

HAINES LAW GROUP, APC
Paul K. Haines (SBN 248226)
phaines@haineslawgroup.com
Sean M. Blakely (SBN 264384)
sblakely@haineslawgroup.com
Joel M. Gordon (SBN 280721)
jgordon@haineslawgroup.com
2155 Campus Drive, Suite 180
El Segundo, California 90245
Tel: (424) 292-2350
Fax: (424) 292-2355

Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF KERN

JORGE ARGUELLO GARCIA, as an
individual and on behalf of all others similarly
situated,

Plaintiff,

vs.

BAKER PETROLITE LLC, a Delaware
limited liability company; and DOES 1 through
100, inclusive,

Defendants.

Case No. BCV-24-101724

**FIRST AMENDED CLASS AND
REPRESENTATIVE 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, 512, and 558);**
- (4) **REST PERIOD VIOLATIONS
(LABOR CODE §§ 226.7, 516, and 558);**
- (5) **WAGE STATEMENT VIOLATIONS
(LABOR CODE § 226 *et seq.*);**
- (6) **FAILURE TO INDEMNIFY FOR
ALL NECESSARY BUSINESS
EXPENDITURES (LABOR CODE
§§ 2802 and 2804);**
- (7) **UNFAIR COMPETITION (BUS &
PROF CODE § 17200 *et seq.*); and**
- (8) **CIVIL PENALTIES UNDER THE
PRIVATE ATTORNEYS
GENERAL ACT (LABOR CODE §
2698 *et seq.*).**

**DEMAND FOR JURY TRIAL
UNLIMITED CIVIL CASE**

1 Plaintiff Jorge Arguello Garcia (“Plaintiff”) hereby brings this First Amended Class and
2 Representative Action Complaint (“Complaint”) against Defendants Baker Petrolite LLC, a
3 Delaware limited liability company; and DOES 1 through 100, inclusive (collectively,
4 “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 Complaint for recovery of unpaid wages and penalties under Labor Code §§ 204, 226, 226.7, 510,
8 512, 516, 558, 1182.12, 1194, 1194.2, 1197, 1198, 2698 *et seq.*, 2802, 2804, California Business
9 & Professions Code § 17200 *et seq.*, and Industrial Welfare Commission Wage Order No. 16
10 (“Wage Order 16”), in addition to seeking declaratory relief and restitution. This Complaint is
11 brought pursuant to California Code of Civil Procedure § 382. This Court has jurisdiction over
12 Defendants’ violations of the California Labor Code because the amount in controversy exceeds
13 this Court's jurisdictional minimum.

14 **VENUE**

15 2. Venue is proper in this judicial district pursuant to California Code of Civil
16 Procedure §§ 395(a) and 395.5, as at least some of the acts and omissions complained of herein
17 occurred in Kern County. Defendants own, maintain offices, transact business, have an agent or
18 agents within Kern County, and/or otherwise are found within Kern County, and Defendants are
19 within the jurisdiction of this Court for 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. Within the statute of limitations periods
23 applicable to each cause of action pled herein, Plaintiff was employed by Defendants as a non-
24 exempt employee. Plaintiff was, and is, a victim of Defendants’ policies and/or practices
25 complained of herein, lost money and/or property, and has been deprived of the rights guaranteed
26 to him by Labor Code §§ 204, 226, 226.7, 510, 512, 516, 558, 1182.12, 1194, 1194.2, 1197, 1198,
27 2698 *et seq.*, 2802, and 2804, California Business & Professions Code § 17200 *et seq.*, and Wage
28 Order No. 16, which sets employment standards for “Certain On-Site Occupations in the

1 Construction, Drilling, Logging and Mining Industries.”

2 4. Plaintiff is informed and believes, and based thereon alleges, that during the time
3 period relevant to this action, Defendants did (and do) business by owning and operating an oil
4 and energy company with locations throughout the state of California.

5 5. Plaintiff is informed and believes, and based thereon alleges, that at all times
6 mentioned herein, Defendants were licensed to do business in California and were the employers
7 of Plaintiff and of the members of the Classes (as defined in Paragraph 15).

8 6. Plaintiff does not know the true names, capacities, relationships, and/or the extent
9 of participation of Defendants DOES 1 through 100, inclusive, in the conduct alleged in this
10 Complaint. For that reason, Defendants DOES 1 through 100, inclusive, are sued under such
11 fictitious names. Plaintiff prays for leave to amend this Complaint when their true names and
12 capacities are known. Plaintiff is informed and believes, and based thereon alleges, that each
13 fictitiously named Defendant is and was responsible in some way for the alleged wage-and-hour
14 violations and other wrongful conduct that subjected Plaintiff and the Classes, as defined below,
15 to the illegal employment practices, wrongs and injuries complained of herein. All references in
16 this Complaint to “Defendants” shall be deemed to include all DOE Defendants.

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

24 8. At all times mentioned herein, Defendants, and each of them, were members of
25 and engaged in a joint venture, partnership, and common enterprise, and acted within the course
26 and scope of and in pursuance of said joint venture, partnership, and common enterprise. Further,
27 Plaintiff alleges that all Defendants were joint employers for all purposes of Plaintiff and the
28 Classes (as defined in Paragraph 15).

GENERAL FACTUAL ALLEGATIONS

9. Defendants employed Plaintiff in the non-exempt job position of “Driver” (or similar job position) from approximately February 28, 2023 until the present. His job duties mainly consisted of delivering chemicals to oil fields or refineries. He has been on disability leave since approximately May 31, 2023.

10. During Plaintiff’s employment with Defendants, Defendants utilized a timekeeping system which resulted in Plaintiff and other non-exempt employees not being compensated for all hours actually worked, whether by rounding, time-shaving, or otherwise. Specifically, Plaintiff and other non-exempt employees recorded their hours worked by scanning their badges on an electronic timeclock. Upon information and belief, this timekeeping system used by Defendants recorded hours worked to the minute; however, Defendants rounded Plaintiff and other non-exempt employees’ hours, so that over a period of time they were deprived of all minimum and overtime wages. Further, on occasions when Plaintiff worked over eight hours in a workday and/or forty hours in a workweek, Defendants’ timekeeping policies/practices deprived him of additional overtime wages earned. Due to Defendants’ timekeeping policies/practices that fail to compensate for all hours worked, Plaintiff and other non-exempt employees were not compensated for all required minimum and overtime wages.

11. Defendants also failed to provide Plaintiff and other non-exempt employees with all legally compliant meal periods due to Defendants’ meal period policies/practices, which have resulted in late (commencing after the fifth hour of work), short (less than 30 minutes), and missed meal periods. Specifically, due to work demands imposed by Defendants, Plaintiff was often not provided with a first meal period prior to the conclusion of his fifth hour of work, and when he was able to take meal periods it was often while driving or performing other work duties that would interrupt his meal period, resulting in Plaintiff not being relieved of all duty for the entire 30 minute meal period. Additionally, even though Plaintiff worked over 10.0 hours on most shifts, Defendants failed to provide Plaintiff with second meal periods. On those occasions when Plaintiff was not provided with all legally compliant meal periods to which he was entitled, Defendants failed to always compensate Plaintiff with the required meal period premium(s) for

each workday in which he experienced a meal period violation as mandated by Labor Code § 226.7. Upon information and belief, during at least a portion of the relevant period, Defendants maintained no mechanism for the payment of meal period premium payments as required by Labor Code § 226.7 in the event that a legally compliant meal period was not provided to their non-exempt employees.

12. Defendants have also failed to authorize and permit all required rest periods for Plaintiff and other non-exempt employees as Defendants' rest period policies/practices failed to authorize and permit employees to take an off-duty rest period of at least 10 minutes for every four hours worked, or major fraction thereof. Specifically, Plaintiff was never informed of when to take rest periods and often prevented from taking rest periods due to work demands imposed by Defendants. Moreover, Defendants failed to authorize and permit a full ten minutes of "net rest" at an employer designated area. Despite failing to authorize and permit Plaintiff and other non-exempt employees to take all rest periods to which they are entitled, upon information and belief, during at least a portion of the relevant time period, Defendants maintained no mechanism for the payment of rest period premium payments as required by Labor Code § 226.7 and did not always pay Plaintiff or other non-exempt employees any rest period premiums when they experienced a rest period violations.

13. Defendants have also failed to reimburse Plaintiff and other non-exempt employees for all necessary business expenses. Specifically, during at least a portion of the relevant time period, Defendants required Plaintiff and other non-exempt employees to use their personal cellular phones to communicate with other employees while in the field; however, Defendants failed to reimburse Plaintiff and other non-exempt employees for the costs associated with their cellular phones. As a result, Defendants have failed to reimburse Plaintiff and other non-exempt employees for expenses incurred in the course of their employment.

14. As a result of Defendants' failure to compensate Plaintiff and other non-exempt employees for all minimum wages, overtime wages, and all meal and rest period premium wages, Defendants maintained inaccurate payroll records and failed to issue accurate, compliant, itemized wage statements. Additionally, Defendants issued facially deficient wage statements to

Plaintiff and other non-exempt employees which fail to list the address of the legal entity of the employer in violation of Labor Code § 226(a)(8).

CLASS ACTION ALLEGATIONS

15. Class Definitions: Plaintiff brings this Complaint on behalf of himself and the following Classes pursuant to Section 382 of the Code of Civil Procedure:

- a. The Minimum Wage Class consists of all of Defendants' current and former non-exempt employees in California who were subject to Defendants' timekeeping policies and/or practices, during the four years immediately preceding the filing of the Complaint through the present.
- b. The Overtime Class consists of all of Defendants' current and former non-exempt employees in California who worked more than eight (8) hours per day and/or forty (40) hours per week and were subject to Defendants' timekeeping policies/practices, during the four years immediately preceding the filing of the Complaint through the present.
- c. The Meal Period Class consists of all of Defendants' current and former non-exempt employees in California who: (i) worked at least one shift in excess of 5.0 hours; and/or (ii) worked at least one shift in excess of 10.0 hours, during the four years immediately preceding the filing of the Complaint through the present.
- d. The Rest Period Class consists of all of Defendants' current and former non-exempt employees in California who worked at least one shift in excess of 3.5 hours in duration, during the four years immediately preceding the filing of the Complaint through the present.
- e. The Expense Reimbursement Class consists of all Defendants' current and former non-exempt employees in California who used their personal cellular phones for business related purposes, during the four years immediately preceding the filing of the Complaint through the present.
- f. The Wage Statement Class consists of all Defendants' current and former non-exempt employees in California who have received a wage statement, during the

one year immediately preceding the filing of the Complaint through the present.

16. **Numerosity/Ascertainability:** The members of the Classes are so numerous that joinder of all members would be unfeasible and not practicable. The membership of the classes and subclasses are unknown to Plaintiff, at this time; however, it is estimated that the number is in excess of fifty (50) 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 members including, without limitation, to:

- i. Whether Defendants paid all minimum wages owed to members of the Minimum Wage Class for all hours worked pursuant to Labor Code §§ 1182.12, 1194, 1194.2 and 1197;
- ii. Whether Defendants violated the applicable Labor Code provisions, including, but not limited to, §§ 510 and 1194 by requiring members of the Overtime 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 Overtime and Minimum Wage Classes;
- iv. Whether Defendants provided legally compliant meal periods to members of the Meal Period Class pursuant to Labor Code sections 226.7 and 512;
- v. Whether Defendants correctly paid meal period premium payments for non-compliant meal periods pursuant to Labor Code section 226.7;
- vi. Whether Defendants authorized and permitted legally compliant rest periods to members of the Rest Period Class pursuant to Labor Code sections 226.7 and 516;
- vii. Whether Defendants correctly paid rest period premium payments for non-compliant rest periods pursuant to Labor Code section 226.7;
- viii. Whether Defendants' reimbursement policies/practices failed to reimburse or

indemnify Expense Reimbursement Class members for necessary business expenditures, thereby depriving members of the Expense Reimbursement Class of all reimbursements to which they have been entitled as a matter of law;

ix. Whether Defendants furnished legally compliant wage statements to members of the Wage Statement Class pursuant to Labor Code section 226; and

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 and fact set forth above are numerous and substantial and stem from Defendants' uniform policies and/or practices applicable to each individual class member including, but not limited to, Defendants' timekeeping policies/practices and meal and rest period policies and/or 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:** 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 statutes of limitation applicable to each cause of action pled in this Complaint. As alleged herein, Plaintiff, like the members of the Classes, was not compensated all minimum and overtime wages, was not provided all required meal periods, was not authorized and permitted to take all required rest periods, did not receive meal and rest period premium wages for missed and/or non-compliant meal and rest periods, and was not issued accurate itemized wage statements.

20. **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.

21. **Superiority:** The California Labor Code is broadly remedial in nature and serves an important public interest in establishing minimum working conditions and standards in

California. These laws and labor standards protect the average working employee from exploitation by employers who have the responsibility to follow the laws and who may seek to take advantage of superior economic and bargaining power in setting onerous terms and conditions of employment. The nature of this action and the format of laws available to Plaintiff and members of the Classes make the class action format a particularly efficient and appropriate procedure to redress the violations alleged herein. If each employee were required to file an individual lawsuit, Defendants would necessarily gain an unconscionable advantage since they would be able to exploit and overwhelm the limited resources of each individual plaintiff with their vastly superior financial and legal resources. Moreover, requiring each member of the Classes to pursue an individual remedy would also discourage the assertion of lawful claims by employees who would be disinclined to file an action against their former and/or current employer for real and justifiable fear of retaliation and permanent damages to their careers at subsequent employment. Further, the prosecution of separate actions by the individual class members, even if possible, would create a substantial risk of inconsistent or varying verdicts or adjudications with respect to the individual class members against Defendants herein; and which would establish potentially incompatible standards of conduct for Defendants; and/or legal determinations with respect to individual class members which would, as a practical matter, be dispositive of the interest of the other class members not parties to adjudications or which would substantially impair or impede the ability of the class members to protect their interests. Further, the claims of the individual members of the Classes are not sufficiently large to warrant vigorous individual prosecution considering all of the concomitant costs and expenses attending thereto. As such, the Classes are maintainable as classes under § 382 of the Code of Civil Procedure.

FIRST CAUSE OF ACTION

MINIMUM WAGE VIOLATIONS

(AGAINST ALL DEFENDANTS)

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

23. Wage Order 16, § 4 and California Labor Code §§ 1197 and 1182.12 establish the right of employees to be paid minimum wages for all hours worked, in amounts set by state law.

1 Labor Code §§ 1194(a) and 1194.2(a) provide that an employee who has not been paid the legal
2 minimum wage as required by Labor Code § 1197 may recover the unpaid balance together with
3 attorneys' fees and costs of suit, as well as liquidated damages in an amount equal to the unpaid
4 wages and interest accrued thereon.

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

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

15 26. As a direct and proximate result of Defendants' unlawful conduct as alleged
16 herein, Plaintiff and the Minimum Wage Class have sustained economic damages including, but
17 not limited to, unpaid wages and lost interest, in an amount to be established at trial, and are
18 entitled to recover economic and statutory damages and penalties and other appropriate relief as
19 a result of Defendants' violations of the California Labor Code and Wage Order 16.

20 27. The foregoing practices and policies are unlawful and create an entitlement to
21 recovery by Plaintiff and the members of the Minimum Wage Class in a civil action for the unpaid
22 amount of minimum wages owing, including interest thereon, liquidated damages, statutory and
23 civil penalties, attorneys' fees, and costs of suit according to California Labor Code §§ 204, 558,
24 1194, 1197, and 1198, Wage Order 16, and Code of Civil Procedure § 1021.5.

25 **SECOND CAUSE OF ACTION**

26 **FAILURE TO PAY ALL OVERTIME WAGES**

27 **(AGAINST ALL DEFENDANTS)**

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

1 29. This cause of action is brought pursuant to Labor Code §§ 204, 510, 1194, and
2 1198, which provide that non-exempt employees are entitled to all overtime wages and
3 compensation for all overtime hours worked and provide a private right of action for the failure
4 to pay all overtime compensation for overtime work performed.

5 30. At all times relevant herein, Defendants were required to properly compensate
6 non-exempt employees, including Plaintiff and members of the Overtime Class, for all overtime
7 hours worked pursuant to California Labor Code § 1194 and Wage Order 16. Wage Order 16, §
8 3 requires an employer to pay an employee “one and one-half (1½) times the employee’s regular
9 rate of pay” for all overtime hours work. Defendants caused Plaintiff and members of the
10 Overtime Class to work overtime hours, but failed to credit these employees with all overtime
11 hours actually worked.

12 31. The foregoing policies and practices are unlawful and create entitlement to
13 recovery by Plaintiff and the Overtime Class members in a civil action for the unpaid amount of
14 overtime premiums owing, including interest thereon, statutory penalties, attorneys’ fees, and
15 costs of suit according to California Labor Code §§ 204, 210, 216, 218.6, 510, 1194, and 1198;
16 Code of Civil Procedure § 1021.5; and Civil Code §§ 3287(b) and 3289.

17 **THIRD CAUSE OF ACTION**

18 **MEAL PERIOD VIOLATIONS**

19 **(AGAINST ALL DEFENDANTS)**

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

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

28 34. As a result, Defendants are responsible for paying premium compensation for meal

1 period violations pursuant to Labor Code §§ 226.7 and 512, and Wage Order 16, including interest
2 thereon, statutory penalties, civil penalties, and costs of suit.

3 **FOURTH CAUSE OF ACTION**

4 **REST PERIOD VIOLATIONS**

5 **(AGAINST ALL DEFENDANTS)**

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

7 36. Wage Order 16, § 11 and Labor Code §§ 226.7 and 516 establish the right of
8 employees to be provided with a rest period of at least ten (10) minutes for each four (4) hour
9 period worked, or major fraction thereof.

10 37. As alleged herein, Defendants failed to authorize and permit Plaintiff and members
11 of the Rest Period Class to take all required rest periods.

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

16 **FIFTH CAUSE OF ACTION**

17 **WAGE STATEMENT VIOLATIONS**

18 **(AGAINST ALL DEFENDANTS)**

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

20 40. Plaintiff is informed and believes, and based thereon alleges, that Defendants
21 knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Plaintiff
22 and members of the Wage Statement Class with accurate and complete, itemized wage statements
23 that included, among other requirements, all hours worked, total gross wages earned, all rates of
24 pay and corresponding number of hours worked, total net wages earned, and the correct name and
25 address of the legal entity that is the employer in violation of Labor Code § 226 *et seq.*

26 41. Defendants' failure to furnish Plaintiff and members of the Wage Statement Class
27 with accurate and complete, itemized wage statements resulted in actual injury, as said failures
28 led to, among other things, the non-payment of all overtime wages and meal and rest period

premium wages owed, and deprived them of the information necessary to identify the discrepancies in Defendants' reported data.

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

SIXTH CAUSE OF ACTION

FAILURE TO INDEMNIFY ALL NECESSARY BUSINESS EXPENDITURES (AGAINST ALL DEFENDANTS)

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

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

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

52. As a proximate result of Defendants' policies and/or practices in violation of Labor Code §§ 2802 and 2804, and Wage Order 16, § 8, Plaintiff and members of the Expense Reimbursement Class were damaged in sums, which will be shown according to proof.

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

54. 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 Expense Reimbursement Class are entitled to interest, which shall accrue from the date on which they incurred the necessary expenditures.

1 **SEVENTH CAUSE OF ACTION**

2 **UNFAIR COMPETITION**

3 **(AGAINST ALL DEFENDANTS)**

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

5 56. Defendants have engaged and continue to engage in unfair and/or unlawful
6 business practices in California in violation of Business & Professions Code § 17200 *et seq.*, by:
7 (a) failing to compensate Plaintiff and members of the Minimum Wage and Overtime Class with
8 all minimum and overtime wages; (b) failing to provide Plaintiff and members of the Meal Period
9 Class with all meal periods to which they are entitled, and/or failing to pay them meal period
10 premium payments; (c) failing to authorize and permit all required duty-free rest periods to
11 Plaintiff and members of the Rest Period Class, and/or failing to pay them rest period premiums
12 payments; (d) knowingly failing to furnish Plaintiff and the Wage Statement Class with all
13 accurate and complete, itemized wage statements in violation of Labor Code § 226; and/or (f)
14 failing to indemnify members of the Expense Reimbursement Class for all necessary business
15 expenses.

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

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

25 59. The acts complained of herein occurred within the last four years immediately
26 preceding the filing of the Plaintiff's Complaint.

27 60. Plaintiff was compelled to retain the services of counsel to file this Complaint to
28 protect his interests and those of the Classes, to obtain restitution and injunctive relief on behalf

1 of Defendants' current non-exempt employees, and to enforce important rights affecting the
2 public interest. Plaintiff has thereby incurred the financial burden of attorneys' fees and costs,
3 which he is entitled to recover under Code of Civil Procedure § 1021.5.

4 **EIGHTH CAUSE OF ACTION**
5 **PRIVATE ATTORNEYS GENERAL ACT**
6 **(AGAINST ALL DEFENDANTS)**

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

8 62. Defendants have committed several Labor Code violations against Plaintiff,
9 members of the Classes, and other aggrieved employees. Plaintiff, an "aggrieved employee" within
10 the meaning of Labor Code § 2698 *et seq.*, acting on behalf of himself and other aggrieved
11 employees, brings this representative action against Defendants to recover the civil penalties due
12 to Plaintiff, the members of the Classes, other aggrieved employees, and the State of California
13 according to proof pursuant to Labor Code § 558 and § 2699 (a) and (f) including, but not limited
14 to: (1) \$100.00 for each initial violation for each failure to pay each employee and \$200 for each
15 subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for each
16 failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) \$50.00 for each
17 initial violation and \$100 for each subsequent violation pursuant to Labor Code § 558 per
18 employee per pay period; (3) \$100.00 for each initial violation and \$250.00 for each subsequent
19 violation pursuant to Labor Code § 1197.1 per employee per pay period; (4) \$250.00 for each
20 initial violation and \$1,000.00 for each subsequent violation pursuant to Labor Code § 226.3 per
21 employee per pay period; and/or (5) \$100.00 for each initial violation and \$200 for each subsequent
22 violation per employee per pay period for those violations of the Labor Code for which no civil
penalty is specifically provided, based on the following Labor Code violations:

- 23 a. Failing to pay minimum wages for all hours worked to Plaintiff, the Minimum
24 Wage Class, and other aggrieved employees in violation of Labor Code §§ 1182.12,
25 1194, 1194.2, and 1197;
- 26 b. Failing to pay Plaintiff, the Overtime Class, and other aggrieved employees all
27 earned overtime compensation in violation of Labor Code §§ 204, 510, 558, 1194,
28 and 1198;

- c. Failing to provide all legally required meal periods, and failure to pay meal period premium wages, to Plaintiff, the Meal Period Class, and other aggrieved employees at the regular rate of compensation in violation of Labor Code §§ 226.7, 512, 558, and 1198;
- d. Failing to authorize and permit all legally required rest periods, and failure to pay rest period premium wages, to Plaintiff, the Rest Period Class, and other aggrieved employees at the regular rate of compensation in violation of Labor Code §§ 226.7, 516, 558, and 1198;
- e. Failing to furnish Plaintiff, the Wage Statement Class, and other aggrieved employees with complete, accurate, itemized wage statements in violation of Labor Code § 226;
- f. Failing to reimburse Plaintiff, the Employee Expense Class, and other aggrieved employees for all necessary work expenses incurred in violation of Labor Code §§ 2802 and 2804;
- g. Failing to timely pay all final wages and compensation earned by Plaintiff, the Waiting Time Class, and other aggrieved employees at the time of separation in violation of Labor Code §§ 201, 202, and 203;
- h. Failing to pay Plaintiff and other aggrieved employees all earned wages at least twice during each calendar month in violation of Labor Code § 204; and
- i. Failing to maintain accurate records on behalf of Plaintiff and other aggrieved employees in violation of Labor Code § 1174 and 1198.

63. On May 20, 2024, Plaintiff notified Defendants via certified mail, and notified the California Labor and Workforce Development Agency (“LWDA”) via its website, of Defendants’ violations of the California Labor Code and Plaintiff’s intent to bring a claim for civil penalties under California Labor Code § 2698 *et seq.* with respect to the violations of the California Labor Code identified in Paragraph 62 (a)-(i). Now that sixty-five days have passed from Plaintiff notifying Defendants and the LWDA of these violations, and the LWDA has not provided notice that it intends to investigate the violations, Plaintiff has exhausted his administrative requirements

1 for bringing a claim under the Private Attorneys General Act with respect to these violations.

2 64. Based on the foregoing, Plaintiff seeks to represent himself and all Aggrieved
3 Employees, as defined by Labor Code § 2699(c).

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

8 **PRAYER**

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

- 11 1. For an order certifying the proposed Classes;
- 12 2. For an order appointing Plaintiff as representative of the Classes;
- 13 3. For an order appointing Counsel for Plaintiff as Counsel for the Classes;
- 14 4. Upon the First Cause of Action, for payment of minimum wages, liquidated
15 damages, and penalties according to proof pursuant to Labor Code §§ 1182.12, 1194, 1194.2, and
16 1197;
- 17 5. Upon the Second Cause of Action, for compensatory, consequential, general and
18 special damages according to proof pursuant to Labor Code §§ 204, 510, 558, 1194, and 1198;
- 19 6. Upon the Third Cause of Action, for compensatory, consequential, general and
20 special damages according to proof pursuant to Labor Code §§ 226.7, 512, and 558;
- 21 7. Upon the Fourth Cause of Action, for compensatory, consequential, general and
22 special damages according to proof pursuant to Labor Code §§ 226.7, 516, and 558;
- 23 8. Upon the Fifth Cause of Action, for statutory penalties pursuant to Labor Code §
24 226 *et. seq.*;
- 25 9. Upon the Sixth Cause of Action, for compensatory, consequential, general, and
26 special damages according to proof pursuant to Labor Code §§ 2802 and 2804;
- 27 10. Upon the Seventh Cause of Action, for restitution to Plaintiff and members of the
28 Classes of all money and/or property unlawfully acquired by Defendants by means of any acts or

practices declared by this Court to be in violation of Bus. & Prof. Code § 17200, *et seq.*;

11. Upon the Eighth Cause of Action, for civil penalties due to Plaintiff, other aggrieved employees, and the State of California according to proof pursuant to Labor Code §§ 558 and 2699(a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for each failure to pay each employee and \$200 for each subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100 for each subsequent violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per employee per pay period; (4) \$250.00 for each initial violation and \$1,000.00 for each subsequent violation pursuant to Labor Code § 226.3 per employee per pay period; and/or (5) \$100.00 for each initial violation and \$200 for each subsequent violation per employee per pay period for those violations of the Labor Code for which no civil penalty is specifically provided, based on the Labor Code violations identified in Paragraph 62 (a)-(i);

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

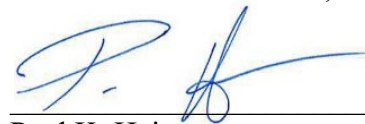
13. On all causes of action, for attorneys' fees and costs as provided by Labor Code §§ 226, 1194, 2699(g), 2802(c), and Code of Civil Procedure § 1021.5; and

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

Dated: July 25, 2024

Respectfully submitted,
HAINES LAW GROUP, APC

By:



Paul K. Haines
Attorneys for Plaintiff

///

///

///

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

Dated: July 25, 2024

By:

Paul K. Haines
Attorneys for Plaintiff