally compliant first meal period when they worked shifts in excess of 5.0 hours or a
22 legally compliant second meal period when they worked shifts longer than 10.0 hours. As
23 described above, Defendants instructed Plaintiff and other non-exempt employees that they could
24 not leave the premises for their meal periods because they had to be available to address security
25 alerts and concerns raised by residents and Defendants. Further, Plaintiff and other non-exempt
26 employees were interrupted daily during their meal periods with alerts and concerns requiring
27 immediate attention and thus almost never received a full, uninterrupted 30-minute meal period.
28 Despite Defendants' failure to provide Plaintiff and other non-exempt employees with all lawful

1 meal periods due to their uniform and unlawful practices, Defendants never provided Plaintiff
2 and other non-exempt employees with an hour of pay at their regular rate for each meal period
3 violation as required by Labor Code § 226.7.

4 14. Furthermore, Defendants failed to adequately reimburse Plaintiff and other non-
5 exempt employees for all reasonable and necessary work expenditures, including, but not limited
6 to, requiring Plaintiff and other non-exempt employees to use their personal cell phones to clock
7 in and out and call in security alerts and to purchase work pants beyond the initial set of work
8 pants issued.

9 15. Defendants have maintained inaccurate payroll records, failed to timely pay all
10 wages owed to employees, and failed to timely pay separating employees at the time of their
11 separation, and issued inaccurate wage statements. This is in part a result of Defendants' failure
12 to accurately compensate Plaintiff and other non-exempt employees for all minimum and
13 overtime wages, and failure to pay premium pay for failing to provide all required meal periods
14 and authorize all rest periods.

15 16. Defendants failed to issue to Plaintiff and other non-exempt employees accurate
16 itemized statements in writing showing (1) gross wages earned, (2) total hours worked by the
17 employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee
18 is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written
19 orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the
20 inclusive dates of the period for which the employee is paid, (7) the name of the employee and
21 only the last four digits of his or her social security number or an employee identification number
22 other than a social security number, (8) the name and address of the legal entity that is the
23 employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding
24 number of hours worked at each hourly rate by the employee.

25 17. Finally, Defendants failed to conform to the requirements of Labor Code § 2810.5
26 by failing to provide Plaintiff and other aggrieved employees written notices, in the language
27 normally used to communicate employment related information to the employees, containing
28 information regarding their: i) rate(s) of pay and the basis thereof; ii) allowances claimed as part

of the minimum wage; iii) regular payday designated by the employer; iv) the legal name of the employer; v) the address of the legal entity that is the employer; vi) the telephone number of the employer; vii) identifying information for the employer's workers' compensation insurance carrier; and viii) information informing the employee of their right to accrue and use paid sick leave. Despite maintaining an obligation to provide these disclosures to Plaintiff and other aggrieved employees, Defendants failed to do so, in violation of Labor Code § 2810.5.

CLASS ACTION ALLEGATIONS

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

- a. The Minimum Wage Class consists of all current and former non-exempt employees of Defendants in California who were subject to Defendants' timekeeping systems and/or practices, during the four years immediately preceding the filing of this lawsuit through the present.
- b. The Overtime Wage Class consists of all current and former non-exempt employees of Defendants in California who worked overtime hours and were subject to Defendants' timekeeping systems and/or practices, during the four years immediately preceding the filing of this lawsuit through the present
- c. The Rest Period Class consists of all current and former non-exempt employees of Defendants in California who worked at least one shift in excess of 3.5 hours during the four years immediately preceding the filing of this lawsuit through the present.
- d. The Meal Period Class consists of all current and former non-exempt employees of Defendants who performed work in California and: (i) worked at least one shift in excess of 5.0 hours without a meal period of at least 30 minutes in duration commencing prior to the conclusion of the fifth hour of work, and who do not have a corresponding meal period premium payment made for such shifts and/or (ii) worked at least one shift in excess of 10.0 hours while performing work for

Defendants in California without a second meal period of at least 30 minutes in duration commencing prior to the conclusion of the tenth hour of work, and who do not have a corresponding meal period premium payment made for such shifts during the four years preceding the filing of this lawsuit through the present.

e. The Employee Expense Class consists of all of current and former non-exempt employees of Defendants in California who were not reimbursed for expenses in the performance of their job duties, including, but not limited to use of their personal cell phones to clock in and out and call in security alerts and to purchase work pants beyond the initial set of work pants issued during the four years immediately preceding the filing of this lawsuit to the present.

f. The Wage Statement Class consists of all current and former non-exempt employees of Defendants in California who received a wage statement from Defendants during the one year immediately preceding the filing of this lawsuit through the present.

g. The Waiting Time Class consists of all of Defendants' formerly employed non-exempt employees in California who were subject to Defendants' timekeeping systems and/or practices, during the three years immediately preceding the filing of this lawsuit through the present.

19. **Numerosity/Ascertainability:** The members of the Classes are so numerous that joinder of all members would be unfeasible and not practicable. The membership of the Classes is unknown to Plaintiff at this time; however, it is estimated that the members of the Classes number greater than fifty (50) individuals. The identity of such membership is readily ascertainable via inspection of Defendants' employment records.

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

- i. Whether Defendants paid all minimum wages owed for all hours worked to members of the Minimum Wage Class pursuant to Labor Code §§ 118.2, 1194, 1194.2, and 1197;
- ii. Whether Defendants violated the applicable Labor Code provisions, including, but not limited to, §§ 510 and 1194 and Wage Order 4 by requiring members of the Overtime Wage Class to perform overtime work and not paying for said work in accordance with the overtime laws of the State of California;
- iii. Whether Defendants' timekeeping policies/practices resulted in the failure to properly compensate members of the Minimum Wage Class;
- iv. Whether Defendants provided all legally compliant meal periods to members of the Meal Period Class pursuant to Labor Code §§ 226.7 and 512;
- v. Whether Defendants provided all legally compliant rest periods to members of the Rest Period Class pursuant to Labor Code §§ 226.7 and 516;
- vi. Whether Defendants failed to reimburse members of the Employee Expense Class for business expenditures necessarily incurred in the performance of their duties;
- vii. Whether Defendants provided accurate, itemized wage statements to members of the Classes; and
- viii. Whether Defendants' policies and/or practices for the timing and amount of payment of final wages to members of the Waiting Time Class at the time of separation from employment were lawful.

21. **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 policies and practices, meal and rest period policies and practices, wage statement policies and practices, and the policies and practices regarding the timely payment of final wages. 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.

22. **Typicality:** The claims of Plaintiff are typical of the claims of the Classes because Plaintiff was employed by Defendants as a non-exempt employee in California during the statute(s) of limitations period applicable to each cause of action pled in the Complaint. As alleged herein, Plaintiff, like the members of the Classes, was subject to Defendants' meal/rest period and timekeeping policies and practices, was provided inaccurate wage statements, and was not paid all wages earned at the time of his separation of employment.

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

24. **Superiority:** The California Labor Code is broadly remedial in nature and serves an important public interest in establishing minimum working conditions and standards in California. These laws and labor standards protect the average working employee from exploitation by employers who have the responsibility to follow the laws and who may seek to take advantage of superior economic and bargaining power in setting onerous terms and conditions of employment. The nature of this action and the format of laws available to Plaintiff and members of the Classes make the class action format a particularly efficient and appropriate procedure to redress the violations alleged herein. If each employee were required to file an individual lawsuit, Defendants would necessarily gain an unconscionable advantage since they would be able to exploit and overwhelm the limited resources of each individual plaintiff with their vastly superior financial and legal resources. Moreover, requiring each member of the Classes to pursue an individual remedy would also discourage the assertion of lawful claims by employees who would be disinclined to file an action against their former and/or current employer

1 for real and justifiable fear of retaliation and permanent damages to their careers at subsequent
2 employment. Further, the prosecution of separate actions by the individual class members, even
3 if possible, would create a substantial risk of inconsistent or varying verdicts or adjudications
4 with respect to the individual class members against Defendants herein; and which would
5 establish potentially incompatible standards of conduct for Defendants; and/or legal
6 determinations with respect to individual class members which would, as a practical matter, be
7 dispositive of the interest of the other class members not parties to adjudications or which would
8 substantially impair or impede the ability of the class members to protect their interests. Further,
9 the claims of the individual members of the Classes are not sufficiently large to warrant vigorous
10 individual prosecution considering all of the concomitant costs and expenses attending thereto.
11 As such, the Classes (as defined herein) are maintainable as a Class under § 382 of the Code of
12 Civil Procedure.

13
14 **FIRST CAUSE OF ACTION**

15 **MINIMUM WAGE VIOLATIONS**

16 **(AGAINST ALL DEFENDANTS)**

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

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

28 27. California Labor Code § 1198 makes unlawful the employment of an employee

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

28. As a direct and proximate result of Defendants' unlawful conduct as alleged herein, Plaintiff and the Minimum Wage Class have sustained economic damages, including but not limited to, unpaid wages and lost interest in an amount to be established at trial, and are entitled to recover economic and statutory damages and penalties and other appropriate relief as a result of Defendants' violations of the California Labor Code and Wage Order 4.

29. Defendants' practice and uniform administration of corporate policy regarding illegal employee compensation is unlawful and creates an entitlement to recovery by Plaintiff and the Minimum Wage Class in a civil action for the unpaid amount of minimum wages, liquidated damages, including interest thereon, statutory penalties, and attorneys' fees and costs of suit according to California Labor Code §§ 204, 558, 1194, *et seq.*, 1197, 1198 and Code of Civil Procedure § 1021.5.

SECOND CAUSE OF ACTION

FAILURE TO PAY ALL OVERTIME WAGES

(AGAINST ALL DEFENDANTS)

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

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

32. At all times relevant herein, Defendants were required to properly compensate Plaintiff and members of the Overtime Class for all overtime hours worked pursuant to California Labor Code § 1194 and Wage Order 4. Wage Order 4, § 3 requires an employer to pay overtime wages when an employee's hours worked cross certain thresholds or meet certain criteria set forth in the Wage Order.

1 33. The foregoing policies and practices are unlawful and create entitlement to
2 recovery by Plaintiff and the Overtime Class in a civil action for the unpaid amount of overtime
3 premiums owing, including interest thereon, statutory penalties, and attorneys' fees and costs of
4 suit according to California Labor Code §§ 204, 510, 558, 1194, and 1198, Wage Order 4, and
5 Code of Civil Procedure § 1021.5.

6 **THIRD CAUSE OF ACTION**

7 **MEAL PERIOD VIOLATIONS**

8 **(AGAINST ALL DEFENDANTS)**

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

10 35. Plaintiff is informed and believe, and based thereon allege, that Defendants failed
11 in their affirmative obligation to provide all of their non-exempt employees in California,
12 including Plaintiff and members of the Meal Period Class with all legally compliant meal periods
13 in accordance with the mandates of the California Labor Code and Wage Order 4, § 11. Despite
14 Defendants' violations, Defendants did not pay an additional hour of pay to Plaintiff and the Meal
15 Period Class at their respective regular rate of pay, in accordance with California Labor Code §§
16 226.7, and 512.

17 36. As a result, Defendants are responsible for paying premium compensation for meal
18 period violations including interest thereon, as well as statutory penalties, civil penalties, and
19 costs of suit, pursuant to Labor Code §§ 204, 226.7, 512, Wage Order 4, and Civil Code §§
20 3287(b) and 3289.

21 **FOURTH CAUSE OF ACTION**

22 **REST PERIOD VIOLATIONS**

23 **(AGAINST ALL DEFENDANTS)**

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

25 38. Wage Order 4, § 12 and California Labor Code §§ 226.2, 226.7 and 516 establish
26 the right of employees to be authorized and permitted to take a paid rest period of at least ten (10)
27 minutes net rest time for each four (4) hour period worked, or major fraction thereof.
28

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

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

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

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

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

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

44. Defendants' willful failure to timely pay Plaintiff and the Waiting Time Class their earned wages upon separation from employment results in a continued payment of wages up to

thirty (30) days from the time the wages were due. Therefore, Plaintiff and the Waiting Time Class are entitled to compensation pursuant to Labor Code § 203, plus reasonable attorneys' fees and costs of suit.

SIXTH CAUSE OF ACTION

WAGE STATEMENT VIOLATIONS

(AGAINST ALL DEFENDANTS)

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

46. Plaintiff is informed and believes, and based thereon alleges, that Defendants knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Plaintiff and the Wage Statement Class with complete and accurate wage statements reflecting the meal & rest period premiums in violation of Labor Code § 226 et seq.

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

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

SEVENTH CAUSE OF ACTION

UNFAIR COMPETITION

(AGAINST ALL DEFENDANTS)

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

50. Defendants have engaged and continue to engage in unfair and/or unlawful business practices in California in violation of California Business and Professions Code § 17200 et seq., by failing to pay Plaintiff and the Classes all minimum and overtime wages, failing to

1 provide all required meal and rest periods, or pay premium payments in lieu thereof, failing to
2 furnish accurate, itemized wage statements, and willfully failing to timely pay Plaintiff and
3 members of the Waiting Time class all final wages due upon separation of employment.

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

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

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

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

20
21 **EIGHTH CAUSE OF ACTION**

22 **FAILURE TO REIMBURSE BUSINESS EXPENSES**

23 **(AGAINST ALL DEFENDANTS)**

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

25 56. At all relevant times herein, Defendants were subject to Labor Code § 2802, which
26 states that "an employer shall indemnify his or her employees for all necessary expenditures or
27 losses incurred by the employee in direct consequence of the discharge of his or her duties, or of
28 his or her obedience to the directions of the employer..."

57. Due to Defendants' unlawful policy and practice of requiring employees to use their personal cell phones to clock in and out and call in security alerts and to purchase work pants beyond the initial set of work pants issued in the performance of their work duties, Defendants have violated Labor Code § 2802.

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

59. Pursuant to Labor Code §2802(b), any action brought for the reimbursement of necessary expenditures carries interest at the same rate as judgments in civil actions. Thus, Plaintiff and members of the Employee Expense Class are entitled to interest, which shall accrue from the date on which they incurred the initial necessary expenditure.

PRA YER

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

1. For an order certifying the proposed Classes;
2. For an order appointing Plaintiff as representative of the Classes;
3. For an order appointing Counsel for Plaintiff as Counsel for the Classes;
4. Upon the First Cause of Action, for payment of minimum wages, liquidated damages, and penalties according to proof pursuant to Labor Code §§ 1182.12, 1194, 1194.2, 1198 and Wage Order 4 § 4(A);

5. Upon the Second Cause of Action, for compensatory, consequential, general, and special damages according to proof pursuant to Labor Code §§ 204, 510, 558, 1194, 1198 and Wage Order 4 § 3(A);

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

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

8. Upon the Fifth Cause of Action, for statutory waiting time penalties pursuant to

1 Labor Code §§ 201-203;

2 9. Upon the Sixth Cause of Action, for statutory penalties pursuant to Labor Code §
3 226;

4 10. Upon the Seventh Cause of Action, for restitution to Plaintiff of all money and/or
5 property unlawfully acquired by Defendants by means of any acts or practices declared by this
6 Court to be in violation of Business and Professions Code § 17200 *et seq.*;

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

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

11 13. On all causes of action, for attorneys' fees and costs as provided by Labor Code
12 §226, and Code of Civil Procedure § 1021.5; and

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

15 Dated: May 28, 2024

Respectfully submitted,
STANSBURY BROWN LAW, PC

16
17 By:



Daniel J. Brown
Jessica Flores
Attorneys for Plaintiff

20
21 **DEMAND FOR JURY TRIAL**

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

23
24 Dated: May 28, 2024

Respectfully submitted,
STANSBURY BROWN LAW, PC

25
26 By:



Daniel J. Brown
Jessica Flores
Attorneys for Plaintiff