

THE WHEELER LAW FIRM, APC

Scott Ernest Wheeler (SBN 187998)
Justin A. Wheeler (SBN 342226)
250 West First Street, Suite 216
Claremont, California 91711
Telephone: (909) 621-4988
Facsimile: (909) 621-4622
Email: sew@scottwheelerlawoffice.com
jaw@scottwheelerlawoffice.com

*Attorney for Plaintiff and all others similarly
situated*

ELECTRONICALLY FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT
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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO

SAN BERNARDINO JUSTICE CENTER

ENRIQUE FLORES, individually, and on
behalf of all others similarly situated,

Plaintiff,

v.

INLAND POWDER COATING
CORPORATION, a California corporation;
and DOES 1 through 50, inclusive,

Defendants.

CASE NUMBER: CIVSB2434050

CLASS ACTION COMPLAINT

1. Failure to Provide Required Meal Periods
2. Failure to Provide Required Rest Breaks
3. Failure to Pay Overtime Wages
4. Failure to Pay Minimum Wages
5. Failure to Pay All Wages Due to Discharged and Quitting Employees
6. Failure to Furnish Accurate Itemized Statements
7. Failure to Maintain Required Records
8. Failure to Indemnify Employees for Necessary Expenditures Incurred in Discharge of Duties
9. Unfair and Unlawful Business Practices

REPRESENTATIVE ACTION

10. Penalties Under the Labor Code Private Attorneys General Act

DEMAND FOR JURY TRIAL

1 This is a Class Action brought by Enrique Flores, individually and on behalf of all others
2 similarly situated (“Plaintiff”), relating to systemic violations of California wage and hour laws by
3 his employer, Inland Powder Coating Corporation (“Defendant”). Plaintiff makes the following
4 allegations on information and belief, except as to allegations pertaining to Plaintiff individually,
5 which are based on his personal knowledge.

6 **INTRODUCTION**

7 1. As private, for-profit businesses, Defendant has implemented common policies and
8 practices that have resulted in systemic violations of California’s wage and hour laws.

9 2. Defendant maximizes profits by cutting labor costs, grossly understaffing its
10 manufacturing facilities and warehouse, denying meal and rest breaks, systematically requiring
11 off-the-clock work, and cheating their employees out of minimum and overtime wages and
12 premium payments.

13 3. Defendant has implemented unlawful written policies with respect to meal and
14 rest breaks. Defendant also requires its non-exempt employees, who are informed that the needs
15 of the businesses take top priority, to work through meal and rest breaks, to take untimely meal
16 periods and to remain on call during such breaks. As a result, Plaintiff and other non-exempt
17 hourly employees have been denied the ability to take the meal and rest breaks that they were
18 and are legally entitled to take.

19 4. Plaintiff seeks declaratory, compensatory and other statutorily available relief for
20 himself and a Class of all current and former non-exempt employees of Defendant during the
21 applicable limitations period to compensate these workers for the wages Defendant has stolen
22 from them and to protect current and future workers from being subjected to similar unlawful
23 working conditions perpetrated by Defendant.

24 **JURISDICTION AND VENUE**

25 5. The Superior Court of the State of California has jurisdiction in this matter
26 because Plaintiff is a resident of the State of California, and Defendant is licensed to do business
27 under the laws of the State of California.
28

6. Venue is proper in this judicial district and the County of San Bernardino because Defendant maintains its headquarters, manufacturing facilities, and warehouse, in the County of San Bernardino and Plaintiff worked for Defendant at its facilities, located in Ontario, California, a city located in the County of San Bernardino. Many other Class Members also worked for Defendant in the County of San Bernardino.

7. Defendant employed Plaintiff and other non-exempt hourly employees within the State of California and the unlawful acts alleged herein have a direct effect on Plaintiff and other nonexempt hourly employees.

THE PARTIES

8. Plaintiff is a citizen of the State of California and currently resides in San Bernardino County. During the relevant time period, Plaintiff was employed by Defendant as a laborer at Defendant's manufacturing facilities located in Ontario, California.

9. Plaintiff is informed and believes, and thereon alleges, that Defendant is, and at all times relevant hereto, is a corporation organized and existing under the laws of the State of California. Defendant is authorized to conduct business and does conduct business in the State of California.

10. Plaintiff is informed and believes, and based thereon alleges, that each Defendant acted in all respects pertinent to this action as the agent of the other Defendants, carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendant are legally attributable to the other Defendant. Furthermore, Defendant in all respects acted as the employer and/or joint employer of Plaintiff and the other non-exempt hourly employees.

11. Plaintiff is informed and believes, and based thereon alleges, that each Defendant acted in all respects as the agent, servant, partner, joint venture, alter-ego, employee, proxy, Managing agent, and/or principal of the co-Defendants, and in performing the acts mentioned below was acting, at least in part, within the course and scope of that authority as such agent, proxy, servant, partner, joint venture, employee, alter-ego, managing agent, and/or principal with the permission and consent of the co-Defendants. Plaintiff also alleges that the acts of each Defendant are legally attributable to the other Defendants.

12. Plaintiff is informed and believes, and based thereon alleges, that each Defendant sued herein was, at all relevant times, the employer, owner, shareholder, principal, joint venture, alter-ego, employee, proxy, managing agent, and/or principal of the remaining Defendants, and was acting, at least in part, within the course and scope of such employment and agency, with the express and implied permission, consent and knowledge, approval and/or ratification of the other Defendants. The above co-Defendant, managing agents, and supervisors, aided, abetted, condoned, permitted, approved, authorized, and/or ratified the unlawful acts described herein.

CLASS ACTION ALLEGATIONS

13. Pursuant to Cal. Code of Civ. P. § 382, Plaintiff brings this action on behalf of himself and the following non-exempt hourly employees (“Class Members”):

All California citizens who performed work for Defendant in California as non-exempt employees during the statute of limitations period.

14. Plaintiff reserves the right to name additional Class representatives as may be necessary and appropriate. Plaintiff also reserves the right to modify or amend the definition of the proposed Class and/or add subclasses before the Court determines whether certification is appropriate.

15. This action is appropriately suited for a class action because:

A. The proposed Class is a significant number. Plaintiff is informed and believes that the proposed Class consists of at least one hundred (100) current and former non-exempt employees, rendering joinder impractical.

B. This action involves common questions of law and fact to the proposed Class because the action focuses on Defendant's systematic course of illegal payroll practices and policies, which was applied to all non-exempt employees in uniform violation of the California Labor Code, IWC Wage Orders, and the California Business and Professions Code, which prohibits unfair business practices arising from such violations. Here are a few common questions of law and fact that will drive resolution of this action:

1. Whether Defendant failed to provide non-exempt employees with legally compliant meal and rest periods, and whether Defendant properly paid

premium pay as a result of missed and non-compliant meal and rest periods;

2. Whether Defendant failed to timely pay wages due to quitting and discharged non-exempt employees in compliance with California law;
3. Whether Defendant's failure to pay the regularly rate of pay based upon non-discretionary bonus payments practice is in violation of California law;
4. Whether Defendant failed to pay overtime and minimum wages to non-exempt employees in compliance with California law;
5. Whether Defendant failed to maintain required records and accurate wage statements for non-exempt employees; and
6. Whether Defendant engaged in unfair and/or unlawful business practices.

C. Plaintiff's claims are typical of the proposed Class because Defendant subjected all of its non-exempt, hourly employees to the similar and overlapping violations of the California Labor Code, the applicable IWC wage order, and the California Business and Professions Code.

D. Plaintiff is able to fairly and adequately protect the interests of all members of the proposed Class because it is in his best interests to prosecute the claims alleged herein to obtain full compensation due to the proposed Class for all services rendered and hours worked. Plaintiff has also retained counsel that is experienced in wage and hour class action litigation.

FIRST CAUSE OF ACTION

Failure to Provide Required Meal Periods [Cal. Lab. Code §§ 226.7, 510, 512, 1194, 1197; and All Applicable IWC Wage Orders and Applicable Sections] (On Behalf of Plaintiff and the Class Against all Defendants)

16. Plaintiff incorporates herein by specific reference, as though fully set forth, the allegations in paragraphs 1 through 15 (A) – (D).

17. During the statute of limitations period, as part of Defendant's unlawful policies

1 and practices to deprive its non-exempt employees of all wages earned and due, Defendant
2 required, permitted or otherwise suffered Plaintiff and Class members to perform work during
3 their meal periods, to completely skip their meal periods, to take late and short meal periods,
4 auto-deducting meal periods, and Defendant has otherwise failed to provide the required meal
5 periods to Plaintiff and Class members as required under California Labor Code §§ 226.7, 512,
6 and § 11 of the applicable IWC Order.

7 18. Moreover, Defendant interfered with and restricted the ability of Plaintiff and
8 Class members to take meal periods by requiring them to carry cell phones and walkie-talkies
9 during meal periods, and not permitting Plaintiff and the other Class members to leave their work
10 areas when taking meal periods.

11 19. Defendant has implemented several common policies and practices that have
12 caused Plaintiff and Class members to systematically miss and otherwise take non-compliant
13 meal periods.

14 20. Defendant grossly understaff its facilities, including but not limited to,
15 manufacturing facilities and warehouse such that Class members are given so much work to
16 complete that they regularly miss or take non-compliant meal periods. As a direct consequence
17 of this understaffing, Plaintiff and Class members have so much work to complete within their
18 scheduled shifts that they are forced to skip their meal periods altogether, to take them after
19 working longer than five (5) hours, to perform work during their meal periods, or return to work
20 after taking less than a thirty (30) minute meal period. Further, Defendant failed to implement a
21 meal period policy for work shifts longer than ten (10) hours or more.

22 21. Moreover, Defendant failed to implement adequate policies or procedures to
23 provide meal periods to its non-exempt employees. Among other things, Defendant overworked
24 Plaintiff and Class members and did not adequately advise them of their rights to take meal
25 periods, and systematically denied them the opportunity to take meal periods, including second
26 meal periods during shifts of ten hours or longer.

27 22. Defendant has also violated California Labor Code §§ 226.7, all applicable wage
28 orders and applicable sections, and the California Unfair Competition Law, Cal. Bus. & Prof.

1 Code §§ 17200 *et. seq.*, by failing to compensate Plaintiff and Class members who were not
2 authorized and permitted to take a complete, timely, uninterrupted meal period, in accordance
3 with the applicable wage order, one additional hour of compensation at the proper regular rate of
4 pay for each workday that such a meal period was not authorized or permitted.

5 23. Defendant further violated California Labor Code sections 226.7, 510, 1194,
6 1197, IWC Wage Order No. 1-2001, and all applicable IWC Wage Orders, by failing to
7 compensate Plaintiff and Class members for all hours worked during their meal periods.

8 24. As a proximate result of the aforementioned violations, Plaintiff and Class
9 members have been damaged in an amount according to proof at trial, and seek all wages earned
10 and due, interest, penalties, expenses, and costs of suit.

11 **SECOND CAUSE OF ACTION**
12 **Failure to Provide Required Rest Breaks**
13 **[Cal. Lab. Code §§ 226.7, 512; and All Applicable IWC Wage Orders**
14 **and Applicable Sections]**
15 ***(On Behalf of Plaintiff and the Class Against all Defendants)***

16 25. Plaintiff incorporates herein by specific reference, as though fully set forth, the
17 allegations in paragraphs 1 through 24.

18 26. At all times relevant herein, as part of Defendant's illegal policies and practices to
19 deprive its non-exempt employees of all wages earned and due, Defendant failed to permit
20 Plaintiff and Class members to take rest breaks as required under California Labor Code §§
21 226.7 and 512, and § 12 of the applicable IWC Wage Order.

22 27. As with meal periods, Defendant's policies and practices caused Plaintiff and
23 Class members to miss or otherwise take non-compliant rest periods by, among other things,
24 giving them unreasonable amounts of work that had to be completed within their shift such that
25 rest periods simply could not be taken. This was the result of systematic understaffing its
26 facilities. Further, as set forth above, Defendant implemented skeletal staffing policies, which
27 resulted in the inability of Plaintiff and Class members to take compliant rest periods. In
28 addition, Defendant did not adequately notify Plaintiff and Class members of their rights to take

1 rest periods, and systematically denied them the opportunity to take rest periods, including all
2 rest periods required during long shifts, which at times exceeded twelve (12) consecutive hours.

3 28. Defendant further violated California Labor Code § 226.7, IWC Wage Order No.
4 1-2001, § 12, all other applicable IWC Wage Orders and the California Unfair Competition Law,
5 Cal. Bus. & Prof. Code §§ 17200 *et. seq.*, by failing to pay Plaintiff and Class members who
6 were not provided with a rest break, in accordance with the applicable wage order, one additional
7 hour of compensation at the proper regular rate of pay for each workday that a rest break was not
8 provided.

9 29. As a proximate result of the aforementioned violations, Plaintiff and Class
10 members have been damaged in an amount according to proof at trial, and seek all wages earned
11 and due, interest, penalties, expenses, and costs of suit.

12 **THIRD CAUSE OF ACTION**
13 **Failure to Pay Overtime Wages**
14 **[Cal. Lab. Code §§ 510, 1194, 1198; and All Applicable IWC Wage Orders**
15 **and Applicable Sections]**
16 ***(On Behalf of Plaintiff and the Class against all Defendants)***

17 30. Plaintiff incorporates herein by specific reference, as though fully set forth, the
18 allegations in paragraphs 1 through 29.

19 31. Pursuant to California Labor Code §§ 510, 1194, and all applicable wage orders
20 and applicable sections, Defendant is required to compensate Plaintiff and Class members for all
21 overtime, which is calculated at one and one-half (1 ½) times the regular rate of pay for all hours
22 worked in excess of eight (8) hours per day and/or forty (40) hours per week, and for the first
23 eight (8) hours on the seventh consecutive workday, with double time for all hours worked in
24 excess of twelve (12) hours in any workday and for all hours worked in excess of eight (8) hours
25 on the seventh consecutive day of work in any workweek.

26 32. Plaintiff and Class members are current and former non-exempt employees
27 entitled to the protections of California Labor Code §§ 510, 1194, and all applicable IWC Wage
28 Orders. During the statute of limitations period, Defendant failed to compensate Plaintiff and
Class members for all overtime hours worked as required under the foregoing provisions of the

1 California Labor Code and IWC Wage Order by, among other methods: failing to pay any
2 overtime compensation; failing to properly calculate the regular rate of pay for the purposes of
3 calculating overtime pay owed and due; requiring, permitting or suffering Plaintiff and Class
4 members to work off the clock; illegally rounding time worked in an unfavorable way so as to
5 deprive Plaintiff and the Class members of wages despite the fact that Defendant maintains
6 records of all time worked; requiring, suffering, or permitting Plaintiff and Class members to
7 work through meal and rest periods but not compensating them for this time, failing to include
8 this time in all hours worked; failing to pay for travel time; failing to pay the highest regular rate
9 of pay based upon nondiscretionary bonus/commission payments; failing to pay for training
10 time; editing or otherwise manipulating the overtime hours worked, failing to pay for pre-and
11 post-shift work (including COVID screenings and donning and doffing uniforms and safety
12 equipment); failing to pay split-shift and reporting time pay premiums; and other methods to be
13 discovered.

14 33. In a short-sighted attempt to maximize profits, Defendant has understaffed its
15 facilities. Not only has this practice resulted in widespread missed meal and rest breaks, but it
16 has also caused Plaintiff and Class members to perform significant amounts of work while off-
17 the-clock. Defendant knew or should have known that Plaintiff and Class members perform this
18 work off-the-clock work because managers see them doing this work well before the beginning
19 the start of their scheduled shifts.

20 34. Defendant has also engaged in an unlawful time rounding practice, where the time
21 worked by Plaintiff and Class members is systematically rounded down, resulting in unpaid
22 regular and overtime wages. Defendant implemented a rounding practice wherein it rounds the
23 time worked by non-exempt employees to the nearest quarter-hour. Defendant pays Plaintiff and
24 Class members based on rounded time despite the fact that it maintains records of all time
25 worked.

26 35. In violation of California law, Defendant has knowingly and willfully refused to
27 perform its obligations to compensate Plaintiff and Class members for all wages earned and all
28 hours worked at the legally required rates of pay. As a proximate result, Plaintiff and Class

1 members have suffered, and continue to suffer, substantial losses related to the use and
2 enjoyment of such wages, lost interest on such wages, and expenses and attorneys' fees in
3 seeking to compel Defendant to fully perform its obligations under state law, all to their
4 respective damages in amounts according to proof at time of trial, and within the jurisdiction of
5 this Court.

6 36. Defendant's conduct described herein violates California Labor Code §§ 510,
7 1194, 1198 and all applicable IWC Wage Orders and applicable sections. Therefore, pursuant to
8 California Labor Code §§ 200, 203, 226, 1194, 1197.1, and other applicable provisions under the
9 California Labor Code and IWC Wage Orders, Plaintiff and Class members are entitled to
10 recover the unpaid balance of wages owed to them by Defendant, plus interest, penalties,
11 attorneys' fees, expenses, and costs of suit.

12 **FOURTH CAUSE OF ACTION**

13 **Failure to Pay Minimum Wages**

14 **[Cal. Lab. Code §§ 1194, 1197; All Applicable IWC Wage Orders and Applicable Sections]**
15 ***(On Behalf of Plaintiff and the Class against all Defendants)***

16 37. Plaintiff incorporates herein by specific reference, as though fully set forth, the
17 allegations in paragraphs 1 through 36.

18 38. Pursuant to Cal. Lab. Code §§ 1194, 1197, and all applicable IWC Wage Orders
19 and applicable sections, payment to an employee of less than the applicable minimum wage for
20 all hours worked in a payroll period is unlawful.

21 39. During the statute of limitations period, the hourly rates for Plaintiff and Class
22 members were precisely at minimum wage. Based on this common practice, Defendant failed to
23 actually pay Plaintiff and Class members minimum wages for all hours worked by requiring,
24 permitting or suffering them to work off-the-clock, such as requiring them to work through meal,
25 rest breaks, but not compensating them for this time, and failing to include this time in all hours
26 worked, failing to pay split-shift and reporting time pay premiums, engaging in illegal and
27 unlawful rounding practices, failing to pay for pre-and post-shift work (including COVID
28 screenings and donning and doffing uniforms and safety equipment); and other methods to be
discovered.

1 40. Defendant's conduct described herein violates Cal. Lab. Code §§ 1194, 1197, and
2 all applicable IWC Wage Orders and applicable sections. As a proximate result of the
3 aforementioned violations, Plaintiff and other aggrieved employees have been damaged in an
4 amount according to proof at trial. Therefore, pursuant to California Labor Code §§ 200, 203,
5 226, 1194, 1197.1, and any other applicable law, Plaintiff and other aggrieved employees are
6 entitled to recover the unpaid balance of wages owed to them by Defendant, plus interest,
7 penalties, attorneys' fees, expenses, and costs of suit.

8 **FIFTH CAUSE OF ACTION**
9 **Failure to Pay All Wages Due to Discharged and Quitting Employees**
 [Cal. Lab. Code §§ 201, 202, 203]
10 ***(On Behalf of Plaintiff and the Class against all Defendants)***

11 41. Plaintiff incorporates herein by specific reference, as though fully set forth, the
12 allegations in paragraphs 1 through 40.

13 42. Pursuant to California Labor Code §§ 200, 201, 202, and 203, Defendant is
14 required to pay all earned and unpaid wages to an employee who is discharged. California Labor
15 Code § 201 mandates that if an employer discharges an employee, the employee's wages accrued
16 and unpaid at the time of discharge are due and payable immediately.

17 43. Furthermore, pursuant to California Labor Code § 202, Defendant is required to
18 pay all accrued wages due to an employee no later than seventy-two (72) hours after the
19 employee quits his or her employment, unless the employee provided seventy-two (72) hours
20 previous notice of his or her intention to quit, in which case the employee is entitled to his or her
21 wages at the time of quitting.

22 44. California Labor Code § 203 provides that if an employer willfully fails to pay, in
23 accordance with California Labor Code §§ 201 and 202, any wages of an employee who is
24 discharged or who quits, the employer is liable for waiting time penalties in the form of
25 continued compensation to the employee at the same rate for up to thirty (30) workdays.

26 45. During the statute of limitations period, Defendant has willfully failed to pay
27 accrued wages and other compensation to Plaintiff and Class members in accordance with
28 California Labor Code §§ 201 and 202. Defendant does not have a sufficient policy to provide

1 Plaintiff and Class members with their final paychecks within the timeframes required under
2 California law. In addition, because Defendant has failed and continue to fail to properly
3 compensate Plaintiff and Class members for all hours worked when due, overtime wages, and
4 compensation for non-compliant meal and rest breaks, Defendant has also willfully failed and
5 continues to fail to pay accrued wages and other compensation to Plaintiff and Class members in
6 accordance with California Labor Code §§ 201 and 202.

7 46. As a result, Plaintiff and Class members are entitled to all available statutory
8 penalties, including the waiting time penalties provided in California Labor Code § 203, together
9 with interest thereon, as well as other available remedies.

10 47. As a proximate result of Defendant's unlawful actions and omissions, Plaintiff
11 and Class members have been deprived of compensation in an amount according to proof at the
12 time of trial, but in excess of the jurisdiction of this Court, and are entitled to recovery of such
13 amounts, plus interest thereon, and attorneys' fees and costs, pursuant to California Labor Code
14 § 1194.

15 **SIXTH CAUSE OF ACTION**

16 **Failure to Furnish Accurate Itemized Wage Statements** 17 **[Cal. Lab. Code §§ 226; and All Applicable IWC Wage Orders and Applicable Sections]** ***(On Behalf of Plaintiff and the Class against all Defendants)***

18 48. Plaintiff incorporates herein by specific reference, as though fully set forth, the
19 allegations in paragraphs 1 through 47.

20 49. During the statute of limitations period, Defendant routinely failed to provide
21 Plaintiff and Class members with timely, accurate, and itemized wage statements in writing
22 showing each employee's gross wages earned, total hours worked, all deductions made, net
23 wages earned, and all applicable hourly rates in effect during each pay period and the
24 corresponding number of hours worked at each hourly rate, in violation of California Labor Code
25 § 226 and all applicable IWC Wage Orders and applicable sections.

26 50. Defendant's pay stubs violate Labor Code § 226 on their face by, failing to list the
27 applicable rates of pay for regular and overtime hours worked by Plaintiff and aggrieved
28 employees. Further, Defendant was and is not providing Plaintiff and other Class members with

1 proper meal and rest periods but intentionally fails to include in their wage statements one (1)
2 additional hour of compensation at their regular rates of pay for each non-compliant meal period
3 or rest break which include but not limited to, split-shifts, shift differentials, nondiscretionary
4 bonuses, etc., and failing to pay all wages due based upon Defendant's illegal and unlawful
5 rounding policy which favored Defendant despite the fact it maintains records of all time
6 worked. These are violations of Labor Code §226.

7 51. Defendant knowingly and intentionally failed to provide Plaintiff and Class
8 members with timely, accurate, and itemized wage statements in accordance with California
9 Labor Code § 226(a) so as to prevent Plaintiff and Class members from being able to determine
10 whether they were being paid for, among other things, all of the hours they worked and at the
11 proper rates of pay.

12 52. As a proximate result of Defendant's unlawful actions and omissions, Plaintiff
13 and Class members have been damaged in an amount according to proof at trial, and seek all
14 wages earned and due, plus interest thereon. Additionally, Plaintiff and Class members are
15 entitled to all available penalties, including but not limited to penalties pursuant to California
16 Labor Code §§ 226(e), 226.3, and 1174.5, and an award of costs, expenses, and reasonable
17 attorneys' fees, including but not limited to those provided in California Labor Code § 226(e), as
18 well as other available remedies.

19 **SEVENTH CAUSE OF ACTION**
20 **Failure to Maintain Required Records**
21 **[Cal. Lab. Code §§ 226, 1174; and All Applicable IWC Wage Orders**
22 **and Applicable Sections]**
23 ***(On Behalf of Plaintiff and the Class against all Defendants)***

24 53. Plaintiff incorporates herein by specific reference, as though fully set forth, the
25 allegations in paragraphs 1 through 52.

26 54. During the statute of limitations period, as part of Defendant's illegal payroll
27 policies and practices to deprive Plaintiff and Class members of all wages earned and due,
28 Defendant knowingly and intentionally failed to maintain records as required under California
Labor Code §§ 226, 1174, and all applicable IWC Wage Orders and applicable sections,

1 including but not limited to, the following records: total daily hours worked by each non-exempt
2 employee; applicable rates of pay; all deductions; meal periods; time records showing when each
3 non-exempt employee begins and ends each workday; split-shifts and reporting time premiums;
4 and accurate itemized wage statements.

5 55. As a proximate result of Defendant's unlawful actions and omissions, Plaintiff
6 and Class members have been damaged in an amount according to proof at trial, and are entitled
7 to all wages earned and due, plus interest thereon. Additionally, Plaintiff and Class members are
8 entitled to all available statutory penalties, including but not limited to civil penalties pursuant to
9 California Labor Code §§ 226(e), 226.3, and 1174.5, and an award of costs, expenses, and
10 reasonable attorneys' fees, including but not limited to those provided in California Labor Code
11 § 226(e), as well as other available remedies.

12 **EIGHTH CAUSE OF ACTION**
13 **Failure to Indemnify for Necessary Expenditures Incurred in Discharge of Duties**
14 **[Cal. Lab. Code § 2802]**
(On Behalf of Plaintiff and the Class against Defendants)

15 56. Plaintiff incorporates herein by specific reference, as though fully set forth, the
16 allegations in paragraphs 1 through 55.

17 57. California Labor Code § 2802(a) requires an employer to indemnify an employee
18 for all necessary expenditures or losses incurred by the employee in direct consequence of the
19 discharge of her his or her duties, or of his or her obedience to the directions of the employer.

20 58. During the Class period, Defendant knowingly and willfully failed to indemnify
21 Plaintiff and Class members for all business expenses and/or losses incurred in direct
22 consequence of the discharge of their duties while working under the direction of Defendant,
23 including but not limited to, the costs and expenses related to their uniforms and uniform
24 maintenance, tools, mileage and cellular phones, in violation of California Labor Code § 2802.

25 59. As a proximate result of Defendant's unlawful actions and omissions, Plaintiff
26 and Class members have been damaged in an amount according to proof at trial, and seek
27 reimbursement of all necessary expenditures, plus interest thereon pursuant to California Labor
28 Code § 2802(b). Additionally, Plaintiff and Class members are entitled to all available statutory

1 penalties and an award of costs, expenses, and reasonable attorneys' fees, including those
2 provided in California Labor Code § 2802(c), as well as other available remedies.

3 **NINETH CAUSE OF ACTION**
4 **Unfair and Unlawful Business Practices**
5 **[Cal. Bus. & Prof. Code § 17200 *et. seq.*]**
6 ***(On Behalf of Plaintiff and the Class against all Defendants)***

7 60. Plaintiff incorporates herein by specific reference, as though fully set forth, the
8 allegations in paragraphs 1 through 59.

9 61. Each and every one of Defendant's acts and omissions in violation of the
10 California Labor Code and/or the applicable IWC Wage Orders as alleged herein, including but
11 not limited to, Defendant's failure to provide required meal and rest breaks, failure to pay proper
12 overtime compensation, unlawful rounding and requiring off-the-clock work, failure to pay all
13 wages due to discharged or quitting employees or to pay timely wages, failure to furnish accurate
14 itemized wage statements, illegal rounding, failure to pay split-shift and reporting time
15 premiums, or to maintain required records all constitute an unfair and unlawful business practice
16 under California Business and Professions Code § 17200 *et seq.*

17 62. Defendant's violations of California wage and hour laws constitute a business
18 practice because the aforementioned acts and omissions were done repeatedly over a significant
19 period of time, and in a systematic manner, to the detriment of Plaintiff and Class members.

20 63. Among other practices, Defendant has avoided payment of wages, overtime
21 wages, the provision of meal and rest breaks, and other benefits as required by the California
22 Labor Code, the California Code of Regulations, and the applicable IWC Wage Orders. Further,
23 Defendant has failed to record, report, and pay the correct sums of assessment to the state
24 authorities under the California Labor Code and other applicable regulations.

25 64. As a result of these unfair and unlawful business practices, Defendant has reaped
26 unfair and illegal profits during the Class period at the expense of Plaintiff and Class members,
27 and members of the public. Defendant should be made to disgorge its ill-gotten gains and to
28 restore them to Plaintiff and Class members.

65. Defendant's unfair and unlawful business practices entitle Plaintiff and Class members to seek preliminary and permanent injunctive relief, including but not limited to orders that Defendant account for, disgorge, and restore to Plaintiff and Class members the wages and other compensation unlawfully withheld from them. Plaintiff and Class members are entitled to restitution of all monies to be disgorged from Defendant in an amount according to proof at the time of trial.

TENTH CAUSE OF ACTION
Representative Action for Civil Penalties
[Cal. Lab. Code §§ 2698- 2699.5]
(On Behalf of Plaintiff and Other Aggrieved
Employees against all Defendants)

66. Plaintiff incorporates herein by specific reference as though fully set forth the allegations in paragraphs 1 through 65, with exception of the allegations in Paragraphs 13 through 15 (A-D).

67. Plaintiff is an "aggrieved employee" within the meaning of California Labor Code § 2699(c), and is a proper representative to bring a civil action on behalf of himself, and other non-exempt employees of Defendant who are California citizens, pursuant to the procedures specified in California Labor Code § 2699.3, because Plaintiff was employed by Defendant and the alleged violations of the California Labor Code were committed against Plaintiff.

68. Plaintiff seeks to recover civil penalties through a representative action permitted by PAGA and the California Supreme Court in *Arias v. Superior Court* (2009) 46 Cal.4th 969. Thus, class certification is not required.

69. Pursuant to the California Private Attorneys General Act of 2004 ("PAGA"), Labor Code §§ 2698-2699.5, Plaintiff seeks to recover civil penalties, including but not limited to penalties under California Labor Code §§ 2699, 558, 1174.5, 1197.1, 1775, 1199, and all applicable IWC wage order penalties, from Defendant in a representative action for the violations set forth above, including but not limited to violations of California Labor Code §§ 201, 202, 203, 226, 226.7, 432, 510, 512, 558, 1174, 1194, 1197, and 1198. Further, Plaintiff requests penalties pursuant to PAGA on behalf of himself and the other aggrieved employees based upon

1 Defendant's failure to provide employees with all signed instruments related to obtaining or
2 holding employment in violation of California Labor Code Section 432. Plaintiff is also entitled to
3 an award of reasonable attorneys' fees and costs pursuant to California Labor Code § 2699(g)(1).

4 70. Pursuant to California Labor Code §§ 2699.3, on August 30, 2024, Plaintiff gave
5 written notice by certified mail to the California Labor and Workforce Development Agency
6 ("LWDA") and Defendant of the specific provisions of the California Labor Code and IWC
7 Wage Orders alleged to have been violated, including the facts and theories to support the
8 alleged violations. Within sixty-five (65) calendar of the postmark date of Plaintiff's notice
9 letter, the LWDA did not provide notice to Plaintiff that it intends to investigate the alleged
10 violations. Therefore, Plaintiff has complied with all of the requirements set forth in California
11 Labor Code § 2699.3 to commence a representative action under PAGA.

12 71. California Labor Code § 2699(f) provides that for all California Labor Code
13 violations for which a civil penalty is not specifically provided, the following civil penalties are
14 established: one hundred dollars (\$100) for each aggrieved employee per pay period for the
15 initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for
16 each subsequent violation.

17 72. Plaintiff seeks to recover such civil penalties under California Labor Code §
18 2699(f) for Defendant violations of California Labor Code provisions for which a civil penalty is
19 not specifically provided, including but not limited to, California Labor Code §§ 201, 202, 203,
20 226.7, 1197, and for the violations of the applicable IWC Wage Order alleged above.

21 73. All civil penalties sought and recovered under this action will be allocated as
22 follows: seventy-five (75) percent to the State of California and twenty-five (25) percent to
23 Plaintiff and aggrieved employees.

24 74. Plaintiff additionally seeks reasonable attorneys' fees and costs pursuant to
25 California Labor Code § 2699(g)(1) and California Code of Civil Procedure § 1021.5.

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1 **PRAYER FOR RELIEF**

2 **WHEREFORE**, Plaintiff, individually and on behalf of all other persons similarly
3 situated, respectfully prays for relief against Defendants and Does 1 through 50, inclusive, and
4 each of them, as follows:

- 5 1. For an order certifying the First through Ninth Causes of Action as a class action;
- 6 2. For an order appointing Plaintiff as Class representative and Plaintiff's counsel as
7 Class counsel;
- 8 3. For compensatory damages in an amount to be ascertained at trial;
- 9 4. For meal period and rest break compensation pursuant to Cal. Lab. Code § 226.7,
10 IWC Wage Order No. 1-2001, and all other applicable IWC Wage Orders;
- 11 5. For liquidated damages pursuant to Cal. Lab. Code § 1194.2;
- 12 6. For waiting time penalties pursuant to Cal. Lab. Code § 203;
- 13 7. For civil penalties under California Labor Code § 2699(f);
- 14 8. For statutory penalties according to proof, including but not limited to, all
15 penalties authorized by the California Labor Code §§ 210, 225.5, 226(e), 226.3, 354, 1174.5,
16 1775, 1197.1 and 2699;
- 17 9. An award of actual, statutory, and/or punitive damages to Plaintiff and the Class
18 pursuant to California Civil Code §§ 1785.31 and 1786.50, in an amount subject to proof at trial;
- 19 10. For interest on the unpaid wages at 10 percent per annum pursuant Cal. Lab. Code
20 §§ 218.6, 1194, 2802, Cal. Civ. Code §§ 3287, 3288, and/or any other applicable provision
21 providing for pre-judgment interest;
- 22 11. For restitution of all monies due to Plaintiff and Class members, as well as
23 disgorged profits from the unfair and unlawful business practices of Defendant;
- 24 12. For reasonable attorneys' fees and costs pursuant to California Labor Code §§
25 218.5, 226, 1194, 2802, 2699 and California Code of Civil Procedure § 1021.5, California Civil
26 Code § 1786.50(a)(2), California Civil Code § 1785.31(a), and/or any other applicable provisions
27 providing for attorneys' fees and costs;
- 28 13. For declaratory relief;

1 14. For preliminary and permanent injunctive relief enjoining Defendant from violating
2 the relevant provisions of the California Labor Code and the IWC Wager Orders, and from
3 engaging in the unlawful business practices complained of herein; and

4 15. For such further relief that the Court may deem just and proper.

5 **DEMAND FOR JURY TRIAL**

6 Plaintiff, on behalf of himself and all others similarly situated, hereby demands a jury
7 trial with respect to all issues triable of right by jury.

8 DATED: November 12, 2024

THE WHEELER LAW FIRM, APC

9
10 By: _____



11 Scott Ernest Wheeler
12 Justin A. Wheeler

13 *Attorney for Plaintiff and all other similarly*
14 *situated*