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Case #24CV444698
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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA**

RODOLFO G. JARAMILLO, an Individual;

Plaintiff;

v.

NV REPUBLIC ELECTRIC WEST, INC., a
Nevada corporation; and DOES 1 TO 50;

Defendants.

Case Number: 24CV444698

Plaintiff's Second Amended Complaint For:

- 1.** Failure to Pay All Wages, Including Minimum Wages;
- 2.** Failure to Pay All Overtime Wages;
- 3.** Failure to Provide Meal Periods and Pay Missed Meal Period Premiums;
- 4.** Failure to Provide Rest Periods and Pay Missed Rest Period Premiums;
- 5.** Failure to Furnish Accurate Itemized Wage Statements;
- 6.** Failure to Pay Wages Timely During Employment;
- 7.** Failure to Pay All Wages Earned and Unpaid at Separation;
- 8.** Failure to Indemnify All Necessary Business Expenditures;
- 9.** Failure to Maintain Accurate Employment Records; and

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10. Violations of California’s Unfair
Competition Law (Bus. & Prof. Code, §§
17200–17210).

Demand for Jury Trial

1 **PLAINTIFF’S SECOND AMENDED COMPLAINT FOR DAMAGES**

2 Plaintiff Rodolfo G. Jaramillo (“Plaintiff”) complains and alleges of defendants NV Republic
3 Electric West, Inc. and Does 1 through 50 (collectively, “Defendants”), and each of them, as follows:

4 **I. INTRODUCTION**

5 1. Plaintiff, who was employed by Defendants during the applicable statutory periods,
6 brings this action to redress the unlawful employment policies and/or practices he experienced during
7 his employment. Specifically, Plaintiff was subjected to the following unlawful acts by Defendants, as
8 will be described in more detail below:

- 9 A. Failure to pay all wages, including minimum wages;
10 B. Failure to pay all overtime wages;
11 C. Failure to provide meal periods and pay missed meal period premiums;
12 D. Failure to provide rest periods and pay missed rest period premiums;
13 E. Failure to issue compliant wage statements;
14 F. Failure to pay wages timely during employment;
15 G. Failure to pay all wages earned and unpaid at separation (waiting time penalties);
16 H. Failure to indemnify all necessary business expenditures;
17 I. Failure to maintain accurate employment records; and
18 J. Violations of California’s Unfair Competition Law (Bus. & Prof. Code, §§
19 17200–17210).

20 2. Plaintiff is informed and believes and thereon alleges that the California Industrial
21 Welfare Commission (“IWC”) Wage Orders applicable to the facts of this case are IWC Wage Orders
22 1-2001 and/or 16-2001 (the “Applicable Wage Orders”) and possibly others that may be applicable.
23 (Cal. Code of Regs., tit. 8, §§ 11010, 11160.) Plaintiff reserves the right to amend or modify the
24 definition of “Applicable Wage Orders” with greater specificity or add additional IWC Wage Orders
25 if additional applicable wage orders are discovered in litigation.

26 3. For the unlawful practices and harms described herein, Plaintiff seeks all economic
27 damages, non-economic damages, compensatory damages, punitive damages, penalties, pre-judgment
28 interest, post-judgment interest, litigation costs, and reasonable attorneys’ fees available under

1 applicable law. Plaintiff reserves all rights to seek damages, fees, costs, penalties, and any other
2 available remedies pursuant to applicable law.

3 **II. JURISDICTION & VENUE**

4 4. This Court has subject matter jurisdiction over all causes of action asserted herein
5 pursuant to Article VI, section 10, of the California Constitution and Code of Civil Procedure sections
6 88 and 410.10 because this is a civil action in which the matter in controversy, exclusive of interest,
7 exceeds \$25,000, and because each cause of action asserted arises under the laws of the State of
8 California or is subject to adjudication in the courts of the State of California.

9 5. This Court has personal jurisdiction over Defendants because Defendants have caused
10 injuries in the County of Santa Clara and the State of California through their acts, and by their violation
11 of the California Labor Code, the California Business and Professions Code, and California state
12 common law. Defendants transact business, have an agent or agents within the County of Santa Clara,
13 and/or otherwise are found within the County of Santa Clara, and Defendants are within the jurisdiction
14 of this Court for purposes of service of process.

15 6. Venue as to Defendants is proper in this judicial district, pursuant to section 395 of the
16 Code of Civil Procedure. Defendants operate within California and do business within Santa Clara
17 County, California. The unlawful acts alleged herein have a direct effect on Plaintiff within Santa Clara
18 County and surrounding counties where Defendants may remotely operate.

19 **III. THE PARTIES**

20 **A. PLAINTIFF**

21 7. At all relevant times, Plaintiff, who is over the age of 18, was and currently is a citizen
22 of California residing in the State of California. Defendants employed Plaintiff within the State of
23 California in the County of Santa Clara as an hourly, non-exempt employee.

24 8. Plaintiff was subject to Defendants' policies and/or practices complained of herein and
25 has been deprived of the rights guaranteed to him by the California Labor Code, the California Business
26 and Professions Code, and California state common law.

1 **B. DEFENDANTS**

2 9. Plaintiff is informed and believes and thereon alleges that Defendants were authorized
3 to and were doing business in Santa Clara County and was the legal employer of Plaintiff during the
4 applicable statutory periods.

5 10. Plaintiff is informed and believes, and based thereon alleges, that during the applicable
6 statutory periods for Plaintiff's claims, Defendants did (and continue to do) business in the State of
7 California, County of Santa Clara.

8 11. Plaintiff does not know the true names or capacities, whether individual, partner, or
9 corporate, of the defendants sued herein as Does 1 through 50, inclusive, and for that reason, said
10 defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to amend
11 this complaint when such true names and capacities are discovered. Plaintiff is informed, and believes,
12 and thereon alleges, that each of said fictitious defendants, whether individual, partners, or corporate,
13 were responsible in some manner for the acts and omissions alleged herein, and proximately caused
14 Plaintiff to be subject to the unlawful employment policies, practices, wrongs, injuries, and damages
15 complained of herein.

16 12. Plaintiff is informed and believes, and based thereon alleges, that at all times mentioned
17 herein, Defendants were and/or are the employers of Plaintiff. At all times herein mentioned, each of
18 said Defendants participated in the doing of the acts hereinafter alleged to have been done by the named
19 Defendants. Furthermore, the Defendants, and each of them, were the agents, representatives, and
20 employees of each and every one of the other Defendants, and at all times herein mentioned were acting
21 within the course and scope of said agency, representation, and employment. Defendants, and each of
22 them, approved of, condoned, or otherwise ratified every one of the acts or omissions complained of
23 herein. Defendants, and each of them, approved of, condoned, or otherwise ratified every one of the
24 acts or omissions complained of herein.

25 13. Plaintiff is further informed, and believes, and thereon alleges, that at all times
26 mentioned herein, that Defendants, and each of them, are the alter egos of one another and that there
27 existed and now exists a unity of interest and ownership between them such that the individuality and
28 separateness of each of them has ceased. Plaintiff is further informed, and believes, and thereon alleges,

1 that at all times mentioned herein, that Defendants, and each of them, have been and now are mere
2 shells and naked frameworks that their principal uses for the conduct of that Defendant's own business,
3 property, and affairs, for which Defendants, and each of them, have concealed and misrepresented their
4 identities as the entities responsible for their ownership, management, and financial interests.

5 14. Plaintiff is further informed, and believes, and thereon alleges, that at all times
6 mentioned herein, Defendants, and each of them, were members of and engaged in a joint venture,
7 partnership, and common enterprise, and acting within the course and scope of and in pursuance of said
8 joint venture, partnership, and common enterprise. Further, Plaintiff is informed, and believes, and
9 thereon alleges, that all Defendants were joint employers for all purposes of Plaintiff.

10 **IV. FACTS & ALLEGATIONS**

11 15. Plaintiff was at all relevant times, employed by the Defendants within the State of
12 California. Plaintiff was employed as an hourly, non-exempt labor assistant.

13 16. Plaintiff's employment with Defendants began in or around 2017, and continued
14 through approximately May of 2024. Thus, Plaintiff was employed by Defendants within the statutory
15 periods applicable to the claims described below.

16 **A. MINIMUM WAGE VIOLATIONS**

17 17. Labor Code section 1197 requires employees to be paid at least the minimum wage fixed
18 by the IWC, and any payment of less than the minimum wage is unlawful. Similarly, Labor Code
19 section 1194 entitles "any employee receiving less than the legal minimum wage . . . to recover in a
20 civil action the unpaid balance of the full amount of this minimum wage." Likewise, the Applicable
21 Wage Orders also obligate employers to pay each employee minimum wages for all hours worked.
22 (Cal. Code of Regs., tit. 8, §§ 11010, 11160.) Labor Code section 1198 makes unlawful the employment
23 of an employee under conditions that the IWC Wage Orders prohibit.

24 18. These minimum wage standards apply to each hour that employees work. Therefore, an
25 employer's failure to pay for any particular time worked by an employee is unlawful, even if averaging
26 an employee's total pay over all hours worked, paid or not, results in an average hourly wage above
27 minimum wage. (*Armenta v. Osmose, Inc.* (2005) 135 Cal.App.4th 314, 324.)
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1 19. Here, Defendants failed to fully conform their pay practices to the requirements of the
2 law during the applicable statutory periods. Plaintiff was not compensated for all hours worked
3 including, but not limited to, all hours he was subject to the control of Defendants and/or suffered or
4 permitted to work under the California Labor Code and the Applicable Wage Orders. Among other
5 violations, Plaintiff was subject to the control of Defendants while off-the-clock and did not receive
6 minimum wage for each hour worked.

7 20. When employees, such as Plaintiff, are not paid for all hours worked under Labor Code
8 section 1194, they are entitled to recover minimum wages for the time which they received no
9 compensation. (See *Sillah v. Command International Security Services* (N.D. Cal. 2015) 154 F.Supp.3d
10 891 [employees suing for failure to pay overtime could recover liquidated damages under Labor Code
11 section 1194.2 if they also showed they were paid less than minimum wage].) Labor Code sections
12 1194, subdivision (a), and 1194.2, subdivision (a), provide that an employer who has failed to pay its
13 employees the legal minimum wage is liable to pay those employees the unpaid balance of the unpaid
14 wages as well as liquidated damages in an amount equal to the wages due and interest thereon.

15 21. Labor Code section 1197.1 authorizes employees who are paid less than the minimum
16 wage fixed by an applicable state or local law, or by an order of the IWC, a civil penalty, among other
17 damages, as follows:

18 (1) “For any initial violation that is intentionally committed, one hundred
19 dollars (\$100) for each underpaid employee for each pay period for
20 which the employee is underpaid.”

21 (2) “For each subsequent violation for the same specific offense, two
22 hundred fifty dollars (\$250) for each underpaid employee for each pay
23 period for which the employee is underpaid regardless of whether the
24 initial violation is intentionally committed.” (Lab. Code, § 1197.1, subd.
25 (a).)

26 22. As set forth above, Defendants failed to fully compensate Plaintiff for all minimum
27 wages. Accordingly, Plaintiff is entitled to recover liquidated damages for violations of Labor Code
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1 section 1197.1. Based on these same factual allegations, Plaintiff is likewise entitled to penalties under
2 Labor Code sections 1199.

3 **B. OVERTIME VIOLATIONS**

4 23. Labor Code section 510 requires employers to compensate employees who work more
5 than eight hours in one workday, forty hours in a workweek, and for the first eight hours worked on
6 the seventh consecutive day no less than one and one-half times the regular rate of pay for an employee.
7 (Lab. Code, § 510, subd. (a).) Further, Labor Code section 510 obligates employers to compensate
8 employees at no less than twice the regular rate of pay when an employee works more than twelve
9 hours in a day or more than eight hours on the seventh consecutive day of work. (Lab. Code, § 510,
10 subd. (a).) These rules are also reflected in the Applicable Wage Orders.

11 24. In accordance with Labor Code section 1194 and the Applicable Wage Orders, Plaintiff
12 could not then agree and cannot now agree to work for a lesser wage than the amount provided by
13 Labor Code sections 510 or the Applicable Wage Orders.

14 25. Here, Defendants violated their duty to accurately and completely compensate Plaintiff
15 for all overtime worked. Plaintiff regularly worked hours that entitled him to overtime compensation
16 under the law but were not fully compensated for those hours.

17 26. Defendants also had a policy and practice of denying Plaintiff his meal breaks, but
18 nevertheless deducting meal break time from Plaintiff's pay. As a result, Plaintiff's on-the-clock hours
19 were unlawfully reduced below what was actually worked and, by extension, his overtime hours were
20 also reduced below what was actually worked. Plaintiff was thus shorted the full amount of overtime
21 pay he was lawfully owed.

22 27. Moreover, during the applicable statutory periods, Defendants had a policy and practice
23 of failing to pay overtime wages at the proper rate when it actually paid overtime. Specifically, when
24 Defendants paid overtime wages to Plaintiff, Defendants failed to include all compensation when
25 calculating the regular rate of pay used in overtime calculations and when paying overtime.

26 28. For instance, Plaintiff would often receive, along with his hourly rates of pay for his
27 working hours, additional remuneration and/or non-discretionary bonus pay. Defendants, however,
28 calculated the regular rate of pay for Plaintiff without factoring into the regular rate of pay all other

1 non-hourly pay earnings received during the pay period. As a result, Plaintiff were underpaid overtime
2 wages when they worked in excess of eight hours in any workday and/or forty hours in a workweek
3 when such additional forms of remuneration were earned. By their practice of requiring Plaintiff to
4 work in excess of eight hours in a workday and/or forty hours in a workweek without compensating
5 him at the rate of one and one-half (1½) his regular rate of pay, Defendants willfully violated the
6 provisions of Labor Code sections 510, 1194, and 1199.

7 29. These actions were and are in clear violation of California’s overtime laws as set forth
8 in Labor Code sections 510, 1194, 1199, and the Applicable Wage Orders. (Cal. Code of Regs., tit. 8,
9 §§ 11010, 11160.) As a result of Defendants’ faulty policies and practices, Plaintiff was not
10 compensated for all hours worked or paid accurate overtime compensation.

11 C. MEAL PERIOD VIOLATIONS

12 30. Labor Code section 512 and the Applicable Wage Orders require employers to provide
13 employees with a thirty-minute uninterrupted and duty-free meal period within the first five hours of
14 work. (Lab. Code, § 512, subd. (a) [“An employer shall not employ an employee for a work period of
15 more than five hours per day without providing the employee with a meal period of not less than 30
16 minutes”]; Cal. Code of Regs., tit. 8, §§ 11010, 11160 [“No employer shall employ any person
17 for a work period of more than five (5) hours without a meal period of not less than 30 minutes”].)
18 Additionally, an employee who works more than ten hours per day is entitled to receive a second thirty-
19 minute uninterrupted and duty-free meal period. (Lab. Code, § 512, subd. (a) [“An employer shall not
20 employ an employee for a work period of more than 10 hours per day without providing the employee
21 with a second meal period of not less than 30 minutes”].)

22 31. “An on-duty meal period is permitted only when the nature of the work prevents an
23 employee from being relieved of all duty and the parties agree in writing to an on-duty paid meal
24 break.” (*Lubin v. The Wackenhut Corp.* (2016) 5 Cal.App.5th 926, 932.) The written agreement must
25 include a provision allowing the employee to revoke it at any time. (*Ibid.*) Generally, the California
26 Department of Industrial Relations, Division of Labor Standards Enforcement (“DLSE”) and courts
27 have “found that the nature of the work exception applies: (1) where the work has some particular
28 external force that requires the employee to be on duty at all times, and (2) where the employee is the

1 sole employee of a particular employer.” (*Id.* at p. 945, internal quotation marks omitted; *Abdullah v.*
2 *U.S. Security Associates, Inc.* (9th Cir. 2013) 731 F.3d 952, 958–959.) “[I]t is the employer’s obligation
3 to determine whether the nature of the work prevents an employee from being relieved before requiring
4 an employee to take an on-duty meal period.” (*Lubin v. The Wackenhut Corp.*, *supra*, 5 Cal.App.5th at
5 p. 946.)

6 32. Here, Plaintiff was never asked to sign any enforceable document agreeing to an on-
7 duty meal period. Moreover, nothing in the nature of his work involved the kind of “external force”
8 that might justify on-duty meal breaks. (*Lubin v. The Wackenhut Corp.*, *supra*, 5 Cal.App.5th at p.
9 945.) Nevertheless, Defendants routinely did not provide compliant off-duty meal periods within the
10 first five hours of work for Plaintiff.

11 33. Meal breaks must be duty-free. (*Brinker Restaurant Corp. v. Superior Court* (2012) 53
12 Cal.4th 1004, 1035 [“The IWC’s wage orders have long made a meal period’s duty-free nature its
13 defining characteristic.”].) Relinquishing control over employees during meal periods requires that
14 employees be “free to leave the employer’s premises” and be “permitted to attend to personal business.”
15 (*Augustus v. ABM Security Services, Inc.*, *supra*, 2 Cal.5th at p. 275.) Under Labor Code section 512,
16 if an employer maintains a uniform policy that does not authorize and permit the amount of meal time
17 called for under the law (as specified in the Labor Code and/or applicable IWC Wage Order), “it has
18 violated the wage order and is liable.” (*Brinker Restaurant Corp. v. Superior Court*, *supra*, 53 Cal.4th
19 at p. 1033.)

20 34. During the applicable statutory periods here, Plaintiff was regularly denied legally-
21 compliant and timely off-duty meal periods of at least thirty minutes due to Defendants’ unlawful meal
22 period policy and practices. As a result of Defendants’ uniform meal period policies and practices,
23 Plaintiff was often not permitted to take compliant first meal periods before the end of the fifth hour of
24 work. Plaintiff was also regularly not permitted to take second meal periods for shifts in excess of ten
25 hours. Defendants thus violated Labor Code section 512 and the Applicable Wage Orders by failing to
26 advise, authorize, or permit Plaintiff to receive thirty-minute, off-duty meal periods within the first five
27 hours of his shifts.
28

1 35. Labor Code section 226.7 provides that “[a]n employer shall not require an employee
2 to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or
3 applicable regulation, standard, or order of the Industrial Welfare Commission.” (Lab. Code, § 226.7,
4 subd. (b).) Labor Code section 226.7, subdivision (c), and the Applicable Wage Orders further obligate
5 employers to pay employees one additional hour of pay at the employee’s regular rate of compensation
6 for each workday that the meal period is not provided. (Lab. Code, § 226.7, subd. (c); Cal. Code of
7 Regs., tit. 8, §§ 11010, 11160 [“If an employer fails to provide an employee a meal period in accordance
8 with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay
9 at the employee’s regular rate of compensation for each workday that the meal period is not
10 provided.”].) The “regular rate” for these purposes must factor in all nondiscretionary payments for
11 work performed by the employee, including non-discretionary bonuses, commissions, and other forms
12 of wage payments exceeding the employees’ base hourly rate. (*Ferra v. Loews Hollywood Hotel, LLC*
13 (2021) 11 Cal.5th 858, 878.)

14 36. Accordingly, for each day that Plaintiff did not receive compliant meal periods, he was
15 and is entitled to receive meal period premiums pursuant to Labor Code section 226.7 and the
16 Applicable Wage Orders. Defendants, however, failed to pay Plaintiff all applicable meal period
17 premiums workdays that Plaintiff did not receive a compliant meal period. Thus, Defendants have
18 violated Labor Code section 226.7 and the Applicable Wage Orders.

19 37. Based on the foregoing, Plaintiff seeks to recover meal period premiums and penalties.

20 **D. REST PERIOD VIOLATIONS**

21 38. Pursuant to Labor Code section 226.7 and the Applicable Wage Orders, Defendants
22 were required to provide Plaintiff with compensated, duty-free rest periods of not less than ten minutes
23 for every major fraction of four hours worked. Under the Applicable Wage Orders, an employer must
24 authorize and permit all employees to take ten minute duty free rest periods for every major fraction of
25 four hours worked. (Cal. Code of Regs., tit. 8, §§ 11010, 11160.)

26 39. Likewise, Labor Code section 226.7 provides that “[a]n employer shall not require an
27 employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute,
28 or applicable regulation, standard, or order of the Industrial Welfare Commission” (Lab. Code, §

1 226.7, subd. (b).) Labor Code section 226.7 also provides that employers must pay their employees one
2 additional hour of pay at the employee’s regular rate for each workday that a “meal or rest or recovery
3 period is not provided.” (Lab. Code, § 226.7, subd. (c).) The “regular rate” for these purposes must
4 factor in all nondiscretionary payments for work performed by the employee, including non-
5 discretionary bonuses, commissions, and other forms of wage payments exceeding the employees’ base
6 hourly rate. (*Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal.5th 858, 878.) Thus, the Wage
7 Orders set when and for how long the rest period must take place and the Labor Code establishes that
8 violations of the IWC Wage Orders are unlawful and sets forth the premium pay employer must pay
9 their employees when employers fail to provide rest periods.

10 40. The California Supreme Court has held that, during required rest periods, “employers
11 must relieve their employees of all duties and relinquish any control over how employees spend their
12 break time.” (*Augustus v. ABM Security Services, Inc.* (2016) 2 Cal.5th 257, 260.) Relinquishing
13 control over employees during rest periods requires that employees be “free to leave the employer’s
14 premises” and be “permitted to attend to personal business.” (*Id.* at p. 275.) The *Brinker* Court
15 explained in the context of rest breaks that employer liability attaches from adopting an unlawful
16 policy:

17 “An employer is required to authorize and permit the amount of rest break time
18 called for under the wage order for its industry. If it does not—if, for example,
19 it adopts a uniform policy authorizing and permitting only one rest break for
20 employees working a seven-hour shift when two are required—it has violated
21 the wage order and is liable.” (*Brinker Rest. Corp. v. Superior Court* (2012) 53
22 Cal.4th 1004, 1033.)

23 41. Here, Defendants regularly did not permit Plaintiff to take compliant duty-free rest
24 breaks, free from Defendants’ control as required by Labor Code section 226.7, the Applicable Wage
25 Orders, and applicable precedent. (See *Augustus v. ABM Security Services, Inc.* (2016) 2 Cal.5th 257,
26 269 [concluding that “during rest periods employers must relieve employees of all duties and relinquish
27 control over how employees spend their time.”].) At all relevant times, Plaintiff was not provided with
28 legally-compliant and timely rest periods of at least ten minutes for each four hour work period, or

1 major fraction thereof due to Defendants' unlawful rest period policies/practices. Plaintiff was often
2 expected and required to continue working through rest periods to meet the expectations Defendants
3 and finish the workday. In some cases when Plaintiff worked more than ten hours in a shift, Defendants
4 failed to authorize and/or permit a third mandated rest period. As a result, Plaintiff was unable to take
5 all compliant rest periods.

6 42. In such cases where Defendants did not offer Plaintiff the opportunity to receive a
7 compliant off-duty rest period, "the court may not conclude employees voluntarily chose to skip those
8 breaks." (*Alberts v. Aurora Behavioral Health Care* (2015) 241 Cal.App.4th 388, 410 (2015) ["If an
9 employer fails to provide legally compliant meal or rest breaks, the court may not conclude employees
10 voluntarily chose to skip those breaks."]; *Brinker Rest. Corp. v. Superior Court, supra*, 53 Cal.4th at
11 p. 1033 ["No issue of waiver ever arises for a rest break that was required by law but never authorized;
12 if a break is not authorized, an employee has no opportunity to decline to take it."].)

13 43. In addition to failing to authorize and permit compliant rest periods, Plaintiff was not
14 compensated with one hour's worth of pay at his regular rate of compensation when he was not
15 provided with a compliant rest period in accordance with Labor Code section 226.7, subdivision (c).
16 Thus, Defendants have violated Labor Code section 226.7 and the Applicable Wage Orders.

17 44. Based on the foregoing, Plaintiff seeks to recover rest period premiums and penalties.

18 **E. WAGE STATEMENT VIOLATIONS**

19 45. Defendants also failed to provide accurate itemized wage statements in accordance with
20 Labor Code sections 226, subdivisions (a)(1), (2), (5), and (9). Labor Code section 226, subdivision
21 (a), obligates employers, semi-monthly or at the time of each payment to furnish an itemized wage
22 statement in writing showing:

- 23 (1) The gross wages earned;
- 24 (2) The total hours worked by the employee;
- 25 (3) The number of piece-rate units earned and any applicable piece rate if
26 the employee is paid on a piece rate basis;
- 27 (4) All deductions, provided that all deductions made on written orders of
28 the employee may be aggregated and shown as one item;

- (5) The net wages earned;
- (6) The inclusive dates of the period for which the employee is paid;
- (7) The name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number;
- (8) The name and address of the legal entity that is the employer; and
- (9) All applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

46. Due to Defendants' failure to pay Plaintiff properly as described above, the wage statements issued do not indicate the correct amount of gross wages earned, total hours worked, or the net wages earned, or the applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate. Thus, Defendants have violated Labor Code section 226, subdivisions (a)(1), (2), (5), and (9).

47. In addition to Labor Code section 226, subdivision (a), Defendants also knowingly and intentionally failed to provide Plaintiff with accurate itemized wage statements in violation of Labor Code section 226, subdivision (e). Defendants knew that they were not providing Plaintiff with wage statements required by California law but nevertheless failed to correct their unlawful practices and policies. (See *Garnett v. ADT LLC* (E.D. Cal. 2015) 139 F.Supp.3d 1121, 1134 [finding the defendant knowingly and intentionally violated Labor Code section 226 because the "[d]efendant knew that it was not providing total hours worked to plaintiff or other employees paid on commission" even though it believed that employees paid solely on commission or commission and salary "are exempt and therefore we do not record hours on a wage statement."].)

F. UNTIMELY WAGES DURING EMPLOYMENT

48. Labor Code section 204 expressly requires employers who pay employees on a weekly, biweekly, or semimonthly basis to pay all wages "not more than seven calendar days following the close of the payroll period." Labor Code section 210, subdivision (a), makes employers who violate Labor Code section 204 subject to a penalty of:

1 “(1) For any initial violation, one hundred dollars (\$100) for each failure to
2 pay each employee.

3 “(2) For each subsequent violation, or any willful or intentional violation, two
4 hundred dollars (\$200) for each failure to pay each employee, plus 25
5 percent of the amount unlawfully withheld.” (Lab. Code, § 210, subd.
6 (a).)

7 49. Notably, the penalty provided by Labor Code section 210 is “[i]n addition to, and
8 entirely independent and apart from, any other penalty provided in this article” (Lab. Code, § 210,
9 subd. (a).)

10 50. Due to Defendants’ failure to pay Plaintiff the wages described above, along with meal
11 and rest break premiums, Defendants failed to timely pay Plaintiff within seven calendar days
12 following the close of payroll in accordance with Labor Code section 204 on a regular and consistent
13 basis. (See *Parson v. Golden State FC, LLC* (N.D. Cal., May 2, 2016, No. 16-CV-00405-JST) 2016
14 WL 1734010, at p. *3–5, 2016 U.S. Dist. LEXIS 58299 [finding that a failure to pay rest period
15 premiums can support claims under Labor Code sections 203 and 204].)

16 **G. WAITING TIME PENALTIES**

17 51. Labor Code section 203 provides “if an employer willfully fails to pay . . . any wages
18 of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty”
19 for up to thirty days. (Lab. Code § 203; *Mamika v. Barca* (1998) 68 Cal.App.4th 487, 492.) As a result
20 of Defendants’ failure to pay Plaintiff for the wages described above, along with rest and meal break
21 premiums, Defendants violated and continue to violate Labor Code section 203.

22 52. Due to Defendants’ faulty pay policies, Plaintiff, whose employment with Defendants
23 has concluded, was not compensated for each and every hour worked at the appropriate rate. Despite
24 the employment relationship having concluded, Defendants have failed to pay Plaintiff, whose sums
25 were certain at the time of termination of the employment relationship, within seventy-two hours of his
26 discharge and have failed to pay those sums for thirty days thereafter.

1 **H. UNREIMBURSED BUSINESS EXPENSES**

2 53. At all relevant times herein, Defendants were subject to Labor Code section 2802, which
3 states that “an employer shall indemnify his or her employees for all necessary expenditures or losses
4 incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her
5 obedience to the directions of the employer.” The purpose of this section is to “prevent employers from
6 passing along their operating expenses onto their employees.” (*Gattuso v. Harte-Hanks Shoppers, Inc.*
7 (2007) 42 Cal.4th 554, 562.)

8 54. At all relevant times herein, Defendants were subject to Labor Code section 2804, which
9 states that “any contract or agreement, express or implied, made by any employee to waive the benefits
10 of this article or any part thereof, is null and void, and this article shall not deprive any employee or his
11 personal representative of any right or remedy to which he is entitled under the laws of this State.”

12 55. Thus, Plaintiff was and is entitled to reimbursement for the expenses he incurred during
13 the course of his duties. The duty to reimburse even extends to the use of equipment the employee may
14 already own and would be required to pay for anyway. (*Cochran v. Schwan’s Home Serv., Inc.* (2014)
15 228 Cal.App.4th 1137, 1144 [“The threshold question in this case is this: Does an employer always
16 have to reimburse an employee for the reasonable expense of the mandatory use of a personal cell
17 phone, or is the reimbursement obligation limited to the situation in which the employee incurred an
18 extra expense that he or she would not have otherwise incurred absent the job? The answer is that
19 reimbursement is always required. Otherwise, the employer would receive a windfall because it would
20 be passing its operating expenses on to the employee.”].)

21 56. Here, Defendants failed to fully reimburse Plaintiff for necessary expenditures incurred
22 as a direct consequence and requirement of performing his job duties, including the costs associated
23 with his personal cell phone, mileage, and tools he required to perform his work, including but not
24 limited to screwdrivers, drills, and measuring tape. Consequently, Defendants failed to comply with
25 Labor Code section 2802.

1 **I. FAILURE TO MAINTAIN ACCURATE EMPLOYMENT RECORDS**

2 57. Labor Code section 226, subdivision (a), requires employers to keep an accurate record
3 of, among other things, all hours worked by employees. Labor Code section 226.3 provides, in pertinent
4 part, as follows:

5 “Any employer who violates subdivision (a) of Section 226 shall be subject to a
6 civil penalty in the amount of two hundred fifty dollars (\$250) per employee per
7 violation in an initial citation and one thousand dollars (\$1,000) per employee
8 for each violation in a subsequent citation, for which the employer fails to
9 provide the employee a wage deduction statement or fails to keep the records
10 required in subdivision (a) of Section 226. The civil penalties provided for in
11 this section are in addition to any other penalty provided by law.” (Lab. Code, §
12 226.3, emphasis added.)

13 58. Likewise, Labor Code section 1174, subdivision (d), requires every employer, including
14 Defendants, to:

15 “Keep, at a central location in the state or at the plants or establishments at which
16 employees are employed, payroll records showing the hours worked daily by
17 and the wages paid to, and the number of piece-rate units earned by and any
18 applicable piece rate paid to, employees employed at the respective plants or
19 establishments. These records shall be kept in accordance with rules established
20 for this purpose by the commission, but in any case shall be kept on file for not
21 less than three years. An employer shall not prohibit an employee from
22 maintaining a personal record of hours worked, or, if paid on a piece-rate basis,
23 piece-rate units earned.” (Lab. Code, § 1174, subd. (d), emphasis added.)

24 59. As explained in detail above, Defendants failed to provide Plaintiff with accurate
25 itemized wage statements. Defendants did so, in part, because they failed to accurately track hours
26 worked by Plaintiff. Defendants have thus failed to keep accurate records of the “total hours worked
27 by the employee[s]” in violation of Labor Code section 226, subdivision (a), and are therefore subject
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1 to the penalties provided by Labor Code section 226.3. These penalties are “in addition to any other
2 penalty provided by law.” (Lab. Code, § 226.3.)

3 60. The failure to accurately track hours worked also resulted in a failure of Defendants to
4 keep a record of all “payroll records showing the hours worked daily by” Defendants’ employees,
5 including Plaintiff, in violation of Labor Code section 1174, subdivision (d).

6 **V. CAUSES OF ACTION**

7 **First Cause of Action**

8 *Failure to Pay All Wages, Including Minimum Wages*

9 *(Against All Defendants)*

10 61. Plaintiff realleges and incorporates by reference all previous paragraphs.

11 62. Section 4 of the Applicable Wage Orders and Labor Code section 1197 establish the
12 right of employees to be paid minimum wages for all hours worked, in amounts set by state law. (Lab.
13 Code, § 1197; Cal. Code of Regs., tit. 8, §§ 11010, 11160.) Labor Code sections 1194, subdivision (a),
14 and 1194.2, subdivision (a), provide that an employee who has not been paid the legal minimum wage
15 as required by Labor Code section 1197 may recover the unpaid balance, together with attorneys’ fees
16 and costs of suit, as well as liquidated damages in an amount equal to the unpaid wages and interest
17 accrued thereon.

18 63. Here, Defendants failed to fully conform their pay practices to the requirements of the
19 law during the relevant statutory periods. Plaintiff was not compensated for all hours worked including,
20 but not limited to, all hours he was subject to the control of Defendants and/or suffered or permitted to
21 work under the Labor Code and the Applicable Wage Orders.

22 64. Labor Code section 1198 makes unlawful the employment of an employee under
23 conditions that the IWC Wage Orders prohibit. Labor Code sections 1194, subdivision (a), and 1194.2,
24 subdivision (a), provide that an employer who has failed to pay its employees the legal minimum wage
25 is liable to pay those employees the unpaid balance of the unpaid wages as well as liquidated damages
26 in an amount equal to the wages due and interest thereon.

27 65. As a direct and proximate result of Defendants’ unlawful conduct as alleged herein,
28 Plaintiff has sustained economic damages, including but not limited to unpaid wages and lost interest,

1 in an amount to be established at trial, and he is entitled to recover economic and statutory damages
2 and penalties and other appropriate relief because of Defendants' violations of the Labor Code and
3 Applicable Wage Orders.

4 66. Defendants' practices and policies regarding illegal employee compensation are
5 unlawful and create an entitlement to recovery by Plaintiff in a civil action for the unpaid amount of
6 minimum wages, liquidated damages, including interest thereon, statutory penalties, attorneys' fees,
7 and costs of suit according to Labor Code sections 204, 218.5, 1194, 1194.2, 1197, and 1198, and Code
8 of Civil Procedure section 1021.5.

9 **Second Cause of Action**

10 *Failure to Pay All Overtime Wages*

11 *(Against All Defendants)*

12 67. Plaintiff realleges and incorporates by reference all previous paragraphs.

13 68. This cause of action is brought pursuant to Labor Code sections 204, 510, 1194, and
14 1198, which provide that non-exempt employees are entitled to overtime wages for all overtime hours
15 worked and provide a private right of action for the failure to pay all overtime compensation for
16 overtime work performed. At all times relevant herein, Defendants were required to properly pay
17 Plaintiff for all overtime wages earned pursuant to Labor Code section 1194 and the Applicable Wage
18 Orders. Defendants caused Plaintiff to work overtime hours but did not compensate him at one and
19 one-half times his regular rate of pay for such hours in accordance with California law. Likewise,
20 Defendants caused Plaintiff to work double-time hours but did not compensate them at twice his regular
21 rate of pay for such hours in accordance with California law.

22 69. Defendants failed to fully conform their pay practices to the requirements of California
23 law. This unlawful conduct includes but is not limited to Defendants' uniform and unlawful pay
24 policies and practices of failing to accurately record all the time that non-exempt employees were under
25 the supervision and control of Defendants. The foregoing policies and practices are unlawful and allow
26 Plaintiff to recover in a civil action the unpaid amount of overtime premiums owing, including interest
27 thereon, statutory penalties, attorneys' fees, and costs of suit according to Labor Code section 204, 510,
28 1194, and 1198, the Applicable Wage Orders, and Code of Civil Procedure section 1021.5.

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Fifth Cause of Action

Failure to Furnish Accurate Itemized Wage Statements

(Against All Defendants)

77. Plaintiff realleges and incorporates by reference all previous paragraphs.

78. Labor Code section 226, subdivision (a), obligates employers, semi-monthly or at the time of each payment to furnish an itemized wage statement in writing showing:

- (1) The gross wages earned;
- (2) The total hours worked by the employee;
- (3) The number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece rate basis;
- (4) All deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item;
- (5) The net wages earned;
- (6) The inclusive dates of the period for which the employee is paid;
- (7) The name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number;
- (8) The name and address of the legal entity that is the employer; and
- (9) All applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

79. As set forth above, Defendants issued wage statements to Plaintiff that are inadequate under Labor Code section 226, subdivision (a). By failing to pay Plaintiff properly as described above, Defendants failed to include required information on his wage statements, including, but not limited to, the gross wages earned, the net wages earned in violation of Labor Code section 226, subdivision (a).

80. Defendants' failure to comply with Labor Code section 226, subdivision (a), of the Labor Code was knowing and intentional. (Lab. Code, § 226, subd. (e)).

81. As a result of Defendants' issuance of inaccurate itemized wage statements to Plaintiff in violation of Labor Code section 226, subdivision (a), Plaintiff is entitled to recover an initial penalty of \$50, and subsequent penalties of \$100, up to an amount not exceeding an aggregate penalty of \$4,000 from Defendants pursuant to Labor Code section 226, subdivision (e), along with costs and reasonable attorneys' fees.

Sixth Cause of Action

Failure to Pay Wages Timely During Employment

(Against All Defendants)

82. Plaintiff realleges and incorporates by reference all previous paragraphs.

83. Labor Code section 200 provides that “wages” include all amounts for labor performed by employees of every description, whether the amount is fixed or ascertained by the standard of time, task, pieces, commission basis, or other method of calculation. Labor Code section 204 states that all wages earned by any person in any employment are payable twice during the calendar month and must be paid not more than seven days following the close of the period when the wages were earned. Labor Code section 210, subdivision (a), makes employers who violate Labor Code section 204 subject to a penalty of \$100 for any initial failure to timely pay each employee’s full wages and \$200 for each subsequent violation, plus 25% of the amount unlawfully withheld.

84. Defendants as a matter of established company policy and procedure in the State of California, scheduled, required, suffered, and/or permitted Plaintiff to work without full compensation, to work without legally-compliant off-duty meal periods, to work without legally-compliant off-duty rest periods, and thereby failed to fully pay Plaintiff within seven days of the close of payroll, as required by law.

85. Defendants, as a matter of established company policy and procedure in the State of California, falsely deny they owe Plaintiff these wages, with the intent of securing for itself a discount upon its indebtedness and/or to annoy, harass, oppress, hinder, delay, and/or defraud Plaintiff.

86. Defendants' pattern, practice, and uniform administration of its corporate policy of illegally denying employees compensation, as described herein, is unlawful and entitles Plaintiff to recover, pursuant to Labor Code section 218, the unpaid balance of the compensation owed to them in

1 a civil action and any applicable penalties, attorney fees, and interest owed to them pursuant to Labor
2 Code sections 210, 218.5, and 218.6.

3 **Seventh Cause of Action**

4 *Failure to Pay All Wages Earned and Unpaid at Separation*

5 *(Against All Defendants)*

6 87. Plaintiff realleges and incorporates by reference all previous paragraphs.

7 88. The actionable period for this cause of action is three years prior to the filing of this
8 complaint through the present, and ongoing until the violations are corrected. (*Pineda v. Bank of*
9 *America, N.A.* (2010) 50 Cal.4th 1389, 1395; *Murphy v. Kenneth Cole Productions, Inc.* (2007) 40
10 Cal.4th 1094, 1109; Code Civ. Proc., § 338, subd. (a).) Labor Code sections 201 and 202 of the
11 California Labor Code require Defendants to pay all compensation due and owing to its former
12 employees during the actionable period for this cause of action at or around the time that their
13 employment is or was terminated, or ended.

14 89. Section 203 of the Labor Code provides that if an employer willfully fails to pay
15 compensation promptly upon discharge or resignation, as required by Sections 201 and 202, then the
16 employer is liable for penalties in the form of continued compensation up to thirty workdays.

17 90. Due to Defendants' faulty pay policies, Plaintiff, whose employment with Defendants
18 has concluded, was not compensated for each and every hour worked at the appropriate rate. Despite
19 the employment relationship having concluded, Defendants have willfully failed to pay Plaintiff, whose
20 sums were certain at the time of termination of the employment relationship, within seventy-two hours
21 of his discharge and have failed to pay those sums for thirty days thereafter as required by Labor Code
22 sections 201 through 203.

23 91. As a result, Defendants are liable to Plaintiff for waiting time penalties amounting to
24 thirty days wages pursuant to Labor Code section 203. (See, e.g., DLSE Manual, § 4.3.4 [failure to pay
25 any sort of wages due upon termination entitles an employee to recover waiting time penalties].)
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1 Labor Code section 1174.5 imposes a civil penalty of \$500 for an employer's failure to maintain
2 accurate and complete records.

3 98. Defendant has intentionally and willfully failed to keep accurate and complete records
4 showing the hours worked daily and wages paid to Plaintiff. Thus, Plaintiff has been denied his legal
5 right and protected interest in having available at a central location at the plant or establishment where
6 his is employed, accurate and complete payroll records showing the hours worked daily by, and the
7 wages paid to, employees at those respective locations pursuant to Labor Code 1174.

8 **Tenth Cause of Action**

9 *Violations of California's Unfair Competition Law (Bus. & Prof. Code, §§ 17200–*
10 *17210)*

11 *(Against All Defendants)*

12 99. Plaintiff realleges and incorporates by reference all previous paragraphs.

13 100. Defendants have engaged and continue to engage in unfair and/or unlawful business
14 practices in California in violation of California Business and Professions Code section 17200 through
15 17210, by committing the unlawful acts described above. Defendants' adoption and use of these unfair
16 and unlawful business practices deprived and continue to deprive Plaintiff of compensation to which
17 he is legally entitled. These practices constitute unfair and unlawful competition and provide an unfair
18 advantage over Defendants' competitors who have been and/or are currently employing workers and
19 attempting to do so in honest compliance with applicable wage and hour laws.

20 101. Because Plaintiff is a victim of Defendants' unfair and unlawful conduct alleged herein,
21 Plaintiff seeks full restitution of monies, as necessary and according to proof, to restore any and all
22 monies withheld, acquired and/or converted by Defendants pursuant to Business and Professions Code
23 sections 17203 and 17208.

24 102. The acts complained of herein occurred within the four years prior to the initiation of
25 this action and are continuing into the present and ongoing.

26 103. Plaintiff was compelled to retain the services of counsel to file this action to protect his
27 interests, to obtain restitution and injunctive relief against Defendants, and to enforce important rights
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1 affecting the public interest. Plaintiff has thereby incurred the financial burden of attorneys' fees and
2 costs, which Plaintiff is entitled to recover under Code of Civil Procedure section 1021.5.

3 **VI. DEMAND FOR JURY TRIAL**

4 104. Plaintiff hereby demands trial by jury of Plaintiff's claims against Defendants.

5 **VII. PRAYER FOR RELIEF**

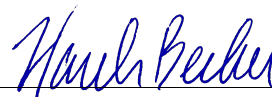
6 Plaintiff prays for judgment against Defendants, as follows:

- 7 **1.** For failure to pay all wages, including minimum wages, an award against Defendants
8 for all compensatory, consequential, general, and special damages according to proof
9 pursuant to Labor Code sections 1194, 1194.2, 1197, and others as may be applicable;
- 10 **2.** For failure to pay all overtime wages, an award against Defendants for all compensatory,
11 consequential, general, and special damages according to proof pursuant to Labor Code
12 sections 204, 510, 1194, 1198, and others as may be applicable;
- 13 **3.** For failure to provide meal periods and pay missed meal period premiums, an award
14 against Defendants for all compensatory, consequential, general, and special damages
15 according to proof pursuant to Labor Code sections 226.7 and 512;
- 16 **4.** For failure to provide rest periods and pay missed rest period premiums, an award
17 against Defendants for all compensatory, consequential, general, and special damages
18 according to proof pursuant to Labor Code section 226.7;
- 19 **5.** For failure to furnish accurate itemized wage statements, an award against Defendants
20 for all applicable penalties owed to him pursuant to Labor Code section 226, subdivision
21 (e);
- 22 **6.** For failure to pay wages timely during employment, an award against Defendants for
23 the unpaid balance of the compensation owed to Plaintiff and any applicable penalties
24 owed to him pursuant to Labor Code section 210;
- 25 **7.** For failure to pay all wages earned and unpaid at separation, an award against
26 Defendants for all statutory waiting time penalties pursuant to Labor Code sections 201
27 through 203, for Plaintiff in an amount equal to his daily wage multiplied by thirty days,
28 as may be proven;

- 1 **8.** For failure to indemnify all necessary business expenditures, an award against
2 Defendants for all unreimbursed business expenses, and interest thereon, that are owed,
3 pursuant to Labor Code section 2802, and attorneys' fees, pursuant to Labor Code
4 section 2802, subdivision (c);
- 5 **9.** For failure to maintain accurate employment records, an award against Defendants for
6 all penalties pursuant to Labor Code sections 226.3, 1174.5, and others that may be
7 applicable;
- 8 **10.** For the violations of California's Unfair Competition Law, restitution to Plaintiff of all
9 money and/or property unlawfully acquired by Defendants by means of any acts or
10 practices declared by this Court to be in violation of Business and Professions Code
11 sections 17200 through 17210;
- 12 **11.** Prejudgment interest on all due and unpaid wages pursuant to Labor Code section 218.6
13 and Civil Code sections 3287 and 3289;
- 14 **12.** On all causes of action for which attorneys' fees may be available, for attorneys' fees
15 and costs as provided by Labor Code sections 218.5, 226, Code of Civil Procedure
16 section 1021.5, and others as may be applicable;
- 17 **13.** For an order enjoining Defendants, and each of them, and their agents, servants, and
18 employees, and all persons acting under, in concert with, or for them, from acting in
19 derogation of any rights or duties adumbrated in this complaint; and
- 20 **14.** For such other and further relief, this Court may deem just and proper.

21 Dated: May 19, 2025

MELMED LAW GROUP P.C.



HANNAH BECKER

Attorneys for Plaintiff

PROOF OF SERVICE
STATE OF CALIFORNIA, COUNTY OF SANTA CLARA

I am over the age of 18 years and am employed in the county of Los Angeles, State of California. I am not a party to this action. My business address is 1801 Century Park East, Suite 850, Los Angeles, California 90067.

I declare that on the date hereof, May 19, 2025, I served the foregoing document(s) described as:

- **Plaintiff's Second Amended Complaint For Damages**

By causing a true copy to be sent to the following individuals and/or parties:

Timothy T. Huber (SBN 99800)

timothyhuber@sbcglobal.net

Pamela M. Schuur (SBN 130073)

pamela.schuur@comcast.net

LAW OFFICES OF TIMOTHY T. HUBER

1020 Suncast Lane, Suite 101

El Dorado Hills, California 95762

Phone: 916-358-8830

Attorneys for Defendant NV Republic Electric West, Inc.

[XX] BY ELECTRONIC TRANSMISSION. Pursuant to CCP section 1010.6(e), I caused such document to be served on this date by electronic transmission in accordance with standard procedures and to the email address listed. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury under the laws of California that the above is true and correct. I further declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on May 19, 2025, in Los Angeles, California.



Jennifer Gonzalez