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FILED
 Superior Court of California
 County of Los Angeles

10/21/2024

David W. Slayton, Executive Officer / Clerk of Court

By: R. Lozano Deputy

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

EDGAR REVILLA, as an individual and on
 behalf of all others similarly situated,

Plaintiff,

vs.

STAAR SURGICAL COMPANY, a Delaware
 corporation; VOLT INFORMATION
 SCIENCES, INC., a New York corporation;
 and DOES 1 through 100, inclusive,

Defendants.

Case No. 24STCV20691

**FIRST AMENDED CLASS AND
 REPRESENTATIVE ACTION
 COMPLAINT:**

- (1) **MINIMUM WAGE VIOLATIONS
 (LABOR CODE §§ 1182.12, 1194,
 1194.2, 1197);**
- (2) **FAILURE TO PAY ALL
 OVERTIME WAGES (LABOR
 CODE §§ 204, 510, 1194 and 1198);**
- (3) **MEAL PERIOD VIOLATIONS
 (LABOR CODE §§ 226.7, 512, and
 558);**
- (4) **REST PERIOD VIOLATIONS
 (LABOR CODE §§ 226.7, 516, and
 558);**
- (5) **FAILURE TO REIMBURSE FOR
 ALL NECESSARY BUSINESS
 EXPENDITURES (LABOR CODE
 §§ 2802, 2804);**
- (6) **WAGE STATEMENT VIOLATIONS
 (LABOR CODE § 226 *et seq.*);**
- (7) **UNFAIR COMPETITION (BUS &
 PROF CODE § 17200 *et seq.*); and**
- (8) **CIVIL PENALTIES UNDER THE
 PRIVATE ATTORNEYS
 GENERAL ACT (LABOR CODE
 § 2698 *et seq.*).**

**DEMAND FOR JURY TRIAL
 UNLIMITED CIVIL CASE**

1 Plaintiff Edgar Revilla (“Plaintiff”) hereby brings this First Amended Class and
2 Representative Action Complaint (“Complaint”) against Defendant Staar Surgical Company, a
3 Delaware corporation (“Staar”); Defendant Volt Information Sciences, Inc., a New York
4 corporation (“Volt”); and DOES 1 through 100, inclusive (collectively, “Defendants”), and on
5 information and belief allege as follows:

6 **JURISDICTION**

7 1. Plaintiff, on behalf of himself and all others similarly situated, hereby brings this
8 Complaint for recovery of unpaid wages and penalties under California Business and Professions
9 Code § 17200 *et. seq.*, Labor Code §§ 204, 226, 226.7, 510, 512, 516, 558, 1194, 1198, 2698 *et*
10 *seq.*, 2802, 2804, and Industrial Welfare Commission Wage Order 1 (“Wage Order 1”), in
11 addition to seeking injunctive relief, declaratory relief, and restitution. This Complaint is brought
12 pursuant to California Code of Civil Procedure § 382. This Court has jurisdiction over
13 Defendants’ violations of the California Labor Code because the amount in controversy exceeds
14 this Court’s jurisdictional minimum.

15 **VENUE**

16 2. Venue is proper in this judicial district pursuant to California Code of Civil
17 Procedure §§ 395(a) and 395.5, as at least some of the acts and omissions complained of herein
18 occurred in Los Angeles County. Defendants own, maintain offices, transact business, have an
19 agent or agents within Los Angeles County, and/or otherwise are found within Los Angeles
20 County, and Defendants are within the jurisdiction of this Court for purposes of service of process.

21 **PARTIES**

22 3. Plaintiff is and was at all times relevant herein, an individual over the age of
23 eighteen (18). At all relevant times herein, Plaintiff was, and currently is, a California resident.
24 During the four years immediately preceding the filing of the Complaint in this action and within
25 the statute of limitations periods applicable to each cause of action pled herein, Plaintiff was
26 employed by Defendants as a non-exempt employee. Plaintiff was, and is, a victim of Defendants’
27 policies and/or practices complained of herein, lost money and/or property, and has been deprived
28 of the rights guaranteed by California Business and Professions Code § 17200, *et. seq.*, Labor

Code §§ 204, 226, 226.7, 510, 512, 516, 558, 1194, 1198, 2698 *et seq.*, 2802, 2804, and Wage Order 1, which sets employment standards for “Manufacturing Industry.”

4. Plaintiff is informed and believes, and based thereon alleges, that during the time period relevant to this action, Defendant Staar did (and do) business as a medical device manufacturer, and Defendant Volt did (and do) business as a staffing agency.

5. Plaintiff is informed and believes, and based thereon alleges, that at all times mentioned herein, Defendants were licensed to do business in California and were the employers of Plaintiff and of the members of the Classes (as defined in Paragraph 17).

6. Plaintiff does not know the true names, capacities, relationships, and/or the extent of participation of Defendants DOES 1 through 100, inclusive, in the conduct alleged in this Complaint. For that reason, Defendants DOES 1 through 100, inclusive, are sued under such fictitious names. Plaintiff prays for leave to amend this Complaint when their true names and capacities are known. Plaintiff is informed and believes, and based thereon alleges, that each fictitiously named Respondent is and was responsible in some way for the alleged wage-and-hour violations and other wrongful conduct that subjected Plaintiff and the Classes, as defined below, to the illegal employment practices, wrongs and injuries complained of herein. All references in this Complaint to “Defendants” shall be deemed to include all DOE Defendants.

7. At all times herein mentioned, each of said Defendants participated in the doing of the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the Defendants, and each of them, were the agents, servants, and employees of each and every one of the other Defendants, as well as the agents of all Defendants, and at all times herein mentioned were acting within the course and scope of said agency and employment. Defendants, and each of them, approved of, condoned, and/or otherwise ratified each and every one of the acts or omissions complained of herein.

8. At all times mentioned herein, Defendants, and each of them, were members of and engaged in a joint venture, partnership, and common enterprise, and acted within the course and scope of and in pursuance of said joint venture, partnership, and common enterprise. Further,

1 Plaintiff alleges that all Defendants were joint employers for all purposes of Plaintiff and the
2 Classes (as defined in Paragraph 17).

3 **GENERAL FACTUAL ALLEGATIONS**

4 9. Defendant Staar is in the business of manufacturing medical devices. Defendant
5 Volt is a staffing agency. Defendants employed Plaintiff in the non-exempt job position of
6 “Production Operator 1” or “Columnar” (or similarly titled position) at Defendant Staar’s
7 Monrovia location. Plaintiff has been employed by Defendants from approximately July 2022
8 until the present.

9 10. During Plaintiff’s employment with Defendants, Defendants utilized a
10 timekeeping system which resulted in Plaintiff and other non-exempt employees not being
11 compensated for all hours actually worked, whether by rounding, time-shaving, or otherwise,
12 resulting in unpaid minimum and overtime wages. Upon information and belief, this timekeeping
13 system used by Defendants recorded hours worked to the minute; however, Defendants rounded
14 Plaintiff and other non-exempt employees’ hours, so that over a period of time they were deprived
15 of all minimum and overtime wages. Defendants’ timekeeping policies/practices were not even-
16 handed and have resulted in Plaintiff and other non-exempt employees not being compensated for
17 all hours worked.

18 11. During Plaintiff’s employment with Defendants, Plaintiff and other non-exempt
19 employees worked up to four different shifts at up to four different hourly rates of pay, depending
20 on the shift. Despite Plaintiff and other non-exempt employees working at different rates of pay
21 during each pay period, Defendants did not properly calculate the regular rate of pay for the
22 purposes of calculating overtime. Instead of using the weighted average rate of pay for the
23 purposes of calculating employees’ regular rate of pay, Defendants used the lowest of the different
24 hourly rates, resulting in underpaid overtime wages to Plaintiff and other non-exempt employees.

25 12. Plaintiff was also not provided with all required meal periods to which he was
26 entitled due to Defendants’ unlawful meal period policies/practices, which failed to provide
27 Plaintiff and other non-exempt employees with a second timely, uninterrupted, duty-free 30-
28 minute meal period when they worked shifts in excess of 10.0 hours. To the extent that Defendants

1 assert that employees waived these second meal periods, Plaintiff alleges that Defendants never
2 provided him with the opportunity to take a second meal period and that he did not voluntarily
3 waive his second meal periods. On those occasions when Plaintiff was not provided with all
4 legally-required meal periods to which he was entitled, Defendants failed to compensate Plaintiff
5 with the proper meal period premium for each workday in which he experienced a meal period
6 violation as mandated by Labor Code § 226.7, calculated at the regular rate of pay. Instead of
7 using the weighted average rate of pay for the purposes of calculating meal period premiums,
8 Defendants paid meal period premiums at the lowest of the different hourly rates, resulting in
9 meal period premiums paid at below the regular rate of pay.

10 13. During Plaintiff's employment with Defendants, Defendants also failed to
11 authorize and permit all required rest periods for Plaintiff and other non-exempt employees.
12 Specifically, Defendants failed to authorize and permit a third 10-minute period of net rest for
13 shifts in excess of 10.0 hours. On those occasions when Plaintiff was not authorized and permitted
14 all legally required rest periods to which he was entitled, Defendants failed to compensate Plaintiff
15 with the required rest period premium for each workday in which he experienced a rest period
16 violation as mandated by Labor Code § 226.7. Upon information and belief, during at least a
17 portion of the relevant time period, Defendants maintained no payroll code for paying rest period
18 premiums under Labor Code § 226.7.

19 14. During Plaintiff's employment with Defendants, Defendants also failed to
20 properly calculate the regular rate of pay when calculating their employees' sick time pay, thus
21 providing Plaintiff and other non-exempt employees with sick time pay at below the regular rate
22 of pay, in violation of California law.

23 15. Defendants also failed to adequately reimburse Plaintiff and other non-exempt
24 employees for all reasonable and necessary work expenditures, including, but not limited to, use
25 of personal cellular phones to clock in and out of work and to communicate with co-workers.
26 Despite requiring Plaintiff and other non-exempt employees to use their personal cell phones,
27 Defendants did not adequately reimburse Plaintiff and other non-exempt employees for these
28 expenses.

1 16. As a result of Defendants' failure to compensate Plaintiff and other non-exempt
2 employees for all minimum wages, overtime wages, all rest period premium wages, and sick time
3 pay at the correct regular rate of pay, Defendants maintained inaccurate payroll records and failed
4 to issue accurate, compliant, itemized wage statements.

5 **CLASS ACTION ALLEGATIONS**

6 17. Class Definitions: Plaintiff brings this Complaint on behalf of himself and the
7 following Classes pursuant to § 382 of the Code of Civil Procedure:

8 a. The Minimum Wage Class consists of all of Defendants' current and former non-
9 exempt employees in California who were direct hires of Defendant Staar and/or
10 placed at Defendant Staar by a staffing agency, and who were subject to
11 Defendants' timekeeping policies and/or practices, during the four years
12 immediately preceding the filing of the Complaint through the present.

13 b. The Overtime Class consists of all of Defendants' current and former non-exempt
14 employees in California who were direct hires of Defendant Staar and/or placed at
15 Defendant Staar by a staffing agency, and who worked more than 8.0 hours per
16 day and/or 40.0 hours per week and were subject to Defendants' timekeeping
17 policies during the four years immediately preceding the filing of the Complaint
18 through the present.

19 c. The Meal Period Class consists of all of Defendants' current and former non-
20 exempt employees in California who were direct hires of Defendant Staar and/or
21 placed at Defendant Staar by a staffing agency, and who (i) worked at least one
22 shift in excess of 5.0 hours; and/or (ii) worked at least one shift in excess of 10.0
23 hours, during the four years immediately preceding the filing of the Complaint
24 through the present.

25 d. The Rest Period Class consists of all of Defendants' current and former non-
26 exempt employees in California who were direct hires of Defendant Staar and/or
27 placed at Defendant Staar by a staffing agency, and who worked at least one shift
28 of 3.5 hours or more, during the four years immediately preceding the filing of the

Complaint through the present.

e. The Employee Expense Class consists of all of Defendants' current and former non-exempt employees in California who were direct hires of Defendant Staar and/or placed at Defendant Staar by a staffing agency, and who were not adequately reimbursed for reasonable and necessary expenditures in connection with their employment with Defendants, during the four years immediately preceding the filing of the Complaint through the present.

f. The Wage Statement Class consists of all members of the Minimum Wage Class, Overtime Class, and/or Rest Period Class who have received a wage statement from Defendants during the one year immediately preceding the filing of the Complaint through the present.

18. **Numerosity/Ascertainability:** The members of the Classes are so numerous that joinder of all members would be unfeasible and not practicable. The membership of the classes and subclasses are unknown to Plaintiff, at this time; however, it is estimated that the Classes number is in excess of one hundred (100) individuals as to each class. The identity of such membership is readily ascertainable via inspection of Defendants' employment records.

19. **Common Questions of Law and Fact Predominate/Well Defined Community of Interest:** There are common questions of law and fact as to Plaintiff and all other similarly situated employees, which predominate over questions affecting only individual members including, without limitation, to:

i. Whether Defendants paid all minimum wages owed to members of the Minimum Wage Class for all hours worked pursuant to Labor Code §§ 1182.12, 1194, 1194.2 and 1197;

ii. Whether Defendants violated the applicable Labor Code provisions, including, but not limited to, §§ 510 and 1194 by requiring members of the Overtime Class to perform overtime work and not paying for said work in accordance with the overtime laws of the State of California;

iii. Whether Defendants' timekeeping policies/practices resulted in the failure to

properly compensate members of the Overtime Class and Minimum Wage Classes;

iv. Whether Defendants provided legally compliant meal periods to members of the Meal Period Class pursuant to Labor Code §§ 226.7 and 512;

v. Whether Defendants correctly paid meal period premium payments for non-compliant meal periods pursuant to Labor Code § 226.7;

vi. Whether Defendants authorized and permitted legally compliant rest periods to members of the Rest Period Class pursuant to Labor Code §§ 226.7 and 516;

vii. Whether Defendants correctly paid rest period premium payments for non-compliant rest periods pursuant to Labor Code § 226.7;

viii. Whether Defendants' policies and/or practices regarding reasonable and necessary business expenditures resulted in the failure to properly reimburse members of the Employee Expense Class; and

ix. Whether Defendants furnished legally compliant wage statements to members of the Wage Statement Class pursuant to Labor Code § 226.

20. **Predominance of Common Questions:** Common questions of law and fact predominate over questions that affect only individual members of the Classes. The common questions of law and fact set forth above are numerous and substantial and stem from Defendants' uniform policies and/or practices applicable to each individual class member including, but not limited to, Defendants' uniform timekeeping policies and/or practices, and meal and rest period policies and/or practices. As such, the common questions predominate over individual questions concerning each individual class member's showing as to his or her eligibility for recovery or as to the amount of his or her damages.

21. **Typicality:** The claims of Plaintiff are typical of the claims of the Classes because Plaintiff was employed by Defendants as a non-exempt employee in California during the statutes of limitation applicable to each cause of action pled in this Complaint. As alleged herein, Plaintiff, like the members of the Classes, was not properly paid minimum and overtime wages due to Defendants' timekeeping policies/practices, was not authorized and permitted to take all required

meal and rest periods, did not receive rest period premium wages for missed and/or non-compliant rest periods, was not reimbursed for necessary business expenses, and was not issued accurate itemized wage statements.

22. **Adequacy of Representation:** Plaintiff is fully prepared to take all necessary steps to represent fairly and adequately the interests of the members of the Classes. Moreover, Plaintiff's attorneys are ready, willing, and able to fully and adequately represent the members of the Classes and Plaintiff. Plaintiff's attorneys have prosecuted and defended numerous wage-and-hour class actions in state and federal courts in the past and are committed to vigorously prosecuting this action on behalf of the members of the Classes.

23. **Superiority:** The California Labor Code is broadly remedial in nature and serves an important public interest in establishing minimum working conditions and standards in California. These laws and labor standards protect the average working employee from exploitation by employers who have the responsibility to follow the laws and who may seek to take advantage of superior economic and bargaining power in setting onerous terms and conditions of employment. The nature of this action and the format of laws available to Plaintiff and members of the Classes make the class action format a particularly efficient and appropriate procedure to redress the violations alleged herein. If each employee were required to file an individual lawsuit, Defendants would necessarily gain an unconscionable advantage since they would be able to exploit and overwhelm the limited resources of each individual plaintiff with their vastly superior financial and legal resources. Moreover, requiring each member of the Classes to pursue an individual remedy would also discourage the assertion of lawful claims by employees who would be disinclined to file an action against their former and/or current employer for real and justifiable fear of retaliation and permanent damages to their careers at subsequent employment. Further, the prosecution of separate actions by the individual class members, even if possible, would create a substantial risk of inconsistent or varying verdicts or adjudications with respect to the individual class members against Defendants herein; and which would establish potentially incompatible standards of conduct for Defendants; and/or legal determinations with respect to individual class members which would, as a practical matter, be

dispositive of the interest of the other class members not parties to adjudications or which would substantially impair or impede the ability of the class members to protect their interests. Further, the claims of the individual members of the Classes are not sufficiently large to warrant vigorous individual prosecution considering all of the concomitant costs and expenses attending thereto. As such, the Classes are maintainable as classes under § 382 of the Code of Civil Procedure.

FIRST CAUSE OF ACTION

MINIMUM WAGE VIOLATIONS (AGAINST ALL DEFENDANTS)

24. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

25. Wage Order 1, § 4 and California Labor Code §§ 1197 and 1182.12 establish the right of employees to be paid minimum wages for all hours worked, in amounts set by state law. Labor Code §§ 1194(a) and 1194.2(a) provide that an employee who has not been paid the legal minimum wage as required by Labor Code § 1197 may recover the unpaid balance together with attorneys' fees and costs of suit, as well as liquidated damages in an amount equal to the unpaid wages and interest accrued thereon.

26. At all relevant times herein, Defendants failed to conform their pay practices to the requirements of the law by failing to pay Plaintiff and members of the Minimum Wage Class for all hours worked including, but not limited to, all hours they were subject to the control of Defendants and/or suffered or permitted to work under the California Labor Code and Wage Order 1.

27. California Labor Code § 1198 makes unlawful the employment of an employee under conditions that the IWC prohibits. California Labor Code §§ 1194(a) and 1194.2(a) provide that an employer who has failed to pay its employees the legal minimum wage is liable to pay those employees the unpaid balance of the unpaid wages as well as liquidated damages in an amount equal to the wages due and interest thereon.

28. As a direct and proximate result of Defendants' unlawful conduct as alleged herein, Plaintiff and the Minimum Wage Class have sustained economic damages including, but not limited to, unpaid wages and lost interest, in an amount to be established at trial, and are

entitled to recover economic and statutory damages and penalties and other appropriate relief as a result of Defendants' violations of the California Labor Code and Wage Order 1.

29. The foregoing practices and policies are unlawful and create an entitlement to recovery by Plaintiff and the members of the Minimum Wage Class in a civil action for the unpaid amount of minimum wages owing, including interest thereon, liquidated damages, statutory and civil penalties, attorney's fees, and costs of suit according to California Labor Code §§ 204, 558, 1194, 1197, and 1198, Wage Order 1, and Code of Civil Procedure § 1021.5.

SECOND CAUSE OF ACTION

FAILURE TO PAY ALL OVERTIME WAGES

(AGAINST ALL DEFENDANTS)

30. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

31. This cause of action is brought pursuant to Labor Code §§ 204, 510, 1194, and 1198, which provides that non-exempt employees are entitled to all overtime wages and compensation for all overtime hours worked and provide a private right of action for the failure to pay all overtime compensation for overtime work performed.

32. At all times relevant herein, Defendants were required to properly compensate non-exempt employees, including Plaintiff and members of the Overtime Class, for all overtime hours worked pursuant to California Labor Code § 1194 and Wage Order 1. Wage Order 1, § 3 requires an employer to pay an employee "one and one-half (1½) times the employee's regular rate of pay" for work in excess of 8 hours per workday and/or in excess of 40 hours of work in the workweek. Defendants caused Plaintiff to work overtime hours but did not compensate Plaintiff or members of the Overtime Class with one and one-half times their regular rate of pay for such hours.

33. The foregoing policies and practices are unlawful and create an entitlement to recovery by Plaintiff and members of the Overtime Class in a civil action for the unpaid amount of overtime premiums owing, including interest thereon, statutory penalties, attorneys' fees, and costs of suit according to California Labor Code §§ 204, 210, 216, 510, 1194, and 1198; and Code of Civil Procedure § 1021.5.

1 **THIRD CAUSE OF ACTION**

2 **MEAL PERIOD VIOLATIONS**

3 **(AGAINST ALL DEFENDANTS)**

4 34. Plaintiffs re-allege and incorporate by reference all previous paragraphs.

5 35. Plaintiffs are informed and believe, and based thereon allege, that Defendants
6 failed in their affirmative obligation to provide all of their non-exempt employees in California,
7 including Plaintiffs and members of the Meal Period Class, with all legally compliant meal
8 periods in accordance with the mandates of the California Labor Code and Wage Order 1, § 11.
9 Despite Defendants' violations, Defendants did not pay an additional hour of pay to Plaintiffs and
10 members of the Meal Period Class at their respective regular rates of pay, in accordance with
11 California Labor Code §§ 204, 210, 226.7, and 512.

12 36. As a result, Defendants are responsible for paying premium compensation for meal
13 period violations pursuant to Labor Code §§ 226.7 and 512, and Wage Order 1, including interest
14 thereon, statutory penalties, civil penalties, and costs of suit.

15 **FOURTH CAUSE OF ACTION**

16 **REST PERIOD VIOLATIONS**

17 **(AGAINST ALL DEFENDANTS)**

18 37. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

19 38. Wage Order 1, § 12 and Labor Code §§ 226.7 and 516 establish the right of
20 employees to be provided with a rest period of at least ten (10) minutes for each four (4) hour
21 period worked, or major fraction thereof.

22 39. As alleged herein, Defendants failed to authorize and permit Plaintiff and members
23 of the Rest Period Class to take all required rest periods.

24 40. The foregoing violations create an entitlement to recovery by Plaintiff and
25 members of the Rest Period Class in a civil action for the unpaid amount of rest period premiums
26 owing, including interest thereon, statutory penalties, civil penalties, and costs of suit according
27 to Labor Code §§ 226.7, 516, and Civil Code §§ 3287(b) and 3289.

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1 **FIFTH CAUSE OF ACTION**

2 **FAILURE TO REIMBURSE EMPLOYEES FOR**

3 **NECESSARY BUSINESS EXPENDITURES**

4 **(AGAINST ALL DEFENDANTS)**

5 41. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

6 42. Based on information and belief, Defendants required Plaintiff and members of
7 the Employee Expense Class to use their personal cellular phones but failed to provide adequate
8 reimbursement.

9 43. At all relevant times herein, Defendants were subject to Labor Code § 2802, which
10 states that “[a]n employer shall indemnify his or her employee for all necessary expenditures or
11 losses incurred by the employee in direct consequence of the discharge of his or her duties, or of
12 his or her obedience to the directions of the employer.”

13 44. At all relevant times herein, Defendants were subject to Labor Code § 2804, which
14 states that, “[a]ny contract or agreement, express or implied, made by any employee to waive the
15 benefits of this article or any part thereof, is null and void, and this article shall not deprive any
16 employee or his personal representative of any right or remedy to which he is entitled under the
17 laws of this State.”

18 45. As a proximate result of Defendants’ policies and/or practices in violation of Labor
19 Code §§ 2802 and 2804, and Wage Order 1, § 9, Plaintiff and members of the Employee Expense
20 Class were damaged in sums, which will be shown according to proof.

21 46. Plaintiff and members of the Employee Expense Class are entitled to attorneys’
22 fees and costs of suit pursuant to Labor Code § 2802(c) for bringing this action.

23 47. Pursuant to Labor Code § 2802(b), any action brought for the reimbursement of
24 necessary expenditures carries interest at the same rate as judgments in civil actions. Thus,
25 Plaintiff and members of the Employee Expense Class are entitled to interest, which shall accrue
26 from the date on which they incurred the necessary expenditure.

27 ///

28 ///

WAGE STATEMENT VIOLATIONS
(AGAINST ALL DEFENDANTS)

51. Defendants' failures create an entitlement to recovery by Plaintiff and members of the Wage Statement Class in a civil action for all damages and/or penalties pursuant to Labor Code § 226 *et seq.*, including statutory penalties, civil penalties, reasonable attorneys' fees, and costs of suit according to California Labor Code § 226 *et seq.*

UNFAIR COMPETITION
(AGAINST ALL DEFENDANTS)

53. Defendants have engaged and continue to engage in unfair and/or unlawful business practices in California in violation of Business & Professions Code § 17200 *et seq.*, by:

(a) failing to pay Plaintiff and members of the Minimum Wage Class all minimum wages; (b) failing to pay Plaintiff and members of the Overtime Class all overtime wages; (c) failing to provide Plaintiffs and members of the Meal Period Class with all meal periods to which they are

entitled, and/or failing to pay them meal period premium payments; (d) failing to authorize and permit all required duty-free rest periods to Plaintiff and members of the Rest Period Class, and/or failing to pay them rest period premiums payments; (e) failing to provide adequate reimbursement for all reasonable and necessary business expenditures; and (f) knowingly failing to furnish Plaintiff and the Wage Statement Class with all accurate and complete, itemized wage statements in violation of Labor Code § 226.

54. Defendants' utilization of these unfair and/or unlawful business practices deprived Plaintiff and continues to deprive members of the Classes of compensation to which they are legally entitled, constitutes unfair and/or unlawful competition, and provides an unfair advantage over Defendants' competitors who have been and/or are currently employing workers and attempting to do so in honest compliance with applicable wage and hour laws.

55. Because Plaintiff is a victim of Defendants' unfair and/or unlawful conduct alleged herein, Plaintiff, for himself and on behalf of the members of the Classes, seeks full restitution of monies, as necessary and according to proof, to restore any and all monies withheld, acquired and/or converted by Defendants pursuant to Business and Professions Code §§ 17203 and 17208.

56. The acts complained of herein occurred within the last four years immediately preceding the filing of the Plaintiff's Complaint.

57. Plaintiff was compelled to retain the services of counsel to file this Complaint to protect his interests and those of the Classes, to obtain restitution and injunctive relief on behalf of Defendants' current non-exempt employees, and to enforce important rights affecting the public interest. Plaintiff has thereby incurred the financial burden of attorneys' fees and costs, which he is entitled to recover under Code of Civil Procedure § 1021.5.

EIGHTH CAUSE OF ACTION
PRIVATE ATTORNEYS GENERAL ACT
(AGAINST ALL DEFENDANTS)

58. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

59. Defendants have committed several Labor Code violations against Plaintiff, members of the Classes, and other aggrieved employees. Plaintiff, an "aggrieved employee"

1 within the meaning of Labor Code § 2698 *et seq.*, acting on behalf of himself and other aggrieved
2 employees, brings this representative action against Defendants to recover the civil penalties due
3 to Plaintiff, the members of the Classes, other aggrieved employees, and the State of California
4 according to proof pursuant to Labor Code § 558 and § 2699 (a) and (f) including, but not limited
5 to: (1) \$100.00 for each initial violation for each failure to pay each employee and \$200 for each
6 subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for each
7 failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) \$50.00 for each
8 initial violation and \$100 for each subsequent violation pursuant to Labor Code § 558 per
9 employee per pay period; (3) \$100.00 for each initial violation and \$250.00 for each subsequent
10 violation pursuant to Labor Code § 1197.1 per employee per pay period; (4) \$250.00 for each
11 initial violation and \$1,000.00 for each subsequent violation pursuant to Labor Code § 226.3 per
12 employee per pay period; and/or (5) \$100.00 for each initial violation and \$200 for each
13 subsequent violation per employee per pay period for those violations of the Labor Code for which
no civil penalty is specifically provided, based on the following Labor Code violations:

- 14 a. Failing to pay the statutory minimum wages for all hours worked to Plaintiff, the
15 Minimum Wage Class, and other aggrieved employees in violation of Labor Code
16 §§ 1182.12, 1194, 1194.2, and 1197;
- 17 b. Failing to pay Plaintiff, the Overtime Class, and other aggrieved employees all
18 earned overtime compensation in violation of Labor Code §§ 204, 510, 1194, and
19 1198;
- 20 c. Failing to provide all legally required meal periods, and failure to pay meal period
21 premium wages, to Plaintiff, the Meal Period Class, and other aggrieved
22 employees at the regular rate of compensation in violation of Labor Code §§
23 226.7, 512, 558, and 1198;
- 24 d. Failing to authorize and permit all legally required rest periods, and failure to pay
25 rest period premium wages, to Plaintiff, the Rest Period Class, and other
26 aggrieved employees at the regular rate of compensation in violation of Labor
27 Code §§ 226.7, 516, 558, and 1198;
- 28 e. Failing to reimburse Plaintiff, the Employee Expense Class, and other aggrieved

employees for all necessary business expenses incurred in violation of Labor Code §§ 2802 and 2804;

f. Failing to furnish Plaintiff, the Wage Statement Class, and other aggrieved employees with complete, accurate, itemized wage statements in violation of Labor Code § 226;

g. Failing to pay Plaintiff and other aggrieved employees all earned wages at least twice during each calendar month in violation of Labor Code § 204; and

h. Failing to maintain accurate records on behalf of Plaintiff and other aggrieved employees in violation of Labor Code § 1174 and 1198.

60. On August 15, 2024, Plaintiff notified Defendants via certified mail, and notified the California Labor and Workforce Development Agency (“LWDA”) via its website, of Defendants’ violations of the California Labor Code and Plaintiff’s intent to bring a claim for civil penalties under California Labor Code § 2698 *et seq.* with respect to the violations of the California Labor Code identified in Paragraph 59 (a)-(h). Now that sixty-five days have passed from Plaintiff notifying Defendants and the LWDA of these violations, and the LWDA has not provided notice that it intends to investigate the violations, Plaintiff has exhausted his administrative requirements for bringing a claim under the Private Attorneys General Act with respect to these violations.

61. Based on the foregoing, Plaintiff seeks to represent himself and all Aggrieved Employees, as defined by Labor Code § 2699(c).

62. Plaintiff was compelled to retain the services of counsel to file this court action to protect his interests and the interests of other aggrieved employees, and to assess and collect the civil penalties owed by Defendants. Plaintiff has thereby incurred attorneys’ fees and costs, which he is entitled to receive under California Labor Code § 2699(g).

PRAYER

WHEREFORE, Plaintiff prays for judgment for himself and for all others on whose behalf this suit is brought against Defendants, as follows:

1. For an order certifying the proposed Classes;

2. For an order appointing Plaintiff as representatives of the Classes;
3. For an order appointing Counsel for Plaintiff as Counsel for the Classes;
4. Upon the First Cause of Action, for payment of minimum wages, liquidated damages, and penalties according to proof pursuant to Labor Code §§ 1182.12, 1194, 1194.2, and 1197;
5. Upon the Second Cause of Action, for compensatory, consequential, general and special damages according to proof pursuant to Labor Code §§ 204, 510, 1194, and 1198;
6. Upon the Third Cause of Action, for compensatory, consequential, general and special damages according to proof pursuant to Labor Code §§ 226.7, 512, and 558;
7. Upon the Fourth Cause of Action, for compensatory, consequential, general and special damages according to proof pursuant to Labor Code §§ 226.7, 516, and 558;
8. Upon the Fifth Cause of Action, for statutory penalties pursuant to Labor Code § 226 *et. seq.*;
9. Upon the Sixth Cause of Action, for compensatory, consequential, general, and special damages according to proof pursuant to Labor Code §§ 2802 and 2804
10. Upon the Seventh Cause of Action, for restitution to Plaintiff and members of the Classes of all money and/or property unlawfully acquired by Defendants by means of any acts or practices declared by this Court to be in violation of Bus. & Prof. Code § 17200, *et seq.*;
11. Upon the Eighth Cause of Action, for civil penalties due to Plaintiff, other aggrieved employees, and the State of California according to proof pursuant to Labor Code §§ 558 and 2699(a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for each failure to pay each employee and \$200 for each subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100 for each subsequent violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per employee per pay period; (4) \$250.00 for each initial violation and \$1,000.00 for each subsequent violation pursuant to Labor Code § 226.3 per employee per pay period; and/or (5) \$100.00 for

1 each initial violation and \$200 for each subsequent violation per employee per pay period for
2 those violations of the Labor Code for which no civil penalty is specifically provided, based on
3 the Labor Code violations identified in Paragraph 59 (a)-(h);

4 12. Prejudgment interest on all due and unpaid wages pursuant to California Labor
5 Code § 218.6 and Civil Code §§ 3287 and 3289;

6 13. On all causes of action, for attorneys' fees and costs as provided by Labor Code
7 §§ 226, 1194, 2699(g), 2802(c), and Code of Civil Procedure § 1021.5; and

8 14. For such other and further relief, the Court may deem just and proper.

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11 Dated: October 21, 2024

Respectfully submitted,
HAINES LAW GROUP, APC

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13 By:



Paul K. Haines
Attorneys for Plaintiff

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16 **DEMAND FOR JURY TRIAL**

17 Plaintiff hereby demands a jury trial with respect to all issues triable by jury.

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19 Dated: October 21, 2024

Respectfully submitted,
HAINES LAW GROUP, APC

20
21 By:



Paul K. Haines
Attorneys for Plaintiff