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Superior Court of California,
County of Monterey
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By: Lorie Cummings, Deputy

7 Attorneys for Plaintiff SERGIO PEREZ, on behalf of himself and
8 others similarly situated

9
10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF MONTEREY

12 SERGIO PEREZ, on behalf of himself and
13 others similarly situated,

14 Plaintiff,

15 v.

16 US BENEFITS ADVISORS, LLC; M&M
CELLULAR SOLUTIONS LLC; and
17 DOES 1 through 50, inclusive,

18 Defendants.

Case No. 24CV004034

CLASS ACTION

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

1. Failure to Pay Wages, Minimum Wage, and Overtime, Labor Code §§ 510, 1182.12, 1194, 1194.2, 1197
2. Breach of Written and/or Implied Contract
3. Meal-Period Liability under Labor Code § 226.7
4. Rest-Break Liability under Labor Code § 226.7
5. Failure to Reimburse Necessary Business Expenses, Labor Code §§ 2800, 2802
6. Violation of Labor Code § 226(a)
7. Violation of Labor Code §§ 201-203, 210
8. Violation of Labor Code § 1174(d)
9. Failure to Comply with Request to Inspect or Copy Records, Labor Code §§ 226, 432, & 1198.5, and IWC Wage Orders
10. Penalties pursuant to Labor Code § 2699, *et seq.*
11. Violation of Business & Professions Code §§ 17200, *et seq.*

DEMAND FOR JURY TRIAL

1 Plaintiff SERGIO PEREZ (hereinafter “Plaintiff”), on behalf of himself and all others
2 similarly situated, complains of Defendants US BENEFITS ADVISORS, LLC (“USBA”), M&M
3 CELLULAR SOLUTIONS, LLC (“M&M”), and DOES 1 through 50, inclusive, (collectively,
4 “Defendants”) as follows:

5 INTRODUCTION

6 1. Plaintiff brings this class action on behalf of himself and other similarly situated
7 persons (“Class Members”) for violations of the California Labor Code, including but not limited
8 to failure to pay wages and overtime, failure to provide compliant meal and rest breaks, failure to
9 reimburse business expenses, failure to provide accurate itemized wage statements, failure to pay
10 final wages when due, and waiting-time penalties, as well as breach of contract and unfair
11 business practices, among other causes of action. Plaintiff seeks damages, including wages,
12 liquidated damages, penalties, and interest.

13 2. Venue as to Defendants is proper in this judicial district pursuant to Code of Civil
14 Procedure § 395.5 because the obligations giving rise to liability occurred in the County of
15 Monterey, State of California.

16 3. The true names and capacities, whether individual, corporate, associate, or
17 whatever else, of the Defendants sued herein as Does 1 to 50, inclusive, are currently unknown to
18 Plaintiff, who therefore sues these Defendants by such fictitious names under Code of Civil
19 Procedure § 474. Plaintiff is informed and believes and thereon alleges that each of the
20 Defendants designated herein as Does 1 through 50, inclusive, is legally responsible in some
21 manner for the unlawful acts referred to herein. Plaintiff will seek leave of court to amend this
22 Complaint to reflect the true names and capacities of the Defendants designated herein as Does 1
23 to 50 when their identities become known.

24 4. Plaintiff is informed and believes and thereon alleges that each Defendant acted in
25 all respects pertinent to this action as the agent of the other Defendants, that Defendants carried
26 out a joint scheme, business plan, or policy in all respects pertinent hereto, and that the acts of
27 each Defendant are legally attributable to the other Defendants. Furthermore, Defendants acted in
28 all respects as the employers or joint employers of Class Members.

1 **FACTUAL BACKGROUND**

2 5. Lifeline is a government program created to provide low-income consumers with
3 home and cellular phone service. Defendants and each of them participate in the Lifeline
4 program by hiring employees to distribute free phones to qualifying consumers and activate the
5 phones.

6 6. However, Defendants failed to pay Class Members including Plaintiff wages for
7 each hour worked but instead only paid them a commission for each phone distributed. This
8 resulted in Class Members receiving substantially less than the minimum wage for each hour
9 worked.

10 7. Defendant also did not pay Class Members overtime of one and one half times the
11 regular rate of pay for hours worked in excess of eight hours a day or 40 hours a week or twice
12 their regular rate of pay for hours worked in excess of 12 hours a day.

13 8. Defendants did not provide Class Members, including Plaintiff, with paid rest
14 breaks of 10 minutes per four hours of work or major fraction thereof.

15 9. Defendant also did not provide Class Members, including Plaintiff, with 30-minute
16 meal periods when they worked in excess of five hours because Plaintiff could not leave their
17 posts, where phones, banners, tents, and other company property were located.

18 10. Class Members, including Plaintiff, had to use their personal property or purchase
19 supplies to do their jobs. For example, Plaintiff had to buy a foldout table and use his personal
20 cellular phone. Defendants did not reimburse these expenses.

21 11. As a term of employment, Class Members, including Plaintiff, had to agree to
22 unlawful terms, including but not limited to keeping their compensation confidential.

23 12. Class Members, including Plaintiff, did not receive timely and accurate wage
24 statements. In fact, they received no wage statements at all.

25 13. Class Members, including Plaintiff, did not receive all wages due to them upon
26 separation of employment or within 72 hours thereof.

27 14. To the extent that Defendants misclassified Class Members, including Plaintiff, as
28 independent contractors, Defendants violated Labor Code § 2775, *et seq.*

1 15. In light of the foregoing, Class Members bring this action pursuant to Labor Code
2 §§ 201, 202, 203, 204, 221, 226, 232, 232.5, 432, 510, 512, 558, 1174, 1182.12, 1194, 1194.2,
3 1197, 1197.1, 1199, 2775, *et seq.*, 2800, and 2802.

4 16. Furthermore, pursuant to Business & Professions Code §§ 17200-17208, Plaintiff
5 seeks injunctive relief, restitution, and disgorgement of all benefits Defendants have enjoyed from
6 their violations of the Labor Code.

7 **CLASS ACTION ALLEGATIONS**

8 17. Plaintiff brings this action on behalf of himself and all others similarly situated
9 pursuant to Code of Civil Procedure § 382. Plaintiff seeks to represent a class defined as follows:
10 All persons whom Defendants, or either of them, engaged to distribute phones under the Lifeline
11 program in California within the longest applicable limitations period (“Class Members”).

12 18. Plaintiff reserves the right under California Rule of Court 3.765 to amend or
13 modify the class description with greater particularity or further division into subclasses or
14 limitation to particular issues.

15 19. This action has been brought and may properly be maintained as a class action
16 under the provisions of Code of Civil Procedure § 382 because there is a well-defined community
17 of interest in the litigation and the proposed class is easily ascertainable.

18 **A. Numerosity**

19 20. The potential members of the class as defined are so numerous that joinder of all
20 the members of the class is impracticable. While the precise number of class members has not
21 been determined at this time, Plaintiff is informed and believes that the class is so numerous that
22 the individual joinder of all members is impractical under the circumstances of this case. Plaintiff
23 alleges that Defendants’ business records will provide information as to the number and location
24 of all class members.

25 **B. Commonality**

26 21. There are questions of law and fact common to the class that predominate over any
27 questions affecting only individual class members. These common questions of law and fact
28 include but are not limited to:

- a. Whether Defendants failed to pay Class Members wages for all hours worked, including the minimum wage;
- b. Whether Defendant failed to pay Class Members overtime for hours worked in excess of eight hours a day or 40 hours a week or double time for hours worked in excess of 12 hours a day;
- c. Whether Defendants violated Labor Code §§ 226.7 and 512, and the applicable IWC Wage Orders, by failing to provide Class Members with requisite meal periods;
- d. Whether Defendants violated Labor Code § 226.7 and the applicable IWC Wage Orders, by failing to provide Class Members with requisite rest breaks;
- e. Whether Defendants violated Labor Code § 2802 for failing to reimburse Class Members' necessary business expenses;
- f. Whether Defendants violated Labor Code § 226(a) by failing to provide wage statements;
- g. Whether Defendants violated Labor Code §§ 201, 202, and 203 by failing to pay wages and compensation due and owing at the time of termination of employment;
- h. Whether Defendants violated Business & Professions Code §§ 17200, *et seq.*; and
- i. Whether Class Members are entitled to equitable relief pursuant to Business & Professions Code §§17200, *et seq.*

C. Typicality

22. The claims of the named Plaintiff are typical of those of the other Class Members. Class Members all sustained injuries and damages arising out of and caused by Defendants' common course of conduct in violation of statutes, as well as regulations that have the force and effect of law, as alleged herein.

D. Adequacy of Representation

23. Plaintiff will fairly and adequately represent and protect the interests of Class Members. Counsel who represent Plaintiff are experienced and competent in litigating employment class actions.

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1 **E. Superiority of Class Action**

2 24. A class action is superior to other available means for the fair and efficient
3 adjudication of this controversy. Individual joinder of all Class Members is not practicable, and
4 questions of law and fact common to all Class Members predominate over any questions affecting
5 only individual Class Members. Each Class Member has been damaged and is entitled to
6 recovery by reason of Defendants' illegal policies or practices of failing to compensate Class
7 Members properly.

8 25. Class-action treatment will allow those persons similarly situated to litigate their
9 claims in the manner that is most efficient and economical for the parties and the judicial system.
10 Plaintiff is unaware of any difficulties in managing this case that should preclude class action.

11 **FIRST CAUSE OF ACTION**

12 **FAILURE TO PAY WAGES, INCLUDING MINIMUM WAGE AND OVERTIME**

13 **LABOR CODE §§ 204, 512, 1182.12, 1194, 1194.2**

14 26. Plaintiff incorporates the foregoing paragraphs as though fully set forth herein.

15 27. As alleged above, Class Members did not receive wages for hours worked but
16 instead only commissions for phones distributed. Therefore Class Members did not receive at
17 least the minimum wage for all hours worked, in violation of Labor Code §§ 1182.12, 1194, and
18 1194.2, nor did they receive overtime compensation under Labor Code § 510 for hours worked
19 in excess of eight hours per day or 40 hours per week.

20 28. Defendants' failure to pay compensation in a timely fashion also constituted a
21 violation of Labor Code § 204, which requires that all wages shall be paid semimonthly. In
22 direct violation of that provision of the Labor Code, Defendants have failed to pay all wages
23 earned by Class Members. Each such failure to make a timely payment of compensation to
24 Class Members constitutes a separate violation of Labor Code § 204.

25 29. Class Members have been damaged by these violations of Labor Code §§ 204,
26 1182.12, and 1194, and the relevant orders of the Industrial Welfare Commission.

27 30. Consequently, pursuant to California Labor Code §§ 204, 1182.12, and 1194 (and
28 the relevant orders of the Industrial Welfare Commission), Defendants are liable to Class

1 Members for the full amount of all their unpaid wages, with interest, plus their reasonable
2 attorneys' fees and costs.

3 31. Pursuant to California Labor Code § 1194.2, Class Members are also entitled to
4 liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

5 **SECOND CAUSE OF ACTION**

6 **BREACH OF WRITTEN OR IMPLIED CONTRACT**

7 32. Plaintiff hereby incorporates by reference the allegations contained in this
8 Complaint.

9 33. Class Members, including Plaintiff, entered into a contract with Defendants
10 whereby Defendant agreed to pay an hourly rate of pay, i.e., a fixed dollar amount for each hour
11 worked. These contracts were either written or subject to an implied term.

12 34. Class Members, including Plaintiff, performed services under the contract, namely,
13 they provided labor to Defendants.

14 35. Defendants breached their contracts with Class Members, including Plaintiff, by
15 failing to pay them the hourly rate of pay.

16 36. As a direct and proximate result of Defendant's breach, each Class Member was
17 damaged in the amount of hourly rate of pay that Defendant failed to provide for each hour of
18 work, in an amount to be determined at the time of trial.

19 **THIRD CAUSE OF ACTION**

20 **MEAL-PERIOD LIABILITY UNDER LABOR CODE § 226.7**

21 37. Plaintiff incorporates the foregoing paragraphs as though fully set forth herein.

22 38. Class Members regularly worked shifts greater than five (5) hours and greater than
23 ten (10) hours. Pursuant to Labor Code § 512 an employer may not employ someone for a shift
24 of more than five (5) hours without providing him or her with a meal period of not less than thirty
25 (30) minutes or for a shift of more than ten (10) hours without providing him or her with a second
26 meal period of not less than thirty (30) minutes.

27 39. Defendants failed to provide Class Members with meal periods as required under the
28 Labor Code. As alleged above, Defendants required Class Members to work through meal

1 periods for which they were clocked out. Defendants also failed to provide Class Members with
2 timely, uninterrupted meal periods, as required by law.

3 40. Moreover, Defendants failed to compensate Class Members with an additional hour
4 of pay at their regular rate of compensation for each day on which meal periods were not
5 provided or were inadequately provided, as required under Labor Code § 226.7.

6 41. Therefore, pursuant to Labor Code § 226.7, Class Members are entitled to damages
7 in an amount equal to one (1) hour of pay at their regular rate of compensation for each day on
8 which meal periods were not provided or deficiently provided, in an amount to be proven at trial.

9 **FOURTH CAUSE OF ACTION**

10 **REST-BREAK LIABILITY UNDER LABOR CODE § 226.7**

11 42. Plaintiff incorporates the foregoing paragraphs as though fully set forth herein.

12 43. Class Members consistently worked consecutive four (4) hour shifts. Pursuant to the
13 Labor Code and the applicable IWC Wage Order, Class Members were entitled to paid rest
14 breaks of not less than ten (10) minutes for each work period of four (4) hours or major fraction
15 thereof.

16 44. Defendants failed to provide Class Members with timely rest breaks of not less than
17 ten (10) minutes per work period of four (4) hours or major fraction thereof.

18 45. Moreover, Defendants did not compensate Class Members with an additional hour
19 of pay at each Class Member's regular rate of compensation for each day on which Defendants
20 failed to provide them with adequate rest breaks, as required under Labor Code § 226.7.

21 46. Therefore, pursuant to Labor Code § 226.7, Class Members are entitled to damages
22 in an amount equal to one (1) hour of pay at their regular rate of compensation for each day
23 worked without the required rest breaks, in an amount to be proven at trial.

24 **FIFTH CAUSE OF ACTION**

25 **FAILURE TO REIMBURSE BUSINESS EXPENSES**

26 **(Lab. Code, §§ 221, 2800, and 2802)**

27 47. Plaintiff, on behalf of himself and the Class, re-alleges and incorporates by reference
28 all of the allegations contained in the preceding paragraphs of this Complaint as though fully

1 alleged herein.

2 48. Labor Code sections 2800 and 2802 provide that an employer shall indemnify his or
3 her employee for all necessary expenditures or losses incurred by the employee in direct
4 consequence of the discharge of his or her duties, or of his or her obedience to the directions of
5 the employer, even though unlawful, unless the employee, at the time of obeying the directions,
6 believed them to be unlawful.

7 49. Defendants required Plaintiff and Class Members to pay for necessary business
8 expenses, including but not limited to foldout tables and personal cellular phones. Expenses were
9 incurred as a direct consequence of Plaintiff's and Class Members' work duties and at the
10 direction of Defendants.

11 50. Although Plaintiff and Class Members were required to incur costs for work
12 purposes, Plaintiff and Class Members were not provided reimbursement for those business-
13 related expenses. California law prohibits an employer from failing to indemnify business
14 expenses or losses incurred by employees.

15 51. Defendants also violated Labor Code section 221, which states, "It shall be unlawful
16 for any employer to collect or receive from an employee any part of wages theretofore paid by
17 said employer to said employee. Defendants violated Labor Code section 221 by collecting part
18 of their wages as a security deposit for the cellular phones that Mr. Perez and aggrieved
19 employees were required to distribute.

20 52. As a direct and proximate cause of Defendants' violation, Plaintiff and Class
21 Members are entitled to damages, in an amount to be determined at the time of trial.

22 **SIXTH CAUSE OF ACTION**

23 **VIOLATION OF LABOR CODE § 226(a)**

24 53. Plaintiff incorporates the foregoing paragraphs as though fully set forth herein.

25 54. California Labor Code § 226(a) requires an employer to furnish each of his or her
26 employees with an accurate, itemized statement in writing showing the gross and net earnings,
27 total hours worked, and the corresponding number of hours worked at each hourly rate; these
28 statements must be appended to the detachable part of the check, draft, voucher, or whatever else

1 serves to pay the employee's wages; or, if wages are paid by cash or personal check, these
2 statements may be given to the employee separately from the payment of wages; in either case the
3 employer must give the employee these statements twice a month or each time wages are paid.

4 55. Defendants failed to provide Class Members with accurate itemized wage statements
5 in writing, as required by the Labor Code.

6 56. Defendants' failure to comply with Labor Code § 226(a) was knowing and
7 intentional in that Defendants knew or should have known that wage statements were required but
8 nevertheless failed to provide them.

9 57. Pursuant to Labor Code §§ 226(a) and 226(e), Class Members are entitled to recover
10 the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a
11 violation occurs and one hundred dollars (\$100) for each violation in a subsequent pay period, not
12 exceeding an aggregate penalty of four thousand dollars (\$4,000). They are also entitled to an
13 award of costs and reasonable attorneys' fees.

14 **SEVENTH CAUSE OF ACTION**

15 **VIOLATION OF LABOR CODE §§ 201-203, 210**

16 58. Plaintiff incorporates the foregoing paragraphs as though fully set forth herein.

17 59. Numerous Class Members, including Plaintiff, are no longer employed by
18 Defendants; they either quit Defendants' employ or were fired therefrom.

19 60. Defendants failed to pay these Class Members all wages due and certain at the time
20 of termination or within seventy-two (72) hours of resignation.

21 61. The wages withheld from these Class Members by Defendants remained due and
22 owing for more than thirty (30) days from the date of separation of employment.

23 62. Defendants' failure to pay wages, as alleged above, was willful in that Defendants
24 knew wages to be due but failed to pay them; this violation entitles these Class Members to
25 penalties under Labor Code § 203, which provides that an employee's wages shall continue until
26 paid for up to thirty (30) days from the date they were due.

27 63. Labor Code § 210 imposes upon Defendants a penalty of \$100.00 for each violation
28 of failing to pay the wages of each employee. Furthermore, Labor Code section 210 imposes upon

1 Defendants for each subsequent violation, or any willful or intentional violation, of failure to pay
2 the wages of each employee a penalty of \$200.00, plus 25 percent of the amount unlawfully
3 withheld.

4 64. Pursuant to Labor Code §§ 218.5 and 218.6, along with Civil Code §§ 3287,
5 subdivision (b), and 3289, Plaintiff requests that the Court award reasonable attorneys' fees and
6 the costs incurred by them in this action, along with pre-judgment interest on all amounts
7 recovered herein, as well as any statutory penalties Defendants may owe under the Labor Code
8 and/or any other statute.

9 **EIGHTH CAUSE OF ACTION**

10 **VIOLATION OF LABOR CODE § 1174, SUBDIVISION (d)**

11 65. Plaintiff, on behalf of himself and the Class, realleges and incorporates by reference
12 all of the allegations contained in the preceding paragraphs of this Complaint as though fully set
13 forth herein.

14 66. Pursuant to Labor Code § 1174(d), an employer shall keep at a central location in the
15 state or at the plants or establishments at which employees are employed, payroll records showing
16 the hours worked daily by, and the wages paid to, employees employed at the respective plants or
17 establishments. These records shall be kept in accordance with rules established for this purpose
18 by the Commission, but in any case, shall be kept on file for not less than three years.

19 67. Defendants have intentionally and willfully failed to keep accurate and complete
20 payroll records showing the hours worked daily by, and the wages paid to, Plaintiff and Class
21 Members.

22 68. As a result of Defendants' violation of Labor Code § 1174, subdivision (d), Plaintiff
23 and Class Members have suffered injury and damage to their statutorily protected rights.

24 69. More specifically, Plaintiff and Class Members have been injured by Defendants'
25 intentional and willful violation of Labor Code § 1174, subdivision (d), because they were denied
26 both their legal right and protected interest in having available, accurate, and complete payroll
27 records pursuant to Labor Code § 1174, subdivision (d).

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1 **NINTH CAUSE OF ACTION**

2 **FAILURE TO COMPLY WITH REQUEST TO INSPECT OR COPY RECORDS**

3 **(Lab. Code, §§ 226, 432, & 1198.5, and the IWC Wage Orders)**

4 70. Plaintiff, on behalf of himself and the Class, realleges and incorporates by reference
5 all of the allegations contained in the preceding paragraphs of this Complaint as though fully set
6 forth herein.

7 71. Labor Code § 226, subdivision (b), requires Defendants to permit current and former
8 employees to inspect or copy payroll records pertaining to that current or former employee. An
9 employer who receives a written or oral request from a current or former employee to inspect or
10 copy his or her payroll records shall comply with the request as soon as practicable, but no later
11 than twenty-one (21) calendar days from the date of the request. A failure by an employer to
12 permit a current or former employee to inspect or copy his or her payroll records within the
13 aforementioned twenty-one (21) calendar day period entitles the current or former employee to
14 recover a penalty from the employer in a civil action before a court of competent jurisdiction.
15 (See Lab. Code, § 226, subds. (c) & (f).)

16 72. Labor Code § 1198.5 requires that employers, like Defendants, allow current and
17 former employees access to their personnel files and records that relate to the employee's
18 performance or to any grievance concerning the employee. Inspections must be allowed at
19 reasonable times and intervals. To facilitate the inspection, employers must do one of the
20 following: (1) keep a copy of each employee's personnel records at the place where the employee
21 reports to work; (2) make the personnel records available at the place where the employee reports
22 to work within a reasonable amount of time following the employee's request; or (3) permit the
23 employee to inspect the records at the location where they are stored with no loss of
24 compensation to the employee. (See Lab. Code, § 1198.5.)

25 73. The IWC Wage Orders also state that all required employment records shall be in
26 the English language and in ink or other indelible form, properly dated, showing month, day, and
27 year and shall be kept on file by the employer for at least three (3) years at the place of
28 employment or at a central location within the State of California. An employee's records shall be

1 available for inspection by the employee upon reasonable request.

2 74. On or around July 17, 2024, Plaintiff requested his employment records from
3 Defendants, namely, his paystubs/wage statements; however, Defendants failed to produce the
4 required documents as required by law.

5 75. Under Labor Code § 226, subdivisions (e) and (f), based on Defendants' conduct as
6 herein alleged, Plaintiff and Class Members are entitled to: (a) fifty dollars (\$50) for the initial
7 pay period in which a wage statement violation occurred, and one hundred dollars (\$100) per
8 employee for each violation in the subsequent pay periods, not exceeding an aggregate penalty of
9 four thousand dollars (\$4,000); (b) an additional seven hundred fifty dollar (\$750) penalty for
10 Defendants' failure to allow Plaintiff and Class Members to timely inspect and copy pertinent
11 records under Labor Code section 1198.5; and (c) injunctive relief to ensure Defendants comply
12 with a lawful request to provide personnel records, copies of signed documents, and wage
13 statements in compliance with Labor Code §§ 226, 1198.5, and the IWC Wage Orders.

14 76. Defendants also violated Labor Code § 432 by failing to produce all documents
15 signed by Plaintiff and Class Members, namely, their contracts of employment.

16 **TENTH CAUSE OF ACTION**

17 **CIVIL PENALTIES PURSUANT TO LABOR CODE § 2699, *et seq.***

18 77. Plaintiff incorporates the foregoing paragraphs as though fully set forth herein.

19 78. Plaintiff brings this claim as a representative action on behalf of all current and
20 former aggrieved employees of Defendants.

21 79. Plaintiff is an aggrieved employee as defined under Labor Code § 2699(c) in that
22 he suffered the violations alleged in this Complaint and was employed by the alleged violators,
23 Defendants.

24 80. Plaintiff seeks wages and penalties under Labor Code § 2699 for Defendants'
25 violation of all Labor Code provisions identified in this Complaint. These penalties shall be
26 allocated as follows: 75 percent to the Labor and Workforce Development Agency (LWDA) and
27 25 percent to the affected employees.

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1 81. On or around September 25, 2024, Plaintiff gave written notice by online filing
2 with the LWDA and by certified mail to Defendants of the specific Labor Code provisions
3 alleged to have been violated and paid the required filing fee. LWDA has not given notice of its
4 intent to investigate the alleged violations of the Labor Code provisions listed in Labor Code §
5 2699.5 that are identified in this Complaint within 65 calendar days of the postmark date of the
6 aforesaid notice, nor have Defendants cured the violations of all Labor Code provisions other than
7 those listed in Labor Code § 2699.5 that are identified in this Complaint within 33 calendar days
8 of the postmark date of the aforesaid notice.

9 **ELEVENTH CAUSE OF ACTION**

10 **VIOLATION OF BUSINESS & PROFESSIONS CODE §§ 17200, *et seq.***

11 82. Plaintiff incorporates the foregoing paragraphs as though fully set forth herein.

12 83. Plaintiff, on behalf of himself, Class Members, and the general public, brings this
13 claim pursuant to Business & Professions Code §§ 17200, *et seq.* The conduct of Defendants as
14 alleged in this Complaint has been and continues to be unfair, unlawful, and harmful to Class
15 Members and the general public. Plaintiff seeks to enforce important rights affecting the public
16 interest within the meaning of Code of Civil Procedure § 1021.5.

17 84. Plaintiff is a “person” within the meaning of Business & Professions Code § 17204,
18 has suffered injury in fact and has lost money or property as a result of Defendants’ conduct as
19 described herein, and therefore has standing to bring this cause of action for injunctive relief,
20 restitution, and other appropriate equitable relief.

21 85. Business & Professions Code §§ 17200, *et seq.*, prohibits unlawful and unfair
22 business practices.

23 86. Wage-and-hour laws express fundamental public policies. Paying employees their
24 wages, providing them with meal periods and rest breaks, etc., are fundamental public policies of
25 California. Labor Code § 90.5(a) articulates the public policies of this State to vigorously enforce
26 minimum labor standards, to ensure that employees are not required or permitted to work under
27 substandard and unlawful conditions, and to protect law-abiding employers and their employees
28 from competitors who lower costs to themselves by failing to comply with minimum labor

standards.

87. Defendants have violated statutes and public policies. Through the conduct alleged in this Complaint, Defendants have acted contrary to these public policies, have violated specific provisions of the Labor Code, and have engaged in other unlawful and unfair business practices in violation of Business & Professions Code §§ 17200, *et seq.*; which conduct has deprived Plaintiff, and all persons similarly situated, and all interested persons, of the rights, benefits, and privileges guaranteed to all employees under the law.

88. Defendants' conduct, as alleged hereinabove, constitutes unfair competition in violation of the Business & Professions Code §§ 17200, *et seq.*

89. Defendants, by engaging in the conduct herein alleged, by failing to pay wages, failing to provide meal periods and rest breaks, etc., either knew or in the exercise of reasonable care should have known that their conduct was unlawful; thus Defendants' conduct violates the Business & Professions Code §§ 17200, *et seq.*

90. As a proximate result of the above-mentioned acts of Defendants, Class Members have been damaged, in a sum to be proven at trial.

91. Unless restrained by this Court, Defendants will continue to engage in such unlawful conduct as alleged above. Pursuant to the Business & Professions Code this Court should make such orders or judgments as may be necessary to prevent the use by Defendants or their agents or employees of any unlawful or deceptive practice prohibited by the Business & Professions Code, including but not limited to the disgorgement of such profits as may be necessary to restore to Class Members the money Defendants have unlawfully failed to pay.

RELIEF REQUESTED

WHEREFORE, Plaintiff prays for the following relief:

1. For an order certifying this action as a class action.
2. For compensatory, consequential, incidental, liquidated, and punitive damages, as may be proven.
3. For penalties pursuant to Labor Code § 2699, as may be proven.

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1 4. For an order enjoining Defendants and their agents, servants, and employees, and all
2 persons acting under, in concert with, or for them, from acting in derogation of any rights or
3 duties adumbrated in this Complaint.

4 5. For an award of pre-judgment and post-judgment interest.

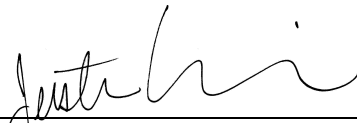
5 6. For an award providing for the payment of the costs of this suit.

6 7. For an award of attorneys' fees, to the extent provided by law.

7 8. For such other and further relief as this Court may deem proper and just.

8
9 DATED: December 26, 2024

COUNSELONE, PC

10
11 By 
12 Anthony J. Orshansky
13 Alexandria R. Kachadoorian
14 Justin Kachadoorian

15 Attorneys for Plaintiff SERGIO
16 PEREZ and the Putative Class
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DEMAND FOR JURY TRIAL

Plaintiff hereby demands trial of his claims by jury to the extent authorized by law.

DATED: December 26, 2024

COUNSELONE, PC

By 

Anthony J. Orshansky
Alexandria R. Kachadoorian
Justin Kachadoorian

Attorneys for Plaintiff SERGIO
PEREZ and the Putative Class

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

3 I am employed in the County of Los Angeles, State of California. I am over the age of 18
4 and not a party to the within action. My business address is 9465 Wilshire Boulevard, Suite 300,
Beverly Hills, California 90212, lanie@counselonegroup.com.

5 On December 26, 2024, I served the document(s) described as **FIRST AMENDED**
6 **CLASS AND REPRESENTATIVE ACTION COMPLAINT** on the entities and/or
individuals listed below:

7 Navneet Chugh, Esq.
8 navneet@chugh.com
9 CHUGH, LLP
10 15925 Carmenita Road
Cerritos, California 90703

Attorneys for Defendant

11 Additional Recipients:
Mireya Diaz (Mireya.diaz@chugh.com)
Komal Agrawal (komal.agrawal@chugh.com)

12 [] (BY MAIL) I am readily familiar with the firm's practice for collection and
13 processing correspondence for mailing. Under that practice it would be deposited
14 with the U.S. Postal Service on that same day with postage thereon fully prepaid at
Los Angeles, California in the ordinary course of business. I am aware that on
15 motion of the party served, service is presumed invalid if postal cancellation date or
postage meter date is more than one day after date of deposit for mailing in affidavit.

16 [X] (BY ELECTRONIC SERVICE) Based on CCP 1010.6, a court order, or an
17 agreement of the parties to accept service by electronic transmission, I caused the
documents to be sent to the persons listed above by email through One Legal. I did
18 not receive, within a reasonable time after the transmission, any electronic message or
other indication that the transmission was unsuccessful.

19 Executed on December 26, 2024, in Los Angeles, California.

20 [X] (STATE) I declare under penalty of perjury under the laws of the State of
California that the above is true and correct.

21 
22 Lanie Lim