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

RICHARD SANCHEZ, as an individual and
on behalf of all others similarly situated,

Plaintiff,

vs.

ORCO BLOCK & HARDSCAPE, a
California corporation; and DOES 1 through
100,

Defendants.

CASE NO. 30-2022-01280253-CU-OE-CXC

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

- (1) **MINIMUM WAGE VIOLATIONS
(LABOR CODE §§ 558, 1182.12, 1194,
1194.2, 1197);**
- (2) **UNFAIR COMPETITION (BUS &
PROF CODE § 17200 *et seq.*);**
- (3) **FAILURE TO PAY ALL OVERTIME
WAGES (LABOR CODE §§ 204,
226.2, 510, 558, 1194, AND 1198);**
- (4) **MEAL PERIOD VIOLATIONS
(LABOR CODE §§ 226.7, 512, 558);**
- (5) **REST PERIOD VIOLATION
(LABOR CODE §§ 226.2, 226.7, 516,
AND 558);**
- (6) **WAITING TIME PENALTIES
(LABOR CODE §§ 201-203); and**

(7) **CIVIL PENALTIES UNDER THE
PRIVATE ATTORNEYS GENERAL
ACT (LABOR CODE § 2698 *et seq.*).**

**DEMAND FOR JURY TRIAL
UNLIMITED CIVIL CASE**

Plaintiff Richard Sanchez (“Plaintiff”), on behalf of himself and all others similarly situated, hereby brings this First Amended Class and Representative Action Complaint (“Complaint”) against ORCO Block & Hardscape, a California corporation; and Does 1 through 100, inclusive (collectively “Defendants”), and on information and belief alleges as follows:

JURISDICTION

1. Plaintiff, on behalf of himself and all others similarly situated, hereby brings this action for recovery of unpaid wages and penalties under California Labor Code §§ 201-203, 204, 226.2, 226.7, 510, 512, 516, 558, 1182.12, 1194, 1194.2, 1197, 1198, and 2698 *et seq.*, California Business and Professions Code § 17200 *et. seq.*, and Industrial Welfare Commission Wage Order 1 (“Wage Order 1”), in addition to seeking declaratory relief and restitution. This action is brought pursuant to California Code of Civil Procedure § 382. This Court has jurisdiction over Defendants’ violations of the California Labor Code because the amount in controversy exceeds this Court’s jurisdictional minimum.

VENUE

2. Venue is proper in this judicial district pursuant to California Code of Civil Procedure §§ 395(a) and 395.5, as Defendants’ principal place of business is located in the County of Orange. Defendants own, maintain offices, transact business, have an agent or agents within the County of Orange, and/or otherwise are found within the County of Orange, and Defendants are within the jurisdiction of this Court for purposes of service of process.

PARTIES

3. Plaintiff is an individual over the age of eighteen (18). At all relevant times herein, Plaintiff was, and currently is, a California resident. During the four years immediately preceding the filing of the Complaint in this action, and within the statute of limitations periods applicable to each cause of action pled herein, Plaintiff was employed by Defendants as a non-exempt

1 employee. Plaintiff was, and is, a victim of Defendants’ policies and/or practices complained of
2 herein, lost money and/or property, and has been deprived of the rights guaranteed to him by
3 California Labor Code §§ 201-203, 204, 226.2, 226.7, 510, 512, 516, 558, 1182.12, 1194, 1194.2,
4 1197, 1198, and 2698 *et seq.*, California Business and Professions Code § 17200 *et. seq.*, and
5 Wage Order 1, which sets employment standards for the “Manufacturing Industry”, which
6 includes employees who prepare, produce, make, or finish goods, articles, or commodities in
7 whole or in part.

8 4. Plaintiff is informed and believes, and based thereon alleges, that during the four
9 years preceding the filing of the Complaint and continuing to the present, Defendants did (and
10 do) business by manufacturing masonry and hardscape products, and employed Plaintiff and other
11 similarly-situated non-exempt employees within Orange County and the state of California and,
12 therefore, were (and are) doing business in Orange County and the State of California.

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

21 6. Plaintiff is informed and believes, and based thereon alleges, that at all times
22 mentioned herein, Defendants were and are the employers of Plaintiff and all similarly situated
23 employees.

24 7. At all times herein mentioned, each of said Defendants participated in the doing
25 of the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the
26 Defendants, and each of them, were the agents, servants, and employees of each and every one of
27 the other Defendants, as well as the agents of all Defendants, and at all times herein mentioned
28 were acting within the course and scope of said agency and employment. Defendants, and each

1 of them, approved of, condoned, and/or otherwise ratified each and every one of the acts or
2 omissions complained of herein.

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

8 **GENERAL FACTUAL ALLEGATIONS**

9 9. Defendants are in the manufacturing business, specializing in the manufacturing
10 of construction supplies. Plaintiff worked for Defendants as a non-exempt "Splitter Operator"
11 from approximately September 2018 until commencing a medical-related leave of absence in
12 approximately December 2020. On or about May 12, 2023, Plaintiff separated his employment
13 from Defendants.

14 10. During Plaintiff's employment with Defendants, Defendants regularly,
15 systematically, and impermissibly rounded and/or truncated the hours worked by Plaintiff and
16 other non-exempt employees and maintained a rounding policy/practice that rounded Plaintiff's
17 and other non-exempt employees' timekeeping entries in 15-minute increments, which resulted,
18 over a period of time, in Defendants' failure to properly compensate their non-exempt employees
19 for all hours worked, and deprived Plaintiff and other non-exempt employees of all required
20 minimum wages earned. *See Camp v. Home Depot U.S.A., Inc.* (2022) 84 Cal.App.5th 638, 654
21 ("[I]f an employer, as in this case, can capture and has captured the exact amount of time an
22 employee has worked during a shift, the employer must pay the employee for "all the time"
23 worked."). Further, on occasions when Plaintiff and other non-exempt employees worked over
24 eight hours in a day and/or forty hours in a workweek, this rounding policy/practice also deprived
25 Plaintiff and other non-exempt employees of all overtime wages owed.

26 11. Defendants also failed to provide Plaintiff and other non-exempt employees with
27 all legally compliant meal periods to which they are entitled due to Defendants' unlawful meal
28 period policies/practices that fail to provide all timely, uninterrupted, duty-free 30-minute meal

1 periods commencing before the end of the fifth hour of work, or second timely, uninterrupted,
2 duty-free 30-minute meal periods commencing before the end of the tenth hour of work.
3 Specifically, Plaintiff and other non-exempt employees were only allowed to take their meal
4 periods at Defendant's supervisor's direction. Due to work demands, Plaintiff and other non-
5 exempt employees were regularly not provided with meal periods until after the completion of
6 5.0 hours of work, or denied meal periods entirely despite working shifts in excess of 5.0 hours
7 in length. Further, due to work demands, Plaintiff's and other non-exempt employees' meal
8 periods were frequently interrupted by Defendant's supervisors prior to the completion of 30
9 minutes, resulting in unlawfully short meal periods. On occasions when Defendants failed to
10 provide all legally required meal periods, Defendants failed to compensate their employees with
11 the required meal period premium for each workday in which employees experienced a meal
12 period violation, in violation of Labor Code § 226.7.

13 12. Further, Defendants failed to authorize and permit Plaintiff and other non-exempt
14 employees to take all legally compliant paid rest periods for every four hours worked (or major
15 fraction thereof) due to Defendants' unlawful rest period policies/practices. As with meal periods,
16 Defendant's supervisors regularly interrupted Plaintiff's and other non-exempt employees' rest
17 periods for work purposes. Further, when Plaintiff and other non-exempt employees were
18 authorized and permitted to take a rest period, Plaintiff and other non-exempt employees were
19 not permitted to leave Defendant's facility, in violation of California law. *See Augustus v. ABM*
20 *Security Svcs., Inc.*, 2 Cal.5th 257, 269 (2016) ("[O]ne cannot square the practice of compelling
21 employees to remain at the ready, ***tethered by time and policy to particular locations*** or
22 communications devices, with the requirement to relieve employees of all work duties and
23 employer control during 10-minute rest periods.") (emphasis added). Despite Defendants' failure
24 to authorize and permit their employees to take all legally compliant rest periods, Defendants
25 failed to pay Plaintiff and other non-exempt employees an additional hour of premium pay for
26 each workday in which a rest period violation occurred, as required by Labor Code § 226.7.

27 13. As a result of Defendants' failure to pay all minimum wages, overtime wages, and
28 meal and rest period premium wages owed, Defendants failed to timely pay all final wages owed

1 to Plaintiff and other non-exempt employees upon their respective separations from employment.

2 **CLASS ACTION ALLEGATIONS**

3 14. **Class Definitions:** Plaintiff brings this action on behalf of himself and the
4 following Class pursuant to Section 382 of the Code of Civil Procedure:

- 5 a. The Minimum Wage Class consist of all Defendants' current and former non-
6 exempt employees in California who were subject to Defendant's timekeeping
7 policies and/or practices, during the four years immediately preceding the filing of
8 this action through the present.
- 9 b. The Overtime Class consists of all of Defendants' current and former non-exempt
10 employees in California who worked more than 8.0 hours per day and/or 40.0
11 hours per week and were subject to Defendants' timekeeping policies and/or
12 practices, during the four years immediately preceding the filing of this action
13 through the present.
- 14 c. The Meal Period Class consists of all of Defendants' current and former non-
15 exempt employees in California who: (i) worked at least one shift in excess of 5.0
16 hours without their timekeeping records reflecting a meal period of at least 30
17 minutes in duration commencing prior to the conclusion of the fifth hour of work;
18 and/or (ii) worked at least one shift in excess of 10.0 hours without their
19 timekeeping records reflecting a second meal period of at least 30 minutes in
20 duration commencing prior to the conclusion of the tenth hour of work, and who
21 did not receive a corresponding meal period premium payment for such shifts,
22 during the four years immediately preceding the filing of this action through the
23 present.
- 24 d. The Rest Period Class consists of all of Defendants' current and former non-
25 exempt employees in California who worked at least one shift in excess of 3.5
26 hours, during the four years immediately preceding the filing of this action through
27 the present.
28

e. The Waiting Time Class consists of all members of the Minimum Wage Class, Overtime Class, Meal Period Class, and/or Rest Period Class, who separated their employment with Defendants during the three years immediately preceding the filing of this action through the present.

15. **Numerosity/Ascertainability:** The members of the Class are so numerous that joinder of all members would be unfeasible and not practicable. The membership of the Class is unknown to Plaintiff at this time; however, it is estimated that the Class numbers greater than one hundred (100) individuals. The identity of such membership is readily ascertainable via inspection of Defendants' employment records.

16. **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 for all hours worked to members of the Minimum Wage Class pursuant to California Labor Code sections 1182.12, 1194, 1194.2 and 1197;
- ii. Whether Defendants' timekeeping policies/practices resulted in the failure to properly compensate members of the Minimum Wage Class;
- iii. Whether Defendants properly paid overtime wages to members of the Overtime Class pursuant to Labor Code §§ 204, 510, 558, 1194 and 1198;
- 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 authorized and permitted all lawful rest periods to members of the Rest Period Class pursuant to Labor Code §§ 226.7 and 516;
- vi. Whether Defendants correctly paid meal and/or rest period premium payments for non-compliant meal and/or rest periods pursuant to Labor Code § 226.7; and
- vii. Whether Defendants timely paid all final wages due upon separation to members of the Waiting Time Class pursuant to Labor Code §§ 201-203.

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

8 **18. Typicality:** Plaintiff's claims are typical of the claims of the Class because
9 Plaintiff was employed by Defendants in California during the applicable statute of limitations
10 period applicable to each cause of action pled in the action. As alleged herein, Plaintiff, like the
11 members of the Class, was deprived of all minimum and overtime wages owed, was not provided
12 all lawful meal periods, was not authorized and permitted to take all legally required rest periods,
13 and did not receive all final wages owed at the time of his separation of employment.

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

20 **20. Superiority:** The California Labor Code is broadly remedial in nature and serves
21 an important public interest in establishing minimum working conditions and standards in
22 California. These laws and labor standards protect the average working employee from
23 exploitation by employers who have the responsibility to follow the laws, and who may seek to
24 take advantage of superior economic and bargaining power in setting onerous terms and
25 conditions of employment. The nature of this action and the format of laws available to Plaintiff
26 and members of the Class make the class action format a particularly efficient and appropriate
27 procedure to redress the violations alleged herein. If each employee was required to file an
28 individual lawsuit, Defendants would necessarily gain an unconscionable advantage since they

1 would be able to exploit and overwhelm the limited resources of each individual plaintiff with
2 their vastly superior financial and legal resources. Moreover, requiring each member of the Class
3 to pursue an individual remedy would also discourage the assertion of lawful claims by employees
4 who would be disinclined to file an action against their former and/or current employer for real
5 and justifiable fear of retaliation and permanent damages to their careers at subsequent
6 employment. Further, the prosecution of separate actions by the individual class members, even
7 if possible, would create a substantial risk of inconsistent or varying verdicts or adjudications
8 with respect to the individual class members against Defendants herein; and which would
9 establish potentially incompatible standards of conduct for Defendants; and/or legal
10 determinations with respect to individual class members which would, as a practical matter, be
11 dispositive of the interest of the other class members not parties to adjudications or which would
12 substantially impair or impede the ability of the class members to protect their interests. Further,
13 the claims of the individual members of the Class are not sufficiently large to warrant vigorous
14 individual prosecution considering all of the concomitant costs and expenses attending thereto.
15 As such, the Class identified herein is maintainable under Section 382 of the Code of Civil
16 Procedure.

17 **FIRST CAUSE OF ACTION**

18 **MINIMUM WAGE VIOLATIONS**

19 **(AGAINST ALL DEFENDANTS)**

20 21. Plaintiff re-alleges and incorporates by reference all prior paragraphs as though
21 fully set forth herein.

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

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1 23. At all relevant times herein, Defendants failed to conform their pay practices to
2 the requirements of the law by failing to compensate Plaintiff and members of the Minimum
3 Wage Class for all hours worked including, but not limited to, all hours they were subject to the
4 control of Defendants and/or suffered or permitted to work under the California Labor Code and
5 Wage Order 1.

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

11 25. As a direct and proximate result of Defendants' unlawful conduct as alleged
12 herein, Plaintiff and the Minimum Wage Class have sustained economic damages including, but
13 not limited to, unpaid wages and lost interest, in an amount to be established at trial, and are
14 entitled to recover economic and statutory damages and penalties and other appropriate relief as
15 a result of Defendants' violations of the California Labor Code and Wage Order 1.

16 26. The foregoing practices and policies are unlawful and create an entitlement to
17 recovery by Plaintiff and the members of the Minimum Wage Class in a civil action for the unpaid
18 amount of minimum wages owing, including interest thereon, liquidated damages, statutory and
19 civil penalties, attorney's fees, and costs of suit according to California Labor Code §§ 204, 558,
20 1194, 1197, and 1198, Wage Order 1, and Code of Civil Procedure § 1021.5.

21 **SECOND CAUSE OF ACTION**

22 **UNFAIR COMPETITION**

23 **(AGAINST ALL DEFENDANTS)**

24 27. Plaintiff re-alleges and incorporates by reference all prior paragraphs as though
25 fully set forth herein.

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

1 owed; failing to provide Plaintiff and members of the Classes lawful meal periods; failing to
2 authorize and permit Plaintiff and members of the Classes lawful rest periods; and failing to pay
3 all final wages owed to Plaintiff and members of the Classes at the time of separation from
4 employment.

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

10 30. Because Plaintiff is a victim of Defendants' unfair and/or unlawful conduct alleged
11 herein, Plaintiff for himself and on behalf of the members of the Classes, seeks full restitution of
12 monies, as necessary and according to proof, to restore any and all monies withheld, acquired
13 and/or converted by the Defendants pursuant to Business and Professions Code §§ 17203 and
14 17208.

15 31. The acts complained of herein occurred within the last four years immediately
16 preceding the filing of the initial Complaint in this action.

17 32. Plaintiff was compelled to retain the services of counsel to file this court action to
18 protect his interests and those of the Classes, to obtain restitution on behalf of the members of the
19 Classes, and to enforce important rights affecting the public interest. Plaintiff has thereby incurred
20 the financial burden of attorneys' fees and costs, which he is entitled to recover under Code of
21 Civil Procedure § 1021.5.

22 **THIRD CAUSE OF ACTION**

23 **FAILURE TO PAY OVERTIME WAGES**

24 **(AGAINST ALL DEFENDANTS)**

25 33. Plaintiff re-alleges and incorporates by reference all prior paragraphs as though
26 fully set forth herein.

27 34. This cause of action is brought pursuant to Labor Code §§ 204, 510, 558, 1194,
28 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.

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

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

FOURTH CAUSE OF ACTION

MEAL PERIOD VIOLATIONS

(AGAINST ALL DEFENDANTS)

37. Plaintiff re-alleges and incorporates by reference all prior paragraphs as though fully set forth herein.

38. Plaintiff is informed and believes, and based thereon alleges, that Defendants failed in their affirmative obligation to provide all of their non-exempt employees in California, including Plaintiff and members of the Meal Period Class, with all legally compliant meal periods in accordance with the mandates of the California Labor Code and Wage Order 1, § 11, for the reasons set forth in the factual allegations and class definitions sections of this Complaint. Despite Defendants’ violations, Defendants did not pay an additional hour of premium pay to Plaintiff and members of the Meal Period Class at their respective regular rates of pay, in accordance with California Labor Code §§ 226.7 and 512.

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39. As a result, Defendants are responsible for paying premium compensation for meal period violations, including interest thereon, statutory penalties, civil penalties, and costs of suit, pursuant to Labor Code §§ 226.7, 512, and 558, Wage Order 1, and Code of Civil Procedure § 1021.5.

FIFTH CAUSE OF ACTION
REST PERIOD VIOLATIONS
(AGAINST ALL DEFENDANTS)

40. Plaintiff re-alleges and incorporates by reference all prior paragraphs as though fully set forth herein.

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

42. As alleged herein, Defendants failed to authorize and permit Plaintiff and members of the Rest Period Class to take all required and legally compliant rest periods to which they are legally entitled, and failed to pay rest period premium wages when rest periods were not authorized and permitted in accordance with Labor Code § 226.7.

43. The foregoing violations create an entitlement to recovery by Plaintiff and members of the Rest Period Class in a civil action for the unpaid amount of rest period premiums owing, including interest thereon, statutory penalties, civil penalties, and costs of suit according to California Labor Code §§ 226.7, 516, 558, Wage Order 1, and Code of Civil Procedure § 1021.5.

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

44. Plaintiff re-alleges and incorporates by reference all prior paragraphs as though fully set forth herein.

45. This cause of action is brought pursuant to Labor Code §§ 201-203, which require an employer to pay all wages earned immediately at the time of separation of employment in the

1 event the employer discharges the employee, or if the employee provides at least 72 hours of
2 notice of his/her intent to quit. In the event the employee provides less than 72 hours of notice of
3 his/her intent to quit, said employee's wages become due and payable not later than 72 hours upon
4 said employee's last date of employment.

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

13 47. Defendants' willful failure to timely pay Plaintiff and members of the Waiting
14 Time Class all earned wages upon separation from employment results in a continued payment
15 of wages up to thirty (30) days from the time the wages were due. Therefore, Plaintiff and
16 members of the Waiting Time Class are entitled to compensation pursuant to Labor Code § 203,
17 plus reasonable attorneys' fees and costs of suit.

18 **SEVENTH CAUSE OF ACTION**

19 **PRIVATE ATTORNEYS GENERAL ACT**

20 **(AGAINST ALL DEFENDANTS)**

21 48. Plaintiff re-alleges and incorporates by reference all prior paragraphs as though
22 fully set forth herein.

23 49. Defendants have committed several Labor Code violations against Plaintiff,
24 members of the Classes, and other aggrieved employees. Plaintiff, an "aggrieved employee"
25 within the meaning of Labor Code § 2698 *et seq.*, acting on behalf of himself and other aggrieved
26 employees, brings this representative action against Defendants to recover the civil penalties due
27 to Plaintiff, the members of the Classes, other aggrieved employees, and the State of California
28 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 \$200.00 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 following Labor Code violations:

- a. Failing to pay Plaintiff and other aggrieved employees the statutory minimum wage for all hours worked in violation of Labor Code §§ 1182.12, 1194, 1194.2, and 1197;
- b. Failing to pay Plaintiff and other aggrieved employees all overtime compensation earned in violation of Labor Code §§ 204, 510, 558, 1194 and 1198;
- c. Failing to provide all meal periods as required by law and failing to pay meal period premiums to Plaintiff and other aggrieved employees at these employees' respective regular rates of compensation for meal period violations in violation of Labor Code §§ 226.7, 512, and 558;
- d. Failing to authorize and permit Plaintiff and other aggrieved employees to take all lawful rest periods to which they are entitled, and failing to pay rest period premiums to Plaintiff and other aggrieved employees at these employees' respective regular rates of compensation for rest period violations in violation of Labor Code §§ 226.7, 516, and 558;
- e. Failing to furnish the aggrieved employees with accurate and compliant itemized wage statements in violation of Labor Code § 226 *et seq.*;
- f. Failing to timely pay Plaintiff and other aggrieved employees all final wages to which they were owed at the time of their separation from employment in

violation of Labor Code §§ 201, 202 and 203;

g. Failing to pay Plaintiff and other aggrieved employees all wages earned at least twice during each calendar month in violation of Labor Code § 204; and

h. Failing to maintain accurate records on behalf of Plaintiff and other aggrieved employees in violation of Labor Code §§ 558 and 1174.

50. On May 9, 2024, Plaintiff notified Defendants, via certified mail, and 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 violations of the California Labor Code identified herein. Now that sixty-five days have passed from Plaintiff notifying Defendants of these violations, Plaintiff has exhausted his administrative requirements for bringing a claim under the Private Attorneys General Act with respect to these violations.

51. Based on the foregoing, Plaintiff seeks to represent himself and all other Aggrieved Employees, as defined by Labor Code § 2699(c), which includes all of Defendants’ employees who worked for Defendants in California at any time between May 9, 2023, and the present.

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

PRAYER

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

1. For an order certifying the proposed Class;
2. For an order appointing Plaintiff as representative of the Class;
3. For an order appointing counsel for Plaintiff as counsel for the Class;
4. Upon the First Cause of Action, for payment of minimum wages, liquidated damages, and penalties owed according to proof pursuant to Labor Code §§ 558, 1182.12, 1194,

1 1194.2 and 1197;

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

6 6. Upon the Third Cause of Action, for compensatory, consequential, general and
7 special damages according to proof pursuant to Labor Code §§ 204, 510, 558, 1194, and 1198;

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

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

12 9. Upon the Sixth Cause of Action, for statutory waiting time penalties pursuant to
13 Labor Code §§ 201-203;

14 10. Upon the Seventh Cause of Action, for civil penalties due to Plaintiff, other
15 aggrieved employees, and the State of California according to proof pursuant to Labor
16 Code §§ 558 and 2699(a) and (f) including, but not limited to: (1) \$100.00 for each initial
17 violation for each failure to pay each employee and \$200.00 for each subsequent violation or
18 willful or intentional violation pursuant to Labor Code § 210 for each failure to pay each
19 employee, plus 25% of the amount unlawfully withheld; (2) \$50.00 for each initial violation and
20 \$100.00 for each subsequent violation pursuant to Labor Code § 558 per employee per pay period;
21 (3) \$100.00 for each initial violation and \$250.00 for each subsequent employee pursuant to Labor
22 Code § 1197.1 per employee per pay period; (4) \$250.00 for each initial violation and \$1,000.00
23 for each subsequent violation pursuant to Labor Code § 226.3 per employee per pay period;
24 and/or (5) \$100.00 for each initial violation and \$200.00 for each subsequent violation per
25 employee per pay period for those violations of the Labor Code for which no civil penalty is
26 specifically provided, based on the violations of Labor Code sections cited in Paragraph 49 (a)-
27 (h) above;

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1 11. Prejudgment interest on all due and unpaid wages pursuant to California Labor Code
2 § 218.6 and Civil Code §§ 3287 and 3289;

3 12. On all causes of action, for attorneys' fees and costs as provided by Labor Code
4 §§ 218.5, 1194 *et seq.*, and 2698 *et seq.*, and Code of Civil Procedure § 1021.5; and

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

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7 Dated: July 15, 2024

Respectfully submitted,
HAINES LAW GROUP, APC

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9 By:


Fletcher W. Schmidt
Attorney for Plaintiff

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13 **DEMAND FOR JURY TRIAL**

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

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16 Dated: July 15, 2024

Respectfully submitted,
HAINES LAW GROUP, APC

17
18 By:


Fletcher W. Schmidt
Attorney for Plaintiff