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Attorneys for Plaintiff,
JUAN NIEVES OLVERA, and all others similarly situated

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA
(UNLIMITED JURISDICTION)**

JUAN NIEVES OLVERA, on behalf of
himself and all others similarly situated, and
the general public, and as an “Aggrieved
Employee” on behalf of other “Aggrieved
Employees” under the Private Attorneys
General Act of 2004,

Plaintiff,

vs.

BAYSCAPE MANAGEMENT, INC., a
California corporation; and DOES 1 to 25,
inclusive,

Defendant(s).

Case No.: 24CV450424

CLASS ACTION

COMPLAINT FOR:

- 1) Failure to Pay All Wages Earned for All Hours Worked at the Correct Rates of Pay (Lab. Code §§ 510, 1194, 1197, and 1198);
- 2) Failure to Provide Rest Breaks (Lab. Code §§ 226.7 and 1198);
- 3) Failure to Provide Meal Periods (Lab. Code §§ 226.7, 512 and 1198);
- 4) Failure to Indemnify (Lab. Code § 2802);
- 5) Failure to Provide Accurate Itemized Wage Statements (Lab. Code § 226);
- 6) Failure To Pay Wages When Employment Ends (Lab. Code §§ 201–203);
- 7) Failure to Pay Wages Owed Every Pay Period (Lab. Code § 204);;
- 8) Civil Penalties (Lab. Code §§ 2698, *et seq.*); and
- 9) Unfair Competition (Bus. & Prof. Code, § 17200q.)

JURY TRIAL DEMANDED

1 Plaintiff, Juan Nieves Olvera (hereafter “Plaintiff”), on behalf of himself and all others
2 similarly situated, complains and alleges as follows:

3 **I. INTRODUCTION**

4 1. Plaintiff brings this class and representative action based on alleged violations
5 of the California Labor Code, Industrial Welfare Commission Order No. 5-2001 and 16-2001
6 (hereafter “the Wage Order”), and the California Business and Professions Code against
7 BAYSCAPE MANAGEMENT, INC. and DOES 1 to 25, inclusive (“BAYSCAPE” or
8 “Defendants”).

9 2. As set forth in more detail below, Plaintiff alleges that Defendants are liable to
10 him and other similarly situated workers for unpaid wages, statutory penalties, interest, and
11 related relief. These claims are based on Defendants’ failures to:

12 (A) Pay all wages, including minimum, regular, overtime and doubletime
13 wages, earned for all hours worked at the correct rates of pay;

14 (B) Provide all meal periods;

15 (C) Authorize and permit all rest breaks;

16 (D) Pay premium wages for unprovided meal periods;

17 (E) Pay premium wages for unprovided rest breaks;

18 (F) Indemnify for necessary work-related expenditures;

19 (G) Failure to pay all sick leave wages;

20 (H) Issue only accurate and complete itemized wage statements; and

21 (I) Timely pay wages during and upon termination of employment.

22 Accordingly, Plaintiff now seeks to recover unpaid wages, interest, liquidated damages,
23 restitution, statutory penalties, attorneys’ fees, costs, and related relief through this class action.

24 **II. THE PARTIES**

25 3. Plaintiff Juan Nieves Olvera is a resident of San Jose, California. At all relevant
26 times, Plaintiff was an “employee” within the meaning of Title 8 California Code of
27 Regulations Section 11050/11160 and an “Aggrieved Employee” within the meaning of Labor
28 Code Section 2699(c).

1 4. At all times mentioned herein, Defendant Bayscape Management, Inc. is and
2 was a California corporation, and which employed Plaintiff. As such, it is a citizen of
3 California based on Plaintiff's information and belief.

4 5. Plaintiff is ignorant of the true names, capacities, relationships, and extents of
5 participation in the conduct alleged herein, of the defendants sued as DOES 1-25, inclusive, but
6 is informed and believes and thereon alleges that said defendants are legally responsible for the
7 wrongful conduct alleged herein and therefore sues these defendants by such fictitious names.
8 Plaintiff will amend the Complaint to allege the true names and capacities of the DOE
9 defendants when ascertained.

10 6. Plaintiff is informed and believes and thereon alleges that, at all relevant times
11 herein, all Defendants were the agents, employees and/or servants, masters or employers of the
12 remaining defendants, and in doing the things hereinafter alleged, were acting within the course
13 and scope of such agency or employment, and with the approval and ratification of each of the
14 other Defendants.

15 7. At all relevant times, in perpetrating the acts and omissions alleged herein,
16 Defendants, and each of them, acted pursuant to and in furtherance of a policy, practice, or a
17 lack of a practice which resulted in Defendants not compensating Plaintiff and the other Class
18 Members or otherwise complying with their rights in accordance with applicable California
19 labor laws as alleged herein.

20 8. At all relevant times, in perpetrating the acts and omissions alleged herein,
21 Defendants and each of them acted pursuant to and in furtherance of a policy and/or practice,
22 or lack thereof, which resulted in Defendants not paying Plaintiff and other members of the
23 below-described class in accordance with applicable laws as alleged herein.

24 **III. CLASS ALLEGATIONS**

25 9. This action has been brought and may be maintained as a class action pursuant
26 to California Code of Civil Procedure section 382 because there is a well-defined community
27 of interest among the persons who comprise the readily ascertainable class defined below and
28 because Plaintiff is unaware of any difficulties likely to be encountered in managing this case

1 as a class action.

2 10. **Class Definition:** The Class is defined as follows: All persons Defendants
3 employed in California as hourly, non-exempt employees, at any time during the period
4 beginning four years prior to the filing of this action and ending on the date that final judgment
5 is entered in this action (“Class” or “Class Members”).

6 11. **Reservation of Rights:** Pursuant to Rule of Court 3.765(b), Plaintiff reserves
7 the right to amend or modify the class definition with greater specificity, by further division
8 into subclasses and/or by limitation to particular issues.

9 12. **Numerosity:** The Class Members are so numerous that the individual joinder
10 of each individual Class Member is impractical. While Plaintiff does not currently know the
11 exact number of Class Members, Plaintiff is informed and believes that the actual number
12 exceeds the minimum required for numerosity under California laws.

13 13. **Commonality and Predominance:** Common questions of law and fact exist as
14 to all Class Members and predominate over any questions which affect only individual Class
15 Members. These questions include, but are not limited to:

16 A. Whether Defendants failed to pay all wages earned to Class Members for
17 all hours worked at the correct rates of pay, including minimum, regular, overtime, doubletime,
18 meal period premium and rest period premium wages;

19 B. Whether Defendants failed to provide the Class Members with all meal
20 periods in compliance with California law;

21 C. Whether Defendants failed to authorize and permit the Class Members to
22 take all rest periods in compliance with California law;

23 D. Whether Defendants failed to indemnify the Class Members for the
24 reasonable expenses they incurred during the course of performing their duties;

25 E. Whether Defendants knowingly and intentionally failed to provide the
26 class with accurate and complete itemized wage statements;

27 F. Whether Defendants paid all sick pay wages as required by Labor Code
28 section 246

1 G. Whether Defendants willfully failed to provide the class with timely
2 wages during and upon termination of employment;

3 H. Whether Defendants engaged in unfair competition within the meaning of
4 Business and Professions Code sections 17200, et seq., with respect to the Class; and

5 I. Whether Class Members are entitled to restitution of money or property
6 that Defendants may have acquired from them through alleged Labor Code violations.

7 14. **Typicality:** Plaintiff's claims are typical of the other Class Members' claims.
8 Plaintiff is informed and believes and thereon alleges that Defendants have a policy and/or
9 practice, or lack thereof, which resulted in Defendants failing to comply with the California
10 Labor Code, the Wage Order, and the Business and Professions Code.

11 15. **Adequacy of Class Representative:** Plaintiff is an adequate class
12 representative in that he has no interests that are adverse to, or otherwise in conflict with, the
13 interests of absent Class Members. Plaintiff is dedicated to vigorously prosecuting this action
14 on behalf of Class Members. Plaintiff will fairly and adequately represent and protect the
15 interests of Class Members.

16 16. **Adequacy of Class Counsel:** Plaintiff's counsel are adequate class counsel in
17 that they have no known conflicts of interest with Plaintiff or absent Class Members, are
18 experienced in class action litigation, and are dedicated to vigorously prosecuting this action
19 on behalf of Plaintiff and absent Class Members.

20 17. **Superiority:** A class action is vastly superior to other available means for fair
21 and efficient adjudication of Class Members' claims and would be beneficial to the parties and
22 the Court. Class action treatment will allow a number of similarly situated persons to
23 simultaneously and efficiently prosecute their common claims in a single forum without the
24 unnecessary duplication of effort and expense that numerous individual actions would entail.
25 In addition, the monetary amounts due to many individual Class Members are likely to be
26 relatively small and would thus make it difficult, if not impossible, for individual Class
27 Members to both seek and obtain relief. Moreover, a class action will serve an important
28 public interest by permitting Class Members to effectively pursue the recovery of monies

1 owed to them. Further, a class action will prevent the potential for inconsistent or
2 contradictory judgments inherent in individual litigation.

3 **IV. STATEMENT OF FACTS**

4 18. Plaintiff started working at BAYSCAPE on or around November 2023 as a
5 laborer. Plaintiff is and was classified as an hourly, non-exempt employee and was paid on a
6 weekly basis. Plaintiff's pay rate varied according to his paystubs, but one of the rates was
7 \$19.00 per hour. Plaintiff's employment ended on or around August 13, 2024.

8 19. BAYSCAPE violated Labor Code § 1194, 1194.2, 1197, and 1197.1 because it
9 failed to pay Plaintiff and other similarly situated Class Members for all hours worked,
10 including the statutory minimum wage for all hours worked and for "off the clock" work. This
11 is so because BAYSCAPE had a company policy wherein they would disproportionately
12 round down the number of hours worked, resulting in "time shaving" and further resulting in
13 Class Members not being paid for all hours worked. This is especially true because the clock-
14 in and clock-out system was not sophisticated and because Plaintiff and others did not even
15 clock out for meal periods. As such, the company simply did not keep accurate track of hours
16 worked to the minute. Moreover, BAYSCAPE failed to provide its employees with proper and
17 accurate reporting time pay.

18 20. Due to the above "off the clock" violations, BAYSCAPE also violated Labor
19 Code §510 because it failed to pay Plaintiff and other Class Members overtime compensation,
20 even though they worked more than 8 hours per day, 12 hours per day, and/or 40 hours per
21 week throughout their employment. Plaintiff's and other Class Members' actual work hours
22 entitled them to overtime compensation, however, BAYSCAPE did not compensate its hourly,
23 non-exempt employees with the correct amount of overtime due to the "off the clock" work
24 and time shaving as described above. This is true especially because Plaintiff and others
25 worked shifts of 8.5 hours or longer and since the meal periods were not accurately
26 documented, even a 25 minute meal period instead of a 30 minute meal period would translate
27 into overtime compensation that was owed and not paid. Furthermore, BAYSCAPE failed to
28 include bonuses/incentive payments in calculating employees' regular rate of pay for use in

1 deciphering the correct overtime rate of pay. Plaintiff did receive a \$120 bonus payment in late
2 2023 that was not factored into his regular rate of pay. Additionally, the incentive, shift
3 differential, and bonus payments were also not factored into employees' regular rate for
4 purposes of receiving meal and rest break premiums per the Ferra v. Loews case.

5 21. BAYSCAPE also violated Labor Code § 226.7 and the appropriate Industrial
6 Welfare Commission Wage Order nos. 5/16 because it failed to provide Plaintiff and other
7 similarly situated Class Members with 10-minute rest periods for every four hours of work, or
8 majority portion thereof, throughout their employment. BAYSCAPE did not completely
9 relieve Plaintiff and others of all duty during said rest periods. BAYSCAPE did not pay to
10 Plaintiff and others one additional hour of pay at Plaintiff's regular rate of compensation for
11 each workday that one or more statutory rest periods was not provided. Plaintiff first started
12 working at BAYSCAPE, rest breaks were simply not allowed. In fact, supervisors would
13 instruct Plaintiff and others employees NOT to take rest breaks. Rest breaks were simply not a
14 priority for the company and not enforced at all. At some point, the situation improved a bit,
15 however, timely, uninterrupted rest breaks were still not consistently enforced. Moreover, it
16 would not have been possible for employees such as Plaintiff to take such rest breaks due to
17 being understaffed and due to a heavy workload. As such, the culture as well as the policies
18 and procedures of BAYSCAPE did not lend itself to the employees receiving any statutory
19 rest breaks wherein they were relieved of all work duties. The environment at BAYSCAPE
20 was not conducive to receiving statutory rest breaks under California law and timely, statutory
21 rest breaks were not authorized or enforced.

22 22. BAYSCAPE violated Labor Code §§ 512 and 226.7 and the appropriate
23 Industrial Welfare Commission Wage Order nos. 5/16 because it failed to provide hourly, non-
24 exempt employees, including Plaintiff and others, the requisite 30-minute, uninterrupted meal
25 periods for every five (5) hours of work throughout their employment. BAYSCAPE did not
26 completely relieve Plaintiff and other employees of all duty during said meal periods.
27 BAYSCAPE did not pay to Plaintiff and its hourly, non-exempt employees one additional
28 hour of pay at their regular rate of compensation for each workday that one or more statutory

1 meal periods was not provided. Plaintiff did not always receive timely meal periods before the
2 5th hour that were uninterrupted. In fact, on at least one occasion, a supervisor instructed
3 Plaintiff to not take his meal break and continue working. Moreover, and as alluded to above,
4 since Plaintiff and others did not clock in and out for meal periods, there is a presumption that
5 meal periods were not taken per the law and that the meal periods were timely and
6 uninterrupted.

7 23. If Plaintiff signed a meal period waiver, it would not be valid and enforceable.
8 Under California law, however, employees must make an affirmative decision every day
9 regarding whether to waive their meal periods. August 13, 2003 DLSE Opinion Letter (“The
10 decision to forego a meal period may not, therefore, be based on a specific requirement of the
11 employer or on a policy or practice which could reasonably be perceived to be a condition of
12 employment. Therefore, blanket “waivers” of meal periods ...whether written or oral, will not
13 be considered valid.”). If BAYSCAPE had Plaintiff sign an on-duty meal period agreement
14 wherein Plaintiff agreed to work through the meal periods, it would be invalid and
15 unenforceable because the nature of Plaintiff’s job does not and did not prevent him from
16 taking a meal period and the company could have hired “breakers” to relieve Plaintiff of his
17 job duties so that he can actually take a timely, uninterrupted meal period. Moreover, any such
18 “on duty” meal period agreement did not allow for Plaintiff to revoke such an agreement even
19 if it was signed. As such, Plaintiff and others did not receive statutory, timely meal periods
20 during their employment. To the extent that BAYSCAPE argues that employees receive meal
21 break premium pay for missed meal periods, that argument is inconsequential for PAGA
22 penalty purposes since the PAGA penalties are for the violations themselves, irrespective of
23 whether an employee received the premium payment for a missed, short, or interrupted meal
24 period. In *Kirby v. Immoos Fire Protection, Inc.*, the Court stated, “section 226.7 does not give
25 employers a lawful choice between providing either meal and rest breaks or an additional hour
26 of pay.” See *Kirby v. Immoos Fire Protection, Inc.*, (2012) 53 Cal.4th 1244, 1256 (emphasis in
27 original). Thus, the extra hour of pay does not excuse the violation; the employer has still
28 committed a violation even if the remedy for the violation has been paid. See *Wert v. U.S.*

1 *Bancorp*, (S.D. Cal. Mar. 22, 2016, 2016 WL 1110302 at *4). As such, the work environment
2 and culture at BAYSCAPE was not conducive to receiving consistent, timely, statutory meal
3 breaks under California law. Moreover, any meal or rest break premiums paid were not
4 compensated at the weighted average regular rate, inclusive of bonuses and/or incentive
5 payments as well as overtime compensation.

6 24. Furthermore, during the relevant time period, and due to the above labor code
7 violations, BAYSCAPE failed to pay Plaintiff and other similarly situated Class Members all
8 wages due to them within any time period specified by California Labor Code section 204.
9 Since Plaintiff was not compensated for his “off the clock” work and since Plaintiff did not
10 receive proper meal and rest break premiums, Plaintiff would still be owed wages pursuant to
11 Labor Code Section 204. BAYSCAPE was also in violation of California Labor Code section
12 226(a) by failing to include pertinent information on the wage statements, including but not
13 limited to, the correct hourly rate (there were sometimes multiple hourly rates on the stub itself
14 which is confusing and a facial violation in that it is not clear to the employee how they are
15 getting paid), all hours worked, overtime hours worked, correct overtime pay, gross wages
16 earned, net wages earned, premium pay for missed meal and rest breaks, all deductions, the
17 correct start and end of the pay period, all employee identifying information, the correct and
18 complete name and address of the legal employer, tips, and reimbursement for business
19 expenses, among others. As such, BAYSCAPE did not provide Plaintiff and other similarly
20 situated Class Members with complete, accurate itemized wage statements.

21 25. During the relevant time period, BAYSCAPE also failed to keep accurate and
22 complete payroll records showing the actual hours worked per day and the wages paid to
23 Plaintiff and others pursuant to California Labor Code sections 1174(d).

24 26. BAYSCAPE also violated Labor Code § 203 because it willfully failed to pay
25 other similarly situated Class Members earned and due wages upon separation of employment,
26 either immediately upon involuntary termination, or within 72 hours of resignation. These
27 earned but unpaid wages include compensation for all hours worked, including minimum
28 wages, overtime compensation, and premium pay for missed meal and rest breaks.

1 27. During the relevant time period, Plaintiff and other Class Members incurred
2 necessary, business-related expenses and costs that were not reimbursed by BAYSCAPE.
3 These costs include but are not limited to, use of personal cell phone for work purposes as
4 Plaintiff would take photos of his work on his cell phone and send them to his supervisors.
5 Accordingly, BAYSCAPE was in violation of California Labor Code sections 2800 and 2802.

6 28. Furthermore, BAYSCAPE did not provide proper and correct/accurate sick pay
7 (inclusive of all bonuses/shift differentials/incentive payments) that was also delineated on
8 employee pay stubs and also failed to provide proper sick leave in violation of Labor Code
9 sections 233 and 246. Moreover, there were no suitable seating/rest break facilities for the
10 employees pursuant to Wage Order no. 4-2001/16-2001.

11 29. For the reasons stated herein, Plaintiff alleges that as a result of Defendants'
12 unlawful practices and policies, Plaintiff and the Class Members were:

- 13 A. Not provided with all off duty meal periods;
- 14 B. Not authorized and permitted to take all rest break periods;
- 15 C. Not paid one hour's pay for each workday in which Defendants failed to
16 authorize and permit them to take one or more timely rest periods;
- 17 D. Not paid one hour's pay for each workday in which Defendants failed to
18 provide them with one or more timely meal periods;
- 19 E. Not paid all wages earned, including, but not limited to, minimum,
20 regular, overtime, and doubletime wages;
- 21 F. Not indemnified for all necessary business expenditures incurred during
22 the discharge of their duties;
- 23 G. Not provided with accurate and complete wage statements; and
- 24 H. Not timely paid all earned and unpaid wages at the time their
25 employment ended.

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1 **FIRST CAUSE OF ACTION**

2 **FAILURE TO PAY ALL WAGES EARNED FOR ALL HOURS WORKED**

3 **AT THE CORRECT RATES OF PAY**

4 **(Lab. Code §§ 510, 1194, 1197, and 1198)**

5 **(By Plaintiff, on behalf of himself and the Class, against all Defendants)**

6 30. Plaintiff incorporates all paragraphs of the Complaint as if fully alleged herein.

7 31. At all relevant times, Plaintiff and the Class Members have been employees of
8 Defendants and entitled to the benefits and protections of California Labor Code §§ 510, 1194,
9 1197, and 1198, and the Wage Order.

10 32. Section 2(K) and 2(J) of Wage Order 5-2001 and 16-2001, respectively, define
11 “hours worked” as “the time during which an employee is subject to the control of an employer,
12 and includes all the time the employee is suffered or permitted to work, whether or not required
13 to do so.”

14 33. Section 3 of the Wage Order states:

15 (A) Daily Overtime - General Provisions

16 (1) The following overtime provisions are applicable to
17 employees 18 years of age or over and to employees 16 or
18 17 years of age who are not required by law to attend
19 school and are not otherwise prohibited by law from
20 engaging in the subject work. Such employees shall not
21 be employed more than eight (8) hours in any workday or
22 more than 40 hours in any workweek unless the employee
23 receives one and one-half (1 ½) times such employee’s
24 regular rate of pay for all hours worked over 40 hours in
25 the workweek. Eight (8) hours of labor constitutes a day’s
26 work. Employment beyond eight (8) hours in any
27 workday or more than six (6) days in any workweek is
28 permissible provided the employee is compensated for
such overtime at not less than:

(a) One and one-half (1 ½) times the employee’s
regular rate of pay for all hours worked in excess
of eight (8) hours up to and including 12 hours in
any workday, and for the first eight (8) hours
worked on the seventh (7th) consecutive day of
work in a workweek.

1 (b) Double the employee's regular rate of pay for
2 all hours worked in excess of 12 hours in any
3 workday and for all hours worked in excess of
4 eight (8) hours on the seventh (7th) consecutive
5 day of work in a workweek.

6 (c) The overtime rate of compensation required to
7 be paid to a nonexempt full-time salaried
8 employee shall be computed by using the
9 employee's regular hourly salary as one-fortieth
10 (1/40) of the employee's weekly salary.

11 34. Section 4 of the Wage Order requires an employer to pay non-exempt employees
12 at least the minimum wage set forth therein for all hours worked, which consist of all hours that
13 an employer has actual or constructive knowledge that employees are working.

14 35. Labor Code section 510 states:

15 Eight hours of labor constitutes a day's work. Any work in excess of eight hours
16 in one workday and any work in excess of 40 hours in any one workweek and
17 the first eight hours worked on the seventh day of work in any one workweek
18 shall be compensated at the rate of no less than one and one-half times the
19 regular rate of pay for an employee. Any work in excess of 12 hours in one day
20 shall be compensated at the rate of no less than twice the regular rate of pay for
21 an employee. In addition, any work in excess of eight hours on any seventh day
22 of a workweek shall be compensated at the rate of no less than twice the regular
23 rate of pay of an employee. Nothing in this section requires an employer to
24 combine more than one rate of overtime compensation in order to calculate the
25 amount to be paid to an employee for any hour of overtime work.

26 36. California Labor Code § 1194 invalidates any agreement between an employer
27 and an employee to work for less than the minimum wage required under the applicable Wage
28 Order.

37. California Labor Code § 1197 makes it unlawful for an employer to pay an
employee less than the minimum wage required under the applicable Wage Order for all hours
worked during a payroll period.

38. California Labor Code § 1198 makes it unlawful for an employer to employ an
employee under conditions that violate the Wage Order.

39. In conjunction, these provisions of the California Labor Code require employers
to pay non-exempt employees no less than their agreed-upon or statutorily mandated wage rates

1 for all hours worked, including unrecorded hours when the employer knew or reasonably should
2 have known that employees were working during those hours. (*See Morillion v. Royal Packing*
3 *Co.* (2000) 22 Cal.4th 575, 585.)

4 40. With respect to overtime wages, the regular rate of pay under California law
5 must include “all remuneration for employment paid to, on behalf of, the employee.” O.L.
6 2002.06.14 (quoting 29 U.S.C. § 207(e)). This requirement includes, but is not limited to
7 bonuses. *See, e.g., Huntington Memorial Hosp. v. Superior Court* (2005) 131 Cal. App. 4th 893,
8 904–05. Bonuses must be included in the regular rate whether they are the sole source of the
9 employee’s compensation or are in addition to a guaranteed salary or hourly rate. 29 C.F.R. §§
10 778.117, 778.208. *See Oliver v. Mercy Med. Ctr., Inc.* (9th Cir. 1982) 695 F.2d 379.

11 41. As described above, at all relevant times during the applicable limitations
12 period, Defendants failed to compensate Plaintiff and the Class Members for all hours worked,
13 including, but not limited to minimum, regular, overtime and doubletime wages for all
14 minimum, regular, overtime and doubletime hours, respectively, that they worked at the
15 correct rates of pay.

16 42. Plaintiff is informed and believes and thereon alleges that, at all relevant times,
17 Defendants maintained a policy and/or practice, or lack thereof, which resulted in Defendants’
18 failure to compensate Plaintiff and the other Class Members for all hours worked at the correct
19 rates of pay as required by California law.

20 **SECOND CAUSE OF ACTION**

21 **FAILURE TO PROVIDE REST BREAKS**

22 **(Lab. Code §§ 226.7 and 1198)**

23 **(By Plaintiff, on behalf of himself and the Class, against all Defendants)**

24 43. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

25 44. At all relevant times during the applicable limitations period, Plaintiff and the
26 Class Members have been employees of Defendants and entitled to the benefits and
27 protections of California Labor Code §§ 226.7 and 1198, and the Wage Order.

28 45. In relevant part, Labor Code § 1198 states,

1 “The maximum hours of work and the standard conditions of labor
2 fixed by the commission shall be the maximum hours of work and the
3 standard conditions of labor for employees. The employment of any
4 employee for longer hours than those fixed by the order or under
5 conditions of labor prohibited by the order is unlawful.”

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16 46. In relevant part, Section 12 of Wage Order 5-2001 states:

17 Rest Periods:

18 (A) Every employer shall authorize and permit all employees
19 to take rest periods, which insofar as practicable shall be in the
20 middle of each work period. The authorized rest period time
21 shall be based on the total hours worked daily at the rate often
22 (10) minutes net rest time per four (4) hours or major fraction
23 thereof. However, a rest period need not be authorized for
24 employees whose total daily work time is less than three and
25 one-half (3 1/2) hours. Authorized rest period time shall be
26 counted as hours worked for which there shall be no deduction
27 from wages.

28 (B) If an employer fails to provide an employee a rest period
in accordance with the applicable provisions of this Order, the
employer shall pay the employee one (1) hour of pay at the
employee’s regular rate of compensation for each work day that
the rest period is not provided.

47. In relevant part, Section 11 of Wage Order 16-2001 states:

Rest Periods:

(A) Every employer shall authorize and permit all employees to take rest
periods, which insofar as practicable shall be in the middle of each work
period.

(D) If an employer fails to provide an employee a rest period in accordance
with the applicable provisions of this order, the employer shall pay the
employee one (1) hour of pay at the employee’s regular rate of
compensation for each workday that the rest period is not provided

48. In addition, Labor Code Section 226.7 states

(b) An employer shall not require an employee to work during a
meal or rest or recovery period mandated pursuant to an applicable
statute, or applicable regulation, standard, or order of the Industrial
Welfare Commission, the Occupational Safety and Health Standards
Board, or the Division of Occupational Safety and Health.

(c) If an employer fails to provide an employee a meal or rest or

1 recovery period in accordance with a state law, including, but not
2 limited to, an applicable statute or applicable regulation, standard, or
3 order of the Industrial Welfare Commission, the Occupational Safety
4 and Health Standards Board, or the Division of Occupational Safety and
Health, the employer shall pay the employee one additional hour of pay
at the employee's regular rate of compensation for each workday that
the meal or rest or recovery period is not provided.

5 49. Pursuant to the Wage Order, Plaintiff and the Class Members were entitled to
6 be provided with net rest breaks of at least ten minutes for each four-hour period of work, or
7 major fraction thereof.

8 50. Defendants intentionally failed to authorize and permit Plaintiff and the Class
9 Members to take all 10-minute rest periods free from any work duties in accordance with the
10 Wage Order.

11 51. At all relevant times, Defendants failed to authorize and permit Plaintiff and the
12 Class Members to take all timely rest periods. Furthermore, Defendants failed to pay premium
13 wages to Plaintiff and the Class Members for days on which they failed to authorize and
14 permit Plaintiff and the other Class Members to take timely rest periods.

15 52. At all relevant times, Defendants failed to authorize and permit Plaintiff and the
16 Class Members to take ten-minute, paid, duty-free rest breaks every four hours worked or
17 major fraction thereof. Defendants did not seek an exemption from the rest period protections
18 of the Wage Order from the California Division of Labor Standards Enforcement. Moreover,
19 Defendants failed to pay Plaintiff and the Class Members premium wages on workdays they
20 failed to authorize and permit them to take 10-minute rest periods every four hours worked or
21 major fraction thereof.

22 53. Plaintiff is informed and believes and thereon alleges that, at all relevant times
23 within the applicable limitations period, Defendants had a policy, practice, or a lack of a
24 policy which resulted in Defendants not authorizing and permitting Plaintiff and the Class
25 Members to take all rest breaks required by California law.

26 54. Defendants failed to provide Plaintiff with all required rest breaks in
27 accordance with the Wage Order. Plaintiff is informed and believes and thereon alleges that, at
28 relevant times within the applicable limitations period, Defendants had a policy, practice, or a

1 lack of a policy which resulted in Defendants not providing the Class Members with all rest
2 breaks required by California law.

3 55. Defendants failed to pay Plaintiff the additional wages required by California
4 Labor Code § 226.7 for all rest breaks not provided to him. Plaintiff is informed and believes
5 and thereon alleges that, at relevant times within the applicable limitations period, Defendants
6 have maintained a policy, practice, or a lack of a policy which resulted in Defendants not
7 providing the Class Members with additional wages for all rest breaks not provided to them as
8 required by California Labor Code § 226.7.

9 56. As a result of Defendants' unlawful conduct, Plaintiff and the Class Members
10 have suffered damages in amounts subject to proof to the extent they were not paid additional
11 wages owed for all rest breaks not provided to them.

12 57. By reason of the above, Plaintiff and the Class Members are entitled to
13 premium wages for workdays in which one or more rest breaks were not provided to them
14 pursuant to California Labor Code § 226.7.

15 **THIRD CAUSE OF ACTION**

16 **FAILURE TO PROVIDE MEAL PERIODS**

17 **(Lab. Code §§ 226.7, 512, and 1198)**

18 **(By Plaintiff, on behalf of himself and the Class, against all Defendants)**

19 58. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

20 59. At all relevant times during the applicable limitations period, Plaintiff and the
21 Class Members have been employees of Defendants and entitled to the benefits and
22 protections of California Labor Code §§ 226.7, 512 and 1198, and the Wage Order.

23 60. In relevant part, Labor Code § 1198 states,

24 "The maximum hours of work and the standard conditions of labor
25 fixed by the commission shall be the maximum hours of work and the
26 standard conditions of labor for employees. The employment of any
employee for longer hours than those fixed by the order or under
conditions of labor prohibited by the order is unlawful."

27 61. In relevant part, Labor Code Section 512 states

28 "An employer may not employ an employee for a work period of more

1 than five hours per day without providing the employee with a meal
2 period of not less than 30 minutes, except that if the total work period
3 per day of the employee is no more than six hours, the meal period may
4 be waived by mutual consent of both the employer and employee. An
5 employer may not employ an employee for a work period of more than
6 10 hours per day without providing the employee with a second meal
period of not less than 30 minutes, except that if the total hours worked
is no more than 12 hours, the second meal period may be waived by
mutual consent of the employer and the employee only if the first meal
period was not waived.”

7 62. In relevant part, Section 11 of Wage Order 5-2001 states:

8 Meal Periods:

9 (A) No employer shall employ any person for a work period of more
10 than five (5) hours without a meal period of not less than 30
11 minutes, except that when a work period of not more than six (6)
12 hours will complete the day’s work the meal period may be
waived by mutual consent of the employer and the employee...

13 (B) If an employer fails to provide an employee a meal period in
14 accordance with the applicable provisions of this order, the
15 employer shall pay the employee one (1) hour of pay at the
16 employee’s regular rate of compensation for each workday that
the meal period is not provided.

17 63. In relevant part, Section 10 of Wage Order 16-2001 states:

18 Meal Periods:

19 (A) No employer shall employ any person for a work period of more than five
20 (5) hours without a meal period of not less than 30 minutes, except that
21 when a work period of not more than six (6) hours will complete the day’s
work the meal period may be waived by mutual consent of the employer
and the employee.

22 (F) If an employer fails to provide an employee a meal period in accordance
23 with the applicable provisions of this order, the
24 employer shall pay the employee one (1) hour of pay at the employee’s
regular rate of compensation for each workday that the meal period is not
provided.

25 64. In relevant part, California Labor Code § 226.7 states:

26 (b) An employer shall not require an employee to
27 work during a meal or rest period mandated pursuant to
28 an applicable statute, or applicable regulation, standard, or
order of the Industrial Welfare Commission, the

Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health.

- (c) If an employer fails to provide an employee a meal period or rest period in accordance with a state law, including, but not limited to, an applicable statute or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each work day that the meal or rest period is not provided.

65. Pursuant to California Labor Code § 512 and the Wage Order, Plaintiff and the Class Members were entitled to be provided with uninterrupted meal periods of at least 30 minutes for each day they worked five or more hours. Pursuant to California Labor Code § 512, they were also entitled to a second 30-minute meal period when they worked more than ten (10) hours in a workday.

66. As described above, Defendants intentionally failed to provide Plaintiff and the Class Members with all required 30-minute duty free meal periods in accordance with the Wage Order. Furthermore, Defendants failed to pay premium wages for days on which they failed to provide Plaintiff and the other Class Members with timely meal periods.

67. Plaintiff is informed and believes and thereon alleges that, at all relevant times within the applicable limitations period, Defendants had a policy, practice, or a lack of a policy which resulted in Defendants not providing the and the Class Members with all off-duty meal periods required by California law.

68. As a result of Defendants' unlawful conduct, Plaintiff and the Class Members have suffered damages in amounts subject to proof to the extent they were not paid additional wages owed for all meal periods not provided to them.

69. By reason of the above, Plaintiff and the Class Members are entitled to premium wages for workdays in which one or more meal periods were not provided to them pursuant to California Labor Code § 226.7.

///

1 **FOURTH CAUSE OF ACTION**

2 **FAILURE TO INDEMNIFY**

3 **(Lab. Code §§ 1198 & 2802)**

4 **(By Plaintiff, on behalf of himself and the Class, against all Defendants)**

5 70. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

6 71. At all relevant times, Plaintiff and the Class Members were employees of
7 Defendants and entitled to the benefits and protections of the California Labor Code §§ 1198
8 and 2802, and the Wage Order.

9 72. In pertinent part, California Labor Code § 2802(a) states: “An employer shall
10 indemnify his or her employee[s] for all necessary expenditures incurred by the employee in
11 direct consequence of the discharge of his or her duties.” Additionally, the Wage Order states,

12
13 (A) When uniforms are required by the employer to be worn by the employee as
14 a condition of employment, such uniforms shall be provided and maintained by
the employer.

15 ...

16 (B) When tools or equipment are required by the employer or are necessary to
17 the performance of a job, such tools and equipment shall be provided and
18 maintained by the employer, except that an employee whose wages are at least
19 two (2) times the minimum wage provided herein may be required to provide
and maintain hand tools and equipment customarily required by the particular
trade or craft in conformity with Labor Code Section 2802.

20 Wage Order, § 9(A) and (B).

21 73. California Labor Code § 1198 prohibits employers from employing their
22 employees under conditions prohibited by the Wage Order.

23 74. As described above, at all relevant times, BAYSCAPE required Plaintiff and the
24 Class Members to incur certain business expenses in the course of performing their duties,
25 including but not limited to use of their own personal mobile phones. Plaintiff was required to
26 take photos of his work on his cell phone and send them to his supervisors. However,
27 BAYSCAPE did not provide mobile phones to Plaintiff and the Class Members and did not
28 reimburse Plaintiff and the Class Members for these business expenses.

75. Plaintiff is informed and believes and thereon alleges that, at all relevant times, Defendants have maintained a policy, practice, or a lack of a policy which resulted in Defendants' failure to indemnify Plaintiff and the Class Members for the reasonable expenses they incurred during the course of performing their duties.

76. Accordingly, with respect to this cause of action, on behalf of himself and the Class Members, Plaintiff prays for the above stated relief, costs, and all reasonable attorneys' fees pursuant to Labor Code § 2802(c) and as otherwise permitted by law.

FIFTH CAUSE OF ACTION

FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS

(California Labor Code Section 226)

(By Plaintiff, on behalf of himself and the Class, against all Defendants)

77. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

78. Pursuant to California Labor Code § 226(a), Plaintiff and the Class Members were entitled to receive, semi-monthly or at the time of each payment of wages, an accurate itemized statement showing:

A. Gross wages earned;

B. Total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission;

C. The number of piece rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis;

D. All deductions, provided that all deductions made on written orders of the Employee may be aggregated and shown as one item;

E. Net wages earned;

F. The inclusive dates of the period for which the employee is paid;

G. The name of the employee and his or her social security number, except that by January 1, 2008, only the last four digits of his or her social security number or an employee identification number other than a social security number may be shown on the

1 itemized statement;

2 H. The name and address of the legal entity that is the employer; and

3 I. All applicable hourly rates in effect during the pay period and the
4 corresponding number of hours worked at each hourly rate by the employee.

5 79. Pursuant to California Labor Code § 226, an employee is deemed to suffer
6 injury if the employer fails to provide a wage statement. Also, an employee is deemed to
7 suffer injury if the employer fails to provide accurate and complete information as required by
8 California Labor Code § 226(a) and the employee cannot “promptly and easily determine”
9 from the wage statement alone one or more of the following:

10 A. The amount of the gross wages or net wages paid to the employee during
11 the pay period or any of the other information required to be provided on the itemized wage
12 statement pursuant to California Labor Code § 226(a);

13 B. Which deductions the employer made from gross wages to determine the
14 net wages paid to the employee during the pay period;

15 C. The name and address of the employer and, if the employer is a farm
16 labor contractor, as defined in subdivision (b) of Section 1682 of the California Labor Code, the
17 name and address of the legal entity that secured the services of the employer during the pay
18 period;

19 D. The name of the employee and only the last four digits of his or her social
20 security number or an employee identification number other than a social security number; and

21 E. The number of piece-rate units earned and the piece rate.

22 80. “Promptly and easily determine,” as stated in California Labor Code § 226(e),
23 means a reasonable person would be able to readily ascertain the information without
24 reference to other documents or information.

25 81. As alleged herein, at all relevant times during the applicable limitations period,
26 Defendants violated California Labor Code section 226 because they did not properly and
27 accurately itemize each employee’s gross wages earned, net wages earned, the total hours
28 worked, the corresponding number of hours worked at each rate by the employee and other

1 requirements of California Labor Code section 226. Defendants failed to state in the wage
2 statements they issued to Plaintiff and the other Class Members all their hours worked and
3 wages earned, including, but not limited to, regular and overtime wages for work they
4 performed off-the-clock after clocking-out (as described above). Defendants knowingly and
5 intentionally did not issue either as a detachable part of the check, draft, or voucher paying the
6 employee's wages, or separately if wages are paid by personal check or cash, statements to
7 Plaintiff and the Class Members that state all overtime wages earned, all minimum wages
8 earned, all regular wages earned, all meal period premium wages earned, all rest break
9 premium wages earned, gross wages earned, net wages earned, all hourly rates, and all hours
10 worked at each rate of pay.

11 82. Defendants' failure to provide Plaintiff and the other Class Members with
12 accurate wage statements was knowing and intentional. Defendants had the ability to provide
13 Plaintiff and the other Class Members with accurate wage statements but intentionally
14 provided wage statements that Defendants knew were not accurate.

15 83. As a result of being provided with inaccurate wage statements by Defendants,
16 Plaintiff and the other Class Members have suffered injury. Their legal rights to receive
17 accurate wage statements were violated and they were misled about the amount of wages they
18 had actually earned and were owed. In addition, the absence of accurate information on their
19 wage statements prevented immediate challenges to Defendants' unlawful pay practices, has
20 required discovery and mathematical computations to determine the amounts of wages owed,
21 has caused difficulty and expense in attempting to reconstruct time and pay records and/or has
22 led to the submission of inaccurate information about wages to state and federal government
23 agencies. Further, Plaintiff and the other Class Members were not able to ascertain from the
24 wage statements whether Defendants complied with their obligations under California Labor
25 Code section 226(a).

26 84. Pursuant to California Labor Code § 226(e), Plaintiff and the class are entitled
27 to recover the greater of actual damages, or penalties of fifty dollars (\$50) for the initial pay
28 period in which a violation of California Labor Code § 226(a) occurred and one hundred

1 dollars for each violation of California Labor Code § 226(a) in a subsequent pay period, not to
2 exceed an aggregate penalty of four thousand dollars (\$4,000) per class member, and are also
3 entitled to an award of costs and reasonable attorneys' fees.

4 **SIXTH CAUSE OF ACTION**

5 **FAILURE TO PAY WAGES WHEN EMPLOYMENT ENDS**

6 **(California Labor Code Sections 201-203)**

7 **(By Plaintiff, on behalf of himself and the Class, against all Defendants)**

8 85. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

9 86. At all relevant times during the applicable limitations period, Plaintiff and the
10 Class have been employees of Defendants and entitled to the benefits and protections of
11 California Labor Code §§ 201–203, and the Wage Order.

12 87. Labor Code § 201 provides that all earned and unpaid wages of an employee
13 who is discharged are due and payable immediately at the time of discharge.

14 88. Labor Code § 202 provides that all earned and unpaid wages of an employee
15 who quits after providing at least 72-hours notice before quitting are due and payable at the
16 time of quitting and that all earned and unpaid wages of an employee who quits without
17 providing at least 72-hours notice before quitting are due and payable within 72 hours.

18 89. Labor Code § 203 provides that the wages of an employee continue on a daily
19 basis as a penalty for up to 30 days where an employer willfully fails to timely pay earned and
20 unpaid wages to the employee in accordance with Labor Code § 201 or § 202.

21 90. The Defendants failed to pay Plaintiff and all of the other Class Members
22 whose employment ended all of the earned but unpaid wages described above by the
23 conclusion of their employment with Defendants, including minimum wages, regular wages,
24 overtime wages, unprovided meal period premium wages, and unprovided rest break premium
25 wages. Additionally, the Defendants failed to issue to Plaintiff and all of the other Class
26 members whose employment ended their final paychecks within the required time periods.

27 91. By failing to pay such earned wages to Plaintiff and the Class Members,
28 Defendants failed to timely pay them all earned and unpaid wages in violation of Labor Code

1 § 201 or § 202.

2 92. Plaintiff is informed and believes that Defendants' failures to timely pay
3 Plaintiff and the Class Members all of their earned and unpaid wages (described above) have
4 been willful in that, at all relevant times, Defendants have deliberately maintained policies and
5 practices that violate the requirements of the Labor Code and the Wage Order, even though at
6 all relevant times, they have had the ability to comply with those legal requirements.

7 93. Pursuant to Labor Code § 203, Plaintiffs seeks waiting time penalties on behalf
8 of himself and the Class, in amounts subject to proof not to exceed 30 days of waiting time
9 penalties for each Class Member.

10 **SEVENTH CAUSE OF ACTION**
11 **FAILURE TO PAY WAGES OWED EVERY PAY PERIOD**
12 **(Lab. Code §§ 204)**

13 **(By Plaintiffs, on behalf of themselves and the Class, against all Defendants)**

14 94. Plaintiffs incorporate all paragraphs of the Complaint as if fully alleged herein.

15 95. California Labor Code Section 204 establishes the fundamental right of all
16 employees in the State of California to be paid wages in a timely fashion for their work.

17 96. At all times relevant during the liability period, Defendants failed to pay
18 Plaintiffs and the Class Members the full amount of all owed wages when due as required by
19 California Labor Code Section 204.

20 97. Defendants failed to pay Plaintiffs and the Class Members all wages earned each
21 pay period. Plaintiffs are informed, believe, and thereon allege, that all times relevant during
22 the liability period, Defendants maintained a policy or practice of not paying Plaintiffs and the
23 Class Members wages for all hours worked, including overtime hours and premium pay for
24 missed rest breaks and meal breaks.

25 98. As a result of Defendants' unlawful conduct, Plaintiffs and the Class Members
26 have suffered damages in an amount, subject to proof, to the extent they were not paid all
27 wages each pay period. The precise amount of unpaid wages is not presently known to
28 Plaintiffs but can be determined directly from Defendants' records or indirectly based on

1 information from Defendants' records.

2 99. Under this cause of action, Plaintiffs pray for penalties on behalf of themselves
3 and Class Members due under the statutes alleged along with any allowable interest, penalties,
4 attorney's fees, and costs according to proof at trial.

5 **EIGHTH CAUSE OF ACTION**

6 **CIVIL PENALTIES**

7 **(Lab. Code §§ 2698, *et seq.*)**

8 **(By Plaintiff and the Aggrieved Employees against all Defendants)**

9 100. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

10 101. The "Aggrieved Employees" are all members of the Class defined above who
11 Defendants employed during the period beginning August 23, 2023 and ending on the date
12 that final judgment is entered in this action.

13 102. During the applicable time period, Defendants violated California Labor Code
14 §§ 201, 202, 203, 204, 226, 226.7, 233, 246, 510, 512, 558, 558.1, 1174, 1194, 1197, 1198, and
15 2802.

16 103. California Labor Code §§ 2699(a) and (g) authorize an aggrieved employee, on
17 behalf of themselves and other current or former employees, to bring a civil action to recover
18 civil penalties pursuant to the procedures specified in California Labor Code § 2699.3.

19 104. Pursuant to California Labor Code §§ 2699(a) and (f), Plaintiff and the Class
20 Members are entitled to recover civil penalties for each of the Defendants' violations of
21 California Labor Code §§ 201, 202, 203, 204, 226, 226.7, 233, 246, 510, 512, 558, 558.1, 1174,
22 1194, 1197, 1198, and 2802 during the applicable limitations period in the following amounts:

23 A. For violations of California Labor Code § 204, one hundred dollars
24 (\$100.00) for each Aggrieved Employee for each initial violation and two hundred dollars
25 (\$200.00) for each Aggrieved Employee for each subsequent violation (penalty amounts
26 established by California Labor Code § 210).

27 B. For violations of California Labor Code § 226(a), two hundred fifty
28 dollars (\$250.00) for each Aggrieved Employee for initial violation and one thousand dollars

1 (\$1,000.00) for each Aggrieved Employee for each subsequent violation (penalty amounts
2 established by California Labor Code § 226.3).

3 C. For violations of California Labor Code §§ 510, 512, and 558.1, fifty
4 dollars (\$50.00) for each Aggrieved Employee for initial violation and one hundred dollars
5 (\$100.00) for each Aggrieved Employee for each subsequent violation (penalty amounts
6 established by California Labor Code § 558).

7 D. For violations of California Labor Code § 1174, five hundred dollars
8 (\$500.00) for each Aggrieved Employee for each violation (penalty amounts established by
9 California Labor Code § 1174.5).

10 E. For violations of California Labor Code § 1197, one hundred dollars
11 (\$100.00) for each Aggrieved Employee for each initial and intentional violation and two
12 hundred fifty dollars (\$250.00) for each Aggrieved Employee for each subsequent violation,
13 per pay period (regardless of whether the initial violations were intentionally committed)
14 (penalty amounts established by California Labor Code § 1197.1).

15 F. For violations of California Labor Code §§ 201, 202, 203, 226.7, 233,
16 246, 1194, 1198, and 2802, one hundred dollars (\$100.00) for each Aggrieved Employee per
17 pay period for each initial violation and two hundred dollars (\$200.00) for each Aggrieved
18 Employee per pay period for each subsequent violation (penalty amounts established by
19 California Labor Code § 2699(f)(2)).

20 105. Plaintiff has complied with the procedures for bringing suit specified in
21 California Labor Code § 2699.3. By letter dated August 23, 2024, Plaintiff filed written notice
22 online with the Labor and Workforce Development Agency (“LWDA”) and gave written notice
23 by certified mail to Defendants of the specific provisions of the California Labor Code alleged
24 to have been violated, including the facts and theories to support the alleged violations. Plaintiff
25 accompanied his LWDA notice with a fee in the amount of \$75.00. The LWDA has failed to
26 take action in response within 65 calendar days of the date of Plaintiff’s notice, but Plaintiff
27 anticipates that the LWDA will provide written notice to Plaintiff informing him that it does
28 not intend to investigate these allegations.

106. Pursuant to California Labor Code § 2699(g), Plaintiff and the Aggrieved Employees are entitled to an award of civil penalties and reasonable attorney's fees and costs in connection with their claims for civil penalties.

NINTH CAUSE OF ACTION

UNFAIR COMPETITION

(Bus. & Prof. Code §§ 17200, *et seq.*)

(By Plaintiff, on behalf of himself and the Class, against all Defendants)

107. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

108. At all relevant times during the applicable limitations period, Plaintiff and the Class Members have been employees of Defendants and entitled to the benefits and protections of the Business and Professions Code §§ 17200, *et seq.*

109. The unlawful conduct of Defendants alleged herein amounts to and constitutes unfair competition within the meaning of California Business & Professions Code §§ 17200, *et seq.* Due to their unfair and unlawful business practices alleged herein, Defendants have unfairly gained a competitive advantage over other comparable companies doing business in California that comply with their legal obligations to compensate employees for all earned wages.

110. As a result of Defendants' unfair competition as alleged herein, Plaintiff and the Class Members have suffered injuries in fact and lost money or property. Plaintiff and the Class Members were deprived of minimum wages, regular wages, overtime wages, missed meal period premium wages, missed rest period premium wages, phone, and other expenses, and comparable money and property.

111. Pursuant to California Business & Professions Code § 17203, Plaintiff and the Class Members are entitled to restitution of all monies rightfully belonging to them that Defendants did not pay them or otherwise retained by means of their unlawful and unfair business practices.

112. Plaintiff and the Class Members are entitled to reasonable attorneys' fees in connection with their unfair competition claims pursuant to California Code of Civil

1 Procedure § 1021.5, the substantial benefit doctrine and/or the common fund doctrine.

2 **V. PRAYER FOR RELIEF**

3 113. WHEREFORE, Plaintiff, on behalf of himself and the Class Members, prays
4 for relief and judgment against Defendants as follows:

5 A. An order that the action be certified as a class action with respect to
6 Plaintiff's claims for violations of California law;

7 B. An order that Plaintiff be appointed class representative;

8 C. An order that counsel for Plaintiff be appointed class counsel;

9 D. Unpaid wages, including minimum, regular, overtime, double-time, split
10 shift, vacation, missed meal period, missed rest period, nonproductive time, rest and recovery
11 time, and reporting time wages;

12 E. Liquidated damages;

13 F. Statutory penalties, including waiting time penalties;

14 G. Civil penalties;

15 H. Restitution;

16 I. Declaratory relief;

17 J. Actual damages;

18 K. Pre-judgment interest;

19 L. Costs of suit;

20 M. Reasonable attorneys' fees; and

21 N. Such other relief as the Court deems just and proper.

22 **VI. DEMAND FOR JURY TRIAL**

23 Plaintiff, on behalf of himself and all other Class Members, hereby demands a jury trial
24 on all issues so triable.

25 MESSRELIAN LAW INC.

26 Dated: October 28, 2024

27 By Maralle Messrelia
28 Harout Messrelia, Esq.
Maralle Messrelia, Esq.
Attorneys for Plaintiff,
JUAN NIEVES OLVERA, and all others
similarly situated