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Kern County Superior Court
By Julia Barrera, Deputy

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

DAVID CONTRERAS, as an individual, and
on behalf of all others similarly situated,

Plaintiff,

v.

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

Defendants.

Case No. BCV-24-102154

Amended as a Matter of Right Pursuant to
Labor Code Section 2699.3(a)(2)(C)

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

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

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

**DEMAND FOR JURY TRIAL
UNLIMITED CIVIL CASE**

1 Plaintiff David Contreras (hereinafter “Plaintiff”), as an individual, and on behalf of all
2 others similarly situated, hereby brings this First Amended Class and Representative Action
3 Complaint against AAA Quality Services, Inc.; and DOES 1 to 100, inclusive (collectively
4 “Defendants”), and on information and belief alleges as follows:

5 **JURISDICTION**

6 1. Plaintiff hereby brings this First Amended Class and Representative Action
7 Complaint for recovery of unpaid wages and penalties under California Business and Professions
8 Code § 17200 *et seq.*, Labor Code §§ 201-204, 226 *et seq.*, 226.2, 226.7, 510, 512, 516, 558,
9 1182.12, 1194, 1194.2, 1197, 1198, 2802, 2698 *et seq.*, and Industrial Welfare Commission Wage
10 Orders, in addition to seeking declaratory relief and restitution. This Complaint is brought
11 pursuant to California Code of Civil Procedure § 382. This Court has jurisdiction over
12 Defendants’ violations of the California Labor Code because the amount in controversy exceeds
13 this Court's jurisdictional minimum.

14 **VENUE**

15 2. Venue is proper in this judicial district pursuant to California Code of Civil
16 Procedure §§ 395(a) and 395.5, as at least some of the acts and omissions complained of herein
17 occurred in the County of Kern. Defendants own, maintain offices, transact business, have an
18 agent or agents within the County of Kern, and/or otherwise are found within the County of Kern,
19 and Defendants are within the jurisdiction of this Court for purposes of service of process.

20 **PARTIES**

21 3. Plaintiff is an individual over the age of eighteen (18). At all relevant times herein,
22 Plaintiff was and currently is a California resident. During the four years immediately preceding
23 the filing of the Complaint in this action and within the statute of limitations periods applicable
24 to each cause of action pled herein, Plaintiff was employed by Defendants as a non-exempt
25 employee. Plaintiff was and is a victim of Defendants’ policies and/or practices complained of
26 herein, lost money and/or property, and has been deprived of the rights guaranteed by Labor Code
27 §§ 201-204, 226 *et seq.*, 226.2, 226.7, 510, 512, 516, 558, 1182.12, 1194, 1194.2, 1197, 1198,
28 2802, 2698 *et seq.*, California Business and Professions Code § 17200 *et seq.* (“Unfair

Competition Law”), and the Wage Orders.

4. Plaintiff is informed and believes, and based thereon alleges, that during the four years preceding the filing of the Complaint and continuing to the present, Defendants did (and continue to do) business in the dairy industry, employed Plaintiff within Kern County and the state of California and, therefore, were (and are) doing business in Kern County and the State of California.

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

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

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

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

GENERAL FACTUAL ALLEGATIONS

9. Plaintiff worked for Defendants from approximately February 2001 to approximately April 1, 2024. For most of his career with Defendants, Plaintiff was a maintenance mechanic performing duties such as engaging in the repair/maintenance of company trucks from different departments within the company such as electrical, security guard, fire division and potter division trucks. In the last few months of his employment, Plaintiff worked in the porter department transporting, cleaning and maintaining porta-potties. Plaintiff's regularly scheduled hours were Monday through Friday between 6:00 a.m. and 3:00 p.m. with a 1-hour meal period. After Defendants transferred Plaintiff to the porter department, they reduced his daily work hours to 7:00 a.m. to 3:00 p.m. with a 30-minute meal period. Defendants changed Plaintiff's schedule again to 6:15 a.m. to 2:45 p.m. with a 30-minute meal period.

10. Throughout the duration of Plaintiff's employment with Defendants, Plaintiff and other non-exempt employees were not paid for all hours worked as Defendants would not accurately keep track of their actual hours worked. Upon information and belief, the time records maintained by Defendants were not reflective of the actual number of hours that Plaintiff and other non-exempt employees actually worked. Plaintiff and other non-exempt employees clocked in to work on a machine located at Defendants' premises. Defendants instructed Plaintiff and other non-exempt employees that they could not clock in before their scheduled start time. Plaintiff and other non-exempt employees had to arrive early to work in order to clock in at the scheduled start time. Plaintiff usually arrived at least 3 or 4 minutes before his scheduled start time and was therefore subject to the control of his employer, but he was not compensated for this time. Overall, Plaintiff and other non-exempt employees spent at least approximately 20 minutes each week working off the clock waiting to clock in until their scheduled start times. Moreover, Plaintiff alleges on information and believe that Defendants utilized an unlawful one-way rounding policy, which rounded employee time punches to the quarter-hour, which systemically caused employees to be paid for less time than they actually worked.

11. Furthermore, Plaintiff and other non-exempt employees worked overtime hours, but did not receive overtime compensation equal to one and one-half times their regular rates of

1 pay for all overtime hours worked. Upon information and belief, Defendants systematically failed
2 to pay overtime compensation due to Plaintiff and other non-exempt employees when they
3 worked off the clock. Further, when Plaintiff and other non-exempt employees worked overtime,
4 they were not always compensated at the correct regular rate. For example, check number 102140
5 to Plaintiff dated August 20, 2022 shows that Plaintiff was paid overtime at 1.5 times his base
6 hourly rate and double overtime at twice his base rate without including the allegedly non-
7 discretionary \$100 commission that he received that pay period as part of his regular rate. As a
8 result, Defendants failed to ensure that Plaintiff and other non-exempt employees received proper
9 overtime wages for all overtime hours worked.

10 12. Defendants also did not provide Plaintiffs and other non-exempt employees with
11 a legally compliant first meal period when they worked shifts in excess of 5.0 hours or a legally
12 compliant second meal period when they worked shifts longer than 10 hours. In addition to time
13 punch records, Defendants created handwritten records of the meal periods taken by Plaintiff and
14 other non-exempt employees and required Plaintiff and other non-exempt employees to sign.
15 However, Defendants also had a policy of limiting overtime hours reflected on paystubs,
16 especially on days when Plaintiff and other non-exempt employees had to move between different
17 cities in one work day. At least once or twice per week, Defendants required Plaintiff and other
18 non-exempt employees to clock out for their meal periods and continue working without time for
19 a meal period in order to avoid reflection in time records that Plaintiff and other non-exempt
20 employees worked overtime and to avoid Plaintiff and other non-exempt employees from
21 working beyond their scheduled end times. When Plaintiff worked in the porter department,
22 Plaintiff and other non-exempt employees did not begin their meal periods until after the fifth
23 hour of work at least twice per week as Plaintiff and other non-exempt employees were required
24 to finish a specific assignment, even if it meant delaying the meal period start time. Even though
25 Plaintiff occasionally worked more than 10 hours in a work day, he does not recall receiving a
26 second meal period. Despite Defendants' failure to provide Plaintiff and other non-exempt
27 employees with all lawful meal periods due to their uniform and unlawful practices, Defendants
28

1 did not provide Plaintiff and other non-exempt employees with an hour of pay at their regular rate
2 for each meal period violation as required by Labor Code § 226.7. Upon information and belief,
3 during at least a portion of the class period, Defendants maintained no payroll code or another
4 mechanism for the payment of meal period premiums in the event Plaintiff and other non-exempt
5 employees were not authorized to take lawful meal periods.

6 13. Plaintiff and other non-exempt employees were not authorized to take all legally
7 required rest periods. Generally, on the same dates that Plaintiff and other non-exempt employees
8 were required to work through their meal periods, they also did not receive their rest periods.
9 Therefore, Plaintiff estimates that at least once or twice per week, he and other non-exempt
10 employees missed their rest periods. Despite Defendants' failure to authorize and permit Plaintiff
11 and other non-exempt employees to take all lawful paid rest periods, due to their uniform and
12 unlawful practices, Defendants never provided Plaintiff and other non-exempt employees with an
13 hour of pay at their regular rate for each rest period violation as required by Labor Code § 226.7.
14 Upon information and belief, during at least a portion of the class period, Defendants maintained
15 no payroll code or another mechanism for the payment of rest period premiums in the event
16 Plaintiff and other non-exempt employees were not authorized to take lawful rest periods.

17 14. Furthermore, Defendants failed to adequately reimburse Plaintiff and other non-
18 exempt employees for all reasonable and necessary work expenditures, including but not limited
19 to, requiring Plaintiff and other non-exempt employees to utilize their personal cell phones, and
20 to purchase and maintain tools and other equipment for work purposes. Plaintiff was never
21 provided any reimbursement for these necessary uses.

22 15. Additionally, Defendants forced Plaintiff and other non-exempt employees to wait
23 until the next regular scheduled pay day to receive their final paychecks, in violation of Labor
24 Code § 201.

25 16. Defendants have maintained inaccurate payroll records, failed to timely pay all
26 wages owed to employees, and failed to timely pay separating employees at the time of their
27 separation, and issued inaccurate wage statements. This is in part a result of Defendants' failure
28

1 to accurately compensate Plaintiff and other non-exempt employees for all minimum and
2 overtime wages, and failure to pay premium pay for failing to provide all required meal periods
3 and authorize all rest periods.

4 17. Defendants failed to issue to Plaintiff and other non-exempt employees accurate
5 itemized statements in writing showing (1) gross wages earned, (2) total hours worked by the
6 employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee
7 is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written
8 orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the
9 inclusive dates of the period for which the employee is paid, (7) the name of the employee and
10 only the last four digits of his or her social security number or an employee identification number
11 other than a social security number, (8) the name and address of the legal entity that is the
12 employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding
13 number of hours worked at each hourly rate by the employee.
14

15 18. Finally, Defendants failed to conform to the requirements of Labor Code § 2810.5
16 by failing to provide Plaintiff and other aggrieved employees written notices, in the language
17 normally used to communicate employment related information to the employees, containing
18 information regarding their: i) rate(s) of pay and the basis thereof; ii) allowances claimed as part
19 of the minimum wage; iii) regular payday designated by the employer; iv) the legal name of the
20 employer; v) the address of the legal entity that is the employer; vi) the telephone number of the
21 employer; vii) identifying information for the employer's workers' compensation insurance
22 carrier; and viii) information informing the employee of their right to accrue and use paid sick
23 leave. Despite maintaining an obligation to provide these disclosures to Plaintiff and other
24 aggrieved employees, Defendants failed to do so, in violation of Labor Code § 2810.5.

25 **CLASS ACTION ALLEGATIONS**

26 19. **Class Definitions:** Plaintiff brings this action on behalf of himself and the
27 following Classes pursuant to § 382 of the Code of Civil Procedure:
28

- 1 a. The Minimum Wage Class consists of all current and former non-exempt
2 employees of Defendants who performed in California and were subject to
3 Defendants' timekeeping systems and/or practices during the four years
4 immediately preceding the filing of this lawsuit through the present.
- 5 b. The Overtime Wage Class consists of all current and former non-exempt
6 employees of Defendants who performed work for in California and who worked
7 overtime hours during the four years immediately preceding the filing of this
8 lawsuit through the present.
- 9 c. The Rest Period Class consists of all current and former non-exempt employees of
10 Defendants who performed work in California and who worked at least one shift
11 in excess of 3.5 hours during the four years immediately preceding the filing of
12 this lawsuit through the present.
- 13 d. The Meal Period Class consists of all current and former non-exempt employees
14 of Defendants who performed work in California and: (i) worked at least one shift
15 in excess of 5.0 hours without a meal period of at least 30 minutes in duration
16 commencing prior to the conclusion of the fifth hour of work, and who do not have
17 a corresponding meal period premium payment made for such shifts and/or (ii)
18 worked at least one shift in excess of 10.0 hours while performing work for
19 Defendants in California without 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 do not have a corresponding meal period premium payment made for such shifts
22 during the four years preceding the filing of this lawsuit through the present.
- 23 e. The Employee Expense Class consists of all current and former non-exempt
24 employees of Defendants in California who were not reimbursed for expenses in
25 the performance of their job duties, including, but not limited to (i) utilization of
26 their personal cell phones, and (ii) tools an equipment during the four years
27 immediately preceding the filing of this lawsuit to the present.
28

1 f. The Wage Statement Class consists of all members of the Rest Period Class,
2 Minimum Wage Class, Overtime Class, and/or Meal Period Class who received a
3 wage statement from Defendants during the one year immediately preceding the
4 filing of this lawsuit through the present.

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

9 20. **Numerosity/Ascertainability:** The members of the Classes are so numerous that
10 joinder of all members would be unfeasible and not practicable. The membership of the Classes is
11 unknown to Plaintiff at this time; however, it is estimated that the members of the Classes number
12 greater than two hundred (200) individuals. The identity of such membership is readily
13 ascertainable via inspection of Defendants' employment records.
14

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

19 i. Whether Defendants paid all minimum wages owed for all hours worked to
20 members of the Minimum Wage Class pursuant to Labor Code §§ 1182.12, 1194,
21 1194.2, and 1197;

22 ii. Whether Defendants violated the applicable Labor Code provisions, including, but
23 not limited to, §§ 510 and 1194 and the Wage Orders by requiring members of the
24 Overtime Wage Class to perform overtime work and not paying for said work in
25 accordance with the overtime laws of the State of California;

26 iii. Whether Defendants' timekeeping policies/practices resulted in the failure to
27 properly compensate members of the Minimum Wage Class;

28 iv. Whether Defendants provided all legally compliant meal periods to members of

the Meal Period Class pursuant to Labor Code §§ 226.7 and 512;

v. Whether Defendants provided all legally compliant rest periods to members of the Rest Period Class pursuant to Labor Code §§ 226.7 and 516;

vi. Whether Defendants failed to reimburse members of the Employee Expense Class for business expenditures necessarily incurred in the performance of their duties;

vii. Whether Defendants provided accurate, itemized wage statements to members of the Classes; and

viii. Whether Defendants' policies and/or practices for the timing and amount of payment of final wages to members of the Waiting Time Class at the time of separation from employment were lawful.

22. **Predominance of Common Questions:** Common questions of law and fact predominate over questions that affect only individual members of the Classes. The common questions of law set forth above are numerous and substantial and stem from Defendants' policies and/or practices applicable to each individual class member, such as Defendants' uniform timekeeping policies and practices, meal and rest period policies and practices, non-reimbursement policies and practices, wage statement policies and practices, and the policies and practices regarding the timely payment of final wages. As such, the common questions predominate over individual questions concerning each individual class member's showing as to his or her eligibility for recovery or as to the amount of his or her damages.

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

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

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

5 **FIRST CAUSE OF ACTION**
6 **MINIMUM WAGE VIOLATIONS**
7 **(AGAINST ALL DEFENDANTS)**

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

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

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

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

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

7 **SECOND CAUSE OF ACTION**

8 **FAILURE TO PAY ALL OVERTIME WAGES**

9 **(AGAINST ALL DEFENDANTS)**

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

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

15 33. At all times relevant herein, Defendants were required to properly compensate
16 Plaintiff and members of the Overtime Class for all overtime hours worked pursuant to California
17 Labor Code § 1194 and the Wage Orders. The applicable Wage Orders require an employer to
18 pay overtime wages when an employee's hours worked cross certain thresholds or meet certain
19 criteria set forth in the Wage Orders.

20 34. The foregoing policies and practices are unlawful and create entitlement to
21 recovery by Plaintiff and the Overtime Class in a civil action for the unpaid amount of overtime
22 premiums owing, including interest thereon, statutory penalties, and attorneys' fees and costs of
23 suit according to California Labor Code §§ 204, 510, 558, 1194, and 1198, the Wage Orders, and
24 Code of Civil Procedure § 1021.5.

25 **THIRD CAUSE OF ACTION**

26 **MEAL PERIOD VIOLATIONS**

27 **(AGAINST ALL DEFENDANTS)**

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

1 36. Plaintiff is informed and believe, and based thereon allege, that Defendants failed
2 in their affirmative obligation to provide all of their non-exempt employees in California,
3 including Plaintiff and members of the Meal Period Class with all legally compliant meal periods
4 in accordance with the mandates of the California Labor Code and the Wage Orders. Despite
5 Defendants' violations, Defendants did not pay an additional hour of pay to Plaintiff and the Meal
6 Period Class at their respective regular rate of pay, in accordance with California Labor Code §§
7 204, 210, 226.7, and 512.

8 37. As a result, Defendants are responsible for paying premium compensation for meal
9 period violations including interest thereon, as well as statutory penalties, civil penalties, and
10 costs of suit, pursuant to Labor Code §§ 226.7, 512, and 558, the Wage Orders, and Civil Code
11 §§ 3287(b) and 3289.

12 **FOURTH CAUSE OF ACTION**

13 **REST PERIOD VIOLATIONS**

14 **(AGAINST ALL DEFENDANTS)**

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

16 39. The Wage Orders and California Labor Code §§ 226.2, 226.7 and 516 establish
17 the right of employees to be authorized and permitted to take a paid rest period of at least ten (10)
18 minutes net rest time for each four (4) hour period worked, or major fraction thereof.

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

21 41. The foregoing violations create an entitlement to recovery by Plaintiff and
22 members of the Rest Period Class in a civil action for the unpaid rest period wages and the amount
23 of rest period premiums owing, including interest thereon, as well as statutory penalties, civil
24 penalties, and costs of suit according to California Labor Code §§226.2, 226.7, 516, 558, and
25 Civil Code §§ 3287(b) and 3289.

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

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

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

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

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

SIXTH CAUSE OF ACTION
WAGE STATEMENT VIOLATIONS
(AGAINST ALL DEFENDANTS)

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

47. Plaintiff is informed and believes, and based thereon alleges, that Defendants

1 knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Plaintiff
2 and the Wage Statement Class with complete and accurate wage statements reflecting the accurate
3 number of hours worked, and meal & rest period premiums in violation of Labor Code § 226 et
4 seq.

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

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

14 **SEVENTH CAUSE OF ACTION**

15 **UNFAIR COMPETITION**

16 **(AGAINST ALL DEFENDANTS)**

17 50. Plaintiff re-alleges and incorporate by reference all previous paragraphs.

18 51. Defendants have engaged and continue to engage in unfair and/or unlawful
19 business practices in California in violation of California Business and Professions Code § 17200
20 et seq., by failing to pay Plaintiff and the Classes all minimum and overtime wages, provide all
21 required meal and rest periods, or pay premium payments in lieu thereof, failing to furnish
22 accurate, itemized wage statements, failing to reimburse for necessary business expenses, and
23 willfully failing to timely pay Plaintiff and members of the Waiting Time class all final wages
24 due upon separation of employment.

25 52. 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.

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

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

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

EIGHTH CAUSE OF ACTION

FAILURE TO REIMBURSE BUSINESS EXPENSES

(AGAINST ALL DEFENDANTS)

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

57. 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 her obedience to the directions of the employer..."

58. Due to Defendants' unlawful policy and practice of requiring employees to utilize their personal cell phones in the performance of their work duties, Defendants have violated Labor Code § 2802.

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

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

1 from the date on which they incurred the initial necessary expenditure.

2 **NINTH CAUSE OF ACTION**

3 **PRIVATE ATTORNEYS GENERAL ACT**

4 **(AGAINST ALL DEFENDANTS)**

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

7 62. Defendants have committed several Labor Code violations against Plaintiff,
8 members of the Classes, and other aggrieved employees. Plaintiff, an “aggrieved employee”
9 within the meaning of Labor Code § 2698 *et seq.*, acting on behalf of himself and other aggrieved
10 employees, brings this representative action against Defendants to recover the civil penalties due
11 to Plaintiff, the members of the Classes, other aggrieved employees, and the State of California
12 according to proof pursuant to Labor Code § 558 and § 2699 (a) and (f) including, but not limited
13 to: (1) \$100.00 for each initial violation for each failure to pay each employee and \$200 for each
14 subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for each
15 failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) \$50.00 for each
16 initial violation and \$100 for each subsequent violation pursuant to Labor Code § 558 per
17 employee per pay period; (3) \$100.00 for each initial violation and \$250.00 for each subsequent
18 violation pursuant to Labor Code § 1197.1 per employee per pay period; (4) \$250.00 for each
19 initial violation and \$1,000.00 for each subsequent violation pursuant to Labor Code § 226.3 per
20 employee per pay period; and/or (5) \$100.00 for each initial violation and \$200 for each
21 subsequent violation per employee per pay period for those violations of the Labor Code for which
22 no civil penalty is specifically provided, based on the following Labor Code violations:
23

- 24 a. Failing to pay minimum wages for all hours worked to Plaintiff, the Minimum
25 Wage Class, and other aggrieved employees in violation of Labor Code §§ 551-
26 552, 558, 1182.12, 1194, 1194.2, 1197, and 1198;
27 b. Failing to pay Plaintiff, the Overtime Class, and other aggrieved employees all
28 earned overtime compensation in violation of Labor Code §§ 204, 510, 558,

1194, and 1198;

- c. Failing to authorize and permit all legally required rest periods, and failure to pay rest period premium wages, to Plaintiff, the Rest Period Class, and other aggrieved employees at the regular rate of compensation in violation of Labor Code §§ 226.7, 516, and 558;
- d. Failing to provide all legally required meal periods, and failure to pay meal period premium wages, to Plaintiff, the Meal Period Class, and other aggrieved employees at the regular rate of compensation in violation of Labor Code §§ 226.7, 512, and 1198;
- e. Failing to reimburse Plaintiff, the Employee Expense Class and other aggrieved employees for necessary business expenditures incurred by Plaintiff, the Employee Expense Class and other aggrieved employees in violation of Labor Code §§ 2800, 2802 and 2804;
- f. Failing to furnish Plaintiff, the Wage Statement Class, and other aggrieved employees with complete, accurate, itemized wage statements in violation of Labor Code § 226;
- g. Failing to timely pay all final wages and compensation earned by Plaintiff, the Waiting Time Class, and other aggrieved employees at the time of separation in violation of Labor Code §§ 201, 202, and 203;
- h. Failing to pay Plaintiff and other aggrieved employees all earned wages at least twice during each calendar month in violation of Labor Code § 204;
- i. Failing to permit and authorize Plaintiff and other non-exempt to exercise the use of their accrued paid sick leave days in violation of Labor Code § 245.5, 246, and 248.5;
- j. Failing to provide legally mandated disclosures and/or written notices regarding the terms of employment of Plaintiff and other aggrieved employees in violation of Labor Code § 2810.5;
- k. Failing to pay all agreed-upon wages, including bonus wages accrued, to

Plaintiff and other aggrieved employees, in violation of Labor Code §§ 204 and 221-223;

1. Failing to maintain accurate records on behalf of Plaintiff and other aggrieved employees in violation of Labor Code §§ 1174 and 1198.

63. On June 27, 2024, Plaintiff notified Defendants via certified mail, and notified the California Labor and Workforce Development Agency (“LWDA”) via its website, of Defendants’ violations of the California Labor Code and Plaintiff’s intent to bring a claim for civil penalties under California Labor Code § 2698 et seq. with respect to violations of the California Labor Code identified in Paragraph 62 (a)-(l). Now that sixty-five days have passed from Plaintiff’s notifying Defendants and the LWDA of these violations, and the LWDA has not provided notice that it intends to investigate the violations, Plaintiff has exhausted his administrative requirements for bringing a claim under the Private Attorneys General Act with respect to these violations.

64. Plaintiff was compelled to retain the services of counsel to file this court action to protect his interests and the interests of other similarly 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 brought against Defendants, as follows:

1. For an order certifying the proposed Classes;
2. For an order appointing Plaintiff as representative of the Classes;
3. For an order appointing Counsel for Plaintiff as Counsel for the Classes;
4. Upon the First Cause of Action, for payment of minimum wages, liquidated damages, and penalties according to proof pursuant to Labor Code §§ 1182.12, 1194, 1194.2, 1198 and the Wage Orders;
5. Upon the Second Cause of Action, for compensatory, consequential, general, and special damages according to proof pursuant to Labor Code §§ 204, 510, 558, 1194, 1198 and the

1 Wage Orders;

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

4 7. Upon the Fourth Cause of Action, for compensatory, consequential, general and
5 special damages according to proof pursuant to Labor Code §§ 226.2, 226.7, 516, and 558;

6 8. Upon the Fifth Cause of Action, for statutory waiting time penalties pursuant to
7 Labor Code §§ 201-203;

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

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

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

15 12. Upon the Ninth Cause of Action, for (1) \$100.00 for each initial violation for each
16 failure to pay each employee and \$200 for each subsequent violation or willful or intentional
17 violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the
18 amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100 for each subsequent
19 violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial
20 violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per
21 employee per pay period; (4) \$250.00 for each initial violation and \$1,000.00 for each subsequent
22 violation pursuant to Labor Code § 226.3 per employee per pay period; and/or (5) \$100.00 for
23 each initial violation and \$200 for each subsequent violation per employee per pay period for the
24 violations of the Labor Code Sections cited in Labor Code § 2699.5;

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

27 14. On all causes of action, for attorneys' fees and costs, including as provided Labor
28 Code §226, and Code of Civil Procedure § 1021.5; and

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

2
3
4 Dated: September 5, 2024

Respectfully submitted,
STANSBURY BROWN LAW, PC

Jess Flores

7 By: _____

8 Daniel J. Brown
9 Jessica Flores
10 Attorneys for Plaintiff

11 **DEMAND FOR JURY TRIAL**

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

13
14 Dated: September 5, 2024

Respectfully submitted,
STANSBURY BROWN LAW, PC

Jess Flores

18 By: _____

19 Daniel J. Brown
20 Jessica Flores
21 Attorneys for Plaintiff

PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I, the undersigned, declare as follows:
I am employed in the County of Los Angeles, State of California. I am over the age of 18 years and not a party to the within action; my business address is 2610 ½ Abbot Kinney Blvd. Venice, CA 90291

On September 5, 2024, I served the document listed below on the parties in this action as follows:

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

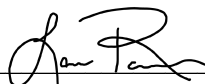
☐ (BY MAIL SERVICE) I placed such envelope on the above date, with postage fully prepaid, for deposit in the U.S. Postal Service at my place of business at Venice, California, following the ordinary business practices of my place of business. I am readily familiar with the business practice at my place of business for collection and processing of correspondence for mail with the U.S. Postal Service. Under that practice, such correspondence is deposited with the U.S. Postal Service the same day it is collected and processed in the ordinary course of business.

☒ (BY EMAIL or ELECTRONIC TRANSMISSION) By electronically transmitting the document(s) listed above to the email address(es) of the person(s) set forth on the attached service list from the email address assistant@stansburybrownlaw.com. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful. Service by e-mail was made pursuant to agreement of the parties, confirmed in writing, or as an additional method of service as a courtesy to the parties or pursuant to Court Order. See Cal. R. Ct. R. 2.260.

☐ (By OVERNIGHT CARRIER- NEXT DAY DELIVERY) I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed it to the person listed above. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

☒ (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on September 5, 2024, at South Gate, California.



Laura Romero

SERVICE LIST

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