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of himself and others similarly situated

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

GERARDO DE LEON, an individual, on
behalf of himself and others similarly
situated,

Plaintiff,

vs.

B2SIGN INC, a California stock corporation;
and DOES 1 through 50, inclusive,

Defendants.

Case No.: 24STCV15638

CLASS ACTION

Assigned for All Purposes To:
Hon. Lawrence P. Riff
Dept.: 7

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR:**

1. Failure to Pay Minimum Wages;
2. Failure to Pay Wages and Overtime Under Labor Code § 510;
3. Meal Period Liability Labor Code § 226.7;
4. Rest-Break Liability Labor Code § 226.7;
5. Violation of Labor Code § 226;
6. Violation of Labor Code § 221;
7. Violation of Labor Code § 204;
8. Violation of Labor Code § 203;
9. Failure to Maintain Records Required under Labor Code §§ 1174, 1174.5;
10. Failure to Reimburse Necessary Business Expenses Under Labor Code § 2802; and
11. Violation of Business & Professions Code § 17200 *et seq.*; and
12. Penalties Under PAGA Labor Code § 2698

DEMAND FOR JURY TRIAL

Original Complaint Filed: June 21, 2024
Trial Date: None Set

1 Plaintiff GERARDO DE LEON, (hereinafter “Plaintiff”), on behalf of himself and other
2 similarly situated non-exempt, hourly employees employed by Defendants within the state of
3 California during the relevant time period (collectively, “Employees”; individually, “Employee”),
4 complains of Defendants, and each of them, as follows:

5 INTRODUCTION

6 1. Plaintiff brings this action on behalf of himself and all current and former
7 Employees within the State of California who, at any time from four years prior to the filing of
8 this lawsuit, are or were employed as non-exempt, hourly employees, including those employed as
9 forklift operators and in other similar and related warehouse worker positions, by Defendants
10 B2SIGN INC, a California stock corporation, and DOES 1 through 50, inclusive (all defendants
11 being collectively referred to herein as “Defendants”). Plaintiff alleges that Defendants, and each
12 of them, violated various provisions of the California Labor Code, relevant orders of the Industrial
13 Welfare Commission (“IWC”), and the California Business & Professions Code, and seeks redress
14 for these violations.

15 2. Plaintiff and the Class Members worked as hourly, non-exempt Employees for
16 Defendants in positions generally pertaining to providing printing-related services to Defendants’
17 customers or conducting warehouse-related activities for Defendants. Plaintiff, and upon
18 information and belief the other similarly situated Employees in the Class, were required to
19 perform work tasks based out of Defendants’ warehouses, facilities, and locations in California.
20 Plaintiff was employed by Defendants as a forklift operator, and Defendants tasked him with
21 duties that included operating a forklift to load and offload pallets.

22 3. Defendants employed other similarly situated Employees in similar and related
23 positions based out of Defendants’ warehouses, facilities, and locations throughout California,
24 including in the city of Pomona. Plaintiff and the other similarly situated Class Members worked
25 at Defendants’ behest without being paid all wages due and without being provided all required
26 breaks. More specifically, Plaintiff and the other similarly situated Class Members were employed
27 by Defendants and shared similar job duties and responsibilities, were subjected to the same
28 policies and practices, and endured similar violations at Defendants’ hands.

1 4. Defendants required Plaintiff and the Employees in the Class to work off the clock
2 and failed to accurately record the hours they were on the clock, failed to pay them at the
3 appropriate rates for all hours worked, failed to pay all wages due and owing at termination or
4 resignation, and failed to provide Plaintiff and Class Members with accurate itemized wage
5 statements that prevented them from learning of these unlawful pay practices. Defendants also
6 failed to provide Plaintiff and the Class with lawful meal and rest periods, as Employees were
7 required to remain under Defendants' control and were not provided with the opportunity to take
8 full uninterrupted and duty-free rest periods and meal breaks, as required by the Labor Code and
9 the applicable paragraphs of the IWC Wage Orders.

10 5. Defendant B2SIGN INC is a California stock corporation that lists its principal
11 address in Pomona, California. It lists a registered corporate agent with an address in Pomona,
12 California, and in Los Angeles County. B2Sign Inc ("B2Sign") lists its type of business as
13 "LARGE FORMT PRINTING." The wage statements issued to Plaintiff list "B2SIGN INC" as
14 his employer with an address in Pomona, California.

15 6. This Court has jurisdiction over this Action pursuant to California Code of Civil
16 Procedure § 410.10 and California Business & Professions Code § 17203. This Action is brought
17 as a Class Action on behalf of similarly situated Employees of Defendants pursuant to California
18 Code of Civil Procedure § 382. Venue as to Defendants is also proper in this judicial district
19 pursuant to California Code of Civil Procedure § 395 *et seq.* Upon information and belief, the
20 obligations and liabilities giving rise to this lawsuit occurred, at least in part in Los Angeles
21 County and Defendants list a principal California office in Pomona in Los Angeles County.
22 Defendants also employ Class Members at warehouses, facilities, and locations in Los Angeles
23 County and throughout California.

24 7. The true names and capacities, whether individual, corporate, associate, or
25 whatever else, of the Defendants sued herein as Does 1 through 50, inclusive, are currently
26 unknown to Plaintiff, who therefore sues these Defendants by such fictitious names under Code of
27 Civil Procedure § 474. Plaintiff is informed and believes and thereon alleges that Defendants
28 designated herein as Does 1 through 50, inclusive, and each of them, is legally responsible in some

1 manner for the unlawful acts referred to herein. Plaintiff will seek leave of court to amend this
2 Complaint to reflect the true names and capacities of the Defendants designated herein as Does 1
3 through 50 when their identities become known.

4 8. Plaintiff is informed and believes and thereon alleges that each Defendant acted in
5 all respects pertinent to this action as the agent of the other Defendants, that Defendants carried
6 out a joint scheme, business plan, or policy in all respects pertinent hereto, and that the acts of
7 each Defendant are legally attributable to the other Defendants. Furthermore, Defendants acted in
8 all respects as the employers or joint employers of Employees. Defendants, and each of them,
9 exercised control over the wages, hours, or working conditions of Employees, created and
10 implemented the policies and practices that governed the employment of Plaintiff and the Class
11 Members and dictated their job duties and responsibilities, or otherwise suffered or permitted
12 Plaintiff and the other Employee Class Members to work, or engaged them, thereby creating a
13 common law employment relationship with the Employee Class Members. Therefore, Defendants,
14 and each of them, employed or jointly employed the Employee Class Members.

15 **FACTUAL BACKGROUND**

16 9. The Employees who comprise the Class, including Plaintiff, are non-exempt
17 employees pursuant to the applicable Wage Order of the Industrial Welfare Commission
18 ("IWC"). During the period of four years prior to the filing of this action through its resolution,
19 the Employee Class Members were employed by Defendants and worked in non-exempt
20 positions at the direction of Defendants in the State of California. Plaintiff and the Class
21 Members were either not paid by Defendants for all hours worked or were not paid at the
22 appropriate minimum, regular, and overtime rates. Plaintiff also contends that Defendants failed
23 to pay Plaintiff and the Class Members all wages due and owing, including compensation for off-
24 the-clock work, uncompliant meal and rest breaks, and Defendants' failure to furnish accurate
25 wage statements, all in violation of various provisions of the California Labor Code and
26 applicable paragraphs of the IWC Wage Orders.

27 10. During the course of Plaintiff and the Class Members' employment with
28 Defendants, they were not paid all wages they were owed, including for all work performed

(resulting in “off the clock” work) and for all their overtime hours worked, and they were not paid at the required rates for overtime. This has resulted in systematic and ongoing violations of the California Labor Code and relevant IWC Wage Orders. Upon information and belief, Defendants employ other non-exempt, hourly employees as forklift operators, warehouse workers, and in similar and related positions based out of their warehouses, facilities, and locations in California.

11. Plaintiff was generally scheduled to work five days per week for eight hours per shift, with shift times generally spanning from 8:30 a.m. through 5:30 p.m. About two to three times per week, Plaintiff was required to work longer shifts with an additional three to four hours approved by Defendants to be paid at overtime premium rates. However, Plaintiff was required by Defendants to endure substantial off-the-clock work before and after his hours.

12. Defendants’ policy and practice of requiring systematic off-the-clock work flowed in part from their unlawful timekeeping procedures. Defendants required timekeeping entries to be inputted into timeclock systems by Employees. While Defendants required time punch records for shift start and end times and meal period beginning and end times, the time punches failed to account for the time Plaintiff and Class Members spent waiting for time clocks to become available. Plaintiff recalls that there were only two time clocks available at the warehouse where Plaintiff was employed, and he, along with about a hundred other employees, were required to wait several minutes per shift for time clocks to become available. Oftentimes, Plaintiff waited about ten minutes for his turn to clock in and Defendants timekeeping procedures failed to capture the time Plaintiff and Class Members spent waiting for time clocks to become available while they were under Defendants’ control.

13. In addition to the time spent waiting for time clocks to become available, Plaintiff incurred additional pre-shift off-the-clock work as he was compelled by Defendants to pick up trash prior to clocking in about 4-5 times per week. As a result, Plaintiff often had to arrive to the warehouse jobsite about ten minutes prior to his scheduled shift start time in order to ensure he timely clocked in. Defendants failed to compensate Plaintiff, and upon information and belief other Class Members, for this pre-shift off-the-clock work.

1 14. Defendants' managers also contacted Plaintiff by calling his personal cell phone
2 regarding work-related matters and scheduling and would do so both throughout the work day
3 and during breaks and also after work hours. Plaintiff estimates that he endured about 30 minutes
4 of off-the-clock work per day answering calls and texts from his supervisor. Additional off-the-
5 clock work occurred in the form of the unlawful deduction of 30 minutes of hours worked for an
6 alleged meal period that was provided generally untimely if at all.

7 15. Overtime hours were generally not allowed, but if approved by management,
8 Plaintiff was required to endure hours of off-the-clock work that should have been paid at one
9 and one-half times the employee's regular rate. To whatever extent Defendants paid performance-
10 based bonuses and any other form of remuneration to Employees in the Class, such as shift
11 differentials and the like, Defendants failed to include it in the regular rate used to calculate and
12 pay the overtime that Defendants did pay.

13 16. Plaintiff was therefore not paid for all his hours worked at the required minimum,
14 overtime, and double time wage rates due to Defendants' uniformly applied and unlawful policy
15 and practice of requiring him to work off the clock and without pay. Defendants systematically
16 underpaid Plaintiff and the Class Members by failing to pay them at the required overtime rates
17 for all hours over eight in a work shift or over forty in a work week, and all hours over twelve in a
18 day at the required double time rate. Upon information and belief, the Class Members were bound
19 by similar scheduling and timekeeping policies and endured similar violations at Defendants'
20 hands as Plaintiff.

21 17. Defendants have either failed to maintain timekeeping records for Plaintiff that
22 would permit Plaintiff to discover the nature and extent of the off-the-clock work Defendants
23 required and the actual hours Plaintiff worked or the breaks he received or have otherwise
24 declined to produce them to Plaintiff in response to a timely and lawful records request. By
25 failing to pay for all hours worked, and by under-recording regular hours to the detriment of the
26 Class Members, Defendants have committed knowing and intentional ongoing violations of the
27 record-keeping requirements under the Labor Code, including section 1174, by either failing to
28 maintain records or retaining inaccurate ones.

1 18. The failure to pay for all hours worked and underpayment of wages to Plaintiff
2 and the Class Members is and has been a direct consequence of Defendants' unlawful
3 compensation policies and practices, which upon information and belief applied uniformly to the
4 Class Members working based out of Defendants' warehouses, facilities, and locations
5 throughout California. As a result of the above-described unlawful requirements to work off the
6 clock, the failure to accurately record all hours worked and pay wages at the correct rates, and the
7 other wage violations they endured at Defendants' hands, Plaintiff and the Class Members were
8 not properly paid all wages earned and all wages owed to them by Defendants, including when
9 working more than eight hours in any given day and/or more than forty hours in any given week.

10 19. Therefore, from at least four years prior to the filing of this lawsuit and continuing
11 to the present, Defendants had a consistent policy or practice of failing to pay Employees for all
12 hours worked and failing to pay minimum wages for all time worked, as required by California
13 law. Also, from at least four years prior to the filing of this lawsuit and continuing to the present,
14 Defendants had a consistent policy or practice of failing to pay Employees overtime compensation
15 at premium overtime rates for all hours worked in excess of eight hours a day and/or forty hours a
16 week and double-time rates for all hours worked in excess of twelve hours a day, in violation of
17 Labor Code § 510 and the corresponding sections of IWC Wage Orders.

18 20. Defendants also failed to provide Plaintiff and the Class Members with their
19 required meal periods and the at least two ten-minute rest breaks as required at a minimum for
20 Plaintiff's scheduled shift durations. The above-described off-the-clock work contributed to
21 Defendants' common policy of failing to provide lawful meal periods to Plaintiff and the Class
22 Members, as required under the Labor Code and Paragraph 11 of the IWC Wage Order(s).
23 Defendants similarly failed to authorize and permit Plaintiff and the employee Class Members to
24 take all required 10-minute rest breaks, as required under the Labor Code and Paragraph 12 of the
25 IWC Wage Order(s).

26 21. More specifically, Plaintiff worked shifts that entitled him to at least one meal
27 period, but as addressed above, Defendants' managers required Plaintiff and the Class Members to
28 input thirty minutes for lunches and would deduct that time from hours worked for the shift. To

1 whatever extent there was ever a schedule for meal periods, it went by the wayside quickly as
2 there always seemed to be job demands to address and attend to. This led to systematically late
3 meal periods, if they were provided at all. Upon information and belief, production goals and
4 management expectations also contributed to Employees working through meal periods or not
5 taking them or taking them late so work could be accomplished or they were required to remain
6 under Defendants' control during meal periods. Plaintiff recalls that most, if not all, of his meal
7 periods were provided after the fifth hour of work. Defendants thus automatically deducted 30
8 minutes for a meal period on each work shift without regard to whether it was actually taken or
9 was otherwise unlawful.

10 22. Even on the occasions when Defendants authorized and permitted Plaintiff to take a
11 first meal period, he was not permitted to take a second meal period. In fact, Plaintiff cannot recall
12 a single instance during his employment with Defendant where he was provided with a second
13 meal period, despite the fact that he worked 10-12 hour shifts about 2-3 times per week.

14 23. Therefore, meal period violations systematically occurred throughout all of
15 Plaintiff's work shifts where Defendants both failed to provide a lawful meal period or penalty
16 payment and then also unlawfully deducted 30 minutes from Plaintiff's hours worked for the day.
17 To the extent Defendants ever did pay Plaintiff a meal period premium, they failed to include all
18 forms of remuneration beyond hourly wages in the regular hourly rate used to pay the one-hour
19 premium payment. Upon information and belief, the other Class Members were subjected to
20 similar unlawful policies and practices and endured similar violations as Plaintiff.

21 24. Defendants thus failed to provide all the legally required unpaid, off-duty meal
22 periods and all the legally required paid, off-duty rest periods to Plaintiff and the other Class
23 Members, as required by the applicable Wage Order and Labor Code. Plaintiff and other Class
24 Members were required to perform work as ordered by Defendants for more than five hours
25 during a shift without receiving compliant meal periods. Additionally, as addressed above,
26 Defendants followed a practice of requiring off-the-clock work in a manner that would impact
27 when Employees were to receive meal periods and rest breaks and required them to respond to
28 work calls and inquiries and other demands during breaks, thus leading to further violations.

1 25. Upon information and belief, Defendants' systems did not automatically generate a
2 meal period premium under Labor Code § 226.7 for meal periods that commenced after five hours
3 into a work shift or in the event the time punch records reflected a meal period of less than thirty
4 minutes. However, upon information and belief, in the event Defendants did pay any meal period
5 premiums, they did so at the employee's customary regular rate of hourly compensation without
6 including all forms of remuneration in that hourly rate calculation, for example by omitting
7 performance-based bonuses and the like from the rate at which meal premiums were paid.

8 26. Defendants thus followed uniformly applied policies of not providing all required
9 meal periods to their Employees. Meal periods were often not properly provided, as they were
10 often provided after the fifth hour of work. Additionally, as addressed above, Defendants followed
11 a practice of requiring off-the-clock work in a manner that would impact when Employees were to
12 receive meal periods and rest breaks, thus leading to further violations.

13 27. As a result, Defendants' failure to provide Plaintiff and the Class Members with all
14 legally required off-duty, unpaid meal periods and all the legally required off-duty, paid rest
15 periods is and will be evidenced by Defendants' business records, or lack thereof. As further
16 detailed above, Defendants also failed to pay Employees "premium pay," i.e. one hour of wages at
17 each Employee's effective regular hourly rate of compensation for each meal period or rest break
18 that Defendants failed to provide or deficiently provided.

19 28. Therefore, for at least four years prior to the filing of this action and through to the
20 present, Plaintiff and the Class Members were unable to take off-duty breaks or were otherwise
21 not provided with the opportunity to take required breaks as required under the Labor Code and
22 Wage Orders due to Defendants' policies and practices. On the occasions when Plaintiff and the
23 Class Members were provided with a meal period, it was often untimely or interrupted, or was
24 impermissibly shortened, and Employees were not provided with one hour's wages in lieu thereof.
25 Meal period violations thus occurred in one or more of the following manners:

- 26 (a) Class Members were not provided full thirty-minute duty free meal periods
27 for work days in excess of five hours and were not compensated one hour's
28 wages in lieu thereof, or were not compensated at the correct regular rate

of compensation, all in violation of, among others, Labor Code §§ 226.7, 512, and the applicable Industrial Welfare Commission Wage Order(s);

(b) Class Members were not provided second full thirty-minute duty free meal periods for work days in excess of ten hours;

(c) Class Members were required to work through at least part of their daily meal period(s);

(d) Meal periods were provided after five hours of continuous work during a shift; and

(e) Class Members were restricted in their ability to take a full thirty-minute meal period.

29. Similar violations resulted from Defendants' failure to authorize and permit Plaintiff and the Class Members to take duty-free, net ten-minute rest breaks for every four hours of shift work, or a major fraction thereof. Plaintiff and the other similarly situated Class Members were either not authorized permitted the opportunity to take a rest break, or were required to remain under Defendants' control and respond to calls and instructions from management and job demands. Additionally, Plaintiff cannot recall a time when he took a third rest break, despite regularly working shifts of more than ten hours.

30. Rest breaks were neither scheduled nor contemplated by Defendants. During Plaintiff's entire employment duration with Defendants, he cannot recall a time when he took a second or third rest break, despite being entitled to receive at least two paid, timely, uninterrupted, and duty-free ten-minute rest breaks during each of his work shifts. As detailed above, in addition to failing to authorize and permit rest breaks, Defendants unlawfully deducted up to 30 minutes for a meal period that were rarely provided or otherwise received without violation.

31. Defendants' uniformly applied policies and practices thus resulted in untimely and shortened or on-duty rest breaks when they were authorized and permitted. Plaintiff and the Class Members worked shifts of at least eight hours, which required at least two rest breaks, and often worked shifts over ten hours, which required at least three rest breaks. Even on the occasions

1 when Defendants authorized and permitted Plaintiff to take a first rest break, he was not
2 permitted to take a second or a third break, and those that were provided were often late and
3 generally interrupted by job duties and requirements.

4 32. During rest periods, employers must relieve employees of all duties and relinquish
5 control over how employees spend their time. Plaintiff and the Class Members were and are
6 under Defendants' control when they are working through rest breaks and remaining under
7 Defendants' control. Defendants have also provided either impermissibly shortened or untimely
8 meal and rest breaks to Plaintiff and the Class Members. Plaintiff and the Employees in the Class
9 were thus not authorized and permitted to take lawful rest periods, were systematically required
10 by Defendants to work through or during breaks, and were not provided with one hour's wages in
11 lieu thereof. They were required to remain on-duty during breaks or portions of their breaks, thus
12 making them either untimely or shortened and on-duty. Rest period violations therefore arose in
13 one or more of the following manners:

- 14 (a) Class Members were required to work without being provided a minimum
15 ten minute rest period for every four hours or a major fraction thereof
16 worked and were not compensated one hour of pay at their regular rate of
17 compensation for each workday that a rest period was not provided;
- 18 (b) Class Members were not authorized and permitted to take timely rest periods
19 for every four hours worked, or a major fraction thereof; and
- 20 (c) Class Members were required to remain on duty during and under
21 Defendants' control rest periods or otherwise had their rest periods
22 interrupted by work demands.

23 33. From at least four years prior to the filing of this lawsuit and continuing to the
24 present, Defendants have also consistently violated Labor Code § 221 by unlawfully collecting or
25 deducting the Employees' earned wages, including by the above-described off-the-clock work and
26 on-duty work while on unpaid meal breaks. In addition to failing to authorize and permit rest
27 breaks, Defendants unlawfully deducted up to 30 minutes for meal periods that were rarely
28 provided or otherwise received without violation. Thus, by deducting 30 minutes for a meal period

1 that was generally not lawfully provided if at all, Defendants effectively and unlawfully deducted
2 at least 30 minutes of hours worked from each Employee's daily work shifts. By not compensating
3 Employees for all hours worked, Defendants unlawfully deducted wages earned in violation of
4 Labor Code § 221.

5 34. Defendants also violated California Labor Code § 246 by not providing all
6 required paid sick days to Plaintiff and the Class Members. Labor Code § 246 provides that an
7 Employee who "works in California for the same employer for 30 or more days within a year
8 from the commencement of employment is entitled to paid sick days as specified in this section."
9 Defendants failed to provide Plaintiffs and the other similarly Aggrieved Employees with all their
10 required and earned sick days, in violation of Labor Code § 246. Additionally and upon
11 information and belief, Defendants have failed to provide COVID-19 supplemental sick leave to
12 the Class Members during the relevant time period, including by failing to provide two work
13 weeks of COVID-19 supplemental paid sick leave as required under Labor Code §§ 248.1 and
14 248.2 and including damages and penalties as these sections are enforced through Labor Code §
15 248.5, which requires that: "If paid sick days were unlawfully withheld, the dollar amount of paid
16 sick days withheld from the employee multiplied by three, or two hundred fifty dollars (\$250),
17 whichever amount is greater, but not to exceed an aggregate penalty of four thousand dollars
18 (\$4,000), shall be included in the administrative penalty." Plaintiff accordingly seeks this relief
19 available for Defendants' failure to provide Employees with all their required and earned sick
20 days and all their COVID-19 supplemental sick leave in violation of Labor Code §§ 246, 248.1,
21 248.2, and the civil and statutory penalties available and applicable under Labor Code §§ 246,
22 248.1, 248.2, 248.5, 558, 1194.2, 1197.1, 1198, 1199, and 2699(f)(2), and also for attorneys' fees
23 and costs pursuant to Labor Code § 2699(g)(1).

24 35. Upon information and belief, Defendants also failed to provide Employees such as
25 Plaintiff at the time of his employment and thereafter with written notice complying with all the
26 requirements of Labor Code § 2810.5, which provides that: "At the time of hiring, an employer
27 shall provide to each employee a written notice, in the language the employer normally uses to
28 communicate employment-related information to the employee, containing" specifically required

1 information. Upon information and belief, Defendants failed to provide this information to the
2 Aggrieved Employees as required under Labor Code § 2810.5. Defendants were required to
3 provide Plaintiff and the aggrieved employee Class Members certain specific information upon
4 hiring pursuant to California Labor Code § 2810.5. Defendants failed to provide Plaintiff with
5 any such information when he was hired, and upon information and belief Defendants committed
6 similar violations in connection with similarly situated and aggrieved Class Members.

7 36. As a result of these illegal policies and practices, Defendants also engaged in and
8 enforced the following additional unlawful practices and policies against Plaintiff and the Class
9 Members he seeks to represent:

- 10 (a) failing to pay all wages owed to Class Members who either were discharged,
11 laid off, or resigned in accordance with the requirements of Labor Code §§
12 201, 202, 203;
- 13 (b) failing to pay all wages owed to the Class Members twice monthly in
14 accordance with the requirements of Labor Code § 204;
- 15 (c) failing to pay Class Members all wages owed, including all meal and rest
16 period premium wages, and failing to pay them at the regular rate of
17 compensation;
- 18 (d) failing to maintain accurate records of Class Members' hours worked and
19 earned wages and meal periods in violation of Labor Code §§ 226 and
20 1174(d) and section 7 of the applicable IWC Wage Orders; and
- 21 (e) failing to produce timekeeping records in response to Plaintiff's timely and
22 lawful request to receive them under these authorities.

23 37. Defendants have also consistently failed to provide Class Members with timely,
24 accurate, and itemized wage statements, in writing, as required by California wage-and-hour laws,
25 including by the above-described requirement of off-the-clock work, failure to pay all overtime
26 and double time wages owed and failure to pay them at the appropriate premium rates, and failure
27 to pay premium wages for unprovided or otherwise unlawful meal and rest breaks, or by
28 miscalculating any overtime or meal period or rest break premium wages and by the systematic

1 and unlawful deductions Defendants took from Employee wages. Defendants have also made it
2 difficult to account with precision for the unlawfully withheld wages and meal and rest period
3 compensation owed to Plaintiff and the Class, during the liability period, including because they
4 did not calculate the regular rate of pay correctly when paying overtime or meal period premiums
5 and because they did not implement and preserve a record-keeping method as required for non-
6 exempt employees by California Labor Code §§ 226, 1174(d), and paragraph 7 of the applicable
7 California Wage Orders. Upon information and belief, time clock punches were not maintained or
8 were not accurately maintained for work shifts and meal periods, which were automatically
9 presumed by Defendants to have been lawfully provided when they were not. Defendants also
10 failed to accurately record and pay for all regular and overtime hours worked and submitted by
11 Plaintiff and the Class Members, including by failing to pay all overtime hours at the correctly
12 calculated overtime premium rate.

13 38. Defendants have thus also failed to comply with Labor Code § 226(a) by
14 inaccurately reporting total hours worked and total wages earned by Plaintiff and the Class
15 Members, along with the appropriate applicable rates, among others requirements. Plaintiff and
16 Class Members are therefore entitled to penalties not to exceed \$4,000.00 for each employee
17 pursuant to Labor Code § 226(b). Defendants have also failed to comply with paragraph 7 of the
18 applicable California IWC Wage Orders by failing to maintain time records showing when the
19 employee begins and ends each work period, meal periods, and wages earned pursuant to Labor
20 Code § 226.7, and total daily hours worked by itemizing in wage statements all deductions from
21 payment of wages and accurately reporting total hours worked.

22 39. Defendants also required Plaintiff and the Class Members to work hours off the
23 clock for which they were not compensated. They were required to endure off-the-clock work
24 addressed above during interrupted or otherwise on-duty meal and rest periods and were not
25 provided with sick pay and supplemental sick leave and were subjected to systematic off-the-clock
26 work. Defendants also failed to pay all overtime premium wages owed for work conducted on a
27 work shift and a workday or failed to pay it at the correct rate, as addressed above. Therefore,
28 Defendants have also followed a uniform and consistent policy of failing to pay all wages owed to

1 Plaintiff and other similarly situated Employees at the time of their termination or within seventy-
2 two hours of their resignation, as required by California wage-and-hour laws, including Labor
3 Code § 203.

4 40. Additionally, from at least four years prior to the filing of this lawsuit and
5 continuing to the present, Defendants have regularly required Plaintiff and the Class Members to
6 incur necessary business expenses in the course of performing their required job duties without
7 reimbursement. These included the cell phone-related expenses Plaintiff incurred in responding to
8 calls from supervisors, and Plaintiff estimates that these calls oftentimes spanned for about 30
9 minutes per day. Plaintiff and the Class Members must be reimbursed for these necessary business
10 expenses under Labor Code § 2802 and Defendants systematically failed to do so.

11 41. In light of the foregoing, Plaintiff and the Employees in the Class bring this action
12 pursuant to, *inter alia*, Labor Code §§ 201, 202, 203, 204, 218, 218.5, 218.6, 221, 226, 226.4,
13 226.7, 246, 248.1, 248.2, 248.5, 510, 511, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194,
14 1194.2 1197, 1198, 1198.5, 1199, 2698 *et seq.*, and 2802 and California Code of Regulations,
15 Title 8, section 11000 *et seq.*

16 42. Furthermore, pursuant to Business and Professions Code §§ 17200-17208, Plaintiff
17 and the Class Members seek injunctive relief, restitution, and disgorgement of all benefits
18 Defendants have enjoyed from their violations of Labor Code and the other unfair, unlawful, or
19 fraudulent practices alleged in this Complaint.

20 **CLASS ALLEGATIONS**

21 43. Plaintiff brings this class action on behalf of himself and all others similarly
22 situated pursuant to Code of Civil Procedure § 382. Plaintiff seeks to represent a Class (often
23 referred to as “the Class” or “Class Members”) defined as follows: “All individuals employed by
24 Defendants at any time during the period of four (4) years prior to the filing of this lawsuit and
25 ending on a date as determined by the Court (“the Class Period”), and who have been employed as
26 non-exempt, hourly employees by Defendants within the State of California.” This includes all
27 types of forklift operators, warehouse crew members, and those in similar and related positions.
28 Further, Plaintiff seeks to represent the Subclasses composed of and defined as follows:

- 1 a. Subclass 1. Minimum Wages Subclass. All Class Members who were not
2 compensated for all hours worked for Defendants at the applicable minimum wage.
- 3 b. Subclass 2. Wages and Overtime Subclass. All Class Members who were not
4 compensated for all hours worked for Defendants at the required rates of pay, including for all
5 hours worked in excess of eight in a day and/or forty in a week.
- 6 c. Subclass 3. Meal Period Subclass. All Class Members who were subject to
7 Defendants' policy and/or practice of failing to provide unpaid 30-minute uninterrupted and duty-
8 free meal periods or one hour of pay at the Employee's regular rate of pay in lieu thereof.
- 9 d. Subclass 4. Rest Break Subclass. All Class Members who were subject to
10 Defendants' policy and/or practice of failing to authorize and permit Employees to take
11 uninterrupted, duty-free, 10-minute rest periods for every four hours worked, or a major fraction
12 thereof, and failing to pay one hour of pay at the Employee's regular rate of pay in lieu thereof.
- 13 e. Subclass 5. Wage Statement Subclass. All Class Members who, within the
14 applicable limitations period, were not provided with accurate itemized wage statements.
- 15 f. Subclass 6. Unauthorized Deductions from Wages Subclass. All Class Members
16 who were subject to Defendants' policy and/or practice of deducting wages earned from their pay,
17 including by requiring off the clock work.
- 18 g. Subclass 7. Failure to Timely Pay Wages Twice Monthly Subclass. All Class
19 Members who were subject to Defendants' policy and practice of not timely paying all wages
20 earned when they were due and payable at least twice monthly.
- 21 h. Subclass 8. Termination Pay Subclass. All Class Members who, within the
22 applicable limitations period, either voluntarily or involuntarily separated from their employment
23 and were subject to Defendants' policy and/or practice of failing to timely pay wages upon
24 termination.
- 25 i. Subclass 9. Payroll Records Subclass. All Class Members who were subject to
26 Defendants' policy and/or practice of failing to keep accurate time and wage records as required
27 by California wage-and-hour laws.
28

j. Subclass 10. Expense Reimbursement Subclass. All Class Members who incurred necessary and reasonable expenses in connection with performing their job duties for Defendants and who were subject to a policy and/or practice under which such expenses were not reimbursed.

k. Subclass 11. UCL Subclass. All Class Members who are owed restitution as a result of Defendants' business acts and practices, to the extent such acts and practices are found to be unlawful, deceptive, and/or unfair.

44. Plaintiff reserves the right under California Rule of Court 3.765 to amend or modify the class description with greater particularity or to provide further division into subclasses or limitation to particular issues. To the extent equitable tolling operates to toll claims by the Class against Defendants, the Class Period should be adjusted accordingly.

45. Defendants, as a matter of company policy, practice and procedure, and in violation of the applicable Labor Code, Industrial Welfare Commission ("IWC") Wage Order requirements, and the applicable provisions of California law, intentionally, knowingly, and willfully, engaged in a practice whereby Defendants failed to correctly calculate and pay compensation for the time worked by the Plaintiff and the other members of the Class, even though Defendants enjoyed the benefit of this work, required Employees to perform this work and permitted or suffered to permit this work. Defendants have uniformly denied these Class Members wages to which these employees are entitled, and failed to provide meal periods or authorize and permit rest periods, in order to unfairly cheat the competition and unlawfully profit.

46. This action has been brought and may properly be maintained as a class action under the provisions of Code of Civil Procedure § 382 because there is a well-defined community of interest in this litigation and the proposed Class is easily ascertainable from the employment records for Plaintiff and the Class Members that Defendants are required to maintain under California law.

A. Numerosity

47. The potential members of the class as defined are so numerous that joinder of all the member of the class is impracticable. While the precise number of Class Member has not been determined at this time, Plaintiff is informed and believes that Defendants employ or, during the

time period relevant to this lawsuit employed, at least over one hundred Employees who satisfy the Class definition within the State of California. Plaintiff alleges that Defendants' employment records will provide information as to the number and location of all Class Members.

B. Commonality

48. There are questions of law and fact common to the Class that predominate over any questions affecting only individual Class Members. The common questions are numerous and substantial and flow from Defendants' uniform policies and/or practices of violating the California Labor Code addressed above. As such, these common questions predominate over individual questions concerning each individual Class Member's showing as to his or his eligibility for recovery or as to the amount of damages. These common questions of law and fact include:

- a. Whether Defendants failed to pay Employees minimum wages;
- b. Whether Defendants failed to pay Employees wages for all hours worked;
- c. Whether Defendants failed to pay Employees overtime as required under Labor Code § 510;
- d. Whether Defendants violated Labor Code §§ 226.7 and 512, and the applicable IWC Wage Orders, by failing to provide Employees with requisite meal periods or premium pay in lieu thereof;
- e. Whether Defendants violated Labor Code §§ 226.7, and the applicable IWC Wage Orders, by failing to authorize and permit Employees to take requisite rest breaks or provide premium pay in lieu thereof;
- f. Whether Defendants violated California Labor Code §§ 246 and 248.1 by not providing employees with all required sick days and COVID-19 supplemental sick leave;
- g. Whether Defendants violated Labor Code § 226(a) by providing Employees with inaccurate wage statements;
- h. Whether Defendants violated Labor Code § 221;
- i. Whether Defendants violated Labor Code §§ 201, 202, and 203 by failing to pay wages and compensation due and owing at the time of termination of employment;

- j. Whether Defendants' conduct was willful;
- k. Whether Defendants violated Labor Code § 226 and § 1174 and § 1198 and the IWC Wage Orders by failing to maintain accurate records of Class Members' earned wages and work periods;
- l. Whether Defendants violated Labor Code § 1194 by failing to compensate all Employees during the relevant time period for all hours worked, whether regular or overtime;
- m. Whether Defendants violated Labor Code § 204 by failing to pay Employees all wages earned at least twice monthly;
- n. Whether Defendants violated Labor Code § 2802 by failing to reimburse necessary business expenses incurred by Employees;
- o. Whether Defendants violated Business and Professions Code § 17200 *et seq.*; and
- p. Whether Employees are entitled to equitable relief pursuant to Business and Professions Code § 17200 *et seq.*

C. Typicality

49. The claims of the named plaintiff are typical of those of the other Employees. The Employee Class Members all sustained injuries and damages arising out of and caused by Defendants' common course of conduct and uniformly applied policies in violation of statutes, as well as regulations, that have the force and effect of law, as alleged herein. Plaintiff's claims for the off the clock work and meal and rest violations he was required to endure are typical of those of the other Class Members.

D. Adequacy of Representation

50. Plaintiff will fairly and adequately represent and protect the interest of the Employee Class Members. Counsel who represents Plaintiff and the Employees in the Class are experienced and competent in litigating employment class actions.

E. Superiority of Class Action

51. A class action is superior to other available means for the fair and efficient adjudication of this controversy. Individual joinder of all Employees is not practicable, and

1 questions of law and fact common to all Employees predominate over any questions affecting only
2 individual Employees. Each Employee in the Class has been damaged and is entitled to recovery
3 by reason of Defendants' illegal policies or practices of failing to compensate Employees properly.

4 52. As to the issues raised in this case, a class action is superior to all other methods for
5 the fair and efficient adjudication of this controversy, as joinder of all Class Members is
6 impracticable and many legal and factual questions to be adjudicated apply uniformly to all Class
7 Members. Further, as the economic or other loss suffered by vast numbers of Class Members may
8 be relatively small, the expense and burden of individual actions makes it difficult for the Class
9 Members to individually redress the wrongs they have suffered. Moreover, in the event
10 disgorgement is ordered, a class action is the only mechanism that will permit the employment of
11 a fluid fund recovery to ensure that equity is achieved. There will be relatively little difficulty in
12 managing this case as a class action, and proceeding on a class-wide basis will permit Employees
13 to vindicate their rights for violations they endured which they would otherwise be foreclosed
14 from receiving in a multiplicity of individual lawsuits that would be cost prohibitive to them.

15 53. Class action treatment will allow those persons similarly situated to litigate their
16 claims in the manner that is most efficient and economical for the parties and the judicial system.
17 Plaintiff is unaware of any difficulties in managing this case that should preclude class treatment.
18 Plaintiff contemplates the eventual issuance of notice to the proposed Class Members that would
19 set forth the subject and nature of the instant action. The Defendants' own business records can be
20 utilized for assistance in the preparation and issuance of the contemplated notices. To the extent
21 that any further notice is required additional media and/or mailings can be used.

22 54. Defendants, as prospective and actual employers of the Employees in the Class,
23 had a special fiduciary duty to disclose to prospective Class Members the true facts surrounding
24 Defendants' pay practices, policies and working conditions imposed upon the similarly situated
25 Employees as well as the effect of any alleged arbitration agreements that may have been forced
26 upon them. In addition, Defendants knew they possessed special knowledge about pay practices
27 and policies, most notably intentionally refusing to pay for all hours actually worked which should
28 have been recorded in Defendants' pay records and the consequence of the alleged arbitration

1 agreements and policies and practices on the Employees and Class as a whole.

2 55. Plaintiff and the Employees in the Class did not discover the fact that they were
3 entitled to all pay under the Labor Code until shortly before the filing of this lawsuit nor was there
4 ever any discussion about Plaintiff's and the Class's waiver of their Constitutional rights of trial
5 by jury, right to collectively organize and oppose unlawful pay practices under California law as
6 well as obtain injunctive relief preventing such practices from continuing. As a result, the
7 applicable statutes of limitation were tolled until such time as Plaintiff and the Class Members
8 discovered their claims.

9 **FIRST CAUSE OF ACTION**
10 **FAILURE TO PAY MINIMUM WAGES**
11 **(Against All Defendants)**

12 56. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
13 full herein.

14 57. Defendants failed to pay Employees minimum wages for all hours worked.
15 Defendants had a consistent policy of failing to pay Employees for all hours worked. Employees
16 would work hours and not receive wages, including as alleged above in connection with off-the-
17 clock work, including all the time required to remain on duty and under Defendants' control
18 during breaks and due to the work demands placed upon them by Defendants' management and
19 by the unlawful deduction of hours or by paying what should have been overtime hours as
20 regular hours. Defendants' uniformly applied policies required systematic off-the-clock work and
21 underpayment of all wages owed to Employees over a period of time, while benefiting
22 Defendants. During the relevant time period, Defendants thus regularly failed to pay minimum
23 wages to Plaintiff and the Class Members, including by requiring systematic off-the-clock work.
24 To the extent any local wage ordinances were also applicable to paying the employees an hourly
25 rate above the minimum wage rate, Defendants failed to comply with the local wage ordinances.
26 Defendants' uniform pattern of unlawful wage and hour practices manifested, without limitation,
27 applicable to the Class as a whole, as a result of implementing a uniform policy and practice that
28 denied accurate compensation to Plaintiff and other Class members minimum wage pay.

1 58. In California, employees must be paid at least the applicable state minimum wage
2 for all hours worked, including under Labor Code § 1197, IWC Wage Order MW-2014, and
3 paragraphs 2(K), 2(S), and 4(A)-4(C) of the applicable IWC Wage Orders. Also, pursuant to
4 California Labor Code § 204, other applicable laws and regulations, and public policy, an
5 employer must timely pay its employees for all hours worked. Defendants failed to do so.

6 59. California Labor Code § 1197, entitled “Pay of Less Than Minimum Wage”
7 states: “The minimum wage for employees fixed by the commission is the minimum wage to be
8 paid to employees, and the payment of a less wage than the minimum so fixed is unlawful.” The
9 applicable minimum wage rate fixed by the commission for work during the relevant period is
10 found in the Wage Orders.

11 60. The minimum wage provisions of California Labor Code are enforceable by private
12 civil action pursuant to Labor Code § 1194(a) which states: “Notwithstanding any agreement to
13 work for a lesser wage, any employee receiving less than the legal minimum wage or the legal
14 overtime compensation applicable to the employee is entitled to recover in a civil action the
15 unpaid balance of the full amount of this minimum wage or overtime compensation, including
16 interest thereon, reasonable attorney’s fees and costs of suit.”

17 61. As described in California Labor Code §§ 1185 and 1194.2, any action for wages
18 incorporates the applicable Wage Order of the California Industrial Welfare Commission. Also,
19 California Labor Code §§ 1194, 1197, 1197.1 and those Industrial Welfare Commission Wage
20 Orders entitle non-exempt employees to an amount equal to or greater than the minimum wage for
21 all hours worked. All hours must be paid at the statutory or agreed rate, or at the minimum rate in
22 the absence of a contractually agreed upon one.

23 62. In committing these violations of the California Labor Code, Defendants
24 inaccurately recorded, or required Plaintiff and the Class Members to input times that did not
25 reflect their actual hours worked, or miscalculated hours or rates or otherwise underpaid the actual
26 time worked by Plaintiff and other members of the Class, including by requiring off the clock
27 work as addressed in detail above. Defendants acted in an illegal attempt to avoid the payment of
28 all earned wages, and other benefits in violation of the California Labor Code, the Industrial

1 Welfare Commission requirements and other applicable laws and regulations. As a result of these
2 violations, Defendants also failed to timely pay all wages earned in accordance with California
3 Labor Code § 1194.

4 63. California Labor Code § 1194.2 also provides for the following remedies: “In any
5 action under Section 1194 . . . to recover wages because of the payment of a wage less than the
6 minimum wages fixed by an order of the commission, an employee shall be entitled to recover
7 liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.”

8 64. In addition to restitution for all unpaid wages, pursuant to California Labor Code §
9 1197.1, Plaintiff and Class Members are entitled to recover a penalty of \$100.00 for the initial
10 failure to timely pay each employee minimum wages, and \$250.00 for each subsequent failure to
11 pay each employee minimum wages.

12 65. Pursuant to California Labor Code § 1194.2, Plaintiff and Class Members are
13 further entitled to recover liquidated damages in an amount equal to wages unlawfully unpaid and
14 interest thereon.

15 66. Defendants have the ability to pay minimum wages for all time worked and have
16 willfully refused to pay such wages with the intent to secure for Defendants a discount upon this
17 indebtedness with the intent to annoy, harass, oppress, hinder, delay, or defraud Employees.

18 67. Plaintiff and the Class Members are entitled to recover the unpaid minimum wages
19 (including double minimum wages) and local wage ordinance wages and liquidated damages in an
20 amount equal to the minimum wages unlawfully unpaid, interest thereon, and reasonable
21 attorney’s fees and costs of suit pursuant to California Labor Code § 1194(a). Plaintiff and the
22 other members of the Class further request recovery of all unpaid wages, according to proof,
23 interest, statutory costs, as well as the assessment of any statutory penalties against Defendants, in
24 a sum as provided by the California Labor Code and/or other applicable statutes. To the extent
25 minimum wage compensation is determined to be owed to the Class Members who have
26 terminated their employment, Defendants’ conduct also violates Labor Code §§ 201 and/or 202,
27 and therefore these individuals are also be entitled to waiting time penalties under California
28 Labor Code § 203, which penalties are sought herein on behalf of these Class Members.

Defendants' failure to timely pay all wages owed also violated Labor Code § 204 and resulted in violations of Labor Code § 226 because they resulted in the issuance of inaccurate wage statements. Defendants' conduct as alleged herein was willful, intentional, and not in good faith. Further, Plaintiff and other Class Members are entitled to seek and recover statutory costs.

SECOND CAUSE OF ACTION

FAILURE TO PAY WAGES AND OVERTIME UNDER LABOR CODE § 510

(Against All Defendants)

68. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

69. California Labor Code § 1194 provides that "any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees, and costs of suit." The action may be maintained directly against the employer in an employee's name without first filing a claim with the Division of Labor Standards and Enforcement.

70. By their conduct, as set forth herein, Defendants violated Labor Code § 1194 and Labor Code § 510 (and paragraphs 2(K), 2(S), 3(A) and 4(A)-4(B) of the relevant orders of the Industrial Welfare Commission) by failing to pay Employees: (a) time and one-half their regular hourly rates for hours worked in excess of eight (8) hours in a workday or in excess of forty (40) hours in any workweek or for the first eight (8) hours worked on the seventh day of work in any one workweek; or (b) twice their regular rate of pay for hours worked in excess of twelve (12) hours in any one (1) day or for hours worked in excess of eight (8) hours on any seventh day of work in a workweek.

71. Defendants had a consistent policy of not paying Employees wages for all hours worked, including by requiring off-the-clock work as addressed above, by unlawful deductions, by under-reporting actual hours worked, and by requiring Employees to do so as well. Defendants have also failed to include all forms of remuneration in the regular rate of pay used to calculate and pay overtime and failed to begin paying overtime when it was incurred due to the off-the-

1 clock work, as detailed above.

2 72. Defendants thus had a consistent policy of not paying Employees wages for all
3 hours worked, including hours at their required regular, overtime, and double-time rates. Upon
4 information and belief, Defendants, and each of them, have intentionally and improperly rounded,
5 changed, adjusted and/or, modified certain employees' hours, including Plaintiff's, or required
6 Plaintiff and the Class Members to do so, or otherwise caused them to work off the clock to avoid
7 paying Plaintiff and the Class Members all earned and owed straight time and overtime wages and
8 other benefits, in violation of the California Labor Code, the California Code of Regulations and
9 the IWC Wage Orders and guidelines set forth by the Division of Labor Standards and
10 Enforcement. Defendants have also violated these provisions by requiring Plaintiff and other
11 similarly situated non-exempt employees to work through meal periods or remain under
12 Defendants' control when they were required to be clocked out or to otherwise work off the clock
13 to complete their daily job duties and respond to demands from managers.

14 73. Therefore, Employees were not properly compensated, nor were they paid overtime
15 rates for hours worked in excess of eight hours in a given day and/or forty hours in a given week.
16 Defendants have also violated these provisions by requiring Plaintiff and other similarly situated
17 Class Members to work through meal periods when they were required to be clocked out or to
18 otherwise work off the clock to complete their daily job duties.

19 74. Defendants' failure to pay Plaintiff and the Class Members the unpaid balance of
20 regular wages owed and overtime compensation for all hours worked, as required by California
21 law, violates the provisions of Labor Code §§ 510 and 1198 and paragraph 3(A) of the applicable
22 IWC Wage Order, and is therefore unlawful. Defendants also failed to correctly calculate the
23 regular rate used to calculate and pay overtime, and meal and rest premiums, as addressed above.

24 75. Additionally, Labor Code § 558(a) provides "any employer or other person acting
25 on behalf of an employer who violates, or causes to be violated, a section of this chapter or any
26 provisions regulating hours and days of work in any order of the IWC shall be subject to a civil
27 penalty as follows: (1) For any violation, fifty dollars (\$50) for each underpaid employee for each
28 pay period for which the employee was underpaid in addition to an amount sufficient to recover

1 underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each
2 underpaid employee for each pay period for which the employee was underpaid in addition to an
3 amount sufficient to recover underpaid wages. (3) Wages recovered pursuant to this section shall
4 be paid to the affected employee.” Labor Code § 558(c) states, “the civil penalties provided for in
5 this section are in addition to any other civil or criminal penalty provided by law.” Defendants
6 have violated provisions of the Labor Code regulating hours and days of work as well as the IWC
7 Wage Orders. Accordingly, Plaintiff and the Class Members seek the remedies set forth in Labor
8 Code § 558.

9 76. Defendants’ failure to pay compensation in a timely fashion also constituted a
10 violation of California Labor Code § 204, which requires that all wages shall be paid
11 semimonthly. From four (4) years prior to the filing of this lawsuit to the present, in direct
12 violation of that provision of the California Labor Code, Defendants have failed to pay all wages
13 and overtime compensation earned by Employees. Each such failure to make a timely payment of
14 compensation to Employees constitutes a separate violation of California Labor Code § 204.

15 77. Employees have been damaged by these violations of California Labor Code §§
16 204 and 510 (and the relevant orders of the Industrial Welfare Commission). Additionally, under
17 Labor Code § 1199(a)-(c), it is a misdemeanor and Defendants are subject to a fine of not less
18 than \$100 for causing Employees “to work for longer hours than those fixed, or under conditions
19 of labor prohibited by an order of the commission” or if the employer pays “a wage less than the
20 minimum fixed by an order of the commission” or “violates...any provision of this chapter or
21 any order or ruling of the commission.”

22 78. Consequently, pursuant to the California Labor Code, including Labor Code §§
23 204, 510, 558, 1194, 1198, 1199, and the relevant paragraphs of the IWC Wage Orders, including
24 paragraphs 2(K), 2(S), 3(A), 4, and 20, Defendants are liable to Employees for the full amount of
25 all their unpaid wages and overtime compensation for all their hours worked, with interest, plus
26 their reasonable attorneys’ fees and costs, as well as the assessment of any statutory penalties
27 against Defendants, and each of them, and any additional sums as provided by the Labor Code
28 and/or other statutes.

1 **THIRD CAUSE OF ACTION**

2 **MEAL-PERIOD LIABILITY UNDER LABOR CODE § 226.7**

3 **(Against All Defendants)**

4 79. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
5 full herein.

6 80. Employees regularly worked shifts greater than five (5) hours and in some
7 instances, greater than ten (10) hours. Pursuant to Labor Code § 512, and paragraph 11 of the
8 applicable IWC Wage Order, an employer may not employ someone for a shift of more than five
9 (5) hours without providing him or his with a meal period of not less than thirty (30) minutes or
10 for a shift of more than ten (10) hours without providing him or his with a second meal period of
11 not less than thirty (30) minutes.

12 81. Defendants failed to provide Employees with meal periods as required under the
13 Labor Code and paragraph 11 of the applicable IWC Wage Order. Employees were often required
14 to work or to otherwise remain under Defendants' control during meal periods, or Defendants
15 provided them after Employees worked beyond the fifth hour of their shifts or Employees
16 otherwise had them shortened and interrupted by work demands and requirements to perform off
17 the clock work and remain under Defendants' control. Furthermore, upon information and belief,
18 on the occasions when Employees worked more than ten hours in a given shift, they did so
19 without receiving a second uninterrupted thirty-minute meal period as required by law.

20 82. Defendants thus failed to provide Plaintiff and the Class Members with meal
21 periods as required by the Labor Code and paragraph 11 of the applicable IWC Wage Order,
22 including by not providing them with the opportunity to take meal breaks, by providing them late
23 or for less than thirty minutes, or by requiring them to perform work during breaks.

24 83. Moreover, Defendants failed to compensate Employees for each meal period not
25 provided or inadequately provided, as required under Labor Code § 226.7 and paragraphs 11 and
26 20 of the applicable IWC Wage Orders, which provide that, if an employer fails to provide an
27 employee a meal period in accordance with this section, the employer shall pay the employee one
28 (1) hour of pay at the employee's regular rate of compensation for each workday that the meal

1 period is not provided. As detailed above, on the occasions when Defendants did pay any meal
2 period premiums, they upon information and belief underpaid them by miscalculating the regular
3 rate of compensation by not including all forms of remuneration in it. Defendants thus failed to
4 compensate the Employees in the Class for each meal period not provided or inadequately
5 provided, as required under Labor Code § 226.7 and paragraphs 11 and 20 of the applicable IWC
6 Wage Order.

7 84. Therefore, pursuant to Labor Code § 226.7 and paragraphs 11 and 20 of the
8 applicable IWC Wage Order, Employees in the Class are entitled to damages in an amount equal
9 to one (1) hour of wages at their effective hourly rates of pay for each meal period not provided or
10 deficiently provided, a sum to be proven at trial, as well as the assessment of any statutory
11 penalties against the Defendants, and each of them, in a sum as provided by the Labor Code and
12 other statutes and applicable IWC Wage Order paragraphs.

13 **FOURTH CAUSE OF ACTION**

14 **REST-BREAK LIABILITY UNDER LABOR CODE § 226.7**

15 **(Against All Defendants)**

16 85. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
17 full herein.

18 86. Labor Code §§ 226.7 and paragraph 12 of the applicable IWC Wage Orders
19 provide that employers must authorize and permit all employees to take rest periods at the rate of
20 ten minutes net rest time per four (4) work hours.

21 87. Employees consistently worked consecutive four hour shifts and were generally
22 scheduled for shifts of greater than 3.5 hours total, thus requiring Defendants to authorize and
23 permit them to take rest periods. Pursuant to the Labor Code and paragraph 12 of the applicable
24 IWC Wage Order, Employees were entitled to paid rest breaks of not less than ten minutes for
25 each consecutive four hour shift, and Defendants failed to provide Employees with timely rest
26 breaks of not less than ten minutes for each consecutive four hour shift. Defendants made no effort
27 to schedule or otherwise authorize and permit Plaintiff and the Class Members to take lawful rest
28 breaks. Employees were often required to work or to otherwise remain under Defendants' control

1 during rest periods, including by responding to work requirements, and had breaks provided
2 untimely as a result of the above described off the clock work.

3 88. Labor Code §§ 226.7 and paragraphs 12 and 20 of the applicable IWC Wage
4 Orders provide that if an employer fails to provide an employee rest period in accordance with this
5 section, the employer shall pay the employee one hour of pay at the employee's regular rate of
6 compensation for each workday that the rest period is not provided. Defendants failed to do so.

7 89. Defendants, and each of them, have therefore intentionally and improperly denied
8 rest periods to Plaintiff and the Class Members in violation of Labor Code §§ 226.7 and 512 and
9 paragraph 12 of the applicable IWC Wage Orders.

10 90. Defendants failed to authorize and permit Plaintiff and the Class Members to take
11 rest periods, as required by the Labor Code. Moreover, Defendants did not compensate Employees
12 with an additional hour of pay at each Employee's hourly rate for each day that Defendants failed
13 to provide them with adequate rest breaks, as required under Labor Code § 226.7 and paragraphs
14 12 and 20 of the applicable IWC Wage Orders.

15 91. Therefore, pursuant to Labor Code § 226.7 and paragraphs 12 and 20 of the
16 applicable IWC Wage Orders, Employees are entitled to damages in an amount equal to one hour
17 of wages at their effective hourly rates of pay for each day worked without the required rest
18 breaks, a sum to be proven at trial, as well as the assessment of any statutory penalties against
19 Defendants, and each of them, in a sum as provided by the Labor Code and/or other statutes.

20 **FIFTH CAUSE OF ACTION**

21 **VIOLATION OF LABOR CODE § 226(a)**

22 **(Against All Defendants)**

23 92. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
24 full herein.

25 93. California Labor Code § 226(a) requires an employer to furnish each of his or her
26 employees with an accurate, itemized statement in writing showing the gross and net earnings,
27 total hours worked, and the corresponding number of hours worked at each hourly rate; these
28 statements must be appended to the detachable part of the check, draft, voucher, or whatever else

1 serves to pay the employee's wages; or, if wages are paid by cash or personal check, these
2 statements may be given to the employee separately from the payment of wages; in either case the
3 employer must give the employee these statements twice a month or each time wages are paid.

4 94. Defendants failed to provide Plaintiff and the similarly situated Employee Class
5 Members with accurate itemized wage statements in writing, as required by the Labor Code and
6 paragraph 7 of the applicable IWC Wage Orders. Specifically, the wage statements issued to
7 Employees by Defendants failed to accurately account for wages, overtime, and premium pay,
8 including for all overtime and double time hours worked and for deficient meal periods and rest
9 breaks, all of which Defendants knew or reasonably should have known were owed to the
10 Employees, as alleged above.

11 95. Throughout the liability period, Defendants intentionally failed to furnish to
12 Plaintiff and the Class Members, upon each payment of wages, itemized statements accurately
13 showing: (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-
14 rate units earned and any applicable piece rate paid on a piece-rate basis, (4) all deductions, (5) net
15 wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of
16 the employee and only the last four digits of his or her social security number or an employee
17 identification number other than a social security number, (8) the name and address of the legal
18 entity that is the employer and (9) all applicable hourly rates in effect during the pay period and
19 the corresponding number of hours worked at each hourly rate by the employee pursuant to Labor
20 Code § 226 and paragraph 7 of the applicable IWC Wage Orders, amongst other statutory
21 requirements. Defendants knowingly and intentionally failed to provide Plaintiff and the Class
22 Members with such timely and accurate wage and hour statements.

23 96. Plaintiff and the Class Members suffered injury as a result of Defendants'
24 knowing and intentional failure to provide them with the wage and hour statements as required by
25 law and are presumed to have suffered injury and entitled to penalties under Labor Code §
26 226(e), as the Defendants have failed to provide an accurate wage statement, failed to provide
27 accurate and complete information as required by any one or more of items Labor Code § 226
28 (a)(1) to (9), inclusive, and the Plaintiff and Class Members cannot promptly and easily

1 determine from the wage statement alone one or more of the following: (i) The amount of the
2 gross wages or net wages paid to the employee during the pay period or any of the other
3 information required to be provided on the itemized wage statement pursuant to items (2) to (4),
4 inclusive, (6), and (9) of subdivision (a), (ii) Which deductions the employer made from gross
5 wages to determine the net wages paid to the employee during the pay period, (iii) The name and
6 address of the employer and, (iv) The name of the employee and only the last four digits of his or
7 her social security number or an employee identification number other than a social security
8 number. For purposes of Labor Code § 226(e) “promptly and easily determine” means a
9 reasonable person [i.e. an objective standard] would be able to readily ascertain the information
10 without reference to other documents or information.

11 97. Additionally, under paragraph 4(B) of the applicable IWC Wage Orders, employers
12 are required “to pay each employee, on the established payday for the period involved, not less
13 than the applicable minimum wage for all hours worked in the payroll period, ...” Under Labor
14 Code § 1198, “[t]he employment of any employee for longer hours than those fixed by the order
15 or under conditions of labor prohibited by the order is unlawful.” Plaintiff and the Class Members
16 may therefore pursue damages and penalties for violations of Labor Code § 204 and paragraph
17 4(B) of the applicable IWC Wage Orders, including penalties under paragraph 20 of the applicable
18 IWC Wage Orders.

19 98. Therefore, as a direct and proximate cause of Defendants’ violation of Labor Code
20 § 226(a) and paragraphs 4(b), 7, and 20 of the applicable IWC Wage Orders, the Employees in the
21 Class suffered injuries, including among other things confusion over whether they received all
22 wages owed them, the difficulty and expense involved in reconstructing pay records, and forcing
23 them to make mathematical computations to analyze whether the wages paid in fact compensated
24 them correctly for all hours worked.

25 99. Pursuant to Labor Code §§ 226(a) and 226(e), and paragraph 20 of the applicable
26 IWC Wage Order, Plaintiff and the Employee Class Members are entitled to recover the greater of
27 all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and
28 one hundred dollars (\$100) for each violation in a subsequent pay period, not exceeding an

1 aggregate penalty of four thousand dollars (\$4,000) under Section 226(e). They are also entitled to
2 an award of costs and reasonable attorneys' fees.

3 **SIXTH CAUSE OF ACTION**
4 **VIOLATION OF LABOR CODE § 221**
5 **(Against All Defendants)**

6 100. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
7 full herein.

8 101. Labor Code § 221 provides, "It shall be unlawful for any employer to collect or
9 receive from an employee any part of wages theretofore paid by said employer to said employee."
10 Additionally, pursuant to California Labor Code § 204, other applicable laws and regulations, and
11 public policy, an employer must timely pay its employees for all hours worked. Defendants failed
12 to do so.

13 102. Defendants unlawfully received and/or collected wages from the Employees in the
14 Class by requiring off-the-clock work, by miscalculating overtime, and by automatically deducting
15 time for meal periods when they were not lawfully provided and not paying one hour of pay at the
16 regular rate of compensation for every meal and rest period violation endured by Plaintiff and the
17 other Class Members, as alleged above. In addition to failing to authorize and permit rest breaks,
18 Defendants unlawfully deducted up to 30 minutes for meal periods that were rarely provided or
19 otherwise received without violation. Thus, by deducting 30 minutes for a meal period that was
20 generally not lawfully provided if at all, Defendants effectively and unlawfully deducted at least
21 30 minutes of hours worked from each Employee's daily work shifts. By not compensating
22 Employees for all hours worked, Defendants unlawfully deducted wages earned in violation of
23 Labor Code § 221.

24 103. As a direct and proximate cause of the unauthorized deductions, Employees have
25 been damaged, in an amount to be determined at trial.

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28 ///

SEVENTH CAUSE OF ACTION
VIOLATION OF LABOR CODE § 204
(Against All Defendants)

104. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

105. Labor Code § 204 instructs that: “All wages, ...earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays. Labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month.” Additionally, the requirements of this section shall be deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven calendar days following the close of the payroll period.” As detailed above, Defendants maintained a consistently applied policy and practice of not paying all wages earned between the 1st and 15th days of a month between the 16th and 26th day and failed to pay all wages earned between the 16th and the last day of the month between the 1st and 10th day of the following month. Defendants similarly failed to pay all wages earned by not more than seven calendar days following the close of the payroll period.

106. All wages due and owing to Plaintiff and the Class Members, including as required under Labor Code § 510, were therefore not timely paid by Defendants. Additionally, wages required by Labor Code § 1194 and other sections became due and payable to each employee in each pay period that he or she was not provided with a meal period or rest period or paid straight or overtime wages to which he or she was entitled.

107. Defendants violated Labor Code § 204 by systematically refusing to timely pay wages due under the Labor Code, as addressed above. Additionally, under paragraph 4(B) of the applicable IWC Wage Orders, employers are required “to pay each employee, on the established payday for the period involved, not less than the applicable minimum wage for all hours worked in

1 the payroll period, ..." Under Labor Code § 1198, "[t]he employment of any employee for longer
2 hours than those fixed by the order or under conditions of labor prohibited by the order is
3 unlawful." Plaintiff and the Class Members may therefore pursue damages and penalties for
4 violations of Labor Code § 204 and paragraph 4(B) of the applicable IWC Wage Orders, including
5 penalties under paragraph 20 of the applicable IWC Wage Orders.

6 108. As a result of the unlawful acts of Defendants, Plaintiff and the Class he seeks to
7 represent have been deprived of wages in amounts to be determined at trial, and they are entitled
8 to recovery of such amounts, plus interest and penalties thereon, attorneys' fees, and costs,
9 pursuant to Labor Code § 204, 210, 218.5, 1194 and 1198, and paragraphs 4(B) and 20 of the
10 applicable IWC Wage Orders.

11 **EIGHTH CAUSE OF ACTION**
12 **VIOLATION OF LABOR CODE § 203**
13 **(Against All Defendants)**

14 109. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
15 full herein.

16 110. Plaintiff and numerous Class Members are no longer employed by Defendants;
17 they either quit Defendants' employ or were fired therefrom.

18 111. Defendants failed to pay these Employees all wages due and certain at the time of
19 termination or within seventy-two hours of resignation.

20 112. The wages withheld from these Employees by Defendants remained due and owing
21 for more than thirty days from the date of separation from employment. Additionally, Defendants
22 failed to pay Plaintiff his final check at the time of his termination.

23 113. Defendants thus failed to pay Plaintiff and the Class Members without abatement,
24 all wages as defined by applicable California law. Among other things, these Employees were not
25 paid all regular and overtime wages, including by Defendants failing to pay for all hours worked
26 or requiring off-the-clock work or by unlawfully under-recording time entries to the detriment of
27 Employees, and Defendants failed to pay premium wages owed for unprovided meal periods and
28 rest periods, as further detailed in this Complaint. Defendants' failure to pay said wages within the

1 required time was willful within the meaning of Labor Code § 203.

2 114. Additionally, under paragraph 4(B) of the applicable IWC Wage Orders, employers
3 are required “to pay each employee, on the established payday for the period involved, not less
4 than the applicable minimum wage for all hours worked in the payroll period, ...” Under Labor
5 Code § 1198, “[t]he employment of any employee for longer hours than those fixed by the order
6 or under conditions of labor prohibited by the order is unlawful.” Plaintiff and the Class Members
7 may therefore pursue damages and penalties for violations of Labor Code § 203 and paragraph
8 4(B) of the applicable IWC Wage Orders, including penalties under paragraph 20 of the applicable
9 IWC Wage Orders. Additionally, under Labor Code § 1199(a)-(c), it is a misdemeanor and
10 Defendants are subject to a fine of not less than \$100 for causing Employees “to work for longer
11 hours than those fixed, or under conditions of labor prohibited by an order of the commission” or
12 if the employer pays “a wage less than the minimum fixed by an order of the commission” or
13 “violates...any provision of this chapter or any order or ruling of the commission.”

14 115. Defendants’ failure to pay wages, as alleged, entitles Plaintiff and these former
15 Employee Class Members to penalties under Labor Code § 203 and the applicable paragraphs of
16 the IWC Wage Orders as addressed above, including the requirement that an employee’s wages
17 shall continue until paid for up to thirty (30) days from the date they were due.

18 **NINTH CAUSE OF ACTION**

19 **FAILURE TO KEEP REQUIRED PAYROLL RECORDS, LABOR CODE §§ 1174, 1174.5**

20 **(Against All Defendants)**

21 116. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
22 full herein.

23 117. California Labor Code § 1174 requires that all employers shall keep accurate time
24 and wage records for all employees. California Labor Code § 1174.5 further requires that any
25 employee suffering injury due to a willful violation of the aforementioned obligations may seek
26 damages, including civil penalties, from the employer.

27 118. During the course of Plaintiff’s and Employees’ employment, Defendants
28 consistently failed to maintain accurate time and wage records for Plaintiff and Class Members as

1 required by California Labor Code § 1174 by failing to pay them proper wages, overtime, and
2 premium pay as discussed above and failing to document and pay for actual hours worked.

3 119. Defendants are also required by the California Labor Code § 1198 and the
4 applicable Wage Order to maintain a tracking system that accurately records the times during
5 which Employees work.

6 120. Upon information and belief, Defendants have maintained a common unlawful
7 policy and practice of failing to accurately record all hours worked and all meal period start and
8 end times and by adjusting or otherwise rounding and shaving them down.

9 121. Defendants' failure to pay wages, as alleged above, was willful in that Defendants
10 knew wages to be due but failed to pay them.

11 122. Accordingly, Defendants are liable for civil penalties pursuant to the California
12 Labor Code including § 1174.5, for the three years prior to the filing of this Complaint.

13 **TENTH CAUSE OF ACTION**

14 **FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENSES LABOR CODE § 2802**

15 **(Against All Defendants)**

16 123. Plaintiff realleges and incorporates all preceding paragraphs, as though set forth in
17 full herein.

18 124. Plaintiff is informed and believes and based thereon alleges that throughout the
19 period applicable, Defendants required Plaintiff and the Class Members to pay for necessary work-
20 related expenses they incurred. Defendants required Plaintiff and the Class Members to use their
21 cellular phones to conduct work-related business, as addressed above. Plaintiff and the Class
22 Members must be reimbursed for these necessary business expenses under Labor Code § 2802 and
23 Defendants systematically failed to do so.

24 125. Defendants thus followed a uniform policy and practice of failing to reimburse
25 Employees for these necessary work-related expenses or losses incurred in the direct discharge of
26 their job duties during employment with Defendants and at the direction of the Defendants
27 pursuant to Labor Code § 2802(a) and the applicable IWC Wage Orders, paragraph 9.

28 126. Defendants' knowing and willful failure to reimburse lawful necessary work-

1 related expenses and losses to Plaintiff and the Class Members resulted in damages because,
2 among other things, Defendants did not inform employees of their right to be reimbursed for those
3 work-related expenses. As Defendants failed to inform and misled Plaintiff and the Class
4 Members with regard to their rights, Plaintiff and the Class Members were led to believe that
5 incurring those lawful and necessary expenses was an expected and essential function of their
6 employment with Defendants and that failure to incur those expenses would have adverse
7 consequences on their employment.

8 127. Therefore, Plaintiff and the Class Members are entitled to reimbursement for any
9 and all necessary work-related expenses, as provided for in Labor Code § 2802(b) and paragraph 9
10 of the applicable IWC Wage Orders, incurred during the direct discharge of their duties while
11 employed by Defendants, as well as accrued interest on those expenses that were not reimbursed
12 from the date Plaintiff and the Class Members incurred those expenses. Further, Plaintiff and the
13 Class Members are entitled to costs and attorney's fees pursuant to Labor Code § 2802(c).

14 **ELEVENTH CAUSE OF ACTION**

15 **VIOLATION OF BUSINESS & PROFESSIONS CODE § 17200 *ET SEQ.***

16 **(Against All Defendants)**

17 128. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth
18 in full herein. Plaintiff, on behalf of himself, the Employees in the Class, and the general public,
19 brings this claim pursuant to Business & Professions Code § 17200 *et seq.* The conduct of
20 Defendants as alleged in this Complaint has been and continues to be unfair, unlawful, and
21 harmful to Employees and the general public. Plaintiff seeks to enforce important rights affecting
22 the public interest within the meaning of Code of Civil Procedure § 1021.5.

23 129. Plaintiff is a "person" within the meaning of the Business & Professions Code
24 § 17204, has suffered injury, and therefore, has standing to bring this cause of action for
25 injunctive relief, restitution, and other appropriate equitable relief.

26 130. Business & Professions Code § 17200 *et seq.* prohibits unlawful and unfair
27 business practices. By the conduct alleged herein, Defendants' practices were deceptive and
28 fraudulent in that Defendants' policy and practice failed to provide the required amount of

1 compensation for missed meal and rest breaks, and failed to adequately compensate Plaintiff and
2 Class Members for all hours worked, due to systematic business practices as alleged herein that
3 cannot be justified, pursuant to the applicable California Labor Code and Industrial Welfare
4 Commission requirements in violation of California Business and Professions Code §§ 17200, *et*
5 *seq.*, and for which this Court should issue injunctive and equitable relief, pursuant to California
6 Business & Professions Code § 17203, including restitution of wages wrongfully withheld.

7 131. Wage-and-hour laws express fundamental public policies. Paying employees their
8 wages and overtime, providing them with meal periods and rest breaks, etc., are fundamental
9 public policies of California. Labor Code § 90.5(a) articulates the public policies of this State
10 vigorously to enforce minimum labor standards, to ensure that employees are not required or
11 permitted to work under substandard and unlawful conditions and to protect law-abiding
12 employers and their employees from competitors who lower costs to themselves by failing to
13 comply with minimum labor standards.

14 132. Defendants have violated statutes and public policies. Through the conduct alleged
15 in this Complaint Defendants have acted contrary to these public policies, have violated specific
16 provisions of the Labor Code, and have engaged in other unlawful and unfair business practices
17 in violation of Business & Professions Code § 17200 *et seq.*; which conduct has deprived
18 Plaintiff, and all persons similarly situated, and all interested persons, of the rights, benefits, and
19 privileges guaranteed to all employees under the law.

20 133. Defendants' conduct, as alleged above, constitutes unfair competition in violation
21 of the Business & Professions Code § 17200 *et seq.*

22 134. Defendants, by engaging in the conduct herein alleged, by failing to pay wages
23 and overtime, failing to provide meal periods and rest breaks, etc., either knew or in the exercise
24 of reasonable care should have known that their conduct was unlawful; therefore, their conduct
25 violates the Business & Professions Code § 17200 *et seq.*

26 135. By the conduct alleged herein, Defendants have engaged and continue to engage in
27 a business practice which violates California and federal law, including but not limited to, the
28 applicable Industrial Wage Order(s), the California Code of Regulations, and the California

1 Labor Code including Sections 204, 226, 226.7, 510, 512, 1194, 1197, and 1198 for which this
2 Court should issue declaratory and other equitable relief pursuant to California Business &
3 Professions Code § 17203 as may be necessary to prevent and remedy the conduct held to
4 constitute unfair competition, including restitution of wages wrongfully withheld.

5 136. As a proximate result of the above-mentioned acts of Defendants, Employees have
6 been damaged, in a sum to be proven at trial.

7 137. Unless restrained by this Court Defendants will continue to engage in such
8 unlawful conduct as alleged above. Pursuant to the Business & Professions Code, this Court
9 should make such orders or judgments, including the appointment of a receiver, as may be
10 necessary to prevent the use by Defendants or their agents or employees of any unlawful or
11 deceptive practice prohibited by the Business & Professions Code, including but not limited to
12 the disgorgement of such profits as may be necessary to restore Employees to the money
13 Defendants have unlawfully failed to pay.

14 **TWELFTH CAUSE OF ACTION**

15 **PENALTIES PURSUANT TO LABOR CODE § 2698, ET SEQ.**

16 **(Against All Defendants)**

17 138. Plaintiff realleges and incorporates all preceding paragraphs, as though set forth in
18 full herein.

19 139. Plaintiff and the Employees in the Class are also aggrieved employees as defined
20 under Labor Code § 2699(c)(1) in that they suffered the violations alleged in this Complaint and
21 either were or are employed by Defendants (“Aggrieved Employees”) during the relevant time
22 period.

23 140. In failing to pay Aggrieved Employees minimum wages and overtime, not
24 providing proper meal and rest periods, failing to provide accurate itemized wage statements, and
25 failing to pay Employees wages upon termination or timely upon resignation, all discussed above,
26 Defendants failed to timely pay Aggrieved Employees wages on a semimonthly basis as required
27 under Labor Code § 204. Defendants also failed to maintain records showing accurate hours
28 worked daily and the wages paid to Aggrieved Employees, as required by Labor Code § 1174 and

1 paragraph 7 of the applicable IWC Wage Orders.

2 141. As such, Employees seek wages and penalties under Labor Code §§ 2698 and 2699
3 for Defendants' violation of Labor Code provisions included under Labor Code § 2699.5,
4 including the penalty provisions, without limitation, based, inter alia, on the following California
5 Labor Code sections: 201, 202, 203, 204, 218, 218.5, 218.6, 221, 226, 226.4, 226.7, 246, 248.1,
6 248.2, 248.5, 510, 511, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1198,
7 1198.5, 1199, 2698 *et seq.*, and 2802.

8 142. More specifically, after complying with the notice procedures of Labor Code §
9 2699.3, Plaintiff asserts, as a representative action on behalf of the California Attorney General
10 and the other similarly Aggrieved Employees, a PAGA claim for the violations of the above-
11 addressed underlying claims and seeking penalties as specified by the applicable corresponding
12 provision, including as follows:

13 (a) Wage Claims: For failure to provide Plaintiff and the Aggrieved Employees all
14 earned regular pay and minimum wages for regular hours worked and for failure to pay overtime
15 premium wages for overtime hours worked under Labor Code §§ 226.2, 510, 1194(a), 1197, and
16 1198, and paragraphs 2(K), 3(A), 4(A), 4(B) and 20 of the applicable IWC Wage Order(s) seeking
17 all civil and statutory penalties available and applicable, and wages, under Labor Code §§ 510,
18 558, 1194.2, 1197.1, 1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant
19 to Labor Code § 2699(k)(1);

20 (b) Meal and Rest Period Claims: For failure to provide Plaintiff and the Aggrieved
21 Employees off-duty, timely, and unpaid meal periods and failure to authorize and permit them to
22 take off-duty, timely, and paid rest periods, or pay one hour of regular pay in lieu thereof, under
23 Labor Code §§ 512, 1198, and 226.7, and Sections 11, 12(A), and 12(B) of the applicable IWC
24 Wage Order(s) seeking all civil and statutory penalties available and applicable, including under
25 paragraph 20 of the applicable IWC Wage Orders, and wages under Labor Code §§ 226.7, 512,
26 558, including sections 558(a)(1)-(3), 1199 and 2699(f)(2), and also for attorneys' fees and costs
27 pursuant to Labor Code § 2699(k)(1);

28 (c) Inaccurate Wage Statements and Failure to Maintain Records: For failure to

1 provide Plaintiff and the Aggrieved Employees with accurate, itemized wage statements and
2 failure to maintain employment records for Plaintiff and Aggrieved Employees under Labor Code
3 §§ 226, 1174, and 1198.5, and Sections 7(A), 7(B), and 7(C) of the applicable IWC Wage
4 Order(s) seeking all civil and statutory penalties and wages available and applicable under Labor
5 Code §§ 226(e), 226.3, 558, 1174.5, 1199, and 2699(f)(2), and paragraph 20 of the applicable
6 IWC Wage Order, and also for attorneys' fees and costs pursuant to Labor Code § 2699(k)(1).
7 More specifically, by providing inaccurate wage statements and failing to maintain records as
8 required under Labor Code § 226(a), Defendants committed ongoing violations giving rise to civil
9 penalties under Labor Code §226.3, which in addition to other penalties provided by law, subjects
10 Defendants to "a penalty in the amount of two hundred fifty dollars (\$250) per employee per
11 violation in an initial citation and one thousand dollars (\$1,000) per employee for each violation in
12 a subsequent citation, ...";

13 (d) Failure to Timely Pay Wages: For failure to timely pay all wages owed, including
14 at least semi-monthly and upon separation or termination, under Labor Code §§ 201, 201, 203,
15 204, 226.2, 1197.5, 2926, and 2927 seeking all civil penalties available and applicable, and wages,
16 under Labor Code §§ 201, 202, 203, 210, 558, 1197, 1198, 1199 and 2699(f)(2), and paragraph 20
17 of the applicable IWC Wage Orders, and also for attorneys' fees and costs pursuant to Labor Code
18 § 2699(k)(1);

19 (e) Unlawful Deductions and Failure to Reimburse Necessary Business Expenses: For
20 Defendants' unlawful deductions from wages and for Defendants' failure to reimburse the
21 necessary work related expenses incurred under Labor Code §§ 221, 1197, 1197.1, 1198, and
22 2802, and Sections 2(K), 4, 9, and 20 of the applicable IWC Wage Order(s), seeking civil
23 penalties available and applicable under Labor Code §§ 221, 1197, 1197.1, 1198, 2802, 2699.5,
24 and 2699(f)(2) and paragraph 9 and 20 of the IWC Wage Orders, and also attorneys' fees and
25 costs pursuant to Labor Code § 2699(k)(1);

26 (f) Failure to Provide Paid Sick Days and COVID-19 Supplemental Sick Leave: For
27 Defendants' failure to provide Employees with all their required and earned sick days and all their
28 COVID-19 supplemental sick leave in violation of Labor Code §§ 246, 248.1, 248.2, and the civil

1 and statutory penalties available and applicable under Labor Code §§ 246, 248.1, 248.2, 248.5,
2 558, 1194.2, 1197.1, 1198, 1199, and 2699(f)(2), and also for attorneys' fees and costs pursuant to
3 Labor Code § 2699(g)(1); and

4 (g) All Alleged Violations of the IWC Wage Orders and Other Labor Code

5 Sections: For any above addressed violation of the applicable provisions of the IWC Wage
6 Orders, each of which constitute separate violations of Labor Code § 1198 and Labor Code §
7 2699.5, and seeking penalties available and applicable under Labor Code § 2699(f)(2) and
8 paragraph 20 of the applicable IWC Wage Orders, and for attorneys' fees and costs pursuant to
9 Labor Code § 2699(k)(1).

10 143. As also addressed above, Plaintiff, on behalf of the Aggrieved Employees, also
11 seeks the penalties and remedies set forth in Labor Code § 558, which states:

12 (a) Any employer or other person acting on behalf of an employer who violates, or
13 causes to be violated, a section of this chapter or any provision regulating hours and days of work
14 in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows:

15 (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period
16 for which the employee was underpaid in addition to an amount sufficient to recover underpaid
17 wages. (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid
18 employee for each pay period for which the employee was underpaid in addition to an amount
19 sufficient to recover underpaid wages...

20 (b) If upon inspection or investigation the Labor Commissioner determines that a
21 person had paid or caused to be paid a wage for overtime work in violation of any provision of this
22 chapter, or any provision regulating hours and days of work in any order of the Industrial Welfare
23 Commission, the Labor Commissioner may issue a citation. The procedures for issuing,
24 contesting, and enforcing judgments for citations or civil penalties issued by the Labor
25 Commissioner for a violation of this chapter shall be the same as those set out in Section 1197.1.

26 (c) The civil penalties provided for in this section are in addition to any other civil or
27 criminal penalty provided by law.

28 144. Plaintiff has exhausted his administrative remedies by submitted a certified letter to

1 the LWDA and Defendants on June 21, 2024 (LWDA-CM-1035778-24) addressing in detail the
2 specific provisions of the Labor Code Defendants have violated and addressing the facts and legal
3 theories to support the alleged violations and requested penalties. The LWDA has not provided
4 notice of its intent to investigate the alleged violations within 65 calendar days of the postmark
5 date of the letter, and Plaintiff adds this claim seeking penalties under the PAGA for the violations
6 addressed herein and in the PAGA Notice letter and the original Complaint.

7 **RELIEF REQUESTED**

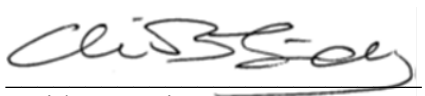
8 WHEREFORE, Plaintiff prays for the following relief:

- 9 1. For an order certifying this action as a class action;
- 10 2. For compensatory damages in the amount of the unpaid minimum wages for work
11 performed by Employees and unpaid overtime compensation from at least four (4) years prior to
12 the filing of this action, as may be proven;
- 13 3. For liquidated damages in the amount equal to the unpaid minimum wage and
14 interest thereon, from at least four (4) years prior to the filing of this action, according to proof;
- 15 4. For compensatory damages in the amount of all unpaid wages, including overtime
16 and double-time pay, as may be proven;
- 17 5. For compensatory damages in the amount of the hourly wage made by Employees
18 for each missed or deficient meal period where no premium pay was paid therefor from four (4)
19 years prior to the filing of this action, as may be proven;
- 20 6. For compensatory damages in the amount of the hourly wage made by Employees
21 for each day requisite rest breaks were not provided or were deficiently provided where no
22 premium pay was paid therefor from at least four (4) years prior to the filing of this action, as may
23 be proven;
- 24 7. For penalties pursuant to Labor Code § 226(e) for Employees, as may be proven;
- 25 8. For restitution and/or damages and penalties for Defendants' failure to pay all
26 wages due twice monthly under Labor Code § 204, as may be proven;
- 27 9. For restitution and/or damages for all amounts unlawfully withheld from the wages
28 for all Class Members in violation of Labor Code § 221, as may be proven;

10. For penalties pursuant to Labor Code § 203 for all Employees who quit or were fired in an amount equal to their daily wage times thirty (30) days, as may be proven;
11. For penalties pursuant to Labor Code § 1174.5, as may be proven;
12. For penalties pursuant to Labor Code §§ 226 and 1198.5, as may be proven;
13. For damages and restitution for failure to reimburse all reasonable and necessary business expenses incurred by Employees as required by Labor Code § 2802, as may be proven;
14. For restitution for unfair competition pursuant to Business & Professions Code § 17200 *et seq.*, including disgorgement or profits, as may be proven;
15. For penalties pursuant to Labor Code § 2698 *et seq.*, as may be proven;
16. For penalties under Labor Code § 558, as may be proven;
17. For an order enjoining Defendants and their agents, servants, and employees, and all persons acting under, in concert with, or for them, from acting in derogation of any rights or duties adumbrated in this Complaint;
18. For other wages and penalties under the Labor Code as may be proven;
19. For all general, special, and incidental damages as may be proven;
20. For an award of pre-judgment and post-judgment interest;
21. For an award providing for the payment of the costs of this suit;
22. For an award of attorneys' fees; and
23. For such other and further relief as this Court may deem proper and just.

DATED: March 11, 2025

D.LAW, INC.

By: 
David Yeremian
Alvin B. Lindsay
Attorneys for Plaintiff GERARDO
DE LEON and all others similarly situated

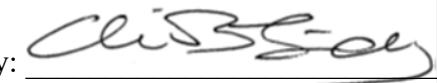
DEMAND FOR JURY TRIAL

Plaintiff hereby demands trial of his claims by jury to the extent authorized by law.

DATED: March 11, 2025

D.LAW, INC.

By:



David Yeremian
Alvin B. Lindsay
Attorneys for Plaintiff GERARDO
DE LEON and all others similarly situated

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES:

3 I am employed in the aforesaid county, State of California; I am over the age of 18 years
4 and not a party to the within action; my business address is 450 N Brand Blvd. Ste 840, Glendale,
CA 91203.

5 On March 11, 2025, I served the foregoing: **FIRST AMENDED CLASS**
6 **ACTION COMPLAINT** on Interested Parties in this action by placing a true copy
thereof, enclosed in a sealed envelope, addressed as follows:

7 David Nusz
8 dnusz@ohaganmeyer.com
9 Matthew Sullivan
10 msullivan@ohaganmeyer.com
11 **O'Hagan Meyer**
12 4695 MacArthur Court, Suite 900
13 Newport Beach, CA 92660

14 ☐ **(BY MAIL)** I placed such envelope with postage thereon fully paid in the United States
15 mail at Glendale, California. I am "readily familiar" with this firm's practice of collecting and
16 processing correspondence for mailing. It is deposited with U.S. Postal Service on that same day
17 in the ordinary course of business. I am aware that on motion of party served, service is
18 presumed invalid if postal cancellation date or postage meter date is more than 1 day after date of
19 deposit for mailing in affidavit.

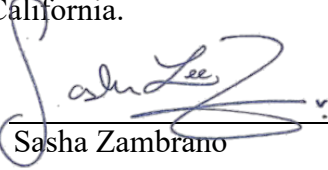
20 ☐ **(ONLY BY ELECTRONIC TRANSMISSION)** by use of email by scanning the
21 documents and any and all documents and emailing them to email addresses above.

22 ☒ **(BY ELECTRONIC SERVICE VIA CASE ANYWHERE)** Based on a court order, I
23 caused the above-entitled document(s) to be served through Case Anywhere at
24 www.caseanywhere.com addressed to all parties appearing on the electronic service list for the
25 above-entitled case. The service transmission was reported as complete and a copy of the Case
26 Anywhere Filing Receipt Page/Confirmation will be filed, deposited, or maintained with the
27 original document(s) in this office.

28 ☐ **(BY OVERNIGHT DELIVERY)** I enclosed the documents in an envelope or package
provided by an overnight delivery carrier and addressed to the persons at the address above. I
placed the envelope or package for collection and overnight delivery at an office or a regularly
utilized drop box of the overnight delivery carrier.

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

Executed on March 11, 2025, at Glendale, California.

24 
25 _____
26 Sasha Zambrano
27
28

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES Branch Name: Spring Street Courthouse Mailing Address: 312 North Spring Street City, State and Zip Code: Los Angeles CA 90012	
SHORT TITLE: GERARDO DE LEON vs B2SIGN INC NOTICE OF CONFIRMATION OF ELECTRONIC FILING	CASE NUMBER: 24STCV15638

The Electronic Filing described by the below summary data was reviewed and accepted by the Superior Court of California, County of LOS ANGELES. In order to process the filing, the fee shown was assessed.

Electronic Filing Summary Data

Electronically Submitted By: Legal Connect
 Reference Number: 11798036_2025_03_11_11_57_53_352_7
 Submission Number: 25LA00449294
 Court Received Date: 03/11/2025
 Court Received Time: 11:59 am
 Case Number: 24STCV15638
 Case Title: GERARDO DE LEON vs B2SIGN INC
 Location: Spring Street Courthouse
 Case Type: Civil Unlimited
 Case Category: Other Employment Complaint Case
 Jurisdictional Amount: Over \$35,000
 Notice Generated Date: 03/11/2025
 Notice Generated Time: 2:13 pm

Documents Electronically Filed/Received

Status

Amended Complaint	Accepted
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Comments

Submitter's Comments:

Clerk's Comments:

Electronic Filing Service Provider Information

Service Provider: Legal Connect
 Contact: Legal Connect
 Phone: (800) 909-6859