

RECEIVED

VENTURA SUPERIOR COURT

12/2/24

after 4:00pm

LOYR, APC

YOUNG W. RYU, ESQ. (SBN 266372)

young.ryu@loywr.com

ZACHARIAH E. MOURA, ESQ. (SBN 279508)

zach.moura@loywr.com

KEE S. MAH, ESQ. (SBN 345736)

kee.mah@loywr.com

HARLEY M. PHLEGER, ESQ. (SBN 351851)

harley.phleger@loywr.com

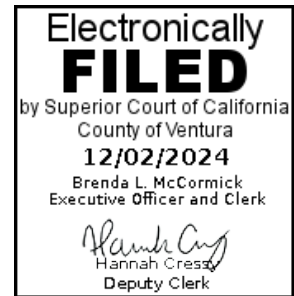
1055 West 7th Street, Suite 2290

Los Angeles, California 90017

Tel: (213) 318-5323

Fax: (800) 576-1170

Attorneys for Plaintiff JOSUE CIFUENTES



SUPERIOR COURT OF CALIFORNIA

FOR THE COUNTY OF VENTURA

JOSUE CIFUENTES, individually and on
behalf of all individuals similarly situated,

Plaintiff,

vs.

ALL CLIMATE ROOFING INC., a
California corporation; CHARLES T
PETRI, an individual; and DOES 1 through
50, inclusive,

Defendants.

CASE NO. 2024CUOE033898

CLASS ACTION COMPLAINT

1. FAILURE TO COMPENSATE ALL HOURS WORKED IN VIOLATION OF THE APPLICABLE INDUSTRIAL WELFARE COMMISSION ORDER AND CAL. LABOR CODE §§ 200, 226, 500, 510, 1194, 1197, AND 1198;
2. MISSED MEAL AND REST BREAKS IN VIOLATION OF CAL. LABOR CODE §§ 200, 226.7, 512, 516, 558, and 1198;
3. FAILURE TO PROVIDE PROPER WAGE STATEMENTS IN VIOLATION OF CAL. LABOR CODE § 226;
4. FAILURE TO PAY COMPENSATION UPON SEPARATION OF EMPLOYMENT IN VIOLATION OF CAL. LABOR CODE § 201-203;
5. FAILURE TO REIMBURSE BUSINESS EXPENSES IN VIOLATION OF LABOR CODE § 2802;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

6. VIOLATIONS OF CAL. B&P CODE §§ 17200, ET SEQ.;

7. VIOLATION OF LABOR CODE §§ 2698, ET SEQ. (“PAGA”)

DEMAND FOR JURY TRIAL

1 Plaintiff JOSUE CIFUENTES, an individual and on behalf of all individuals similarly
2 situated (“Plaintiff”), hereby brings this Class Action Complaint for Damages against Defendants
3 ALL CLIMATE ROOFING INC., (“CLIMATE”), a California corporation; CHARLES T PETRI
4 (“PETRI”), an individual; and DOES 1 through 50, inclusive, (collectively, “Defendants”) and states
5 and alleges as follows:

6 **THE PARTIES**

7 1. Plaintiff was, at all times relevant to this Complaint, an adult individual living and
8 working in California.

9 2. At all times relevant to this Complaint, Defendant CLIMATE is and was a California
10 corporation operating a business within the State of California, specifically in the County of Ventura.

11 3. Plaintiff is unaware of the true names or capacities of Defendants sued herein under
12 the fictitious names DOES 1–50 but prays for leave to amend and serve such fictitiously named
13 Defendants pursuant to California Code of Civil Procedure section 474 once their names and
14 capacities become known.

15 4. Plaintiff is informed and believes, and thereon alleges, that PETRI and DOES 1–50
16 are the partners, agents, owners, shareholders, managers, principals or employees of Defendants
17 and/or were acting on behalf of Defendants.

18 5. Plaintiff is informed and believes, and thereon alleges, that each and all of the acts and
19 omissions alleged herein was performed by or is attributable to Defendants and/or DOES 1–50, each
20 acting as the agent for the other, with legal authority to act on the other’s behalf. The acts of any and
21 all Defendants were in accordance with, and represent the policy of, all Defendants.

22 6. At all times herein mentioned, Defendants, and each of them, ratified each and every
23 act or omission complained of herein. At all times herein mentioned, Defendants, and each of them,
24 aided and abetted the acts and omissions of each and all of the other Defendants in proximately
25 causing the damages herein alleged.

26 7. Plaintiff is informed and believes, and thereon alleges, that each of said Defendants is
27 in some manner intentionally, negligently or otherwise responsible for the acts, omissions,
28 occurrences and transactions alleged herein.

1 **JURISDICTION**

2 8. This action is properly filed in Ventura County because the acts and omissions that
3 give rise to Plaintiff's claims took place in Ventura County, California, as Plaintiff was employed by
4 Defendants in Ventura County, California, and Defendants transact business in this County.

5 9. This Court has jurisdiction over Defendants because Defendants have sufficient
6 minimum contacts with and regularly conduct business within the State of California, specifically in
7 the County of Ventura.

8 **ALTER EGO, AGENCY, AND JOINT EMPLOYER**

9 10. PETRI owned and/or controlled the businesses operated by CLIMATE, and
10 furthermore, PETRI exercised control over the labor practices of each and every one of the
11 employees (inclusive of Plaintiff) of each and every one of their said interests, and caused the
12 violations at issue in this Complaint.

13 11. Based on the foregoing allegations, PETRI, in fact, caused violations at-issue in this
14 Complaint, thereby creating individual liability under Labor Code § 558.1.

15 12. Pursuant to the provisions of Labor Code § 558, the liability of PETRI would include
16 any and all amounts sufficient to recover any and all missed meal and rest break premiums and
17 unpaid wages to Plaintiff and the Class Members.

18 13. As further referenced herein below, the viability of obtaining liability of individuals by
19 this method was discussed by the California Supreme Court in *Reynolds v. Bement* (2005) 36 Cal.4th
20 1075, 1089 where the court noted that individual liability against non-employers could be obtained
21 through the use of § 558.

22 14. Plaintiff is informed and believes, and based thereon alleges, that there exists such a
23 unity of interest and ownership between CLIMATE, PETRI, and DOES 1-50 that the individuality
24 and separateness of defendants has ceased to exist.

25 15. Plaintiff is informed and believes, and based thereon alleges, that despite the
26 formation of purported corporate existence, CLIMATE, PETRI and DOES 1-50 are, in reality, one
27 and the same, including, but not limited to because:

28 a. CLIMATE is or was completely dominated and controlled by PETRI and DOES 1-50,

1 who personally committed the frauds and violated the laws as set forth in this complaint, and
2 who have hidden and currently hide behind CLIMATE to perpetrate frauds, circumvent
3 statutes, or accomplish some other wrongful or inequitable purpose.

4 b. PETRI and DOES 1-50 have acted on behalf of CLIMATE, who violate, or cause to
5 be violated, the provisions regulating minimum wages or hours and days of work in any order
6 of the Industrial Welfare Commission, or violate, or cause to be violated, California Labor
7 Code Sections 203, 226, 226.7, 510, 1194, 1197, or 2802.

8 c. PETRI and DOES 1-50 have acted on behalf of CLIMATE, who violate, or cause to
9 be violated, the provisions regulating meal and rest breaks in any order of the Industrial
10 Welfare Commission, or violate, or cause to be violated, California Labor Code Sections
11 226.7, and 512.

12 d. PETRI and DOES 1-50 have acted on behalf of CLIMATE, who violate, or cause to
13 be violated, the provisions regulating reimbursement of necessary business expenses in any
14 order of the Industrial Welfare Commission, or violate, or cause to be violated, California
15 Labor Code Sections 2802.

16 e. PETRI and DOES 1-50 derive actual and significant monetary benefits by and through
17 CLIMATE as the funding source for their own personal expenditures.

18 f. Plaintiff is informed and believes that PETRI, CLIMATE, and DOES 1-50, while
19 really one and the same, were segregated to appear as though separate and distinct for
20 purposes of perpetrating a fraud, circumventing a statute, or accomplishing some other
21 wrongful or inequitable purpose.

22 g. Plaintiff is informed and believes that CLIMATE does not or did not comply with all
23 requisite corporate formalities to maintain a legal and separate corporate existence.

24 h. Plaintiff is informed and believes, and based thereon alleges, that the business affairs
25 of PETRI, CLIMATE, and DOES 1-50 are, and at all times relevant were, so mixed and
26 intermingled that the same cannot reasonably be segregated, and the same are in inextricable
27 confusion.

28 i. CLIMATE is, and at all times relevant hereto was, used by PETRI and DOES 1-50 as

1 a mere shell and conduit for the conduct of certain of Defendants' affairs, and is, and was, the
2 alter ego of PETRI and DOES 1-50. The recognition of the separate existence of CLIMATE,
3 and/or PETRI would not promote justice, in that it would permit Defendants to insulate
4 themselves from liability to Plaintiffs for violations of the Labor Code. The corporate
5 existence of PETRI, CLIMATE, and DOES 1-50 should be disregarded in equity and for the
6 ends of justice because such disregard is necessary to avoid fraud and injustice to Plaintiff
7 herein.

8 16. Accordingly, CLIMATE constitutes the alter egos of PETRI and DOES 1-50, and the
9 fiction of their separate corporate existence must be disregarded.

10 17. As a result of the aforementioned facts, Plaintiff is informed and believes, and based
11 thereon alleges that CLIMATE, PETRI, and DOES 1-50 are Plaintiff's joint employers by virtue of a
12 joint enterprise, and that Plaintiff was an employee of CLIMATE, PETRI, and DOES 1-50. Plaintiff
13 performed services for each and every one of Defendants, and to the mutual benefit of all Defendants,
14 and all Defendants shared control of Plaintiff as an employee, either directly or indirectly, and the
15 manner in which Defendants' business was and is conducted.

16 **FACTUAL ALLEGATIONS**

17 18. Defendant CLIMATE is a roofing company with contracts all across California,
18 including Ventura, Orange, and Riverside Counties.

19 19. Defendants employed Plaintiff in the hourly, non-exempt job position of "Laborer" (or
20 similarly titled position). Plaintiff was initially hired by Defendants in or around April 2024, and
21 worked for Defendants until approximately August 26, 2024. Plaintiff worked at different sites but
22 alleges Defendants' primary workplace is located at 2590 Yucca Drive, Camarillo, California 93012.

23 20. Plaintiff's job duties included but were not limited to installing drywall, waterproofing
24 and painting homes. Plaintiff's schedule varied greatly but throughout his employment, Plaintiff
25 would work 12 to 13 hours a day and/or over 60 hours in a week regularly. Specifically, Plaintiff
26 would regularly work from 7:00 a.m. to 8:00 or 9:00 p.m. Plaintiff would sometimes stay as late as
27 11:00 p.m. Throughout their employment, Plaintiff and similarly aggrieved employees were required
28 to work "off the clock" at the end of their workday.

1 21. Despite the fact that Plaintiff and other non-exempt employees' regular shifts would
2 push Plaintiff and other non-exempt employees' total working hours to more than eight (8) hours a
3 day, Defendants did not properly compensate Plaintiff and the other non-exempt employees with
4 accurate overtime rates. Defendants had a payment model where Plaintiff and other non-exempt
5 employees would continue to work but not account for any overtime hours despite working over 12
6 hours a day. Any time worked over eight hours in a day was paid at Plaintiff and other aggrieved
7 employee's regular rates. Additionally, Plaintiff and other non-exempt employees would have to
8 continue working around an hour after clocking out to complete their duties.

9 22. As a result of Defendants' falsely reported meal periods and clock-out times,
10 Defendants failed to properly calculate Plaintiff's respective hours of pay for purposes of calculating
11 overtime compensation. As a result, Defendants failed to properly compensate Plaintiff at one and a
12 half times his respective regular rate of pay for hours worked in excess of eight hours per day and/or
13 40 hours per week, and therefore deprived Plaintiff of all overtime compensation.

14 23. Throughout their employment with Defendants, Plaintiff and other non-exempt
15 employees routinely worked for Defendants without being provided with proper thirty-minute timely
16 and uninterrupted, duty-free meal periods. Specifically, Plaintiff and other non-exempt employees
17 were pressured to be excessively productive at all times, and were told not to leave until all jobs were
18 finished, so Plaintiff and other non-exempt employees did not receive all meal breaks. Even if they
19 did happen to get a meal break, it would not last for the full 30 minutes before it was interrupted by
20 Plaintiff's supervisors.

21 24. Plaintiff and other non-exempt employees were not compensated for missed meal
22 periods despite never actually taking a meal break, resulting in many hours of off-the-clock work, and
23 falsely reported meal periods that were never provided.

24 25. Despite the aforementioned, during their employment with Defendants, Plaintiff and
25 the Class Members were not paid one (1) hour of pay at their regular rate of compensation as the
26 premium penalty under the California Labor Code for each workday where a legally compliant meal
27 period was not provided.
28

1 26. Additionally, throughout their employment with Defendants, Plaintiff and other non-
2 exempt employees worked for Defendants without being provided with a timely, off-duty ten-minute
3 paid rest period for every four (4) hours worked or major fraction thereof. Specifically, Plaintiff
4 would be unable to take any rest breaks due to Defendants' business practices and Defendants'
5 pressure for Plaintiff to be excessively productive at all times. Despite the aforementioned,
6 Defendants failed to provide and compensate Plaintiff for rest periods as required by the applicable
7 Wage Order and Labor Code section 226.2, nor have Defendants compensated Plaintiff pursuant to
8 Labor Code section 226.7 for their failure to provide "paid" rest periods.

9 27. As a result of Defendants' failure to pay all overtime wages, double-time wages, and
10 meal and rest period premiums, Defendants maintained inaccurate payroll records, issued inaccurate
11 wage statements to Plaintiff, and failed to pay Plaintiff and other aggrieved employees all wages due
12 upon their respective separation of employment with Defendants.

13 28. Defendant also failed to reimburse Plaintiff and similarly aggrieved employees for
14 their business expenses. Specifically, Plaintiff was charged for using Defendants' tools and car
15 despite being told by his foreman to use those for business purposes. Despite all of this, Defendants
16 did not once reimburse Plaintiff for any of his business expenses.

17 29. Defendants have engaged in, and continue to engage in, unfair business practices in
18 California by practicing, employing, and utilizing the employment practices and policies outlined
19 above. Defendants' utilization of such unfair business practices constitutes unfair competition and
20 provides an unfair advantage over Defendants' competitors. Defendants' utilization of such unfair
21 business practices deprives Plaintiff and other non-exempt employees of the general minimum
22 working standards and entitlements due to them under California law and the Industrial Welfare
23 Commission wage orders as described herein.

24 30. As a direct result of the wage and hour violations herein alleged, Plaintiff and the
25 other non-exempt employees have suffered, and continue to suffer, substantial losses related to the
26 use and enjoyment of wages, lost interest on such wages, and expenses and attorney's fees in seeking
27 to compel Defendants to fully perform their obligations under state law, all to their respective damage
28 in amounts according to proof at the time of trial.

1 **CLASS ACTION ALLEGATIONS**

2 31. Plaintiff brings this action as a class action on behalf of the following defined Class:

3 The Class: All individuals who have been, or currently are, employed by Defendants, and who
4 worked at least one shift in California as “non-exempt employees” during the Class Period.

5 32. “Class Period” is defined as the time from December 2, 2020, through the date that
6 judgment is entered, based upon information and belief that the violations, as described more fully
7 hereinafter, began long before December 2, 2020, and are continuing. Plaintiff and members of Class
8 herein reserve the right to amend this Complaint to reflect a different Class Period as discovery in this
9 matter proceeds.

10 33. Numerosity: Plaintiff is informed and believes, and on that basis alleges, that during
11 the Class Period, dozens of Class members have been employed by Defendants as non-exempt
12 employees in the State of California. Because so many persons have been employed by Defendants in
13 this capacity, the members of the Plaintiffs’ Class are so numerous that joinder of all members is
14 impossible and/or impracticable.

15 34. Commonality: Common questions of law, in fact, exist as to all members of the
16 Plaintiffs’ Class *and predominate over any questions affecting solely individual members of the*
17 *Plaintiffs’ Class. Among the questions of law and fact, that are relevant to the adjudication of Class*
18 *members claims are as follows:*

19 (a) Whether Defendants had/have policies and/or practices that result in hours worked not
20 being properly compensated;

21 (b) Whether Defendants had/have a policy and/or practice that results in the presentation
22 of inaccurate wage statements to Plaintiff and the Class;

23 (c) Whether Defendants unlawfully and/or willfully failed to furnish Plaintiff and Class
24 members with accurate, itemized wage statements upon payment of wages in violation of
25 Labor Code § 226;

26 (d) Whether Defendants unlawfully and/or willfully deprived Plaintiff and Class Members
27 of meal and rest breaks and pay for missed breaks pursuant to Labor Code §§ 200, 226.7, 512,
28 and 8 CCR § 11010;

1 (e) Whether Defendants unlawfully and/or willfully failed to reimburse Plaintiff and Class
2 members for necessary business expenses pursuant to Labor Code § 2802;

3 (f) Whether Plaintiff and Class members sustained damages, and if so, the proper
4 measure of such damages, as well as interest, penalties, costs, attorneys' fees, and equitable
5 relief; and,

6 (g) Whether Defendant violated the Unfair Competition Law of California, §17200, *et*
7 *seq.*, by violating the above-cited provisions, and treating Plaintiff and Class members
8 unfairly by failing to pay all wages due and for all hours worked; failing to provide meal and
9 rest breaks; failure to reimburse all necessary business expenses; and failing to furnish an
10 accurate, itemized wage statement upon payment of wages.

11 35. Typicality: Plaintiff's claims are typical of the members of the Plaintiff's Class.
12 Plaintiff, like other members of the Class working for Defendants in California, was subjected to
13 Defendants' policies and/or practices set forth above. Plaintiff's job duties were, and are, typical of
14 those of other Class members.

15 36. Adequacy of Representation: Plaintiff will fairly and adequately protect the interests
16 of the members of the Class and have retained counsel competent and experienced in both class
17 action and employment litigation.

18 37. Questions of law or fact common to Class members predominate over any questions
19 solely affecting individual Class members and class action is superior to other available methods for
20 the fair and efficient adjudication of this controversy.

21 38. Class action treatment will allow a large number of similarly situated Class members
22 to simultaneously and efficiently prosecute his common claims in a single forum without the needless
23 duplication of effort and expense that numerous individual actions would entail.

24 39. In addition, a class action will serve the important public interest of permitting Class
25 members harmed by Defendants' unlawful policies and/or practices to effectively pursue recovery of
26 the sums owed to them.

27 40. Plaintiff knows of no difficulty which will be encountered in the management of this
28 litigation which would preclude its maintenance as a class action.

1 **FIRST CAUSE OF ACTION**

2 **FAILURE TO COMPENSATE ALL HOURS WORKED IN VIOLATION OF THE**
3 **APPLICABLE INDUSTRIAL WELFARE COMMISSION ORDER AND CAL. LABOR CODE**
4 **§§ 200, 226, 500, 510, 1194, 1197, AND 1198**
5 **(BY PLAINTIFF AGAINST ALL DEFENDANTS)**

6 41. Plaintiff hereby re-alleges, and incorporates by reference as though set forth fully
7 herein, the allegations contained in all preceding paragraphs.

8 42. At all times relevant herein, Defendants were required to compensate its non-exempt
9 employees for all hours worked, pursuant to the applicable Industrial Welfare Commission Order,
10 and Labor Code §§ 200, 226, 500, 510, 1197, 1194 and 1198.

11 43. As alleged above, Plaintiff and the Class were not paid the correct wage for all hours
12 worked due to their not being paid premiums on any missed meal and rest breaks nor being paid their
13 overtime rates.

14 44. Under the aforementioned wage orders and regulations, Plaintiff and the Class are
15 entitled to recover compensation for all hours worked, but not paid, during the Class Period, plus
16 reasonable attorneys' fees and costs of suit pursuant to Labor Code §§ 218.5, 1194, and penalties
17 pursuant to Labor Code §§ 203 and 226.

18 45. In violation of state law, Defendants have knowingly and willfully refused to perform
19 their obligations to compensate Plaintiff and the Class for all wages earned and all hours worked. As
20 a direct result, Plaintiff and the Class have suffered, and continue to suffer, substantial losses related
21 to the use and enjoyment of such wages, lost interest on such wages, and expenses and attorneys' fees
22 in seeking to compel Defendants to fully perform their obligations under state law, all to their
23 respective damage in amounts according to proof at time of trial.

24 46. Plaintiff and the Class are thus entitled to recover nominal, actual and compensatory
25 damages in amount according to proof at time of trial, but in amounts in excess of the jurisdiction of
26 this Court.

27 47. As a proximate result of the aforementioned violations, Plaintiff and the Class have
28 been damaged in an amount according to proof at time of trial.

48. Defendants' conduct described herein violates the applicable Industrial Welfare Commission Order, and Labor Code §§ 200, 203, 218.5, 226, 558, 1194, and 1198. Therefore, pursuant to 8 CCR § 11010 and Labor Code §§ 203, 218.5, 226, 558, 1194 and 1198, Plaintiff and the Class are entitled to recover damages for the nonpayment of wages of all hours worked that were improperly deducted and/or not counted as a result of Defendants' policies, liquidated damages for underpayment of minimum wages, penalties, reasonable attorneys' fees, expenses, and costs of suit.

WHEREFORE, Plaintiff requests relief as hereinafter provided.

SECOND CAUSE OF ACTION

MISSED MEAL AND REST BREAKS IN VIOLATION OF

CAL. LABOR CODE §§ 200, 226.7, AND 512

(BY PLAINTIFF AGAINST ALL DEFENDANTS)

49. Plaintiff hereby re-alleges, and incorporates by reference as though set forth fully herein, the allegations contained in all preceding paragraphs.

50. Throughout the employment of Plaintiff and the Class, Defendants failed to provide all meal and rest breaks as required by law.

51. In addition, Defendants failed to pay Plaintiff and the Class the full statutory penalty for all missed meal and rest periods.

52. Plaintiff and the Class are entitled to recover additional compensation for all meal and rest periods that were missed, but not paid for during his employment, plus penalties pursuant to Labor Code §§ 226.7 and 558.

53. Defendants' conduct described herein violates the applicable Industrial Welfare Commission Order, Labor Code §§ 200, 226, 226.7, 512, 558, and 1198, and 12 California Code of Regulations § 11050.

54. As a proximate result of the aforementioned violations, Plaintiff and the Class have been damaged in an amount according to proof at time of trial and has suffered, and continue to suffer, substantial losses related to the use and enjoyment of such monies, and lost interest on such monies in seeking to compel Defendants to fully perform their obligation under state law. Plaintiff and the Class are thus entitled to recover nominal, actual, and compensatory damages in an amount

1 according to proof at time of trial.

2 WHEREFORE, Plaintiff requests relief as hereinafter provided.

3 **THIRD CAUSE OF ACTION**

4 **FAILURE TO PROVIDE PROPER WAGE STATEMENTS**

5 **IN VIOLATION OF CAL. LABOR CODE § 226**

6 **(BY PLAINTIFF AGAINST ALL DEFENDANTS)**

7 55. Plaintiff hereby re-alleges, and incorporates by reference as though set forth fully
8 herein, the allegations contained in all preceding paragraphs.

9 56. Labor Code §226(a) sets forth reporting requirements for employers when they pay
10 wages, as follows: "Every employer shall . . . at the time of each payment of wages, furnish his or her
11 employees . . . an itemized statement in writing showing (1) gross wages earned; (2) total hours
12 worked by the employee . . . (8) the name and address of the legal entity that is the employer..."

13 Section (e) provides: "An employee suffering injury as a result of a knowing and intentional
14 failure by an employer to comply with subdivision (a) shall be entitled to recover the greater of all
15 actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one
16 hundred dollars (\$100) per employee for each violation in a subsequent pay period, not exceeding an
17 aggregate penalty of four thousand dollars (\$4000), and shall be entitled to an award of costs and
18 reasonable attorneys' fees."

19 57. Defendants failed to accurately record the total wages due to Plaintiff and the Class,
20 and total wages due.

21 58. Plaintiff and the Class were damaged by this failure to provide accurate wage
22 statements because, among other things, Plaintiff was unable to determine the proper amount of
23 wages actually owed to him, and whether he had received full compensation therefore.

24 59. Plaintiff requests recovery of Labor Code § 226(e) penalties according to proof, as
25 well as interest, attorneys' fees and costs pursuant to Labor Code § 226(e), and all other damages,
26 attorneys' fees, costs, expenses and interest permitted by statute.

27 WHEREFORE, Plaintiff requests relief as hereinafter provided.

28 ///

FOURTH CAUSE OF ACTION
FAILURE TO PAY COMPENSATION UPON SEPARATION OF EMPLOYMENT IN
VIOLATION OF CAL. LABOR CODE § 201-203
(BY PLAINTIFF AGAINST ALL DEFENDANTS)

60. Plaintiff repeats and re-alleges the allegations set forth above and incorporates the same by reference as though fully set forth herein.

61. Labor Code § 201 provides, in relevant part, “[i]f an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately.”

62. Labor Code § 202 provides, in relevant part, “[i]f an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.”

63. Pursuant to Labor Code § 201, upon Class members’ separations, Defendants were required to pay all earned wages.

64. Defendants failed to compensate Class members their entitled wages by failing to compensate them for all hours worked including overtime, meal and rest premiums, and failing to provide wage statements reflecting the accurate number of hours worked per pay period. The Class members’ wages remained unpaid even after their separation from employment.

65. The Class Members are entitled to “waiting time” penalties under Labor Code § 203.

WHEREFORE, Plaintiff requests relief as hereinafter provided.

FIFTH CAUSE OF ACTION
FAILURE TO REIMBURSE BUSINESS EXPENSES
IN VIOLATION OF CAL. LABOR CODE § 2802
(By PLAINTIFF AGAINST ALL DEFENDANTS)

66. Plaintiff repeats and re-alleges the allegations set forth above and incorporates the same by reference as though fully set forth herein.

67. Labor Code § 2802 provides that “[a]n employer shall indemnify his or her employee

1 for all necessary expenditures or losses incurred by the employee in direct consequences of the
2 discharge of his or her duties.”

3 68. Plaintiff and the Class have incurred reasonable and necessary expenses in the course
4 of completing their job duties, including using their own tools and cars, which the expenses for were
5 never reimbursed by Defendants.

6 69. An employer that knows or has reason to know that an employee has incurred work-
7 related expenses must reimburse the employee, even if the employee does not request
8 reimbursement.

9 70. Plaintiff and the Class are entitled to reimbursement for these necessary expenditures,
10 plus interest and attorneys’ fees and costs, under Labor Code § 2802.

11 WHEREFORE, Plaintiff requests relief as hereinafter provided.

12 **SIXTH CAUSE OF ACTION**

13 **VIOLATIONS OF CAL. B&P CODE §§ 17200, *et seq.***

14 **(By PLAINTIFF AGAINST ALL DEFENDANTS)**

15 71. Plaintiff hereby re-alleges, and incorporates by reference as though set forth fully
16 herein, the allegations contained in all preceding paragraphs.

17 72. Section 17200 of the California Business and Professions Code prohibits any
18 unlawful, unfair or fraudulent business act or practice.

19 73. Plaintiff and the Class have suffered and continue to suffer injury in fact and monetary
20 damages as a result of Defendants’ actions. The actions by Defendants as herein alleged amount to
21 conduct which is unlawful and a violation of law. As such, said conduct amounts to unfair business
22 practices in violation of Business and Professions Code § 17200, *et seq.*

23 74. Defendants’ conduct as herein alleged has damaged Plaintiff and the Class by denying
24 their wages due and payable, by failing to provide meal and rest periods, by failing to reimburse his
25 business expenses, and by failing to provide proper wage statements. Defendants’ actions are thus
26 substantially injurious to Plaintiff and the Class causing them injury in fact and loss of money.

27 75. As a result of such conduct, Defendants have unlawfully and unfairly obtained monies
28 due to Plaintiff and the Class.

1 76. The amount of wages due Plaintiff and the Class can be readily determined from
2 Defendants' records. Plaintiff and the Class are entitled to restitution of monies due and obtained by
3 Defendants during the last four years as a result of Defendants' unlawful and unfair conduct.

4 77. Defendants' course of conduct, acts, and practices in violation of the California law as
5 mentioned in each paragraph above constitutes a separate and independent violation of § 17200 et
6 seq. of the Business and Professions Code.

7 78. The harm to Plaintiff and the Class of being wrongfully denied lawfully earned and
8 unpaid wages outweighs the utility, if any, of Defendants' policies and practices and, therefore,
9 Defendants' actions described herein constitute an unfair business practice or act within the meaning
10 of Business and Professions Code § 17200.

11 79. Defendants' conduct described herein threatens an incipient violation of California's
12 wage and hour laws, and/or violates the policy of such laws, or otherwise significantly threatens or
13 harms competition.

14 80. Defendants' course of conduct described herein further violates Business and
15 Professions Code 17200 in that it is fraudulent, improper, and unfair.

16 81. The unlawful, unfair, and fraudulent business practices and acts of Defendants as
17 described herein above have injured Plaintiff and the Class in that they were wrongfully denied the
18 timely and full payment of wages due to them.

19 WHEREFORE, Plaintiff requests relief as hereinafter provided.

20 **SEVENTH CAUSE OF ACTION**

21 **VIOLATION OF LABOR CODE §§ 2698, ET SEQ. ("PAGA")**

22 **(By PLAINTIFF AGAINST ALL DEFENDANTS)**

23 82. Plaintiff hereby re-alleges, and incorporates by reference as though set forth fully
24 herein, the allegations contained in all preceding paragraphs.

25 83. On September 24, 2024, Plaintiff filed a notice with the Labor Workforce and
26 Development Agency ("LWDA") at their website pursuant to the Private Attorney General Act,
27 California Labor Code §§ 2698, et seq. ("PAGA") regarding Defendants. This notice was also sent to
28 Defendants that same day via certified mail.

1 84. PAGA permits Plaintiff to recover civil penalties for the violation(s) of the Labor
2 Code sections enumerated in Labor Code section 2699.5.

3 85. PAGA provides as follows: “[n]otwithstanding any other provision of law, a Plaintiff
4 may as a matter of right amend an existing complaint to add a cause of action arising under this part
5 at any time within 60 days of the time periods specified in this part.”

6 86. Defendants’ conduct, as alleged herein, violates numerous sections of the California
7 Labor Code including, but not limited to, the following:

- 8 a. Defendants violated Labor Code §§ 226.7, 512, 516, 558 and 1198 by failing
9 to provide all legally required meal and rest period premiums to Plaintiff and
10 other similarly aggrieved employees;
- 11 b. Defendants violated Industrial Welfare Commission Order No. 9 and Labor
12 Code §§ 200, 226, 226.7, 500, 510, 1197, 1194, and 1198 by failing to pay
13 Plaintiff and similarly aggrieved employees for all hours worked;
- 14 c. Defendants violated Industrial Labor Code § 2802 by failing to reimburse
15 Plaintiff and similarly aggrieved employees for all necessary business expenses
16 incurred;
- 17 d. Defendants violated Labor Code § 226 by failing to provide Plaintiff and other
18 similarly aggrieved employees with accurate and compliant itemized wage
19 statements; and
- 20 e. Defendants violated Labor Code §§ 201-203 by failing to timely pay all final
21 wages due.

22 87. California Labor Code section 1174 provides that “[e]very person employing labor in
23 this state shall ... [k]eep a record showing the names and addresses of all employees employed and
24 the ages of all minors” and “[keep, at a central location in the state or at the plants or establishments
25 at which employees are employed, payroll records showing the hours worked daily by and the wages
26 paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees
27 employed at the respective plants or establishments...”
28

1 88. California Labor Code section 210 provides: “In addition to, and entirely independent
2 and apart from, any other penalty provided in this article, every person who fails to pay the wages of
3 each employee as provided in Sections 201.3, 204, 204b, 204.1, 204.2, 205, 205.5, and 1197.5, shall
4 be subject to a civil penalty as follows: (1) For any initial violation, one hundred dollars (\$100) for
5 each failure to pay each employee. (2) For each subsequent violation, or any willful or
6 intentional violation, two hundred dollars (\$200) for each failure to pay each employee, plus 35
7 percent of the amount unlawfully withheld.”

8 89. Labor Code section 558(a) provides “[a]ny employer or other person acting on behalf
9 of an employer who violates, or causes to be violated, a section of this chapter or any provision
10 regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject
11 to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid
12 employee for each pay period for which the employee was underpaid in addition to an amount
13 sufficient to recover underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100)
14 for each underpaid employee for each pay period for which the employee was underpaid in addition
15 to an amount sufficient to recover underpaid wages. (3) Wages recovered pursuant to this section
16 shall be paid to the affected employee.” Labor Code section 558(c) provides “[t]he civil penalties
17 provided for in this section are in addition to any other civil or criminal penalty provided by law.”

18 90. Defendants, at all times relevant to this complaint, were employers or persons acting
19 on behalf of an employer(s) who violated Plaintiff’s rights by violating various sections of the
20 California Labor Code as set forth above.

21 91. As set forth above, Defendants have violated numerous provisions of both the Labor
22 Code sections regulating hours and days of work as well as the applicable order of the IWC.
23 Accordingly, Plaintiff seek the remedies set forth in Labor Code section 558 for himself, the State of
24 California, and all other aggrieved employees.

25 92. Pursuant to PAGA, and in particular California Labor Code sections 2699(a), 2699.3,
26 2699.5, Plaintiff, acting in the public interest as a private attorney general, seeks assessment and
27 collection of unpaid wages and civil penalties for Plaintiff, all other aggrieved employees, and the
28 State of California against Defendant, in addition to other remedies, for violations of California Labor

Code sections 200, 201, 202, 203, 204, 210, 221, 224, 226(a), 510, 1174, 1194, 1197, 1197.1, 1198, and 2802.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment as follows:

1. For nominal damages;
2. For compensatory damages;
3. For equitable relief in the nature of declaratory relief, restitution of all monies due to Plaintiff, and disgorgement of profits from the unlawful business practices of Defendants, and accounting;
4. For penalties permitted by Labor Code §§ 200, 201, 202, 203, 226, 226.7, 510, 512, 558, 1194, 1194.2, 1197, 1197.1, 1198, 2802, and all other applicable sections;
5. For civil penalties due to Plaintiff, other aggrieved employees, and the State of California according to proof pursuant to Labor Code § 2699(a) including, but not limited to: (1) \$100.00 for each initial violation for each failure to pay each employee and \$200.00 for each subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 35% of the amount unlawfully withheld; (2) \$250.00 for each initial violation and \$1,000.00 for each subsequent violation pursuant to Labor Code § 226.3 per employee per pay period; and/or (3) \$100.00 for each initial violation and \$200.00 for each subsequent violation per employee per pay period for those violations of the Labor Code for which no civil penalty is specifically provided;
6. For interest accrued to date;
7. For costs of suit and expenses incurred herein pursuant to Labor Code §§ 226 and 1194;
8. For reasonable attorneys' fees pursuant to Labor Code §§ 218.6, 226, 226.7, and 1194;
9. For all such other and further relief that the Court may deem just and proper.

1 DATED: December 2, 2024

2 **LOYR, APC**

3 

4 By: _____

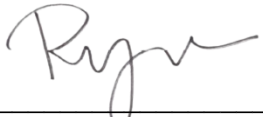
5 Young W. Ryu, Esq.
6 Zachariah E. Moura, Esq.
7 Kee S. Mah, Esq.
8 Harley M. Phleger, Esq.
9 Attorneys for Plaintiff
10 JOSUE CIFUENTES
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury for themselves on all claims so triable.

DATED: December 2, 2024

LOYR, APC

By: 

Young W. Ryu, Esq.
Zachariah E. Moura, Esq.
Kee S. Mah, Esq.
Harley M. Phleger, Esq.
Attorneys for Plaintiff
JOSUE CIFUENTES