

Kevin A. Lipeles (Bar No. 244275)
Thomas H. Schelly (Bar No. 217285)
LIPELES LAW GROUP, APC
880 Apollo Street, Suite 336
El Segundo, California 90245
Telephone: (310) 322-2211
Fax: (310) 322-2252

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Attorneys for Plaintiff,
CHRISTIAN WATERS

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

CHRISTIAN WATERS, an individual,
on his own behalf and on behalf of all
others similarly situated,

Plaintiffs,

vs.

LOCKHEED MARTIN
CORPORATION, a Maryland
corporation; and DOES 1 through 100,
inclusive,

Defendants.

CASE NO.: 24STCV12283

CLASS ACTION COMPLAINT FOR:

- 1. FAILURE TO PAY PREMIUM OVERTIME WAGES DUE (Cal. Labor Code §§ 510, 1198);**
- 2. FAILURE TO PAY MINIMUM WAGES DUE TO ROUNDING (Cal. Labor Code §§1194, 1194.2, 1997, 1197.1, 1198);**
- 3. FAILURE TO PROVIDE TIMELY OFF DUTY MEAL PERIODS (Cal. Labor Code §§ 226.7, 512)**
- 4. FAILURE TO MAINTAIN RECORDS AND PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS (Cal. Labor Code §226);**
- 5. FAILURE TO REIMBURSE BUSINESS EXPENSES (Cal. Labor Code §2802);**
- 6. FAILURE TO ALLOW INSPECTION OF EMPLOYMENT RECORDS (Cal. Labor Code §1198.5); and**
- 7. UNFAIR COMPETITION (Cal. Bus. & Prof. Code §§17200 et seq.)**

DEMAND FOR A JURY TRIAL

1 All allegations in this Complaint are based upon information and belief except for those
2 allegations which pertain to the Plaintiff named herein and his counsel. Each allegation has ev-
3 identitary support or is likely to have evidentiary support after a reasonable opportunity for fur-
4 ther investigation and discovery.

5 CHRISTIAN WATERS ("Plaintiff") alleges the following:

6 1. This is a class action brought under California law by an individual who was
7 employed by Lockheed Martin Corporation ("LOCKHEED") (along with DOES 1 through
8 100, collectively "Defendants"). Plaintiff brings this action on behalf of himself and others
9 similarly situated to recover wages from Defendant due to Defendant's systematic failure to
10 pay overtime wages, failure to pay minimum wages due to rounding, failure to provide meal
11 breaks (or pay the statutory compensation due), failure to issue accurate wage statements,
12 failure to reimburse business expenses, and failure to allow inspection of employment records.

13 2. Plaintiffs have worked as employees for Defendant's airforce testing base in
14 Palmdale, California. While working, Plaintiffs have been forced to endure stressful and illegal
15 workplace conditions created by Defendant's efforts to maximize profits and tightly control
16 labor costs.

17 3. Plaintiff, like his co-workers whom Defendant also employed during the
18 applicable limitations period, spend their workdays at Defendant's offices in California, under
19 illegal and highly regimented circumstances. That regimen results from Defendant's insistence
20 to strictly monitor and curtail labor costs, which Defendant accomplishes by not paying for all
21 labor costs, failing to pay overtime, failing to pay minimum wages, refusing to provide timely
22 meal periods, not paying the required extra hour for missed meal breaks, failing to reimburse
23 business expenses, failing to allow inspection of employment records, and by using other
24 unlawful stratagems to ensure that labor costs remain artificially low.

25 4. Plaintiff brings this class action to recover, among other things, wages and
26 penalties from unpaid wages earned and due, including but not limited to, premium overtime
27 wages, minimum wages due to illegal rounding, late meal break wages, penalties for failure to
28

1 provide accurate itemized wage statements, reimbursement of business expenses, failure to
2 allow inspection of employment records and interest, attorneys' fees, costs, and expenses.

3 5. Plaintiff seeks compensatory, statutory, declaratory, and injunctive relief for
4 himself and all members of the class, to compensate these workers for the unpaid wages and to
5 protect current and future workers of Defendant from being subjected to similar wage theft and
6 otherwise unlawful working conditions.

7 6. Plaintiff also brings an action seeking relief for Defendant's violations of
8 California *Business & Professions Code* §§ 17200 *et seq.*, including full restitution and
9 disgorgement of all compensation retained by Defendant as a result of its unlawful and unfair
10 business practices, as well as injunctive relief.

11 JURISDICTION AND VENUE

12 7. This Court has jurisdiction over this Complaint under Code of Civil Procedure
13 §410.10. This action is brought under *Code of Civil Procedure* § 382, and *Business &*
14 *Professions Code* §§ 17200 *et seq.* Plaintiff Christian Waters brings this Complaint on his own
15 behalf and on behalf of all persons in the Class as defined in paragraph 16 below.

16 8. Venue is proper in this Court pursuant to *Code of Civil Procedure* §§ 395 and
17 395.5, because the claims made, and the *Labor Code* violations as against the persons identified
18 herein, occurred in the County of Los Angeles and because Defendant owned and operated its
19 business in the County of Los Angeles.

20 THE PARTIES

21 PLAINTIFF

22 9. At all times relevant hereto, Plaintiff was:

- 23 (a) An individual over age 18 and a resident of Los Angeles County,
24 California;
25 (b) Employed as an hourly employee for Defendant in Palmdale, California;
26 (c) Did not receive overtime compensation required by *Labor Code* §§510
27 and 1194 and the applicable Wage Orders;
28

- 1 (d) Did not receive minimum wages due to illegal rounding in violation of
2 *Labor Code* §§1194, 1194.2, 1997, 1197.1, 1198 and the applicable
3 Wage Orders;
4 (e) Did not receive the meal periods required by *Labor Code* §266.7 and the
5 applicable Wage Orders;
6 (f) Did not receive accurate wage statements as mandated by *Labor Code*
7 §226;
8 (g) Was not reimbursed for business expenses as required by *Labor Code*
9 §2802; and
10 (h) Was not provided his personnel records. Each of these was a violation of
11 the *Labor Code*.

12 **DEFENDANT**

13 10. Plaintiff is informed and believes, and based on that information and belief,
14 alleges, Defendant LOCKHEED is, and at all times mentioned herein was:

- 15 (a) A Maryland corporation, with a principal place of business at 6801
16 Rockledge Drive, Bethesda, Maryland 20817. Defendant has been
17 authorized to do business and has been doing business in the County of
18 Los Angeles;
19 (b) The former employer of Plaintiff and the current and former employer of
20 the putative Class members;
21 (c) Paid Plaintiff and all Class Members on an hourly basis;
22 (d) Failed to pay Plaintiff and all putative Class members premium overtime
23 wages;
24 (e) Failed to pay Plaintiff and all putative Class members minimum wages
25 due to illegal rounding;
26 (f) Failed to provide Plaintiff and all putative Class members with meal
27 periods and failed to provide Plaintiff and all putative Class members
28 with accurate itemized wage statements;

1 (g) Failed to reimburse for business expenses; and

2 (h) Was not provided his personnel records. Each of these was a violation of
3 the *Labor Code*.

4 11. The true names and capacities, whether individual, corporate, subsidiary,
5 partnership, associate or otherwise of Defendants DOES 1 through 100, inclusive, are unknown
6 to Plaintiff, who therefore sues these Defendants by such fictitious names pursuant to *Code of*
7 *Civil Procedure* § 474. Plaintiff will seek leave to amend his Complaint to allege the true
8 names and capacities of DOES 1 through 100, inclusive, when they are ascertained.

9 12. Plaintiff is informed and believes, and based on that information and belief
10 alleges, that Defendant DOES 1 through 100 are persons, corporations or other entities which
11 reside in or are authorized to do, or are otherwise doing, business in the State of California.
12 Specifically, DOES 1 through 100 maintain offices, operate businesses, employ persons, and
13 conduct business in the County of Los Angeles. Each of the Defendants DOES 1 through 100
14 was the managerial agent, employee, predecessor, successor, joint-venturers, co-conspirator,
15 alter ego and/or representative of one or more of the other Defendants named herein, and acting
16 with permission, authorization, and/or ratification and consent of the other Defendants.

17 13. Plaintiff is informed and believes, and based on that information and belief
18 alleges, that the Defendants named in this Complaint, including DOES 1 through 100,
19 inclusive, are responsible in some manner for one or more of the events and happenings that
20 proximately caused the injuries and damages hereinafter alleged.

21 14. Plaintiff is informed and believes, and based on that information and belief
22 alleges, that Defendants named in this Complaint, including DOES 1 through 100, inclusive,
23 are, and at all times mentioned herein were, the agents, servants, and/or employees of each of
24 the other Defendants and that each Defendant was acting within the course and scope of his,
25 hers or its authority as the agent, servant and/or employee of each of the other Defendants.
26 Consequently, all of the Defendants are jointly and severally liable to the Plaintiff, and the
27 Class, for the damages sustained as a proximate result of their conduct.

28

15. Plaintiff is informed and believes, and based on that information and belief alleges, that the Defendants named in this Complaint, including DOES 1 through 100, inclusive, knowingly and willfully acted in concert, conspired and agreed together among themselves and entered into a combination and systemized campaign of activity to *inter alia* damage Plaintiff, and the Class, and to otherwise consciously and/or recklessly act in derogation of the rights of Plaintiff and the Class, and the trust reposed by Plaintiff, and the Class, in each of the Defendants, the acts being negligently and/or intentionally inflicted. Their conspiracy, and Defendants' concerted actions, were such that, to Plaintiff's information and belief, and to all appearances, Defendants, and each of them, represented a unified body so that the actions of one Defendant was accomplished in concert with, and with the knowledge, ratification, authorization and approval of each of the other Defendants.

CLASS ALLEGATIONS

A. The Definition of the Class

16. The Class (“the Class”) is defined as follows:

(a) “All current and former employees who were hourly paid employees of Defendant and worked for LOCKHEED in California at any time during the period commencing on the date that is four (4) years prior to the filing of this Complaint and continuing through the present date (the “Class Period”).”

(b) “All persons who were hourly paid employees of Defendant and worked for LOCKHEED in California and left the employ of Defendant at any time during the period commencing on the date that is within one (1) year prior to the filing of this Complaint and continuing through the present date (the “Class Period”).”

Plaintiff reserves his right under Rule 3.765 of the California Rules of Court to amend or modify the Class description with greater specificity or further division into subclasses or limitation to particular issues.

B. Maintenance of the Action

1 17. Plaintiff brings this action individually and on behalf of himself and as
2 representative of all similarly situated persons under *Business & Professions Code* §§ 17203
3 and 17204 and *Code of Civil Procedure* § 382.

4 18. Pursuant to the California Labor Code, Plaintiff intends to file a notice with
5 Labor and Workforce Development Agency (LWDA) and pursue claims against Defendants
6 under the Private Attorney General Act (PAGA). As such, Plaintiff further reserves the right to
7 amend this Complaint once he completes and complies with the provisions under the law.
8

9
10 **C. The Class Requisites**

11 19. At all material times, Plaintiff was a member of the Class.

12 20. The Class action meets the statutory prerequisites for maintaining a class action
13 under Code of Civil Procedure § 382 in that:

- 14 (a) The persons who comprise the Class are so numerous that the joinder of all
15 those persons is impracticable and the disposition of their claims as a Class
16 will benefit the parties and the Court;
- 17 (b) Nearly all factual, legal, statutory, declaratory and injunctive relief issues
18 that are raised in this Complaint are common to the Class and will apply
19 uniformly to every Class member;
- 20 (c) The claims of the representative Plaintiff are typical of the claims of each
21 Class member. Plaintiff, like all Class members, has sustained damages
22 arising from Defendant's violations of the laws of the State of California.
23 Plaintiff, and the Class members, were and are similarly or identically
24 harmed by the same unlawful, deceptive, unfair, systematic and pervasive
25 pattern of misconduct engaged in by the Defendant;
- 26 (d) The representative Plaintiff has, and will continue to, fairly and adequately
27 represent and protect the interests of the Class and has retained counsel
28 who are competent and experienced in class action litigation. There are no
material conflicts between the claims of the representative Plaintiff and the

1 Class members that would make class certification inappropriate. Counsel
2 for the Class will vigorously assert the claims of all Class members.

3 21. The persons who comprise the Class are so numerous that joining all of them is
4 impracticable, and jointly adjudicating their claims will benefit the parties and the Court.
5 Plaintiff's claims are typical of the claims of the Class that Plaintiff seeks to represent. Plaintiff
6 will fairly and adequately protect the interests of the Class he seeks to represent. Plaintiff does
7 not have any interests that are antagonistic to the Class he seeks to represent. Counsel for
8 Plaintiff are experienced, qualified and generally able to conduct complex class action
9 litigation.

10 22. The Court should permit the action to be maintained as a class action under
11 *Code of Civil Procedure* § 382 because:

- 12 (a) The questions of law and fact common to the Class predominate over any
13 question affecting only individual members;
- 14 (b) A class action is superior to any other available method for fairly and
15 efficiently adjudicating the claims of the Class;
- 16 (c) The Class members are so numerous that it is impractical to bring all of
17 them before the Court;
- 18 (d) Plaintiff and other Class members will not be able to obtain effective and
19 economic legal redress unless the action is maintained as a class action;
- 20 (e) There is a community of interest in obtaining appropriate legal and
21 equitable relief for the statutory violations, and in obtaining adequate
22 compensation for the damages and injuries for which Defendant is
23 responsible in an amount sufficient to adequately compensate the Class
24 members;
- 25 (f) Without Class certification, the prosecution of separate actions by
26 individual Class members would create a risk of:

1 i. Inconsistent or varying adjudications for individual Class members
2 that would establish incompatible standards of conduct for
3 Defendant; and/or,

4 ii. Adjudication for individual Class members that would, as a
5 practical matter, dispose of other non-party members' interests, or
6 that would substantially impair or impede the non-parties' ability
7 to protect their interests, by, for example, potentially exhausting
8 the funds available from Defendant, and

9 (g) Defendant has acted or refused to act on grounds generally applicable to
10 the Classes, making final injunctive relief appropriate for the Class, as a
11 whole.

12 23. Plaintiff contemplates eventually issuing notice to the proposed Class Members
13 that would set forth the subject and nature of the action. The Defendant's own business records
14 may be utilized for assisting to prepare and issue the contemplated notice. To the extent that
15 any further notices may be required, Plaintiff would contemplate using additional media and/or
16 mailing.

17 **GENERAL ALLEGATIONS**

18 24. At all times material hereto, Defendant has been and is, an aerospace company

19 25. Plaintiff and members of the Class were employed as Composite Fabricators and
20 other non-exempt employees by Defendant in California at various times during the Class
21 Period.

22 **THE CONDUCT**

23 26. Plaintiff seeks relief from Defendant's uniform policies and practices of denying
24 Plaintiff and members of the Class wages and compensation owed under California law.

25 27. Starting on or about July 9, 2018 and continuing to the present, Defendant
26 employed Plaintiff on an hourly basis as a Composite Fabricator at its air force testing base in
27 Palmdale, California.

28

1 28. While employed by Defendant as a Composite Fabricator Plaintiff was paid
2 approximately \$37.21 per hour.

3 **FAILURE TO PAY OVERTIME DUE TO OFF THE CLOCK WORK/MINIMUM**
4 **WAGES DUE TO ROUNDING**

5 29. Under California law, non-exempt employees as defined by the applicable Wage
6 Order, are entitled to premium wages for overtime worked. Under California law, an hourly
7 paid employee is entitled to overtime pay when they exceed eight hours of work in a single day,
8 exceed 40 hours of work in a week or work seven days in a row.

9 30. Under California law, non-exempt employees as defined by the applicable Wage
10 Order are entitled to minimum wages. Labor Code Section 1197 states the California
11 requirement that employees must be paid at least the minimum wage fixed by the Commission
12 or by any applicable state or local law, and any payment of less than the minimum wage is
13 unlawful. Similarly, Labor Code Section 1194 entitles “any employee receiving less than the
14 legal minimum wage...is entitled to recover in a civil action the unpaid balance of the full
15 amount of this minimum wage.” The applicable IWC Wage Order(s), obligates employers to
16 pay each employee minimum wages for all hours worked.

17 31. These minimum wage standards apply to each hour employees worked or were
18 subject to control by the employer for which they were not paid. Therefore, an employer’s
19 failure to pay for any particular hour of time worked by an employee or subject to the
20 employer’s control is unlawful, even if averaging an employee’s total pay over all hours
21 worked, paid or not, results in an average hourly wage above minimum wage. *Armenta v.*
22 *Osmose, Inc.*, 135 Cal. App. 4th 314, 324 (2005).

23 32. Defendant required Plaintiff and the Class to regularly perform compensable
24 tasks pre- and post-shift off-the-clock for which they did not receive any compensation.
25 Specifically, Plaintiff and Class members were required to use their personal cell phones both
26 on and off the clock for work-related activities. Plaintiff and Class members were required to
27 text their supervisors to ascertain if they were required to work on certain days.

28

1 33. Plaintiff and the Class were not paid overtime and minimum wages due to
2 rounding and off the clock work. Plaintiff's paystubs show quarter rounded hours. Plaintiff
3 typically clocked in a few minutes prior to his shift, yet he and Class members were not paid
4 for that time. Further, Plaintiff and Class members had to enter the air force testing base by
5 passing through a security gate in the parking lot. Plaintiff and Class members were required to
6 show their IDs to the security guards in order to be able to park their vehicles. This process
7 took between 5-15 minutes per day. Approximately once per week, the keypad malfunctioned
8 and took approximately 1 minute to reset. Once Plaintiff and Class members exited their
9 vehicles, they were required to walk up a set of stairs and open the front door to the Common
10 Area, then proceed through a secure door with a keypad and badge scan. Additionally, when
11 Plaintiff and Class members completed their shifts, they were required to wait in line to clock
12 out for between 5-10 minutes after the end of their shifts because the timeclocks malfunctioned.
13 Plaintiff and Class members were not paid for these post-shift activities. Plaintiff routinely
14 arrived for his shifts 30 minutes early to make sure that he clocked in on time. Although
15 Plaintiff clocked in for his shift early, he did not get paid for the time prior to the start of his
16 shift time because Defendant rounded down his and Class members' time to the quarter hour.

17 34. At all times during the relevant time period, Plaintiff and the Class routinely
18 worked schedules such that they were due pay at overtime and minimum wage rates. During
19 this period, it was the practice and policy of Defendant to not pay employees' overtime and
20 minimum wages. Monies for unpaid overtime and minimum wages remain due and owing.

21 **LATE MEAL BREAKS**

22 35. Under California law, non-exempt employees as defined by the applicable Wage
23 Order, are entitled to premium wages for overtime worked, a 30-minute lunch period for each 5
24 hours worked, or major fraction thereof. Non-exempt employees are entitled to one hour pay
25 at their regular pay rate for each day the requisite meal periods are not provided.

26 36. Plaintiff and Class Members were routinely afforded meal breaks late after five
27 and one half hours of work.
28

1 37. Defendant's policies and procedures were applied to all non-exempt employees
2 in California and resulted in non-exempt employees working time which was not compensated
3 by any wages in violation of Labor Code sections 510, 1194 and the applicable Wage Orders.
4 As a result, Defendant owes wages at the legal overtime rate for unpaid overtime to each of
5 their California non-exempt employees whose daily hours were reduced even though their
6 meals periods were afforded late.

7 **FAILURE TO ISSUE ACCURATE WAGE STATEMENTS**

8 38. As a result of Defendant's failure to pay employees at required overtime rates
9 and minimum wages due to illegal rounding and premium pay for late meal breaks, the wage
10 statements issued to the employees did not comply with *Labor Code* §226 and the California
11 Industrial Welfare Commission ("IWC") applicable Wage Order in that they did not accurately
12 reflect all wages earned and due and owing.

13 **LACK OF EXPENSE REIMBURSEMENT**

14 39. Defendant failed to reimburse Plaintiff and members of the Class for business-
15 related expenses, such as cell phone and vehicle use. Thus, Defendant failed to reimburse
16 Plaintiff and Class members for these necessary business expenses.

17 **FAILURE TO ALLOW INSPECTION OF PERSONNEL RECORDS**

18 40. Defendant failed to allow Plaintiff and Class members to timely inspect their
19 records and payroll files.

20 **FIRST CAUSE OF ACTION**

21 **FAILURE TO PAY OVERTIME**

22 **(Labor Code §§510, 558, 1194.3 and applicable Wage Order by Plaintiffs Against**
23 **Defendant and Does 1-100)**

24 41. Plaintiff and the Class reallege and incorporate by reference all of the allegations
25 set forth in this Complaint.

26 42. During Plaintiff's entire employment with Defendant, pursuant to Cal. Lab.
27 Code §§510, 1194, and 1198, and the applicable IWC Wage Order, Defendant was required to
28 compensate Plaintiff with premium pay for all overtime work performed, for hours worked in

1 excess of eight (8) hours per day and/or forty (40) hours per week and for the first eight (8)
2 hours on the seventh (7th) consecutive day of any work week.

3 43. At all times relevant herein, Cal. Lab. Code §1194(a) provided that an employee
4 who had not been paid overtime compensation could recover the unpaid balance of the full
5 amount of overtime wages due, including interest thereon, together with reasonable attorneys'
6 fees and costs of suit.

7 44. Pursuant to the applicable IWC Wage Order § 3, "Employment beyond eight (8)
8 hours in any workday is permissible provided the employee is compensated for such overtime
9 at not less than: (a) One and one-half (1 1/2) times the employee's regular rate of pay for all
10 hours worked in excess of eight (8) hours up to and including twelve (12) hours in any
11 workday...

12 45. California Labor Code section 558 provides in pertinent part:

13 (a) Any employer or other person acting on behalf of an employer who
14 violates, or causes to be violated, a section of this chapter or any
15 provision regulating hours and days of work in any order of the
16 Industrial Welfare Commission shall be subject to a civil penalty as
follows:

17 (1) For any initial violation, fifty dollars (\$50) for each underpaid
18 employee for each pay period for which the employee was underpaid in
addition to an amount sufficient to recover underpaid wages.

19 (2) For each subsequent violation, one hundred dollars (\$100) for each
20 underpaid employee for each pay period for which the employee was
21 underpaid in addition to an amount sufficient to recover underpaid
wages.

22 (3) Wages recovered pursuant to this section shall be paid to the affected
23 employee...

24 (c) The civil penalties provided for in this section are in addition to any
25 other civil or criminal penalty provided by law.

26 46. Throughout Plaintiff's employment, Plaintiff worked overtime hours and was
27 not paid overtime pay due to Defendant's rounding down of hours.
28

1 47. Defendant required Plaintiff and the Class to regularly perform compensable
2 tasks pre- and post-shift off-the-clock for which they did not receive any compensation.
3 Specifically, Defendant's management changed Plaintiff and Class members' time records after
4 they entered them rounding them down to the quarter hour. Thus, if Plaintiff and Class
5 members clocked in early for their shifts, their time was rounded to the quarter hour. If Plaintiff
6 and Class members clocked out later than the end time of his shift, his and Class members'
7 time records were rounded to the quarter hour. Plaintiff's paystubs show rounding down to the
8 quarter hour.

9 48. Further, Plaintiff and Class members were required to use their personal cell
10 phones both on and off the clock for work-related activities. Plaintiff and Class members were
11 required to text their supervisor to ascertain their schedules.

12 49. Throughout Plaintiff's employment, Defendant failed and refused to pay and
13 properly calculate overtime compensation to Plaintiff and Class Members as required by law.

14 50. The foregoing overtime compensation is owed and unpaid. As a direct and
15 proximate result of Defendant's failure and refusal to pay overtime, Plaintiff and Class
16 Members suffered damages in an amount to be proven at trial.

17 51. Pursuant to Cal. Lab. Code §1194(a), Plaintiff, who retained the services of legal
18 counsel in order to enforce Plaintiff's rights to overtime pay, is entitled to recover Plaintiff's
19 attorneys' fees, costs and interest.

20 **SECOND CAUSE OF ACTION**

21 **FAILURE TO PAY MINIMUM WAGES DUE TO TIME ROUNDING**

22 **(Applicable IWC Wage Order; Labor Code §§ 1194, 1194.2, 1997, 1197.1, 1198 By**
23 **Plaintiffs Against Defendant and Does 1 through 100)**

24 52. Plaintiff and the Class reallege and incorporate by reference all of the allegations
25 set forth in this Complaint.

26 53. Labor Code §§ 1194(a) states: "Notwithstanding any agreement to work for a
27 lesser wage, any employee receiving less than the legal minimum wage or the legal overtime
28 compensation applicable to the employee is entitled to recover in a civil action the unpaid

1 balance of the full amount of this minimum wage or overtime compensation, including interest
2 thereon, reasonable attorney's fees, and costs of suit.”

3 54. *Labor Code* § 1197 states the California requirement that employees must be
4 paid at least the minimum wage fixed by the Commission, and any payment of less than the
5 minimum wage is unlawful. Similarly, *Labor Code* § 1194 entitles “any employee receiving
6 less than the legal minimum wage...entitled to recover in a civil action the unpaid balance of
7 the full amount of this minimum wage.” IWC Wage Order 1-2001 also obligates employers to
8 pay each employee minimum wages for all hours worked. These minimum wage standards
9 apply to each hour employees worked for which they were not paid. Therefore, an employer’s
10 failure to pay for any particular hour of time worked by an employee is unlawful, even if
11 averaging an employee’s total pay over all hours worked, paid or not, results in an average
12 hourly wage above minimum wage. *Armenta v. Osmose, Inc.*, 135 Cal. App. 4th 314, 324
13 (2005).

14 55. Pursuant to the applicable Wage Order, Defendant is required to pay the
15 members of the Class for all hours worked, meaning the time during which an employee is
16 subject to the control of an employer, including all the time the employee is suffered or
17 permitted to work, whether or not required to do so.

18 56. Furthermore, pursuant to *Labor Code* § 1198, “[t]he maximum hours of work
19 and the standard conditions of labor fixed by the commission shall be the maximum hours of
20 work and the standard conditions of labor for employees. The employment of any employee for
21 longer hours than those fixed by the order or under conditions of labor prohibited by the order
22 is unlawful.”

23 57. Defendant failed to satisfy minimum wage requirements because they
24 improperly rounded down Plaintiff’s actual hours worked and required Plaintiff and Class
25 members to engage in activities off the clock in violation of *Labor Code* §§ 1197, 1198 and the
26 applicable Wage Order.

27 58. Defendant’s pattern, practice and uniform administration of corporate policy
28 regarding illegal employee compensation as described herein is unlawful and creates an

1 entitlement, pursuant to Labor Code § 218, to recovery by Plaintiff and the members of the
2 Class, in a civil action, of the unpaid balance of the full amount of wages owing, calculated at
3 the appropriate rate.

4 59. *Labor Code* § 1194.2 allows an employee to recover liquidated damages in an
5 amount equal to the wages unlawfully unpaid and interest thereon for any action under *Labor*
6 *Code* § 1194. Where an employee, such as Plaintiff and the other Class members, are not paid
7 for all hours worked under *Labor Code* § 1194, the employee may recover minimum wages for
8 the time associated with the overtime for which they received no compensation. *See Sillah v.*
9 *Command Int'l Sec. Servs.*, 154 F. Supp. 3d 891 (N.D. Cal. 2015) (holding that employees
10 suing for failure to pay overtime could recover liquidated damages under § 1194.2 if they also
11 showed they were paid less than minimum wage); *accord Andrade v. Arby's Rest. Grp., Inc.*,
12 225 F. Supp. 3d 1115, 1132-33 (N.D. Cal. 2016).

13 60. Plaintiff and the other Class Members suffered and continue to suffer losses
14 related to the use and enjoyment of compensation due and owing to them as a direct result of
15 Defendant's unlawful acts and Labor Code violations in an amount to be shown according to
16 proof at trial and within the jurisdictional limitations of this Court.

17 61. Therefore, pursuant to Labor Code §§200, 218.5, 558 and 1194, Plaintiff and the
18 Class are entitled to recover the unpaid balances of the minimum wages Defendant owes them,
19 plus interest, penalties, attorneys' fees, expenses and costs of suit, in amounts according to
20 proof.

21 **THIRD CAUSE OF ACTION**

22 **FOR FAILURE TO PROVIDE TIMELY OFF-DUTY MEAL PERIODS**

23 (Applicable IWC Wage Order; Labor Code §§ 226.7, 512 By Plaintiffs Against Defendant
24 and Does 1 through 100)

25 62. Plaintiff and the Class reallege and incorporate by reference all of the allegations
26 set forth in this Complaint.

27 63. California Labor Code §226.7(a) prohibits an employer from requiring an
28 employee to work during any meal period mandated by an applicable Industrial Wage Order.

1 Section 226.7(b) of the California Labor Code provides that "[a]n employer shall not require an
2 employee to work during a meal or rest break or recovery period mandated pursuant to an
3 applicable statute, or applicable regulation, standard, or order of the Industrial Welfare
4 Commission..."

5 64. California Labor Code §1198 makes unlawful the employment of an employee
6 under conditions the IWC prohibits.

7 65. The applicable Wage Order provides, in relevant part: "No employer shall
8 employ any person for a work period of more than five (5) hours without a meal period of not
9 less than 30-minutes, except that when a work period of not more than six (6) hours will
10 complete the day's work the meal period may be waived by mutual consent of the employer and
11 the employee."

12 66. The applicable Wage Order section (11)(c) further provides, in relevant part:
13 "Unless the employee is relieved of all duty during a 30-minute meal period, the meal period
14 shall be considered an 'on duty' meal period and counted as time worked."

15 67. Section 512(a) of the California Labor Code provides, in relevant part, that:

16 An employer may not employ an employee for a work period of more than five
17 hours per day without providing the employee with a meal period of not less
18 than 30-minutes, except that if the total work period per day of the employee is
19 no more than six hours, the meal period may be waived by mutual consent of
20 both the employer and employee. An employer may not employ an employee
21 for a work period of more than 10 hours per day without providing the
22 employee with a second meal period of not less than 30-minutes, except that if
the total hours worked is no more than 12 hours, the second meal period may
be waived by mutual consent of the employer and the employee only if the first
meal period was not waived.

23 68. The Labor Code and Wage Order provisions cited above require California
24 employers to provide employees with off-duty 30-minute meal periods on or before the fifth
25 hour of their shifts. To satisfy this obligation, California employers must: (1) make employees
26 aware of their right to off-duty 30-minute meal periods before the fifth hour of their shifts, and
27 (2) ensure that employees are actually free of job duties for thirty minutes per day on or before
28 the fifth hour of their shifts.

1 69. As alleged herein, Defendant failed to relieve employees of duties for timely
2 meal breaks throughout the Class Period. Plaintiff and the members of the Class's meal periods
3 were routinely afforded late, after the five and one half hours of work.

4 70. Under California law, employers must also record their employees' meal
5 periods: "Every employer shall keep accurate information with respect to each employee,
6 including the following: ... Meal periods ... shall also be recorded. Meal periods during which
7 operations cease ... need not be recorded." Applicable Wage Order, § (7)(A)(3). Where the
8 employer has failed to keep records required by statute, the consequences of such failure should
9 fall on the employer, not the employee. In such a situation, imprecise evidence by the employee
10 can provide a sufficient basis for liability." *Hernandez v. Mendoza*, 199 Cal. App. 3d 721, 727
11 (1988). Inasmuch as Defendant had an obligation under the record-keeping requirements of the
12 Wage Order to track meal periods unless "all work ceases", Defendant knew or should have
13 known its employees were regularly affording late meal periods during the Class Period.

14 71. Defendant has a policy or practice of failing to ensure that Plaintiff and
15 members of the class take timely meal periods required by California Labor Code §226.7 and
16 the applicable Wage Order §11. Defendant did not require Plaintiff and Class members to enter
17 the start and end times of their meal breaks on the time clocks.

18 72. By their actions in affording Plaintiff and Class members late meal periods,
19 Defendant violated Cal. Lab. Code §226.7(b) and section 11 of the Wage Order in the amount
20 of one additional hour of pay at the employee's regular rate of compensation for each work
21 period during each day in which Defendant failed to provide employees with statutory timely
22 off-duty meal periods.

23 73. Defendant also has a policy or practice of failing to pay each of their employees
24 who was provided with a late meal period an additional one hour of compensation at each
25 employee's regular rate of pay.

26 74. Cal. Labor Code § 218 authorizes Plaintiff and the members of the Class to
27 bring a private right of action to recover wages due based on the deprivation of timely meal
28 periods under Cal. Labor Code § 226.7(b).

75. As a direct and proximate result of Defendant's unlawful conduct as alleged herein, Plaintiff and members of the 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, attorneys' fees and penalties and other appropriate relief due to Defendant's violations of the California Labor Code and the applicable IWC Wage Orders.

FOURTH CAUSE OF ACTION
FOR FAILURE TO MAINTAIN RECORDS AND PROVIDE ACCURATE WAGE
ITEMIZED STATEMENTS

(Labor Code §226 By Plaintiffs Against Defendant and Does 1 through 100)

76. Plaintiff and the Class reallege and incorporate by reference all of the allegations set forth in this Complaint.

77. Pursuant to the applicable IWC Wage Orders, Defendant was the employer of Plaintiff and the Class.

78. Pursuant to California Labor Code sections 226 and 1174, and the applicable Wage Order section 7, Defendant is required to maintain and provide accurate records relating to employee compensation including all formulas and production records used to calculate wages due.

79. Defendant is further required to provide, *inter alia*, semimonthly or at the time of each payment of wages, an accurate itemized statement showing: (1) gross wages earned; (2) all deductions from wages; (3) net wages earned; (4) the inclusive dates of the period for which the employee is being paid; (5) the name of the employee; and (6) the name and address of the legal entity that is the employee's actual employer. Cal. Labor Code §226(a).

80. Section 226(e) provides that an employee is entitled to recover \$50 for the initial pay period in which a violation of Section 226 occurs and \$100 for each subsequent pay period, not to exceed \$4,000, plus an award of costs and reasonable attorneys' fees, for all pay periods in which the employer knowingly and intentionally failed to provide accurate itemized statements to the employee causing the employee to suffer injury.

1 81. Notwithstanding these provisions. Defendant has engaged in a uniform practice
2 of refusing to maintain and provide the accurate records and wage statements required by
3 California law.

4 82. Throughout the Class Period, Defendant intentionally and knowingly provided
5 Plaintiff and other members of the Class with weekly itemized wage statements containing
6 inaccurate information regarding the wages earned by Plaintiff and members of the Class in
7 that the payments owed to Plaintiff and the members of the Class for overtime compensation,
8 minimum wages, untimely or late meal periods, were not included in gross wages earned by
9 Plaintiff and members of the Class.

10 83. As a result, Plaintiff and members of the Class have been injured by having been
11 deprived of the true facts pertaining to their compensation and employment.

12 84. Plaintiff and members of the Class were damaged by these failures because,
13 among other things, the failures led them to believe that they were not entitled to overtime
14 compensation, minimum wages, pay for meal periods not timely provided, even though they
15 were so entitled and these failures hindered them from determining the amounts of wages owed
16 to them.

17 85. Plaintiff and members of the Class are entitled to the amounts provided in Labor
18 Code §226(e), plus attorneys' fees and costs.

19 86. As result, Plaintiff seeks recovery of the penalties authorized by Labor Code
20 sections 226(e) and 558, and such other penalties and legal and equitable remedies as are
21 provided by law for Defendant's improper conduct.

22 **FIFTH CAUSE OF ACTION**

23 **REIMBURSEMENT OF BUSINESS EXPENSES**

24 **(Cal. Labor Code §2802 By Plaintiffs Against Defendant and Does 1 through 100)**

25 87. Plaintiff and the Class reallege and incorporate by reference all of the allegations
26 set forth in this Complaint.

27 88. Labor Code §2802 requires employers to indemnify employees for all necessary
28 expenditures incurred by employees in the discharge of their duties.

1 89. Plaintiff and Class members were required to use their personal cell phones
2 throughout the day while on Escort duty to communicate with Defendant and escort visitors to
3 the worksite. Plaintiff also had to use his vehicle to drive to various work sites during working
4 hours. However, Defendant failed to reimburse Plaintiff and members of the Class for their cell
5 phone expenses, gas and mileage expenses, and wear and tear, incurred on Defendant's behalf.

6 90. At all times relevant herein, Defendant was aware that Plaintiff and Class
7 members were using their personal cell phones and vehicles, but failed to indemnify Plaintiff
8 and Class members for all their business-related expenses, in accordance with Labor Code
9 §2802. Plaintiff is informed and believes and thereon alleges that at all relevant times,
10 Defendant maintained a practice of not reimbursing Plaintiff and Class Members for their
11 work-related expenses that they incurred in using their personal cell phones and vehicles,
12 including wear and tear, for work-related purposes.

13 91. As a result of Defendant's conduct, Plaintiff and Class Members suffered
14 damages in an amount, subject to proof, to the extent they were not reimbursed for all of their
15 business-related expenses incurred in the discharge of their duties.

16 92. Pursuant to Labor Code §2802, Plaintiff and Class Members are entitled to
17 recover the full amount of their unreimbursed business expenses, reasonable attorneys' fees and
18 costs of suit.

19 **SIXTH CAUSE OF ACTION**

20 **FAILURE TO ALLOW INSPECTION OF EMPLOYMENT RECORDS**

21 **(Labor Code §1198.5 By Plaintiffs Against Defendant and Does 1 through 100)**

22 93. Plaintiff and the Class reallege and incorporate by reference all of the allegations
23 set forth in this Complaint.

24 94. California Labor Code Section 1198.5 provides:

- 25 (a) Every current and former employee, or his or her representative, has the
26 right to inspect and receive a copy of the personnel records that the
27 employer maintains relating to the employee's performance or to any
28 grievance concerning the employee.

1 (b) The employer shall make the contents of those personnel records available
2 for inspection to the current or former employee, or his or her
3 representative, at reasonable intervals and at reasonable times, but not later
4 than 30 calendar days from the date the employer receives a written request,
5 unless the current or former employee, or his or her representative, and the
6 employer agree in writing to a date beyond 30 calendar days to inspect the
7 records, and the agreed-upon date does not exceed 35 calendar days from
8 the employer's receipt of the written request to inspect the records. Upon a
9 written request from a current or former employee, or his or her
10 representative, the employer shall also provide a copy of the personnel
11 records,..... later than 30 calendar days from the date the employer receives
12 the request...

13 (k) If an employer fails to permit a current or former employee, or his or her
14 representative, to inspect or copy personnel records within the times specified I
15 this section... the current or former employee may recover a penalty of seven
16 hundred fifty dollars (\$750) from the employer.

17 (l) A current or former employee may also bring an action for injunctive relief
18 to obtain compliance with this section, and may recover costs and reasonable
19 attorney's fees in such an action.

20 95. Additionally, pursuant to the applicable Wage Order, at section 7 re: Records,
21 employers are required to keep accurate payroll records on each employee, and such records
22 must be made readily available for inspection by the employee upon reasonable request. The
23 employer must also maintain accurate production records.

24 96. On or about May 16, 2024, Plaintiff's counsel issued a written request to
25 Defendant for copies of his personnel records.

26 97. Under California Labor Code Sections 226, 432 and 1198.5, such records were
27 to include all records relating to Plaintiff's hours worked, wage statements and compensation.
28 Plaintiff's counsel and Defendant did not enter into an agreement to enlarge the time for
Defendant's compliance, and Defendant has failed and refused to permit Plaintiff copies of his
records.

98. As a direct result and consequence of Defendant's failure and refusal to permit
Plaintiff full access to his records, Plaintiff seeks injunctive relief in the form of an order or
decree mandating Defendant's compliance. Plaintiff has suffered and will suffer harm as a

1 result of Defendant's ongoing refusal to comply. Plaintiff also seeks recovery of the statutory
2 penalty of \$750 based upon Defendant's violation of §1198.

3 **SEVENTH CAUSE OF ACTION**

4 **UNFAIR COMPETITION**

5 **(Business & Professions Code §§ 17200 *et seq.* By Plaintiffs Against Defendant and Does 1**
6 **through 100)**

7 99. Plaintiff and the Class reallege and incorporate by reference all of the allegations
8 set forth in this Complaint.

9 100. Pursuant to the applicable IWC Wage Orders, Defendant was the employer of
10 Plaintiff and the Class. Defendant is also a "person" as that term is defined in Business &
11 Professions Code §17021.

12 101. The Business & Professions Code defines unfair competition as any unlawful,
13 unfair, or fraudulent business practice. At all times relevant herein, by and through the conduct
14 described herein, Defendant has engaged in unfair and unlawful practices by failing to (1) pay
15 Plaintiff and the Class overtime compensation; (2) pay minimum wages due to rounding; (3)
16 pay Plaintiff and the Class meal periods afforded late, (4) furnish Plaintiff and the Class with
17 accurate itemized wage statements, as mandated by the applicable Labor Code and Industrial
18 Welfare Commission requirements, (5) reimburse business expenses, (6) provide personnel
19 records, all in violation of Business & Professions Code §§ 17200 *et seq.*

20 102. By and through the unfair and unlawful business practices described herein,
21 Defendant has obtained valuable property, money and services from the Plaintiff and the Class
22 and has deprived them of valuable rights and benefits guaranteed by law all to the detriment of
23 Plaintiff and the Class.

24 103. All the acts described herein are violations of, among other things, the Labor
25 Code and applicable Industrial Commission Wage Orders, are unlawful and in violation of
26 public policy; and in addition are immoral, unethical, oppressive, and unscrupulous, and
27 thereby constitute unfair and unlawful business practices in violation of Business & Professions
28 Code §§ 17200 *et seq.*

104. Plaintiff and the Class are entitled to, and do, seek such relief as may be necessary to restore to them the money and property which Defendant has acquired, or of which Plaintiff and the Class have been deprived by means of the above-described unfair and unlawful business practices.

105. Plaintiff and the Class are further entitled to, and do, seek a declaration that the above-described business practices are unfair and unlawful and that injunctive relief should be issued restraining Defendant from engaging in any of the above described unfair and unlawful business practices in the future.

106. Plaintiff and the Class have no plain, speedy, and/or adequate remedy at law to redress the injuries which they have suffered as a consequence of the unfair and unlawful business practices of Defendant. As a result of the unfair and unlawful business practices described above, Plaintiff and the Class have suffered and will continue to suffer irreparable harm unless Defendant is restrained from continuing to engage in these unfair and unlawful business practices. In addition, Defendant should be required to disgorge the unpaid moneys to Plaintiff and the Class.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that this Court enter judgment in his favor and against Defendant as follows:

1. For compensatory damages in the amount of unpaid overtime due to Plaintiff and Class Members, according to proof;

2. For compensatory damages in the amount minimum wages due to Plaintiff and Class Members, according to proof;

3. For payment of unpaid wages in accordance with California labor and employment law;

4. For one (1) hour of pay at the regular rate of compensation for Plaintiff and Class Members for each workday that a meal period was provided late;

1 5. For compensatory damages in the amount of Plaintiff and Class Members' cell
2 phone and vehicle expenses for business purposes, costs and attorneys' fees pursuant to Cal.
3 Code Civ. Proc. §2802(c);

4 6. For an award of consequential damages in Plaintiff and Class Members' favor
5 and against Defendant, in an amount to be proven at trial;

6 7. For statutory damages pursuant to *Cal. Lab. Code* §226, according to proof;

7 8. For specific relief enforcing waiting time penalties of 30 days of per diem wages
8 pursuant to *Cal. Bus. & Prof. Code* §17200, according to proof;

9 9. For prejudgment interest accrued on all due and unpaid overtime and minimum
10 wages from the date that wages were due and payable, pursuant to *Cal. Lab. Code* §§218.6 and
11 1194(a), according to proof;

12 10. For statutory penalties pursuant to *Cal. Lab. Code* §§ 558, 226.7, 1198.5,
13 according to proof;

14 11. For civil penalties pursuant to *Cal. Labor Code* §1198 and the applicable Wage
15 Order;

16 12. For reasonable costs, including attorneys' fees, in an amount according to proof
17 pursuant to, *inter alia*, *Cal. Labor Code* §§1194, 1198.5(1), 218.5, 2802 and/or Cal. Code of
18 Civ. Proc. §1021.5;

19 13. For an award of restitution of wages to Plaintiff and Class members in an
20 amount equal to the amount of wages owed and unpaid, according to proof;

21 14. For injunctive relief requiring Defendant to comply with Labor Code
22 1198.5(b)(1);

23 15. For injunctive relief ordering the continuing unfair business acts and practices to
24 cease, as the Court deems just and proper;

25 16. For other injunctive relief ordering Defendant to notify Plaintiff and Class
26 Members that they have not been paid the proper amounts in accordance with California law;

27 17. For punitive and exemplary damages in a sum to be determined at trial; and

28 18. For such other and further relief as the Court deems just and proper.

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DEMAND FOR JURY TRIAL

Plaintiff Christian Waters hereby respectfully requests a trial by jury for all claims and issues raised in his Complaint that may be entitled to a jury trial.

LIPELES LAW GROUP, APC

Date: May 16, 2024

By: 

Thomas H. Schelly
Attorneys for Plaintiff
Christian Waters