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ELECTRONICALLY FILED
Superior Court of California,
County of Tulare
09/16/2024
By: Vanessa Minguella,
Deputy Clerk

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

GABRIEL GARCIA MANCILLA, as an
individual, JUAN DIAZ, as an individual and
on behalf of themselves and all others similarly
situated,

Plaintiffs,

v.

SIERRA VIEW DAIRY, general partnership;
and DOES 1 through 100, inclusive,

Defendants.

Case No. VCU309938

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

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

- (1) **MINIMUM WAGE VIOLATIONS
(LABOR CODE §§ 1182.12, 1194,
1194.2, 1197);**
- (2) **FAILURE TO PAY ALL
OVERTIME WAGES (LABOR
CODE §§ 204, 510, 558, 1194, AND
1198);**
- (3) **MEAL PERIOD VIOLATIONS
(LABOR CODE §§ 226.7 AND 512)**
- (4) **REST PERIOD VIOLATIONS
(LABOR CODE §§ 226.7, 516);**
- (5) **WAITING TIME PENALTIES
(LABOR CODE §§ 201-203);**
- (6) **WAGE STATEMENT VIOLATIONS
(LABOR CODE § 226, *et seq.*);**
- (7) **UNFAIR COMPETITION (BUS &
PROF CODE § 17200, *et seq.*);**
- (8) **FAILURE TO REIMBURSE FOR
NECESSARY BUSINESS
EXPENSES (LABOR CODE § 2802);
AND**
- (9) **CIVIL PENALTIES UNDER THE
PRIVATE ATTORNEYS GENERAL
ACT (LABOR CODE § 2698 *et seq.*).**

**DEMAND FOR JURY TRIAL
UNLIMITED CIVIL CASE**

1 Plaintiffs Gabriel Garcia Mancilla and Juan Diaz (hereinafter “Plaintiffs”), as individuals
2 and on behalf of all others similarly situated, hereby bring this First Amended Class and
3 Representative Action Complaint against Sierra View Dairy and DOES 1 to 100, inclusive
4 (collectively “Defendants”), and on information and belief alleges as follows:

5 **JURISDICTION**

6 1. Plaintiffs hereby bring this First Amended Class and Representative Action
7 Complaint for recovery of unpaid wages and penalties under California Business and Professions
8 Code § 17200 *et seq.*, Labor Code §§ 201-204, 226 *et seq.*, 226.2, 226.7, 510, 512, 516, 558,
9 1182.12, 1194, 1194.2, 1197, 1198, 2698, *et seq.*, 2802, and Industrial Welfare Commission Wage
10 Order 14 (“Wage Order 14”), in addition to seeking declaratory relief and restitution. This
11 Complaint is brought pursuant to California Code of Civil Procedure § 382. This Court has
12 jurisdiction over Defendants’ violations of the California Labor Code because the amount in
13 controversy exceeds this Court’s jurisdictional minimum.

14 **VENUE**

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

20 **PARTIES**

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

1 *et seq.* (“Unfair Competition Law”), and Wage Order 14, which sets employment standards for
2 the agricultural industries.

3 4. Plaintiffs are informed and believe, and based thereon allege, that during the four
4 years preceding the filing of the Complaint and continuing to the present, Defendants did (and
5 continue to do) business in the dairy industry, employed Plaintiffs within Tulare County and the
6 state of California and, therefore, were (and are) doing business in Tulare County and the State
7 of California.

8 5. Plaintiffs do not know the true names or capacities, whether individual, partner, or
9 corporate, of the defendants sued herein as DOES 1 to 100, inclusive, and for that reason, said
10 defendants are sued under such fictitious names, and Plaintiffs will seek leave from this Court to
11 amend this Complaint when such true names and capacities are discovered. Plaintiffs are
12 informed, and believe, and based thereon allege, that each of said fictitious defendants, whether
13 individual, partners, or corporate, were responsible in some manner for the acts and omissions
14 alleged herein, and proximately caused Plaintiffs and the Classes (as defined herein) to be
15 subjected to the unlawful employment practices, wrongs, injuries and damages complained of
16 herein.

17 6. Plaintiffs are informed, and believe, and thereon allege, that at all times mentioned
18 herein, Defendants were and are the employers of Plaintiffs and all members of the Classes.

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

26 8. At all times mentioned herein, Defendants, and each of them, were members of
27 and engaged in a joint venture, partnership, and common enterprise, and acting within the course
28 and scope of, and in pursuance of said joint venture, partnership, and common enterprise. Further,

1 Plaintiffs allege that all Defendants were joint employers for all purposes towards Plaintiffs and
2 all members of the Classes.

3 **GENERAL FACTUAL ALLEGATIONS**

4 9. Plaintiff Garcia Mancilla worked for Defendants from approximately May 15,
5 2016 to approximately November 15, 2023 when Defendants refused to permit Plaintiff Garcia
6 Mancilla to return to work after a couple of months of approved disability leave. Plaintiff Garcia
7 Mancilla worked as an agricultural worker and he was tasked with watering crops, maintaining
8 proper water levels and occasionally driving tractors. Plaintiff Garcia Mancilla was generally
9 scheduled to work from Monday to Saturday and also on Sundays from around 5:00 a.m. until
10 5:00 p.m. or up to 7:30 p.m. or later.

11 10. Plaintiff Diaz worked for Defendants from approximately early 2018 to
12 approximately January 2023. Plaintiff Diaz also worked as an agricultural worker and he was
13 tasked with watering crops, maintaining proper water levels and occasionally driving tractors.
14 Like Plaintiff Garcia Mancilla, Plaintiff Diaz was generally scheduled to work from Monday to
15 Saturday and also on Sundays from around 5:00 a.m. until 5:00 p.m. or up to 7:30 p.m. or later.

16 11. Throughout the duration of Plaintiffs' employment with Defendants, Plaintiffs and
17 other non-exempt employees were not paid for all hours worked as Defendants would not
18 accurately keep track of their actual hours worked. Upon information and belief, the time records
19 maintained by Defendants were not reflective of the actual number of hours that Plaintiffs and
20 other non-exempt employees actually worked. Plaintiffs and other non-exempt employees
21 clocked in to work on a computer located at Defendants' premises. Defendants also asked
22 Plaintiffs and other non-exempt employees to write down their start and end times, but not their
23 meal period times. Pursuant to their supervisor's instructions, Plaintiffs and other non-exempt
24 employees performed tasks approximately 15-20 minutes in duration for 1-2 times per week prior
25 to clocking in, such as checking water levels or other tasks that could prevent emergency
26 situations from arising later in the day. Sometimes, Plaintiffs had to perform work after clocking
27 out for the day such as cleaning cow manure and pumping out water after it rained. Plaintiffs
28 estimate that they each spent 15-20 minutes working after clocking out approximately 1-4 times

per week. Also, approximately 2-3 times per week, Plaintiffs spent at least 35 or 40 minutes working during their lunch hours and they did not get paid for this time because it was Defendants' policy to automatically deduct one hour for a first meal period. Overall, Plaintiffs and other non-exempt employees spent at least approximately more than 4 hours each week working off the clock by checking water levels, trying to prevent larger issues from arising, attending to issues requiring immediate attention and cleaning the premises. This estimate does not include the second one-hour deduction that Plaintiffs and other non-exempt employees experienced when they worked beyond twelve (12 hours) in one day approximately 1-4 times per week.

12. Furthermore, Plaintiffs and other non-exempt employees worked overtime hours, based on the requirements of Wage Order 14, but did not receive overtime compensation equal to one and one-half times their regular rates of pay for all overtime hours worked. Upon information and belief, Defendants systematically failed to pay overtime compensation due to Plaintiffs and other non-exempt employees when they worked the requisite number of hours to be entitled to such pay. Instead, Plaintiffs and other non-exempt employees would either be paid their normal hourly rate for overtime hours worked, paid an overtime rate for double overtime worked, or simply not paid for these hours worked at all. As an example, checks 12020, 11872, 11801, 11714, 11642, 11575 and more, each issued to Plaintiff Garcia Mancilla for a 2-week pay period in 2023, each show that Plaintiff Garcia Mancilla was compensated the minimum wage for exactly 100 hours per pay period even though as employers of more than 26 employees, Defendants should have compensated at least 20 of those hours at the overtime rate. Plaintiffs and other non-exempt employees should have been compensated at the minimum wage rate for a maximum of 40 hours per week. Further, Plaintiffs and other non-exempt employees were not compensated at the proper regular rate for overtime worked because the regular rate did not factor in the \$100 of bonuses received per month. Further, as discussed above, Plaintiffs and other non-exempt employees worked at least approximately four hours in a week beyond 40 hours in a workday without any compensation at all. Furthermore, Plaintiffs and other non-exempt employees were required to work seven consecutive days in a workweek but were not paid an overtime rate of pay for the first eight hours worked on the seventh consecutive day worked during

1 a workweek or double their regular rate of pay for work in excess of eight hours on the seventh
2 day of the workweek worked. As a result, Defendants failed to ensure that Plaintiffs and other
3 non-exempt employees were being paid at least the minimum wage for all hours actually worked,
4 and failed to ensure that Plaintiffs and other non-exempt employees received proper overtime
5 wages for all overtime hours worked, in compliance with Wage Order 14.

6 13. Plaintiffs and other non-exempt employees were not authorized to take all legally
7 required rest periods. This practice was pervasive throughout Plaintiffs' employment. Plaintiffs
8 and other non-exempt employees almost never received an uninterrupted rest period every four
9 hours because Defendants enforced an unlawful policy of combining two rest periods to be taken
10 at the same time as the meal period at approximately the seventh hour of the workday. Even
11 though Plaintiffs often worked more than twelve (12) hours, Plaintiffs almost never received a
12 first, second or third rest period throughout their employment with Defendants. Despite
13 Defendants' failure to authorize and permit Plaintiffs and other non-exempt employees to take all
14 lawful paid rest periods, due to their uniform and unlawful practices, Defendants never provided
15 Plaintiffs and other non-exempt employees with an hour of pay at their regular rate for each rest
16 period violation as required by Labor Code § 226.7. Upon information and belief, during at least
17 a portion of the class period, Defendants maintained no payroll code or another mechanism for
18 the payment of rest period premiums in the event Plaintiffs and other non-exempt employees were
19 not authorized to take lawful rest periods.
20

21 14. Defendants also did not provide Plaintiffs and other non-exempt employees with
22 a legally compliant first meal period when they worked shifts in excess of 5.0 hours or a legally
23 compliant second meal period when they worked shifts longer than 10 hours. For example, even
24 though Plaintiffs and other non-exempt employees began their day at approximately 5:00 a.m.,
25 they were not scheduled to begin their first meal periods until the 7th hour of the work day at 12:00
26 p.m. Additionally, Defendants required Plaintiffs and other non-exempt employees to cut their
27 first meal periods to less than 30 minutes at least 2-3 times per week in order to perform tasks
28 such as checking water levels. Regardless of whether Plaintiffs and other non-exempt employees

1 received an uninterrupted 30 minutes, Defendants automatically deducted 1 hour of meal period
2 time from Plaintiffs and other non-exempt employees and instructed Plaintiffs and other non-
3 exempt employees not to clock in and out for their meal periods or write their meal period hours
4 down. Even though Plaintiffs and other non-exempt employees usually worked a shift in excess
5 of twelve (12) hours per day, Plaintiffs and other non-exempt employees were almost never
6 permitted to exercise their right to a second meal period. Plaintiffs and other non-exempt
7 employees were not only unable to exercise the right to a second meal period, but they were
8 informed that if they worked a minute beyond twelve (12) hours in one day, then they would
9 automatically receive a second one-hour deduction from their pay even though they did not
10 receive a second meal period. Despite Defendants' failure to provide Plaintiffs and other non-
11 exempt employees with all lawful meal periods due to their uniform and unlawful practices,
12 Defendants never provided Plaintiffs and other non-exempt employees with an hour of pay at
13 their regular rate for each meal period violation as required by Labor Code § 226.7. Upon
14 information and belief, during at least a portion of the class period, Defendants maintained no
15 payroll code or another mechanism for the payment of meal period premiums in the event
16 Plaintiffs and other non-exempt employees were not authorized to take lawful meal periods.
17

18 15. Furthermore, Defendants failed to adequately reimburse Plaintiffs and other non-
19 exempt employees for all reasonable and necessary work expenditures, including but not limited
20 to, requiring Plaintiffs and other non-exempt employees to utilize their personal cell phone for
21 necessary business purposes. Plaintiffs were not ever provided any reimbursement for this
22 necessary use.

23 16. Defendants have maintained inaccurate payroll records, failed to timely pay all
24 wages owed to employees, and failed to timely pay separating employees at the time of their
25 separation, and issued inaccurate wage statements. This is in part a result of Defendants' failure
26 to accurately compensate Plaintiffs and other non-exempt employees for all minimum and
27 overtime wages, and failure to pay premium pay for failing to provide all required meal periods
28 and authorize all rest periods.

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

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

CLASS ACTION ALLEGATIONS

19. **Class Definitions:** Plaintiffs bring this action on behalf of themselves and the following Classes pursuant to § 382 of the Code of Civil Procedure:

a. The Minimum Wage Class consists of all current and former non-exempt employees of Defendants who performed in California and were subject to Defendants' timekeeping systems and/or practices during the four years immediately preceding the filing of this lawsuit through the present.

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

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

20. **Numerosity/Ascertainability:** The members of the Classes are so numerous that joinder of all members would be unfeasible and not practicable. The membership of the Classes is unknown to Plaintiffs at this time; however, it is estimated that the members of the Classes number greater than fifty (50) individuals. The identity of such membership is readily ascertainable via inspection of Defendants' employment records.

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

- i. Whether Defendants paid all minimum wages owed for all hours worked to members of the Minimum Wage Class pursuant to Labor Code §§ 1182.12, 1194, 1194.2, and 1197;
- ii. Whether Defendants violated the applicable Labor Code provisions, including, but not limited to, §§ 510 and 1194 and Wage Order 14 by requiring members of the Overtime Wage Class to perform overtime work and not paying for said work in accordance with the overtime laws of the State of California;
- iii. Whether Defendants' timekeeping policies/practices resulted in the failure to properly compensate members of the Minimum Wage Class;
- iv. Whether Defendants provided all legally compliant meal periods to members of the Meal Period Class pursuant to Labor Code §§ 226.7 and 512;
- v. Whether Defendants provided all legally compliant rest periods to members of the Rest Period Class pursuant to Labor Code §§ 226.7 and 516;
- vi. Whether Defendants failed to reimburse members of the Employee Expense Class

- 1 for business expenditures necessarily incurred in the performance of their duties;
- 2 vii. Whether Defendants provided accurate, itemized wage statements to members of
- 3 the Classes; and
- 4 viii. Whether Defendants' policies and/or practices for the timing and amount of
- 5 payment of final wages to members of the Waiting Time Class at the time of
- 6 separation from employment were lawful.

7 **22. Predominance of Common Questions:** Common questions of law and fact

8 predominate over questions that affect only individual members of the Classes. The common

9 questions of law set forth above are numerous and substantial and stem from Defendants' policies

10 and/or practices applicable to each individual class member, such as Defendants' uniform

11 timekeeping policies and practices, meal and rest period policies and practices, non-

12 reimbursement policies and practices, wage statement policies and practices, and the policies and

13 practices regarding the timely payment of final wages. As such, the common questions

14 predominate over individual questions concerning each individual class member's showing as to

15 his or her eligibility for recovery or as to the amount of his or her damages.

16

17 **23. Typicality:** The claims of Plaintiffs are typical of the claims of the Classes because

18 Plaintiffs were employed by Defendants as non-exempt employees in California during the

19 statute(s) of limitations period applicable to each cause of action pled in the Complaint. As alleged

20 herein, Plaintiffs, like the members of the Classes, were subject to Defendants' meal/rest period

21 and timekeeping policies and practices, were subjected to Defendants' unlawful failure to

22 reimburse business expenses, was provided inaccurate wage statements, and was not paid all

23 wages earned at the time of his separation of employment.

24 **24. Adequacy of Representation:** Plaintiffs are fully prepared to take all necessary

25 steps to represent fairly and adequately the interests of the members of the Classes. Moreover,

26 Plaintiffs' attorneys are ready, willing and able to fully and adequately represent the members of

27 the Classes and Plaintiffs. Plaintiffs' attorneys have prosecuted and defended numerous wage-

28 and-hour class actions in state and federal courts in the past and are committed to vigorously

1 prosecuting this action on behalf of the members of the Classes.

2 25. **Superiority:** The California Labor Code is broadly remedial in nature and serves
3 an important public interest in establishing minimum working conditions and standards in
4 California. These laws and labor standards protect the average working employee from
5 exploitation by employers who have the responsibility to follow the laws and who may seek to
6 take advantage of superior economic and bargaining power in setting onerous terms and
7 conditions of employment. The nature of this action and the format of laws available to Plaintiffs
8 and members of the Classes make the class action format a particularly efficient and appropriate
9 procedure to redress the violations alleged herein. If each employee were required to file an
10 individual lawsuit, Defendants would necessarily gain an unconscionable advantage since they
11 would be able to exploit and overwhelm the limited resources of each individual plaintiff with
12 their vastly superior financial and legal resources. Moreover, requiring each member of the
13 Classes to pursue an individual remedy would also discourage the assertion of lawful claims by
14 employees who would be disinclined to file an action against their former and/or current employer
15 for real and justifiable fear of retaliation and permanent damages to their careers at subsequent
16 employment. Further, the prosecution of separate actions by the individual class members, even
17 if possible, would create a substantial risk of inconsistent or varying verdicts or adjudications
18 with respect to the individual class members against Defendants herein; and which would
19 establish potentially incompatible standards of conduct for Defendants; and/or legal
20 determinations with respect to individual class members which would, as a practical matter, be
21 dispositive of the interest of the other class members not parties to adjudications or which would
22 substantially impair or impede the ability of the class members to protect their interests. Further,
23 the claims of the individual members of the Classes are not sufficiently large to warrant vigorous
24 individual prosecution considering all of the concomitant costs and expenses attending thereto.
25 As such, the Classes (as defined herein) are maintainable as a Class under § 382 of the Code of
26 Civil Procedure.
27
28

FIRST CAUSE OF ACTION

MINIMUM WAGE VIOLATIONS
(AGAINST ALL DEFENDANTS)

26. Plaintiffs re-allege and incorporate by reference all previous paragraphs.

27. Wage Order 14, § 4 and California Labor Code §§ 1197 and 1182.12 establish the right of employees to be paid minimum wages for all hours worked in amounts set by state law. Labor Code §§ 1194(a) and 1194.2(a) provide that an employee who has not been paid the legal minimum wage as required by Labor Code § 1197 may recover the unpaid balance together with attorneys' fees and costs of suit, as well as liquidated damages in an amount equal to the unpaid wages and interest accrued thereon. At all relevant times herein, Defendants failed to conform their pay practices to the requirements of the law by failing to pay Plaintiffs and the Minimum Wage Class for all hours actually worked including, but not limited to, all hours they were subject to the control of Defendants and/or suffered or permitted to work under the California Labor Code and Wage Order 14.

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

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

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

Civil Procedure § 1021.5.

SECOND CAUSE OF ACTION

FAILURE TO PAY ALL OVERTIME WAGES

(AGAINST ALL DEFENDANTS)

31. Plaintiffs re-allege and incorporate by reference all previous paragraphs.

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

33. At all times relevant herein, Defendants were required to properly compensate Plaintiffs and members of the Overtime Class for all overtime hours worked pursuant to California Labor Code § 1194 and Wage Order 14. Wage Order 14, § 3 requires an employer to pay overtime wages when an employee's hours worked cross certain thresholds or meet certain criteria set forth in the Wage Order.

34. The foregoing policies and practices are unlawful and create entitlement to recovery by Plaintiffs 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, 510, 558, 1194, and 1198, Wage Order 14, and Code of Civil Procedure § 1021.5.

THIRD CAUSE OF ACTION

MEAL PERIOD VIOLATIONS

(AGAINST ALL DEFENDANTS)

35. Plaintiffs re-allege and incorporate by reference all previous paragraphs.

36. Plaintiffs are informed and believe, and based thereon allege, that Defendants failed in their affirmative obligation to provide all of their non-exempt employees in California, including Plaintiffs and members of the Meal Period Class with all legally compliant meal periods in accordance with the mandates of the California Labor Code and Wage Order 14, § 11. Despite Defendants' violations, Defendants did not pay an additional hour of pay to Plaintiffs and the

1 Meal Period Class at their respective regular rate of pay, in accordance with California Labor
2 Code §§ 204, 210, 226.7, and 512.

3 37. As a result, Defendants are responsible for paying premium compensation for meal
4 period violations including interest thereon, as well as statutory penalties, civil penalties, and
5 costs of suit, pursuant to Labor Code §§ 226.7, 512, and 558, Wage Order 14, and Civil Code §§
6 3287(b) and 3289.

7 **FOURTH CAUSE OF ACTION**

8 **REST PERIOD VIOLATIONS**

9 **(AGAINST ALL DEFENDANTS)**

10 38. Plaintiffs re-allege and incorporate by reference all previous paragraphs.

11 39. Wage Order 14, § 12 and California Labor Code §§ 226.2, 226.7 and 516 establish
12 the right of employees to be authorized and permitted to take a paid rest period of at least ten (10)
13 minutes net rest time for each four (4) hour period worked, or major fraction thereof.

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

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

21 **FIFTH CAUSE OF ACTION**

22 **WAITING TIME PENALTIES**

23 **(AGAINST ALL DEFENDANTS)**

24 42. Plaintiffs re-allege and incorporate by reference all previous paragraphs.

25 43. This cause of action is brought pursuant to Labor Code §§ 201-203, which requires
26 an employer to pay all wages immediately at the time of termination of employment in the event
27 the employer discharges the employee or the employee provides at least 72 hours of notice of
28 his/her intent to quit. In the event the employee provides less than 72 hours of notice of his/her

1 intent to quit, said employee's wages become due and payable not later than 72 hours upon said
2 employee's last date of employment.

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

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

16 **SIXTH CAUSE OF ACTION**

17 **WAGE STATEMENT VIOLATIONS**

18 **(AGAINST ALL DEFENDANTS)**

19 46. Plaintiffs re-allege and incorporate by reference all previous paragraphs.

20 47. Plaintiffs are informed and believe, and based thereon allege, that Defendants
21 knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Plaintiffs
22 and the Wage Statement Class with complete and accurate wage statements reflecting the accurate
23 number of hours worked, and meal & rest period premiums in violation of Labor Code § 226 et
24 seq.

25 48. Defendants' failures in furnishing Plaintiffs and the Wage Statement Class with
26 complete and accurate itemized wage statements resulted in actual injury, as said failures led to,
27 among other things, the non-payment of all minimum wages, overtime wages, meal and rest
28 period premium wages, and deprived them of the information necessary to identify the

1 discrepancies in Defendants' reported data.

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

6 **SEVENTH CAUSE OF ACTION**

7 **UNFAIR COMPETITION**

8 **(AGAINST ALL DEFENDANTS)**

9 50. Plaintiffs re-allege and incorporate by reference all previous paragraphs.

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

17 52. Defendants' utilization of these unfair and/or unlawful business practices deprived
18 Plaintiffs and continues to deprive members of the Classes of compensation to which they are
19 legally entitled, constitutes unfair and/or unlawful competition, and provides an unfair advantage
20 over Defendants' competitors who have been and/or are currently employing workers and
21 attempting to do so in honest compliance with applicable wage and hour laws.

22 53. Because Plaintiffs are victims of Defendants' unfair and/or unlawful conduct
23 alleged herein, Plaintiffs for themselves and on behalf of the members of the Classes, seek full
24 restitution of monies, as necessary and according to proof, to restore any and all monies withheld,
25 acquired and/or converted by Defendants pursuant to Business and Professions Code §§ 17203
26 and 17208.

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

1 55. Plaintiffs are compelled to retain the services of counsel to file this court action to
2 protect their interests and those of the Classes, to obtain restitution and injunctive relief on behalf
3 of Defendants' current non-exempt employees, and to enforce important rights affecting the
4 public interest. Plaintiffs have thereby incurred the financial burden of attorneys' fees and costs,
5 which they are entitled to recover under Code of Civil Procedure § 1021.5.

6 **EIGHTH CAUSE OF ACTION**

7 **FAILURE TO REIMBURSE BUSINESS EXPENSES**

8 **(AGAINST ALL DEFENDANTS)**

9 56. Plaintiffs re-allege and incorporates by reference all previous paragraphs.

10 57. At all relevant times herein, Defendants were subject to Labor Code § 2802, which
11 states that "an employer shall indemnify his or her employees for all necessary expenditures or
12 losses incurred by the employee in direct consequence of the discharge of his or her duties, or of
13 his or her obedience to the directions of the employer..."

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

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

19 60. Pursuant to Labor Code §2802(b), any action brought for the reimbursement of
20 necessary expenditures carries interest at the same rate as judgments in civil actions. Thus,
21 Plaintiffs and members of the Employee Expense Class are entitled to interest, which shall accrue
22 from the date on which they incurred the initial necessary expenditure.

23 **NINTH CAUSE OF ACTION**

24 **PRIVATE ATTORNEYS GENERAL ACT**

25 **(AGAINST ALL DEFENDANTS)**

26 61. Plaintiff Garcia Mancilla re-alleges and incorporates by reference all prior
27 paragraphs as though fully set forth herein.

28 62. Defendants have committed several Labor Code violations against Plaintiff Garcia

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

- 16 a. Failing to pay minimum wages for all hours worked to Plaintiff Garcia
17 Mancilla, the Minimum Wage Class, and other aggrieved employees in
18 violation of Labor Code §§ 551-552, 558, 1182.12, 1194, 1194.2, 1197, and
19 1198;
- 20 b. Failing to pay Plaintiff Garcia Mancilla, the Overtime Class, and other
21 aggrieved employees all earned overtime compensation in violation of Labor
22 Code §§ 204, 510, 558, 1194, and 1198;
- 23 c. Failing to authorize and permit all legally required rest periods, and failure to
24 pay rest period premium wages, to Plaintiff Garcia Mancilla, the Rest Period
25 Class, and other aggrieved employees at the regular rate of compensation in
26 violation of Labor Code §§ 226.7, 516 and 558;
- 27 d. Failing to provide all legally required meal periods, and failure to pay meal
28 period premium wages, to Plaintiff Garcia Mancilla, the Meal Period Class, and

1 other aggrieved employees at the regular rate of compensation in violation of
2 Labor Code §§ 226.7, 512, and 1198;

3 e. Failing to furnish Plaintiff Garcia Mancilla, the Wage Statement Class, and
4 other aggrieved employees with complete, accurate, itemized wage statements
5 in violation of Labor Code § 226;

6 f. Failing to reimburse Plaintiff Garcia Mancilla, the Employee Expense Class,
7 and other aggrieved employees for all work-related expenses incurred;

8 g. Failing to timely pay all final wages and compensation earned by Plaintiff
9 Garcia Mancilla, the Waiting Time Class, and other aggrieved employees at the
10 time of separation in violation of Labor Code §§ 201, 202, and 203;

11 h. Failing to pay non-exempt employees all earned wages at least twice during
12 each calendar month in violation of Labor Code § 204;

13 i. Failing to permit and authorize Plaintiff Garcia Mancilla and other non-exempt
14 to exercise the use of their accrued paid sick leave days in violation of Labor
15 Code § 245.5;

16 j. Failing to provide legally mandated disclosures and/or written notices
17 regarding the terms of employment of Plaintiff Garcia Mancilla and other non-
18 exempt employees in violation of Labor Code § 2810.5;

19 k. Failing to maintain accurate records on behalf of Plaintiff Garcia Mancilla and
20 other aggrieved employees in violation of Labor Code § 1174 and 1198; and

21 l. Failing to pay Plaintiff Garcia Mancilla and other aggrieved employees all
22 agreed-upon wages including bonus wages accrued.

23 63. On June 13, 2024, Plaintiff Garcia Mancilla notified Defendants via certified mail,
24 and notified the California Labor and Workforce Development Agency (“LWDA”) via its
25 website, of Defendants’ violations of the California Labor Code and Plaintiff Garcia Mancilla’s
26 intent to bring a claim for civil penalties under California Labor Code § 2698 *et seq.* with respect
27 to violations of the California Labor Code identified in Paragraph 63 (a)-(l). Now that sixty-five
28 days have passed from Plaintiff Garcia Mancilla’s notifying Defendants and the LWDA of these

1 violations, and the LWDA has not provided notice that it intends to investigate the violations,
2 Plaintiff Garcia Mancilla has exhausted his administrative requirements for bringing a claim
3 under the Private Attorneys General Act with respect to these violations.

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

9 **PRAYER**

10 WHEREFORE, Plaintiffs pray for judgment for themselves and for all others on whose
11 behalf this suit brought against Defendants, as follows:

- 12 1. For an order certifying the proposed Classes;
- 13 2. For an order appointing Plaintiffs as representatives of the Classes;
- 14 3. For an order appointing Counsel for Plaintiffs as Counsel for the Classes;
- 15 4. Upon the First Cause of Action, for payment of minimum wages, liquidated
16 damages, and penalties according to proof pursuant to Labor Code §§ 1182.12, 1194, 1194.2,
17 1198 and Wage Order 14 § 5(A);
- 18 5. Upon the Second Cause of Action, for compensatory, consequential, general, and
19 special damages according to proof pursuant to Labor Code §§ 204, 510, 558, 1194, 1198 and
20 Wage Order 14 § 5(A);
- 21 6. Upon the Third Cause of Action, for compensatory, consequential, general and
22 special damages according to proof pursuant to Labor Code §§ 226.7, 512, and 558;
- 23 7. Upon the Fourth Cause of Action, for compensatory, consequential, general and
24 special damages according to proof pursuant to Labor Code §§ 226.2, 226.7, 516, and 558;
- 25 8. Upon the Fifth Cause of Action, for statutory waiting time penalties pursuant to
26 Labor Code §§ 201-203;
- 27 9. Upon the Sixth Cause of Action, for statutory penalties pursuant to Labor Code §
28 226;

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

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

6 12. Upon the Ninth Cause of Action, for (1) \$100.00 for each initial violation for each
7 failure to pay each employee and \$200 for each subsequent violation or willful or intentional
8 violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the
9 amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100 for each subsequent
10 violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial
11 violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per
12 employee per pay period; (4) \$250.00 for each initial violation and \$1,000.00 for each subsequent
13 violation pursuant to Labor Code § 226.3 per employee per pay period; and/or (5) \$100.00 for
14 each initial violation and \$200 for each subsequent violation per employee per pay period for the
15 violations of the Labor Code Sections cited in Labor Code § 2699.5;

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

18 14. On all causes of action, for attorneys' fees and costs as provided by Labor Code
19 §226, and Code of Civil Procedure § 1021.5; and

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

21
22 Dated: September 16, 2024

Respectfully submitted,
STANSBURY BROWN LAW, PC



24 By:

25 Daniel J. Brown
26 Jessica Flores
27 Attorneys for Plaintiffs
28

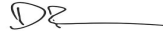
1 **DEMAND FOR JURY TRIAL**

2 Plaintiffs hereby demand a jury trial with respect to all issues triable by jury.

3
4 Respectfully submitted,

5 Dated: September 16, 2024

STANSBURY BROWN LAW, PC

6 

7 By:

8 Daniel J. Brown

9 Jessica Flores

10 Attorneys for Plaintiffs

PROOF OF SERVICE

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

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

On September 16, 2024, I served the document listed below on the parties in this action as follows:

- **FIRST AMENDED CLASS REPRESENTATIVE ACTION COMPLAINT**

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

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

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

Executed on September 13, 2024, at South Gate, California.

Laura Romero

Laura Romero

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