

Assigned for All Purposes

Judge Melissa R. McCormick

CX-104

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SUPERIOR COURT OF CALIFORNIA

COUNTY OF ORANGE

PABLO JARAMILLO, individually and on
behalf of all individuals similarly situated
and aggrieved,

Plaintiff,

vs.

A. S. I. LANDSCAPE SERVICES, INC., a
California corporation; ISRAEL
SORIANO, an individual; and DOES 1
through 50, inclusive,

Defendants.

CASE NO. 30-2024-01447285-CU-OE-CXC

CLASS ACTION COMPLAINT

- 1. FAILURE TO COMPENSATE ALL HOURS WORKED IN VIOLATION OF INDUSTRIAL WELFARE COMMISSION ORDER NO. 9 AND CAL. LABOR CODE §§ 200, 226, 500, 510, 1194, 1197, AND 1198;**
- 2. FAILURE TO PAY OVERTIME COMPENSATION IN VIOLATION OF CAL. LABOR CODE § 1194, ET SEQ.;**
- 3. MISSED REST BREAKS IN VIOLATION OF CAL. LABOR CODE §§ 200, 226.7, 512, 558, and 1198 AND 12 CALIFORNIA CODE OF REGULATIONS § 11050;**
- 4. FAILURE TO PROVIDE PROPER WAGE STATEMENTS IN VIOLATION OF CAL. LABOR CODE § 226;**
- 5. FAILURE TO PAY COMPENSATION UPON SEPERATION OF EMPLOYMENT IN VIOLATION OF CAL. LABOR CODE § 201-203;**

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- 6. **FAILURE TO REIMBURSE BUSINESS EXPENSES IN VIOLATION OF LABOR CODE § 2802**
 - 7. **VIOLATIONS OF CAL. B&P CODE §§ 17200, *ET SEQ.*;**
 - 8. **VIOLATION OF LABOR CODE § 2698, et seq. (“PAGA”)**
- DEMAND FOR JURY TRIAL**

1 Plaintiff PABLO JARAMILLO, an individual and on behalf of all individuals similarly situated
2 (“Plaintiff”), hereby brings this Class Action Complaint for Damages against Defendants A. S. I.
3 LANDSCAPE SERVICES, INC. (“A. S. I.”), a California corporation; ISRAEL SORIANO
4 (“SORIANO”), an individual; and DOES 1 through 50, inclusive, (collectively, “Defendants”) and
5 states and alleges as follows:

6 **THE PARTIES**

7 1. Plaintiff was, at all times relevant to this Complaint, an adult individual living and
8 working in Orange County, California.

9 2. At all times relevant to this Complaint, Defendant A. S. I. is and was a California
10 corporation operating a business within the State of California, specifically in the County of Orange.

11 3. Plaintiff is informed and believes that ISRAEL SORIANO is an individual residing in
12 the State of California and the CEO and Director of A. S. I.

13 4. Plaintiff is unaware of the true names or capacities of Defendants sued herein under the
14 fictitious names DOES 1–50 but prays for leave to amend and serve such fictitiously named Defendants
15 pursuant to California Code of Civil Procedure section 474 once their names and capacities become
16 known.

17 5. Plaintiff is informed and believes, and thereon alleges, that DOES 1–50 are the partners,
18 agents, owners, shareholders, managers, principals or employees of Defendants and/or were acting on
19 behalf of Defendants.

20 6. Plaintiff is informed and believes, and thereon alleges, that each and all of the acts and
21 omissions alleged herein was performed by or is attributable to Defendants and/or DOES 1–50, each
22 acting as the agent for the other, with legal authority to act on the other’s behalf. The acts of any and
23 all Defendants were in accordance with, and represent the policy of, all Defendants.

24 7. At all times herein mentioned, Defendants, and each of them, ratified each and every
25 act or omission complained of herein. At all times herein mentioned, Defendants, and each of them,
26 aided and abetted the acts and omissions of each and all of the other Defendants in proximately causing
27 the damages herein alleged.

28 8. Plaintiff is informed and believes, and thereon alleges, that each of said Defendants is

1 in some manner intentionally, negligently or otherwise responsible for the acts, omissions, occurrences
2 and transactions alleged herein.

3 **JURISDICTION**

4 9. This action is properly filed in Orange County because the acts and omissions that give
5 rise to Plaintiff's claims took place in Orange County, California, as Plaintiff was employed by
6 Defendants in Orange County, California, and Defendants transact business in this County.

7 10. This Court has jurisdiction over Defendants because Defendants have sufficient
8 minimum contacts with and regularly conduct business within the State of California, specifically in
9 the County of Orange.

10 **ALTER EGO, AGENCY, AND JOINT EMPLOYER**

11 11. SORIANO owned and/or controlled the businesses operated by A. S. I., and
12 furthermore, SORIANO exercised control over the labor practices of each and every one of the
13 employees (inclusive of Plaintiff) of each and every one of their said interests, and caused the violations
14 at issue in this Complaint.

15 12. Based on the foregoing allegations, SORIANO, in fact, caused violations at-issue in this
16 Complaint, thereby creating individual liability under Labor Code § 558.1.

17 13. Pursuant to the provisions of Labor Code § 558, the liability of SORIANO would
18 include any and all amounts sufficient to recover any and all missed rest break premiums, unpaid
19 wages, and failure to reimburse necessary business expenses to Plaintiff and the Class Members.

20 14. As further referenced hereinbelow, the viability of obtaining liability of individuals by
21 this method was discussed by the California Supreme Court in *Reynolds v. Bement* (2005) 36 Cal.4th
22 1075, 1089 where the court noted that individual liability against non-employers could be obtained
23 through the use of § 558.

24 15. PLAINTIFF is informed and believes, and based thereon alleges, that there exists such
25 a unity of interest and ownership between A. S. I., SORIANO, and DOES 1-50 that the individuality
26 and separateness of defendants has ceased to exist.

27 16. PLAINTIFF is informed and believes, and based thereon alleges, that despite the
28 formation of purported corporate existence, A. S. I., SORIANO, and DOES 1-50 are, in reality, one

1 and the same, including, but not limited to because:

2 a. A. S. I. is or was completely dominated and controlled by SORIANO and DOES 1-50,
3 who personally committed the frauds and violated the laws as set forth in this complaint, and
4 who have hidden and currently hide behind A. S. I. to perpetrate frauds, circumvent statutes, or
5 accomplish some other wrongful or inequitable purpose.

6 b. SORIANO and DOES 1-50 have acted on behalf of A. S. I., who violate, or cause to be
7 violated, the provisions regulating minimum wages or hours and days of work in any order of
8 the Industrial Welfare Commission, or violate, or cause to be violated, California Labor Code
9 Sections 203, 226, 226.7, 510, 1194, 1197, or 2802.

10 c. SORIANO and DOES 1-50 have acted on behalf of A. S. I., who violate, or cause to be
11 violated, the provisions regulating rest breaks in any order of the Industrial Welfare
12 Commission, or violate, or cause to be violated, California Labor Code Sections 226.7, and 512.

13 d. SORIANO and DOES 1-50 have acted on behalf of A. S. I., who violate, or cause to be
14 violated, the provisions regulating reimbursement of necessary business expenses in any order
15 of the Industrial Welfare Commission, or violate, or cause to be violated, California Labor Code
16 Sections 2802.

17 e. SORIANO and DOES 1-50 derive actual and significant monetary benefits by and
18 through A. S. I. as the funding source for their own personal expenditures.

19 f. Plaintiff is informed and believes that SORIANO, A. S. I., and DOES 1-50, while really
20 one and the same, were segregated to appear as though separate and distinct for purposes of
21 perpetrating a fraud, circumventing a statute, or accomplishing some other wrongful or
22 inequitable purpose.

23 g. Plaintiff is informed and believes that A. S. I. does not or did not comply with all
24 requisite corporate formalities to maintain a legal and separate corporate existence.

25 h. Plaintiff is informed and believes, and based thereon alleges, that the business affairs of
26 SORIANO, A. S. I., and DOES 1-50 are, and at all times relevant were, so mixed and
27 intermingled that the same cannot reasonably be segregated, and the same are in inextricable
28 confusion.

1 i. A. S. I. is, and at all times relevant hereto was, used by SORIANO and DOES 1-50 as
2 a mere shell and conduit for the conduct of certain of Defendants' affairs, and is, and was, the
3 alter ego of SORIANO and DOES 1-50. The recognition of the separate existence of A. S. I.,
4 and/or SORIANO would not promote justice, in that it would permit Defendants to insulate
5 themselves from liability to Plaintiffs for violations of the Labor Code. The corporate existence
6 of SORIANO, A. S. I., and DOES 1-50 should be disregarded in equity and for the ends of
7 justice because such disregard is necessary to avoid fraud and injustice to Plaintiff herein.

8 17. Accordingly, A. S. I. constitutes the alter egos of SORIANO and DOES 1-50, and the
9 fiction of their separate corporate existence must be disregarded.

10 18. As a result of the aforementioned facts, Plaintiff is informed and believes, and based
11 thereon alleges that A. S. I., SORIANO, and DOES 1-50 are Plaintiff's joint employers by virtue of a
12 joint enterprise, and that Plaintiff was an employee of A. S. I., SORIANO, and DOES 1-50. Plaintiff
13 performed services for each and every one of Defendants, and to the mutual benefit of all Defendants,
14 and all Defendants shared control of Plaintiff as an employee, either directly or indirectly, and the
15 manner in which Defendants' business was and is conducted.

16 **FACTUAL ALLEGATIONS**

17 19. Plaintiff worked for Defendants as an hourly, non-exempt employee in the position of
18 "Gardener" and was employed by Defendants from on or around 2016, until March 14, 2024. Plaintiff
19 worked primarily at one of Defendant's Villa Coronado Apartment Homes located at 100 Ambazar,
20 Irvine, California 92614.

21 20. Plaintiff's job duties included but were not limited to tree trimming, planting, mowing
22 lawns, and picking up trash. Plaintiff's regular scheduled varied greatly, but he often worked over eight
23 (8) hours in a day from Monday through Friday, and sometimes Saturdays.

24 21. Throughout Plaintiff's and Class Members' employments with Defendants, Defendants
25 did not have any system for employees to clock in or out. Instead, Defendants' would manually input
26 Plaintiff's and Class Members' hours themselves. When they did so, they always rounded those hours
27 to the nearest full hour, to the detriment of Plaintiff and Class Members and the benefit of Defendants.
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1 22. Despite the fact that Plaintiff and the Class's regular shifts would push Plaintiff and the
2 Class Members' total working hours to more than eight (8) hours a day, Defendants did not properly
3 compensate Plaintiff and the Class Members with accurate overtime rates. Specifically, Defendants
4 rounded Plaintiff and Class Members' timecards as described above, resulting in an average of at least
5 fifteen (15) minutes of overtime which were never accounted for.

6 23. Additionally, throughout their employment with Defendants, Plaintiff and the Class
7 Members routinely worked for Defendants without being provided with a timely, off-duty ten-minute
8 paid rest period for every four (4) hours worked or major fraction thereof. Specifically, Defendants
9 business practices, including understaffing, failing to instruct employees to take breaks, failing to make
10 sufficient time available for employees to cease working and take uninterrupted breaks, and
11 interrupting employees when they did take breaks, resulted in Plaintiff and Class Members almost
12 never taking timely, uninterrupted rest breaks.

13 24. Despite the aforementioned, during their employment with Defendants, Plaintiff and the
14 Class Members were not paid one (1) hour of pay at their regular rate of compensation for each work
15 day where a legally compliant rest period was not provided.

16 25. Additionally, Plaintiff and the Class incurred reasonable and necessary expenses in the
17 course of completing their job duties, including purchasing gloves, masks, and other necessary items
18 for his personal vehicle which were never reimbursed by Defendants.

19 26. As a result of Defendants' failure to pay all hours worked, failure to pay proper overtime
20 wages, and failure to pay all rest break premiums, Defendants maintained inaccurate payroll records,
21 and issued inaccurate wage statements to Plaintiff and the Class Members.

22 27. Defendants have engaged in, and continue to engage in, unfair business practices in
23 California by practicing, employing, and utilizing the employment practices and policies outlined
24 above. Defendants' utilization of such unfair business practices constitutes unfair competition and
25 provides an unfair advantage over Defendants' competitors. Defendants' utilization of such unfair
26 business practices deprives Plaintiff and the Class Members of the general minimum working standards
27 and entitlements due to them under California law and the Industrial Welfare Commission wage orders
28 as described herein.

28. As a direct result of the wage and hour violations herein alleged, Plaintiff and the Class Members have suffered, and continue to suffer, substantial losses related to the use and enjoyment of wages, lost interest on such wages, and expenses and attorney's fees in seeking to compel Defendants to fully perform their obligations under state law, all to their respective damage in amounts according to proof at the time of trial.

CLASS ACTION ALLEGATIONS

29. Plaintiff brings this action as a class action on behalf of the following defined Class:

The Class: All individuals who have been, or currently are, employed by Defendants, and who worked at least one shift in California as “non-exempt employees” during the Class Period.

30. “Class Period” is defined as the time from December 13, 2020, through the date that judgment is entered, based upon information and belief that the violations, as described more fully hereinafter, began long before December 13, 2020, and are continuing. Plaintiff and members of Class herein reserve the right to amend this Complaint to reflect a different Class Period as discovery in this matter proceeds.

31. Numerosity: Plaintiff is informed and believes, and on that basis alleges, that during the Class Period, dozens of Class members have been employed by Defendants as non-exempt employees in the State of California. Because so many persons have been employed by Defendants in this capacity, the members of the Plaintiffs' Class are so numerous that joinder of all members is impossible and/or impracticable.

32. Commonality: Common questions of law, in fact, exist as to all members of the Plaintiffs' Class *and predominate over any questions affecting solely individual members of the Plaintiffs' Class. Among the questions of law and fact, that are relevant to the adjudication of Class members claims are as follows:*

(a) Whether Defendants had/have policies and/or practices that result in hours worked not being properly compensated;

1 (b) Whether Defendants unlawfully failed to properly calculate and pay overtime
2 compensation due and owing to the Plaintiffs and members of the Class in violation of Labor
3 Code § 1194;

4 (c) Whether Defendants' policy and/or practice of failing to accurately pay overtime to
5 Plaintiffs and members of the Class violates applicable provisions of California Law, including
6 Labor Code sections, applicable Industrial Welfare Commission Orders, and applicable State
7 Regulations;

8 (d) Whether Defendants had/have a policy and/or practice that results in the presentation of
9 inaccurate wage statements to Plaintiff and the Class;

10 (e) Whether Defendants unlawfully and/or willfully failed to furnish Plaintiff and Class
11 members with accurate, itemized wage statements upon payment of wages in violation of Labor
12 Code § 226;

13 (f) Whether Defendants unlawfully and/or willfully deprived Plaintiff and Class Members
14 of rest breaks and pay for missed breaks pursuant to Labor Code §§ 200, 226.7, 512, and 8 CCR
15 § 11010;

16 (g) Whether Plaintiff and Class members sustained damages, and if so, the proper measure
17 of such damages, as well as interest, penalties, costs, attorneys' fees, and equitable relief; and,

18 (h) Whether Defendants failed to reimburse Plaintiff and Class Members for business
19 expenses as required by Labor Code § 2802;

20 (i) Whether Defendants violated the Unfair Competition Law of California, §17200, *et*
21 *seq.*, by violating the above-cited provisions, and treating Plaintiff and Class members unfairly
22 by failing to pay all wages due and for all hours worked; failing to provide rest breaks; and
23 failing to furnish an accurate, itemized wage statement upon payment of wages.

24 33. Typicality: Plaintiff's claims are typical of the members of the Plaintiff's Class.
25 Plaintiff, like other members of the Class working for Defendants in California, was subjected to
26 Defendants' policies and/or practices set forth above. Plaintiff's job duties were, and are, typical of
27 those of other Class members.
28

34. Adequacy of Representation: Plaintiff will fairly and adequately protect the interests of the members of the Class and have retained counsel competent and experienced in both class action and employment litigation.

35. Questions of law or fact common to Class members predominate over any questions solely affecting individual Class members and class action is superior to other available methods for the fair and efficient adjudication of this controversy.

36. Class action treatment will allow a large number of similarly situated Class members to simultaneously and efficiently prosecute his common claims in a single forum without the needless duplication of effort and expense that numerous individual actions would entail.

37. In addition, a class action will serve the important public interest of permitting Class members harmed by Defendants' unlawful policies and/or practices to effectively pursue recovery of the sums owed to them.

38. Plaintiff knows of no difficulty which will be encountered in the management of this litigation which would preclude its maintenance as a class action.

FIRST CAUSE OF ACTION

**FAILURE TO COMPENSATE ALL HOURS WORKED IN VIOLATION OF
INDUSTRIAL WELFARE COMMISSION ORDER NO. 4 AND LABOR CODE §§ 200, 226,
500, 510, 1194, 1197, AND 1198
(BY PLAINTIFF AGAINST ALL DEFENDANTS)**

39. Plaintiff hereby re-alleges, and incorporates by reference as though set forth fully herein, the allegations contained in all preceding paragraphs.

40. At all times relevant herein, Defendants were required to compensate its non-exempt employees for all hours worked, pursuant to Industrial Welfare Commission Order 4, and Labor Code §§ 200, 226, 500, 510, 1197, 1194 and 1198.

41. As alleged above, Plaintiff and the Class were not paid the correct wage for all hours worked due to illegal rounding, unpaid overtime, and unpaid premiums on any missed rest breaks.

42. Under the aforementioned wage orders and regulations, Plaintiff and the Class are entitled to recover compensation for all hours worked, but not paid, during the Class Period, plus

1 reasonable attorneys' fees and costs of suit pursuant to Labor Code §§ 218.5, 1194, and penalties
2 pursuant to Labor Code §§ 203 and 226.

3 43. In violation of state law, Defendants have knowingly and willfully refused to perform
4 their obligations to compensate Plaintiff and the Class for all wages earned and all hours worked. As a
5 direct result, Plaintiff and the Class have suffered, and continue to suffer, substantial losses related to
6 the use and enjoyment of such wages, lost interest on such wages, and expenses and attorneys' fees in
7 seeking to compel Defendants to fully perform their obligations under state law, all to their respective
8 damage in amounts according to proof at time of trial.

9 44. Plaintiff and the Class are thus entitled to recover nominal, actual and compensatory
10 damages in amount according to proof at time of trial, but in amounts in excess of the jurisdiction of
11 this Court.

12 45. As a proximate result of the aforementioned violations, Plaintiff and the Class have been
13 damaged in an amount according to proof at time of trial.

14 46. Defendants' conduct described herein violates Industrial Welfare Commission Order 4,
15 and Labor Code §§ 200, 203, 218.5, 226, 558, 1194, and 1198. Therefore, pursuant to 8 CCR § 11010
16 and Labor Code §§ 203, 218.5, 226, 558, 1194 and 1198, Plaintiff and the Class are entitled to recover
17 damages for the nonpayment of wages of all hours worked that were improperly deducted and/or not
18 counted as a result of Defendants' policies, liquidated damages for underpayment of minimum wages,
19 penalties, reasonable attorneys' fees, expenses, and costs of suit.

20 WHEREFORE, Plaintiff requests relief as hereinafter provided.

21 **SECOND CAUSE OF ACTION**

22 **FAILURE TO PAY OVERTIME COMPENSATION**

23 **IN VIOLATION OF CAL. LABOR CODE SECTION 1194, ET SEQ.**

24 **(BY PLAINTIFF AGAINST ALL DEFENDANTS)**

25 47. Plaintiff hereby re-alleges, and incorporates by reference as though set forth fully herein,
26 the allegations contained in all preceding paragraphs.

27 48. Pursuant to the applicable Industrial Welfare Commission Order and Labor Code §§
28 200, 226, 500, 510, 1194, and 1198, Defendants were required to compensate Plaintiff and the Class

1 for all overtime work performed for the benefit of Defendants, which is calculated at one and one-half
2 (1-1/2) times the regular rate of pay for hours worked in excess of eight (8) hours per day and/or forty
3 (40) hours per week, and for the first eight (8) hours on the seventh consecutive work day.

4 49. Plaintiff and the Class were non-exempt employees entitled to the protections of the
5 Industrial Welfare Commission and Labor Code §§ 200, 226, 500, 510, 1194, and 1198. During the
6 course of Plaintiff's and the Class' employment, Defendants failed to compensate Plaintiff and the
7 Class for all overtime hours worked as required under the aforementioned labor codes and regulations.

8 50. In violation of state law, Defendants have knowingly and willfully refused to perform
9 their obligations to compensate Plaintiff and the Class for all overtime wages earned and all hours
10 worked.

11 51. As a direct result, Plaintiff and the Class have suffered, and continue to suffer,
12 substantial losses related to the use and enjoyment of such wages, lost interest on such wages, and
13 expenses and attorneys' fees in seeking to compel Defendants to fully perform their obligations under
14 state law, all to his damage in amounts according to proof at time of trial, but in amounts in excess of
15 the minimum jurisdiction of this Court.

16 52. Defendants have committed the acts alleged herein knowingly and willfully, with the
17 wrongful and deliberate intention of injuring Plaintiff, from improper motives amounting to malice,
18 and in conscious disregard of Plaintiff's and the Class' rights. Plaintiff and the Class are thus entitled
19 to recover nominal, actual and compensatory damages in amounts according to proof at time of trial,
20 but in amounts in excess of the minimum jurisdiction of this Court.

21 53. Defendants' conduct described herein violates the Industrial Welfare Commission
22 Orders and Labor Code §§ 200, 226, 500, 510, and 1198. Therefore, pursuant to Labor Code §§ 200,
23 203, 226, 226.7, 558 and 1194, Plaintiff and the Class are entitled to recover the unpaid balance of
24 overtime compensation Defendants owe Plaintiff and the Class plus interest, penalties, attorneys' fees,
25 expenses, and costs of suit.

26 WHEREFORE, Plaintiff request relief as hereinafter provided.

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1 **THIRD CAUSE OF ACTION**

2 **MISSED REST BREAKS IN VIOLATION OF LABOR CODE §§ 200, 226.7, 512, AND 12**

3 **CALIFORNIA CODE OF CIVIL REGULATIONS § 11050**

4 **(BY PLAINTIFF AGAINST ALL DEFENDANTS)**

5 54. Plaintiff hereby re-alleges, and incorporates by reference as though set forth fully herein,
6 the allegations contained in all preceding paragraphs.

7 55. Throughout the employment of Plaintiff and the Class, Defendants failed to provide all
8 rest breaks as required by law.

9 56. In addition, Defendants failed to pay Plaintiff and the Class the full statutory penalty for
10 all missed rest periods.

11 57. Plaintiff and the Class are entitled to recover additional compensation for all rest periods
12 that were missed, but not paid for during his employment, plus penalties pursuant to Labor Code §§
13 226.7 and 558.

14 58. Defendants' conduct described herein violates the Industrial Welfare Commission
15 Order 1 sections 10 and 11, and Labor Code §§ 200, 226, 226.7, 512, 558, and 1198, and 12 California
16 Code of Regulations § 11050.

17 59. As a proximate result of the aforementioned violations, Plaintiff and the Class have been
18 damaged in an amount according to proof at time of trial and has suffered, and continue to suffer,
19 substantial losses related to the use and enjoyment of such monies, and lost interest on such monies in
20 seeking to compel Defendants to fully perform their obligation under state law. Plaintiff and the Class
21 are thus entitled to recover nominal, actual, and compensatory damages in an amount according to
22 proof at time of trial.

23 WHEREFORE, Plaintiff requests relief as hereinafter provided.

24 **FOURTH CAUSE OF ACTION**

25 **FAILURE TO PROVIDE PROPER WAGE STATEMENTS**

26 **IN VIOLATION OF CAL. LABOR CODE § 226**

27 **(BY PLAINTIFF AGAINST ALL DEFENDANTS)**

28 60. Plaintiff hereby re-alleges, and incorporates by reference as though set forth fully herein,

1 the allegations contained in all preceding paragraphs.

2 61. Labor Code §226(a) sets forth reporting requirements for employers when they pay
3 wages, as follows: "Every employer shall . . . at the time of each payment of wages, furnish his or her
4 employees . . . an itemized statement in writing showing (1) gross wages earned; (2) total hours worked
5 by the employee . . . (8) the name and address of the legal entity that is the employer..."

6 Section (e) provides: "An employee suffering injury as a result of a knowing and intentional
7 failure by an employer to comply with subdivision (a) shall be entitled to recover the greater of all
8 actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one
9 hundred dollars (\$100) per employee for each violation in a subsequent pay period, not exceeding an
10 aggregate penalty of four thousand dollars (\$4000), and shall be entitled to an award of costs and
11 reasonable attorneys' fees."

12 62. Defendants failed to accurately record the total wages due to Plaintiff and the Class, and
13 total wages due.

14 63. Plaintiff and the Class were damaged by this failure to provide accurate wage statements
15 because, among other things, Plaintiff was unable to determine the proper amount of wages actually
16 owed to him, and whether he had received full compensation therefore.

17 64. Plaintiff requests recovery of Labor Code § 226(e) penalties according to proof, as well
18 as interest, attorneys' fees and costs pursuant to Labor Code § 226(e), and all other damages, attorneys'
19 fees, costs, expenses and interest permitted by statute.

20 WHEREFORE, Plaintiff requests relief as hereinafter provided.

21 **FIFTH CAUSE OF ACTION**

22 **FAILURE TO PAY COMPENSATION UPON SEPARATION OF EMPLOYMENT IN**
23 **VIOLATION OF CAL. LABOR CODE § 201-203**
24 **(BY PLAINTIFF AGAINST ALL DEFENDANTS)**

25 65. Plaintiff repeats and re-alleges the allegations set forth above and incorporates the same
26 by reference as though fully set forth herein.

27 66. Labor Code § 201 provides, in relevant part, "[i]f an employer discharges an employee,
28 the wages earned and unpaid at the time of discharge are due and payable immediately."

67. Labor Code § 202 provides, in relevant part, “[i]f an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.”

68. Pursuant to Labor Code § 201, upon Class members' separations, Defendants were required to pay all earned wages.

69. Defendants failed to compensate Class members their entitled wages by failing to compensate them for all hours worked including rest premiums, failing to compensate them proper overtime wages, and failing to provide wage statements reflecting the accurate number of hours worked per pay period. The Class members' wages remained unpaid even after their separation from employment.

70. The Class Members are entitled to “waiting time” penalties under Labor Code § 203.

WHEREFORE, Plaintiff requests relief as hereinafter provided.

SIXTH CAUSE OF ACTION

FAILURE TO REIMBURSE BUSINESS EXPENSES

IN VIOLATION OF CAL. LABOR CODE § 2802

(By PLAINTIFF AGAINST ALL DEFENDANTS)

71. Plaintiff repeats and re-alleges the allegations set forth above and incorporates the same by reference as though fully set forth herein.

72. Labor Code § 2802 provides that “[a]n employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequences of the discharge of his or her duties.”

73. Plaintiff and the Class have incurred reasonable and necessary expenses in the course of completing their job duties, including purchasing gloves, masks, and other necessary items for their personal vehicles, which they were required to use to perform their job duties, and which were never reimbursed by Defendants.

74. An employer that knows or has reason to know that an employee has incurred work-related expenses must reimburse the employee, even if the employee does not request reimbursement.

75. Plaintiff and the Class are entitled to reimbursement for these necessary expenditures, plus interest and attorneys' fees and costs, under Labor Code § 2802.

WHEREFORE, Plaintiff requests relief as hereinafter provided.

SEVENTH CAUSE OF ACTION

VIOLATIONS OF CAL. B&P CODE §§ 17200, *et seq.*

(By PLAINTIFF AGAINST ALL DEFENDANTS)

76. Plaintiff hereby re-alleges, and incorporates by reference as though set forth fully herein, the allegations contained in all preceding paragraphs.

77. Section 17200 of the California Business and Professions Code prohibits any unlawful, unfair or fraudulent business act or practice.

78. Plaintiff and the Class have suffered and continues to suffer injury in fact and monetary damages as a result of Defendants' actions. The actions by Defendants as herein alleged amount to conduct which is unlawful and a violation of law. As such, said conduct amounts to unfair business practices in violation of Business and Professions Code § 17200, *et seq.*

79. Defendants' conduct as herein alleged has damaged Plaintiff by denying his wages due and payable, by failing to provide rest periods, and by failing to provide proper wage statements. Defendants' actions are thus substantially injurious to Plaintiff causing him injury in fact and loss of money.

80. As a result of such conduct, Defendants have unlawfully and unfairly obtained monies due to Plaintiff.

81. The amount of wages due Plaintiff can be readily determined from Defendants' records. Plaintiff is entitled to restitution of monies due and obtained by Defendants during the last four years as a result of Defendants' unlawful and unfair conduct.

82. Defendants' course of conduct, acts, and practices in violation of the California law as mentioned in each paragraph above constitutes a separate and independent violation of § 17200 et seq. of the Business and Professions Code.

83. The harm to Plaintiff of being wrongfully denied lawfully earned and unpaid wages outweighs the utility, if any, of Defendants' policies and practices and, therefore, Defendants' actions described herein constitute an unfair business practice or act within the meaning of Business and Professions Code § 17200.

84. Defendants' conduct described herein threatens an incipient violation of California's wage and hour laws, and/or violates the policy or A. S. I. of such laws, or otherwise significantly threatens or harms competition.

85. Defendants' course of conduct described herein further violates Business and Professions Code 17200 in that it is fraudulent, improper, and unfair.

86. The unlawful, unfair, and fraudulent business practices and acts of Defendants as described herein above have injured Plaintiff in that he was wrongfully denied the timely and full payment of wages due to him.

EIGHTH CAUSE OF ACTION

VIOLATION OF LABOR CODE §§ 2698, ET SEQ. (“PAGA”)

(By PLAINTIFF against All DEFENDANTS)

87. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every allegation set forth above.

88. On August 8, 2024, Plaintiff filed a notice with the Labor Workforce and Development Agency (“LWDA”) at their website pursuant to the Private Attorney General Act, California Labor Code §§ 2698, *et seq.* (“PAGA”) regarding Defendants. This notice was also sent to the Defendants that same day via certified mail. Now that sixty-five days have passed from the date Plaintiff notified Defendants and the LWDA of these violations, Plaintiff has exhausted his administrative requirements for bringing a claim under the Private Attorneys General Act with respect to these violations.

89. PAGA permits Plaintiffs to recover civil penalties for the violation(s) of the Labor Code sections enumerated in Labor Code section 2699.5.

90. Defendants' conduct, as alleged herein, violates numerous sections of the California Labor Code including, but not limited to, the following:

a. Defendants' failure to compensate for all hours worked including minimum wage and

1 overtime compensation;

2 b. Defendants' failure to provide accurate wage statements in violation of Labor Code §
3 226;

4 c. Defendants' failure to timely pay all final wages due, including upon their separation of
5 employment, in violation of Labor Code §§ 201-203;

6 d. Defendants' failure to reimburse for business expenses; and

7 e. Defendants' failure to provide all legally required meal and rest periods in violation of
8 Industrial Welfare Commission Order and Labor Code § 226.7 and 512, 516, 558, and 1198.

9 91. California Labor Code section 1174 provides that "[e]very person employing labor in
10 this state shall ... [k]eep a record showing the names and addresses of all employees employed and the
11 ages of all minors" and "[keep, at a central location in the state or at the plants or establishments at
12 which employees are employed, payroll records showing the hours worked daily by and the wages paid
13 to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees
14 employed at the respective plants or establishments..."

15 92. Labor Code section 558(a) provides "[a]ny employer or other person acting on behalf
16 of an employer who violates, or causes to be violated, a section of this chapter or any provision
17 regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject
18 to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid
19 employee for each pay period for which the employee was underpaid in addition to an amount sufficient
20 to recover underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each
21 underpaid employee for each pay period for which the employee was underpaid in addition to an
22 amount sufficient to recover underpaid wages. (3) Wages recovered pursuant to this section shall be
23 paid to the affected employee." Labor Code section 558(c) provides "[t]he civil penalties provided for
24 in this section are in addition to any other civil or criminal penalty provided by law."

25 93. Defendants, at all times relevant to this complaint, were employers or persons acting on
26 behalf of an employer(s) who violated Plaintiff's rights by violating various sections of the California
27 Labor Code as set forth above.

28 94. As set forth above, Defendants have violated numerous provisions of both the Labor

Code sections regulating hours and days of work as well as the applicable order of the IWC. Accordingly, Plaintiff seeks the remedies set forth in Labor Code section 558 for himself, the State of California, and all other aggrieved employees.

95. Pursuant to PAGA, and in particular California Labor Code sections 2699(a), 2699.3, 2699.5, Plaintiff, acting in the public interest as a private attorney general, seeks assessment and collection of unpaid wages and civil penalties for Plaintiff, all other aggrieved employees, and the State of California against Defendant, in addition to other remedies, for violations of California Labor Code sections 203, 226, 226.7, 500, 510, 512, 558, 1174, 1194, 1197, 1198 and 2802.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment as follows:

1. For nominal damages;
2. For compensatory damages;
3. For equitable relief in the nature of declaratory relief, restitution of all monies due to Plaintiffs, and disgorgement of profits from the unlawful business practices of Defendants, and accounting;
4. For penalties permitted by Labor Code §§ 200, 201, 202, 203, 210, 226, 226.7, 510, 512, 558, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 2802, and 2698 et seq. and all other applicable sections;
5. For interest accrued to date;
6. For costs of suit and expenses incurred herein pursuant to Labor Code §§ 226, 1194, and 2698;
7. For reasonable attorneys' fees pursuant to Labor Code §§ 218.6, 226, 226.7, 1194, and 2698; and
8. For all such other and further relief that the Court may deem just and proper.

1 DATED: December 13, 2024

LOYR, APC

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By: _____

Young W. Ryu, Esq.
Zachariah E. Moura, Esq.
Kee Seok Mah, Esq.
Harley M. Phleger, Esq.
Attorneys for Plaintiff
PABLO JARAMILLO

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury for themselves on all claims so triable.

DATED: December 13, 2024

LOYR, APC



By: _____

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Kee Seok Mah, Esq.
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PABLO JARAMILLO