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12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **FOR THE COUNTY OF CONTRA COSTA**
14

15 **Heather Abalos**, individually and on behalf of
all similarly situated individuals,

16
17 Plaintiff,

18 vs.
19

20 **McC Campbell Analytical, Inc.**, a California
Corporation; **Edward M. Hamilton**, an
21 individual; and Does 1-10, inclusive;

22 Defendants.
23
24
25
26

CASE NO. C24-02882

[Assigned to Honorable John P. Devine in
Department 09 for all purposes]

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR:**

- 1) Failure to Pay Minimum Wages;
- 2) Failure to Pay Overtime Wages;
- 3) Failure to Provide Meal Periods;
- 4) Failure to Provide Rest Periods;
- 5) Failure to Provide and Maintain Complete and Accurate Wage Statements;
- 6) Failure to Reimburse Necessary Business Expenses;
- 7) Illegal Waiver of Wages Owed;
- 8) PAGA Penalties (Labor Code §§ 2698, et seq.); and
- 9) Violation of California Business & Professions Code §§ 17200, et seq.

Jury Trial Requested

Plaintiff hereby brings this action on behalf of herself and all other similarly situated current and former employees, by and through her counsel of record, alleges as follows:

PARTIES

1. At all relevant times for this Complaint, Plaintiff **Heather Abalos**, (“Plaintiff”) is a resident of Contra Costa County, California. Plaintiff began her employment on or around May 22, 2024 to on or around September 25, 2024 where she worked as a sample receptionist. Plaintiff was subject to the policies and practices described in this complaint at all times during her employment at Defendants.

2. Defendant **McC Campbell Analytical, Inc.** (“McC Campbell”) is a California corporation with a principal place of business of 1534 Willow Pass Road, Pittsburg, California 94565. On information and belief, employs at least 100 hourly, non-exempt employees.

3. Defendant **Edward M. Hamilton** (“Hamilton” or hereinafter “Defendants” with Defendant McC Campbell) is the Chief Executive Office at McC Campbell. Upon information and belief, he is a resident of the County of Contra Costa in the State of California. Upon information and belief, as Mr. Hamilton is a managing agent, director, and/or officer of Defendants and because he caused or directed the acts described herein, he is personally liable for the Labor Code violations set forth in this Complaint under Labor Code section 558.1.

4. Plaintiff is not currently aware of the names and true identities of defendants Does 1-10. Plaintiff reserves the right to amend this complaint to allege their true names and capacities when this information is available. Each Doe defendant is responsible for the damages alleged pursuant to each of the causes of action asserted, either through its own conduct, or vicariously through the conduct of others. All further references in this complaint to any of the named Defendants includes the fictitiously named defendants.

5. At all times alleged herein, each Defendant was an agent, servant, joint employer, employee, partner, and/or joint venture of every other Defendant and was acting within the scope of the Defendants’ relationship, and/or the conduct of every Defendant was ratified by each other Defendant.

VENUE AND JURISDICTION

6. The court has jurisdiction over all causes of action in this complaint pursuant to Article VI, § 10 of the California Constitution. No federal question is at issue; Plaintiff relies solely on California statutes and law, including the Labor Code and the Business & Professions Code. Because putative class members were employed by Defendants, the policies and practices complained of herein were implemented in Contra Costa County, and Defendants transact business within Contra Costa County, Defendant is within the jurisdiction of the court for service of process. Moreover, Business & Professions Code § 17204 provides that any person acting on their own behalf may bring an action in any court of competent jurisdiction.

7. Venue as to Defendant is proper in this Superior Court pursuant to California Code of Civil Procedure § 395. The unlawful acts alleged have directly affected Plaintiff in Sacramento County, where Plaintiff provided services for Defendants and where she was injured by their failure to comply with the Labor Code mandates discussed in this Complaint. Accordingly, this Court maintains appropriate jurisdiction over this dispute.

CLASS ACTION ALLEGATIONS

8. As a matter of uniform and systemic policy, Defendants failed to authorize and/or permit non-exempt employees to take bona fide meal and rest breaks pursuant to Labor Code § 226.7.

9. Defendants have consistently denied their non-exempt employees the opportunities to take compliant 30-minute meal periods in accordance with California's Labor Code. Upon information and belief, Class Members, including Plaintiff, were required to interrupt their meal periods to process testing samples, otherwise interrupt or cut short their meal periods, or remain on duty and under Defendants' control during their meal periods to perform other tasks at Defendants' directions due to Defendants' policies and practices.

10. In the same manner, and as a matter of uniform and systemic policy, Defendant requires non-exempt employees to continue working during their rest periods or otherwise interrupting or cut short their rest periods, or remain on duty and under Defendants' control during their rest periods to perform other tasks at Defendants' directions due to Defendants' policies and practices. Accordingly, Defendants failed to authorize and permit compliant rest periods as required by law.

1 11. In failing to authorize and/or permit meal and rest periods, Defendants have also
2 implemented a uniform policy of denying compensation in lieu of meal and rest periods to its non-
3 exempt employees, notwithstanding its actual knowledge that such employees were uniformly denied
4 compliant meal and rest periods.

5 12. Moreover, Defendants employed a policy and practice in which they instructed
6 employees to not to record their actual start and stop times for payroll purposes but to round their
7 time to their *scheduled* start and stop times. For example, if an employee was scheduled to start work at
8 9:00am and arrived or started work at 8:55am they were required to clock in as if they arrived at work
9 at 9:00am. Upon information and belief, this rounding policy resulted in the systemic underpayment of
10 wages over time and in the aggregate earned by Plaintiff and Aggrieved Employees in violation of
11 California law and depriving them of minimum wages and overtime compensation for all hours worked.

12 13. In requiring employees to round their time, Defendants, also required their non-exempt
13 employees to certify that they had received all meal and rest periods in order to submit their timesheets
14 and receive their pay. Defendants knew or should have known that time entries did not accurately
15 reflect all work hours performed by its non-exempt employees and that such employees were not being
16 provided all required meal and rest breaks, and that approval of such inaccurate time entries would
17 result in a release of employees' right to additional wages owed. Furthermore, on information and
18 belief, Defendants would not pay the wages of Class Member who failed to certify in this fashion in
19 violation of California Labor Code 206.5.¹

20 14. As a matter of uniform and systemic policy, Defendants required non-exempt
21 employees to utilize their personal cell phones for work-related purposes, including answering texts
22 and calls from their supervisors while at work or on a break, for purposes of scheduling and re-
23 scheduling future work, being assigned tasks, and general administrative matters. Defendants further
24 failed to compensate their non-exempt employees for reasonable costs associated with utilizing their
25 personal cell phones for work-related purposes.

27 ¹ "For purposes of this section, "execution of a release" includes requiring an employee, as a
28 condition of being paid, to execute a statement of the hours he or she worked during a pay period
which the employer knows to be false." Cal. Lab. Code § 206.5.

1 15. As a matter of uniform and systemic policy, Defendants failed to provide its non-
2 exempt employees with accurate itemized wage statements in accordance with California's Labor Code.
3 Upon information and belief, Defendants failed to furnish Plaintiff, or Class Members, either
4 semimonthly or at the time of each payment of wages, either as a detachable part of the check or
5 separately, an accurate, itemized statement in writing showing sick pay, gross wages earned, all
6 deductions, and the net wages earned by Plaintiff for the inclusive dates for which the Plaintiff worked,
7 including the unpaid premium payments owed to the Class for their missed meal and rest breaks.

8 16. Plaintiff therefore brings this action on behalf of herself and as a class action on behalf
9 of the following defined Class:

10 **Non-Exempt Employee Class:**

11 *All persons who worked at least one 3.5-hour shift as a non-exempt employee in the State of California from*
12 *the period four years prior to the filing of the Action and the date of trial ("Class").*

13 17. Common methods of proof exist for determining these issues on a class-wide basis,
14 including but not limited to, Defendants' employment records, payroll records, timesheets, policies,
15 and disciplinary records.

16 18. **Numerosity.** Plaintiff is informed and believes that, during the class period, at least
17 100 Class Members have been employed as non-exempt employees by Defendants within the state of
18 California. The number of Class Members is sufficiently numerous such that joinder of all members is
19 impossible or impracticable.

20 19. **Typicality.** Plaintiff's claims are typical of all Class Members. Plaintiff, like all other
21 Class Members, was subjected to the policies and practices set forth above. Plaintiff's job duties were
22 typical of Class Members in all relevant respects.

23 20. **Adequacy.** There are no material conflicts between the claims of the representative
24 Plaintiff and Class Members that would make class certification inappropriate. Plaintiff understands
25 her obligation to inform the Court of any relationship, conflicts, or differences with any Class Member.
26 Plaintiff will fairly and adequately protect the interests of the Class Members. Plaintiff is invested in
27 redressing Defendants' illegal practices on behalf of all Class Members. Moreover, Plaintiff has retained
28 competent counsel experienced in both class action and employment litigation. Plaintiff's attorneys,

the proposed class counsel, are versed in the rules governing class action discovery, certification, and settlement, and will vigorously assert the claims of all Class Members. Plaintiff has incurred, and will continue to incur, costs and attorneys' fees that have been, are, and will be necessarily expended for the prosecution of this action for the substantial benefit of each Class Member.

21. **Existence and Predominance of Common Issues.** Common questions of law and fact exist as to all Class Members and predominate over issues affecting individual Class Members, including, but not limited to:

- a. Whether Defendants had a common policy and/or practice of depriving Plaintiff and Class Members of required minimum and overtime wages;
- b. Whether Defendants unlawfully and/or willfully failed to compensate Plaintiff and Class Members required minimum and overtime wages;
- c. Whether Defendants had a common policy and/or practice of depriving Plaintiff and Class Members of compliant, off-duty meal and/or rest periods;
- d. Whether Defendants unlawfully and/or willfully deprived Plaintiff and Class Members of compliant, off-duty meal and/or rest periods;
- e. Whether Defendants have a common policy and/or practice of failing to maintain accurate payroll records in the State of California;
- f. Whether Defendants unlawfully and/or willfully failed to maintain accurate payroll records in the State of California;
- g. Whether Defendants have a common policy and/or practice of failing to provide accurate wage statements reflecting hours worked and wages earned to Plaintiff and Class Members;
- h. Whether Defendants unlawfully and/or willfully failed to provide accurate wage statements reflecting hours worked and wages earned to Plaintiff and Class Members;
- i. Whether Defendants have a common policy and/or practice of failing to reimburse Plaintiff and Class Members for reasonable business expenses;
- j. Whether Defendants unlawfully and/or willfully failed to reimburse Plaintiff and

Class Members for reasonable business expenses;

k. Whether Plaintiff and Class Members sustained damages as a result of any of the
aforementioned violations, and, if so, the proper measure of those damages,
including interest, penalties, costs, attorneys' fees, and equitable relief; and

l. Whether Defendants violated the Unfair Competition Law, Cal. Bus. & Prof. Code
§ 17200, et seq., by violating the above provisions of law.

22. **Superiority.** A class action is superior to other available means for the fair and efficient
adjudication of this dispute. The damages suffered by individual Class Members, while substantial, are
small compared to the burden and expense of individual prosecution of the complex and expensive
litigation necessary to address Defendants' conduct. Even if Class Members themselves could afford
individual litigation, the court system would be overwhelmed by individual lawsuits if all Class Members
sought redress. In addition, individualized litigation increases the delay and expense to all parties and
to the court system resulting from the complex legal and factual issues of this case. Individualized
litigation also presents a potential for inconsistent or contradictory judgments. By contrast, the class
action device presents far fewer management difficulties; it allows the hearing of claims which might
otherwise go unaddressed because of the relative expense of bringing individual lawsuits, and it
provides the benefits of single adjudication, economies of scale, and comprehensive supervision by a
single court. Plaintiff contemplates providing notice to members of the Class identified through
Defendants' records.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

California Labor Code §§ 1182.12, 1194, 1194.2, 1197, 1197.1, and 1198

Failure to Pay Minimum Wages for All Hours Worked

(Plaintiff and Class Against Defendants)

23. Plaintiff repeats and incorporates by reference all allegations contained in the preceding
paragraphs as if fully set forth herein.

24. California law requires employers to compensate employees for all time that an
employee is "suffered or permitted to work," which includes all time "when any employer 'directs,

commands or restrains' an employee." See, e.g., *Morillion v. Royal Packing Co.*, 22 Cal. 4th 575, 583 (2000), as modified (May 10, 2000); see also Code Regs. tit. 8, § 11070 ("Hours worked' means the time during which an employee is subject to the control of an employer and includes all the time the employee is suffered or permitted to work, whether or not required to do so.").

25. Defendants consistently and as a matter of common policy and practice failed to pay Class Members at least minimum wages for all hours worked. Furthermore, Defendants required its non-exempt employees to work through their legally mandated meal and/or rest period or remain on duty and under Defendants' control during their meal and/or rest periods to perform other tasks at Defendants' directions due to Defendants' policies and practices. Accordingly, Defendants failed to pay Plaintiff or Class Members for all hours worked where they were under the control of Defendants.

26. As a result of Defendants' failure and refusal to comply with California law, Plaintiff and Class Members are entitled to recover actual and liquidated damages for the unpaid time, plus injunctive relief and reasonable attorney's fees and costs. Lab. Code §§ 1194, 1197.1.

SECOND CAUSE OF ACTION

California Labor Code §§ 510 and 1198

Unpaid Overtime

(Plaintiff and Class Against Defendants)

27. Plaintiff incorporates by reference every allegation in this complaint as if fully set forth herein.

28. California Labor Code §§ 510 and 1198 provide that it is unlawful to employ persons without compensating them at a rate of pay either time-and-one-half or two-times that person's regular rate of pay, depending on the number of hours worked by the person on a daily or weekly basis.

29. Plaintiff and Class Members who work more than eight hours in a day or more than forty hours in a workweek are to be paid at the rate of time and one-half (1½) for all hours worked in excess of eight hours in a day or more than forty hours in a workweek. An employee's regular rate of pay includes all remuneration for employment paid to, or on behalf of, the employee, including commissions, non-discretionary bonuses and incentive pay. *Aharado v. Dart Container Corp. of California*, 4 Cal. 5th 542, 573 (2018), as modified (Apr. 25, 2018).

30. Throughout the Class Period, Plaintiff and other Class Members were not paid overtime premiums for all of the hours they worked in excess of eight hours in a day, in excess of twelve hours in a day, in excess of eight hours on the seventh consecutive day of work in a workweek, and in excess of forty hours in a week due to the off-the-clock work and rounding identified above.

31. As Class Members sometimes worked shifts of more than eight hours a day or forty hours a week, this off the clock work should have been adequately compensated at their appropriate overtime rate of pay.

32. Additionally, Defendants failed to pay out overtime at the correct rate of pay by failing to include shift differential and other incentive-based pay as part of Class Member's regular rate of pay when determining their overtime rate. *Aharado v. Dart Container Corp. of California*, 4 Cal. 5th 542, 573 (2018), *as modified* (Apr. 25, 2018) ("Significantly, an employee's 'regular rate of pay' for purposes of Labor Code section 510 and the IWC wage orders is not the same as the employee's straight time rate (i.e., her or her normal hourly wage rate). Regular rate of pay, which can change from pay period to pay period, includes adjustments to the straight time rate, reflecting, among other things, shift differentials and the per-hour value of any nonhourly compensation the employee has earned.").

33. Defendants knew or should have known that Plaintiff and Class Members did not receive full overtime compensation.

34. Accordingly, Defendants' failure to pay overtime compensation resulted in Plaintiff and Class Members being deprived of earned overtime wages. Pursuant to Labor Code § 1194, Plaintiff and Class Members are entitled to recover their unpaid overtime compensation, as well as interest, costs, and attorneys' fees.

35. Pursuant to Labor Code § 1194, Plaintiff and Class Members are entitled to recover their unpaid overtime compensation, as well as interest, costs, and attorneys' fees.

THIRD CAUSE OF ACTION

California Labor Code §§ 226.7, 512(a), and 1198

Meal Period Violations

(Plaintiff and Class Against Defendants)

36. Plaintiff incorporates by reference every allegation in this complaint as if fully set forth

1 herein.

2 37. At all times relevant to this complaint, Defendants knew they were obligated to provide
3 legally-compliant meal breaks to its non-exempt employees pursuant to Labor Code §§ 512 and 226.7.
4 Labor Code § 512(a) states in pertinent part: “[A]n employer may not employ an employee for a work
5 period of more than five hours per day without providing the employee with a meal period of not less
6 than 30 minutes. An employer may not employ an employee for a work period of more than 10 hours
7 per day without providing the employee with a second meal period of not less than 30 minutes.”

8 38. Labor Code section 226.7, 512(a), and 1198 provide that no employer shall require an
9 employee to work during any meal period mandated by an applicable order of the IWC. “An off-duty
10 meal period, therefore, is one in which the employee is relieved of all duty during the 30-minute meal
11 period . . . an employer’s obligation is to provide an off-duty meal period: an uninterrupted 30–minute
12 period during which the employee is relieved of all duty.” *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th
13 1004, 1035 (2012).

14 39. Defendants’ policies and practices served to deprive the Class of a full 30-minute break
15 period free of employer control or relieved of all duties. Upon information and belief, employees were
16 required to skip breaks, take breaks after the fifth hour of work, work through them or remain under
17 Defendant’s control during breaks due to Defendants’ policies and practices.

18 40. Accordingly, Plaintiff and Class Members were uniformly denied meal periods as a
19 result of Defendants’ formal policies and practices. By failing to consistently provide uninterrupted,
20 off-duty 30-minute meal periods, Defendants violated the Labor Code as to Plaintiff and Class
21 Members.

22 41. Pursuant to Labor Code § 226.7(b), Plaintiff and Class Members are entitled to recover
23 from Defendants an additional hour of pay at their regular rates of pay for each shift in which a required
24 meal period was not provided.

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FOURTH CAUSE OF ACTION

Labor Code §§ 226.7 and 1198

Failure to Provide Rest Periods or Premium Pay in Lieu Thereof

(Plaintiff and Class Against Defendants)

42. Plaintiff incorporates by reference every allegation in this complaint as if fully set forth herein.

43. At all times relevant to this complaint, Defendants knew they were obligated to provide compliant rest breaks to its non-exempt employees pursuant to Labor Code § 226.7.

44. Labor Code § 226.7 provides:

(a) No employer shall require any employee to work during any meal or rest period mandated by an applicable order of the Industrial Welfare Commission.

(b) If any employer fails to provide an employee a meal period or rest period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each work day that the meal or rest period is not provided.

45. Labor Code § 226.7, 512(a), and 1198 provide that no employer shall require an employee to work during any rest or meal period mandated by an applicable order of the IWC, including Wage Order No. 1. Employers must authorize and permit employees to be relieved of all duty during their rest and meal periods: "A rest period, in short, must be a period of rest." *Augustus v. ABM Sec. Servs., Inc.*, 385 P.3d 823, 834 (2016).

46. Employees must also be free to leave the employer's premises during their rest period. *See id.* at 270 ("In the context of a 10-minute break that employers must provide during the work period, a broad and intrusive degree of control exists when an employer requires employees to remain on call and respond during breaks. An employee on call cannot take a brief walk—five minutes out, five minutes back—if at the farthest extent of the walk she or she is not in a position to respond. Employees similarly cannot use their 10 minutes to take care of other personal matters that require truly uninterrupted time."); *see also* Department of Industrial Relations, "Rest Periods," *available at*

1 https://www.dir.ca.gov/dlse/FAQ_RestPeriods.htm (“Q. Can my employer require that I stay on the work
2 premises during my rest period? A. No, your employer cannot impose any restraints not inherent in
3 the rest period requirement itself.”).

4 47. Defendants failed to authorize or permit all required compliant paid rest periods for
5 shifts between 3.5 and ten hours, or subjected employees to interrupted or shortened rest periods.

6 48. As a direct and proximate result of Defendants’ willful and unlawful conduct, Plaintiff
7 and Class Members have sustained damages, including lost compensation resulting from missed or
8 non-compliant rest periods, in an amount to be established at trial.

9 49. Pursuant to Wage Order No. 4 and Labor Code § 226.7(b), Plaintiff and Class Members
10 are entitled to recover from Defendants an additional hour of pay at their regular rates of pay for each
11 shift that a compliant rest period was not provided. Defendants were aware that their actions were a
12 violation of applicable law but consistently refused to pay premium pay as required by law.

13 **FIFTH CAUSE OF ACTION**

14 ***Labor Code §§ 226. 226.3, and 1174***

15 ***Failure to Provide Complete and Accurate Wage Statements***

16 **(Plaintiff and Class Against Defendants)**

17 50. Plaintiff repeats and incorporates by reference all allegations contained in the preceding
18 paragraphs as if fully set forth herein.

19 51. Labor Code § 226 requires employers to furnish employees with an accurate, itemized
20 statement in writing showing, among other things, (1) gross wages earned; (2) total hours worked by
21 the employee (for hourly-paid, non-exempt employees); (3) all deductions; (4) net wages earned; (5) the
22 inclusive dates of the period for which the employee is paid; (6) the name of the employee and the last
23 four digits of her or her social security number; (7) the name and address of the legal entity that is the
24 employer; and (8) all applicable hourly rates in effect during the pay period and the corresponding
25 number of hours worked at each hourly rate by the employee.

26 52. At all times relevant to this complaint, Defendants’ failure to pay premium wages for
27 missed meal and/or rest periods further ensured that Class Members’ wage statements inaccurately
28 reflected gross and net wages earned. Defendants’ failure to compensate all hours worked and/or pay

1 all required overtime rates further left the wage statements they provided to employees to be inaccurate.

2 53. Defendants have also failed to keep accurate payroll records for Plaintiff and Class
3 Members in accordance with Labor Code § 1174. Defendants' failure to keep and maintain accurate
4 payroll records reflecting hours worked and wages earned has impeded Plaintiff and Class Members'
5 ability to calculate unpaid wages earned.

6 54. Injury. Defendants knowingly and intentionally failed to comply with Labor Code
7 § 226, causing injury and damages to Plaintiff and Class Members. Plaintiff and all those similarly
8 situated were injured by these failures because, among other things, they were confused about whether
9 they were paid properly and/or they were misinformed about how much compensation was owed.
10 These damages include, but are not limited to, costs incurred calculating the correct net wages for each
11 pay period and the amount of employment taxes that were not paid to state and federal tax authorities.

12 55. Relief. Labor Code § 226(e)(1) provides that an employee suffering injury as a result of
13 not being provided with an accurate itemized wage statement is entitled to recover the greater of all
14 actual damages suffered or fifty (\$50) dollars for the initial violation and one hundred (\$100) dollars
15 for each subsequent violation, up to \$4,000. Pursuant to Labor Code §§ 226(e) and (g), Plaintiff and all
16 others similarly situated are entitled to injunctive relief to ensure Defendant's compliance with Labor
17 Code § 226, as well as attorney's fees and costs of suit.

18 **SIXTH CAUSE OF ACTION**

19 ***California Labor Code § 2802***

20 ***Failure to Reimburse Necessary Business Expenses***

21 **(Plaintiff and Class Against Defendants)**

22 56. Plaintiff repeats, repleads, and incorporates by reference, as though fully set forth in
23 this paragraph, all the allegations of this Complaint.

24 57. Labor Code section 2802 provides that "[a]n employer shall indemnify her or her
25 employee for all necessary expenditures or losses incurred by the employee in direct consequence of
26 the discharge of her or her duties, or of her or her obedience to the directions of the employer." Lab.
27 Code § 2802. The purpose of Labor Code section 2802 is to prevent employers from passing off their
28 cost of doing business and operating expenses on to their employees. *Cochran v. Schwan's Home Service*,

1 *Inc.*, 228 Cal. App. 4th 1137, 1144 (2014).

2 58. Defendants required non-exempt employees to utilize their personal cell phones for
3 work-related purposes, including answering texts and calls from their supervisors while at work or on
4 a break, scheduling and re-scheduling future work, being assigned tasks, and general administrative
5 matters.

6 59. Defendants further failed to compensate their non-exempt employees for reasonable
7 costs associated with utilizing their personal cell phones for work-related purposes.

8 60. Defendants failed to reimburse a reasonable portion of the Class Members' cellphone
9 related expenses despite requiring the use of the device and/or applications that required a data plan.
10 *See Cochran v. Schwan's Home Serv., Inc.*, 228 Cal. App. 4th 1137, 1144 ("We hold that when employees
11 must use their personal cell phones for work related calls, Labor Code section 2802 requires the
12 employer to reimburse them. Whether the employees have cell phone plans with unlimited minutes or
13 limited minutes, the reimbursement owed is a reasonable percentage of their cell phone bills.").
14 Defendant further failed to reimburse Plaintiff and the Class Members for the purchase of work-related
15 equipment.

16 61. By unlawfully failing to pay Plaintiff and Class Members, Defendants are liable for a
17 reasonable portion of the incurred expenses, to be determined upon trial, plus reasonable attorneys'
18 fees and costs. Lab. Code § 2802.

19 **SEVENTH CAUSE OF ACTION**

20 ***California Labor Code § 206.5***

21 ***Illegal Waiver of Wages Owed***

22 **(Plaintiff and Class Against Defendants)**

23 62. Plaintiff repeats, repleads, and incorporates by reference, as though fully set forth in
24 this paragraph, all the allegations of this Complaint.

25 63. Labor Code § 206.5 provides that an employer shall not require the execution of a re-
26 lease of a claim or right on account of wages due, or to become due, or made as an advance on wages
27 to be earned, unless payment of those wages has been made. A release required or executed in violation
28 of the provisions of this section shall be null and void as between the employer and the employee.

64. As a matter of uniform and systemic policy, Defendants required their non-exempt employees to certify that they had received all meal and rest periods in order to submit their timesheets and receive their pay. On information and belief, Defendants would not pay the wages of Class Member who failed to certify in this fashion

65. These waivers violate Labor Code § 206.5 by requiring a release of a claim or right on account of wages due, or to become due, or made as an advance on wages to be earned, without payment of those wages.

66. Plaintiff and Class Members suffered injuries as a result of Defendants' violation of Labor Code § 206.5 in an amount to be determined at trial.

EIGHTH CAUSE OF ACTION

California Labor Code §2699, et seq.

Private Attorneys General Act ("PAGA") Penalties

(Plaintiff and Aggrieved Employees Against Defendants)

67. Plaintiff repeats and incorporate by reference every allegation in this complaint as if fully set forth herein.

68. Standing. Under the California Private Attorneys General Act ("PAGA"), Labor Code § 2698, et seq., an aggrieved employee may bring a representative action as a private attorney general, on behalf of himself and other current or former employees to recover penalties for an employer's violations of the Labor Code and IWC Wage Orders.

69. Plaintiff, by nature of his employment with Defendants, is an aggrieved employee for purposes of this Complaint with standing to bring an action under PAGA.

70. Plaintiff, on behalf the State of California and all Aggrieved Employees, brings this representative action pursuant to Labor Code § 2699, et seq., seeking civil penalties for Defendants' violation of Labor Code §§ 201-204, 210, 226, 226.7, and 510, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198 as described herein, plus attorneys' fees and costs.

71. Entitlement to Penalties. Per Labor Code § 2699(f), and based on the foregoing, Plaintiff, the State, and Aggrieved Employees are entitled to civil penalties in an amount to be shown at trial subject to the following formula: (a) In an amount set forth as a civil penalty in the underlying statute;

or (b) \$100 per initial violation per employee per pay period, and \$200 for each subsequent violation per employee per pay period.

72. These penalties shall be allocated sixty-five percent to the Labor and Workforce Development Agency and thirty-five percent to the aggrieved employees.

73. These penalties may be “stacked” separately for each of Defendants’ violations of the Labor Code, subject to the exception enumerated in Labor Code section 2698(i). *See, e.g., Hernandez v. Towne Park, Ltd.*, No. CV 12-02972, 2012 WL 2373372, at *17 n.77 (C.D. Cal. June 22, 2012); *see also O’Connor v. Uber Techs., Inc.*, No. 13-CV-03826-EMC, 2016 WL 3548370, at *7 (N.D. Cal. June 30, 2016); Labor Code § 2698(i).

74. Predicate Violations. The Aggrieved Employees are entitled to civil penalties under PAGA arising from the above-mentioned predicate violations of the Labor Code, as well as the applicable Wage Order, including but not limited to: Lab. Code §§ 201-204, 210, 226, 226.3, 226.7, 510, 512, 558, 1182.12, 1174, 1194, 1194.2, 1197, 1197.1, 1198, and 2802, plus reasonable attorneys’ fees and costs.

75. Procedural Requirements Met. On October 25, 2024, Plaintiff electronically filed a notice of claims with the LWDA and sent a copy to Defendants by certified mail. Plaintiff did not receive notice from the LWDA that it would be investigating the complaint, nor did Plaintiff receive notice from the LWDA that it was declining to investigate, within the 65-day period under Labor Code § 2699.3. On December 30, 2024, the sixty-five-day notice period expired as to all defendants. Since the LWDA took no steps within the prescribed time to intervene, Plaintiff has exhausted all required administrative remedies required to seek penalties under PAGA. See Lab. Code § 2699.3(a)(2). A true and correct copy of Plaintiff’s PAGA Notice is attached herein as **Exhibit A**.

NINTH CAUSE OF ACTION

California Business & Professions Code §§ 17200, et seq.

Unlawful Business Practices

(Plaintiff and Class Against Defendants)

76. Plaintiff repeats and incorporate by reference every allegation in this complaint as if fully set forth herein.

77. Defendants McCampbell and Hamilton are “persons” as defined by California Business & Professions Code § 17201, as they are a natural person, corporations, firms, partnerships, joint stock companies, and/or associations.

78. Unlawful Business Practices. Defendants’ knowing violations of the Labor Code constitutes an unlawful business practice as set forth in Business & Professions Code § 17200, et seq.

79. Defendants’ failure to abide by the laws discussed herein provided Defendants an unfair advantage over their competitors at the expense of their workers. Instead, Defendants cuts corners in the name of higher profits and at the expense of employee well-being. Defendants’ actions thereby constitute an unfair, fraudulent, and/or unlawful business practice under Business & Professions Code § 17200, et seq.

80. Relief. Plaintiff brings this cause of action seeking equitable and injunctive relief to stop Defendant’s willful and ongoing misconduct, and to seek restitution of the amounts Defendants acquired through the unfair, unlawful, and fraudulent business practices described herein. In addition, Plaintiff seeks an award of costs and attorneys’ fees pursuant to California Code of Civil Procedure § 1021.5.

DEMAND FOR JURY TRIAL

Pursuant to California Code of Civil Procedure § 631, Plaintiff demands a trial by jury on all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays judgment as follows:

A. For an Order:

- a. Certifying the Class;
- b. Appointing Plaintiff as representative of the Class;
- c. Appointing Plaintiff’s counsel as Class Counsel;

B. For actual and liquidated damages according to proof at trial;

C. For statutory and civil penalties and special damages, according to proof at trial;

D. For pre- and post-judgment interest on monetary damages;

E. For preliminary and permanent injunctive relief;



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- F. For reasonable attorney’s fees and costs and expert fees and costs as allowed by law;
and
- G. For such other relief as this Court deems just and proper.

Dated: January 3, 2025

Respectfully submitted,
KING & SIEGEL LLP

By: /s/ Elliot J. Siegel
Elliot J. Siegel
Attorneys for Plaintiff

Dated: January 3, 2025

BARAHMAND LAW GROUP

By: /s/ Navid Barahmand
Navid Barahmand
Attorneys for Plaintiff