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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

JOSHUA MYRA, individually and on behalf
of others similarly situated, and on behalf of
other aggrieved employees pursuant to the
Private Attorneys General Act,

Plaintiff,

vs.

AROMA360 BH1 LLC, a Florida Limited
Liability Company; AROMA360 MALIBU
LLC, a Florida Limited Liability Company;
AROMA360 SAN DIEGO LLC, a Florida
Limited Liability Company; AROMA360
SMCA LLC, a Florida Limited Liability
Company; and DOES 1 through 50,
inclusive,

Defendants.

Case No.: **25STCV01216**

**CLASS AND REPRESENTATIVE ACTION
COMPLAINT**

- (1) Violation of Cal. Labor Code §§ 510 and 1198 (Unpaid Overtime)
- (2) Violation of Cal. Labor Code §§ 226.7 and 512(a) (Unpaid Meal Period Premiums)
- (3) Violation of Cal. Labor Code § 226.7 (Unpaid Rest Period Premiums)
- (4) Violation of Cal. Labor Code §§ 1194, 1197 and 1197.1 (Unpaid Minimum Wages)
- (5) Violation of Cal. Labor Code §§ 201, 202 and 203 (Final Wages Not Timely Paid)
- (6) Violation of Cal. Labor Code § 226(a) (Failure to Provide Accurate Wage Statements)
- (7) Violation of Cal. Labor Code §§ 2800 and 2802 (Failure to Reimburse Necessary Business Expenses)
- (8) Violation of Cal. Business & Professions Code § 17200, et seq.
- (9) Violation Of Cal. Labor Code § 2699, (Private Attorneys General Act)

DEMAND FOR TRIAL BY JURY

1 Plaintiff Joshua Myra (“Plaintiff”), individually and on behalf of other members of the
2 general public similarly situated, and on behalf of other aggrieved employees pursuant to the
3 Private Attorneys General Act, based upon facts that either have evidentiary support or are likely
4 to have evidentiary support after a reasonable opportunity for further investigation and discovery,
5 alleges as follows:

6 **JURISDICTION AND VENUE**

7 1. Plaintiff brings this action against Defendant Aroma360 BH1 LLC, Defendant
8 Aroma360 Malibu LLC, Defendant Aroma360 San Diego LLC and Defendant Aroma360 SMCA
9 LLC (“Defendants”) and DOES 1 THROUGH 50 (hereinafter also collectively referred to as
10 “Defendants”) for California Labor Code violations, unfair business practices, and civil penalties
11 stemming from Defendants’ misclassification of Plaintiff, the class members, and the aggrieved
12 employees, failure to pay overtime compensation, failure to provide meal periods, failure to
13 authorize and permit rest periods, failure to pay minimum wage, failure to timely pay wages,
14 failure to provide accurate wage statements, failure to maintain accurate time and payroll records,
15 failure to reimburse necessary business-related expenses, failure to pay split shift premiums, as
16 well as non-compliant meal breaks, due to defendant’s policy, practice, and/or procedure of
17 rounding down or shaving down employees’ daily hours worked and/or not accurately recording
18 hours worked by their employees.

19 2. Plaintiff’s First through Eighth Causes of Action are brought as a class action on
20 behalf of himself and similarly situated current and former employees of Defendants (hereinafter
21 collectively referred to as the “Class” or “Class Members,” as defined more fully in paragraph
22 12, below) pursuant to California Code of Civil Procedure section 382. The monetary damages
23 and restitution sought by Plaintiff exceeds the minimal jurisdiction limits of the Superior Court
24 and will be established according to proof at trial.

25 3. Plaintiff’s Ninth Cause of Action is brought as a representative action on behalf of
26 himself and certain other current and former employees of Defendants against whom one or more
27 of the alleged violations was committed (hereinafter collective referred to as the “Aggrieved
28 Employees”) pursuant to California Labor Code sections 2698, et seq. Plaintiff is an aggrieved

1 employee against whom one or more of the alleged violations occurred. The civil penalties sought
2 by Plaintiff exceed the minimal jurisdictional limits of the Superior Court and will be established
3 according to proof at trial.

4 4. The Court has jurisdiction over this action pursuant to the California Constitution,
5 Article VI, Section 10, which grants the superior court “original jurisdiction in all other causes”
6 except those given by statute to other courts. The statutes under which this action is brought do
7 not specify any other basis for jurisdiction.

8 5. The amount in controversy Plaintiff seeks on his own behalf in this lawsuit,
9 inclusive of all costs and fees on his own behalf, does not exceed \$75,000.

10 6. This Court has jurisdiction over Defendants because, upon information and belief,
11 Defendants are citizens of California, have sufficient minimum contacts in California, or
12 otherwise intentionally avail themselves of the California market so as to render the exercise of
13 jurisdiction over them by the California courts consistent with traditional notions of fair play and
14 substantial justice.

15 7. Venue is proper in this Court because, upon information and belief, Defendants
16 maintain offices, have agents, and/or transact business in the State of California, County of Los
17 Angeles.

18 8. The Parties, through their counsel of record, entered into a Tolling Agreement
19 pertaining to the claims made in this action.

20 **PARTIES**

21 9. Plaintiff Joshua Myra is an individual residing in the County of Los Angeles, State
22 of California.

23 10. Defendant Aroma360 BH1 LLC, is and at all times herein mentioned was, a
24 limited liability company organized and existing under the laws of the State of Florida, and
25 registered to do business in the state of California.

26 11. Defendant Aroma360 Malibu LLC is and at all times herein mentioned was, a
27 limited liability company organized and existing under the laws of the State of Florida and
28 registered to do business in the state of California.

1 12. Defendant Aroma360 San Diego LLC is and at all times herein mentioned was, a
2 limited liability company organized and existing under the laws of the State of Florida and
3 registered to do business in the state of California.

4 13. Defendant Aroma360 SMCA LLC is and at all times herein mentioned was, a
5 limited liability company organized and existing under the laws of the State of Florida and
6 registered to do business in the state of California.

7 14. Defendant Aroma360 BH1 LLC, Defendant Aroma360 Malibu LLC, Defendant
8 Aroma360 San Diego LLC, and Defendant Aroma360 SMCA LLC are all hereinafter referred to
9 as “Defendants.” The Defendants have common owners, common officers, common principal
10 place of business (2058 NW Miami Ct., Miami, Florida 33127), and common business operations,
11 and therefore are jointly liable under either the joint employer or single enterprise theories of
12 liability.

13 15. Plaintiff is ignorant of the identities of defendants Does 1 through 50, inclusive,
14 and therefore, sues these defendants by such fictitious names. The Doe defendants may be
15 individuals, partnerships, or corporations. Plaintiff is informed and believes, and thereon alleges,
16 that, at all times mentioned herein, each of the Doe defendants was the parent, subsidiary, agent,
17 servant, employee, co-venturer, and/or co-conspirator of each of the other defendants, and was at
18 all times mentioned acting within the scope, purpose, consent, knowledge, ratification and
19 authorization of such agency, employment, joint venture and conspiracy. Plaintiff will amend this
20 Complaint to allege their true names and capacities when ascertained. Plaintiff is informed and
21 believes and thereon alleges that each of the fictitiously named Doe defendants is responsible in
22 some manner for the occurrences herein alleged, and that Plaintiff’s damages as herein alleged
23 were proximately caused by its conduct.

24 16. Defendants were and at all times herein mentioned were, (a) conducting business
25 in the County of Los Angeles, State of California, and (b) the employer of Plaintiff consistent
26 with the California Labor Code and Industrial Welfare Commission Wage Orders (“Wage
27 Orders”).

28 17. Plaintiff further alleges that Defendant, directly or indirectly controlled or affected

the working conditions, wages, working hours, and conditions of employment of Plaintiff, the Class, the Salary Subclass Members, and the Aggrieved Employees so as to make each of said Defendants employers and employers jointly liable under the statutory provisions set forth herein.

CLASS ACTION ALLEGATIONS

18. Plaintiff brings the First through Ninth Causes of Action as a class action on his own behalf and on behalf of all other members of the general public similarly situated, and, thus, seeks class certification under Code of Civil Procedure section 382.

19. The proposed class is defined as follows: All current and former non-exempt employees of any of Defendant within the State of California at any time commencing four (4) years preceding the filing of Plaintiff's complaint up until the time that notice of the certified class action is provided to the class (hereinafter referred to as the "Class" or "Class Members.")

a. The proposed subclass is defined as follows: All employees of Defendant within the State of California at any time commencing four (4) years preceding the filing of Plaintiff's complaint up until the time that notice of the certified class action is provided to the class who were compensated and/or promised a base salary amount that was/is less than twice the minimum wage of the State of California. (hereinafter referred to as the "Salary Subclass" or "Salary Subclass Members.").

20. Plaintiff reserves the right to establish other subclasses as appropriate.

21. The Class and Salary Subclass is ascertainable and there is a well-defined community of interest in the litigation:

a. Numerosity: The Class Members and Salary Subclass Members are so numerous that joinder of all Class Members and Salary Subclass Members is impracticable. The membership of the entire Class and Salary Subclass Members is unknown to Plaintiff at this time; however, the Class and Salary Subclass Members is estimated to be over thirty-five (35) individuals and the identity of such membership is readily ascertainable by inspection of Defendants' employment records.

b. Typicality: Plaintiff's claims are typical of all other Class Members and Salary

Subclass Members demonstrated herein. Plaintiff will fairly and adequately protect the interests of the other Class Members with whom he has a well-defined community of interest.

c. Adequacy: Plaintiff will fairly and adequately protect the interests of each Class Member and Salary Subclass Member, with whom he has a well-defined community of interest and typicality of claims, as demonstrated herein. Plaintiff has no interest that is antagonistic to the other Class Members and Salary Subclass Members. Plaintiff's attorneys, the proposed class counsel, are versed in the rules governing class action discovery, certification, and settlement. Plaintiff has incurred, and during the pendency of this action will continue to incur, costs and attorneys' fees, that have been, are, and will be necessarily expended for the prosecution of this action for the substantial benefit of each Class Member and Salary Subclass Member.

d. Superiority: A class action is superior to other available methods for the fair and efficient adjudication of this litigation because individual joinder of all Class Members and Salary Subclass Members is impractical.

e. Public Policy Considerations: Certification of this lawsuit as a class action will advance public policy objectives. Employers of this great state violate employment and labor laws every day. Current employees are often afraid to assert their rights out of fear of direct or indirect retaliation. However, class actions provide the Class Members and Salary Subclass Members who are not named in the complaint anonymity that allows for the vindication of their rights.

22. There are common questions of law and fact as to the Class that predominate over questions affecting only individual members. The following common questions of law or fact, among others, exist as to the members of the Class:

a. Whether Defendants' failure to pay wages, without abatement, or reduction, in accordance with the California Labor Code was willful;

b. Whether Defendants had a corporate policy and practice of failing to pay Plaintiff

1 and the other Class Members and Salary Subclass Members for all hours worked,
2 and missed, short, late or interrupted meal periods and rest breaks in violation of
3 California law;

4 c. Whether Defendants required Plaintiff and the other Class Members and Salary
5 Subclass Members to work more than eight (8) hours per day and/or more than
6 forty (40) hours per week and failed to pay the legally required overtime
7 compensation to Plaintiff and the other Class Members;

8 d. Whether Defendants deprived Plaintiff and the other Class Members and Salary
9 Subclass Members of meal and/or rest periods or required Plaintiff and the other
10 Class Members to work during meal and/or rest periods without compensation;

11 e. Whether Defendants failed to pay meal period premium wages to Class Members
12 and Salary Subclass Members when they were not provided with a legally
13 compliant meal period;

14 f. Whether Defendants failed to pay rest period premium wages to Class Members
15 and Salary Subclass Members when they were not authorized and permitted to
16 take legally compliant rest periods;

17 g. Whether Defendants failed to pay minimum wages to Plaintiff and the other Class
18 Members and Salary Subclass Members for all hours worked;

19 h. Whether Defendants failed to pay Plaintiff and the other Class Members and
20 Salary Subclass Members the required minimum wage pursuant to California law;

21 i. Whether Defendants failed to pay Plaintiff and the other Class Members and
22 Salary Subclass Members proper overtime compensation pursuant to California
23 law;

24 j. Whether Defendants failed to pay all wages due to Plaintiff and the other Class
25 Members and Salary Subclass Members within the time required upon their
26 discharge or resignation from employment;

27 k. Whether Defendants failed to reimburse Plaintiff and the other Class Members
28 and Salary Subclass Members for all necessary business-related expenses and

costs in violation of California Labor Code section 2802;

- l. Whether Defendant failed to pay Plaintiff, Class Members and Salary Subclass Members split shift premiums in violation of the applicable IWC Wage order;
- m. Whether Defendants failed to pay reporting time wages in violation of the applicable IWC Wage Order;
- n. Whether Defendants failed to timely pay all wages due to Plaintiff and the other Class Members and Salary Subclass Members during their employment;
- o. Whether Defendants complied with wage reporting as required by the California Labor Code, including section 226;
- p. Whether Defendants' conduct was with malice, fraud or oppression;
- q. Whether Defendants' conduct was willful or reckless;
- r. Whether Defendants engaged in unfair business practices in violation of California Business & Professions Code section 17200, *et seq.* based on their improper withholding of compensation and deduction of wages;
- s. Whether Defendants misclassified its hourly, non-exempt employees as salaried exempt employees;
- t. The appropriate amount of damages, restitution, and/or monetary penalties resulting from Defendants' violation of California law; and
- u. Whether Plaintiff and the other Class Members are entitled to compensatory damages pursuant to the California Labor Code.

GENERAL ALLEGATIONS

23. Defendants provide healthy scenting solutions for homes and businesses, and educate consumers on the benefits of "Aromachology." Defendants promote the incorporation of scent to stimulate sales and specializes in enhancing the customer experience through scent branding and marketing strategies using high-quality oils and diffusers. Clients span 22 countries, and scenting specialists have designed over 90 signature scents customized to each brand's unique image and goals. Its retail locations, or "showrooms," provide an interactive experience for customers with one-on-one consultations.

1 24. Defendants employed Plaintiff to work as a Retail Scent Consultant from
2 approximately June 26, 2023 to September 11, 2023.

3 25. As an initial matter, Defendants misclassified Plaintiff as an exempt employee and
4 engaged in numerous wage and hour violations. Specifically, Defendants paid Plaintiff a salary
5 of \$50,000 per year plus 5% commission. To have been properly classified as an exempt
6 employee in 2023, Plaintiff should have been paid a minimum salary of \$64,480.

7 26. Plaintiff's primary job duties included performing daily inventory counts and
8 assisting customers who visited the showroom. During down time, Retail Scent Consultants were
9 expected to make outreach or "cold calls" to prospective customers through an app on their
10 personal cell phone with leads provided by the sales team in Miami. These cold calls were
11 supposed to be made while in the store if it was slow but also after hours or on days off, and
12 consultants were continuously "on-call" and expected to be available to answer calls on their
13 personal phones from customers or prospective customers. As of the day he was terminated, Mr.
14 Myra had not received any commission payments, therefore making him a non-exempt employee
15 who was misclassified as an exempt employee and paid on a salary basis.

16 27. Plaintiff, the Class, Salary Subclass Members, and the Aggrieved Employees
17 regularly worked in excess of eight-hour days, 5 or 6 days per week.

18 28. Because Plaintiff was misclassified and paid an annual salary that did not satisfy
19 the exempt "salary test," Plaintiff should have been paid for all hours worked, including at an
20 overtime rate for any hours worked in excess of 40 hours per workweek or eight hours per
21 workday. However, Plaintiff was never paid overtime and not paid for all hours worked. In
22 addition, Defendant failed to provide Mr. Myra with compliant meal and rest breaks (nor was he
23 paid premiums for said non-compliant meal and rest breaks). Defendants also failed to reimburse
24 Plaintiff, the Class, and Aggrieved Employees for the necessary and reasonable business expense
25 of his cell phone usage, although an email dated September 1, 2024 concedes that the company's
26 employees should be getting said reimbursements. Due to these violations, Plaintiff, the Class,
27 Salary Subclass Members, and the Aggrieved Employees was never provided with accurate,
28 itemized wage statements.

1 29. Defendants had a written policy in its Employee Handbook for paying its
2 employees at an overtime rate that was, on its face, not compliant with California law, and which
3 applied to Plaintiff, the Class, Salary Subclass Members, and the Aggrieved Employees.
4 California law requires employees to be paid at an overtime rate of 1.5 times the regular rate for
5 anytime worked in excess of eight hours in a single workday or forty hours in a single workweek.
6 In contrast, Defendants only paid Plaintiff, the Class, Salary Subclass Members, and the
7 Aggrieved Employees at an overtime rate for hours worked in excess of forty hours per week,
8 and failed to pay overtime whenever an employee worked in excess of eight hours in a single
9 workday. The policy states: “Any non-exempt employee who works overtime will be
10 compensated at the rate of one and one-half times (1.5) his/her normal hourly wage for all time
11 worked in excess of forty (40) hours each week, unless otherwise required by law.” Noticeably
12 missing here is that Plaintiff, the Class, Salary Subclass Members, and the Aggrieved Employees
13 will be paid at an hourly rate for all hours worked in excess of eight (8) hours per workday.

14 30. Defendants also failed to pay Plaintiff, the Class, Salary Subclass Members, and
15 the Aggrieved Employees an overtime rate at the proper regular rate. Plaintiff, the Class, the
16 Salary Subclass Members, and the Aggrieved Employees were promised and/or paid commission
17 and/or non-discretionary bonuses, however failed to take these commissions and/or non-
18 discretionary bonuses into account for purposes of calculating the overtime rate in violation of
19 *Alvarado v. Dart Container Corp. of California* (2018) 4 Cal.5th 542.

20 31. Defendants also had a non-compliant written policy that was applicable to
21 Plaintiff, the Class, the Salary Subclass Members, and the Aggrieved Employees that employees
22 will not be paid for “extra time,” which includes “working through lunch or breaks, arriving early
23 or staying late” and such “extra time” “may not be used towards overtime.” This written policy
24 precluded Defendants from accurately recording the time worked by Plaintiff, the Class, the
25 Salary Subclass Members, and the Aggrieved Employees, and therefore ensured they were not
26 compensated for all hours worked.

27 32. Pursuant to California Labor Code section 4853, employers are obligated to pay
28 employees one hour of wages at the state minimum wage rate in addition to the regular wages for

any day in which an employee is required to work a split shift. A split shift is a work schedule that is interrupted by non-paid and non-working time periods established by the employer. The time period between shifts needs to be longer than a bona fide meal period and needs to be within the same workday. The break between shifts cannot be a meal or rest break and must be to the benefit of the employer. Defendants routinely scheduled Plaintiff, the Class, the Salary Subclass Members, and the Aggrieved Employees to work split shifts yet failed to pay them split shift premiums.

33. At all relevant times set forth herein, Defendants employed Plaintiff, the Class, the Salary Subclass Members, and the Aggrieved Employees and misclassified them as salaried or exempt employees, and/or failed to pay them for all hours worked due to their practice or rounding and/or systematically not accurately recording hours worked.

34. Throughout the time period involved in this case, Defendants had the authority to hire and terminate Plaintiff, the Class, the Salary Subclass Members, and the Aggrieved Employees; to directly or indirectly control work rules, working conditions, wages, working hours, and conditions of employment of Plaintiff, the Class, the Salary Subclass Members, and the Aggrieved Employees; and to hire and terminate the employment of Plaintiff, the Class, the Salary Subclass Members, and the Aggrieved Employees.

35. At all times herein mentioned, Defendants were subject to the Labor Code of the State of California and the applicable Industrial Welfare Commission Orders.

36. Plaintiff is informed and believes, and thereon alleges that Defendants engaged in an ongoing and systematic scheme of wage abuse against their hourly-paid or non-exempt employees. As set forth in more detail below, this scheme involved, *inter alia*, regularly requiring Plaintiff, the Class, the Salary Subclass Members, and the Aggrieved Employees to work off the clock without compensation, thereby failing to pay them for all hours worked, including minimum and overtime wages. Defendants also implemented policies that prohibited Plaintiff, the Class, the Salary Subclass Members, and the Aggrieved Employees from accurately recording the actual time worked, resulting in a failure to pay Plaintiff, the Class, the Salary Subclass Members, and the Aggrieved Employees all wages owed. In addition, Defendants routinely failed to permit

1 Plaintiff, the Class, the Salary Subclass Members, and the Aggrieved Employees to take timely
2 and duty-free meal periods and rest periods in violation of California law. Defendants also failed
3 to reimburse Plaintiff, the Class, the Salary Subclass Members, and the Aggrieved Employees for
4 all necessary business-related expenses, and failed to pay reporting wages.

5 37. Throughout the time period involved in this case, Defendants implemented
6 policies and/or practices which failed to provide Plaintiff, the Class, the Salary Subclass
7 Members, and the Aggrieved Employees with timely and duty-free meal periods. Defendants
8 routinely failed to relieve Plaintiff, the Class, the Salary Subclass Members, and the Aggrieved
9 Employees of all duties during their meal periods, regularly failed to relinquish control over
10 Plaintiff, the Class, the Salary Subclass Members, and the Aggrieved Employees during their
11 meal periods, regularly failed to permit Plaintiff, the Class, the Salary Subclass Members, and the
12 Aggrieved Employees a reasonable opportunity to take their meal periods, and regularly impeded
13 or discouraged Plaintiff, the Class, the Salary Subclass Members, and the Aggrieved Employees
14 from taking thirty (30) minute uninterrupted meal breaks no later than the end of their fifth hour
15 of work and/or from taking a second thirty (30) minute uninterrupted meal break no later than
16 their tenth hour of work for shifts lasting more than ten (10) hours. Defendants also failed to
17 maintain accurate records of meal periods taken by Plaintiff, the Class, the Salary Subclass
18 Members, and the Aggrieved Employees.

19 38. Throughout the time period involved in this case, Defendants did not adequately
20 inform Plaintiff, the Class, the Salary Subclass Members, and the Aggrieved Employees of their
21 right to take meal periods under California law. Moreover, Defendants systematically disregarded
22 their own written policies regarding the provision and timing of meal periods for Plaintiff, the
23 Class, the Salary Subclass Members, and the Aggrieved Employees. Instead, Defendants' actual
24 policy and practice was to schedule Plaintiff, the Class, the Salary Subclass Members, and the
25 Aggrieved Employees in a way that prohibited them from taking timely and duty-free meal
26 periods, and to require Plaintiff, the Class, the Salary Subclass Members, and the Aggrieved
27 Employees to work through their meal periods, for which they were not compensated. During
28 the relevant time period, Defendants "rounded" down or "shaved" Plaintiff and similarly situated

employees' total number of hours (or fraction thereof) in which they took lunch, and/or failed to accurately record their meal periods. This policy of rounding meal periods made it such that Plaintiff and other similarly situated employees were not provided with legally compliant meal breaks and were not paid meal period premiums for any meal breaks that were less than thirty (30) minutes in duration.

39. Throughout the time period involved in this case, Defendants failed to pay Plaintiff, the Class, the Salary Subclass Members, and the Aggrieved Employees premium wages for meal periods that were missed, late, interrupted, or shortened in violation of California law. Defendants knew or should have known that Plaintiff, the Class, the Salary Subclass Members, and the Aggrieved Employees were entitled to receive all meal periods or payment of one additional hour of pay at their regular rate of pay when a meal period was missed, short, late, and/or interrupted. Notwithstanding this knowledge, Defendants routinely failed to provide legally compliant meal periods to Plaintiff, the Class, the Salary Subclass Members, and the Aggrieved Employees, and routinely failed to pay one additional hour of pay to Plaintiff, the Class, the Salary Subclass Members, and the Aggrieved Employees at their regular rate of pay when a meal period was missed, short, late, and/or interrupted.

40. Throughout the time period involved in this case, Defendants have implemented policies and practices which prohibited Plaintiff, the Class, the Salary Subclass Members, and the Aggrieved Employees from taking timely and duty-free rest periods. Defendants regularly failed to provide, authorize, and permit Plaintiff, the Class, the Salary Subclass Members, and the Aggrieved Employees to take full, uninterrupted, off-duty rest periods for every shift lasting three and one-half (3.5) to six (6) hours and/or two full, uninterrupted, off-duty rest periods for every shift lasting six (6) to ten (10) hours, and failed to make a good faith effort to authorize, permit, and provide such rest breaks in the middle of each work period.

41. Throughout the time period involved in this case, Defendants did not adequately inform Plaintiff, the Class, the Salary Subclass Members, and the Aggrieved Employees of their right to take rest periods under California law. Moreover, Defendants systematically disregarded their own written policies regarding the provision and timing of rest periods for Plaintiff, the

1 Class, the Salary Subclass Members, and the Aggrieved Employees. Instead, Defendants' actual
2 policy and practice was to schedule Plaintiff, the Class, the Salary Subclass Members, and the
3 Aggrieved Employees in a way that regularly prohibited them from taking timely and duty free
4 rest periods, and to regularly require Plaintiff, the Class, the Salary Subclass Members, and the
5 Aggrieved Employees to work through their rest periods.

6 42. Throughout the time period involved in this case, Defendants failed to pay
7 Plaintiff, the Class, the Salary Subclass Members, and the Aggrieved Employees premium wages
8 for rest periods that were missed, late, interrupted, or shortened in violation of California law.
9 Defendants knew or should have known that Plaintiff, the Class, the Salary Subclass Members,
10 and the Aggrieved Employees were entitled to receive all rest periods or payment of one
11 additional hour of pay at their regular rate of pay when a rest period was missed, short, late, and/or
12 interrupted. Notwithstanding this knowledge, Defendants routinely failed to authorize and permit
13 Plaintiff, the Class, the Salary Subclass Members, and the Aggrieved Employees to take duty-
14 free rest periods, and failed to pay one additional hour of pay to Plaintiff, the Class, the Salary
15 Subclass Members, and the Aggrieved Employees at their regular rate of pay when a rest period
16 was missed, short, late and/or interrupted.

17 43. Throughout the time period involved in this case, Defendants regularly required
18 Plaintiff, the Class, the Salary Subclass Members, and the Aggrieved Employees to perform work
19 off the clock. Although Defendants prohibited overtime, Defendants still regularly required that
20 Plaintiff, the Class, the Salary Subclass Members, and the Aggrieved Employees complete all of
21 their assigned duties. To do so, Plaintiff, the Class, the Salary Subclass Members, and the
22 Aggrieved Employees were regularly required to perform work off the clock for which they were
23 not compensated.

24 44. Throughout the time period involved in this case, Defendants implemented
25 policies that prohibited Plaintiff, the Class, the Salary Subclass Members, and the Aggrieved
26 Employees from accurately recording the actual time worked, resulting in a failure to pay
27 Plaintiff, the Class, the Salary Subclass Members, and the Aggrieved Employees all wages owed.

28 45. Throughout the time period involved in this case, Plaintiff, the Class, the Salary

Subclass Members, and the Aggrieved Employees worked more than eight (8) hours in a day, and/or forty (40) hours in a week.

46. Throughout the time period involved in this case, Defendants regularly failed to pay all overtime compensation owed to Plaintiff, the Class, the Salary Subclass Members, and the Aggrieved Employees when they worked in excess of eight (8) hours in a single work day and/or forty (40) hours in a single work week, or in excess of twelve (12) hours in a single work day and/or eighty (80) hours in a single work week. Defendants knew or should have known that Plaintiff, the Class, the Salary Subclass Members, and the Aggrieved Employees were entitled to receive certain wages for overtime compensation and that they were not receiving wages for overtime compensation.

47. Throughout the time period involved in this case, Defendants failed to pay overtime to Plaintiff, the Class, the Salary Subclass Members, and the Aggrieved Employees for all overtime hours worked based on regular rates of pay correctly calculated to include all applicable remuneration.

48. Throughout the time period involved in this case, Defendants regularly failed to pay Plaintiff, the Class, the Salary Subclass Members, and the Aggrieved Employees at least minimum wages for all hours worked. Defendants knew or should have known that Plaintiff, the Class, the Salary Subclass Members, and the Aggrieved Employees were entitled to receive at least minimum wages for all hours worked and that they were not receiving at least minimum wages for all hours worked. Defendants' failure to pay minimum wages included, *inter alia*, failing to pay Plaintiff, the Class, the Salary Subclass Members, and the Aggrieved Employees at the required minimum wage pursuant to California law, requiring Plaintiff, the Class, the Salary Subclass Members, and the Aggrieved Employees to perform work off the clock because Defendants had a policy of not paying for "extra time" as written in the Employee Handbook.

49. Throughout the time period involved in this case, Defendants regularly failed to pay Plaintiff, the Class, the Salary Subclass Members, and the Aggrieved Employees all wages owed to them upon discharge or resignation. Defendants knew or should have known that Plaintiff, the Class, the Salary Subclass Members, and the Aggrieved Employees were entitled to

1 receive all wages owed to them upon termination within the time permissible under California
2 Labor Code section 202. Plaintiff, the Class, the Salary Subclass Members, and the Aggrieved
3 Employees did not receive payment of all final wages owed to them upon discharge or resignation,
4 including overtime compensation and minimum wages within any time permissible under
5 California Labor Code section 202.

6 50. Throughout the time period involved in this case, Defendants regularly failed to
7 pay Plaintiff, the Class, the Salary Subclass Members, and the Aggrieved Employees all wages
8 within any time permissible under California law, including, *inter alia*, California Labor Code
9 section 204. Defendants knew or should have known that Plaintiff, the Class, the Salary Subclass
10 Members, and the Aggrieved Employees were entitled to receive all wages owed to them during
11 their employment. Plaintiff, the Class, the Salary Subclass Members, and the Aggrieved
12 Employees did not receive payment of all wages, including overtime compensation, minimum
13 wages, and meal and rest period premiums.

14 51. Throughout the time period involved in this case, Defendants regularly failed to
15 provide complete or accurate wage statements to Plaintiff, the Class, the Salary Subclass
16 Members, and the Aggrieved Employees. Defendants knew or should have known that Plaintiff,
17 the Class, the Salary Subclass Members, and the Aggrieved Employees were entitled to receive
18 complete and accurate wage statements in accordance with California law, but, in fact, they did
19 not receive complete and accurate wage statements from Defendant. The deficiencies included,
20 *inter alia*, the failure to include the total number of hours worked, the actual gross wages earned,
21 the correct rates of pay, and the address of the legal entity of the employer.

22 52. Throughout the time period involved in this case, Defendants regularly failed to
23 keep complete or accurate payroll records for Plaintiff, the Class, the Salary Subclass Members,
24 and the Aggrieved Employees. Defendants knew or should have known that Defendants were
25 required to keep complete and accurate payroll records for Plaintiff, the Class, the Salary Subclass
26 Members, and the Aggrieved Employees in accordance with California law, but, in fact, did not
27 keep complete and accurate payroll records.

28 53. Throughout the time period involved in this case, Defendants regularly failed to

maintain accurate records relating to Plaintiff's and the Class' work periods, meal periods, total daily hours, hours per pay period, and applicable pay rates.

54. Throughout the time period involved in this case, Defendants failed to reimburse Plaintiff, the Class, the Salary Subclass Members, and the Aggrieved Employees for all necessary business-related expenses, including but not limited to cell phone usage. Defendants knew or should have known that Defendants were required to reimburse Plaintiff, the Class, the Salary Subclass Members, and the Aggrieved Employees for all necessary business-related expenses and costs, but, in fact, failed to do so in violation of California law.

55. Throughout the time period involved in this case, Defendants knew or should have known that they had a duty to compensate Plaintiff, the Class, the Salary Subclass Members, and the Aggrieved Employees pursuant to California law. Defendants had the financial ability to pay such compensation, but willfully, knowingly, and intentionally failed to do so, and falsely represented to Plaintiff, the Class, the Salary Subclass Members, and the Aggrieved Employees that they paid all wages owed to them, all in order to increase Defendants' profits.

56. California Labor Code section 218 states that nothing in Article 1 of the Labor Code shall limit the right of any wage claimant to "sue directly ... for any wages or penalty due to him [or her] under this article."

FIRST CAUSE OF ACTION

(Violation of California Labor Code §§ 510 and 1198)

(Against All Defendants)

57. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every allegation set forth above.

58. California Labor Code section 1198 and the applicable Industrial Welfare Commission ("IWC") Wage Order provide that it is unlawful to employ persons without compensating them at a rate of pay either time-and-one-half or two-times that person's regular rate of pay, depending on the number of hours worked by the person on a daily or weekly basis.

59. Specifically, the applicable IWC Wage Order provides that Defendants is and was required to pay Plaintiff and the other Class Members employed by Defendant, and working more

1 than eight (8) hours in a day or more than forty (40) hours in a workweek, at the rate of time-and-
2 one-half for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours
3 in a workweek.

4 60. The applicable IWC Wage Order further provides that Defendants is and was
5 required to pay Plaintiff and the Class overtime compensation at a rate of two times their regular
6 rate of pay for all hours worked in excess of twelve (12) hours in a day and for all hours worked
7 in excess of eight (8) hours on the seventh day of work in a workweek.

8 61. California Labor Code section 510 codifies the right to overtime compensation at
9 one-and-one-half times the regular hourly rate for hours worked in excess of eight (8) hours in a
10 day or forty (40) hours in a week or for the first eight (8) hours worked on the seventh day of
11 work, and no overtime compensation at twice the regular hourly rate for hours worked in excess
12 of twelve (12) hours in a day or in excess of eight (8) hours in a day on the seventh day of work.

13 62. During the relevant time period, Plaintiff and the other Class Members regularly
14 worked in excess of eight (8) hours in a day, and/or in excess of forty (40) hours in a week.

15 63. During the relevant time period, Defendants intentionally and willfully failed to
16 pay overtime wages owed to Plaintiff and the other Class Members.

17 64. Defendants' failure to pay Plaintiff and the other Class Members the unpaid
18 balance of overtime compensation, as required by California laws, violates the provisions of
19 California Labor Code sections 510 and 1198, and is therefore unlawful.

20 65. Pursuant to California Labor Code section 1194, Plaintiff and the other Class
21 Members are entitled to recover unpaid overtime compensation, as well as interest, costs, and
22 attorneys' fees.

23 **SECOND CAUSE OF ACTION**

24 **(Violation of California Labor Code §§ 226.7 and 512(a))**

25 **(Against All Defendants)**

26 66. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and
27 every allegation set forth above.

28 67. At all relevant times, the relevant IWC Order and California Labor Code sections

226.7 and 512(a) were applicable to Plaintiff and the other Class Members' employment by Defendant.

68. At all relevant times, California Labor Code section 226.7 provides that no employer shall require an employee to work during any meal or rest period mandated by an applicable order of the California IWC.

69. At all relevant times, the applicable IWC Wage Order and California Labor Code section 512(a) provide that an employer may not require, cause or permit an employee to work for a work period of more than five (5) hours per day without providing the employee with a meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is no more than six (6) hours, the meal period may be waived by mutual consent of both the employer and employee.

70. At all relevant times, California Labor Code section 512(a) further provides that an employer may not require, cause or permit an employee to work for a work period of more than ten (10) hours per day without providing the employee with a second uninterrupted meal period of not less than thirty (30) minutes, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

71. During the relevant time period, Plaintiff and the other Class Members who were scheduled to work for a period of time longer than six (6) hours, and who did not waive their legally-mandated meal periods by mutual consent, were required to work for periods longer than five (5) hours without an uninterrupted meal period of not less than thirty (30) minutes.

72. During the relevant time period, Plaintiff and the other Class Members who were scheduled to work for a period of time in excess of ten (10) hours were required to work for periods longer than ten (10) hours without a second uninterrupted meal period of not less than thirty (30) minutes.

73. During the relevant time period, Defendants intentionally and willfully required Plaintiff and the other Class Members to miss their meal periods and to take meal periods that were late, shortened, or interrupted, and failed to compensate Plaintiff and the other Class

Members the full meal period premium for missed, shortened, late, or interrupted meal periods.

74. During the relevant time period, Defendants failed to pay Plaintiff and the other Class Members the full meal period premiums due pursuant to California Labor Code section 226.7.

75. Defendants' conduct violates the applicable IWC Wage Order and California Labor Code sections 226.7 and 512(a).

76. Pursuant to the applicable IWC Wage Order and California Labor Code section 226.7(b), Plaintiff and the other Class Members are entitled to recover from Defendants one additional hour of pay at the employee's regular rate of compensation for each work day that the meal period was not provided.

THIRD CAUSE OF ACTION

(Violation of California Labor Code § 226.7)

(Against All Defendants)

77. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every allegation set forth above.

78. At all times herein set forth, the applicable IWC Wage Order and California Labor Code section 226.7 were applicable to Plaintiff and the other Class Members' employment by Defendant.

79. At all relevant times, California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC.

80. At all relevant times, the applicable IWC Wage Order provides that "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period" and that the "rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof unless the total daily work time is less than three and one-half (3.5) hours."

81. During the relevant time period, Defendants required Plaintiff and other Class

Members to work four (4) or more hours without authorizing or permitting a ten (10) minute rest period per each four (4) hour period worked.

82. During the relevant time period, Defendants willfully required Plaintiff and the other Class Members to work during rest periods, failed to allow Plaintiff and the other Class Member to take any rest period and/or failed to authorize and permit Plaintiff and the other Class Members to take uninterrupted, duty-free rest breaks.

83. During the relevant time period, Defendants failed to pay Plaintiff and the other Class Members the full rest period premium due pursuant to California Labor Code section 226.7 for work performed during rest periods, and/or for failure to authorize and permit Plaintiff and other Class Members from taking uninterrupted rest periods.

84. Defendants' conduct violates applicable IWC Wage Orders and California Labor Code section 226.7.

85. Pursuant to the applicable IWC Wage Orders and California Labor Code section 226.7(b), Plaintiff and the other Class Members are entitled to recover from Defendants one additional hour of pay at the employees' regular hourly rate of compensation for each work day that the rest period was not provided.

FOURTH CAUSE OF ACTION

(Violation of California Labor Code §§ 1194, 1197, and 1197.1)

(Against All Defendants)

86. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every allegation set forth above.

87. At all relevant times, California Labor Code sections 1194, 1197, and 1197.1 provide that the minimum wage to be paid to employees and the payment of a lesser wage than the minimum so fixed is unlawful.

88. During the relevant time period, Defendants regularly failed to pay minimum wage to Plaintiff and the other Class Members as required pursuant to California Labor Code sections 1194, 1197, and 1197.1.

89. Defendants' failure to pay Plaintiff and the other Class Members the minimum

1 wage as required violates California Labor Code sections 1194, 1197, and 1197.1. Pursuant to
2 those sections, Plaintiff and the other Class Members are entitled to recover the unpaid balance
3 of their minimum wage compensation as well as interest, costs, and attorneys' fees, and liquidated
4 damages in an amount equal to the wages unlawfully unpaid and interest thereon.

5 90. Pursuant to California Labor Code section 1194.2, Plaintiff and the other Class
6 Members are entitled to recover liquidated damages in an amount equal to the wages unlawfully
7 unpaid and interest thereon.

8 **FIFTH CAUSE OF ACTION**

9 **(Violation of California Labor Code §§ 201, 202, 203)**

10 **(Against All Defendants)**

11 91. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and
12 every allegation set forth above.

13 92. At all relevant times herein set forth, California Labor Code sections 201 and 202
14 provide that if an employer discharges an employee, the wages earned and unpaid at the time of
15 discharge are due and payable immediately, and if an employee quits his or her employment, his
16 or her wages shall become due and payable not later seventy-two (72) hours thereafter, unless the
17 employee has given seventy-two (72) hours' notice of his or her intention to quit, in which case
18 the employee is entitled to his or her wages at the time of quitting.

19 93. During the relevant time period, the employment of Plaintiff and many other Class
20 Members with Defendants ended, *i.e.* was terminated by quitting or discharge. Defendants
21 intentionally and willfully failed to pay Plaintiff and other Class Members who are no longer
22 employed by Defendants all of their wages, earned and unpaid, including but not limited to
23 minimum wages, straight time wages, and overtime wages, within seventy-two (72) hours of their
24 leaving Defendants' employ.

25 94. Defendants' failure to pay Plaintiff and other Class Members who are no longer
26 employed by Defendants their wages, earned and unpaid, within seventy-two (72) hours of their
27 leaving Defendants' employ, is in violation of California Labor Code sections 201 and 202.

28 95. California Labor Code section 203 provides that if an employer willfully fails to

1 pay wages owed, in accordance with sections 201 and 202, then the wages of the employee shall
2 continue as a penalty from the due date thereof at the same rate until paid or until an action is
3 commenced; but the wages shall not continue for more than thirty (30) days.

4 96. Plaintiff and other Class Members who are no longer employed by Defendants are
5 entitled to recover from Defendants the statutory penalty wages for each day they were not paid,
6 up to a thirty (30) day maximum pursuant to California Labor Code section 203.

7 **SIXTH CAUSE OF ACTION**

8 **(Violation of California Labor Code § 226(a))**

9 **(Against All Defendants)**

10 97. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and
11 every allegation set forth above.

12 98. At all material times set forth herein, California Labor Code section 226(a)
13 provides that every employer shall furnish each of his or her employees an accurate itemized
14 statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, (3)
15 the number of piece-rate units earned and any applicable piece rate if the employee is paid on a
16 piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the
17 employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates
18 of the period for which the employee is paid, (7) the name of the employee and his or her social
19 security number, (8) the name and address of the legal entity that is the employer, and (9) all
20 applicable hourly rates in effect during the pay period and the corresponding number of hours
21 worked at each hourly rate by the employee. The deductions made from payments of wages shall
22 be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and
23 a copy of the statement or a record of the deductions shall be kept on file by the employer for at
24 least three years at the place of employment or at a central location within the State of California.

25 99. Defendants has intentionally and willfully failed to provide Plaintiff and the Class
26 with complete and accurate wage statements. The deficiencies include, but are not limited to, the
27 failure to list the actual total number of hours worked, the correct rates of pay.

28 100. Because of Defendants' violation of California Labor Code section 226(a),

1 Plaintiff and the Class have suffered injury and damage to their statutorily-protected rights.

2 101. More specifically, Plaintiff and the Class have been injured by Defendants'
3 intentional and willful violation of California Labor Code section 226(a) because they were
4 denied both their legal right to receive, and their protected interest in receiving, accurate and
5 itemized wage statements pursuant to California Labor Code section 226(a).

6 102. Plaintiff and the Class are entitled to recover from Defendants the greater of their
7 actual damages caused by Defendants' failure to comply with California Labor Code section
8 226(a), or an aggregate penalty not exceeding four thousand dollars per employee.

9 103. Plaintiff and the Class are also entitled to injunctive relief to ensure compliance
10 with this section, pursuant to California Labor Code section 226(g).

11 **SEVENTH CAUSE OF ACTION**

12 **(Violation of California Labor Code §§ 2800 and 2802)**

13 **(Against All Defendants)**

14 104. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and
15 every allegation set forth above.

16 105. Pursuant to California Labor Code sections 2800 and 2802, an employer must
17 reimburse its employee for all necessary expenditures incurred by the employee in direct
18 consequence of the discharge of his or her job duties or in direct consequence of his or her job
19 duties or in direct consequence of his or her obedience to the directions of the employer.

20 106. Plaintiff and the Class incurred necessary business-related expenses and costs that
21 were not fully reimbursed by Defendant. Defendants' failure to reimburse for all necessary
22 business-related expenses and costs included their failure to reimburse Plaintiff and the Class for
23 costs incurred as a result of, including but not limited to, simple negligence.

24 107. Defendants has intentionally and willfully failed to reimburse Plaintiff and the
25 Class for all necessary business-related expenses and costs. Plaintiff and the Class are entitled to
26 recover from Defendants their business-related expenses and costs incurred during the course and
27 scope of their employment, plus interest accrued from the date on which the employee incurred
28 the necessary expenditures at the same rate as judgments in civil actions in the State of California.

1 **EIGHTH CAUSE OF ACTION**

2 **(Violation of Cal. Business & Professions Code §§ 17200, et seq.)**

3 **(Against All Defendants)**

4 108. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and
5 every allegation set forth above.

6 109. Defendants' conduct, as alleged herein, has been, and continues to be, unfair,
7 unlawful and harmful to Plaintiff and the Class, to the general public, and Defendants'
8 competitors. Accordingly, Plaintiff seeks to enforce important rights affecting the public interest
9 within the meaning of Code of Civil Procedure section 1021.5.

10 110. Defendants' activities as alleged herein are violations of California law, and
11 constitute unlawful business acts and practices in violation of California Business & Professions
12 Code section 17200, *et seq.*

13 111. A violation of California Business & Professions Code section 17200, *et seq.* may
14 be predicated on the violation of any state or federal law. In this instant case, Defendants' policies
15 and practices of requiring employees, including Plaintiff and the Class, to work overtime without
16 paying them proper compensation violate California Labor Code sections 510 and 1198.
17 Additionally, Defendants' policies and practices of requiring employees, including Plaintiff and
18 the Class, to work through their meal and rest periods without paying them proper compensation
19 violate California Labor Code sections 226.7 and 512(a). Moreover, Defendants' policies and
20 practices of failing to timely pay wages to Plaintiff and the Class violate California Labor Code
21 sections 201, 202, 203 and 204.

22 112. Defendants also violated California Labor Code sections 221, 226(a), 1194, 1197,
23 1197.1, 510, 1174(d), 2800, and 2802.

24 113. As a result of the herein described violations of California law, Defendants
25 unlawfully gained an unfair advantage over other businesses.

26 114. Plaintiff and the Class have been personally injured by Defendants' unlawful
27 business acts and practices as alleged herein, including but not necessarily limited to the loss of
28 money and/or property.

115. Pursuant to California Business & Professions Code sections 17200, *et seq.*, Plaintiff and the Class are entitled to restitution of the wages withheld and retained by Defendants during a period that commences four years prior to the filing of this Complaint; an award of attorneys' fees pursuant to California Code of Civil Procedure section 1021.5 and other applicable laws; and an award of costs.

NINTH CAUSE OF ACTION

(Violation of California Labor Code § 2699, Et Seq.)

(Against All Defendants)

116. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every allegation set forth above.

117. PAGA expressly establishes that any provision of the California Labor Code which provides for a civil penalty to be assessed and collected by the LWDA, or any of its departments, divisions, commissions, boards, agencies or employees for a violation of the California Labor Code, may be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself, and other current or former employees.

118. Whenever the LWDA, or any of its departments, divisions, commissions, boards, agencies, or employees has discretion to assess a civil penalty, a court in a civil action is authorized to exercise the same discretion, subject to the same limitations and conditions, to assess a civil penalty.

119. Plaintiff and the other hourly-paid or non-exempt employees are “aggrieved employees” as defined by California Labor Code section 2699(c) in that they are all current or former employees of Defendants, and one or more of the alleged violations was committed against them. As set forth in detail above, during all times relevant to this Action, Defendants have routinely subjected Plaintiff and the Aggrieved Employees to violations of California Labor Codes by:

Failure to Pay Overtime

120. Defendants' failure to pay legally required overtime wages to Plaintiff and the other Aggrieved Employees is in violation of the Wage Orders and constitutes unlawful or unfair

activity prohibited by California Labor Code sections 204, 510, 1194 and 1198.

Failure to Provide Meal Periods

121. Defendants' failure to provide legally required meal periods to Plaintiff and the other Aggrieved Employees is in violation of the Wage Orders and constitutes unlawful or unfair activity prohibited by California Labor Code sections 226.7 and 512(a).

Failure to Provide Rest Periods

122. Defendants' failure to provide legally required rest periods to Plaintiff and the other Aggrieved Employees is in violation of the Wage Orders and constitutes unlawful or unfair activity prohibited by California Labor Code section 226.7 and 512.

Failure to Pay Minimum Wages

123. Defendants' failure to pay legally required minimum wages to Plaintiff and the other Aggrieved Employees is in violation of the Wage Orders and constitutes unlawful or unfair activity prohibited by California Labor Code sections 1194, 1197, 1197.1 and 1198.

Failure to Timely Pay Wages Upon Termination

124. Defendants' failure to timely pay wages to Plaintiff and the other Aggrieved Employees upon termination in accordance with Labor Code sections 201 and 202 constitutes unlawful and/or unfair activity prohibited by California Labor Code sections 201 and 202.

Failure to Provide Complete and Accurate Wage Statements

125. Defendants' failure to provide complete and accurate wage statements to Plaintiff and the other Aggrieved Employees in accordance with Labor Code section 226(a) constitutes unlawful and/or unfair activity prohibited by California Labor Code section 226(a).

Failure to Keep Complete and Accurate Payroll Records

126. Defendants' failure to keep complete and accurate payroll records relating to Plaintiff and the other Aggrieved Employees in accordance with California Labor Code section 1174(d) constitutes unlawful and/or unfair activity prohibited by California Labor Code section 1174(d).

Failure to Reimburse Necessary Business-Related Expenses and Costs

127. Defendants' failure to reimburse Plaintiff and the other Aggrieved Employees for

necessary business-related expenses and costs in accordance with California Labor Code sections 2800 and 2802 constitutes unlawful and/or unfair activity prohibited by California Labor Code sections 2800 and 2802.

Willful Misclassification of Employees as Independent Contractors

128. Defendants' willful misclassification of Plaintiff and the other Aggrieved Employees as independent contractors rather than as employees despite the fact that Plaintiff and the other Aggrieved Employees were not free from Defendants' control and direction regarding the performance of their work, did not perform work outside Defendants' usual course of business, and were not customarily engaged in an independently established business that provides work of the same nature as what is being performed. These acts constituted unlawful and/or unfair activity prohibited by the applicable IWC Wage Order and California Labor Code section 226.8 *et. seq.*

129. Pursuant to California Labor Code sections 2699 and 2699.5, Plaintiff, individually and on behalf of the Aggrieved Employees and the State of California, requests and is entitled to recover penalties against Defendants for the Labor Code violations described above, including but not limited to penalties under California Code of Regulations Title 8 section 11010, penalties under California Labor Code sections 2699, 558, 210, 351, 1197.1, 226, 226.3, 226.8, 1174.5, and 1197.1, and any and all additional penalties and sums as provided by the California Labor Code and/or other statutes. The exact amount of the applicable penalties, in all, is in an amount to be shown according to proof at trial

130. Pursuant to California Labor Code section 2699(i), civil penalties recovered by aggrieved employees shall be distributed as follows: seventy-five percent (75%) to the Labor and Workforce Development Agency for the enforcement of labor laws and education of employers and employees about their rights and responsibilities and twenty-five percent (25%) to the aggrieved employees.

131. Plaintiff has exhausted his administrative remedies pursuant to Labor Code section 2699.3. On or around June 20, 2023, Plaintiff, through his counsel of record, by online filing with the Labor and Workforce Development Agency ("LWDA") and by certified mail to the

Defendants, notified Defendants and the LWDA of the specific provisions of the Labor Code and IWC Wage Orders that Defendants have violated, including the facts and theories to support the violations, and of Plaintiff's intent to bring a claim for civil penalties under PAGA. Plaintiff also paid the filing fee required under Labor Code section 2699.3. As of the filing of this Complaint, more than sixty-five (65) days have elapsed since the mailing of Plaintiff's June 20, 2023 notice, and the Labor and Workforce Development Agency has not indicated that it intends to investigate the violations discussed in the notice. Accordingly, Plaintiff may commence a civil action to recover penalties for himself and other Aggrieved Employees pursuant to Labor Code section 2699.3.

132. Further, Plaintiff is entitled to seek and recover reasonable attorneys' fees and costs pursuant to California Labor Code sections 210, 218.5 and 2699 and any other applicable statute.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually and on behalf of all other members of the general public similarly situated, prays for relief and judgment against Defendant, jointly and severally, as follows:

Class Certification

1. That this action be certified as a class action;
2. That Plaintiff be appointed as the representative of the Class;
3. That counsel for Plaintiff be appointed as Class Counsel; and
4. That Defendants provide to Class Counsel immediately the names and most current/last known contact information (address, e-mail and telephone numbers) of all class members.

As to the First Cause of Action

5. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 510 and 1198 and applicable IWC Wage Orders by willfully failing to pay all overtime wages due to Plaintiff and other Class Members;

6. For general unpaid wages at overtime wage rates and such general and special

1 damages as may be appropriate;

2 7. For pre-judgment interest on any unpaid overtime compensation commencing
3 from the date such amounts were due;

4 8. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
5 California Labor Code section 1194; and

6 9. For such other and further relief as the Court may deem just and proper.

7 **As to the Second Cause of Action**

8 10. That the Court declare, adjudge and decree that Defendants violated California
9 Labor Code sections 226.7 and 512 and applicable IWC Wage Orders by willfully failing to
10 provide all meal periods (including second meal periods) to Plaintiff and the Class;

11 11. That the Court make an award to Plaintiff and the Class of one (1) hour of pay at
12 each employee's regular rate of compensation for each workday that a meal period was not
13 provided;

14 12. For all actual, consequential, and incidental losses and damages, according to
15 proof;

16 13. For premium wages pursuant to California Labor Code section 226.7;

17 14. For pre-judgment interest on any unpaid wages from the date such amounts were
18 due;

19 15. For reasonable attorneys' fees and costs of suit incurred herein; and

20 16. For such other and further relief as the Court may deem just and proper.

21 **As to the Third Cause of Action**

22 17. That the Court declare, adjudge and decree that Defendants violated California
23 Labor Code section 226.7 and applicable IWC Wage Orders by willfully failing to provide all rest
24 periods to Plaintiff and the Class;

25 18. That the Court make an award to Plaintiff and the Class of one (1) hour of pay at
26 each employee's regular rate of compensation for each workday that a rest period was not
27 provided;

28 19. For all actual, consequential, and incidental losses and damages, according to

proof;

20. For premium wages pursuant to California Labor Code section 226.7;

21. For pre-judgment interest on any unpaid wages from the date such amounts were due; and

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

As to the Fourth Cause of Action

23. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 1194, 1197, and 1197.1 by willfully failing to pay minimum wages to Plaintiff and the Class;

24. For general unpaid wages and such general and special damages as may be appropriate;

25. For statutory wage penalties pursuant to California Labor Code section 1197.1 for Plaintiff and the Class in the amount as may be established according to proof at trial;

26. For pre-judgment interest on any unpaid compensation from the date such amounts were due;

27. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California Labor Code section 1194(a);

28. For liquidated damages pursuant to California Labor Code section 1194.2; and

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

As to the Fifth Cause of Action

30. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 201, 202, and 203 by willfully failing to pay all compensation owed at the time of termination of the employment of Plaintiff and other Class Members no longer employed by Defendant;

31. For all actual, consequential, and incidental losses and damages, according to proof;

32. For statutory wage penalties pursuant to California Labor Code section 203 for Plaintiff and other Class Members who have left Defendants' employ;

33. For pre-judgment interest on any unpaid compensation from the date such amounts were due; and

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

As to the Sixth Cause of Action

35. That the Court declare, adjudge and decree that Defendants violated the record keeping provisions of California Labor Code section 226(a) and applicable IWC Wage Orders as to Plaintiff and the Class, and willfully failed to provide accurate itemized wage statements thereto;

36. For actual, consequential and incidental losses and damages, according to proof;

37. For statutory penalties pursuant to California Labor Code section 226(e); and

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

As to the Seventh Cause of Action

39. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 2800 and 2802 by willfully failing to reimburse Plaintiff and the Class for all necessary business-related expenses as required by California Labor Code sections 2800 and 2802;

40. For actual, consequential and incidental losses and damages, according to proof;

41. For the imposition of civil penalties and/or statutory penalties;

42. For reasonable attorneys' fees and costs of suit incurred herein; and

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

As to the Eighth Cause of Action

44. That the Court declare, adjudge and decree that Defendants violated California Business and Professions Code sections 17200, *et seq.* by failing to provide Plaintiff and the Class all overtime compensation due to them, failing to provide all meal and rest periods to Plaintiff and the Class, failing to pay at least minimum wages to Plaintiff and the Class, failing to pay Plaintiff's and other Class Members' wages timely as required by California Labor Code section 201, 202 and 204 and by violating California Labor Code sections 226(a), 1174(d), 2800, and 2802;

1 45. For restitution of unpaid wages to Plaintiff and the Class and all pre-judgment
2 interest from the day such amounts were due and payable;

3 46. For the appointment of a receiver to receive, manage and distribute any and all
4 funds disgorged from Defendants and determined to have been wrongfully acquired by
5 Defendants as a result of violation of California Business and Professions Code sections 17200,
6 *et seq.*;

7 47. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
8 California Code of Civil Procedure section 1021.5;

9 48. For injunctive relief to ensure compliance with this section, pursuant to California
10 Business and Professions Code sections 17200, *et seq.*; and

11 49. For such other and further relief as the Court may deem just and proper.

12 **As to the Ninth Cause of Action**

13 50. For civil penalties and wages pursuant to California Labor Code sections 2699(a),
14 (f) and (g) and 558 plus costs and attorneys' fees for violation of California Labor Code sections
15 201, 202, 203, 204, 226(a), 226.7, 226.8, 351, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198,
16 2800 and 2802; and

17 51. For such other and further relief as the Court may deem equitable and appropriate.

18
19 Dated: January 16, 2025

DOMB & RAUCHWERGER, LLP

20
21 By: 

22 ZACK I. DOMB
23 DEVIN RAUCHWERGER
24 MELISSA N. AVILA
Attorneys for Plaintiff
Joshua Myra

DEMAND FOR TRIAL BY JURY

Plaintiff demands a trial by jury as to all causes of action triable by a jury.

Dated: January 16, 2025

DOMB & RAUCHWERGER, LLP

By:



ZACK I. DOMB
DEVIN RAUCHWERGER
MELISSA N. AVILA
Attorneys for Plaintiff
Joshua Myra