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As an individual and on behalf of all other similarly situated Class Members

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF RIVERSIDE

ADAM ROSS, as an individual and on
behalf of all other similarly situated Class
Members,

Plaintiff,

v.

MOVADO GROUP, INC., a New York
Corporation; MOVADO RETAIL
GROUP, INC., a New Jersey Corporation;
and DOES 1-100, inclusive,

Defendants.

Case No.: **CVRI 2405309**

CLASS ACTION COMPLAINT FOR:

- 1. Recovery of Unpaid Minimum Wages and Liquidated Damages**
- 2. Recovery of Unpaid Overtime Wages**
- 3. Failure to Provide Meal Periods or Compensation in Lieu Thereof**
- 4. Failure to Provide Rest Periods or Compensation in Lieu Thereof**
- 5. Failure to Furnish Accurate Itemized Wage Statements**
- 6. Failure to Timely Pay All Wages Due Upon Separation of Employment**
- 7. Failure to Reimburse Business Expenses and**
- 8. Unfair Competition**

DEMAND FOR JURY TRIAL

1 Plaintiff, ADAM ROSS (“PLAINTIFF”), as an individual and on behalf of all other similarly
2 situated Class Members (as defined below), hereby files this Complaint against Defendants
3 MOVADO GROUP, INC., a New York Corporation; MOVADO RETAIL GROUP, INC., a New
4 Jersey Corporation; and DOES 1-100, inclusive, (collectively referred to herein as
5 “DEFENDANTS”). PLAINTIFF is informed and believes and thereon alleges as follows:

6 **JURISDICTION AND VENUE**

7 1. This court possesses original subject matter jurisdiction over this matter. Venue is
8 proper in the County of Riverside pursuant to California Code of Civil Procedure section 395.5
9 because DEFENDANTS transact business within this judicial district, DEFENDANTS employed
10 PLAINTIFF to work in this judicial district and some of the acts, omissions, and conduct alleged by
11 PLAINTIFF herein occurred in this this judicial district. Venue is also proper pursuant to section
12 393 of the California Code of Civil Procedure because the cause, or some part of the cause, arose in
13 the County of Riverside.

14 **THE PARTIES**

15 2. PLAINTIFF is, and at all relevant times, was an individual domiciled in the State of
16 California and a citizen of the State of California. PLAINTIFF was employed by DEFENDANTS
17 in the State of California as a non-exempt employee during the Class Period (defined below).

18 3. PLAINTIFF worked for DEFENDANTS as a retail sales associate and/or similar job
19 title(s) and/or job position(s) from in or around November 2023 through in or around January 2024.
20 DEFENDANTS assigned PLAINTIFF to work at one of DEFENDANTS’ store(s), facilities and/or
21 retail outlet(s) located in Riverside County, California.

22 4. Defendant, MOVADO GROUP, INC., is a New York Corporation that, at all
23 relevant times, was authorized to do business within the State of California and is doing business in
24 the State of California.

25 5. Defendant, MOVADO RETAIL GROUP, INC., is a New Jersey Corporation that, at
26 all relevant times, was authorized to do business within the State of California and is doing business
27 in the State of California.

28 6. DEFENDANTS own, operate, manage and/or staff its employees to work at the

1 stores, retail outlets, facilities and/or other locations in cities/counties throughout California,
2 including but not limited to, stores, retail outlets, facilities and/or other locations in Riverside County
3 and other counties throughout California.

4 7. The true names and capacities of the DOE Defendants sued herein as DOES 1
5 through 100, inclusive, are currently unknown to PLAINTIFF, who therefore sues each such
6 Defendant by said fictitious names. Each of the Defendants designated herein as a DOE is legally
7 responsible for the unlawful acts alleged herein. PLAINTIFF will seek leave of Court to amend this
8 Complaint to reflect the true names and capacities of the Doe Defendants when such identities
9 become known.

10 8. PLAINTIFF is further informed and believes that, at all relevant times, each
11 Defendant was the principal, agent, partner, joint venturer, joint employer, officer, director,
12 controlling shareholder, subsidiary, affiliate, parent corporation, successor in interest and/or
13 predecessor in interest of some or all of the other Defendants, and was engaged with some or all of
14 the other defendants in a joint enterprise for profit, and bore such other relationships to some or all
15 of the other Defendants so as to be liable for their conduct with respect to the matters alleged in this
16 complaint. PLAINTIFF is further informed and believes and thereon alleges that each Defendant
17 acted pursuant to and within the scope of the relationships alleged above, and that at all relevant
18 times, each Defendant knew or should have known about, authorized, ratified, adopted, approved,
19 controlled, aided and abetted the conduct of all other Defendants.

20 **JOINT LIABILITY**

21 9. Under California law, the definition of the terms “to employ” are broadly construed
22 under the applicable IWC Wage Order(s) to have three alternative definitions, including: (1) to
23 exercise control over the wages, hours or working conditions; (2) to suffer of permit to work; or (3)
24 to engage, thereby creating a common law employment relationship. See, *Martinez v. Combs*, 49
25 Cal.4th 35, 64 (2010). One reason that the IWC defined “employer” in terms of exercising control
26 was to reach situations in which multiple entities control different aspects of the employment
27 relationship. Supervision of the work, in the specific sense of exercising control over how services
28 are properly performed, is properly viewed as one of the “working conditions” mentioned in the

1 wage order. *Id.* at 76. A joint employer relationship exists, for example, when one entity (such as a
2 temporary employment agency) hires and pays a worker, and the other entity supervises the work.
3 *Id.* Moreover, the California Court of Appeal recently broadened the test for joint employment in
4 California, applying a less stringent standard to what constitutes sufficient control by a business
5 over its vendor’s employees’ wages and working conditions to render that business liable as a joint
6 employer. See, *Medina v. Equilon Enterprises, LLC*, 68 Cal. App. 5th 868 (2021); “[i]f the putative
7 joint employer instead exercises enough control over the intermediary entity to *indirectly* dictate the
8 wages, hours, or working conditions of the employee, that is a sufficient showing of joint
9 employment,” *Id.* at 875 [emphasis added].

10 10. During PLAINTIFF’s employment by DEFENDANTS, PLAINTIFF and the Class
11 Members (defined below) were jointly employed by DEFENDANTS for purposes of the Wage
12 Orders, under the alternative definitions of “to employ” adopted by the California Supreme Court
13 in *Martinez*, supra. As discussed below, these DEFENDANTS (1) exercised control over wages,
14 hours and working conditions of PLAINTIFF and the Class Members; (2) suffered or permitted
15 PLAINTIFF and Class Members to work for them; and (3) engaged PLAINTIFF and Class
16 Members to work for them.

17 11. PLAINTIFF is informed and believes, and thereon alleges that at all relevant times
18 DEFENDANTS operated as a single integrated enterprise with common ownership and
19 centralized human resources. As a result, DEFENDANTS utilized the same unlawful policies and
20 practices across all of their locations/facilities and subjected all of the Class Members to these same
21 policies and practices regardless of the location(s) where they worked. Among other things,
22 PLAINTIFF is informed and believes that: (1) there is common ownership in, and financial control,
23 in DEFENDANTS’ companies, (2) DEFENDANTS utilize common management, who have control
24 over the day-to-day operations and employment matters, including the power to hire and fire, set
25 schedules, issue employee policies, and determine rates of compensation across its locations in
26 California; (3) DEFENDANTS utilize the same policies and procedures for all California
27 employees, including issuing the same employee handbooks and other form agreements; (4)
28 DEFENDANTS use at least some of the same Human Resources personnel and attorneys to oversee

1 employment matters; and, (6) DEFENDANTS share employees.

2 12. PLAINTIFF is informed and believes, and thereon alleges that at all times relevant
3 to this Complaint, DEFENDANTS were the joint employers of PLAINTIFF and the Class Members
4 upon whose behalf PLAINTIFF brings these allegations and causes of action, in that
5 DEFENDANTS, exercised sufficient control over PLAINTIFF and the Class Members' wages,
6 hours and working conditions, and/or suffered or permitted PLAINTIFF and the Class Members to
7 work so as to be considered the joint employers of PLAINTIFF and the Class Members.

8 13. For example, wage statements issued by DEFENDANTS to PLAINTIFF list the
9 following as the name of the legal entity that is PLAINTIFF's employer: "Movado Retail Outlet."
10 However, most, if not all documents contained in DEFENDANTS' personnel file for PLAINTIFF,
11 including without limitation, DEFENDANTS' employment offer letter to PLAINTIFF,
12 DEFENDANTS' Code of Ethics and/or other employment-policy documents and/or employment
13 agreements identify "Movado Group, Inc." and/or "Movado Group Inc" as the name of the entity
14 that employed PLAINTIFF. Moreover, DEFENDANTS, and each of them, share the same agent for
15 service of process and principal business office as provided to the California Secretary of State and
16 that principal business office is the same as the address for the legal entity that is PLAINTIFF's
17 employer as identified on DEFENDANTS' wage statements issued to PLAINTIFF.

18 14. Upon information and belief, PLAINTIFF alleges that DEFENDANTS created a
19 uniform set of policies, practices and/or procedures concerning, inter alia, hourly and overtime pay,
20 time-keeping practices, meal and rest periods, reimbursement of business expenses and other
21 working conditions that were distributed to, and/or applied to PLAINTIFF and the Class Members,
22 and further that DEFENDANTS uniformly compensated and controlled the wages of PLAINTIFF
23 and the Class Members in a uniform manner. DEFENDANTS collectively represented to
24 PLAINTIFF and the Class Members that each was an "at-will" employee of DEFENDANTS, and
25 that DEFENDANTS collectively retained the right to terminate PLAINTIFF's and Class Members'
26 employment with or without cause. Upon information and belief, DEFENDANTS further
27 collectively represented to PLAINTIFF and Class Members in writing the details of their
28 compensation, and the manner in which they were to take meal and rest periods, the procedures

1 required by DEFENDANTS collectively for recordation of hours worked and the policies applicable
2 to PLAINTIFF and Class Members by which DEFENDANTS collectively would evaluate the wage
3 rates of PLAINTIFF and Class Members.

4 15. Thus, DEFENDANTS collectively exercised the right to control the wages, hours
5 and working conditions of PLAINTIFF and Class Members. As such, DEFENDANTS collectively
6 held the right to control virtually every aspect of PLAINTIFF's and the Class Members'
7 employment, including the instrumentality that resulted in the illegal conduct for which PLAINTIFF
8 seeks relief in this Complaint.

9 16. PLAINTIFF is informed and believes that DEFENDANTS exercised the same
10 control over, applied the same policies and practices, and engaged in the same acts and omissions
11 with regard to the other Class Members.

12 **CLASS ALLEGATIONS**

13 17. PLAINTIFF brings this action on behalf of PLAINTIFF, and all others similarly
14 situated as a class action pursuant to Code of Civil Procedure section 382. The class PLAINTIFF
15 seeks to represent are defined as follows and referred to as the "Class" or "Class Members":

16 All current and former non-exempt employees that worked either
17 directly or via a staffing agency for any one or more of the
18 DEFENDANTS at any location in California at any time within the
19 four years prior to the filing of the initial Complaint ("Class Period").

20 a. Numerosity. While the exact number of Class Members is unknown to
21 PLAINTIFF at this time, the Class is so numerous that the individual joinder of
22 all members is impractical under the circumstances of this case. PLAINTIFF is
23 informed and believes the Class consists of at least 50 individuals.

24 b. Common Questions of Law and Fact. This lawsuit is suitable for class treatment
25 because common questions of law and fact predominate over individual issues.
26 Common questions include, but are not limited to, the following: (1) whether
27 DEFENDANTS understated hours worked and failed to pay all amounts due to
28 PLAINTIFF and the Class Members for wages earned, including minimum and

1 overtime wages, under California law; (2) whether DEFENDANTS provided
2 PLAINTIFF and the Class Members with all meal periods or premium payments
3 in lieu thereof in compliance with California law; (3) whether DEFENDANTS
4 provided PLAINTIFF and the Class Members with all rest periods or premium
5 payments in lieu thereof, in compliance with California law; (4) whether
6 DEFENDANTS provided PLAINTIFF and Class Members with accurate,
7 itemized wage statements in compliance with California law, displaying,
8 including but not limited to, the total hours worked during the pay period; (5)
9 whether DEFENDANTS timely paid PLAINTIFF and the Class Members all
10 wages due upon separation of employment; (6) whether DEFENDANTS failed
11 to reimburse PLAINTIFF and the Class Members for all business expenses; and
12 (7) whether DEFENDANTS violated California Business and Professions Code
13 sections 17200, *et seq.*

- 14 c. Ascertainable Class. The proposed Class is ascertainable as members can be
15 identified and located using information in DEFENDANTS' business, payroll
16 and personnel records.
- 17 d. Typicality. PLAINTIFF's claims are typical of the claims of the Class Members.
18 PLAINTIFF suffered a similar injury as members of the Class as a result of
19 DEFENDANTS' common practices regarding, *inter-alia*, failure to calculate
20 and pay all owed minimum and overtime wages, failure to provide proper meal
21 periods and rest periods or premium compensation in lieu thereof, failure to
22 provide accurate wage statements, failure to reimburse business expenses, and
23 failure to timely pay all wages due upon separation of employment.
- 24 e. Adequacy. PLAINTIFF will fairly and adequately protect the interests of the
25 Class Members. PLAINTIFF has no interests adverse to the interests of the other
26 Class Members. Counsel who represent PLAINTIFF are competent and
27 experienced in litigating similar class action cases and are California lawyers in
28 good standing. Counsel for PLAINTIFF have the experience and resources to

1 vigorously prosecute this case.

2 f. Superiority. A class action is superior to other available means for the fair and
3 efficient adjudication of this controversy since individual joinder of all members
4 of the class is impractical. Class action treatment will permit a large number of
5 similarly situated persons to prosecute their common claims in a single forum
6 simultaneously, efficiently, and without the unnecessary duplication of effort
7 and expense that numerous individual actions would engender. Furthermore, as
8 the damages suffered by each individual member of the Class may be relatively
9 small, the expenses and burden of individual litigation would make it difficult
10 or impossible for individual members of the Class to redress the wrongs done to
11 them, while an important public interest will be served by addressing the matter
12 as a class action. The cost to the court system of adjudication of such
13 individualized litigation would be substantial. Individualized litigation would
14 also present the potential for inconsistent or contradictory judgments. Finally,
15 the alternative of filing a claim with the California Labor Commissioner is not
16 superior, given the lack of discovery in such proceedings, the fact that there are
17 fewer available remedies, and the losing party has the right to a trial de novo in
18 the Superior Court.

19 **FACTUAL AND LEGAL ALLEGATIONS**

20 18. During the relevant period, PLAINTIFF, and each of the Class Members, worked for
21 DEFENDANTS in the State of California. At all times referenced herein, DEFENDANTS exercised
22 control over PLAINTIFF and Class Members and suffered and/or permitted them to work.

23 19. PLAINTIFF is a former employee of DEFENDANTS. PLAINTIFF worked for
24 DEFENDANTS as a retail sales associate and/or similar job title(s) and/or job position(s) from in
25 or around November 2023 through in or around January 2024. DEFENDANTS assigned
26 PLAINTIFF to work at one of DEFENDANTS' store(s), facilities and/or retail outlet(s) located in
27 Riverside County, California.

28 20. PLAINTIFF typically worked shifts lasting at least four (4) to six (6) hours in length.

1 Based on information and belief, at times, PLAINTIFF worked more than eight (8) hours in a
2 workday and/or more than forty (40) hours in a workweek.

3 21. At all relevant times, PLAINTIFF was a non-exempt employee that was paid on an
4 hourly basis for time counted by DEFENDANTS as hours worked.

5 22. **Unpaid Minimum and Overtime Wages.** DEFENDANTS failed to compensate
6 PLAINTIFF and Class Members for all hours worked, resulting in the underpayment of minimum
7 and overtime wages. DEFENDANTS failed to compensate PLAINTIFF and Class Members for all
8 hours worked by virtue of, DEFENDANTS' automatic deduction and time rounding policies, and
9 failure to relieve employees of all duties/employer control during unpaid meal periods or otherwise
10 unlawful practices for missed or improper meal periods, as explained below.

11 23. Based on information and belief, DEFENDANTS implemented a policy and/or
12 practice of rounding meal period start and end times and/or automatically deducting at least thirty
13 minutes per shift for meal periods, despite having actual and/or constructive knowledge that
14 PLAINTIFF and other Class Members were subject to DEFENDANTS' control during purported
15 meal periods and/or were otherwise not afforded lawful meal periods, depriving PLAINTIFF and
16 Class Members of all wages owed.

17 24. Based on information and belief, Class Members were not paid for all hours worked
18 due to DEFENDANTS' policy and/or practice of rounding time entries or paying according to
19 scheduled hours worked instead of actual time worked, and/or mandated off-the clock work policies
20 and/or practices.

21 25. For example, based on information and belief, at times, Class Members were
22 required to complete off-the-clock work outside of scheduled shifts due to work-related phone calls
23 and/or messages they received to their phones/mobile devices and were required to respond to,
24 including but not limited to, communications from supervisors regarding scheduling and/or other
25 work tasks, resulting in the underpayment of wages owed to Class Members.

26 26. For example, DEFENDANTS routinely required PLAINTIFF to respond to work-
27 related calls and/or messages prior to clocking in for the start of PLAINTIFF's shift(s), after
28 clocking out for the end of PLAINTIFF's shift(s), during unpaid meal periods and/or otherwise

1 outside of PLAINTIFF's scheduled shift times, resulting in DEFENDANTS' failure to compensate
2 PLAINTIFF for all hours worked and the consistent underpayment of wages owed to PLAINTIFF.

3 27. PLAINTIFF and other Class Members were required to perform other off-the-clock
4 work for which they were not compensated.

5 28. For example, based on information and belief, Class Members, including but not
6 limited to, Class Members who worked as non-exempt managers and/or Class Members who
7 worked with non-exempt managers during their shifts, were required to open their work locations,
8 which required these Class Members to complete pre-shift off-the-clock work tasks, including but
9 not limited to, unlocking the doors, turning on all the lights in the store/facility and/or deactivating
10 the alarm before clocking in for work, resulting in pre-shift off-the-clock work, DEFENDANTS'
11 failure to compensate Class Members for all hours worked and the underpayment of wages owed to
12 Class Members.

13 29. For example, at times, including but not limited to, when working with
14 PLAINTIFF's supervisor, PLAINTIFF was required to wait outside the store while PLAINTIFF's
15 supervisor completed various work-related tasks, including but not limited to, unlocking the doors,
16 turning all the lights in the store/facility and/or deactivating the alarm, before PLAINTIFF could
17 enter DEFENDANTS' premises so PLAINTIFF could clock in for the start of PLAINTIFF's shift.
18 This time PLAINTIFF spent under DEFENDANTS' control, including without limitation, time
19 spent waiting outside DEFENDANTS' store/facility, resulted in at least five (5) minutes of pre-shift
20 off-the-clock work during numerous shifts PLAINTIFF worked and the underpayment of wages
21 owed to PLAINTIFF.

22 30. Based on further information and belief, Class Members in charge of closing their
23 location(s) were required to first clock out for their shifts before enabling the alarm, turning off all
24 the lights in the facility and/or locking the doors. This resulted in additional off-the-clock post-shift
25 work that was not compensated and the underpayment of wages owed to Class Members.

26 31. Based on information and belief, at times, DEFENDANTS'
27 biometric/electronic/POS employee time-keeping system malfunctioned such that Class Members
28 were required to either reinitiate and/or otherwise troubleshoot the system prior to being able to

1 clock in and/or were unable to clock in at all for the start of their shifts and/or clock back in from
2 meal periods, resulting in off-the-clock work and the underpayment of wages owed to Class
3 Members. Based on information and belief, Class Members experienced the same issues when
4 clocking out for shifts and/or back in for meal periods. This time spent under DEFENDANTS'
5 control was not recorded and not compensated and resulted in unpaid minimum wages owed to
6 Class Members.

7 32. Moreover, based on information and belief, DEFENDANTS failed to pay
8 PLAINTIFF and/or other Class Members split shift premium wages when they worked split shifts
9 during the relevant period.

10 33. For example, based on information and belief, at times, DEFENDANTS required
11 PLAINTIFF and/or other Class Members to work two separate shifts in the same day. Based on
12 information and belief, DEFENDANTS failed to pay PLAINTIFF and/or other Class Members split
13 shift compensation whenever PLAINTIFF's and/or other Class Members' work schedules were
14 interrupted by non-paid non-working periods established by DEFENDANTS, which resulted in a
15 violation of the applicable Wage Order (See section 4 of all applicable Wage orders, "When an
16 employee works a split shift, one (1) hour's pay at the minimum wage shall be paid in addition to
17 the minimum wage for that workday...). See, also, Cal. Code Regs. Tit. 8, § 11050 (when an
18 employee works a split shift, one (1) hour's pay at the minimum wage shall be paid in addition to
19 the minimum wage for that workday, except when the employee resides at the place of employment).

20 34. DEFENDANTS also failed to separately itemize these split shift premium wages on
21 PLAINTIFF's and/or other Class Members' wage statements, in violation of Labor Code sections
22 510, 1194 and all applicable IWC Wage Orders. See, https://www.dir.ca.gov/dlse/split_shift.htm.
23 (The employer must itemize the premium payment on the pay stub provided to the employee, and it
24 should be shown as a separate category such as "Split Shift Premium" and should not be lumped
25 into another category such as wages, bonus, etc. DEFENDANTS failed to separately account for
26 the split shift premiums earned by PLAINTIFF and/or other Class Members on their wage
27 statements.

28 35. Based on information and belief, DEFENDANTS failed to pay Class Members the

1 applicable minimum wage for the county and/or city within which the Class Member worked in
2 California.

3 36. Based on information and belief, DEFENDANTS failed to pay Class Members for
4 time they were required to spend completing orientation, policy questionnaires, and/or time spent
5 completing the onboarding process including but not limited to reviewing various documents and
6 policies provided by DEFENDANTS. Based on information and belief, this work time was
7 completed off-the-clock and was not compensated.

8 37. Based on further information and belief, DEFENDANTS implemented a time-
9 rounding system that as applied systematically deprived PLAINTIFF and other Class Members of
10 compensable time because the time-rounding system implemented by DEFENDANTS would
11 almost always, if not always, result in understating actual compensable work time.

12 38. DEFENDANTS' failure to pay for all time worked by virtue of its time rounding,
13 auto-deduction policies and practices for unlawful meal periods, failure to provide lawful meal
14 periods, and/or other off-the-clock work practices and policies, resulted in the underpayment of
15 minimum wages owed to PLAINTIFF and Class Members as well as unpaid overtime wages for
16 those Class Members who worked more than eight (8) hours in a day and/or more than forty (40)
17 hours in a week.

18 39. Based on information and belief, DEFENDANTS had actual and/or constructive
19 knowledge that its time rounding policies/practices, auto-deduction policies and practices, failure to
20 provide lawful meal periods (as described below) and/or other off-the-clock work resulted in the
21 underpayment of minimum wages owed to PLAINTIFF and other Class Members, in violation of
22 California's minimum and overtime wage laws.

23 40. Based on information and belief, DEFENDANTS failed and continue to fail to pay
24 Class Members two times their regular rate of pay for time worked beyond twelve (12) hours per
25 workday and for time worked beyond eight (8) hours on the seventh consecutive day of work in a
26 work week, in violation of California's overtime laws.

27 41. Based on information and belief, DEFENDANTS failed to incorporate all non-
28 discretionary remuneration, including but not limited to, shift differential pay, bonus pay, and/or

1 other non-discretionary pay into the regular rate of pay used to calculate the owed overtime rate(s),
2 resulting in the miscalculation and underpayment of overtime wages owed to PLAINTIFF and other
3 Class Members.

4 42. **Meal Period Violations.** PLAINTIFF and other Class Members consistently worked
5 shifts of at least five and one-half hours or more, entitling them to at least one meal period. However,
6 PLAINTIFF and other Class Members would not receive legally compliant thirty (30) minute first
7 and second meal periods. Based on information and belief, Class Members were consistently unable
8 to take timely, off duty, thirty-minute, uninterrupted meal periods, often being forced to take late
9 meal periods, interrupted meal periods, and/or work through part or all their meal periods due to
10 understaffing, the nature and constraints of their job duties and/or commentary from supervisors
11 pressuring them to take non-compliant meal periods or skip meal periods completely.

12 43. Based on information and belief, other Class Members were consistently suffered
13 and permitted to take meal periods past the fifth hour of work and/or had their meal periods
14 interrupted, cut short, restricted to DEFENDANTS' premises and/or otherwise on duty due to
15 commentary from supervisors, understaffing, the nature and constraints of their job duties, and/or
16 the need to meet DEFENDANTS' goals and expectations.

17 44. For example, based on information and belief, at times, Class Members were forced
18 to skip their owed meal periods completely, take late meal periods and/or were interrupted during
19 purported meal periods and/or had meal periods cut short and/or restricted to DEFENDANTS'
20 premises and/or were otherwise required to remain on-duty during unpaid meal periods due to the
21 need to continue assigned job duties.

22 45. For example, when working shifts lasting longer than five and one-half and/or six
23 hours long, PLAINTIFF was frequently if not always, not provided with any version of a meal
24 period due to lack of coverage and/or the need to complete assigned job duties. For example,
25 DEFENDANTS' time records for PLAINTIFF for including but not limited to the following date(s)
26 show PLAINTIFF worked more than six (6) hours without clocking out for any meal period during
27 his shift.

28 46. Based on information and belief, DEFENDANTS implemented policies and/or

1 practices that failed to relieve Class Members of all duties and DEFENDANTS' control during
2 unpaid meal periods.

3 47. Based on information and belief, DEFENDANTS required Class Members to
4 complete off-the-clock work prior to their scheduled shift time which DEFENDANTS failed to take
5 into account when scheduling meal periods for Class Members. Based on information and belief,
6 meal periods were late, in part due to unaccounted pre-shift off-the-clock work.

7 48. Based on information and belief, despite DEFENDANTS' failure to provide lawful
8 meal periods, DEFENDANTS implemented a policy and/or practice of rounding the start and end
9 times of PLAINTIFF's and other Class Members' meal periods and/or automatically deducting at
10 least thirty minutes per shift for missed and/or otherwise unlawful meal periods despite having
11 actual and/or constructive knowledge that PLAINTIFF and other Class Members did not receive
12 lawful meal periods.

13 49. Moreover, per DEFENDANTS' uniform policy and practice, Class Members who
14 worked shifts of more than ten hours did not receive a second legally compliant thirty (30) minute
15 second meal period.

16 50. Based on information and belief, DEFENDANTS failed to instruct PLAINTIFF and
17 other Class Members as to the timing and duty-free nature of meal periods. Based on further
18 information and belief, DEFENDANTS did not have a compliant written meal period policy, nor
19 did DEFENDANTS have any sort of compliant policy in practice.

20 51. Moreover, based on information and belief, DEFENDANTS failed to keep accurate
21 records of the true start and end times of PLAINTIFF's and Class Members' meal periods. Based
22 on information and belief, to the extent meal period were recorded, DEFENDANTS illegally
23 rounded the start and end times of purported meal periods resulting in PLAINTIFF and other Class
24 Members not being paid for all time worked as well as late and/or shortened meal periods. *See*
25 *Donohue v. AMN Services, LLC* (2021) 11 Cal.5th 58.

26 52. Based on information and belief, DEFENDANTS had actual and/or constructive
27 knowledge that its policies and practices resulted in the denial of uninterrupted meal periods which
28 were free of DEFENDANTS' control owed to PLAINTIFF and other Class Members, in violation

1 of California's meal period laws.

2 53. DEFENDANTS failed to pay PLAINTIFF and other Class Members, an additional
3 hour of wages at their respective regular rates of compensation for each workday a lawful meal
4 period was not provided. DEFENDANTS either failed to pay a meal period premium at all for each
5 workday a lawful meal period was not provided and/or failed to pay the proper meal period premium
6 for failure to incorporate all non-discretionary remuneration, including but not limited to, bonuses,
7 shift differential pay and/or other non-discretionary compensation into the regular rate or
8 compensation for purposes of calculating the owed meal period premium.

9 54. **Rest Period Violations.** DEFENDANTS did not properly authorize and provide
10 PLAINTIFF and other Class Members with legally compliant rest periods at a rate of every four (4)
11 hours worked or major fraction thereof, that insofar as practicable, are provided in the middle of the
12 work period, as required by law.

13 55. PLAINTIFF and other Class Members were not adequately informed, authorized,
14 instructed about, nor permitted an opportunity to take proper rest periods per California law. Based
15 on information and belief, DEFENDANTS had no policy in place nor instruction as to the taking of
16 duty-free rest periods.

17 56. Based on information and belief, DEFENDANTS did not have a have a compliant
18 written rest period policy, nor did DEFENDANTS have any sort of compliant rest period policy in
19 practice.

20 57. For example, based on information and belief, Class Members were frequently, if not
21 always, unable to take compliant rest periods due to their need to complete assigned job duties and/or
22 was unable to take a net ten-minute rest period in a suitable rest area and/or had purported rest
23 periods restricted to DEFENDANTS' premises/their assigned work locations/workstations.

24 58. For example, PLAINTIFF was frequently, if not always, required to work through
25 his owed rest periods each shift due to lack of coverage and/or the need to complete assigned job
26 duties.

27 59. Based on information and belief, DEFENDANTS did not pay Class Members any
28 rest period premiums during their respective employments and/or did not pay Class Members a

1 proper rest period premium for each missed and/or otherwise legally non-compliant rest period.

2 60. For example, DEFENDANTS' wage statements for PLAINTIFF do not show the
3 payment of a single rest period premium during PLAINTIFF's employment despite DEFENDANTS
4 having actual and/or constructive knowledge that PLAINTIFF was required to work through his
5 owed rest periods and/or was not allowed to take legally compliant rest periods, in violation of
6 California rest period law.

7 61. Also, based on information and belief, DEFENDANTS had no policy and/or practice
8 as to the proper timing and/or duty-free nature of rest periods. For example, based on information
9 and belief, DEFENDANTS failed to allow PLAINTIFF and other Class Members to take off-duty
10 rest periods that were insofar as practicable in the middle of the work period, as required by law.

11 62. Based on information and belief, Class Members' rest periods were interrupted, cut
12 short, on duty, restricted to work premises and/or late due to understaffing, the nature and constraints
13 of their job duties, and/or due to commentary from supervisors/managers pressuring them to skip
14 rest periods completely or otherwise take non-compliant rest periods.

15 63. Moreover, based on information and belief, DEFENDANTS failed to provide any
16 form of a third rest period on shifts lasting longer than ten hours.

17 64. Based on information and belief, DEFENDANTS implemented policies and/or
18 practices that failed to relieve PLAINTIFF and other Class Members of all duties and
19 DEFENDANTS' control during rest periods.

20 65. Based on information and belief, Class Members were pressured to complete their
21 work duties according to a designated schedule such that rest periods were only taken once tasks
22 were completed, and/or as time permitted.

23 66. Furthermore, DEFENDANTS failed to pay a rest period premium for each day in
24 which PLAINTIFF and Class Members experienced a missed/unlawful rest period in violation of
25 California law. DEFENDANTS either failed to pay a rest period premium at all for each workday a
26 proper rest period was not provided and/or failed to pay the proper rest period premium for failure
27 to incorporate all non-discretionary remuneration, including but not limited to, bonuses, shift
28 differential pay, and/or other non-discretionary compensation into the regular rate of compensation

1 for purposes of calculating the owed rest period premium.

2 67. **Inaccurate Wage Statements.** During the relevant period, DEFENDANTS failed to
3 provide PLAINTIFF and other Class Members with accurate wage statements that complied with
4 Labor Code section 226. As DEFENDANTS failed to provide PLAINTIFF and Class Members with
5 meal and rest periods that complied with Labor section 226.7, the wage statements DEFENDANTS
6 issued to PLAINTIFF and Class Members failed and continue to fail to correctly set forth the gross
7 wages earned, the total hours worked, the net wages earned, and all applicable hourly rates in effect
8 during the pay period and the corresponding number of hours worked at each hourly rate by the
9 employee.

10 68. DEFENDANTS issued wage statements to PLAINTIFF and Class Members that also
11 failed to indicate the earned gross and net wages earned during the pay period, the correct applicable
12 rates of pay for all hours worked, and the total hours worked by PLAINTIFF and Class Members
13 (by virtue of rounded time entries, automatic deduction for meal periods/failure to relieve Class
14 Members of all duties and employer control during unpaid meal periods, payment according to
15 scheduled hours worked rather than actual hours worked, and/or other off-the-clock work policies
16 and practices) which results in a violation of Labor Code section 226(a).

17 69. As described herein, based on information and belief, DEFENDANTS also failed to
18 incorporate all forms of non-discretionary compensation earned during the pay period into the
19 overtime pay rate calculation, and as such, failed to display the proper overtime rate(s) for each hour
20 of overtime worked by PLAINTIFF and other Class Members.

21 70. Moreover, based on information and belief, DEFENDANTS issued wage statements
22 to PLAINTIFF and Class Members that further violate Labor Code section 226(a), by among other
23 things, failing to list the correct name and/or address of the legal entity that is the employer.

24 71. For example, wage statements issued by DEFENDANTS to PLAINTIFF list the
25 following as the name of the legal entity that is PLAINTIFF's employer: "Movado Retail Outlet."
26 However, based on information and belief, no legal entity by this name exists. Moreover, most, if
27 not all documents contained in DEFENDANTS' personnel file for PLAINTIFF, including without
28 limitation, DEFENDANTS' employment offer letter to PLAINTIFF, DEFENDANTS' Code of

1 Ethics and/or other employment-policy documents and/or employment agreements identify
2 “Movado Group, Inc.” and/or “Movado Group Inc” as the name of the entity that employed
3 PLAINTIFF. As such, DEFENDANTS issued wage statements to Class Members that fail to list
4 the correct name of the legal entity that is the employer, in violation of Labor Code section 226(a)(8).

5 72. As a result, DEFENDANTS issued wage statements to PLAINTIFF and Class
6 Members that were not accurate and did not include all of the statutorily required information. As
7 such, DEFENDANTS violated Labor Code section 226.

8 73. **Failure to Timely Pay All Wages Upon Separation of Employment.** Based on
9 information and belief, DEFENDANTS failed to timely pay Class Members all wages that were due
10 and owing upon termination or resignation. Based on information and belief, DEFENDANTS
11 untimely provide final wages to Class Members without regard to the timing requirements of Labor
12 Code sections 201-202.

13 74. Upon separation of employment, Class Members’ final paychecks were not timely
14 provided and/or were not timely provided with all owed vacation pay and/or paid time off.
15 Moreover, PLAINTIFF’s and Class Members’ final paychecks, once provided, did not include all
16 wages owed as they were devoid of, including but not limited to, all owed minimum wages, overtime
17 wages, premium wages, vacation pay, and all owed sick leave and/or paid time off wages at the
18 properly accrued rates (including but not limited to, all owed vacation pay/paid time off paid at the
19 final rate including non-discretionary compensation, including but not limited to, shift differentials).

20 75. For example, DEFENDANTS failed to timely furnish PLAINTIFF with a final
21 paycheck containing all owed wages, including without limitation, all owed minimum wages,
22 overtime wages, premium wages, commissions, vacation pay, all owed sick leave and/or paid time
23 off wages at the properly accrued rates, (including but not limited to, all owed vacation pay/paid
24 time off paid at the final rate including non-discretionary compensation, including but not limited
25 to, any shift differential pay).

26 76. For example, DEFENDANTS did not furnish PLAINTIFF with any final paycheck
27 containing PLAINTIFF’s owed commissions within seventy-two (72) hours of PLAINTIFF’s
28 resignation, in violation of Labor Code Section 202.

1 77. Based on further information and belief, DEFENDANTS failed to timely provide all
2 owed wages immediately upon discharge of employment. Based on information and belief, at times,
3 Class Members experienced breaks in employment caused by DEFENDANTS whereby Class
4 Members would not be called in for work for longer than a single pay period due to including but
5 not limited to DEFENDANTS' lack of work or lack of assignments. Such instances qualify as a
6 discharge of employment. Yet, DEFENDANTS failed to timely pay all owed wages at the end of
7 such periods of employment, in violation of including but not limited to Labor Code section 201-
8 202.

9 78. These violations subject DEFENDANTS to civil penalties under Labor Code section
10 203, 210, and/or 256.

11 79. **Unreimbursed Business Expenses.** Based on information and belief,
12 DEFENDANTS required PLAINTIFF and Class Members to incur business expenses as a direct
13 consequence of the performance of their job duties without providing reimbursement, in violation
14 of Labor Code section 2802. Based on information and belief, PLAINTIFF and Class Members
15 were improperly required to provide and maintain work tools that are supposed to be the
16 responsibility of the employer.

17 80. Based on information and belief, DEFENDANTS shifted the costs of doing business
18 onto Class Members by requiring them to pay for business expenses, including but not limited to,
19 uniforms/work clothing/work shoes/personal protective/safety gear/hand tools/equipment and/or the
20 use of Class Members' personal vehicles and/or personal cell phones/mobile devices, internet and/or
21 data usage for work-related purposes, including but not limited to, to receive and respond to work-
22 related messages and/or phone calls.

23 81. For example, based on information and belief, Class Members were required to
24 receive and respond to work-related calls and/or messages from supervisors and/or other employees
25 regarding scheduling and/or other work tasks but were not reimbursed by DEFENDANTS at all
26 and/or in full for these business expenses.

27 82. For example, DEFENDANTS routinely required PLAINTIFF to use PLAINTIFF's
28 personal phone/personal device(s) to carry out PLAINTIFF's assigned job duties, including but not

1 limited to, for sending and/or receiving work-related messages and/or calls, however,
2 DEFENDANTS failed to reimburse PLAINTIFF at all and/or in full for these business expenses
3 PLAINTIFF incurred in connection with being required to use PLAINTIFF's personal cell
4 phone/personal device(s) for work, including without limitation, increased data plan charges.

5 83. As explained above, based on information and belief, Class Members were not
6 reimbursed for the cost of using their personal vehicle(s) and/or personal phone(s)/personal
7 device(s) for work-related purposes and/or the cost of purchasing and/or maintaining work
8 uniforms/work clothing/work shoes, personal protective/safety gear.

9 84. Based on information and belief, DEFENDANTS regularly failed to reimburse and
10 indemnify Class Members for business expenses. Pursuant to California Labor Code section 2802,
11 PLAINTIFF and Class Members were entitled to be reimbursed for all reasonable expenses
12 associated with carrying out DEFENDANTS' orders and/or carrying out the duties assigned by
13 DEFENDANTS.

14 85. DEFENDANTS' failure to provide Class Members with full reimbursement for all
15 reasonable expenses associated with carrying out their duties required that Class Members
16 subsidize and/or carry the burden of business expenses in violation of Labor Code section 2802.

17 86. PLAINTIFF is informed and believes and alleges thereon that DEFENDANTS
18 engaged in these same herein described unlawful practices and that DEFENDANTS applied these
19 same herein described unlawful practices to all of its employees that it applied to PLAINTIFF.

20 **FIRST CAUSE OF ACTION**

21 **Recovery of Unpaid Minimum Wages and Liquidated Damages** 22 **(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

23 87. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

24 88. It is fundamental that an employer must pay its employees for all time worked.
25 California Labor Code sections 218 and 218.5 provide a right of action for nonpayment of wages.
26 Labor Code section 222 prohibits the withholding of part of a wage. Labor Code section 224 only
27 permits deductions from wages when the employer is required or empowered to do so by state or
28 federal law or when the deduction is expressly authorized in writing by the employee for specified
purposes that do not have the effect of reducing the agreed upon wage. Labor Code section 223

1 prohibits the pay of less than a statutory or contractual wage scale.

2 89. Pursuant to California Labor Code sections 1194 and 1197, and the Industrial Wage
3 Commission (“IWC”) Wage Orders, an employer must pay its employees for all hours worked, up
4 to 40 hours per week or 8 hours per day, at a regular rate no less than the mandated minimum wage.
5 Payment to an employee of less than the applicable minimum wage for all hours worked in a payroll
6 period is unlawful.

7 90. DEFENDANTS violated California’s minimum wage laws by failing to compensate
8 PLAINTIFF and the Class Members for all hours worked by virtue of, among other things,
9 DEFENDANTS’ time rounding, automatic deduction for meal periods, off-the-clock/unpaid work
10 completed during meal periods, other pre-shift, post-shift and/or otherwise off-the-clock work,
11 and/or payment according to scheduled hours worked rather than actual hours worked (described
12 above), which resulted in the failure to account for all hours worked and thus the denial of minimum
13 wages.

14 91. DEFENDANTS had and continue to have a policy of failing to pay PLAINTIFF and
15 Class Members for all hours worked.

16 92. Based on information and belief, DEFENDANTS had actual or constructive
17 knowledge that its time-rounding policies and practices, auto-deduction policies and practices for
18 meal periods, failure to relieve employees of all duties and employer control during unpaid meal
19 periods, policy and practice of payment according to scheduled work time rather than actual work
20 time, and/or other mandated off-the-clock work resulted in the underpayment of minimum wages
21 owed to PLAINTIFF and other Class Members.

22 93. Pursuant to Labor Code sections 1194 and 1194.2, PLAINTIFF and the Class
23 Members are entitled to recover all unpaid minimum wages and liquidated damages thereon, plus
24 attorney's fees and costs, in an amount to be proved at trial.

25 **SECOND CAUSE OF ACTION**

26 **Recovery of Unpaid Overtime Wages**

27 **(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

28 94. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

95. Employees in California must be paid overtime, equal to one and one-half times the

1 employee's regular rate of pay for all hours worked in excess of eight (8) hours up to and including
2 12 hours in any workday, and for the first eight (8) hours worked on the seventh consecutive day of
3 work in a workweek, and they must be paid double the regular rate of pay for all hours worked in
4 excess of 12 hours in any workday and for all hours worked in excess of eight (8) on the seventh
5 consecutive day of work in a workweek, unless they are exempt.

6 96. PLAINTIFF and the Class Members worked overtime hours for which they were not
7 compensated by DEFENDANTS by virtue of, among other things, DEFENDANTS' time rounding,
8 automatic deduction for meal periods, off-the-clock/unpaid work completed during meal periods,
9 other pre-shift, post-shift and/or otherwise off-the-clock work, and/or payment according to
10 scheduled hours worked rather than actual hours worked (described above), which resulted in the
11 failure to account for all hours worked and thus the denial of all owed overtime wages.

12 97. Based on information and belief, DEFENDANTS failed to pay twice Class
13 Members' regular rate(s) of pay for time worked beyond twelve (12) hours per workday and for
14 time worked beyond eight (8) hours on the seventh consecutive day of work in a work week, in
15 violation of California's overtime laws.

16 98. Based on information and belief, DEFENDANTS further violated California's
17 overtime wage laws by failing to incorporate all non-discretionary compensation, including but not
18 limited to, non-discretionary bonus compensation, shift differentials, and/or other non-discretionary
19 compensation into the regular rate of pay used to calculate the overtime rate of pay. Failing to
20 include non-discretionary compensation into the regular rate of pay resulted in a miscalculation of
21 the overtime wage rate, resulting in the underpayment of overtime wages owed to PLAINTIFF and
22 other Class Members.

23 99. DEFENDANTS' conduct described above is in violation of California Labor Code
24 sections 510 and 1194 and all applicable Wage Orders.

25 100. PLAINTIFF and the Class Members are entitled to recover all unpaid overtime
26 wages, plus attorney's fees and costs, in an amount to be proved.

27 **THIRD CAUSE OF ACTION**

28 **Failure to Provide Meal Periods or Compensation in Lieu Thereof
(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

1 101. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

2 102. Pursuant to Labor Code section 512 and all applicable IWC Wage Orders,
3 DEFENDANTS were required to provide PLAINTIFF and the Class Members with one 30-minute
4 meal break free from all duties and employer control for all shifts longer than 5 hours, and a second
5 30-minute meal break free from all duties for all shifts longer than 10 hours. Meal periods can be
6 waived, but only under the following circumstances: (1) if an employee's total work period in a day
7 is over five (5) hours but no more than six (6) hours, the required meal period may be waived by
8 mutual consent of the employer and employee, and (2) if an employee's total work period in a day
9 is over ten (10) hours but no more than twelve (12) hours, the required second meal period may be
10 waived by mutual consent of the employer and employee, but only if the first meal period was not
11 waived. Employers covered by the Wage Orders have an obligation to both (1) relieve their
12 employees for at least one meal period for shifts over five hours (see above), and (2) to record having
13 done so.

14 103. Employers must pay employees an additional hour of wages at the employees'
15 regular rate of pay for each missed or unlawful meal period (e.g., less than 30 minutes, interrupted
16 meal period, first meal period provided after five (5) hours, second meal period provided after 10
17 hours). Lab. Code § 226.7.

18 104. As explained above, PLAINTIFF and other Class Members were consistently unable
19 to take timely, off duty, thirty-minute, uninterrupted first and second meal periods, often being
20 forced to take late meal periods, interrupted meal periods, and/or work through part or all of their
21 meal periods due to understaffing, the nature and constraints of their job duties, and/or commentary
22 from supervisors pressuring them to take non-compliant meal periods or skip meal periods
23 completely.

24 105. Based on information and belief, DEFENDANTS had and continue to have a policy
25 of rounding the start and end times of employees' meal periods and/or automatically deducting thirty
26 minutes per shift despite having actual and/or constructive knowledge that PLAINTIFF and Class
27 Members did not receive compliant meal periods.

28 106. Moreover, based on information and belief, Class Members did not receive a timely,

1 uninterrupted second meal period when working shifts over ten (10) hours in a workday.

2 107. PLAINTIFF is informed and believes and thereon alleges that DEFENDANTS had
3 actual and/or constructive knowledge that its time-rounding and auto-deduction policies and
4 practices, other unlawful policies and practices resulted in the denial of compliant meal periods in
5 violation of California's meal period laws.

6 108. DEFENDANTS also failed to pay premiums for missed/otherwise unlawful meal
7 periods in violation of California law and/or failed to pay the proper meal period premium for failure
8 to incorporate all non-discretionary remuneration including but not limited to, bonuses, shift
9 differential pay and/or other non-discretionary compensation into the regular rate or compensation
10 for purposes of calculating the owed meal period premium.

11 109. As a result, under Labor Code section 226.7, PLAINTIFF and the Class Members
12 are entitled to one additional hour's pay at the employee's regular rate of compensation for each day
13 a meal period was missed, late, interrupted, or otherwise unlawful, plus attorneys' fees and costs,
14 all in an amount to be proved at trial.

15 **FOURTH CAUSE OF ACTION**

16 **Failure to Provide Rest Periods or Compensation in Lieu Thereof (By PLAINTIFF and the Class Members Against all DEFENDANTS)**

17 110. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

18 111. Labor Code section 226.7 and all applicable IWC Wage Orders require an employer
19 to authorize or permit an employee to take a rest period of ten (10) net minutes for every four hours
20 worked or major fraction thereof. Such rest periods must be in the middle of the four-hour period
21 "insofar as practicable." In *Brinker Restaurant Corp. v. Superior Court*, 53 Cal.4th 1004 (2012), the
22 California Supreme Court held that employees are entitled to a 10-minute paid rest period for shifts
23 from 3 ½ to 6 hours in a length, two 10-minute rest periods for shifts more than 6 hours up to 10
24 hours, and three 10-minute rest periods for shifts of more than 10 hours up to 14 hours. (*Id.* at 1029).
25 The rest period requirement obligates employers to permit and authorize employees to take off-duty
26 rest periods, meaning employers must relieve employees of all duties and relinquish control over
27 how employees spend their time. *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th 257.

28 112. If the employer fails to provide any required rest period, the employer must pay the

1 employee one hour of pay at the employee's regular rate of compensation for each workday the
2 employer did not provide at least one legally required rest period, pursuant to Labor Code section
3 226.7.

4 113. PLAINTIFF and the Class Members did not receive legally compliant, timely 10-
5 minute rest periods for every four (4) hours worked or major fraction thereof. As explained above,
6 any purported rest periods were late, interrupted, cut short, on duty, and/or otherwise subject to
7 DEFENDANTS' control due to the nature and constraints of Class Members' job duties,
8 understaffing, and/or commentary from supervisors pressuring PLAINTIFF and Class Members to
9 skip rest periods completely or otherwise take non-compliant rest periods.

10 114. Based on information and belief, DEFENDANTS implemented policies and/or
11 practices that failed to relieve PLAINTIFF and other Class Members of all duties and employer
12 control during rest periods. Based on further information and belief, Class Members were pressured
13 to complete their work duties according to a designated schedule such that rest periods were only
14 taken once tasks were completed, and/or as time permitted.

15 115. As a result, PLAINTIFF and Class Members did not receive legally compliant first,
16 second, or third rest periods as required by California law.

17 116. Moreover, based on information and belief, DEFENDANTS failed to pay a rest
18 period premium to PLAINTIFF and other Class Members for each workday in which there was a
19 missed or otherwise unlawful rest period. Based on further information and belief, when a rest
20 premium was paid, DEFENDANTS failed to include non-discretionary compensation including but
21 not limited to, bonuses, shift differential pay, and/or other non-discretionary compensation into the
22 regular rate of compensation for purposes of determining the owed rest period premium.

23 117. DEFENDANTS are therefore liable to PLAINTIFF and the Class Members for one
24 hour of additional pay at the regular rate of compensation for each workday that a required rest
25 period was not provided, pursuant to California Labor Code section 226.7 and the applicable Wage
26 Order, plus pre-judgment interest, plus attorneys' fees and costs, all in an amount to be proved at
27 trial.

28 **FIFTH CAUSE OF ACTION**
Failure to Furnish Accurate Itemized Wage Statements

(By PLAINTIFF and the Class Members Against all DEFENDANTS)

118. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

119. Pursuant to California Labor Code § 226, subdivision (a), PLAINTIFF and the Class Members were entitled to receive, semimonthly or at the time of each payment of wages, an itemized wage statement accurately stating the following:

(1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (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) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and his or her social security number, except that by January 1, 2008, only the last four digits of his or her social security number or an employee identification number other than a social security number may be shown on the itemized statement, (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.

120. As DEFENDANTS failed to provide PLAINTIFF and other Class Members with meal and rest periods that complied with Labor Code section 226.7, the wage statements DEFENDANTS issued to PLAINTIFF and other Class Members failed and continue to fail to correctly set forth (a) the gross wages earned, in violation of Labor Code section 226(a)(1); (b) the total hours worked by the employee in violation of Labor Code section 226(a)(2); (c) the net wages earned, in violation of Labor Code section 226(a)(5); and (d) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee, in violation of Labor Code section 226(a)(9).

121. Moreover, due to violations detailed above, including but not limited to, DEFENDANTS' failure to pay regular and overtime wages for all hours worked, failure to provide meal and rest break premiums, and failure to pay all sick leave wages at the proper rates, DEFENDANTS have violated California Labor Code § 226 by willfully failing to furnish PLAINTIFF and other Class Members with accurate, itemized wage statements that listed the gross and net wages earned and the correct applicable rates of pay for all hours worked. Based on

1 information and belief, DEFENDANTS failed to incorporate all forms of non-discretionary
2 compensation earned during the pay period into the regular rate of pay for purposes of calculating
3 the owed overtime rate, and as such, failed to display the proper overtime rate(s) for each hour of
4 overtime worked by PLAINTIFF and other Class Members.

5 122. As explained above, wage statements issued by DEFENDANTS failed to list the
6 “total hours worked” by PLAINTIFF and Class Members (by virtue of rounded time entries,
7 automatic deduction for meal periods/failure to relieve Class Members of all duties and employer
8 control during unpaid meal periods, payment according to scheduled hours worked rather than actual
9 hours worked, and/or other off-the-clock work policies and practices all described in greater detail
10 *supra*), which results in a violation of Labor Code section 226(a). Failure to list all hours worked on
11 a wage statement, gives rise to an inference of injury under Labor Code Section 226 (*Maldonado v.*
12 *Epsilon Plastics, Inc.*, (2018) 22 Cal.App.5th 1308, 1337).

13 123. Based on information and belief, wage statements issued by DEFENDANTS failed
14 to list all applicable hourly rates in effect during the pay period and the corresponding number of
15 hours worked at each hourly rate by the employee, in violation of Labor Code section 226(a)(9).
16 For example, as described herein, based on information and belief, DEFENDANTS failed to
17 incorporate all forms of non-discretionary compensation earned during the pay period into the
18 overtime pay rate calculation, and as such, failed to display the proper overtime rate(s) for each hour
19 of overtime worked by Class Members.

20 124. Separately, and independent from the above allegations, DEFENDANTS issued
21 wage statements to PLAINTIFF and Class Members that violate Labor Code section 226(a)(8), by
22 failing to list the correct name and/or address of the legal entity that is the employer.

23 125. Based on information and belief, wage statements issued by DEFENDANTS failed
24 to list the inclusive dates of the pay period for which the Class Member is being paid.

25 126. DEFENDANTS’ failure to accurately list all hours worked on all wage statements
26 caused confusion to PLAINTIFF and caused and continues to cause confusion to other Class
27 Members over whether they received all wages owed to them.

28 127. As a result, PLAINTIFF and other Class Members have suffered injury as they could

1 not easily determine whether they received all wages owed to them and whether they were paid for
2 all hours worked.

3 128. Moreover, as a result of DEFENDANTS' failure to list the correct name and/or
4 address of the legal entity that is the employer, PLAINTIFF and Class Members have suffered injury
5 as they could not contact their employer regarding any question(s) they had about wages paid.

6 129. DEFENDANTS' knowingly and intentionally failed to provide PLAINTIFF and
7 Class Members with accurate, itemized wage statements.

8 130. As a result of DEFENDANTS' unlawful conduct, PLAINTIFF and Class Members
9 have suffered injury. The absence of accurate information on their wage statements has prevented
10 earlier challenges to DEFENDANTS' unlawful pay practices, will require discovery and
11 mathematical computations to determine the amount of wages owed, and will cause difficulty and
12 expense in attempting to reconstruct time and pay records. DEFENDANTS' conduct led to the
13 submission of inaccurate information about wages and amounts deducted from wages to state and
14 federal government agencies. As a result, PLAINTIFF and Class Members are required to
15 participate in this lawsuit and create more difficulty and expense from having to reconstruct time
16 and pay records than if DEFENDANT had complied with its legal obligations.

17 131. Pursuant to California Labor Code section 226(e), PLAINTIFF and Class Members
18 are entitled to recover fifty dollars per employee for the initial pay period in which a Section 226
19 violation occurred and one hundred dollars per employee per violation for each subsequent pay
20 period, not to exceed an aggregate penalty of four thousand dollars per employee.

21 132. Pursuant to California Labor Code § 226(h), PLAINTIFF and Class Members are
22 entitled to bring an action for injunctive relief to ensure DEFENDANTS' compliance with
23 California Labor Code § 226(a). Injunctive relief is warranted because DEFENDANTS continue to
24 provide currently employed Class Members with inaccurate wage statements in violation of
25 California Labor Code § 226(a). Currently employed Class Members have no adequate legal remedy
26 for the continuing injuries that will be suffered as a result of DEFENDANTS' ongoing unlawful
27 conduct. Injunctive relief is the only remedy available for ensuring DEFENDANTS' compliance
28 with California Labor Code § 226(a).

1 133. Pursuant to California Labor Code §§ 226(e) and 226(h), PLAINTIFF and Class
2 Members are entitled to recover the full amount of penalties due under Section 226(e), reasonable
3 attorneys' fees, and costs of suit.

4 **SIXTH CAUSE OF ACTION**

5 **Failure to Timely Pay All Wages Due Upon Separation of Employment**
6 **(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

7 134. PLAINTIFF incorporates all preceding paragraphs as if fully set forth herein.

8 135. California Labor Code section 201(a) provides, in relevant part, that "[i]f an
9 employer discharges an employee, the wages earned and unpaid at the time of discharge are due and
payable immediately."

10 136. California Labor Code section 202(a) provides, in relevant part, that "[i]f an
11 employee not having a written contract for a definite period quits his or her employment, his or her
12 wages shall become due and payable not later than 72 hours thereafter, unless the employee has
13 given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled
14 to his or her wages at the time of quitting."

15 137. Based on information and belief, DEFENDANTS failed and continue to fail to timely
16 pay final wages to PLAINTIFF and Class Members upon separation of employment in violation of
17 Labor Code section 201-202. Moreover, final paychecks once provided to PLAINTIFF and Class
18 Members do not include all wages owed as they are devoid of, including but not limited to, all owed
19 minimum wages, overtime wages, premium wages, commissions, vacation pay, and all owed sick
20 leave and/or paid time off wages at the properly accrued rates.

21 138. Under Labor Code section 203, PLAINTIFF and the Class Members who are no
22 longer employed by DEFENDANTS are entitled to recover waiting time penalties of up to 30 days'
23 pay, plus attorney's fees and costs, in an amount to be proved at trial.

24 **SEVENTH CAUSE OF ACTION**

25 **Failure to Reimburse Business Expenses**
26 **(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

27 139. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

28 140. California law requires employers to indemnify their employees for all necessary

1 expenditures incurred by the employee in direct consequence of the discharge of their duties or of
2 their obedience to the directions of the employer. *See* Cal. Lab. Code s. 2802 and all applicable
3 Wage Orders section 9(b). Furthermore, “for purposes of [section 2802], the term ‘necessary
4 expenditure or losses’ shall include all reasonable costs, including, but not limited to, attorneys’ fees
5 incurred by the employee enforcing the rights granted by this section.”

6 141. Among other things, under California law, when employees must use their personal
7 cellphones for work-related purposes, the employer must reimburse them for a reasonable
8 percentage of their cell phone bills. *See Cochran v. Schwan’s Home Services, Inc.* (2014) 228
9 Cal.App.4th 1137, 1140. To show liability, an employee will only need to show that he or she was
10 required to use their personal cellphone for work-related purposes and not reimbursed for the use.
11 *Id.* 1144-1145. California law also requires employers to reimburse employees for automobile
12 expenses incurred for the business use of personal vehicles, such as for mileage, gas, and the wear
13 and tear on the vehicle. *See Gattuso v. Harte-Hanks Shoppers, Inc.* (2007) 42 Cal.4th 554.

14 142. As described above, PLAINTIFF and the Class Members were improperly required
15 to pay for business expenses that are legally the responsibility of the employer.

16 143. DEFENDANTS’ failure to provide PLAINTIFF and the Class Members with full
17 reimbursement for all reasonable expenses associated with carrying out their duties required that
18 PLAINTIFF and the Class Members subsidize and/or carry the burden of business expenses in
19 violation of Labor Code section 2802.

20 144. As a result of DEFENDANTS’ unlawful conduct, PLAINTIFF and the Class
21 Members have suffered injury in that they were not completely reimbursed as mandated by
22 California law.

23 145. Pursuant to California Labor Code section 2802, PLAINTIFF and the Class Members
24 are entitled to recover the full amount of reimbursable expenses due, in addition to reasonable
25 attorneys’ fees, and costs of suit.

26 **EIGHTH CAUSE OF ACTION**

Unfair Competition

27 **(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

28 146. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

1 147. DEFENDANTS' unlawful conduct alleged herein constitutes unfair competition
2 within the meaning of California Business and Professions Code section 17200 *et seq.* This unfair
3 conduct includes all unlawful conduct alleged herein, including but not limited to: DEFENDANTS'
4 failure to pay minimum and overtime wages by virtue of its illegal policies and practices;
5 DEFENDANTS' failure to authorize or permit, or provide, all required meal and rest periods or pay
6 proper premiums in lieu thereof; DEFENDANTS' failure to furnish complete and accurate itemized
7 wage statements; DEFENDANTS' failure to reimburse business expenses; DEFENDANTS' failure
8 to timely pay all wages owed upon separation of employment; and DEFENDANTS' failure to
9 provide paid sick leave (or paid time off in lieu thereof) at the properly accrued rates (due to,
10 including but not limited to, DEFENDANTS' failure to incorporate all non-discretionary
11 compensation into the sick pay calculation and failure to base the accrued sick leave on the correct
12 number of hours worked as a result of DEFENDANTS' time-rounding/auto deduction policies and
13 practices, payment according to scheduled hours worked and/or other off-the-clock work policies
14 and practices).

15 148. Due to DEFENDANTS' unfair and unlawful business practices in violation of the
16 California Labor Code, DEFENDANTS have gained a competitive advantage over other
17 comparable companies doing business in the State of California that comply with their obligations
18 to authorize or permit rest periods and meal periods or pay proper meal and rest period premiums
19 in lieu thereof, to properly accrue and pay sick time benefits, to provide complete and accurate
20 itemized wage statements, to reimburse employees for all business expenses, to pay all owed
21 minimum and overtime wages and to pay all wages due upon separation of employment of their
22 employees.

23 149. As a result of DEFENDANTS' unfair competition as alleged herein, PLAINTIFF
24 and Class Members have suffered injury in fact and lost money or property, as described in more
25 detail above. Pursuant to California Business and Professions Code section 17200, *et seq.*,
26 PLAINTIFF and Class Members are entitled to restitution of all wages and other monies rightfully
27 belonging to them that DEFENDANTS failed to pay and wrongfully retained by means of their
28 unlawful and unfair business practices.

150. PLAINTIFF also seeks an injunction against DEFENDANTS on behalf of the Class Members, enjoining DEFENDANTS and any and all persons acting in concert with them from engaging in each of the unlawful practices and policies set forth herein.

151. PLAINTIFF also seeks an award of attorney's fees pursuant to Code Civ. Proc Section 1021.5 and as permitted by law, and an award for costs reasonably incurred, as permitted by law.

PRAYER FOR RELIEF

WHEREFORE, PLAINTIFF prays for relief and judgment, on behalf of PLAINTIFF and Class Members as follows:

1. For an order that the action be certified as a class action;
2. For an order that PLAINTIFF be appointed as class representative;
3. For an order that counsel for PLAINTIFF be appointed as class counsel;
4. For compensatory damages according to proof;
5. For liquidated damages according to proof;
6. For penalties according to proof;
7. For an order requiring DEFENDANTS to make restitution of all amounts wrongfully withheld from PLAINTIFF and the Class Members;
8. For an order finding DEFENDANTS have engaged in unfair competition in violation of section 17200, *et seq.*, of the California Business and Professions Code;
9. For an order enjoining DEFENDANTS from further acts of unfair competition;
10. For pre-judgment interest as permitted by law;
11. For attorney's fees and costs reasonably incurred; and

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12. For such other and further relief that the Court deems just and proper.

Dated: September 13, 2024

CROSNER LEGAL, PC

By: 

Jamie K. Serb, Esq.
Brandon Brouillette, Esq.
Zachary M. Crosner, Esq.
Attorneys for Plaintiff,
ADAM ROSS

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