

HAINES LAW GROUP, APC
 Paul K. Haines (SBN 248226)
 phaines@haineslawgroup.com
 Fletcher W. Schmidt (SBN 286462)
 fschmidt@haineslawgroup.com
 Matthew K. Moen (SBN 305956)
 mmoen@haineslawgroup.com
 Aden M. Khachadorian (SBN 346908)
 akhachadorian@haineslawgroup.com
 2155 Campus Drive, Suite 180
 El Segundo, California 90245
 Tel: (424) 292-2350
 Fax: (424) 292-2355

Attorneys for Plaintiff

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 Superior Court of California
 County of Los Angeles
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David W. Slayton, Executive Officer / Clerk of Court
 By: R. Lozano Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

FELIPE HERRERA, as an individual and on
 behalf of all others similarly situated,

Plaintiff,

vs.

BRIGHTVIEW LANDSCAPE SERVICES,
 INC., a California Corporation; and DOES 1
 through 100,

Defendants.

Case No.: 24STCV14201

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

- (1) **FAILURE TO PAY ALL OVERTIME
 WAGES (LABOR CODE §§ 204, 510,
 558, 1194, 1198);**
- (2) **MINIMUM WAGE VIOLATIONS
 (LABOR CODE §§ 1182.12, 1194,
 1194.2, 1197);**
- (3) **FAILURE TO PAY ALL WAGES AT
 THE AGREED-UPON RATE
 (LABOR CODE §§ 221-223);**
- (4) **FAILURE TO PAY PREVAILING
 WAGE RATE (LABOR CODE §§
 1771, 1774);**
- (5) **MEAL PERIOD VIOLATIONS
 (LABOR CODE §§ 226.7, 512, 558);**
- (6) **REST PERIOD VIOLATIONS
 (LABOR CODE §§ 226.7, 516, 558);**
- (7) **FAILURE TO REIMBURSE
 NECESSARY BUSINESS
 EXPENDITURES (LABOR CODE §§
 2802, 2804);**

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

**(9) WAITING TIME PENALIES (LABOR
CODE §§ 201-203);**

**(10) UNFAIR COMPETITION (BUS &
PROF CODE § 17200 *et seq.*); and**

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

**DEMAND FOR JURY TRIAL
UNLIMITED CIVIL CASE**

1 Plaintiff Felipe Herrera (“Plaintiff”) on behalf of himself and all others similarly situated,
2 hereby brings this First Amended Class and Representative Action Complaint against Defendant
3 Brightview Landscape Services, Inc., a California corporation, and DOES 1 to 100, inclusive
4 (collectively “Defendants”), and on information and belief alleges as follows:

5 **JURISDICTION**

6 1. Plaintiff, on behalf of himself and all others similarly situated, hereby brings this
7 action for recovery of unpaid wages and penalties under California Labor Code §§ 201-204, 221-
8 223, 226 *et seq.*, 226.7, 510, 512, 516, 558, 1182.12, 1194, 1194.2, 1197, 1198, 1771, 1774, 2802,
9 2804, and 2698 *et seq.*, California Business and Professions Code § 17200 *et. seq.*, and Industrial
10 Welfare Commission Wage Order 5 (“Wage Order 5”), in addition to seeking declaratory relief
11 and restitution. This action is brought pursuant to California Code of Civil Procedure § 382. This
12 Court has jurisdiction over Defendants’ violations of the California Labor Code because the
13 amount in 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 Los Angeles. Defendants transact business within the County of Los
18 Angeles and/or otherwise are found within the County of Los Angeles, and Defendants are within
19 the jurisdiction of this Court for purposes of service of process.

20 **PARTIES**

21 3. Plaintiff is an individual over the age of eighteen (18). At all relevant times herein,
22 Plaintiff was and currently is, a California resident. During the four years immediately preceding
23 the filing of this action and within the statute of limitations periods applicable to each cause of
24 action pled herein, Plaintiff was employed by Defendants as a non-exempt employee, and
25 performed work for Defendants within the Counties of Los Angeles, and San Bernardino, among
26 others. Plaintiff was, and is, a victim of Defendants’ policies and/or practices complained of
27 herein, lost money and/or property, and has been deprived of the rights guaranteed by Labor Code
28 §§ 201-204, 221-223, 226 *et seq.*, 226.7, 510, 512, 516, 558, 1182.12, 1194, 1194.2, 1197, 1198,

1 1771, 1774, 2802, 2804, and 2698 *et seq.*, California Business and Professions Code § 17200 *et*
2 *seq.* (“Unfair Competition Law”), and Wage Order 5, which sets employment standards for the
3 public housekeeping industry, including establishments contracting for the development,
4 maintenance or cleaning of grounds.

5 4. Plaintiff is informed and believes, and based thereon alleges, that during the four
6 years preceding the filing of this action and continuing to the present, Defendants did (and
7 continue to do) business within the County of Los Angeles and the State of California by operating
8 a company specializing in comprehensive landscaping services, including landscape
9 maintenance, design, development, and enhancement for residential, commercial, and
10 governmental entities, and therefore, were (and are) doing business in the County of Los Angeles
11 and the State of California.

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

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

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

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

8 **GENERAL FACTUAL ALLEGATIONS**

9 9. Defendants operate a company specializing in comprehensive landscaping
10 services, including landscape maintenance, design, development, and enhancement for
11 residential, commercial, and governmental entities. Plaintiff has been employed by Defendants
12 as a non-exempt employee from approximately 2014 until approximately April 2024 when
13 Plaintiff was laid off for a brief period time and then rehired. Plaintiff's primary job duties include
14 going to various job sites, landscaping, and maintenance work.

15 10. During Plaintiff's employment with Defendants, Defendants maintained an
16 unlawful timekeeping policy/practice that failed to compensate Plaintiff and other non-exempt
17 employees for all hours actually worked, whether by rounding, time-shaving, or otherwise.
18 Specifically, Defendants rounded and/or time-shaved Plaintiff's and other non-exempt
19 employees' hours in quarter hour increments, which resulted in Plaintiff and other non-exempt
20 employees not being compensated for all hours actually worked. Due to Defendants' timekeeping
21 policies and practices that fail to compensate for all hours worked, Plaintiff and other non-exempt
22 employees were deprived of all required minimum wages. *See Camp v. Home Depot U.S.A.,*
23 *Inc.*, (2022) 84 Cal.App.5th 638, 654 ("[I]f an employer, as in this case, can capture and has
24 captured the exact amount of time an employee has worked during a shift, the employer must pay
25 the employee for "all the time" worked."). Further, on occasions when Plaintiff and other non-
26 exempt employees worked over eight hours in a day and/or forty hours in a workweek, this
27 process of time-shaving or rounding also deprived them of all overtime wages owed. As such,
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1 Plaintiff and other non-exempt employees were not credited with all hours actually worked and
2 were not paid all minimum and overtime wages earned.

3 11. In addition, Plaintiff is informed and believes, and based thereon alleges, that
4 Defendants occasionally entered into contractual agreements which provided for an agreed-upon
5 rate to be paid to Defendants' employees performing the contracted work. However, Defendants
6 failed to pay Plaintiff and other non-exempt employees the full amount of the agreed-upon rate
7 that they were contractually obligated to pay.

8 12. Moreover, when Defendants were engaged in public works projects, they were
9 required to pay Plaintiff and other non-exempt employees at prevailing wage rates as established
10 by the Department of Industrial Relations. However, upon information and belief, Defendants
11 failed to always pay Plaintiff and other non-exempt employees at the prevailing wage rates when
12 they were engaged in public work projects.

13 13. Throughout Plaintiff's employment, Defendants failed to provide Plaintiff and
14 other non-exempt employees with all legally compliant meal periods due to Defendants' meal
15 period policies/practices, which have frequently resulted in late (commencing after the fifth hour
16 of work), short (less than 30 minutes), and missed meal periods. Specifically, Defendants'
17 unlawful meal period policies/practices failed to provide timely, duty-free 30-minute meal periods
18 commencing before the end of the fifth hour of work due to work demands imposed by
19 Defendants. Additionally, Defendants required Plaintiff and other non-exempt employees to
20 remain at the jobsite for the entire meal period, and Defendants' supervisors reprimanded and/or
21 threatened Plaintiff and other non-exempt employees with termination if they left the jobsite
22 during meal periods. As a result, Plaintiff and other non-exempt employees regularly did not
23 receive timely and duty-free first meal periods that commenced prior to the conclusion of the fifth
24 hour of work. On occasions when Plaintiff and other non-exempt employees were not provided
25 with all lawful meal periods to which they were entitled, Defendants failed to pay Plaintiff and
26 other non-exempt employees an additional hour of premium pay at their respective regular rates
27 of pay for each workday in which a meal period violation occurred, as required by Labor Code §
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226.7. Upon information and belief, Defendants failed to maintain pay codes for the payment of meal period premium payments as required by Labor Code § 226.7.

14. Defendants' unlawful rest period policies/practices similarly have failed to authorize and permit Plaintiff and other non-exempt employees to take *any* duty-free 10-minute rest periods for every four hours worked, or major fraction thereof. Employees were not permitted to leave the jobsite during rest periods and therefore even assuming that Plaintiff and other non-exempt employees were authorized and permitted to take their rest periods (which they were not), Defendants did not relieve employees of all employer control during rest periods in violation of *Augustus v. ABM Security Svcs., Inc.*, 2 Cal.5th 257, 269 (2016) ("[O]ne cannot square the practice of compelling employees to remain at the ready, ***tethered by time and policy to particular locations*** or communications devices, with the requirement to relieve employees of all work duties and employer control during 10-minute rest periods.")(emphasis added). Despite Defendants' failure to authorize and permit Plaintiff and other non-exempt employees to take all legally compliant rest periods to which they were entitled, Defendants failed to compensate Plaintiff and other non-exempt employees with an additional hour of premium pay at their respective regular rates of pay for each workday in which a rest period violation occurred, as required by Labor Code § 226.7. Upon information and belief, Defendants failed to maintain pay codes for the payment of rest period premium payments as required by Labor Code § 226.7.

15. Additionally, upon information and belief, Defendants required Plaintiff and other non-exempt employees to use their personal vehicles to commute to and from different work sites. Despite requiring Plaintiff and other non-exempt employees to utilize their personal vehicles for work purposes, Defendants have failed to reimburse these non-exempt employees for all necessary business expenses associated with using their personal vehicles, in violation of Labor Code § 2802.

16. As a result of Defendants' failure to pay all overtime wages, minimum wages, and meal and rest period premium wages owed, Defendants also maintained inaccurate payroll records and issued inaccurate wage statements to Plaintiff and other non-exempt employees, and

1 failed to pay all final wages owed to Plaintiff and other non-exempt employees upon their
2 respective separations of employment.

3 **CLASS ACTION ALLEGATIONS**

4 17. **Class Definitions:** Plaintiff brings this action on behalf of himself and the
5 following Classes pursuant to § 382 of the Code of Civil Procedure:

- 6 a. The Overtime Class consists of consists of all Defendants' current and former non-
7 exempt employees in California who worked more than 8.0 hours per day and/or
8 40.0 hours per workweek and were subject to Defendants' timekeeping policies
9 and/or practices for non-exempt employees, during the four years immediately
10 preceding the filing of this action through the present.
- 11 b. The Minimum Wage Class consists of all of Defendants' current and former non-
12 exempt employees in California who were subject to Defendants' timekeeping
13 policies and/or practices for non-exempt employees, during the four years
14 immediately preceding the filing of this action through the present.
- 15 c. The Agreed-Upon Rate Class consists of all of Defendants' current and former
16 non-exempt employees in California who were paid at a rate below that which was
17 agreed upon by contract, during the four years immediately preceding the filing of
18 this action through the present.
- 19 d. The Prevailing Wage Rate Class consists of all of Defendants' current and former
20 non-exempt employees in California who were paid at a rate below that which was
21 required by the Department of Industrial Relations, during the four years
22 immediately preceding the filing of this action through the present.
- 23 e. The Meal Period Class consists of all Defendants' current and former non-exempt
24 employees in California who worked at least one shift in excess of 5.0 hours,
25 during the four years immediately preceding the filing of this action through the
26 present.
- 27 f. The Rest Period Class consists of all Defendants' current and former non-exempt
28 employees in California who worked at least one shift in excess of 3.5 hours,

during the four years immediately preceding the filing of this action through the present.

g. The Reimbursement Class consists of all Defendants' current and former non-exempt employees in California who were required to use a personal vehicle for work-related purposes, during the four years immediately preceding the filing of this action through the present.

h. The Wage Statement Class consists of: (i) all members of the Overtime Class, Minimum Wage Class, Agreed-Upon Rate Class, Prevailing Wage Rate Class, Meal Period Class, and/or Rest Period Class, who received a wage statement from Defendants; and/or (ii) all of Defendants' current and former non-exempt employees in California who received a wage statement that failed to list the address of the legal entity that is the employer, during the one year immediately preceding the filing of this action through the present.

i. The Waiting Time Class consists of all members of the Overtime Class, Minimum Wage Class, Agreed-Upon Rate Class, Prevailing Wage Rate Class, Meal Period Class, and/or Rest Period Class, who separated their employment with Defendants during the three years immediately preceding the filing of this action through the present.

18. **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 Plaintiff 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.

19. **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 non-exempt employees, which predominate over questions affecting only individual members including, without limitation to:

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- i. Whether Defendants violated the applicable Labor Code provisions, including, but not limited to, §§ 510 and 1194 by requiring members of the Overtime Class to perform overtime work and not paying for said work in accordance with the overtime laws of the State of California;
- ii. 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;
- iii. Whether Defendants' timekeeping policies/practices resulted in the failure to properly compensate members of the Overtime Class and/or Minimum Wage Class;
- iv. Whether Defendants failed to pay the agreed-upon rate for all hours worked by members of the Agreed-Upon Rate Class, pursuant to Labor Code §§ 221-223;
- v. Defendants failed to pay the prevailing wage rate as established by the Department of Industrial Relations for all hours worked by members of the Prevailing Wage Rate Class, pursuant to Labor Code § 1771;
- vi. Whether Defendants provided all legally compliant meal periods to members of the Meal Period Class pursuant to Labor Code §§ 226.7 and 512;
- vii. Whether Defendants authorized and permitted all lawful rest periods to members of the Rest Period Class pursuant to Labor Code §§ 226.7 and 516;
- viii. Whether Defendants correctly paid meal and/or rest period premium payments for non-compliant meal and/or rest periods pursuant to Labor Code § 226.7;
- ix. Whether Defendants failed to reimburse members of the Reimbursement Class for all necessary business expenses incurred pursuant to Labor Code §§ 2802 and 2804;
- x. Whether Defendants furnished legally compliant wage statements to members of the Wage Statement Class pursuant to Labor Code § 226; and
- xi. Whether Defendants paid all wages/compensation due upon separation to members of the Waiting Time Class pursuant to Labor Code §§ 201-203.

1 20. **Predominance of Common Questions:** Common questions of law and fact
2 predominate over questions that affect only individual members of the Classes. The common
3 questions of law set forth above are numerous and substantial and stem from Defendants' policies
4 and/or practices applicable to each individual class member, such as Defendants' uniform
5 timeclock policies/practices, meal and rest period policies/practices, and reimbursement
6 policies/practices. As such, common questions predominate over individual questions concerning
7 each individual class member's showing as to their eligibility for recovery or as to the amount of
8 their damages.

9 21. **Typicality:** Plaintiff's claims are typical of the claims of the Classes because
10 Plaintiff was employed by Defendants as a non-exempt employee in California during the
11 statute(s) of limitations period applicable to each cause of action pled in the action. As alleged
12 herein, Plaintiff, like the members of the Classes, was deprived of all overtime and minimum
13 wages owed, was deprived of all wages owed at the agreed-upon rate, was deprived of all wages
14 owed at the prevailing wage rate, was not provided all required meal periods, was not authorized
15 and permitted to take all required rest periods, did not receive meal and rest period premium
16 wages at his regular rate of pay for missed or non-compliant meal and rest periods, was not
17 reimbursed for all necessary business expenses, was not provided with accurate, itemized wage
18 statements, and did not receive all final wages owed at the time of his separation of employment.

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

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

22 **FIRST CAUSE OF ACTION**

23 **FAILURE TO PAY ALL OVERTIME WAGES**

24 **(AGAINST ALL DEFENDANTS)**

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

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

26. At all times relevant herein, Defendants were required to properly pay Plaintiff and members of the Overtime Class for all overtime hours worked pursuant to California Labor Code § 1194 and Wage Order 5. Wage Order 5, § 3 requires an employer to pay an employee “one and one-half (1½) times the employee’s regular rate of pay for all hours worked in excess of eight (8) hours” per work day and/or in excess of 40 hours of work in the workweek. Wage Order 5, § 3 also requires an employer to pay an employee double the employee’s regular rate of pay for work in excess of twelve hours each work day and/or for work in excess of 8 hours on the seventh consecutive day of work in the workweek.

27. At all times relevant herein, Defendants caused Plaintiff and other non-exempt employees to work overtime hours but did not compensate Plaintiff or members of the Overtime Class at one and one-half times their regular rate of pay for such hours. Defendants also caused Plaintiff and the members of the Overtime Class to work in excess of twelve hours in a workday but did not properly compensate Plaintiff and the members of the Overtime Class at double their regular rate of pay for all 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 and civil penalties, attorney’s fees, and costs of suit according to California Labor Code §§ 204, 510, 558, 1194, and 1198, Wage Order 5, and Code of Civil Procedure § 1021.5.

SECOND CAUSE OF ACTION

MINIMUM WAGE VIOLATIONS

(AGAINST ALL DEFENDANTS)

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

30. Wage Order 5, § 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

1 minimum wage as required by Labor Code § 1197 may recover the unpaid balance together with
2 attorneys' fees and costs of suit, as well as liquidated damages in an amount equal to the unpaid
3 wages and interest accrued thereon.

4 31. At all relevant times herein, Defendants failed to conform their pay practices to
5 the requirements of the law by failing to pay Plaintiff and members of the Minimum Wage Class
6 for all hours worked including, but not limited to, all hours they were subject to the control of
7 Defendants and/or suffered or permitted to work under the California Labor Code and Wage
8 Order 5.

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

14 33. As a direct and proximate result of Defendants' unlawful conduct as alleged
15 herein, Plaintiff and the Minimum Wage Class have sustained economic damages including, but
16 not limited to, unpaid wages and lost interest, in an amount to be established at trial, and are
17 entitled to recover economic and statutory damages and penalties and other appropriate relief as
18 a result of Defendants' violations of the California Labor Code and Wage Order 5.

19 34. The foregoing practices and policies are unlawful and create an entitlement to
20 recovery by Plaintiff and the members of the Minimum Wage Class in a civil action for the unpaid
21 amount of minimum wages owing, including interest thereon, liquidated damages, statutory and
22 civil penalties, attorney's fees, and costs of suit according to California Labor Code §§ 204, 558,
23 1194, 1197, and 1198, Wage Order 5, and Code of Civil Procedure § 1021.5.

24 **THIRD CAUSE OF ACTION**

25 **FAILURE TO PAY ALL AGREED-UPON WAGES**

26 **(AGAINST ALL DEFENDANTS)**

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

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1 36. This cause of action is brought pursuant to Labor Code §§ 204 and 221-223 which
2 provide that all non-exempt employees are entitled to be paid all wages owed at the rate agreed
3 upon with their employer, and provide a private right of action for the failure to pay all wages
4 owed at the agreed-upon rate for all work performed.

5 37. At all times relevant herein, Defendants were required to properly compensate
6 Plaintiff and the members of the Agreed-Upon Rate Class for all hours worked at the rate agreed
7 to with Defendants, pursuant to California Labor Code §§ 221-223. At all relevant times herein,
8 Defendants required Plaintiff and the members of the Agreed-Upon Rate Class to remain under
9 Defendants' control and perform work without paying them for such work, which resulted in
10 Plaintiff and the members of the Agreed-Upon Rate Class earning less than the agreed-upon rate
11 for their work. This pattern and practice by Defendants of failing to pay the agreed-upon rate for
12 all work performed violates the Labor Code and constitutes unjust enrichment.

13 38. The foregoing practices and policies are unlawful and create entitlement to
14 recovery by Plaintiff and the members of the Agreed-Upon Rate Class in a civil action for the
15 unpaid amount of agreed-upon wages owing, including interest thereon, as well as statutory
16 penalties, and attorneys' fees and costs of suit, pursuant to Labor Code §§ 204, 218.5, 218.6, 221,
17 and 558, and California Code of Civil Procedure § 1021.5

18 **FOURTH CAUSE OF ACTION**

19 **FAILURE TO PAY PREVAILING WAGE RATE**

20 **(AGAINST ALL DEFENDANTS)**

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

22 40. This cause of action is brought pursuant to Labor Code §§ 1771 and 1774, which
23 mandate that all workers employed on public works projects must be paid no less than the general
24 prevailing rate of per diem wages for work of a similar character in the locality in which the public
25 work is performed, and provide a private right of action for the failure to pay the prevailing wage
26 rate for all work performed.

27 41. At all times relevant herein, Defendants were required to properly compensate
28 Plaintiff and the members of the Prevailing Wage Rate Class for all hours worked at the prevailing

1 wage rate, pursuant to California Labor Code §§ 1771 and 1774. At all relevant times herein,
2 Defendants required Plaintiff and the members of the Prevailing Wage Rate Class to remain under
3 Defendants' control and perform work without paying them the prevailing wage rate, which
4 resulted in Plaintiff and the members of the Prevailing Wage Rate Class earning less than the
5 required prevailing wage rate for their work. This pattern and practice by Defendants of failing to
6 pay the prevailing wage rate for all work performed violates the Labor Code and constitutes unjust
7 enrichment.

8 42. The foregoing practices and policies are unlawful and create entitlement to
9 recovery by Plaintiff and the members of the Prevailing Wage Rate Class in a civil action for the
10 unpaid amount of prevailing wages owing, including interest thereon, as well as statutory
11 penalties, and attorneys' fees and costs of suit, pursuant to Labor Code §§ 1771, 1774, 218.5, and
12 218.6, and California Code of Civil Procedure § 1021.5

13 **FIFTH CAUSE OF ACTION**

14 **MEAL PERIOD VIOLATIONS**

15 **(AGAINST ALL DEFENDANTS)**

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

17 44. Plaintiff is informed and believes, and based thereon alleges, that Defendants
18 failed in their affirmative obligation to provide all of their non-exempt employees in California,
19 including Plaintiff and members of the Meal Period Class, with all legally compliant meal periods
20 in accordance with the mandates of the California Labor Code and Wage Order 5, § 11, for the
21 reasons set forth in the factual allegations and class definitions sections of this Complaint. Despite
22 Defendants' violations, Defendants did not pay an additional hour of premium pay to Plaintiff
23 and members of the Meal Period Class at their respective regular rates of pay, in accordance with
24 California Labor Code §§ 226.7 and 512.

25 45. As a result, Defendants are responsible for paying premium compensation for meal
26 period violations, including interest thereon, statutory penalties, civil penalties, and costs of suit,
27 pursuant to Labor Code §§ 226.7, 512, and 558, Wage Order 5, and Code of Civil Procedure §
28 1021.5.

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1 employee or his personal representative of any right or remedy to which he is entitled under the
2 laws of this State.”

3 53. As alleged herein, due to Defendants’ unlawful reimbursement practices,
4 Defendants failed to indemnify Plaintiff and the members of the Reimbursement Class for all
5 necessary business expenses incurred, including, among other things, personal vehicle usage.

6 54. As a proximate result of Defendants’ policies and/or practices in violation of Labor
7 Code §§ 2802 and 2804, Plaintiff and members of the Reimbursement Class are entitled to
8 damages, attorneys’ fees and costs of suit, and interest thereon, in sums to be shown according to
9 proof at trial, pursuant to Labor Code § 2802.

10 **EIGHTH CAUSE OF ACTION**

11 **WAGE STATEMENT VIOLATIONS**

12 **(AGAINST ALL DEFENDANTS)**

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

14 56. Plaintiff is informed and believes, and based thereon alleges, that Defendants
15 knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Plaintiff
16 and members of the Wage Statement Class with complete and accurate wage statements that
17 included, among other requirements, all hours worked, all overtime and minimum wages earned,
18 total gross wages earned, all rates of pay, total net wages earned, and the name and address of the
19 legal entity that is the employer, in violation of Labor Code § 226 *et seq.*

20 57. Defendants’ failure to furnish Plaintiff and members of the Wage Statement Class
21 with complete and accurate, itemized wage statements resulted in actual injury, as said failures
22 led to, among other things, the non-payment of all overtime and minimum wages owed, and meal
23 and rest period premium wages owed, and deprived them of the information necessary to identify
24 the discrepancies in Defendants’ reported data.

25 58. Defendants’ failures create an entitlement to recovery by Plaintiff and members of
26 the Wage Statement Class in a civil action for damages and/or penalties pursuant to Labor Code
27 § 226 *et seq.*, including statutory penalties, civil penalties, reasonable attorneys’ fees, and costs
28 of suit according to California Labor Code § 226 *et seq.*

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

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

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

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

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

TENTH CAUSE OF ACTION
UNFAIR COMPETITION
(AGAINST ALL DEFENDANTS)

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

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1 64. Defendants have engaged and continue to engage in unfair and/or unlawful
2 business practices in California in violation of California Business and Professions Code § 17200
3 *et seq.* by, amongst other things, failing to pay Plaintiff and the Classes all overtime and minimum
4 wages owed; failing to pay all required meal and rest period premium wages owed; failing to
5 reimburse for all necessary business expenses incurred; knowingly failing to furnish complete
6 and accurate, itemized wage statements; and failing to pay all final wages at the time of separation
7 from employment.

8 65. Defendants' utilization of these unfair and/or unlawful business practices deprived
9 Plaintiff, and continues to deprive members of the Classes, of compensation to which they are
10 legally entitled, constitutes unfair and/or unlawful competition, and provides an unfair advantage
11 over Defendants' competitors who have been and/or are currently employing workers and
12 attempting to do so in honest compliance with applicable wage and hour laws.

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

17 67. The acts complained of herein occurred within the last four years immediately
18 preceding the filing this action.

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

24 **ELEVENTH CAUSE OF ACTION**

25 **PRIVATE ATTORNEYS GENERAL ACT**

26 **(AGAINST ALL DEFENDANTS)**

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

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

- 17 a. Failing to pay Plaintiff and other aggrieved employees all overtime
18 compensation earned in violation of Labor Code §§ 204, 510, 558, 1194, and
19 1198;
- 20 b. Failing to pay Plaintiff and other aggrieved employees the statutory minimum
21 wage for all hours worked in violation of Labor Code §§ 558, 1182.12, 1194,
22 1194.2, and 1197;
- 23 c. Failing to pay Plaintiff and other aggrieved employees the agreed upon wages
24 for all hours worked in violation of Labor Code sections 221, 222, and 223;
- 25 d. Failing to pay Plaintiff and other aggrieved employees prevailing rate upon
26 wages for all hours worked in violation of Labor Code sections 1771 and 1774;
- 27 e. Failing to provide meal periods as required by law and failing to pay meal
28 period premiums to Plaintiff and other aggrieved employees at these

employees' respective regular rates of compensation for meal period violations in violation of Labor Code §§ 226.7, 512, 558, and 1198;

- f. Failing to authorize and permit Plaintiff and other aggrieved employees to take all lawful rest periods to which they are entitled, and failing to pay rest period premiums to Plaintiff and other aggrieved employees at these employee's respective regular rates of compensation for rest period violations in violation of Labor Code §§ 226.7, 512, 558, and 1198;
- g. Failing to reimburse Plaintiff and other aggrieved employees for all work-related expenses they incurred in violation of Labor Code §§ 2802 and 2804;
- h. Failing to furnish Plaintiff and other aggrieved employees with accurate and compliant itemized wage statements in violation of Labor Code § 226;
- i. Failing to timely pay all final wages due to Plaintiff and other aggrieved employees in violation of Labor Code §§ 201-203;
- j. Failing to pay Plaintiff and other aggrieved employees all wages earned at least twice during each calendar month in violation of Labor Code § 204;
- k. Failing to maintain accurate records on behalf of Plaintiff and aggrieved employees in violation of Labor Code §§ 558 and 1174.

71. On June 6, 2024, Plaintiff notified Defendants via certified mail, and notified the California Labor and Workforce Development Agency ("LWDA") via its website, of Defendants' violations of the California Labor Code and Plaintiff's intent to bring a claim for civil penalties under California Labor Code § 2698 *et seq.* with respect to the violations of the California Labor Code identified in Paragraph 70(a)-(k). Now that sixty-five days have passed from Plaintiff notifying Defendants and the LWDA of these violations, and the LWDA has not provided notice that it intends to investigate the violations, Plaintiff has exhausted his administrative requirements for bringing a claim under the Private Attorneys General Act with respect to these violations.

72. Based on the foregoing, Plaintiff seeks to represent himself and all Aggrieved Employees, as defined by Labor Code § 2699(c), which includes all of Defendants' current and

former non-exempt employees who worked for Defendants in California at any time between June 6, 2023, and the present.

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

PRAYER

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

1. For an order certifying the proposed Classes;
2. For an order appointing Plaintiff as representative of the Classes;
3. For an order appointing Counsel for Plaintiff as Counsel for the Classes;
4. Upon the First Cause of Action, for compensatory, consequential, general and special damages according to proof pursuant to Labor Code §§ 204, 510, 558, 1194, and 1198;
5. Upon the Second Cause of Action, for payment of minimum wages, liquidated damages, and penalties owed according to proof pursuant to Labor Code §§ 1182.12, 1194, 1194.2 and 1197;
6. Upon the Third Cause of Action, for compensatory, consequential, general and special damages according to proof pursuant to Labor Code §§ 204 and 221-223;
7. Upon the Fourth Cause of Action, for compensatory, consequential, general and special damages according to proof pursuant to Labor Code §§ 1771 and 1774;
8. Upon the Fifth Cause of Action, for compensatory, consequential, general and special damages according to proof pursuant to Labor Code §§ 226.7, 512 and 558;
9. Upon the Sixth Cause of Action, for compensatory, consequential, general and special damages according to proof pursuant to Labor Code §§ 226.7, 516, and 558;
10. Upon the Seventh Cause of Action, for compensatory, consequential, general and special damages according to proof pursuant to Labor Code §§ 2802 and 2804;

1 11. Upon the Eighth Cause of Action, for statutory penalties pursuant to Labor Code
2 § 226 *et. seq.*;

3 12. Upon the Ninth Cause of Action, for statutory waiting time penalties pursuant to
4 Labor Code §§ 201-203;

5 13. Upon the Tenth Cause of Action, for restitution to Plaintiff and members of the
6 Classes of all money and/or property unlawfully acquired by Defendants by means of any acts or
7 practices declared by this Court to be in violation of California Business and Professions Code §
8 17200 *et seq.*;

9 14. Upon the Eleventh Cause of Action, for civil penalties due to Plaintiff, other
10 aggrieved employees, and the State of California according to proof pursuant to Labor Code §§
11 558 and 2699(a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for
12 each failure to pay each employee and \$200 for each subsequent violation or willful or intentional
13 violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the
14 amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100 for each subsequent
15 violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial
16 violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per
17 employee per pay period; (4) \$250.00 for each initial violation and \$1,000.00 for each subsequent
18 violation pursuant to Labor Code § 226.3 per employee per pay period; and/or (5) \$100.00 for
19 each initial violation and \$200 for each subsequent violation per employee per pay period for
20 those violations of the Labor Code for which no civil penalty is specifically provided, based on
21 the Labor Code violations identified in Paragraph 70 (a)-(k);

22 15. Prejudgment interest on all due and unpaid wages pursuant to California Labor
23 Code § 218.6 and Civil Code §§ 3287 and 3289;

24 16. On all causes of action, for attorneys' fees and costs as provided by Labor Code
25 §§ 218.5, 1194 *et seq.*, 226, and 2698 *et seq.*, and Code of Civil Procedure § 1021.5; and

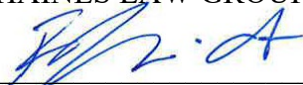
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1 17. For such other and further relief the Court may deem just and proper.

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4 Dated: August 12, 2024

5 Respectfully submitted,
6 HAINES LAW GROUP, APC
7 By: 
8 Fletcher W. Schmidt
9 Attorneys for Plaintiff

10 **DEMAND FOR JURY TRIAL**

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

12 Dated: August 12, 2024

13 Respectfully submitted,
14 HAINES LAW GROUP, APC
15 By: 
16 Fletcher W. Schmidt
17 Attorneys for Plaintiff
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