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County of Los Angeles

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

NATHAN RYAN, on behalf of himself and all
others similarly situated,

Plaintiff,

vs.

ADVANCED CONCEPTS CONSTRUCTION
SERVICES INC., a California Corporation; and
DOES 1 through 100, Inclusive,

Defendants.

Case No. 24STCV15258

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

- (1) FAILURE TO PAY OVERTIME
WAGES (LABOR CODE §§ 204, 510,
511, 558, 1194, 1198, 1810 *et seq.*);**
- (2) MEAL PERIOD VIOLATIONS
(LABOR CODE §§ 226.7, 512, 1198);**
- (3) WAGE STATEMENT VIOLATIONS
(LABOR CODE § 226, *et seq.*);**
- (4) WAITING TIME PENALTIES
(LABOR CODE §§ 201-203);**
- (5) FAILURE TO REIMBURSE
BUSINESS EXPENSES (LABOR
CODE §§ 2802, 2804);**
- (6) UNFAIR COMPETITION (BUS. &
PROF. CODE § 17200, *et seq.*);**
- (7) CIVIL PENALTIES UNDER THE
PRIVATE ATTORNEYS GENERAL
ACT (LABOR CODE § 2698 *et seq.*)**

**DEMAND FOR JURY TRIAL
UNLIMITED CIVIL CASE**

1 Plaintiff Nathan Ryan (“Plaintiff”), on behalf of himself, all others similarly situated, as
2 well as the State of California and other aggrieved employees, hereby brings this First Amended
3 Class and Representative Action Complaint against Advanced Concepts Construction Services
4 Inc.; and Does 1 through 100 (collectively, “Defendants”), and on information and belief alleges:

5 **JURISDICTION**

6 1. Plaintiff, on behalf of himself and all others similarly situated, hereby brings this
7 class and representative action for recovery of unpaid wages and penalties under Business and
8 Professions Code § 17200, *et. seq.*; Labor Code §§ 201-204, 226, 226.7, 510, 512, 558, 1194,
9 1198, 1810 *et seq.*, 2802, 2804, 2698 *et seq.*; and Industrial Welfare Commission Wage Order
10 No. 16 (“Wage Order 16”), in addition to seeking declaratory relief and restitution. This action
11 is brought pursuant to Code of Civil Procedure § 382. The amount in controversy in this action
12 exceeds this Court’s jurisdictional minimum.

13 **VENUE**

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

19 **PARTIES**

20 3. Plaintiff is an individual over the age of eighteen (18). At all relevant times herein,
21 Plaintiff was, and currently is, a California resident. During the four years immediately preceding
22 the filing of this action and within the statute of limitations periods applicable to each cause of
23 action pled herein, Plaintiff was employed by Defendants as a non-exempt employee. Plaintiff
24 was, and is, a victim of Defendants’ policies and/or practices complained of herein, lost money
25 and/or property, and has been deprived of the rights guaranteed by California Labor Code §§ 201-
26 204, 226, 226.7, 510, 512, 558, 1194, 1198, 1810 *et seq.*, 2802, 2804, 2698 *et seq.*; California
27 Business & Professions Code § 17200, *et seq.* (Unfair Competition), and Wage Order 16, which
28 sets employment standards for the on-site construction industry.

1 4. Plaintiff is informed and believes, and based thereon alleges, that during the four
2 years preceding the filing of this lawsuit and continuing to the present, Defendants did (and do)
3 business as a construction company, and that they employed Plaintiff and other similarly situated
4 non-exempt employees within Los Angeles County and the State of California.

5 5. Plaintiff does not know the true names or capacities, whether individual, partner,
6 or corporate, of the defendants sued herein as DOES 1 through 100, and for that reason, said
7 defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to
8 amend this Complaint when such true names and capacities are discovered. Plaintiff is informed
9 and believes, and thereon alleges, that each of said fictitious defendants, whether individual,
10 partners, or corporate, were responsible in some manner for the acts and omissions alleged herein,
11 and proximately caused Plaintiff and the Classes (as defined in Paragraph 18) to be subject to the
12 unlawful employment practices, wrongs, injuries, and damages complained of herein.

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

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

21 8. At all times mentioned herein, Defendants, and each of them, were members of
22 and engaged in a joint venture, partnership, and common enterprise, and acting within the course
23 and scope of and in pursuance of said joint venture, partnership, and common enterprise. Further,
24 Plaintiff alleges that all Defendants were joint employers for all purposes of Plaintiff and all Class
25 Members (as defined in Paragraph 18).

26 **GENERAL FACTUAL ALLEGATIONS**

27 9. Plaintiff worked for Defendants as a non-exempt employee from in or about
28 October 2019 to on or about October 24, 2023.

1 10. During at least a portion of Plaintiff’s employment with Defendants, Defendants
2 required Plaintiff and other non-exempt employees to work up to 10 hours per workday without
3 paying them daily overtime. For example, in the workweeks beginning January 2, 2023, February
4 6, 2023, June 5, 2023, and August 7, 2023—and on many other occasions—Plaintiff worked four
5 shifts of 10 hours per shift, but Defendants paid Plaintiff for 40 regular hours, without paying him
6 overtime for any of his daily overtime hours. As another example, Plaintiff worked two eight-
7 hour shifts, two ten-hour shifts, and one five-hour shift during the week of January 9, 2023.
8 However, Plaintiff was only compensated for one hour of work at an overtime rate, for his forty-
9 first hour of work during that workweek. Plaintiff should have been compensated for at least four
10 hours of work at an overtime rate for the week of January 9, 2023, for the two workdays that he
11 worked 10 hours in the workday.¹

12 11. Upon information and belief, Defendants failed to pay daily overtime pursuant to
13 a purported alternative workweek schedule (“AWS”). However, any such purported AWS was
14 not properly instituted, and furthermore, there is no public record of any AWS election for
15 Defendants, as is required by Wage Order 16, § 3, and Labor Code § 511 for an AWS to be valid.

16 12. Further, Defendants frequently required Plaintiff and other non-exempt employees
17 to work more than 8 hours without daily overtime when engaged in public work projects, which
18 is prohibited under Labor Code § 1810 *et seq.* Specifically, Labor Code § 1811 restricts the time
19 worked by any worker employed upon public work to eight hours in workday and forty hours in
20 a workweek, and Labor Code § 1815 provides that “work performed by employees of contractors
21 in excess of 8 hours per day, and 40 hours during any one week, shall be permitted upon public
22 work upon compensation for all hours worked in excess of 8 hours per day **at not less than 1 ½**
23 **times the basic rate of pay.**” As noted above, Defendants failed to pay time-and-a-half for hours
24 worked over 8 in a workday. For example, in the workweek of August 7, 2023 cited above,
25 Plaintiff worked on a prevailing works project in China Lake, California.

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27
28 ¹ For purposes of this Complaint, Plaintiff does not seek unpaid overtime wages, unpaid meal
period premiums, or other unpaid wages, penalties, or civil penalties for any work performed on
the La Paloma Middle School project.

1 13. Because Defendants failed to properly enact an AWS, and because Defendants
2 failed to pay daily overtime on public work projects, Defendants failed to pay overtime in
3 conformance with the requirements of Wage Order 16 and Labor Code §§ 510 and 1810 *et seq.*

4 14. Defendants also have failed to provide Plaintiff and other non-exempt employees
5 with 30-minute off-duty meal periods before the end of the fifth hour of work. For example,
6 during the workweek beginning January 31, 2022, Plaintiff's time records reflect that he began
7 his shift at 4:30 each workday but only received his meal period at 10:00, more than five hours
8 into his shift. As another example, during the workweek beginning February 6, 2023, Plaintiff's
9 time records reflect that he worked four shifts of ten hours each, starting work at 6:30 a.m. each
10 day and working until 12:00 p.m. before receiving his thirty-minute meal period, after his fifth
11 hour of work. As another example, during the workweek beginning August 28, 2023, Plaintiff's
12 time records reflect that he worked four shifts of ten hours each, starting work at 6:00 a.m. each
13 workday and working until 11:30 a.m. before receiving his thirty-minute meal period, after his
14 fifth hour of work. Defendants also have failed to provide second meal periods on shifts over 10
15 hours. For example, in the workweek beginning March 7, 2022, Plaintiff worked multiple days
16 of more than 12 hours but did not receive a second meal period. Similarly, Plaintiff's time records
17 reflect that he worked more than 10 hours on July 19, 2023 without receiving a second meal
18 period.

19 15. Plaintiff did not receive any additional compensation for Defendants' failure to
20 provide timely, off-duty meal periods. On information and belief, for at least a portion of the
21 putative class period, Defendants failed to maintain any mechanism for paying an additional hour
22 of pay for failure to provide meal period premiums pursuant to Labor Code § 226.7.

23 16. As a result of Defendants' failure to pay all overtime wages, as well as Defendants'
24 failure to pay meal period premium wages, Defendants maintained inaccurate payroll records,
25 and issued inaccurate wage statements to Plaintiff and other non-exempt employees. As a further
26 result of Defendants' failure to pay all overtime wages, as well as Defendants' failure to pay all
27 meal period premium wages due, Defendants failed to pay all wages due to Plaintiff and other
28 non-exempt employees at the separation of their employment.

17. Defendants have also failed to reimburse Plaintiff and other employees for expenses they incurred in the course of their employment. Defendants required Plaintiff and other employees to use their personal cellphones to communicate with Defendants about work-related subjects. Plaintiff regularly received text messages and phone calls from management to discuss work-related issues. Despite requiring Plaintiff to use his personal property for work-related purposes, Defendant have failed to reimburse Plaintiff for any portion of his personal expenses, including any portion of his monthly cell phone bill. Plaintiff and other employees are therefore entitled to reimbursement pursuant to Labor Code § 2802 and *Cochran v. Schwan's Home Service, Inc.*, 228 Cal.App.4th 1137 (2014) (holding employer must reimburse employees for "reasonable percentage" of their cell phone bills if they are required to use their cell phones for work, even if employees did not incur specific out-of-pocket expense).

CLASS ACTION ALLEGATIONS

18. Class Definitions: Plaintiff bring this action on behalf of himself and the following Classes pursuant to Section 382 of the Code of Civil Procedure:

a. The Overtime Class consists of all of the Defendants' current and former non-exempt employees in California who worked more than 8.0 hours in a workday and were not paid daily overtime compensation, at any time from four years immediately preceding the filing of this action through the present.

b. The Meal Period Class consists of all of the Defendants' current and former non-exempt employees in California who worked at least one shift in excess of 5.0 hours, without a 30-minute meal period beginning no more than 5 hours into their shift as reflected in their time records, and/or who worked at least one shift in excess of 10.0 hours without a second 30-minute meal period beginning no more than 10 hours into their shift, at any time from four years immediately preceding the filing of this action through the present.

c. The Wage Statement Class consists of all members of the Overtime Class and/or Meal Period Class who received a wage statement at any time from one year immediately preceding the filing of this action through the present.

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d. The Waiting Time Class consists of all members of the Overtime Class and/or Meal Period Class who are no longer employed by Defendants, and whose employment with Defendants ended at any time from three years immediately preceding the filing of this action through the present.

e. The Expense Reimbursement Class consists of all of Defendants' employees who were required to use their personal property, including but not limited to personal cellular phones, for work-related purposes, at any time from four years immediately prior to the filing of this action through the present.

19. **Numerosity/Ascertainability:** The members of the Classes are so numerous that joinder of all members would be unfeasible and impracticable. The membership of the Classes is unknown to Plaintiff at this time; however, it is estimated that the Classes number greater than fifty (50) individuals in each Class. The identity of such membership is readily ascertainable via Defendants' employment records.

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

- i. Whether Defendants' timekeeping and payroll practices violate the applicable Labor Code provisions including, but not limited to, Sections 510, 1194, and 1810 *et seq.* by requiring overtime work and not paying the Overtime Class for said work according to California's overtime laws;
- ii. Whether Defendants provided legally compliant meal periods to members of the Meal Period Class;
- iii. Whether Defendants furnished legally compliant wage statements to members of the Wage Statement Class pursuant to Labor Code § 226;
- iv. Whether Defendants paid all wages due to members of the Waiting Time Class at the time of separation of employment; and

v. Whether Defendants properly reimbursed expenses incurred by members of the Expense Reimbursement Class.

21. **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' overtime, wage statement, meal period, expense reimbursement, and final wage policies/practices. 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.

22. **Typicality:** Plaintiff's claims 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 limitation applicable to each cause of action pled in the Complaint in this action. As alleged herein, Plaintiff, like the members of the Classes, was deprived of all earned overtime wages, was subject to Defendants' uniform meal period policies/practices, was furnished with inaccurate wage statements, was deprived of all final wages upon his separation of employment from Defendants, and was not reimbursed for all expenses he incurred in carrying out his job duties for Defendants.

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

24. **Superiority:** The California Labor Code is broadly remedial in nature and serves an important public interest in establishing minimum working conditions and standards in California. These laws and labor standards protect the average working employee from exploitation by employers who have the responsibility to follow the laws and who may seek to

1 take advantage of superior economic and bargaining power in setting onerous terms and
2 conditions of employment. The nature of this action and the format of laws available to Plaintiff
3 and members of the Classes make the class action format a particularly efficient and appropriate
4 procedure to redress the violations alleged herein. If each employee were required to file an
5 individual lawsuit, Defendants would necessarily gain an unfair advantage, as they would be able
6 to exploit and overwhelm the limited resources of each individual plaintiff with their vastly
7 superior financial and legal resources. Moreover, requiring each member of the Classes to pursue
8 an individual remedy would discourage the assertion of lawful claims by employees who would
9 be disinclined to file an action against their former and/or current employer for real and justifiable
10 fear of retaliation and permanent damages to their careers at subsequent employment. Further, the
11 prosecution of separate actions by individual class members would create a substantial risk of
12 inconsistent or varying verdicts or adjudications with respect to the individual class members
13 against Defendants herein; and which would establish potentially incompatible standards of
14 conduct for Defendants. Further, the claims of the individual members of the Classes are not
15 sufficiently large to warrant vigorous individual prosecution considering all of the concomitant
16 costs and expenses attending thereto. As such, the Classes identified in Paragraph 18 are
17 maintainable under Section 382 of the Code of Civil Procedure.

18 **FIRST CAUSE OF ACTION**

19 **FAILURE TO PAY OVERTIME WAGES**

20 **(AGAINST ALL DEFENDANTS)**

21 25. Plaintiff re-alleges and incorporates by reference all prior paragraphs.

22 26. This cause of action is brought pursuant to Labor Code §§ 204, 510, 558, 1194,
23 1198, and 1810, *et seq.* which provide that non-exempt employees are entitled to overtime wages
24 for all overtime hours worked, and which provide a private right of action for the failure to pay
25 all overtime compensation for overtime work performed.

26 27. At all times relevant herein, Defendants were required to properly compensate
27 Plaintiff and members of the Overtime Class for all overtime hours worked pursuant to California
28 Labor Code § 1194 and Wage Order 16. Wage Order 16, § 3 requires an employer to pay an

employee “one and one-half (1½) times [the] employee’s regular rate of pay” for work in excess of 8 hours per workday and/or in excess of 40 hours in any workweek, and for the first 8 hours on the seventh consecutive workday in a workweek. Wage Order 4, § 3 also requires an employer to pay an employee double the employee’s regular rate of pay for work in excess of 12 hours in a workday and/or in excess of 8 hours on the seventh consecutive day of work in the workweek. Further, Labor Code § 1810 *et seq.* does not permit employers to require employees to work more than 8 hours in a workday on a public work project without paying overtime compensation for any work in excess of 8 hours in a workday. As alleged herein, Defendants caused Plaintiff and Overtime Class members to work overtime and double-time hours but did not compensate them at one and one-half times (or two times) their regular rate of pay for such hours.

28. The foregoing policies and practices are unlawful and create entitlement to recovery by Plaintiff and the Overtime Class in a civil action for the unpaid amount of overtime premiums owing, including interest thereon, statutory penalties, and attorneys’ fees and costs of suit according to California Labor Code §§ 204, 218.6, 510, 558, 1194, 1198, and 1810, *et seq.*, and Code of Civil Procedure § 1021.5.

SECOND CAUSE OF ACTION

MEAL PERIOD VIOLATIONS

(AGAINST ALL DEFENDANTS)

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

30. Plaintiff is informed and believes, and based thereon alleges, that Defendants failed in their affirmative obligation to provide all their hourly non-exempt employees, including Plaintiff and members of the Meal Period Class, with all required meal periods in accordance with the mandates of the California Labor Code and Wage Order 16, for the reasons set forth in this Complaint.

31. As a result, Defendants owe premium compensation for meal period violations, including interest thereon, statutory penalties, and costs of suit, pursuant to Wage Order 16, Labor Code §§ 226.7 and 512, Civil Code § 3287, and Art. XV, § 1 of the California Constitution.

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1 **THIRD CAUSE OF ACTION**

2 **WAGE STATEMENT VIOLATIONS**

3 **(AGAINST ALL DEFENDANTS)**

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

5 33. Plaintiff is informed and believes, and based thereon alleges, that Defendants
6 knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Plaintiff
7 and the Wage Statement Class with accurate and complete itemized wage statements that
8 included, among other requirements, all hours worked at each rate of pay, and all wages earned,
9 in violation of Labor Code § 226.

10 34. Defendants' failure to furnish Plaintiff and members of the Wage Statement Class
11 with complete and accurate itemized wage statements resulted in injury, as said failures led to,
12 among other things, the non-payment of all their overtime wages and meal period premium wages,
13 and deprived them of the information necessary to identify and reconcile the discrepancies in
14 Defendants' reported data.

15 35. Defendants' failures create an entitlement to recovery by Plaintiff and members of
16 the Wage Statement Class in a civil action for all damages and/or penalties pursuant to Labor
17 Code § 226, including statutory penalties, civil penalties, and reasonable attorneys' fees and costs
18 of suit, pursuant to Labor Code §§ 226 and 226.3.

19 **FOURTH CAUSE OF ACTION**

20 **WAITING TIME PENALTIES**

21 **(AGAINST ALL DEFENDANTS)**

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

23 37. This cause of action is brought pursuant to Labor Code §§ 201-203, which require
24 an employer to pay all wages immediately at the time of separation of employment in the event
25 the employer discharges the employee, or the employee provides at least 72 hours of notice of
26 their intent to quit. In the event the employee provides less than 72 hours of notice of their intent
27 to quit, said employee's wages become due and payable not later than 72 hours upon said
28 employee's last date of employment.

38. Plaintiff is informed and believes, and based thereon alleges, that Defendants failed to timely pay Plaintiff and members of the Waiting Time Class all final wages due to them at their separation from employment, including (but not limited to) unpaid overtime wages and unpaid meal period premium wages.

39. 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 Plaintiff and 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.

40. Defendants' failure to pay all final wages was willful within the meaning of Labor Code § 203. Defendants' willful failure to timely pay Plaintiff and the members of the Waiting Time Class their earned wages upon separation from employment results in a continued payment of daily wages up to thirty days from the time the wages were due. Plaintiff and members of the Waiting Time Class are entitled to compensation pursuant to Labor Code § 203, plus reasonable attorneys' fees and costs of suit.

FIFTH CAUSE OF ACTION

FAILURE TO REIMBURSE BUSINESS EXPENSES

(AGAINST ALL DEFENDANTS)

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

42. At all relevant times, 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.”

43. At all relevant times, Defendants were subject to Labor Code § 2804, which states, “any contract or agreement, express or implied, made by any employee to waive the benefits of this article or any part thereof, is null and void, and this article shall not deprive any employee or his personal representative of any right or remedy to which he is entitled under the laws of this State.”

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1 44. Due to Defendants' unlawful policy and practice of requiring employees to use
2 their personal property, including but not limited to personal cell phones, for work purposes, and
3 their failure to reimburse Plaintiff and members of the Expense Reimbursement Class, Defendants
4 have violated Labor Code § 2802.

5 45. As a proximate result of Defendants' policies and/or practices in violation of Labor
6 Code §§ 2802 and 2804, Plaintiff and members of the Expense Reimbursement Class have
7 suffered damages in sums, which will be shown according to proof.

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

10 47. Pursuant to Labor Code § 2802(b), any action brought for the reimbursement of
11 necessary expenditures carries interest at the same rate as judgments in civil actions. Thus,
12 Plaintiff and members of the Expense Reimbursement Class are entitled to interest, which shall
13 accrue from the date on which they incurred the initial necessary expenditure.

14 **SIXTH CAUSE OF ACTION**

15 **UNFAIR COMPETITION**

16 **(AGAINST ALL DEFENDANTS)**

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

18 49. Defendants have engaged, and continue to engage, in unfair and/or unlawful
19 business practices in violation of Business & Professions Code § 17200, *et seq.*, by failing to pay
20 Plaintiff and the Classes all overtime wages due, failing to provide meal periods or pay meal
21 period premium wages, failing to furnish accurate and complete itemized wage statements, failing
22 to reimburse business expenses, and failing to pay all earned wages at separation of employment.

23 50. Defendants' utilization of these unfair and/or unlawful business practices has
24 deprived Plaintiff and members of the Classes of compensation to which they are legally entitled,
25 constitutes unfair and/or unlawful competition, and provides an unfair advantage over
26 Defendants' competitors who have been and/or are currently employing workers and attempting
27 to do so in honest compliance with applicable wage and hour laws.

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51. 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, seeks full restitution of monies as necessary and according to proof, to restore all monies withheld, acquired, and/or converted by Defendants pursuant to Business & Professions Code §§ 17203 and 17208.

52. The acts complained of herein occurred within the four years immediately preceding the filing of this action.

53. Plaintiff was 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.

SEVENTH CAUSE OF ACTION

CIVIL PENALTIES UNDER THE PRIVATE ATTORNEYS GENERAL ACT (AGAINST ALL DEFENDANTS)

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

55. Defendants have committed several Labor Code violations against Plaintiff and other aggrieved employees. Plaintiff is an "aggrieved employee" within the meaning of Labor Code § 2698 *et seq.* Plaintiff, acting on behalf of himself and other aggrieved employees, brings this representative action against Defendants to recover the civil penalties due to Plaintiff, other aggrieved employees, and the State of California according to proof pursuant to Labor Code §§ 558 and 2699 (a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for each failure to pay each employee and \$200.00 for each subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100.00 for each subsequent violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per employee per pay period; (4) \$250.00 for each initial violation of Labor Code § 226 and \$1,000.00 for each subsequent violation, pursuant to Labor Code § 226.3, per employee per pay

period; and/or (5) \$100.00 for each initial violation and \$200.00 for each subsequent violation per employee per pay period for those violations of the Labor Code for which no civil penalty is specifically provided, based on the following Labor Code violations:

- a. Failing to pay Plaintiff and other aggrieved employees all overtime and/or double-time compensation earned, in violation of Labor Code §§ 204, 510, 558, 1194, and 1198;
- b. Failing to provide meal periods to Plaintiff and other aggrieved employees, and failing to pay meal period premiums, in violation of Labor Code §§ 226.7, 512, 558, and 1198;
- c. Failing to furnish Plaintiff and other aggrieved employees with accurate and complete itemized wage statements, in violation Labor Code §§ 226 and 1198;
- d. Failing to pay all wages owed to Plaintiff and other aggrieved former employees at their separation of employment, in violation of Labor Code §§ 201-203;
- e. Failing to reimburse Plaintiff and other aggrieved employees for expenses incurred in the course of employment, in violation of Labor Code §§ 2802 and 2804; and
- f. Failing to maintain accurate records on behalf of Plaintiff and other aggrieved employees, in violation of Labor Code §§ 1174 and 1198.

56. On or about June 18, 2024, Plaintiff notified Defendant Advanced Concepts Construction Services, Inc., via certified mail, and the California Labor and Workforce Development Agency (“LWDA”) via its website, of Defendants’ violations of the California Labor Code and Plaintiff’s intent to bring a claim for civil penalties under California Labor Code § 2698 *et seq.* with respect to the violations of the California Labor Code identified in paragraph 55 (a)-(f) above. Now that sixty-five days have passed from Plaintiff’s notifying Defendants and the LWDA of these violations, Plaintiff has exhausted his administrative requirements for bringing a claim under the Private Attorneys General Act (“PAGA”) with respect to these violations. As noted in Plaintiff’s notice letter, the “aggrieved employees” Plaintiff seeks to represent in his PAGA action are all current and former employees of Defendants who have worked for Defendants in California at any time from one year immediately preceding the date of

1 Plaintiff's PAGA notice letter through the date that judgment is entered in Plaintiff's PAGA
2 action or any alternative date agreed upon by the parties and/or approved by the court.

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

7 **PRAYER**

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

10 1. For an order certifying the proposed Classes;
11 2. For an order appointing Plaintiff as representative of the Classes;
12 3. For an order appointing counsel for Plaintiff as counsel for the Classes;
13 4. Upon the First Cause of Action, for compensatory, consequential, general, and
14 special damages according to proof pursuant to Labor Code §§ 204, 510, 511, 558, 1194, 1198,
15 and 1810 *et seq.*;

16 5. Upon the Second Cause of Action, for compensatory, consequential, general, and
17 special damages according to proof pursuant to Labor Code §§ 226.7, 512, and 1198;

18 6. Upon the Third Cause of Action, for statutory penalties pursuant to Labor Code §
19 226, *et seq.*;

20 7. Upon the Fourth Cause of Action, for statutory waiting time penalties pursuant to
21 Labor Code §§ 201-203;

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

24 9. Upon the Sixth Cause of Action, for restitution to Plaintiff and members of the
25 Classes of all money and/or property unlawfully acquired by Defendants by means of any acts or
26 practices declared by this Court to be in violation of Bus. & Prof Code § 17200, *et seq.*;

27 10. Upon the Seventh Cause of Action, for civil penalties due to Plaintiff, other
28 aggrieved employees, and the State of California according to proof pursuant to Labor Code §

2699, including, but not limited to: (1) \$100.00 for each initial violation for each failure to pay each employee and \$200.00 for each subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100 for each subsequent violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per employee per pay period; (4) \$250.00 for each initial violation of Labor Code § 226 and \$1,000.00 for each subsequent violation, pursuant to Labor Code § 226.3 per employee per pay period; and/or (5) \$100.00 for each initial violation and \$200.00 for each subsequent violation per employee per pay period for those violations of the Labor Code for which no civil penalty is specifically provided, pursuant to Labor Code § 2699(f);

11. Prejudgment interest on all due and unpaid wages and other damages pursuant to Cal. Labor Code §§ 218.6, 1194(a), and 2802(b); Civil Code § 3287; and Art. XV, § 1 of the California Constitution;

12. On all causes of action, for attorneys' fees and costs as provided by Labor Code §§ 226(e), 1194 *et seq.*, 2802(c), 2699, and Code of Civil Procedure § 1021.5; and

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

Date: August 23, 2024

Respectfully submitted,
MARQUEE LAW GROUP, A.P.C.

By:


Tuvia Korobkin
Attorney for Plaintiff

DEMAND FOR JURY TRIAL

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

Dated: August 23, 2024

Respectfully submitted,
MARQUEE LAW GROUP, A.P.C.

By:


Tuvia Korobkin
Attorney for Plaintiff