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JOHN CLARKE

**SUPERIOR COURT OF THE STATE OF CALIFORNIA,
COUNTY OF ORANGE**

JOHN CLARKE, an individual, on his own
behalf and on behalf of all others similarly
situated,

Plaintiff,

v.

PURPOSE DRIVEN TRANSPORT INC.,
a California corporation; and DOES 1
through 100, inclusive,

Defendants.

Case No.: 30-2024-01421145-CU-OE-CXC

[Assigned for all purposes to Hon. Melissa
McCormick, in Dept. CX104]

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR:**

- 1. FAILURE TO PAY ALL WAGES DUE (Cal. Labor Code §§ 204, 210; IWC Wage Order No. 9);**
- 2. FAILURE TO PAY PREMIUM OVERTIME WAGES DUE (Cal. Labor Code §§ 510, 1198; IWC Wage Order No. 9);**
- 3. FAILURE TO PAY MINIMUM WAGES (Cal. Labor Code §§ 1194, 1194.2, 1997, 1197.1, 1198; IWC Wage Order No. 9);**
- 4. FAILURE TO PROVIDE TIMELY OFF DUTY MEAL PERIODS (Cal. Labor Code §§ 226.7, 512; IWC Wage Order No. 9);**
- 5. FAILURE TO PROVIDE TIMELY OFF DUTY REST PERIODS (Cal. Labor Code §§ 226.7, 512; IWC Wage Order No. 9);**
- 6. FAILURE TO MAINTAIN RECORDS AND PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS (Cal. Labor Code §226);**

7. **FAILURE TO PAY WAGES DUE ON TERMINATION** (Cal. Labor Code §§ 201-203);
8. **FAILURE TO REIMBURSE BUSINESS EXPENSES** (Cal. Labor Code § 2802);
9. **FAILURE TO PAY ALL SICK LEAVE WAGES WHEN DUE** (Cal. Labor Code § 246);
10. **FAILURE TO ALLOW INSPECTION OF EMPLOYMENT RECORDS** (Cal. Labor Code §1198.5);
11. **UNFAIR COMPETITION** (Cal. Bus. & Prof. Code §§17200 et seq.); and
12. **PRIVATE ATTORNEY GENERAL ACT (“PAGA”)**

DEMAND FOR A JURY TRIAL

Action Filed: August 21, 2024
Trial Date: Not Set

All allegations in this First Amended Complaint are based upon information and belief except for those allegations which pertain to the Plaintiff named herein and his counsel. Each allegation has evidentiary support or is likely to have evidentiary support after a reasonable opportunity for further investigation and discovery.

JOHN CLARKE (“Plaintiff”) alleges the following:

1. This is a class action brought under California law by an individual who was employed by Purpose Driven Transport Inc. (“PDT”) (along with DOES 1 through 100, collectively “Defendants”). Plaintiff brings this action on behalf of himself and others similarly situated to recover wages from Defendants due to Defendants’ systematic failure to pay all wages due, failure to pay overtime wages, failure to pay minimum wages, failure to provide meal/rest breaks (or pay the statutory compensation due), failure to issue accurate wage statements, failure to reimburse business expenses, failure to pay all wages on termination, failure to pay sick pay and failure to allow inspection of employment records.

1 2. Plaintiffs have worked as employees for Defendants' transport company in Santa
2 Ana, California. While working, Plaintiffs have been forced to endure stressful and illegal
3 workplace conditions created by Defendants' efforts to maximize profits and tightly control labor
4 costs.

5 3. Plaintiff, like his co-workers whom Defendants also employed during the
6 applicable limitations period, spend their workdays driving for Defendants' transport company
7 in California under illegal and highly regimented circumstances. That regimen results from
8 Defendants' insistence to strictly monitor and curtail labor costs, which Defendants accomplishes
9 by not paying for all labor costs, failing to pay all wages due, failing to pay overtime, failing to
10 pay minimum wages, refusing to provide timely meal/rest periods, not paying the required extra
11 hour for missed meal breaks, failing to issue accurate wage statements, failing to pay all wages
12 on termination, failing to reimburse business expenses, failing to pay sick pay, failing to allow
13 inspection of employment records, and by using other unlawful stratagems to ensure that labor
14 costs remain artificially low.

15 4. Plaintiff brings this class action to recover, among other things, wages and
16 penalties from unpaid wages earned and due, including but not limited to, all wages due, premium
17 overtime wages, minimum wages, late meal/rest break wages, penalties for failure to provide
18 accurate itemized wage statements, wages for failure to issue all wages on termination, failure to
19 reimburse business expenses, failure to pay sick pay, failure to allow inspection of employment
20 records and interest, attorneys' fees, costs, and expenses.

21 5. Plaintiff seeks compensatory, statutory, declaratory, and injunctive relief for
22 himself and all members of the Class, to compensate these workers for the unpaid wages and to
23 protect current and future workers of Defendants from being subjected to similar wage theft and
24 otherwise unlawful working conditions.

25 6. Plaintiff also brings an action seeking relief for Defendants' violations of
26 California *Business & Professions Code* §§ 17200 *et seq.*, including full restitution and
27 disgorgement of all compensation retained by Defendants as a result of its unlawful and unfair
28 business practices, as well as injunctive relief.

7. Plaintiff now seeks to amend his Complaint to add a cause of action pursuant to PAGA under Labor Code §§ 2699, et seq.

JURISDICTION AND VENUE

8. This Court has jurisdiction over this First Amended Complaint under Code of Civil Procedure §410.10. This action is brought under *Code of Civil Procedure* § 382, and *Business & Professions Code* §§ 17200 *et seq.* Plaintiff John Clarke brings this First Amended Complaint on his own behalf and on behalf of all persons in the Class as defined in paragraph 16 below.

9. Venue is proper in this Court pursuant to *Code of Civil Procedure* §§ 395 and 395.5 because the claims made and the *Labor Code* violations against the persons identified herein occurred in the County of Orange and because Defendants owned and operated its business in the County of Orange.

THE PARTIES

PLAINTIFF

10. At all times relevant hereto, Plaintiff was:

- (a) An individual over age 18 and a resident of Orange County, California;
- (b) Employed as an hourly employee for Defendants in Santa Ana, California;
- (c) Did not receive all wages due as required by *Labor Code* §§ 204, 210 and IWC Wage Order No. 9;
- (d) Did not receive overtime compensation required by *Labor Code* §§510 and 1194 and IWC Wage Order No. 9;
- (e) Did not receive minimum wages due in violation of *Labor Code* §§1194, 1194.2, 1997, 1197.1, 1198 and IWC Wage Order No. 9;
- (f) Did not receive the meal/rest periods required by *Labor Code* §266.7 and IWC Wage Order No. 9;
- (g) Did not receive accurate wage statements as mandated by *Labor Code* §226;

- 1 (h) Was not reimbursed for his necessary business expenses in violation of
2 *Labor Code* §2802;
3 (i) Was not paid sick pay as mandated by *Labor Code* §246; and
4 (j) Was not provided his personnel records. Each of these was a violation of
5 the *Labor Code*.

6 **DEFENDANTS**

7 11. Plaintiff is informed and believes, and based on that information and belief,
8 alleges, Defendants PDT is, and at all times mentioned herein was:

- 9 (a) A California corporation, with a principal place of business at 1947 E.
10 Deere Avenue, Santa Ana, CA 92705. Defendants have been authorized to
11 do business and have been doing business in the County of Orange;
12 (b) The former employer of Plaintiff and the current and former employer of
13 the putative Class members;
14 (c) Paid Plaintiff and all Class members on an hourly basis;
15 (d) Failed to Plaintiff and all Class members all wages due;
16 (e) Failed to pay Plaintiff and all putative Class members premium overtime
17 wages;
18 (f) Failed to pay Plaintiff and all putative Class members minimum wages;
19 (g) Failed to provide Plaintiff and all putative Class members with meal/rest
20 periods and failed to provide Plaintiff and all putative Class members with
21 accurate itemized wage statements;
22 (h) Failed to reimburse Plaintiff and Class members' necessary business
23 expenses;
24 (i) Failed to pay sick pay to Plaintiff and Class members; and
25 (j) Was not provided his personnel records. Each of these was a violation of
26 the *Labor Code*.

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1 12. The true names and capacities, whether individual, corporate, subsidiary,
2 partnership, associate or otherwise, of Defendants DOES 1 through 100, inclusive, are unknown
3 to Plaintiff, who therefore sues these Defendants by such fictitious names pursuant to *Code of*
4 *Civil Procedure* § 474. Plaintiff will seek leave to amend his Complaint to allege the true names
5 and capacities of DOES 1 through 100, inclusive, when they are ascertained.

6 13. Plaintiff is informed and believes, and based on that information and belief alleges,
7 that Defendant DOES 1 through 100 are persons, corporations or other entities which reside in or
8 are authorized to do, or are otherwise doing, business in the State of California. Specifically,
9 DOES 1 through 100 maintain offices, operate businesses, employ persons, and conduct business
10 in the County of Orange. Each of the Defendant DOES 1 through 100 was the managerial agent,
11 employee, predecessor, successor, joint-venturers, co-conspirator, alter ego and/or representative
12 of one or more of the other Defendants named herein, and acting with permission, authorization,
13 and/or ratification and consent of the other Defendants.

14 14. Plaintiff is informed and believes, and based on that information and belief alleges,
15 that the Defendants named in this First Amended Complaint, including DOES 1 through 100,
16 inclusive, are responsible in some manner for one or more of the events and happenings that
17 proximately caused the injuries and damages hereinafter alleged.

18 15. Plaintiff is informed and believes, and based on that information and belief alleges,
19 that Defendants named in this First Amended Complaint, including DOES 1 through 100,
20 inclusive, are, and at all times mentioned herein were, the agents, servants, and/or employees of
21 each of the other Defendants and that each Defendant was acting within the course and scope of
22 his, hers or its authority as the agent, servant and/or employee of each of the other Defendants.
23 Consequently, all of the Defendants are jointly and severally liable to the Plaintiff, and the Class,
24 for the damages sustained as a proximate result of their conduct.

25 16. Plaintiff is informed and believes, and based on that information and belief alleges,
26 that the Defendants named in this First Amended Complaint, including DOES 1 through 100,
27 inclusive, knowingly and willfully acted in concert, conspired and agreed together among
28 themselves and entered into a combination and systemized campaign of activity to *inter alia*

1 damage Plaintiff, and the Class, and to otherwise consciously and/or recklessly act in derogation
2 of the rights of Plaintiff and the Class, and the trust reposed by Plaintiff, and the Class, in each of
3 the Defendants, the acts being negligently and/or intentionally inflicted. Their conspiracy, and
4 Defendants' concerted actions, were such that, to Plaintiff's information and belief, and to all
5 appearances, Defendants, and each of them, represented a unified body so that the actions of one
6 Defendant were accomplished in concert with, and with the knowledge, ratification, authorization
7 and approval of each of the other Defendants.

8 **CLASS ALLEGATIONS**

9 **A. The Definition of the Class**

10 17. The Class ("the Class") is defined as follows:

- 11 (a) "All current and former employees who were hourly paid employees of
12 Defendants and worked for Defendants in California at any time during the
13 period commencing on the date that is four (4) years prior to the filing of this
14 Complaint and continuing through the present date (the "Class Period")."
15 (b) "All persons who were hourly paid employees of Defendants and worked for
16 PDT in California and left the employ of Defendants at any time during the
17 period commencing on the date that is within one (1) year prior to the filing
18 of this Complaint and continuing through the present date (the "Class
19 Period")." Plaintiff reserves his right under Rule 3.765 of the California Rules
20 of Court to amend or modify the Class description with greater specificity or
21 further division into subclasses or limitation to particular issues.

18 **A. Maintenance of the Action**

19 18. Plaintiff brings this action individually and on behalf of himself and as
20 representative of all similarly situated persons under *Business & Professions Code* §§ 17203 and
21 17204 and *Code of Civil Procedure* § 382.

22 **B. The Class Requisites**

23 19. At all material times, Plaintiff was a member of the Class.

24 20. The Class action meets the statutory prerequisites for maintaining a class action
25 under Code of Civil Procedure § 382 in that:

- 26 (a) The persons who comprise the Class are so numerous that the joinder of all
27 those persons is impracticable, and the disposition of their claims as a
28 Class will benefit the parties and the Court;

(b) Nearly all factual, legal, statutory, declaratory and injunctive relief issues that are raised in this First Amended Complaint are common to the Class and will apply uniformly to every Class member;

(c) The claims of the representative Plaintiff are typical of the claims of each Class member. Plaintiff, like all Class members, has sustained damages arising from Defendants' violations of the laws of the State of California. Plaintiff, and the Class members, were and are similarly or identically harmed by the same unlawful, deceptive, unfair, systematic and pervasive pattern of misconduct engaged in by the Defendants;

(d) The representative Plaintiff has, and will continue to, fairly and adequately represent and protect the interests of the Class and has retained counsel who are competent and experienced in class action litigation. There are no material conflicts between the claims of the representative Plaintiff and the Class members that would make class certification inappropriate. Counsel for the Class will vigorously assert the claims of all Class members.

21. The persons who comprise the Class are so numerous that joining all of them is impracticable, and jointly adjudicating their claims will benefit the parties and the Court. Plaintiff's claims are typical of the claims of the Class that Plaintiff seeks to represent. Plaintiff will fairly and adequately protect the interests of the Class he seeks to represent. Plaintiff does not have any interests that are antagonistic to the Class he seeks to represent. Counsel for Plaintiff are experienced, qualified and generally able to conduct complex class action litigation.

22. The Court should permit the action to be maintained as a class action under *Code of Civil Procedure* § 382 because:

(a) The questions of law and fact common to the Class predominate over any question affecting only individual members:

(b) A class action is superior to any other available method for fairly and efficiently adjudicating the claims of the Class;

- 1 (c) The Class members are so numerous that it is impractical to bring all of
2 them before the Court;
- 3 (d) Plaintiff and other Class members will not be able to obtain effective and
4 economic legal redress unless the action is maintained as a class action;
- 5 (e) There is a community of interest in obtaining appropriate legal and
6 equitable relief for the statutory violations, and in obtaining adequate
7 compensation for the damages and injuries for which Defendants is
8 responsible in an amount sufficient to adequately compensate the Class
9 members;
- 10 (f) Without Class certification, the prosecution of separate actions by
11 individual Class members would create a risk of:
- 12 i. Inconsistent or varying adjudications for individual Class members
13 that would establish incompatible standards of conduct for
14 Defendants; and/or,
- 15 ii. Adjudication for individual Class members that would, as a practical
16 matter, dispose of other non-party members' interests, or that would
17 substantially impair or impede the non-parties' ability to protect their
18 interests, by, for example, potentially exhausting the funds available
19 from Defendants, and
- 20 (g) Defendants have acted or refused to act on grounds generally applicable to
21 the Classes, making final injunctive relief appropriate for the Class as a
22 whole.

23 23. Plaintiff contemplates eventually issuing notice to the proposed Class Members
24 that would set forth the subject and nature of the action. Defendants' own business records may
25 be utilized for assisting in preparing and issuing the contemplated notice. To the extent that any
26 further notices may be required, Plaintiff would contemplate using additional media and/or
27 mailing.

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1 **GENERAL ALLEGATIONS**

2 24. At all times material hereto, Defendants has been and is a transport company.

3 25. Plaintiff and members of the Class were employed as Drivers and other non-
4 exempt employees by Defendants in California at various times during the Class Period.

5 26. The employment by Defendants of the Class Members, and each of them, is
6 governed by California Industrial Welfare Commission (“IWC”) Wage Order 9, which covers
7 those persons employed in the transportation industry.

8 **THE CONDUCT**

9 27. Plaintiff seeks relief from Defendants’ uniform policies and practices of denying
10 Plaintiff and members of the Class wages and compensation owed under California law.

11 28. Starting in or about January 31, 2024, and continuing to July 11, 2024, Defendants
12 employed Plaintiff on an hourly basis as a Driver in Santa Ana, California.

13 29. While employed by Defendants as a Driver, Plaintiff was paid approximately
14 \$17.00 per hour.

15 **FAILURE TO PAY ALL WAGES DUE**

16 30. Plaintiff and Class members were permitted to clock in for their 8:30 shifts as
17 early as 8:00 a.m. However, Defendants made it clear to employees that they would not start to
18 receive pay until 8:30 a.m.

19 31. Defendants would assign Plaintiff and Class members work duties if they clocked
20 in early but would then adjust their timecards to reflect that they started their shifts at 8:30 a.m.

21 32. If Plaintiff worked from 8:15 a.m. until 2:15 p.m., he would be clocked in at 8:30
22 a.m., but the clock-out time would be left at 2:15 p.m., shorting him 15 minutes of pay.

23 **FAILURE TO PAY OVERTIME AND MINIMUM WAGES DUE**

24 33. Under California law, non-exempt employees, as defined by Wage Order No. 9,
25 are entitled to premium wages for overtime worked. Under California law, an hourly paid
26 employee is entitled to overtime pay when they exceed eight hours of work in a single day, exceed
27 40 hours of work in a week or work seven days in a row.

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1 34. Under California law, non-exempt employees, as defined by Wage Order No. 9,
2 are entitled to minimum wages. Labor Code Section 1197 states the California requirement that
3 employees must be paid at least the minimum wage fixed by the Commission or by any applicable
4 state or local law, and any payment of less than the minimum wage is unlawful. Similarly, Labor
5 Code Section 1194 entitles “any employee receiving less than the legal minimum wage...is
6 entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage.”
7 IWC Wage Order No. 9 obligates employers to pay each employee minimum wages for all hours
8 worked.

9 35. These minimum wage standards apply to each hour employees worked or were
10 subject to control by the employer for which they were not paid. Therefore, an employer’s failure
11 to pay for any particular hour of time worked by an employee or subject to the employer’s control
12 is unlawful, even if averaging an employee’s total pay over all hours worked, paid or not, results
13 in an average hourly wage above minimum wage. *Armenta v. Osmose, Inc.*, 135 Cal. App. 4th
14 314, 324 (2005).

15 36. When Plaintiff and Class members clocked in for their shifts earlier than 8:30 a.m.
16 and began working, they were not paid for their time until their shift start time, 8:30 a.m. As a
17 result, Defendants failed to pay Plaintiff and Class members all overtime wages due.

18 37. Plaintiff and the Class were not paid minimum wages. Although Plaintiff clocked
19 in for his shift early, he did not get paid for the time prior to the start of his shift time because
20 Defendants only paid Plaintiff and Class members for the time that their shifts started, not the
21 actual time they clocked in.

22 38. At all times during the relevant time period, Plaintiff and the Class routinely
23 worked schedules such that they were due pay at overtime and minimum wage rates. During this
24 period, it was the practice and policy of Defendants not to pay employees overtime and minimum
25 wages. Monies for unpaid overtime and minimum wages remain due and owing.

26 **FAILURE TO AFFORD PROPER MEAL BREAKS**

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1 39. Under California law, non-exempt employees, as defined by Wage Order No. 9,
2 are entitled to premium wages for overtime worked, a 30-minute lunch period for every 5 hours
3 worked, or major fraction thereof. Non-exempt employees are entitled to one-hour pay at their
4 regular pay rate for each day the requisite meal periods are not provided.

5 40. Plaintiff and Class members' meal breaks were routinely missed and/or
6 interrupted. Defendants expected Plaintiff and Class members to eat their lunches while on the
7 clock and in transit between locations to which they were driving.

8 41. Defendants' policies and procedures were applied to all non-exempt employees in
9 California and resulted in non-exempt employees working time which was not compensated by
10 any wages in violation of Labor Code sections 510, 1194 and Wage Order No. 9. As a result,
11 Defendants owe wages at the legal overtime and minimum wage rates for unpaid
12 overtime/minimum wages to each of their California non-exempt employees whose daily hours
13 were reduced even though their meals periods were not properly afforded.

14 **REST PERIODS NOT PROPERLY AFFORDED**

15 42. Plaintiff and Class members' rest breaks were routinely not afforded and/or
16 interrupted.

17 **FAILURE TO ISSUE ACCURATE WAGE STATEMENTS**

18 43. As a result of Defendants' failure to pay employees for all wages due, overtime
19 wages, minimum wages and premium pay for meal/rest breaks not afforded, and sick pay, the
20 wage statements issued to the employees did not comply with *Labor Code* §226 and the IWC
21 Wage Order No. 9 in that they did not accurately reflect all wages earned and due and owing.

22 **FAILURE TO PAY WAGES ON TERMINATION**

23 44. As a further result of Defendants' failure to pay employees all wages due, overtime
24 wages, minimum wages, afford proper meal/rest breaks, and sick pay when the employees left
25 their employ, they were not timely paid all wages due them, as required by Labor Code §§ 201,
26 202 and IWC Wage Order No. 9. Further, it was the practice of Defendants to not pay employees
27 the final paychecks within the time periods mandated by Labor Code §§201, 202 and IWC Wage
28 Order No. 9.

1 **FAILURE TO REIMBURSE BUSINESS EXPENSES**

2 45. Defendants required Plaintiff and Class members to use their personal cell phones
3 for business but failed to reimburse them therefor.

4 **FAILURE TO PAY SICK PAY**

5 46. Defendants failed to pay Plaintiff and Class members for sick pay.

6 **FAILURE TO ALLOW INSPECTION OF PERSONNEL RECORDS**

7 47. Defendants failed to allow Plaintiff and Class members to timely inspect their
8 records and payroll files.

9 **FIRST CAUSE OF ACTION**

10 **FAILURE TO PAY ALL WAGES DUE**

11 **(Labor Code §§204, 210 and IWC Wage Order No. 9 by Plaintiffs Against Defendants and**
12 **Does 1-100)**

13 48. Plaintiff and the Class reallege and incorporate by reference all of the allegations
14 set forth in this First Amended Complaint.

15 49. All wages due to any employee are due and payable twice during each month, and
16 all overtime wages must be paid no later than the payday for the next regular payroll period
17 pursuant to Labor Code § 204.

18 50. Labor Code § 210 provides, without limitation, that in addition to, and entirely
19 independent and apart from, any other penalty provided by the Labor Code, every person who
20 fails to pay the wages of each employee as provided in §§ 201.3, 204, 204b, 204.1, 204.2, 205,
21 205.5, and 1197.5 of the Labor Code, shall be subject to civil penalty.

22 51. Defendants failed to pay wages to Plaintiff and Class members as provided in
23 Labor Code § 204. During the Class Period, Defendants have followed and continue to follow
24 several policies and practices directly resulting in their failure to pay Plaintiff and Class members
25 for all hours worked when they are due, including assigning them work when they clock in early
26 but then altering their clock in times to their shift start times.

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1 52. Labor Code § 210 provides for penalties for failure to pay wages pursuant to
2 California Labor Code § 204 as one hundred dollars (\$100) for any initial violation and two
3 hundred dollars (\$200) for any subsequent violation plus twenty-five percent (25%) of the amount
4 withheld.

5 53. As a direct and proximate result of Defendants' conduct, Plaintiff and Class
6 members are entitled to attorneys' fees, in addition to interest, expenses, and costs of suit.

7 **SECOND CAUSE OF ACTION**

8 **FAILURE TO PAY OVERTIME**

9 **(Labor Code §§510, 558, 1194.3 and IWC Wage Order No. 9 by Plaintiffs Against**
10 **Defendants and Does 1-100)**

11 54. Plaintiff and the Class reallege and incorporate by reference all of the allegations
12 set forth in this First Amended Complaint.

13 55. During Plaintiff's entire employment with Defendants, pursuant to Cal. Lab. Code
14 §§510, 1194, and 1198, and IWC Wage Order No. 9, Defendants was required to compensate
15 Plaintiff with premium pay for all overtime work performed, for hours worked in excess of eight
16 (8) hours per day and/or forty (40) hours per week and for the first eight (8) hours on the seventh
17 (7th) consecutive day of any work week.

18 56. At all times relevant herein, Cal. Lab. Code §1194(a) provided that an employee
19 who had not been paid overtime compensation could recover the unpaid balance of the full
20 amount of overtime wages due, including interest thereon, together with reasonable attorneys'
21 fees and costs of suit.

22 57. Pursuant to IWC Wage Order No. 9, § 3, "Employment beyond eight (8) hours in
23 any workday is permissible provided the employee is compensated for such overtime at not less
24 than: (a) One and one-half (1 1/2) times the employee's regular rate of pay for all hours worked
25 in excess of eight (8) hours up to and including twelve (12) hours in any workday...

26 58. California Labor Code section 558 provides in pertinent part:

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

(1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages.

(2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages.

(3) Wages recovered pursuant to this section shall be paid to the affected employee...

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

59. Throughout Plaintiff's employment, Plaintiff worked overtime hours and was not paid overtime pay due. Plaintiff and Class members clocked in for their shifts earlier than 8:30 a.m. and began working. They were not paid for their time until their shift start time, 8:30 a.m.

60. Throughout Plaintiff's employment, Defendants failed and refused to pay and properly calculate overtime compensation to Plaintiff and Class Members as required by law.

61. The foregoing overtime compensation is owed and unpaid. As a direct and proximate result of Defendants' failure and refusal to pay overtime, Plaintiff and Class Members suffered damages in an amount to be proven at trial.

62. Pursuant to Cal. Lab. Code §1194(a), Plaintiff, who retained the services of legal counsel in order to enforce Plaintiff's rights to overtime pay, is entitled to recover Plaintiff's attorneys' fees, costs and interest.

THIRD CAUSE OF ACTION

FAILURE TO PAY MINIMUM WAGES DUE TO TIME ROUNDING

**(IWC Wage Order No. 9; Labor Code §§ 1194, 1194.2, 1997, 1197.1, 1198 By Plaintiffs
Against Defendants and Does 1 through 100)**

63. Plaintiff and the Class reallege and incorporate by reference all of the allegations set forth in this First Amended Complaint.

64. Labor Code §§ 1194(a) states: “Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees, and costs of suit.”

65. *Labor Code* § 1197 states the California requirement that employees must be paid at least the minimum wage fixed by the Commission, and any payment of less than the minimum wage is unlawful. Similarly, *Labor Code* § 1194 entitles “any employee receiving less than the legal minimum wage...entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage.” IWC Wage Order 9-2001 also obligates employers to pay each employee minimum wages for all hours worked. These minimum wage standards apply to each hour employees worked for which they were not paid. Therefore, an employer’s failure to pay for any particular hour of time worked by an employee is unlawful, even if averaging an employee’s total pay over all hours worked, paid or not, results in an average hourly wage above minimum wage. *Armenta v. Osmose, Inc.*, 135 Cal. App. 4th 314, 324 (2005).

66. Pursuant to IWC Wage Order No. 9, Defendants are required to pay the members of the Class for all hours worked, meaning the time during which an employee is subject to the control of an employer, including all the time the employee is suffered or permitted to work, whether or not required to do so.

67. Furthermore, pursuant to *Labor Code* § 1198, “[t]he maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the 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.”

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68. Defendants failed to satisfy minimum wage requirements because they improperly rounded down Plaintiff's actual hours worked in violation of *Labor Code* §§ 1197, 1198 and IWC Wage Order No. 9. Further, due to Defendants' failure to afford compliant meal/rest breaks, Plaintiff and Class members were paid less than minimum wage.

69. Defendants' pattern, practice, and uniform administration of corporate policy regarding illegal employee compensation as described herein is unlawful and creates an entitlement, pursuant to *Labor Code* § 218, to recovery by Plaintiff and the members of the Class, of the unpaid balance of the full amount of wages owing, calculated at the appropriate rate.

70. *Labor Code* § 1194.2 allows an employee to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon for any action under *Labor Code* § 1194. Where an employee, such as Plaintiff and the other Class members, are not paid for all hours worked under *Labor Code* § 1194, the employee may recover minimum wages for the time associated with the overtime for which they received no compensation. *See Sillah v. Command Int'l Sec. Servs.*, 154 F. Supp. 3d 891 (N.D. Cal. 2015) (holding that employees suing for failure to pay overtime could recover liquidated damages under § 1194.2 if they also showed they were paid less than minimum wage); *accord Andrade v. Arby's Rest. Grp., Inc.*, 225 F. Supp. 3d 1115, 1132-33 (N.D. Cal. 2016).

71. Plaintiff and the other Class Members suffered and continue to suffer losses related to the use and enjoyment of compensation due and owing to them as a direct result of Defendants' unlawful acts and Labor Code violations in an amount to be shown according to proof at trial and within the jurisdictional limitations of this Court.

72. Therefore, pursuant to Labor Code §§200, 218.5, 558 and 1194, Plaintiff and the Class are entitled to recover the unpaid balances of the minimum wages Defendants owes them, plus interest, penalties, attorneys' fees, expenses and costs of suit, in amounts according to proof.

FOURTH CAUSE OF ACTION

FOR FAILURE TO PROVIDE TIMELY OFF-DUTY MEAL PERIODS

(IWC Wage Order No. 9; Labor Code §§ 226.7, 512 By Plaintiffs Against Defendants and Does 1 through 100)

1 73. Plaintiff and the Class reallege and incorporate by reference all of the allegations
2 set forth in this First Amended Complaint.

3 74. California Labor Code §226.7(a) prohibits an employer from requiring an
4 employee to work during any meal period mandated by an applicable Industrial Wage Order.
5 Section 226.7(b) of the California Labor Code provides that "[a]n employer shall not require an
6 employee to work during a meal or rest break or recovery period mandated pursuant to an
7 applicable statute, or applicable regulation, standard, or order of the Industrial Welfare
8 Commission..."

9 75. California Labor Code §1198 makes unlawful the employment of an employee
10 under conditions the IWC prohibits.

11 76. Wage Order No. 9 provides, in relevant part: "No employer shall employ any
12 person for a work period of more than five (5) hours without a meal period of not less than 30-
13 minutes, except that when a work period of not more than six (6) hours will complete the day's
14 work the meal period may be waived by mutual consent of the employer and the employee."

15 77. IWC Wage Order No. 9, section (11)(c) further provides, in relevant part: "Unless
16 the employee is relieved of all duty during a 30-minute meal period, the meal period shall be
17 considered an 'on duty' meal period and counted as time worked."

18 78. Section 512(a) of the California Labor Code provides, in relevant part, that:

19 An employer may not employ an employee for a work period of more than five
20 hours per day without providing the employee with a meal period of not less
21 than 30-minutes, except that if the total work period per day of the employee is
22 no more than six hours, the meal period may be waived by mutual consent of
23 both the employer and employee. An employer may not employ an employee
24 for a work period of more than 10 hours per day without providing the
25 employee with a second meal period of not less than 30-minutes, except that if
26 the total hours worked is no more than 12 hours, the second meal period may be
27 waived by mutual consent of the employer and the employee only if the first
28 meal period was not waived.

29 79. The Labor Code and Wage Order No. 9 provisions cited above require California
30 employers to provide employees with off-duty 30-minute meal periods on or before the fifth hour
31 of their shifts.

1 80. To satisfy this obligation, California employers must: (1) make employees aware
2 of their right to off-duty 30-minute meal periods before the fifth hour of their shifts, and (2) ensure
3 that employees are actually free of job duties for thirty minutes per day on or before the fifth hour
4 of their shifts.

5 81. As alleged herein, Defendants failed to relieve employees of duties for meal
6 breaks throughout the Class Period. Plaintiff and the members of the Class's meal periods were
7 not properly afforded, and/or they were interrupted.

8 82. Under California law, employers must also record their employees' meal periods:
9 "Every employer shall keep accurate information with respect to each employee, including the
10 following: ... Meal periods ... shall also be recorded. Meal periods during which operations cease
11 ... need not be recorded." IWC Wage Order No. 9, § (7)(A)(3). Where the employer has failed to
12 keep records required by statute, the consequences of such failure should fall on the employer,
13 not the employee. In such a situation, imprecise evidence by the employee can provide a sufficient
14 basis for liability." *Hernandez v. Mendoza*, 199 Cal. App. 3d 721, 727 (1988). Inasmuch as
15 Defendants had an obligation under the record-keeping requirements of the Wage Order to track
16 meal periods unless "all work ceases," Defendants knew or should have known its employees
17 were regularly affording late meal periods during the Class Period.

18 83. Defendants have a policy or practice of failing to ensure that Plaintiff and
19 members of the Class take off-duty meal periods required by *California Labor Code* § 226.7 and
20 Wage Order No. 9, § 11.

21 84. By their actions in affording Plaintiff and Class members improper meal periods,
22 Defendants violated *Labor Code* § 226.7(b) and section 11 of Wage Order No. 9 in the amount
23 of one additional hour of pay at the employee's regular rate of compensation for each work period
24 during each day in which Defendants failed to provide employees with statutory meal periods.

25 85. Defendants also have a policy or practice of failing to pay each of their employees
26 who was not provided with a meal period an additional one hour of compensation at each
27 employee's regular rate of pay.

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1 86. *Cal. Labor Code* § 218 authorizes Plaintiff and the members of the Class to bring
2 a private right of action to recover wages due based on the deprivation of timely meal periods
3 under *Cal. Labor Code* § 226.7(b).

4 87. As a direct and proximate result of Defendants' unlawful conduct as alleged
5 herein, Plaintiff and members of the Class have sustained economic damages, including but not
6 limited to unpaid wages and lost interest, in an amount to be established at trial and are entitled
7 to recover economic and statutory damages, attorneys' fees and penalties and other appropriate
8 relief due to Defendants' violations of the California Labor Code and IWC Wage Order No. 9.

9 **FIFTH CAUSE OF ACTION**

10 **FOR FAILURE TO PROVIDE TIMELY OFF-DUTY REST PERIODS**

11 **(IWC Wage Order No. 9; Labor Code §§ 226.7, 512 By Plaintiffs Against Defendants and**
12 **Does 1 through 100)**

13 88. Plaintiff and the Class reallege and incorporate by reference all of the allegations
14 set forth in this First Amended Complaint.

15 89. Labor Code § 226.7 and Wage Order No. 9 provide that employers shall authorize
16 and permit all employees to take rest periods at the rate of ten minutes net rest time per four hours
17 of work, or major fraction thereof.

18 90. Labor Code § 226.7 and IWC Wage Order No. 9 provide that if an employer fails
19 to provide an employee with rest periods in accordance with those provisions, the employer shall
20 pay the employee one hour of pay at the employee's regular rate of compensation for each
21 workday that the rest periods were not so provided.

22 91. Defendants have intentionally and improperly denied uninterrupted rest periods to
23 Plaintiff and the Class in violation of Labor Code § 226.7 and Wage Order No. 9.

24 92. At all times relevant hereto, Plaintiff and members of the Class have worked eight
25 or more hours daily.

26 93. At all times relevant hereto, Defendants failed to provide rest periods as required
27 by Labor Code § 226.7, and Wage Order No. 9. Plaintiff and Class members' rest breaks were
28 routinely interrupted.

94. By virtue of Defendants' unlawful failure to provide rest periods to the Plaintiff and the Class, Plaintiff and the Class have suffered, and will continue to suffer, damages in amounts which are presently unknown to Plaintiff and the Class, but which exceed the jurisdictional limits of the Court and which will be ascertained according to proof at trial.

SIXTH CAUSE OF ACTION

FOR FAILURE TO MAINTAIN RECORDS AND PROVIDE ACCURATE ITEMIZED

WAGE STATEMENTS

(Labor Code §226 By Plaintiffs Against Defendants and Does 1 through 100)

95. Plaintiff and the Class reallege and incorporate by reference all of the allegations set forth in this First Amended Complaint.

96. Pursuant to IWC Wage Order No. 9, Defendants was the employer of Plaintiff and the Class.

97. Pursuant to *California Labor Code* sections 226 and 1174, and Wage Order No. 9, section 7, Defendants are required to maintain and provide accurate records relating to employee compensation, including all formulas and production records used to calculate wages due.

98. Defendants are further required to provide, *inter alia*, semimonthly or at the time of each payment of wages, an accurate itemized statement showing: (1) gross wages earned; (2) all deductions from wages; (3) net wages earned; (4) the inclusive dates of the period for which the employee is being paid; (5) the name of the employee; and (6) the name and address of the legal entity that is the employee's actual employer. *Cal. Labor Code* § 226(a).

99. Section 226(e) provides that an employee is entitled to recover \$50 for the initial pay period in which a violation of Section 226 occurs and \$100 for each subsequent pay period, not to exceed \$4,000, plus an award of costs and reasonable attorneys' fees, for all pay periods in which the employer knowingly and intentionally failed to provide accurate itemized statements to the employee causing the employee to suffer injury.

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100. Notwithstanding these provisions, Defendants have engaged in a uniform practice of refusing to maintain and provide the accurate records and wage statements required by California law.

101. Throughout the Class Period, Defendants intentionally and knowingly provided Plaintiff and other members of the Class with weekly itemized wage statements containing inaccurate information regarding the wages earned by Plaintiff and members of the Class in that the payments owed to Plaintiff and the members of the Class for all wages due, overtime compensation, minimum wages, missed/interrupted meal/rest periods, sick pay, were not included in gross wages earned by Plaintiff and members of the Class.

102. As a result, Plaintiff and members of the Class have been injured by having been deprived of the true facts pertaining to their compensation and employment.

103. Plaintiff and members of the Class were damaged by these failures because, among other things, the failures led them to believe that they were not entitled to all wages due, overtime compensation, minimum wages, pay for meal/rest periods not properly provided, sick pay, even though they were so entitled, and these failures hindered them from determining the amounts of wages owed to them.

104. Plaintiff and members of the Class are entitled to the amounts provided in Labor Code §226(e), plus attorneys' fees and costs.

105. As a result, Plaintiff seeks recovery of the penalties authorized by Labor Code sections 226(e) and 558, and such other penalties and legal and equitable remedies as are provided by law for Defendants' improper conduct.

SEVENTH CAUSE OF ACTION

FOR FAILURE TO PAY WAGES UPON TERMINATION

(Labor Code §§201-203 By Plaintiffs against Defendants and Does 1 through 100)

106. Plaintiff and the Class reallege and incorporate by reference all of the allegations set forth in this First Amended Complaint.

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107. Labor Code § 201(a) provides that a discharged employee's unpaid wages are due and payable immediately. Labor Code § 202(a) provides that when an employee resigns from employment, unpaid wages are due and payable within 72 hours of resignation.

108. Labor Code § 203(a) provides that if an employer willfully fails to pay wages as mandated by Labor Code §§ 201 and 202, the employee's wages shall continue to accrue until paid, not to exceed thirty days.

109. Plaintiff and the Class were discharged and/or resigned from Defendants' employ, and Defendants willfully failed to pay Plaintiff and the Class wages due them.

110. Under Labor Code § 203(a), Plaintiff and the Class are entitled to one day's wages for each day he or she was not timely paid, not to exceed 30 days' wages.

EIGHTH CAUSE OF ACTION

FAILURE TO REIMBURSE BUSINESS EXPENSES

(Cal. Labor Code §2802 By Plaintiffs Against Defendants and Does 1 through 100)

111. Plaintiff and the Class reallege and incorporate by reference all of the allegations set forth in this First Amended Complaint.

112. Labor Code §2802 requires employers to indemnify employees for all necessary expenditures incurred by employees in the discharge of their duties.

113. At all times relevant herein, Defendants were aware that Plaintiff and Class members were using their personal cell phones for business, but failed to indemnify Plaintiff and Class members for all their business-related expenses, including wear and tear expenses, in accordance with Labor Code §2802. Plaintiff is informed and believes and thereon alleges that at all relevant times, Defendants maintained a practice of not reimbursing Plaintiff and Class Members for their work-related expenses that they incurred in using their cell phones for work-related purposes.

114. As a result of Defendants' conduct, Plaintiff and Class Members suffered damages in an amount, subject to proof, to the extent they were not reimbursed for all of their business-related expenses incurred in the discharge of their duties.

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1 115. Pursuant to Labor Code §2802, Plaintiff and Class Members are entitled to recover
2 the full amount of their unreimbursed business expenses, reasonable attorneys' fees and costs of
3 suit.

4 **NINTH CAUSE OF ACTION**

5 **FAILURE TO PROVIDE SICK LEAVE**

6 **(Cal. Labor Code § 246; IWC Wage Order No. 9 By Plaintiffs against Defendants and**
7 **Does 1 through 100)**

8 116. Plaintiff and the Class reallege and incorporate by reference all of the allegations
9 set forth in this First Amended Complaint.

10 117. Although California Labor Code section 246 required it, Plaintiff did not accrue
11 paid sick days at the rate of not less than one hour per every 30 hours worked, beginning at the
12 commencement of employment.

13 118. Although California Labor Code section 246 required it, Defendants did not
14 accrue paid sick days on a regular basis that would have provided at least 24 hours of accrued
15 sick leave or paid time off by the 120th calendar day of employment or each calendar year or in
16 each 12-month period.

17 119. Here, Defendants did not separately provide paid sick days.

18 120. Because Defendants failed to properly accrue sick time on behalf of Plaintiff and
19 Class members in compliance with the law, Defendants is liable to Plaintiff and Class members
20 for payment at the regular rate of compensation for each sick time period that Defendants did not
21 provide sick pay, pursuant to Labor Code section 246.

22 121. Defendants' unlawful acts deprived Plaintiff and Class members of sick pay in
23 amounts to be determined at trial, and they are entitled to recover these amounts, with interest,
24 attorneys' fees, and costs.

25 **TENTH CAUSE OF ACTION**

26 **FAILURE TO ALLOW INSPECTION OF EMPLOYMENT RECORDS**

27 **(Labor Code §1198.5 By Plaintiffs Against Defendants and Does 1 through 100)**
28

1 122. Plaintiff and the Class reallege and incorporate by reference all of the allegations
2 set forth in this First Amended Complaint.

3 123. California Labor Code Section 1198.5 provides:

- 4 (a) Every current and former employee, or his or her representative, has the
5 right to inspect and receive a copy of the personnel records that the
6 employer maintains relating to the employee's performance or to any
7 grievance concerning the employee.
- 8 (b) The employer shall make the contents of those personnel records available
9 for inspection to the current or former employee, or his or her
10 representative, at reasonable intervals and at reasonable times, but not later
11 than 30 calendar days from the date the employer receives a written request,
12 unless the current or former employee, or his or her representative, and the
13 employer agree in writing to a date beyond 30 calendar days to inspect the
14 records, and the agreed-upon date does not exceed 35 calendar days from
15 the employer's receipt of the written request to inspect the records. Upon a
16 written request from a current or former employee, or his or her
17 representative, the employer shall also provide a copy of the personnel
18 records, ... later than 30 calendar days from the date the employer receives
19 the request...
- 20 (k) If an employer fails to permit a current or former employee, or his or her
21 representative, to inspect or copy personnel records within the times
22 specified in this section... the current or former employee may recover a
23 penalty of seven hundred fifty dollars (\$750) from the employer.
- 24 (1) A current or former employee may also bring an action for injunctive
25 relief to obtain compliance with this section and may recover costs and
26 reasonable attorney's fees in such an action.

27 124. Additionally, pursuant to IWC Wage Order No. 9, at section 7 re: Records,
28 employers are required to keep accurate payroll records on each employee, and such records must
be made readily available for inspection by the employee upon reasonable request. The employer
must also maintain accurate production records.

125. On or about August 20, 2024, Plaintiff's counsel issued a written request to
Defendants for copies of his personnel records.

126. Under California Labor Code Sections 226, 432 and 1198.5, such records were to
include all records relating to Plaintiff's hours worked, wage statements and compensation.

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127. Plaintiff's counsel and Defendants did not enter into an agreement to enlarge the time for Defendants' compliance, and Defendants have failed and refused to permit Plaintiff copies of his records.

128. As a direct result and consequence of Defendants' failure and refusal to permit Plaintiff full access to his records, Plaintiff seeks injunctive relief in the form of an order or decree mandating Defendants' compliance. Plaintiff has suffered and will suffer harm as a result of Defendants' ongoing refusal to comply. Plaintiff also seeks recovery of the statutory penalty of \$750 based upon Defendants' violation of §1198.

ELEVENTH CAUSE OF ACTION

UNFAIR COMPETITION

(Business & Professions Code §§ 17200 *et seq.* By Plaintiffs Against Defendants and Does
1 through 100)

129. Plaintiff and the Class reallege and incorporate by reference all of the allegations set forth in this First Amended Complaint.

130. Pursuant to IWC Wage Order No. 9, Defendants was the employer of Plaintiff and the Class. Defendants are also a "person," as that term is defined in Business & Professions Code §17021.

131. The Business & Professions Code defines unfair competition as any unlawful, unfair, or fraudulent business practice. At all times relevant herein, by and through the conduct described herein, Defendants has engaged in unfair and unlawful practices by failing to (1) pay all wages due; (2) pay Plaintiff and the Class overtime compensation; (3) pay minimum wages due to rounding; (4) pay Plaintiff and the Class for meal periods improperly afforded, (5) pay Plaintiff and the Class for rest periods improperly afforded, (6) furnish Plaintiff and the Class with accurate itemized wage statements, as mandated by the applicable Labor Code and Industrial Welfare Commission requirements, (7) pay all wages on termination, (8) reimburse business expenses, (9) pay sick pay, (10) provide personnel records, all in violation of Business & Professions Code §§ 17200 *et seq.*

/ / /

1 132. By and through the unfair and unlawful business practices described herein,
2 Defendants have obtained valuable property, money and services from the Plaintiff and the Class
3 and have deprived them of valuable rights and benefits guaranteed by law, all to the detriment of
4 Plaintiff and the Class.

5 133. All the acts described herein are violations of, among other things, the Labor Code
6 and Industrial Commission Wage Order No. 9, are unlawful and in violation of public policy; and
7 in addition, are immoral, unethical, oppressive, and unscrupulous, and thereby constitute unfair
8 and unlawful business practices in violation of Business & Professions Code §§ 17200 *et seq.*

9 134. Plaintiff and the Class are entitled to, and do, seek such relief as may be necessary
10 to restore to them the money and property which Defendants have acquired or of which Plaintiff
11 and the Class have been deprived by means of the above-described unfair and unlawful business
12 practices.

13 135. Plaintiff and the Class are further entitled to, and do, seek a declaration that the
14 above-described business practices are unfair and unlawful, and that injunctive relief should be
15 issued restraining Defendants from engaging in any of the above-described unfair and unlawful
16 business practices in the future.

17 136. Plaintiff and the Class have no plain, speedy, and/or adequate remedy at law to
18 redress the injuries which they have suffered as a consequence of the unfair and unlawful business
19 practices of Defendants. As a result of the unfair and unlawful business practices described above,
20 Plaintiff and the Class have suffered and will continue to suffer irreparable harm unless
21 Defendants are restrained from continuing to engage in these unfair and unlawful business
22 practices. In addition, Defendants should be required to disgorge the unpaid moneys to Plaintiff
23 and the Class.

24 **TWELFTH CAUSE OF ACTION**

25 **PRIVATE ATTORNEY GENERAL ACT**

26 **(Damages Pursuant to Private Attorney General Act Against All Defendants and Does 1**
27 **through 100)**

137. Plaintiff and the Class reallege and incorporate by reference all of the allegations set forth in this First Amended Complaint.

138. Plaintiff brings this action on his own behalf and on behalf of all current and former employees of Defendants who were employed in California for the previous four years seeking to recover unpaid wages, including but not limited to overtime, minimum wages, provide meal/rest breaks (or pay the statutory compensation due), to issue accurate wage statements, to pay wages on termination, to reimburse business expenses, pay sick pay and to allow inspection of employment records and unfair competition. as set forth in this pleading.

139. On August 20, 2024, Plaintiff, pursuant to California Labor Code §§2699, et seq., by and through Plaintiff’s attorneys, uploaded a Private Attorney General Act (“PAGA”) claim to the State of California Labor and Workforce Development Agency (“LWDA”) and sent a letter via Certified Mail Return Receipt Requested to the Defendants.

140. More than 654 days have passed since the above letter, and Plaintiff's counsel has not received any notice from the LWDA stating an intention to prosecute Plaintiff's PAGA claims.

141. Plaintiff has, therefore complied with the administrative exhaustion requirements of PAGA.

142. Plaintiff seeks Labor Code penalties, attorney's fees, and costs in an amount according to proof at trial, as provided by the Labor Code Private Attorney General Act.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that this Court enter judgment in his favor and against Defendants as follows:

1. For compensatory damages in the amount of all wages due to Plaintiff and Class members, according to proof;
2. For compensatory damages in the amount of unpaid overtime due to Plaintiff and Class members, according to proof;
3. For compensatory damages in the amount of minimum wages due to Plaintiff and Class Members, according to proof;

1 4. For payment of unpaid wages in accordance with California labor and
2 employment law;

3 5. For one (1) hour of pay at the regular rate of compensation for Plaintiff and Class
4 Members for each workday that a meal period was not properly provided;

5 6. For one (1) hour of pay at the regular rate of compensation for Plaintiff and Class
6 Members for each workday that a meal/rest period was not properly provided;

7 7. For compensatory damages in the amount of Plaintiff and Class members' out-
8 of-pocket expenses for cell phone use and/or reimbursement of monies incurred while performing
9 Defendants' business-related duties plus interests, costs and attorneys' fees pursuant to *Cal. Code*
10 *Civ. Proc.* §2802(c);

11 8. For sick pay;

12 9. For an award of consequential damages in Plaintiff and Class members' favor and
13 against Defendants, in an amount to be proven at trial;

14 10. For statutory damages pursuant to *Cal. Lab. Code* §226, according to proof;

15 11. For payment to Plaintiff and Class members of waiting time penalties pursuant to
16 *Cal. Lab. Code* §203, in an amount equal to their respective daily rates of pay at the time of
17 termination or layoff, multiplied by the total amount of days elapsed between the date of the
18 involuntary termination, and/or 72 hours after notice of the voluntary termination, up to a
19 maximum of 30 days' pay, according to proof;

20 12. For specific relief, enforcing waiting time penalties of 30 days of per diem wages
21 pursuant to *Cal. Bus. & Prof. Code* §17200 and *Cal. Lab. Code* §203, according to proof;

22 13. For prejudgment interest accrued on all wages due, unpaid overtime and minimum
23 wages from the date that wages were due and payable, pursuant to *Cal. Lab. Code* §§218.6 and
24 1194(a), according to proof;

25 14. For statutory penalties pursuant to *Cal. Lab. Code* §§ 558, 226.7, 1198.5,
26 according to proof;

27 15. For civil penalties pursuant to *Cal. Labor Code* §1198 and Wage Order No. 9;

28 16. For penalties pursuant to *Cal. Lab. Code* §2699(g);

1 17. For reasonable costs, including attorneys' fees, in an amount according to proof
2 pursuant to, *inter alia*, Cal. Labor Code §§1194, 1198.5(1), 218.5, 2802 and/or Cal. Code of Civ.
3 Proc. §1021.5, and Private Attorney General Act;

4 18. For an award of restitution of wages to Plaintiff and Class members in an amount
5 equal to the amount of wages owed and unpaid, according to proof;

6 19. For injunctive relief requiring Defendants to comply with Labor Code
7 1198.5(b)(1);

8 20. For injunctive relief ordering the continuing unfair business acts and practices to
9 cease, as the Court deems just and proper;

10 21. For other injunctive relief ordering Defendants to notify Plaintiff and Class
11 members that they have not been paid the proper amounts in accordance with California law;

12 22. For punitive and exemplary damages in a sum to be determined at trial; and

13 23. For such other and further relief as the Court deems just and proper.

14 **DEMAND FOR JURY TRIAL**

15 Plaintiff John Clarke hereby respectfully requests a trial by jury for all claims and issues
16 raised in his First Amended Complaint that may be entitled to a jury trial.

17
18 LIPELES LAW GROUP, APC

19 Date: October 25, 2024

20
21 By: 

22 Jasmine J. Badawi
23 Attorneys for Plaintiff,
24 JOHN CLARKE
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