

HAINES LAW GROUP, APC
Paul K. Haines (SBN 248226)
phaines@haineslawgroup.com
Fletcher W. Schmidt (SBN 286462)
fschmidt@haineslawgroup.com
Matthew K. Moen (SBN 305956)
mmoen@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 ORANGE

VICENTE SANDOVAL, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

CYBEX SECURITY SOLUTIONS, LLC, a
California Limited Liability Company;
SONITROL ORANGE COUNTY, LLC, a
California Limited Liability Company; and DOES
1 through 100, inclusive

Defendants.

Case No.: 30-2024-01398109-CU-OE-CXC

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

**(1) FAILURE TO PAY ALL
OVERTIME WAGES (LABOR
CODE §§ 204, 510, 558, 1194, 1198);**

**(2) MINIMUM WAGE VIOLATIONS
(LABOR CODE §§ 1182.12, 1194,
1194.2, 1197);**

**(3) MEAL PERIOD VIOLATIONS
(LABOR CODE §§ 226.7, 512, 558);**

**(4) REST PERIOD VIOLATIONS
(LABOR CODE §§ 226.7, 516, 558);**

**(5) FAILURE TO REIMBURSE
NECESSARY BUSINESS
EXPENSES (LABOR CODE §§
2802, 2804);**

**(6) WAGE STATEMENT
VIOLATIONS (LABOR CODE §
226 *et seq.*);**

**(7) UNFAIR COMPETITION (BUS. &
PROF. CODE § 17200); and**

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

**DEMAND FOR JURY TRIAL
UNLIMITED CIVIL CASE**

1 Plaintiff Vicente Sandoval (“Plaintiff”), on behalf of himself and all others similarly
2 situated, hereby brings this First Amended Class and Representative Action Complaint
3 (“Complaint”) against Defendants Cybex Security Solutions, LLC, a California Limited Liability
4 Company; Sonitrol Orange County, LLC, A California Limited Liability Company and DOES 1
5 to 100, inclusive (collectively “Defendants”), and on information and belief alleges as follows:

6 **JURISDICTION**

7 1. Plaintiff, on behalf of himself and all others similarly situated, hereby brings this
8 action for recovery of unpaid wages, penalties, and unreimbursed expenses under California
9 Labor Code §§ 204, 226 *et seq.*, 226.7, 510, 512, 516, 558, 1182.12, 1194, 1194.2, 1197, 1198,
10 2802, 2804, and 2698 *et seq.*, California Business and Professions Code § 17200 *et seq.* (“Unfair
11 Competition Law”), and Industrial Welfare Commission Wage Order No. 4 (“Wage Order 4”), in
12 addition to seeking declaratory relief, injunctive relief, and restitution. This class action is brought
13 pursuant to California Code of Civil Procedure § 382. This Court has jurisdiction over
14 Defendants’ violations of the California Labor Code because the amount in controversy exceeds
15 this Court's jurisdictional minimum.

16 **VENUE**

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

22 **PARTIES**

23 3. Plaintiff is an individual over the age of eighteen (18). At all relevant times herein,
24 Plaintiff was, and currently is, a California resident. During the four years immediately preceding
25 the filing of this lawsuit and within the statute of limitations periods applicable to each cause of
26 action pled herein, Plaintiff was employed by Defendants as an hourly non-exempt employee.
27 Plaintiff was, and is, a victim of Defendants’ policies and/or practices complained of herein, lost
28 money and/or property, and has been deprived of the rights guaranteed to her by California Labor

Code §§ 204, 226 *et seq.*, 226.7, 510, 512, 516, 558, 1182.12, 1194, 1194.2, 1197, 1198, 2802, 2804, and 2698 *et seq.*, California Business and Professions Code § 17200, and Wage Order 4, which sets employment standards for professional, technical, clerical, mechanical, and similar occupations.

4. Plaintiff is informed and believes, and based thereon alleges, that during the four years preceding the filing of this Complaint and continuing to the present, Defendants did (and do) operate a business specializing in the installation and repair of burglary and fire security systems for commercial buildings and businesses, with its headquarters in Orange County, and employed Plaintiff and other, similarly situated non-exempt employees within Orange County and the state of California, and, therefore, were (and are) doing business in Orange County and the State of California.

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

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

7. Plaintiff is further informed and believes, and thereon alleges, that each of the Defendants herein, whether designated by real or fictitious name, are, and at all times relevant hereto, were, the agents servants, and employees and hirelings of each of the co-Defendants, as well as the agents of all Defendants, and in doing things and acts herein alleged and complained

of or in failing to do that which they should have done, were acting within the scope of employment. Defendants, and each of them, approved of, condoned, and/or otherwise ratified each and every one of the acts or omissions alleged herein.

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

GENERAL FACTUAL ALLEGATIONS

9. Defendants specializes in installation and repair of burglary and fire security systems for commercial buildings and businesses. Plaintiff has been employed by Defendants as a “Lead Technician” since approximately November 5, 2019. Plaintiff’s job duties include installation and repair of security systems, and teaching clients how to use the installed security system. Plaintiff commenced a medical leave of absence on approximately August 8, 2023. Unless otherwise specified, all allegations herein occurred during Plaintiff’s employment with Defendants.

10. Defendants fail to pay Plaintiff and other non-exempt employees all minimum and overtime wages owed due to Defendants’ policies and practices that rounds and/or time-shaves Plaintiff’s and other non-exempt employees’ hours, which has resulted in Plaintiff and other non-exempt employees not being compensated for all hours actually worked. Defendants require Plaintiff and other non-exempt employees to clock-in and out through an electronic application on a company provided phone which records Plaintiff’s and other non-exempt employees’ clock-in and clock-out times to the minute. Defendants, however, round Plaintiff’s and other non-exempt employees’ timekeeping entries in quarter-hour increments, which results over a period of time in Defendants’ failure to accurately compensate for all hours worked, depriving Plaintiff and other non-exempt employees of all required minimum wages earned. *See Camp v. Home Depot U.S.A., Inc.* (2022) 84 Cal.App.5th 638, 654 (“[I]f an employer, as in this case, can capture and has captured the exact amount of time an employee has worked during a shift, the employer must pay the employee for “all the time” worked.”). Further, on occasions

1 when Plaintiff and other non-exempt employees work over eight hours in a day and/or forty
2 hours in a workweek, this process of time-shaving and/or rounding also deprives Plaintiff and
3 other non-exempt employees of all overtime wages owed.

4 11. In addition, Defendants' timekeeping policies and/or practices result in Plaintiff
5 and other non-exempt employees not being compensated for all hours actually worked, including
6 all hours subject to the control of Defendants and/or suffered or permitted to work. Specifically,
7 Defendants require Plaintiff and other non-exempt employees to travel to their assigned jobsites,
8 which can vary in location each day, before being permitted to clock in for their work shift.
9 Plaintiff and other non-exempt employees are only permitted to clock in prior to reaching their
10 work location if this initial daily travel exceeds 75 miles or if they are stuck in traffic for more
11 than one hour and twenty-five minutes. Further, Defendants require Plaintiff and other non-
12 exempt employees to communicate with supervisors for work purposes while off the clock, and
13 to access various scheduling applications while off the clock in order to receive their next day's
14 jobsite assignment. As a result of these policies/practices, Defendants have deprived Plaintiff and
15 other non-exempt employees of all minimum and overtime wages earned.

16 12. Throughout Plaintiff's employment, Defendants also failed to provide Plaintiff
17 and other non-exempt employees with all legally-compliant meal periods. Specifically,
18 Defendants' unlawful meal period policies/practices fail to provide timely, duty-free 30-minute
19 meal periods commencing before the end of the fifth hour of work. Defendants only allow
20 Plaintiff and other non-exempt employees to take a single meal period each workday that exceeds
21 5.0 hours in length, which often does not commence until after the end of the fifth hour of work.
22 Instead, Defendants regularly require Plaintiff and other non-exempt employees to clock out prior
23 to the conclusion of the fifth hour of work but to keep working while off the clock in order to
24 make their time records appear as if a timely meal period had been taken, when no such timely
25 meal period had actually been provided. Further, because Defendant only provides a single meal
26 period each workday that exceeds 5.0 hours in length, Plaintiff and other non-exempt employees
27 are not provided with a second, duty-free 30-minute meal period when they work shifts in excess
28 of 10.0 hours in length. Moreover, Defendants require Plaintiff and other non-exempt employees

1 to carry a cell phone at all times and to respond to any incoming calls or messages at all times,
2 even during purported meal periods. This policy fails to relinquish all control over how Plaintiff
3 and other non-exempt employees spend their meal periods, in violation of California law. On
4 occasions when Plaintiff and other non-exempt employees are not provided with all lawful meal
5 periods to which they were entitled, Defendants fail to pay Plaintiff and other non-exempt
6 employees an additional hour of premium pay at their respective regular rates of pay for each
7 workday in which a meal period violation occurred, as required by Labor Code section 226.7.

8 13. Defendants also maintain an unlawful rest period policy/practice that fails to
9 authorize and permit Plaintiff and other non-exempt employees to take all lawful, duty-free 10-
10 minute rest periods for every four hours worked, or major fraction thereof. Specifically,
11 Defendants maintain a policy and/or practice of unlawfully combining rest breaks into the
12 employees' meal periods. *See Rodriguez v. E.M.E., Inc.* (2016) 246 Cal.App.4th 1027 (holding
13 that in the context of an 8-hour shift with a single meal period, the preferred schedule requires
14 the provision of a rest period in the middle of each "work period" before and after the meal break,
15 and that "a departure from the preferred schedule is permissible only when the departure (1) will
16 not unduly affect employee welfare and (2) is tailored to alleviate a material burden that would
17 be imposed on the employer by implementing the preferred schedule."). As discussed above, as
18 with meal periods, Defendants do not relieve employees of all employer control during rest
19 periods in violation of *Augustus v. ABM Security Svcs., Inc.*, (2016) 2 Cal.5th 257. *See id.*, at 269
20 ("[O]ne cannot square the practice of compelling employees to remain at the ready, **tethered by**
21 **time and policy to particular...communications devices**, with the requirement to relieve
22 employees of all work duties and employer control during 10-minute rest periods.") (emphasis
23 added). Specifically, Defendants require Plaintiff and other non-exempt employees to carry cell
24 phones and respond to incoming texts/calls/or Teams messages at all times, even during
25 purported rest periods. Despite Defendants' failure to authorize and permit Plaintiff and other
26 non-exempt employees to take all legally-compliant rest periods to which they were entitled,
27 Defendants failed to compensate Plaintiff and other non-exempt employees with an additional
28 hour of premium pay at their respective regular rates of pay for each workday in which a rest
period violation occurred, as required by Labor Code § 226.7.

14. Defendants also require Plaintiff and other non-exempt employees to use their personal cellular phones and tools for necessary work purposes. Specifically, even though Defendants provided a company phone for Plaintiff and other non-exempt employees to use for timekeeping purposes, the company-provided cell phones are frequently unusable. Therefore, employees are required to use their personal cellular phones for necessary work purposes, including to communicate daily with supervisors. Further, Plaintiff and other non-exempt employees are required to download various cell phone applications on their personal cell phones for work purposes, including “T-Sheets,” “Teams,” and other applications used for the installation of security systems. Plaintiff estimates that approximately 70-75% of all communication between himself and Defendants was conducted using his personal cell phone. Additionally, Plaintiff and other non-exempt employees are required to buy tools needed to complete their assigned work duties. However, Defendants fail to reimburse Plaintiff and other non-exempt employees for a reasonable portion of their cellular phone expenses or for the cost of necessary work tools, as mandated by Labor Code section 2802. *See also Cochran v. Schwan's Home Service, Inc.* (2014) 228 Cal.App.4th 1137, 1144 (holding that an employer must reimburse a reasonable portion of an employee’s cell phone bill when its use is necessary for the job).

15. As a result of Defendants’ failure to pay all minimum wages, overtime wages, as well as meal and rest period premium wages, Defendants maintain inaccurate payroll records, and issue inaccurate wage statements to Plaintiff and other non-exempt employees.

CLASS ACTION ALLEGATIONS

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

- a. 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 lawsuit through the present.

- b. 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 preceding the filing of the lawsuit 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 without being provided a meal period of at least 30-minutes commencing before the end of the fifth hour of work, and/or (ii) worked at least one shift in excess of 10.0 hours without being provided a second meal period of at least 30-minutes commencing before the end of the tenth hour of work, during the four years immediately preceding the filing of the lawsuit 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, during the four years immediately preceding the filing of the lawsuit through the present.
- e. The Reimbursement Class: all of Defendants' current and former non-exempt employees in California who were subject to Defendants' reimbursement policies/practices, during the four years immediately preceding the filing of the lawsuit through the present.
- f. The Wage Statement Class consists of all members of the (i) Overtime Class; (ii) Minimum Wage Class; (iii) Meal Period Class; and/or (iv) Rest Period Class, who received a wage statement from Defendants during the one year immediately preceding the filing of the lawsuit through the present.

17. **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 Classes number greater than fifty (50) individuals as to each Class. The identity of such membership is readily ascertainable via inspection of Defendants' employment records.

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

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

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

25 **20. Typicality:** Plaintiff's claims are typical of the claims of the Classes because
26 Defendants employed Plaintiff as a non-exempt employee in California during the statute of
27 limitations periods applicable to each cause of action pled herein. As alleged herein, Plaintiff, like
28 the members of the Classes was deprived of all overtime and minimum wages, was not provided

1 all legally required meal periods, was not authorized and permitted to take all lawful rest periods,
2 was not reimbursed for necessary business expenditures, and was furnished with inaccurate and
3 incomplete wage statements.

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

10 **22. Superiority:** The California Labor Code is broadly remedial in nature and serves
11 an important public interest in establishing minimum working conditions and standards in
12 California. These laws and labor standards protect the average working employee from
13 exploitation by employers who have the responsibility to follow the laws, and who may seek to
14 take advantage of superior economic and bargaining power in setting onerous terms and
15 conditions of employment. The nature of this action and the format of laws available to Plaintiff
16 and members of the Classes make the class action format a particularly efficient and appropriate
17 procedure to redress the violations alleged herein. If each employee was required to file an
18 individual lawsuit, Defendants would necessarily gain an unconscionable advantage since they
19 would be able to exploit and overwhelm the limited resources of each individual plaintiff with
20 their vastly superior financial and legal resources. Moreover, requiring each member of the
21 Class(es) to pursue an individual remedy would also discourage the assertion of lawful claims by
22 employees who would be disinclined to file an action against their former and/or current employer
23 for real and justifiable fear of retaliation and permanent damages to their careers at subsequent
24 employment. Further, the prosecution of separate actions by the individual class members, even
25 if possible, would create a substantial risk of inconsistent or varying verdicts or adjudications
26 with respect to the individual class members against Defendants herein; and which would
27 establish potentially incompatible standards of conduct for Defendants; and/or legal
28 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 (as defined herein) are maintainable under § 382 of the Code of Civil Procedure. As such, each of the Classes (as defined herein) are maintainable under § 382 of the Code of Civil Procedure.

FIRST CAUSE OF ACTION

FAILURE TO PAY OVERTIME WAGES

(AGAINST ALL DEFENDANTS)

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

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

25. 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 4. Wage Order 4, § 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 Pay Class at one and one-half times their regular rate of pay for such hours.

26. 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.

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1 **SECOND CAUSE OF ACTION**

2 **FAILURE TO PAY ALL MINIMUM WAGES OWED**

3 **(AGAINST ALL DEFENDANTS)**

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

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

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

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

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

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

civil penalties, attorney's fees, and costs of suit according to California Labor Code §§ 204, 558, 1194, 1197, and 1198, Wage Order 4, and Code of Civil Procedure § 1021.5.

THIRD CAUSE OF ACTION

MEAL PERIOD VIOLATIONS

(AGAINST ALL DEFENDANTS)

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

34. 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 4, § 11. Despite Defendants' violations, Defendants did not pay an additional hour of pay to Plaintiff and members of the Meal Period Class at their respective regular rates of pay, in accordance with California Labor Code §§ 204, 210, 226.7, and 512.

35. As a result, Defendants are responsible for paying premium compensation for meal period violations pursuant to Labor Code §§ 226.7, 512, 558, and 1198, and Wage Order 4, including interest thereon, statutory penalties, civil penalties, and costs of suit.

FOURTH CAUSE OF ACTION

REST PERIOD VIOLATIONS

(AGAINST ALL DEFENDANTS)

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

37. Wage Order 4, § 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.

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

39. 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, and Civil Code §§ 3287(b) and 3289 and Wage Order 4.

FIFTH CAUSE OF ACTION

FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENDITURES

(AGAINST ALL DEFENDANTS)

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

41. 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 of his or obedience to the directions of the employer.

42. 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.”

43. As a proximate result of Defendants’ policies and/or practices in violation of Labor Code §§ 2802 and 2804, and Wage Order 4 § 9, Plaintiff and members of the Reimbursement Class were damaged in sums, which will be shown according to proof.

44. Plaintiff and members of the class are entitled to attorney’s fees and costs of suit pursuant to Labor Code § 2802(c) for bringing this action. 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 is entitled to interest, which shall accrue from the date on which Plaintiff incurred the necessary expenditure.

SIXTH CAUSE OF ACTION

WAGE STATEMENT VIOLATIONS

(AGAINST ALL DEFENDANTS)

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

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

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

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

15 **SEVENTH CAUSE OF ACTION**

16 **UNFAIR COMPETITION**

17 **(AGAINST ALL DEFENDANTS)**

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

19 50. Defendants have engaged and continue to engage in unfair and/or unlawful
20 business practices in California in violation of California Business and Professions Code § 17200
21 *et seq.*, by failing to pay Plaintiff and the Classes all overtime and minimum wages owed; failing
22 to provide Plaintiff and the Classes lawful meal periods; failing to authorize and permit Plaintiff
23 and the Classes lawful rest periods; and failing to reimburse Plaintiff and the Classes for all
24 necessary business expenses.

25 51. Defendants' utilization of these unfair and/or unlawful business practices deprived
26 Plaintiff and continues to deprive members of the Classes of compensation to which they are
27 legally entitled, constitutes unfair and/or unlawful competition, and provides an unfair advantage
28

over Defendants' competitors who have been and/or are currently employing workers and attempting to do so in honest compliance with applicable wage and hour laws.

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

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

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

EIGHTH CAUSE OF ACTION

PRIVATE ATTORNEYS GENERAL ACT

(AGAINST ALL DEFENDANTS)

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

56. Defendants have committed several Labor Code violations against Plaintiff, members of the Classes, and other aggrieved employees. Plaintiff, an "aggrieved employee" within the meaning of Labor Code § 2698 *et seq.*, acting on behalf of herself and other aggrieved employees, brings this representative action against Defendants to recover the civil penalties due to Plaintiff, the members of the Classes, 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 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 following Labor Code violations:

- a. Failing to pay Plaintiff and other aggrieved employees all overtime compensation earned in violation of Labor Code §§ 204, 510, 558, 1194 and 1198;
- b. 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;
- c. Failing to provide 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 reimburse Plaintiff and other aggrieved employees for all necessary expenditures incurred in violation of Labor Code §§ 2802 and 2804;
- f. Failing to furnish Plaintiff and other aggrieved employees with all accurate and compliant itemized wage statements in violation of Labor Code § 226 *et seq.*;
- g. Failing to timely pay all final wages due to aggrieved employees upon their respective separations from employment in violation of Labor Code §§ 201, 202 and 203;

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

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

5 57. On May 8, 2024, Plaintiff notified Defendants via certified mail, and notified the
6 California Labor and Workforce Development Agency (“LWDA”) via its website, of Defendants’
7 violations of the California Labor Code and Plaintiff’s intent to bring a claim for civil penalties
8 under California Labor Code § 2698 *et seq.* with respect to the violations of the California Labor
9 Code identified in Paragraph 56 (a)-(i). Now that sixty-five days have passed from Plaintiff
10 notifying Defendants and the LWDA of these violations, and the LWDA has not provided notice
11 that it intends to investigate the violations, Plaintiff has exhausted his administrative requirements
12 for bringing a claim under the Private Attorneys General Act with respect to these violations.

13 58. Based on the foregoing, Plaintiff seeks to represent himself and all Aggrieved
14 Employees, as defined by Labor Code § 2699(c), which includes all of Defendants’ current and
15 former employees who worked for Defendants in California at any time between May 8, 2024,
16 and the present.

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

21 **PRAYER**

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

- 24 1. For an order certifying the proposed Classes;
- 25 2. For an order appointing Plaintiff as representative of the Classes;
- 26 3. For an order appointing Plaintiff’s counsel as Counsel for the Classes;
- 27 4. Upon the First Cause of Action, for compensatory, consequential, general and
28 special damages according to proof pursuant to Labor Code §§ 204, 510, 558, 1194, and 1198;

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

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

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

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

10 9. Upon the Sixth Cause of Action, for statutory penalties pursuant to Labor Code §
11 226 *et seq.*;

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

16 11. Upon the Eighth Cause of Action, for civil penalties due to Plaintiff, other
17 aggrieved employees, and the State of California according to proof pursuant to Labor Code §§
18 558 and 2699(a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for
19 each failure to pay each employee and \$200 for each subsequent violation or willful or intentional
20 violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the
21 amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100 for each subsequent
22 violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial
23 violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per
24 employee per pay period; (4) \$250.00 for each initial violation and \$1,000.00 for each subsequent
25 violation pursuant to Labor Code § 226.3 per employee per pay period; and/or (5) \$100.00 for
26 each initial violation and \$200 for each subsequent violation per employee per pay period for
27 those violations of the Labor Code for which no civil penalty is specifically provided, based on
28 the Labor Code violations identified in Paragraph 56 (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 §§ 218.5, 226, 1194 *et seq.*, 2802(c), and 2698 *et seq.*, and Code of Civil Procedure § 1021.5; and

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

Dated: July 15, 2024

Respectfully submitted,
HAINES LAW GROUP, APC

By:


Fletcher W. Schmidt
Attorneys for Plaintiff

DEMAND FOR JURY TRIAL

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

Dated: July 15, 2024

By:


Fletcher W. Schmidt
Attorneys for Plaintiff