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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF KERN

GUADALUPE DAVILA, as an individual and
on behalf of all others similarly situated,

Plaintiff,

vs.

MMI SERVICES, INC., a California
corporation; and DOES 1 through 100, inclusive

Defendants.

Case No.: BCV-24-103747

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

- (1) FAILURE TO PAY ALL OVERTIME
WAGES (LABOR CODE §§ 204, 510,
558, 1194, 1198);**
- (2) MINIMUM WAGE VIOLATIONS
(LABOR CODE §§ 1182.12, 1194,
1194.2, 1197);**
- (3) MEAL PERIOD VIOLATIONS
(LABOR CODE §§ 226.7, 512, 558);**
- (4) REST PERIOD VIOLATIONS
(LABOR CODE §§ 226.7, 516, 558);**
- (5) FAILURE TO REIMBURSE
NECESSARY BUSINESS
EXPENDITURES (LABOR CODE §§
2802, 2804);**
- (6) WAGE STATEMENT VIOLATIONS
(LABOR CODE § 226 *et seq.*);**
- (7) WAITING TIME PENALTIES
(LABOR CODE §§ 201-203);**
- (8) UNFAIR COMPETITION (BUS &
PROF CODE § 17200 *et seq.*); and**

1 (9) CIVIL PENALTIES UNDER THE
2 PRIVATE ATTORNEYS GENERAL
3 ACT (LABOR CODE § 2698 *et seq.*)

4 DEMAND FOR JURY TRIAL
5 UNLIMITED CIVIL CASE

6 Plaintiff Guadalupe Davila (“Plaintiff”) on behalf of himself and all others similarly
7 situated, hereby brings this First Amended Class and Representative Action Complaint against
8 Defendant MMI Services, Inc., a California corporation, and DOES 1 to 100, inclusive
(collectively “Defendants”), and on information and belief alleges as follows:

9 **JURISDICTION**

10 1. Plaintiff, on behalf of himself and all others similarly situated, hereby brings this
11 action for recovery of unpaid wages and penalties under California Labor Code sections 201-204,
12 226 *et seq.*, 226.7, 510, 512, 516, 558, 1182.12, 1194, 1194.2, 1197, 1198, 2802, 2804, and 2698
13 *et seq.*, California Business and Professions Code section 17200 *et. seq.*, and Industrial Welfare
14 Commission Wage Order 16 (“Wage Order 16”), in addition to seeking declaratory relief and
15 restitution. This action is brought pursuant to California Code of Civil Procedure section 382.
16 This Court has jurisdiction over Defendants’ violations of the California Labor Code because the
17 amount in controversy exceeds this Court's jurisdictional minimum.

18 **VENUE**

19 2. Venue is proper in this judicial district pursuant to California Code of Civil
20 Procedure sections 395(a) and 395.5, as at least some of the acts and omissions complained of
21 herein occurred in the County of Kern. Defendants transact business within the County of Kern
22 and/or otherwise are found within the County of Kern, and Defendants are within the jurisdiction
23 of this Court for purposes of service of process.

24 **PARTIES**

25 3. Plaintiff is an individual over the age of eighteen (18). At all relevant times herein,
26 Plaintiff was and currently is, a California resident living within Kern County. During the four
27 years immediately preceding the filing of this action and within the statute of limitations periods
28 applicable to each cause of action pled herein, Plaintiff was employed by Defendants as a non-

1 exempt employee. Plaintiff was, and is, a victim of Defendants' policies and/or practices
2 complained of herein, lost money and/or property, and has been deprived of the rights guaranteed
3 by Labor Code §§ 201-204, 226 *et seq.*, 226.7, 510, 512, 516, 558, 1182.12, 1194, 1194.2, 1197,
4 1198, 2802, 2804, and 2698 *et seq.*, California Business and Professions Code § 17200 *et seq.*
5 ("Unfair Competition Law"), and Wage Order 16, which sets employment standards for the
6 drilling industry.

7 4. Plaintiff is informed and believes, and based thereon alleges, that during the four
8 years preceding the filing of this action and continuing to the present, Defendants did (and
9 continue to do) business within the County of Kern and the State of California by operating a
10 company specializing in oil well servicing, and therefore, were (and are) doing business in the
11 County of Kern and the State of California.

12 5. Plaintiff does not know the true names or capacities, whether individual, partner,
13 or corporate, of the defendants sued herein as DOES 1 to 100, inclusive, and for that reason, said
14 defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to
15 further amend this Complaint when such true names and capacities are discovered. Plaintiff is
16 informed, and believes, and based thereon alleges, that each of said fictitious defendants, whether
17 individual, partners, or corporate, were responsible in some manner for the acts and omissions
18 alleged herein, and proximately caused Plaintiff and the Classes (as defined herein) to be subject
19 to the unlawful employment practices, wrongs, injuries and damages complained of herein.

20 6. Plaintiff is informed and believes, and based thereon alleges, that at all times
21 mentioned herein, Defendants were and are the employers of Plaintiff and all members of the
22 Classes.

23 7. At all times herein mentioned, each of said Defendants participated in the doing
24 of the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the
25 Defendants, and each of them, were the agents, servants, and employees of each and every one of
26 the other Defendants, as well as the agents of all Defendants, and at all times herein mentioned
27 were acting within the course and scope of said agency and employment. Defendants, and each
28

1 of them, approved of, condoned, and/or otherwise ratified each and every one of the acts or
2 omissions complained of herein.

3 8. At all times mentioned herein, Defendants, and each of them, were members of
4 and engaged in a joint venture, partnership, and common enterprise, and acting within the course
5 and scope of and in pursuance of said joint venture, partnership, and common enterprise. Further,
6 Plaintiff alleges that all Defendants were joint employers for all purposes of Plaintiff and all
7 members of the Classes.

8 **GENERAL FACTUAL ALLEGATIONS**

9 9. Defendants operate an oil well servicing company specializing in completions,
10 workovers, abandonments, and production work for large oil companies, small independent oil
11 producers, and the State of California. Plaintiff was employed by Defendants as a non-exempt
12 “Vac Truck Driver” from approximately February 2024 to September 2024. Plaintiff’s primary
13 job duties included servicing and repairing oil wells, working entirely outdoors.

14 10. During Plaintiff’s employment with Defendants, Defendants failed to compensate
15 Plaintiff and other non-exempt employees for all hours actually worked, resulting in unpaid
16 minimum wages and additional unpaid overtime wages. Specifically, Plaintiff’s supervisors
17 required Plaintiff to perform work at the end of each shift after directing Plaintiff to clock out.
18 Defendants also required non-exempt employees, including Plaintiff, under threat of reprisal, to
19 clock out for a meal prior to the end of the fifth and tenth hours of work, regardless of whether
20 they were actually provided with a meal period. As such, Defendants regularly, systematically,
21 and impermissibly required Plaintiff and other non-exempt employees to perform off the clock
22 work. Due to Defendants’ timekeeping policies and practices that fail to compensate for all hours
23 worked, Plaintiff and other non-exempt employees were deprived of all required minimum wages.
24 Further, on occasions when Plaintiff worked over eight hours in a day and/or forty hours in a
25 workweek, this policy requiring off the clock work also deprived him of all overtime wages owed.
26 As such, Plaintiff and other non-exempt employees were not credited with all hours actually
27 worked and were not paid all minimum and overtime wages earned.

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1 11. Defendants also failed to provide Plaintiff and other non-exempt employees with
2 all legally-compliant meal periods due to Defendants' unlawful meal period policies/practices
3 that failed to provide timely, duty-free 30-minute meal periods. As stated, Defendants mandated
4 that non-exempt employees, including Plaintiff, clock out for a meal prior to the end of the fifth
5 and tenth hours of work, regardless of whether they were actually provided with a meal period.
6 Defendants did not provide Plaintiff and other non-exempt employees with meal periods prior to
7 the end of the fifth hour of work and often distributed work assignments such that Plaintiff and
8 other non-exempt employees would have to shorten or forego their meal periods altogether.
9 Moreover, Defendants frequently interrupted Plaintiff and other non-exempt employees during
10 meal periods with instructions for work-related tasks that were to be completed immediately,
11 requiring Plaintiff and other non-exempt employees to end their meal periods early. As a result,
12 Defendants failed to provide duty-free meal periods. On occasions when Plaintiff and other non-
13 exempt employees were not provided with all lawful meal periods to which they were entitled,
14 Defendants failed to pay Plaintiff and other non-exempt employees an additional hour of premium
15 pay at their respective regular rates of pay for each workday in which a meal period violation
16 occurred, as required by Labor Code section 226.7. Upon information and belief, Defendants
17 failed to maintain pay codes for the payment of meal period premium payments as required by
18 Labor Code section 226.7.
19

20 12. Plaintiff was not authorized and permitted to take a duty free, ten-minute rest
21 period for every 4 hours worked (or major fraction thereof) due to Defendants' rest period
22 policies/practices. Specifically, Defendants did not authorize and permit *any* duty-free rest
23 periods regardless of shift length. Defendants also failed to provide Plaintiff and other non-exempt
24 employees with an additional hour of premium pay for each workday in which a rest period
25 violation occurred, as required by Labor Code § 226.7.
26

27 13. Additionally, Defendants required Plaintiff and other non-exempt employees to
28 use their personal cell phones to communicate throughout the day with supervisors about their
work duties. Despite requiring Plaintiff and other non-exempt employees to utilize their personal

cell phones for work purposes, Defendants failed to reimburse these non-exempt employees for all necessary business expenses associated with using their personal cell phones, in violation of Labor Code § 2802 and Wage Order 16. Upon information and belief, Defendants failed to maintain any policy for reimbursing employees for work-related expenses.

14. Defendants have failed to implement any meaningful heat illness prevention systems or policies, including failing to provide drinking water or shade to its employees, consistent with industry-wide standards for the nature of the work performed. Specifically, Plaintiff's job duties required that he work outside in temperatures of over 100 degrees Fahrenheit while performing manual labor. Defendants required that Plaintiff and other non-exempt employees supply their own drinking water during their shifts, and when Plaintiff complained about a lack of shade, he was told by Defendants that if he needed shade, he could go to his company-provided truck, which did not have any air conditioning and would therefore be even hotter than remaining outside. These practices are in violation of Cal. Code Regs. tit. 8, § 3395, and Labor Code § 6721.

15. As a result of Defendants' failure to pay all overtime wages, minimum wages, and meal and rest period premium wages owed, Defendants also maintained inaccurate payroll records and issued inaccurate wage statements to Plaintiff and other non-exempt employees, and failed to pay all final wages owed to non-exempt employees upon their respective separations of employment.

CLASS ACTION ALLEGATIONS

16. **Class Definitions:** Plaintiff brings this action on behalf of himself and the following Classes pursuant to section 382 of the Code of Civil Procedure:

- a. The Overtime Class consists of consists of all Defendants' current and former non-exempt employees in California who worked more than 8.0 hours per day and/or 40.0 hours per workweek and were subject to Defendants' timekeeping policies and/or practices for non-exempt employees, during the four years immediately preceding the filing of this action through the present.

- 1 b. The Minimum Wage Class consists of all of Defendants' current and former non-
2 exempt employees in California who were subject to Defendants' timekeeping
3 policies and/or practices for non-exempt employees, during the four years
4 immediately preceding the filing of this action through the present.
- 5 c. The Meal Period Class consists of all Defendants' current and former non-exempt
6 employees in California who worked at least one shift in excess of 5.0 hours during
7 the four years immediately preceding the filing of this action through the present.
- 8 d. The Rest Period Class consists of all Defendants' current and former non-exempt
9 employees in California who worked at least one shift in excess of 3.5 hours,
10 during the four years immediately preceding the filing of this action through the
11 present.
- 12 e. The Reimbursement Class consists of all Defendants' current and former non-
13 exempt employees in California who were required to purchase water and/or use
14 a personal cellular phone for work-related purposes without reimbursement,
15 during the four years immediately preceding the filing of this action through the
16 present.
- 17 f. The Wage Statement Class consists of all members of the Overtime Class,
18 Minimum Wage Class, Meal Period Class, and/or Rest Period Class, who received
19 a wage statement from Defendants during the one year immediately preceding the
20 filing of this action through the present;
- 21 g. The Waiting Time Class consists of all members of the Overtime Class, Minimum
22 Wage Class, Meal Period Class, and/or Rest Period Class, who separated their
23 employment with Defendants during the three years immediately preceding the
24 filing of this action through the present.

25 17. **Numerosity/Ascertainability:** The members of the Classes are so numerous that
26 joinder of all members would be unfeasible and not practicable. The membership of the Classes
27 is unknown to Plaintiff at this time; however, it is estimated that the members of the Classes
28

number greater than one hundred (100) individuals. The identity of such membership is readily ascertainable via inspection of Defendants' employment records.

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

- i. Whether Defendants violated the applicable Labor Code provisions, including, but not limited to, sections 510 and 1194 by requiring members of the Overtime Class to perform overtime work and not paying for said work in accordance with the overtime laws of the State of California;
- ii. Whether Defendants paid all minimum wages owed for all hours worked to members of the Minimum Wage Class pursuant to Labor Code sections 1182.12, 1194, 1194.2 and 1197;
- iii. Whether Defendants' timekeeping policies/practices resulted in the failure to properly compensate members of the Overtime Class and/or Minimum Wage Class;
- iv. Whether Defendants provided all legally compliant meal periods to members of the Meal Period Class pursuant to Labor Code sections 226.7 and 512;
- v. Whether Defendants authorized and permitted all lawful rest periods to members of the Rest Period Class pursuant to Labor Code sections 226.7 and 516;
- vi. Whether Defendants correctly paid meal and/or rest period premium payments for non-compliant meal and/or rest periods pursuant to Labor Code section 226.7;
- vii. Whether Defendants failed to reimburse members of the Reimbursement Class for all necessary business expenses incurred pursuant to Labor Code sections 2802 and 2804;
- viii. Whether Defendants furnished legally compliant wage statements to members of the Wage Statement Class pursuant to Labor Code section 226; and

ix. Whether Defendants paid all wages/compensation due upon separation to members of the Waiting Time Class pursuant to Labor Code sections 201-203.

19. **Predominance of Common Questions:** Common questions of law and fact predominate over questions that affect only individual members of the Classes. The common questions of law set forth above are numerous and substantial and stem from Defendants' policies and/or practices applicable to each individual class member, such as Defendants' uniform timeclock policies/practices, meal and rest period policies/practices, and reimbursement policies/practices. As such, common questions predominate over individual questions concerning each individual class member's showing as to their eligibility for recovery or as to the amount of their damages.

20. **Typicality:** Plaintiff's claims are typical of the claims of the Classes because Plaintiff was employed by Defendants as a non-exempt employee in California during the statute(s) of limitations period applicable to each cause of action pled in the action. As alleged herein, Plaintiff, like the members of the Classes, was deprived of all overtime and minimum wages owed, was not provided all required meal periods, was not authorized and permitted to take all required rest periods, did not receive meal and rest period premium wages at his regular rate of pay for missed or non-compliant meal and rest periods, was not reimbursed for all necessary business expenses, was not provided with accurate, itemized wage statements, and did not receive all final wages owed at the time of his separation of employment.

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

22. **Superiority:** The California Labor Code is broadly remedial in nature and serves an important public interest in establishing minimum working conditions and standards in California. These laws and labor standards protect the average working employee from

1 exploitation by employers who have the responsibility to follow the laws and who may seek to
2 take advantage of superior economic and bargaining power in setting onerous terms and
3 conditions of employment. The nature of this action and the format of laws available to Plaintiff
4 and members of the Classes make the class action format a particularly efficient and appropriate
5 procedure to redress the violations alleged herein. If each employee were required to file an
6 individual lawsuit, Defendants would necessarily gain an unconscionable advantage since they
7 would be able to exploit and overwhelm the limited resources of each individual plaintiff with
8 their vastly superior financial and legal resources. Moreover, requiring each member of the
9 Classes to pursue an individual remedy would also discourage the assertion of lawful claims by
10 employees who would be disinclined to file an action against their former and/or current employer
11 for real and justifiable fear of retaliation and permanent damages to their careers at subsequent
12 employment. Further, the prosecution of separate actions by the individual class members, even
13 if possible, would create a substantial risk of inconsistent or varying verdicts or adjudications
14 with respect to the individual class members against Defendants herein; and which would
15 establish potentially incompatible standards of conduct for Defendants; and/or legal
16 determinations with respect to individual class members which would, as a practical matter, be
17 dispositive of the interest of the other class members not parties to adjudications or which would
18 substantially impair or impede the ability of the class members to protect their interests. Further,
19 the claims of the individual members of the Classes are not sufficiently large to warrant vigorous
20 individual prosecution considering all of the concomitant costs and expenses attending thereto.
21 As such, the Classes identified herein are maintainable as a Class under section 382 of the Code
22 of Civil Procedure.

23 **FIRST CAUSE OF ACTION**

24 **FAILURE TO PAY ALL OVERTIME WAGES**

25 **(AGAINST ALL DEFENDANTS)**

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

27 24. This cause of action is brought pursuant to Labor Code §§ 204, 510, 558, 1194,
28 and 1198, which provide that non-exempt employees are entitled to overtime wages for all

overtime hours worked and provide a private right of action for the failure to pay all overtime compensation for overtime work performed.

25. At all times relevant herein, Defendants were required to properly pay Plaintiff and members of the Overtime Class for all overtime hours worked pursuant to California Labor Code § 1194 and Wage Order 16. Wage Order 16, § 3 requires an employer to pay an employee “one and one-half (1½) times the employee’s regular rate of pay for all hours worked in excess of eight (8) hours” per work day and/or in excess of 40 hours of work in the workweek. Wage Order 16, § 3 also requires an employer to pay an employee double the employee’s regular rate of pay for work in excess of twelve hours each work day and/or for work in excess of 8 hours on the seventh consecutive day of work in the workweek.

26. At all times relevant herein, Defendants caused Plaintiff and other non-exempt employees to work overtime hours but did not compensate Plaintiff or members of the Overtime Class at one and one-half times their regular rate of pay for such hours. Defendants also caused Plaintiff and the members of the Overtime Class to work in excess of twelve hours in a workday but did not properly compensate Plaintiff and the members of the Overtime Class at double their regular rate of pay for all such hours.

27. The foregoing policies and practices are unlawful and create entitlement to recovery by Plaintiff and the Overtime Class in a civil action for the unpaid amount of overtime premiums owing, including interest thereon, statutory and civil penalties, attorney’s fees, and costs of suit according to California Labor Code §§ 204, 510, 558, 1194, and 1198, Wage Order 16, and Code of Civil Procedure § 1021.5.

SECOND CAUSE OF ACTION

MINIMUM WAGE VIOLATIONS

(AGAINST ALL DEFENDANTS)

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

29. Wage Order 16, § 4 and California Labor Code §§ 1197 and 1182.12 establish the right of employees to be paid minimum wages for all hours worked, in amounts set by state law. Labor Code §§ 1194(a) and 1194.2(a) provide that an employee who has not been paid the legal

1 minimum wage as required by Labor Code § 1197 may recover the unpaid balance together with
2 attorneys' fees and costs of suit, as well as liquidated damages in an amount equal to the unpaid
3 wages and interest accrued thereon.

4 30. At all relevant times herein, Defendants failed to conform their pay practices to
5 the requirements of the law by failing to pay Plaintiff and members of the Minimum Wage Class
6 for all hours worked including, but not limited to, all hours they were subject to the control of
7 Defendants and/or suffered or permitted to work under the California Labor Code and Wage
8 Order 16.

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

14 32. As a direct and proximate result of Defendants' unlawful conduct as alleged
15 herein, Plaintiff and the Minimum Wage Class have sustained economic damages including, but
16 not limited to, unpaid wages and lost interest, in an amount to be established at trial, and are
17 entitled to recover economic and statutory damages and penalties and other appropriate relief as
18 a result of Defendants' violations of the California Labor Code and Wage Order 16.

19 33. The foregoing practices and policies are unlawful and create an entitlement to
20 recovery by Plaintiff and the members of the Minimum Wage Class in a civil action for the unpaid
21 amount of minimum wages owing, including interest thereon, liquidated damages, statutory and
22 civil penalties, attorney's fees, and costs of suit according to California Labor Code §§ 204, 558,
23 1194, 1197, and 1198, Wage Order 16, and Code of Civil Procedure § 1021.5.

24 **THIRD CAUSE OF ACTION**

25 **MEAL PERIOD VIOLATIONS**

26 **(AGAINST ALL DEFENDANTS)**

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

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1 35. Plaintiff is informed and believes, and based thereon alleges, that Defendants
2 failed in their affirmative obligation to provide all of their non-exempt employees in California,
3 including Plaintiff and members of the Meal Period Class, with all legally compliant meal periods
4 in accordance with the mandates of the California Labor Code and Wage Order 16, § 10, for the
5 reasons set forth in the factual allegations and class definitions sections of this Complaint. Despite
6 Defendants' violations, Defendants did not pay an additional hour of premium pay to Plaintiff
7 and members of the Meal Period Class at their respective regular rates of pay, in accordance with
8 California Labor Code §§ 226.7 and 512.

9 36. As a result, Defendants are responsible for paying premium compensation for meal
10 period violations, including interest thereon, statutory penalties, civil penalties, and costs of suit,
11 pursuant to Labor Code §§ 226.7, 512, and 558, Wage Order 16, and Code of Civil Procedure §
12 1021.5.

13 **FOURTH CAUSE OF ACTION**

14 **REST PERIOD VIOLATIONS**

15 **(AGAINST ALL DEFENDANTS)**

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

17 38. Wage Order 16, § 11 and Labor Code §§ 226.7 and 516 establish the right of
18 employees to be provided with a rest period of at least ten (10) minutes for each four (4) hour
19 period worked, or major fraction thereof.

20 39. As alleged herein, and due to Defendants' unlawful rest period policies and/or
21 practices, Defendants failed to authorize and permit Plaintiff and members of the Rest Period
22 Class to take all paid rest periods to which they were legally entitled. Despite Defendants'
23 violations, Defendants failed to pay an additional hour of premium pay to Plaintiff and members
24 of the Rest Period Class at their respective regular rates of pay for each violation, as required by
25 California Labor Code § 226.7.

26 40. The foregoing violations create an entitlement to recovery by Plaintiff and
27 members of the Rest Period Class in a civil action for the unpaid amount of rest period premiums
28

owing, including interest thereon, statutory penalties, civil penalties, and costs of suit according to Labor Code §§ 226.7, 516, and 558, Wage Order 16, and Code of Civil Procedure § 1021.5.

FIFTH CAUSE OF ACTION

FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENSES

(AGAINST ALL DEFENDANTS)

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

42. At all relevant times herein, Defendants were subject to Labor Code section 2802, which states that “an employer shall indemnify his or her employees for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer.”

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

44. As alleged herein, due to Defendants’ unlawful reimbursement practices, Defendants failed to indemnify Plaintiff and the members of the Reimbursement Class for all necessary business expenses incurred, including, among other things, personal cell phone usage and potable water.

45. As a proximate result of Defendants’ policies and/or practices in violation of Labor Code sections 2802, 2804, and Wage Order 16, Plaintiff and members of the Reimbursement Class are entitled to damages, attorneys’ fees and costs of suit, and interest thereon, in sums to be shown according to proof at trial, pursuant to Labor Code section 2802.

SIXTH CAUSE OF ACTION

WAGE STATEMENT VIOLATIONS

(AGAINST ALL DEFENDANTS)

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

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1 47. Plaintiff is informed and believes, and based thereon alleges, that Defendants
2 knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Plaintiff
3 and members of the Wage Statement Class with complete and accurate wage statements that
4 included, among other requirements, all hours worked, all overtime and minimum wages earned,
5 total gross wages earned, all rates of pay, and total net wages earned, in violation of Labor Code
6 § 226 *et seq.*

7 48. Defendants' failure to furnish Plaintiff and members of the Wage Statement Class
8 with complete and accurate, itemized wage statements resulted in actual injury, as said failures
9 led to, among other things, the non-payment of all overtime and minimum wages owed, and meal
10 and rest period premium wages owed, and deprived them of the information necessary to identify
11 the discrepancies in Defendants' reported data.

12 49. Defendants' failures create an entitlement to recovery by Plaintiff and members of
13 the Wage Statement Class in a civil action for damages and/or penalties pursuant to Labor Code
14 § 226 *et seq.*, including statutory penalties, civil penalties, reasonable attorneys' fees, and costs
15 of suit according to California Labor Code § 226 *et seq.*

16 **SEVENTH CAUSE OF ACTION**

17 **WAITING TIME PENALTIES**

18 **(AGAINST ALL DEFENDANTS)**

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

20 51. This cause of action is brought pursuant to Labor Code §§ 201-203, which require
21 an employer to pay all wages earned immediately at the time of separation of employment in the
22 event the employer discharges the employee, or if the employee provides at least 72 hours of
23 notice of his/her intent to quit. In the event the employee provides less than 72 hours of notice of
24 his/her intent to quit, said employee's wages become due and payable not later than 72 hours upon
25 said employee's last date of employment.

26 52. Plaintiff is informed and believes, and based thereon alleges, that Defendants
27 failed to timely pay members of the Waiting Time Class all final wages due to them at the time
28 of their separation including, among other things, underpaid overtime and minimum wages owed,

1 and meal and rest period premium wages. Further, Plaintiff is informed and believes, and based
2 thereon alleges, that as a matter of uniform policy and practice, Defendants continue to fail to pay
3 members of the Waiting Time Class all earned wages at the end of employment in a timely manner
4 pursuant to the requirements of Labor Code §§ 201-203. Defendants' failure to pay all final wages
5 was willful within the meaning of Labor Code § 203.

6 53. Defendants' willful failure to timely pay Plaintiff and members of the Waiting
7 Time Class all earned wages upon separation from employment results in a continued payment
8 of wages up to thirty (30) days from the time the wages were due. Therefore, Plaintiff and
9 members of the Waiting Time Class are entitled to compensation pursuant to Labor Code § 203,
10 plus reasonable attorneys' fees and costs of suit.

11 **EIGHTH CAUSE OF ACTION**

12 **UNFAIR COMPETITION**

13 **(AGAINST ALL DEFENDANTS)**

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

15 55. Defendants have engaged and continue to engage in unfair and/or unlawful
16 business practices in California in violation of California Business and Professions Code § 17200
17 *et seq.* by, amongst other things, failing to pay Plaintiff and the Classes all overtime and minimum
18 wages owed; failing to pay all required meal and rest period premium wages owed; failing to
19 reimburse for all necessary business expenses incurred; knowingly failing to furnish complete
20 and accurate, itemized wage statements; and failing to pay all final wages at the time of separation
21 from employment.

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

27 57. Because Plaintiff is a victim of Defendants' unfair and/or unlawful conduct alleged
28 herein, Plaintiff, for himself and on behalf of the members of the Classes, seeks full restitution of

monies as necessary and according to proof to restore any and all monies withheld, acquired and/or converted by Defendants pursuant to Business and Professions Code §§ 17203 and 17208.

58. The acts complained of herein occurred within the last four years immediately preceding the filing this action.

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

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

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

61. Defendants have committed several Labor Code violations against Plaintiff, members of the Classes, and other aggrieved employees. Plaintiff, an "aggrieved employee" within the meaning of Labor Code § 2698 *et seq.*, acting on behalf of himself and other aggrieved employees, brings this representative action against Defendants to recover the civil penalties due to Plaintiff, the members of the Classes, other aggrieved employees, and the State of California according to proof pursuant to Labor Code §§ 558 and 2699 (a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for each failure to pay each employee and \$200 for each subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100 for each subsequent violation pursuant to Labor Code § 558 per employee pay period; (3) \$100.00 for each initial violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per employee per pay period; (4) \$250.00 for each initial violation and \$1,000.00 for each subsequent violation pursuant to Labor Code § 226.3 per employee per pay period; and/or (5) \$100.00 for each initial violation and \$200 for each

subsequent violation per employee per pay period for those violations of the Labor Code for which no civil penalty is specifically provided, based on the following Labor Code violations:

- a. Failing to pay Plaintiff and other aggrieved employees all overtime compensation earned Defendants in violation of Labor Code §§ 204, 510, 558, 1194, and 1198;
- b. Failing to pay Plaintiff and other aggrieved employees the statutory minimum wage for all hours worked in violation of Labor Code §§ 1182.12, 1194, 1194.2, and 1197;
- c. Failing to provide meal periods as required by law and failing to pay meal period premiums to Plaintiff and other aggrieved employees at these employees' respective regular rates of compensation for meal period violations in violation of Labor Code §§ 226.7, 512, and 558;
- d. Failing to authorize and permit Plaintiff and other aggrieved employees to take all lawful rest periods to which they are entitled, and failing to pay rest period premiums to Plaintiff and other aggrieved employees at these employees' respective regular rates of compensation for rest period violations in violation of Labor Code §§ 226.7, 516, and 558;
- e. Failing to reimburse Plaintiff and other aggrieved employees for all work-related expenses incurred in violation of Labor Code §§ 2802 and 2804;
- f. Failing to furnish Plaintiff and other aggrieved employees with accurate and compliant itemized wage statements in violation of Labor Code § 226;
- g. Failing to timely pay all final wages due to Plaintiff and other aggrieved employees in violation of Labor Code §§ 201-203;
- h. Failing to maintain accurate records on behalf of Plaintiff and aggrieved employees in violation of Labor Code §§ 558 and 1174; and
- i. Failing to pay Plaintiff and other aggrieved employees all wages earned at least twice during each calendar month in violation of Labor Code § 204.

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62. On October 31, 2024, Plaintiff notified Defendants via certified mail, and notified the California Labor and Workforce Development Agency (“LWDA”) via its website, of Defendants’ violations of the California Labor Code and Plaintiff’s intent to bring a claim for civil penalties under California Labor Code § 2698 *et seq.* with respect to the violations of the California Labor Code identified in Paragraph 61 (a)-(i). Now that sixty-five days have passed from Plaintiff notifying Defendants and the LWDA of these violations, and the LWDA has not provided notice that it intends to investigate the violations, Plaintiff has exhausted his administrative requirements for bringing a claim under the Private Attorneys General Act with respect to these violations.

63. Based on the foregoing, Plaintiff seeks to represent himself and all Aggrieved Employees, as defined by Labor Code § 2699(c), which includes all of Defendants’ current and former employees who worked for Defendants in California at any time between October 31, 2023, and the present.

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

PRAYER

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

1. For an order certifying the proposed Classes;
2. For an order appointing Plaintiff as representative of the Classes;
3. For an order appointing Counsel for Plaintiff as Counsel for the Classes;
4. Upon the First Cause of Action, for compensatory, consequential, general and special damages according to proof pursuant to Labor Code §§ 204, 510, 558, 1194, and 1198;
5. Upon the Second Cause of Action, for payment of minimum wages, liquidated damages, and penalties owed according to proof pursuant to Labor Code §§ 1182.12, 1194, 1194.2 and 1197;

1 6. Upon the Third Cause of Action, for compensatory, consequential, general and
2 special damages according to proof pursuant to Labor Code §§ 226.7, 512 and 558;

3 7. Upon the Fourth Cause of Action, for compensatory, consequential, general and
4 special damages according to proof pursuant to Labor Code §§ 226.7, 516, and 558;

5 8. Upon the Fifth Cause of Action, for compensatory, consequential, general and
6 special damages according to proof pursuant to Labor Code sections 2802 and 2804;

7 9. Upon the Sixth Cause of Action, for statutory penalties pursuant to Labor Code §
8 226 *et. seq.*;

9 10. Upon the Seventh Cause of Action, for statutory waiting time penalties pursuant
10 to Labor Code §§ 201-203;

11 11. Upon the Eighth Cause of Action, for restitution to Plaintiff and members of the
12 Classes of all money and/or property unlawfully acquired by Defendants by means of any acts or
13 practices declared by this Court to be in violation of California Business and Professions Code §
14 17200 *et seq.*;

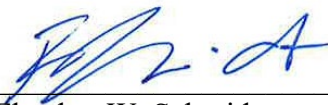
15 12. Upon the Ninth Cause of Action, for civil penalties due to Plaintiff, other
16 aggrieved employees, and the State of California according to proof pursuant to Labor Code §§
17 558 and 2699(a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for
18 each failure to pay each employee and \$200 for each subsequent violation or willful or intentional
19 violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the
20 amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100 for each subsequent
21 violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial
22 violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per
23 employee per pay period; (4) \$250.00 for each initial violation and \$1,000.00 for each subsequent
24 violation pursuant to Labor Code § 226.3 per employee per pay period; and/or (5) \$100.00 for
25 each initial violation and \$200 for each subsequent violation per employee per pay period for
26 those violations of the Labor Code for which no civil penalty is specifically provided, based on
27 the Labor Code violations identified in Paragraph 61 (a)-(i);
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1 13. Prejudgment interest on all due and unpaid wages pursuant to California Labor
2 Code § 218.6 and Civil Code §§ 3287 and 3289;

3 14. On all causes of action, for attorneys' fees and costs as provided by Labor Code
4 §§ 218.5, 1194 *et seq.*, 226, and 2698 *et seq.*, and Code of Civil Procedure § 1021.5; and

5 15. For such other and further relief the Court may deem just and proper.

6
7 Respectfully submitted,
8 Dated: January 6, 2025 HAINES LAW GROUP, APC

9 By: 
10 Fletcher W. Schmidt
11 Attorneys for Plaintiff

12 **DEMAND FOR JURY TRIAL**

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

14 Respectfully submitted,
15 Dated: January 6, 2025 HAINES LAW GROUP, APC

16 By: 
17 Fletcher W. Schmidt
18 Attorneys for Plaintiff
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