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on behalf of himself and others similarly situated

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

LOUIS RUFFIN, an individual; on behalf of
himself and others similarly situated,

Plaintiff,

vs.

AMERICAN INTEGRATED SERVICES,
INC., a California corporation; and DOES 1
through 50, inclusive,

Defendants.

Case No.:

CLASS ACTION

Assigned for All Purposes To:

Hon.

Dept.:

CLASS ACTION COMPLAINT FOR:

1. Failure to Pay Minimum Wages;
2. Failure to Pay Wages and Overtime Under Labor Code § 510;
3. Meal Period Liability Labor Code § 226.7;
4. Rest-Break Liability Labor Code § 226.7;
5. Failure to Pay Vacation Wages;
6. Violation of Labor Code § 226;
7. Violation of Labor Code § 221;
8. Violation of Labor Code § 204;
9. Violation of Labor Code § 203;
10. Failure to Maintain Records Required under Labor Code §§ 1174, 1174.5;
11. Failure to Reimburse Necessary Business Expenses under Labor Code § 2802; and
12. Violation of Business & Professions Code § 17200 *et seq.*

DEMAND FOR JURY TRIAL

1 Plaintiff LOUIS RUFFIN (hereinafter “Plaintiff”), on behalf of himself and other similarly
2 situated non-exempt, hourly employees employed by Defendants in California during the relevant
3 period (collectively, “Employees”; individually, “Employee”), complains of Defendants, and each
4 of them, as follows:

5 INTRODUCTION

6 1. Plaintiff brings this action on behalf of himself and all current and former
7 Employees within the State of California who, at any time from four years prior to the filing of
8 this lawsuit, are or were employed as non-exempt, hourly employees by Defendants AMERICAN
9 INTEGRATED SERVICES, INC., a California corporation; and DOES 1 through 50, inclusive
10 (all defendants being collectively referred to herein as “Defendants”). Plaintiff alleges that
11 Defendants, and each of them, violated various provisions of the California Labor Code, relevant
12 orders of the Industrial Welfare Commission (“IWC”), and the California Business & Professions
13 Code, and seeks redress for these violations.

14 2. Plaintiff and the Class members worked as hourly, non-exempt Employees for
15 Defendants, including as environmental cleanup workers and in similar and related positions
16 pertaining to providing environmental cleanup services to Defendants’ customers at cleanup sites
17 throughout California. Plaintiff, and upon information and belief other similarly situated
18 Employees, were required to perform work tasks based out of Defendants’ facilities from where
19 they were dispatched by Defendants to cleanup sites throughout California. Plaintiff worked at
20 Defendants’ behest without being paid all wages due and without being provided all required
21 breaks. Plaintiff and the other similarly situated Class members were employed by Defendants and
22 shared similar job duties and responsibilities, were subjected to the same policies and practices,
23 and endured similar violations at the hands of Defendants as the other Employees who served in
24 similar and related positions.

25 3. Defendants required Plaintiff and the Employees in the Class to work off the clock
26 and failed to record accurate time worked by these Employees, failed to pay them at the
27 appropriate rates for all hours worked, failed to pay all wages due and owing at termination or
28 resignation, and provided Plaintiff and the Class members with inaccurate wage statements that

1 prevented them from learning of these unlawful pay practices. Defendants also failed to provide
2 Plaintiff and the Class with lawful meal and rest periods, as Employees were required to remain
3 under Defendants' control and were not provided with the opportunity to take full uninterrupted
4 and duty-free rest periods and meal breaks, as required by the Labor Code and the applicable
5 paragraphs of the IWC Wage Orders.

6 4. Defendant AMERICAN INTEGRATED SERVICES, INC. ("AIS") is a California
7 corporation that lists its principal address with the California Secretary of State in Wilmington,
8 California in Los Angeles County. AIS also lists its type of business as "Environmental
9 Contracting." AMERICAN INTEGRATED SERVICES, INC. is listed as the employer on the
10 wage statements issued to Plaintiff by Defendants on a bi-weekly basis, and upon information and
11 belief to other Class members, with the same Wilmington, California address. Upon information
12 and belief, AMERICAN INTEGRATED SERVICES, INC. operates various facilities and
13 locations where their California Employees are employed and based out of throughout California.

14 5. AIS' website provides: "Founded in 1998 American Integrated Services Inc.
15 (AIS) has established itself as an industry leader in providing turnkey environmental construction
16 services. As a full service, minority owned company (MBE), AIS's wide range of capabilities
17 include environmental construction, remediation, abatement, demolition, asset recovery, specialty
18 transportation, industrial services, emergency response and waste management." Also,
19 "Headquartered in Wilmington, CA, with seven locations strategically located throughout
20 California and a Gulf Coast location in Pasadena, Texas, AIS is poised and well positioned to
21 provide support and solutions on any environmental challenge regardless of project scope or
22 location."

23 6. This Court has jurisdiction over this Action pursuant to California Code of Civil
24 Procedure § 410.10 and California Business & Professions Code § 17203. This Action is brought
25 as a Class Action on behalf of similarly situated Employees of Defendants pursuant to California
26 Code of Civil Procedure § 382. Venue as to Defendants is also proper in this judicial district
27 pursuant to California Code of Civil Procedure § 395 *et seq.* Upon information and belief, the
28 obligations and liabilities giving rise to this lawsuit occurred, at least in part in Los Angeles

1 County and Defendants have listed a principal California address within Los Angeles County.
2 Defendants also employ and employed Plaintiff and the Class members at locations in Los
3 Angeles County and throughout California.

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

12 8. Plaintiff is informed and believes and thereon alleges that each Defendant acted in
13 all respects pertinent to this action as the agent of the other Defendants, that Defendants carried
14 out a joint scheme, business plan, or policy in all respects pertinent hereto, and that the acts of
15 each Defendant are legally attributable to the other Defendants. Furthermore, Defendants acted in
16 all respects as the employers or joint employers of Employees. Defendants, and each of them,
17 exercised control over the wages, hours or working conditions of Employees, created and
18 implemented the policies and practices that governed the employment of Plaintiff and the Class
19 members and dictated their job duties and responsibilities, or otherwise suffered or permitted
20 Plaintiff and the other Employee Class members to work, or engaged them, thereby creating a
21 common law employment relationship with the Employee Class members. Therefore, Defendants,
22 and each of them, employed or jointly employed the Employee Class members.

23 **FACTUAL BACKGROUND**

24 9. The Employees who comprise the Class, including Plaintiff, are non-exempt
25 employees pursuant to the applicable Wage Order of the Industrial Welfare Commission
26 ("IWC"). During the period of four years prior to the filing of this action through its resolution,
27 the Employee Class members were employed by Defendants and worked in non-exempt positions
28 at the direction of Defendants in the State of California. Plaintiff and the Class members were

1 either not paid by Defendants for all hours worked or were subjected to unlawful rounding and
2 time shaving or were not paid at the appropriate minimum, regular and overtime rates. Plaintiff
3 also contends that Defendants failed to pay Plaintiff and the Class members all wages due and
4 owing, including by requiring off-the-clock work, failed to provide meal and rest breaks, and
5 failed to furnish accurate wage statements, all in violation of various provisions of the California
6 Labor Code and applicable paragraphs of the IWC Wage Orders.

7 10. During the course of Plaintiff and the Class members' employment with
8 Defendants, they were not paid all wages they were owed, including for all work performed
9 (resulting in "off the clock" work) and for all their overtime hours worked and were subjected to
10 unlawful rounding, and they were not paid at the required rates for overtime. This has resulted in
11 systematic and ongoing violations of the California Labor Code and relevant IWC Wage Orders.
12 Upon information and belief, Defendants employ other non-exempt, hourly employees as
13 environmental cleanup workers and in similar and related positions with job duties related to
14 performing and providing cleanup services to Defendants' customers at work sites throughout
15 California.

16 11. Plaintiff was employed by Defendants as a Industrial Service Superintendent and
17 environmental cleanup worker and in other similar and related positions based out of
18 Defendants' facilities in Los Angeles County. Plaintiff generally worked 40 to 50 hours per week,
19 at least five to six shifts per week, which generally resulted in shifts of eight hours or more in
20 duration.

21 12. For timekeeping, Defendants' required Plaintiff and class members to download a
22 timekeeping app on their personal cellular telephones. Defendants instructed Plaintiff and Class
23 Members to clock in at their scheduled shift start time. However, to do so, Plaintiff was required
24 to arrive at work before his scheduled shift time to conduct a safety meeting for the crews and
25 driving travel crews from their hotel to the worksite. Plaintiff and the other environmental
26 cleanup workers were also required to attend such meetings and perform other job related duties
27 prior to clocking in. This would take between 45 minutes to one hour of unpaid time that Plaintiff
28 was required to endure before clocking in. Furthermore, upon information and belief, these travel

1 crews were not paid for the time it took to drive them to the jobsite while they were most
2 certainly under Defendants' control. If Plaintiff or other Class Members clocked in before their
3 scheduled shift start time in an effort to ensure they were compensated for all their actual hours
4 worked, Defendants would change employee time clock records by rounding and shaving them
5 down to reflect scheduled shift and meal start and end times as opposed rather than reflecting
6 their actual contemporaneous time punches and corresponding hours worked.

7 13. Additionally, after Plaintiff clocked out, the Defendants required him to spend
8 about 15-20 minutes transporting and dropping off materials from the jobsite to the yard.
9 Moreover, Plaintiff was required to drive Defendants' company vehicle when transporting the
10 crew to the jobsite. Defendants' managers instructed Plaintiff not to clock in until he was at the
11 assigned jobsite, and Class members in the company vehicle were also unable to clock in until
12 they reached the jobsite. This approximately 30 minutes of travel time went unpaid resulting in
13 additional off-the clock work, and resulted in Defendants eliminating several minutes of time
14 worked from Employees' time records on any given shift.

15 14. Defendants also required Plaintiff and other Class members to work on weekends.
16 For about 1-2 hours two times per week, Plaintiff was required to prepare paperwork for
17 Defendants before the Monday shifts began. This paperwork included, preparing safety permits,
18 scheduling and Job Safety Analysis ("JSA") reports. Defendants' Management team informed
19 Plaintiff that it was Defendants' policy not to pay workers for "managerial paperwork." This
20 time went unpaid by Defendants.

21 15. Similar issues arose when Plaintiff attempted to record his meal periods.
22 Defendants' app required the Plaintiff and Class members to enter the start and end times of their
23 meal breaks in advance at the exact same time for each shift without regard for the actual start
24 and stop times or if the meal period was provided at all. Meal and rest periods were constantly
25 interrupted by management and work requirements, if the breaks were provided and authorized
26 and permitted at all. This practice caused Plaintiff to suffer interrupted and shortened meal
27 periods which then required management personnel to adjust or record Plaintiff's meal period
28 entries.

1 16. As a result of the above-referenced policies and practices, Defendants failed to
2 compensate Plaintiff and, on information and belief, other Class members for all their time
3 worked. The failure to maintain accurate timekeeping and payroll records perpetrated by
4 Defendants has also been exacerbated by other off the clock work Defendants required their
5 Employees to endure. Accordingly, all of Plaintiff's pre- or post-shift time worked, and on
6 information and belief that of other Class members, went uncompensated.

7 17. Defendants followed a similar unlawful practices, upon information and belief, in
8 connection with other Employees in a concerted effort to limit and restrict regular, overtime, and
9 double-time hours earned by and owing to them. Time worked off the clock also caused Plaintiff
10 and other Class members to work beyond eight hours in a shift. As a result of the above-described
11 rounding and other off the clock work, Defendants failed to pay Plaintiff and Class members
12 overtime and double-time for time worked at the end of work shifts which Defendants did not
13 record in any timekeeping or payroll records.

14 18. Plaintiff and Class Members were required to be on-call or standby twenty-four
15 hours per day and seven days per week. Defendants did not pay the employees for the waiting
16 time. When he was eventually called to go to work, Plaintiff was paid his base rate (or prevailing
17 wage rate) per hour, even if those hours were overtime hours. Moreover, Plaintiff and Class
18 Members were required to be within a 30 minute drive from the Defendants' yard, which required
19 all employees to be constantly on duty and on call and under Defendants' control without pay.

20 19. Upon information and belief, employee wage statements reflect that Plaintiff was
21 paid a "Bonus" for the same pay period as "Overtime" that was paid at exactly 1.5 time his base
22 rate, evidencing that the bonus was not incorporated into the regular rate used to calculate and pay
23 overtime. Furthermore, employee wage statements show that Plaintiff was paid "Bonus" for the
24 same pay period as "Double-time" paid at exactly two times his base rate, meaning the bonus was
25 not incorporated into the regular rate used to calculate and pay double-time.

26 20. Plaintiff was therefore not paid for all his hours worked at the required minimum,
27 overtime, and double time wage rates due to Defendants' uniformly applied and unlawful policy
28 and practice of requiring his and his fellow Class members to work off the clock and without pay.

1 Defendants systematically underpaid Plaintiff and the Class members by failing to pay them at
2 the required overtime rates for all hours over eight in a work shift or over forty in a work week,
3 and all hours over twelve in a day at the required double time rate. Upon information and belief,
4 the Class members were bound by similar scheduling and timekeeping policies and endured
5 similar violations at Defendants' hands as Plaintiff.

6 21. Defendants have either failed to maintain timekeeping records for Plaintiff that
7 would permit Plaintiff to discover the nature and extent of the off the clock work Defendants
8 required and the actual hours Plaintiff worked or the breaks they received or have otherwise
9 declined to produce them to Plaintiff in response to a timely and lawful records request. By
10 failing to pay for all hours worked, and by under-recording regular hours to the detriment of the
11 Class members, Defendants have committed knowing and intentional ongoing violations of the
12 record keeping requirements under the Labor Code, including section 1174, by either failing to
13 maintain records or maintaining inaccurate ones.

14 22. The failure to pay for all hours worked and underpayment of wages to Plaintiff
15 and the Class members is and has been a direct consequence of Defendants' unlawful
16 compensation policies and practices, which upon information and belief applied uniformly to the
17 Class members working based out of Defendants' facilities and at Defendants jobsites throughout
18 California. As a result of the above-described unlawful requirements to work off the clock, the
19 rounding and time shaving, the failure to accurately record all hours worked and pay wages at the
20 correct rates, and the other wage violations they endured at Defendants' hands, Plaintiff and the
21 Class members were not properly paid all wages earned and all wages owed to them by
22 Defendants, including when working more than eight hours in any given day and/or more than
23 forty hours in any given week. To the extent Defendants paid Plaintiff and the Class members
24 other forms of remuneration beyond their hourly rates during the same pay periods when they
25 worked overtime, such as bonuses and shift differentials, they failed to include these additional
26 forms of remuneration in the regular rate used to calculate and pay overtime hours resulting in
27 regular rate miscalculation and underpayment for all hours worked at the applicable hourly rates.

28

1 23. Therefore, from at least four years prior to the filing of this lawsuit and continuing
2 to the present, Defendants had a consistent policy or practice of failing to pay Employees for all
3 hours worked and failing to pay minimum wages for all time worked, as required by California
4 law. Also, from at least four years prior to the filing of this lawsuit and continuing to the present,
5 Defendants had a consistent policy or practice of failing to pay Employees overtime compensation
6 at premium overtime rates for all hours worked in excess of eight hours a day and/or forty hours a
7 week, and double-time rates for all hours worked in excess of twelve hours a day, in violation of
8 Labor Code § 510 and the corresponding sections of IWC Wage Orders.

9 24. Defendants also failed to provide Plaintiff and the Class members with their
10 required meal periods and at least two ten-minute rest breaks as required at a minimum for
11 Plaintiff's scheduled shift durations. The above described off the clock work contributed to
12 Defendants' common policy of failing to provide lawful meal periods to Plaintiff and the Class
13 members, as required under the Labor Code and Paragraph 11 of the IWC Wage Order(s).
14 Defendants similarly failed to authorize and permit Plaintiff and the employee Class Members to
15 take all required 10-minute rest breaks, as required under the Labor Code and Paragraph 12 of the
16 IWC Wage Order(s).

17 25. Defendants failed to provide lawful meal periods as required under the Labor Code
18 and IWC Wage Orders. More specifically, Plaintiff worked shifts that entitled him to at least one
19 meal period, but Defendants' required Plaintiff and the Class members to prioritize work over
20 taking lawful meal periods. In fact, Defendants made little effort to schedule or otherwise account
21 for time for Plaintiff and the Class members to use for duty-free, net thirty minute meal periods.

22 26. Defendants also wanted to maintain the appearance of compliant meal periods and
23 therefore implemented a timekeeping system that did not permit Employees to record the return
24 from their meal periods earlier than thirty minutes without manager override. Instead, Plaintiff and
25 Class Members were instructed by Defendants to "pre-record" their meal period start and end
26 times for the same times each day without regard to whether they were able to take an
27 uninterrupted meal break or not. To the extent Plaintiff received any meal periods, time records
28 fail to accurately reflect their true time and duration and Defendants maintained inaccurate and

1 unlawful records. Due to short staffing and volume of work, Plaintiff was compelled to endure
2 short and interrupted meal periods. To the extent Defendants required Plaintiff to work over ten
3 hours on a work shift, Defendants also failed to provide second meal periods and Defendants have
4 produced no evidence of payments for meal period violations under Labor Code 226.7. To the
5 extent Defendants have paid any such premiums, upon information and belief they failed to
6 include all forms of remuneration, including bonuses and shift differentials, in the regular rate at
7 which Defendants paid the premium.

8 27. Therefore, meal period violations systematically occurred ongoing throughout all
9 of Plaintiff's work shifts where Defendants failed to provide a lawful meal period or penalty
10 payment. To the extent Defendants ever did pay Plaintiff a meal period premium, they failed to
11 include all forms of remuneration in the regular rate used to calculate it. Upon information and
12 belief, the other Class members were subjected to similar unlawful policies and practices and
13 endured similar violations as Plaintiff.

14 28. Defendants thus failed to provide all the legally required unpaid, off-duty meal
15 periods and all the legally required paid, off-duty rest periods to Plaintiff and the other Class
16 members, as required by the applicable Wage Order and Labor Code. Plaintiff and other Class
17 members were required to perform work as ordered by Defendants for more than five hours during
18 a shift without receiving compliant meal periods. Additionally, as addressed above, Defendants
19 followed a practice of requiring off the clock work and rounding and time shaving in a manner
20 that would impact when Employees were to receive meal periods and rest breaks, and required
21 them to respond to work calls and other demands during breaks, thus leading to further violations.

22 29. Upon information and belief, Defendants' systems did not automatically generate a
23 meal period premium under Labor Code § 226.7 for meal periods that commenced after five hours
24 into a work shift or in the event the time punch records reflected a meal period of less than thirty
25 minutes. However, upon information and belief, in the event Defendants did pay any meal period
26 premiums, they did so at the employee's customary regular rate of hourly compensation without
27 including all forms of remuneration in that hourly rate calculation.

28

1 30. Defendants thus followed a uniformly applied policy of not providing all required
2 meal periods to their Employees. Meal periods were often not properly provided, as work
3 demands impermissibly shortened their breaks. Even when Plaintiff and the Class members were
4 able to take a meal period, it was generally interrupted by work duties or was taken after the fifth
5 hour of work. Additionally, as addressed above, Defendants followed a practice of requiring off
6 the clock work in a manner that would impact when Employees were to receive meal periods and
7 rest breaks, thus leading to further violations. Plaintiffs and Class members were also required by
8 Defendants to remain on the jobsite premises during meal periods.

9 31. As a result, Defendants' failure to provide Plaintiff and the Class members with all
10 legally required off-duty, unpaid meal periods and all the legally required off-duty, paid rest
11 periods is and will be evidenced by Defendants' business records, or lack thereof. Therefore, for at
12 least four years prior to the filing of this action and through to the present, Plaintiff and the Class
13 members were unable to take off-duty breaks or were otherwise not provided with the opportunity
14 to take required breaks as required under the Labor Code and Wage Orders due to Defendants'
15 policies and practices. On the occasions when Plaintiff and the Class members were provided with
16 a meal period, it was often untimely or interrupted, or was impermissibly shortened, and
17 Employees were not provided with one hour's wages in lieu thereof. Meal period violations thus
18 occurred in one or more of the following manners:

- 19 (a) Class members were not provided full thirty-minute duty free meal periods
20 for work days in excess of five hours and were not compensated one
21 hour's wages in lieu thereof, or were not compensated at the correct
22 regular rate of compensation, all in violation of, among others, Labor Code
23 §§ 226.7, 512, and the applicable Industrial Welfare Commission Wage
24 Order(s);
- 25 (b) Class members were not provided second full thirty-minute duty free meal
26 periods for work days in excess of ten hours;
- 27 (c) Class members were required to work through at least part of their daily
28 meal period(s);

- 1 (d) Meal periods were provided after five hours of continuous work during a
2 shift; and
- 3 (e) Class members were restricted in their ability to take a full thirty-minute
4 meal periods or were otherwise required to remain under Defendants'
5 control during them.

6 32. Similar violations resulted from Defendants' failure to authorize and permit
7 Plaintiff and the Class members to take duty-free, net ten-minute rest breaks for every four hours
8 of shift work, or major fraction thereof. Plaintiff and the other similarly situated Class members
9 were either not authorized and permitted the opportunity to take a rest break, or were required to
10 remain under Defendants' control if and when they even attempted to take one. Employees were
11 prohibited from leaving the premises for meal periods and rest breaks, evidencing Defendants'
12 policy and practice of requiring Plaintiff and the Class members to remain under their control
13 during required off-duty break times.

14 33. Defendants thus failed to authorize and permit duty-free ten minute rest breaks as
15 required under the Labor Code and IWC Wage Orders. In fact, Defendants made little effort to
16 schedule or otherwise account for time for Plaintiff and the Class members to use for duty-free,
17 net ten-minute rest breaks. This common and unlawful policy uniformly applied to the
18 Employees during the relevant period, meaning Defendants' rest break policy was not to schedule
19 or otherwise authorize and permit them. Plaintiff and the Class members worked seven to eight
20 hours on an average shift, and were required to receive at least two rest breaks or three rest breaks
21 on shifts over ten hours. Given the work demands, understaffing, and pressure from Defendants'
22 management, Plaintiff and the Class members were compelled to not take rest breaks despite
23 working extended shifts. Defendants have produced no evidence of any payments for rest break
24 violations under Labor Code § 226.7. To the extent Defendants have paid any such premiums,
25 upon information and belief they failed to include all forms of remuneration, including bonuses
26 and shift differentials, in the regular rate at which Defendants paid the premium.

27 34. Defendants' uniformly applied policies and practices thus resulted in untimely and
28 shortened or on-duty rest breaks when they were authorized and permitted. Plaintiff and the Class

1 members worked shifts of at least eight hours, which required at least two rest breaks, and if they
2 worked over ten hours, required at least three rest breaks. Even on the occasions when
3 Defendants authorized and permitted Plaintiff and Class members to take a first rest break, they
4 were not permitted to take a second or a third break, and those that were provided were often late
5 and generally interrupted by job duties.

6 35. During rest periods, employers must relieve employees of all duties and relinquish
7 control over how employees spend their time. Plaintiff and the Class members were and are under
8 compiling hours worked when Defendants required them to work through rest breaks or to
9 otherwise remain under Defendants' control while being unable to leave the jobsite/premises.
10 Defendants have also provided either impermissibly shortened or untimely meal and rest breaks
11 to Plaintiff and the Class members. Plaintiff and the Employees in the Class were thus not
12 authorized and permitted to take lawful rest periods, were systematically required by Defendants
13 to work through or during breaks, and were not provided with one hour's wages in lieu thereof.
14 They were required to remain on-duty during breaks or portions of their breaks, thus making
15 them either untimely or shortened and on-duty, and they were also prevented from leaving the
16 premises and otherwise remain under Defendants' control during rest breaks under Defendants'
17 uniformly applied policies and practices. Rest period violations therefore arose in one or more of
18 the following manners:

- 19 (a) Class members were required to work without being provided a minimum
20 ten minute rest period for every four hours or major fraction thereof worked
21 and were not compensated one hour of pay at their regular rate of
22 compensation for each workday that a rest period was not provided;
- 23 (b) Class members were not authorized and permitted to take timely rest periods
24 for every four hours worked, or major fraction thereof; and
- 25 (c) Class members were required to remain on-duty and on premises or
26 otherwise under Defendants' control during rest periods or otherwise had
27 their rest periods interrupted by work demands.
- 28

1 36. From at least four years prior to the filing of this lawsuit and continuing to the
2 present, Defendants have also consistently violated Labor Code § 221 by unlawfully collecting or
3 deducting the Employees' earned wages, including by the above described off the clock work and
4 rounding and time shaving and on-duty work while on unpaid meal breaks. By not compensating
5 Employees for all hours worked, Defendants unlawfully deducted wages earned in violation of
6 Labor Code § 221.

7 37. Defendants also violated California Labor Code § 246 by not providing all
8 required paid sick days to Plaintiff and the Class members. Labor Code § 246 provides that an
9 Employee who "works in California for the same employer for 30 or more days within a year
10 from the commencement of employment is entitled to paid sick days as specified in this section."
11 Defendants failed to provide Plaintiff and the other similarly aggrieved Employees with all their
12 required and earned sick days, in violation of Labor Code § 246. Moreover, upon information and
13 belief, employee wage statements show that Plaintiff's "Prevailing" wage rate, which is higher
14 than the base rate was not incorporated in Plaintiff's sick pay. Plaintiff was improperly paid at
15 his base rate.

16 38. Upon information and belief, Defendants also failed to provide COVID-19
17 supplemental sick leave to the Class members during the relevant time period, including by
18 failing to provide two work weeks of COVID-19 supplemental paid sick leave as required under
19 Labor Code §§ 248.1 and 248.2 and including damages and penalties as these sections are
20 enforced through Labor Code § 248.5, which requires that: "If paid sick days were unlawfully
21 withheld, the dollar amount of paid sick days withheld from the employee multiplied by three, or
22 two hundred fifty dollars (\$250), whichever amount is greater, but not to exceed an aggregate
23 penalty of four thousand dollars (\$4,000), shall be included in the administrative penalty."
24 Plaintiff accordingly seeks this relief available for Defendants' failure to provide Employees with
25 all their required and earned sick days and all their COVID-19 supplemental sick leave in
26 violation of Labor Code §§ 246, 248.1, 248.2, and the civil and statutory penalties available and
27 applicable under Labor Code §§ 246, 248.1, 248.2, 248.5, 558, 1194.2, 1197.1, 1198, 1199, and
28 2699(f)(2), and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

1 39. Defendants also violated California Labor Code § 227.3 by not paying all accrued
2 vacation days to Plaintiff and Class Members upon separation from employment. Labor Code §
3 227.3 provides that when an employee's employment ends, the employer must pay the employee
4 for any unused vacation time at their final rate of pay unless a Collective Bargaining Agreement
5 provides otherwise. There is no Collective Bargaining agreement here. Defendants failed to
6 provide Plaintiff and the other similarly aggrieved Employees with all their required and earned
7 vacation pay, in violation of Labor Code § 227.3.

8 40. As a result of these illegal policies and practices, Defendants also engaged in and
9 enforced the following additional unlawful practices and policies against Plaintiff and the Class
10 members he seeks to represent:

- 11 (a) failing to pay all wages owed to Class members who either were discharged,
12 laid off, or resigned in accordance with the requirements of Labor Code §§
13 201, 202, 203;
- 14 (b) failing to pay all wages owed to the Class members twice monthly in
15 accordance with the requirements of Labor Code § 204;
- 16 (c) failing to pay Class members all wages owed, including all meal and rest
17 period premium wages, and failing to pay them at the regular rate of
18 compensation;
- 19 (d) failing to maintain accurate records of Class members' hours worked and
20 earned wages and meal periods in violation of Labor Code §§ 226 and
21 1174(d) and section 7 of the applicable IWC Wage Orders; and
- 22 (e) failing to produce timekeeping records in response to Plaintiff's timely and
23 lawful request to receive them under these authorities.

24 41. Defendants have also consistently failed to provide Class members with timely,
25 accurate, and itemized wage statements, in writing, as required by California wage-and-hour laws,
26 including by the above-described requirement of off the clock work, failure to pay all overtime
27 and double time wages owed and failure to pay them at the appropriate premium rates, and failure
28 to pay premium wages for unprovided or otherwise unlawful meal and rest breaks, or by

1 miscalculating any overtime or meal period or rest break premium wages and by the systematic
2 and unlawful deductions Defendants took from Employee wages. Defendants have also made it
3 difficult to account with precision for the unlawfully withheld wages and meal and rest period
4 compensation owed to Plaintiff and the Class, during the liability period, including because they
5 did not calculate the regular rate of pay correctly when paying overtime or meal period premiums
6 and because they did not implement and preserve a record-keeping method as required for non-
7 exempt employees by California Labor Code §§ 226, 1174(d), and paragraph 7 of the applicable
8 California Wage Orders. Upon information and belief, time clock punches were not maintained or
9 were not accurately maintained for work shifts and meal periods, which were automatically
10 presumed by Defendants to have been lawfully provided when they were not. Defendants also
11 failed to accurately record and pay for all regular and overtime hours worked and submitted by
12 Plaintiff and the Class members, including by failing to pay all overtime hours at the correctly
13 calculated overtime premium rate.

14 42. Defendants have thus failed to comply with Labor Code § 226(a) by inaccurately
15 reporting total hours worked and total wages earned by Plaintiff and the Class members, along
16 with the appropriate applicable rates, among others requirements. Plaintiff and Class members are
17 therefore entitled to penalties not to exceed \$4,000.00 for each employee pursuant to Labor Code
18 § 226(b). Defendants have also failed to comply with paragraph 7 of the applicable California
19 IWC Wage Orders by failing to maintain time records showing when the employee begins and
20 ends each work period, meal periods, and wages earned pursuant to Labor Code § 226.7, and total
21 daily hours worked by itemizing in wage statements all deductions from payment of wages and
22 accurately reporting total hours worked.

23 43. Upon information and belief, Defendants also failed to provide Employees such as
24 Plaintiff at the time of his employment and thereafter with written notice complying with all the
25 requirements of Labor Code § 2810.5, which provides that: “At the time of hiring, an employer
26 shall provide to each employee a written notice, in the language the employer normally uses to
27 communicate employment-related information to the employee, containing” specific required
28 information. Upon information and belief, Defendants failed to provide this information to the

1 Aggrieved Employees as required under Labor Code § 2810.5. Defendants were required to
2 provide Plaintiff and the aggrieved employee Class members certain specific information upon
3 hiring pursuant to California Labor Code § 2810.5. Defendants failed to provide Plaintiff with
4 any such information when they were hired, or have failed to produce it, and upon information
5 and belief Defendants committed similar violations in connection with similarly situated and
6 aggrieved Class members.

7 44. Defendants also required Plaintiff and the Class members to work hours off the
8 clock for which they were not compensated. They were required to endure off the clock work
9 addressed above during interrupted or otherwise on-duty meal and rest periods and were not
10 provided with sick pay and supplemental sick leave and were subjected to systematic off the clock
11 work and rounding and miscalculation. Defendants also failed to pay all overtime premium wages
12 owed for work conducted on a work shift and a workday or failed to pay it at the correct rate, as
13 addressed above. Therefore, Defendants have also followed a uniform and consistent policy of
14 failing to pay all wages owed to Plaintiff and other similarly situated Employees at the time of
15 their termination or within seventy-two hours of their resignation, as required by California wage-
16 and-hour laws, including Labor Code §§ 201-203.

17 45. From at least four years prior to the filing of this lawsuit and continuing to the
18 present, Defendants paid Plaintiff and Employees shift differentials, nondiscretionary
19 commissions, incentive pay, and/or nondiscretionary bonuses. However, upon information and
20 belief, Defendants failed to incorporate all remunerations, including shift differentials,
21 nondiscretionary commissions, incentive pay, and/or nondiscretionary bonuses, into the
22 calculation of the regular rate of pay for purposes of calculating vacation pay. Therefore, during
23 times when Plaintiff and Employees worked overtime and received shift differentials,
24 nondiscretionary commissions, incentive pay, and/or nondiscretionary bonuses, Defendants failed
25 to pay all vacation pay by paying it at a lower rate than required.

26 46. Additionally, from at least four years prior to the filing of this lawsuit and
27 continuing to the present, Defendants have regularly required Plaintiff and the Class members to
28 incur necessary business expenses in the course of performing their required job duties without

1 reimbursement. These included requiring Plaintiff to provide his own tools, drills, socket sets,
2 screwdrivers, pliers, saws, hammers, cut-resistant gloves, respirator, body harness, lanyard, fire-
3 resistant clothing, and rain gear. Plaintiff and the Class members must be reimbursed for these
4 necessary business expenses under Labor Code § 2802 and Defendants systematically failed to do
5 so.

6 47. In light of the foregoing, Plaintiff and the Employees in the Class bring this action
7 pursuant to, *inter alia*, Labor Code §§ 201, 202, 203, 204, 218, 218.5, 218.6, 221, 226, 226.4,
8 226.7, 246, 248.1, 248.2, 248.5, 510, 511, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194,
9 1194.2 1197, 1198, 1198.5, and 1199, 2802, 2810.5 and California Code of Regulations, Title 8,
10 section 11000 *et seq.*

11 48. Furthermore, pursuant to Business and Professions Code §§ 17200-17208, Plaintiff
12 and the Class members seek injunctive relief, restitution, and disgorgement of all benefits
13 Defendants have enjoyed from their violations of Labor Code and the other unfair, unlawful, or
14 fraudulent practices alleged in this Complaint.

15 CLASS ALLEGATIONS

16 49. Plaintiff brings this class action on behalf of himself and all others similarly
17 situated pursuant to Code of Civil Procedure § 382. Plaintiff seeks to represent a Class (or “the
18 Class” or “Class members”) defined as follows: “All individuals employed by Defendants at any
19 time during the period of four (4) years prior to the filing of this lawsuit and ending on a date as
20 determined by the Court (“the Class Period”), and who have been employed as non-exempt,
21 hourly employees within the State of California.” This includes all environmental cleanup workers
22 and those in similar and related positions. Further, Plaintiff seeks to represent the Subclasses
23 composed of and defined as follows:

24 a. Subclass 1. Minimum Wages Subclass. All Class members who were not
25 compensated for all hours worked for Defendants at the applicable minimum wage.

26 b. Subclass 2. Wages and Overtime Subclass. All Class members who were not
27 compensated for all hours worked for Defendants at the required rates of pay, including for all
28 hours worked in excess of eight in a day and/or forty in a week.

1 c. Subclass 3. Meal Period Subclass. All Class members who were subject to
2 Defendants' policy and/or practice of failing to provide unpaid 30-minute uninterrupted and duty-
3 free meal periods or one hour of pay at the Employee's regular rate of pay in lieu thereof.

4 d. Subclass 4. Rest Break Subclass. All Class members who were subject to
5 Defendants' policy and/or practice of failing to authorize and permit Employees to take
6 uninterrupted, duty-free, 10-minute rest periods for every four hours worked, or major fraction
7 thereof, and failing to pay one hour of pay at the Employee's regular rate of pay in lieu thereof.

8 e. Subclass 5. Wage Statement Subclass. All Class members who, within the
9 applicable limitations period, were not provided with accurate itemized wage statements.

10 f. Subclass 6. Unauthorized Deductions from Wages Subclass. All Class members
11 who were subject to Defendants' policy and/or practice of deducting wages earned from their pay,
12 including by requiring off the clock work.

13 g. Subclass 7. Failure to Timely Pay Wages Twice Monthly Subclass. All Class
14 members who were subject to Defendants' policy and practice of not timely paying all wages
15 earned when they were due and payable at least twice monthly.

16 h. Subclass 8. Termination Pay Subclass. All Class members who, within the
17 applicable limitations period, either voluntarily or involuntarily separated from their employment
18 and were subject to Defendants' policy and/or practice of failing to timely pay wages upon
19 termination.

20 i. Subclass 9. Vacation Wages Subclass. All Class members who were not
21 compensated at the Employee's regular rate of pay for their vacation wages.

22 j. Subclass 10. Payroll Records Subclass. All Class members who were subject to
23 Defendants' policy and/or practice of failing to keep accurate time and wage records as required
24 by California wage-and-hour laws.

25 k. Subclass 11. Expense Reimbursement Subclass. All Class members who incurred
26 necessary and reasonable expenses in connection with performing their job duties for Defendants
27 and who were subject to a policy and/or practice under which such expenses were not reimbursed.
28

1 1. Subclass 12. UCL Subclass. All Class members who are owed restitution as a
2 result of Defendants' business acts and practices, to the extent such acts and practices are found to
3 be unlawful, deceptive, and/or unfair.

4 50. Plaintiff reserves the right under California Rule of Court 3.765 to amend or
5 modify the class description with greater particularity or to provide further division into subclasses
6 or limitation to particular issues. To the extent equitable tolling operates to toll claims by the Class
7 against Defendants, the Class Period should be adjusted accordingly.

8 51. Defendants, as a matter of company policy, practice and procedure, and in violation
9 of the applicable Labor Code, Industrial Welfare Commission ("IWC") Wage Order requirements,
10 and the applicable provisions of California law, intentionally, knowingly, and willfully, engaged
11 in a practice whereby Defendants failed to correctly calculate and pay compensation for the time
12 worked by the Plaintiff and the other members of the Class, even though Defendants enjoyed the
13 benefit of this work, required Employees to perform this work and permitted or suffered to permit
14 this work. Defendants have uniformly denied these Class members wages to which these
15 employees are entitled, and failed to provide meal periods or authorize and permit rest periods, in
16 order to unfairly cheat the competition and unlawfully profit.

17 52. This action has been brought and may properly be maintained as a class action
18 under the provisions of Code of Civil Procedure § 382 because there is a well-defined community
19 of interest in this litigation and the proposed Class is easily ascertainable from the employment
20 records for Plaintiff and the Class members that Defendants are required to maintain under
21 California law.

22 **A. Numerosity**

23 53. The potential members of the class as defined are so numerous that joinder of all
24 the member of the class is impracticable. While the precise number of class member has not been
25 determined at this time, Plaintiff is informed and believe that Defendants employ or, during the
26 time period relevant to this lawsuit employed, at least hundreds of Employees who satisfy the
27 Class definition within the State of California. Plaintiff alleges that Defendants' employment
28 records will provide information as to the number and location of all Class members.

B. Commonality

54. There are questions of law and fact common to the Class that predominate over any questions affecting only individual Class members. The common questions are numerous and substantial and flow from Defendants' uniform policies and/or practices of violating the California Labor Code addressed above. As such, these common questions predominate over individual questions concerning each individual Class Member's showing as to his or her eligibility for recovery or as to the amount of damages. These common questions of law and fact include:

- a. Whether Defendants failed to pay Employees minimum wages;
- b. Whether Defendants failed to pay Employees wages for all hours worked;
- c. Whether Defendants failed to pay Employees overtime as required under Labor Code § 510;
- d. Whether Defendants failed to pay Employees vacation wages as required under Labor Code § 227.3;
- e. Whether Defendants violated Labor Code §§ 226.7 and 512, and the applicable IWC Wage Orders, by failing to provide Employees with requisite meal periods or premium pay in lieu thereof;
- f. Whether Defendants violated Labor Code §§ 226.7, and the applicable IWC Wage Orders, by failing to authorize and permit Employees to take requisite rest breaks or provide premium pay in lieu thereof;
- g. Whether Defendants violated California Labor Code §§ 246 and 248.1 by not providing employees with all required sick days and COVID-19 supplemental sick leave at the appropriate rates of pay;
- h. Whether Defendants violated Labor Code § 226(a) by providing Employees with inaccurate wage statements;
- i. Whether Defendants violated Labor Code § 221;
- j. Whether Defendants violated Labor Code §§ 201, 202, and 203 by failing to pay wages and compensation due and owing at the time of termination of employment;
- k. Whether Defendants' conduct was willful;

- 1 l. Whether Defendants violated Labor Code § 226 and § 1174 and § 1198 and the
2 IWC Wage Orders by failing to maintain accurate records of Class members’
3 earned wages and work periods;
- 4 m. Whether Defendants violated Labor Code § 1194 by failing to compensate all
5 Employees during the relevant time period for all hours worked, whether regular or
6 overtime;
- 7 n. Whether Defendants violated Labor Code § 204 by failing to pay Employees all
8 wages earned at least twice monthly;
- 9 o. Whether Defendants violated § 227.3 by failing to pay all Employees their vacation
10 pay upon separation of employment;
- 11 p. Whether Defendants violated Business and Professions Code § 17200 *et seq.*; and
- 12 q. Whether Employees are entitled to equitable relief pursuant to Business and
13 Professions Code § 17200 *et seq.*

14 **C. Typicality**

15 55. The claims of the named Plaintiff are typical of those of the other Employees. The
16 Employee Class members all sustained injuries and damages arising out of and caused by
17 Defendants’ common course of conduct and uniformly applied policies in violation of statutes, as
18 well as regulations, that have the force and effect of law, as alleged herein. Plaintiff’s claims for
19 the off the clock work and meal and rest violations they was required to endure are typical of those
20 of the other Class members.

21 **D. Adequacy of Representation**

22 56. Plaintiff will fairly and adequately represent and protect the interest of the
23 Employee Class members. Counsel who represents Plaintiff and the Employees in the Class are
24 experienced and competent in litigating employment class actions.

25 **E. Superiority of Class Action**

26 57. A class action is superior to other available means for the fair and efficient
27 adjudication of this controversy. Individual joinder of all Employees is not practicable, and
28 questions of law and fact common to all Employees predominate over any questions affecting only

1 individual Employees. Each Employee in the Class has been damaged and is entitled to recovery
2 by reason of Defendants' illegal policies or practices of failing to compensate Employees properly.

3 58. As to the issues raised in this case, a class action is superior to all other methods for
4 the fair and efficient adjudication of this controversy, as joinder of all Class members is
5 impracticable and many legal and factual questions to be adjudicated apply uniformly to all Class
6 members. Further, as the economic or other loss suffered by vast numbers of Class members may
7 be relatively small, the expense and burden of individual actions makes it difficult for the Class
8 members to individually redress the wrongs they have suffered. Moreover, in the event
9 disgorgement is ordered, a class action is the only mechanism that will permit the employment of
10 a fluid fund recovery to ensure that equity is achieved. There will be relatively little difficulty in
11 managing this case as a class action, and proceeding on a class-wide basis will permit Employees
12 to vindicate their rights for violations they endured which they would otherwise be foreclosed
13 from receiving in a multiplicity of individual lawsuits that would be cost prohibitive to them.

14 59. Class action treatment will allow those persons similarly situated to litigate their
15 claims in the manner that is most efficient and economical for the parties and the judicial system.
16 Plaintiff is unaware of any difficulties in managing this case that should preclude class treatment.
17 Plaintiff contemplates the eventual issuance of notice to the proposed Class members that would
18 set forth the subject and nature of the instant action. The Defendants' own business records can be
19 utilized for assistance in the preparation and issuance of the contemplated notices. To the extent
20 that any further notice is required additional media and/or mailings can be used.

21 60. Defendants, as prospective and actual employers of the Employees in the Class,
22 had a special fiduciary duty to disclose to prospective Class members the true facts surrounding
23 Defendants' pay practices, policies and working conditions imposed upon the similarly situated
24 Employees as well as the effect of any alleged arbitration agreements that may have been forced
25 upon them. In addition, Defendants knew they possessed special knowledge about pay practices
26 and policies, most notably intentionally refusing to pay for all hours actually worked which should
27 have been recorded in Defendants' pay records and the consequence of the alleged arbitration
28 agreements and policies and practices on the Employees and Class as a whole.

61. Plaintiff and the Employees in the Class did not discover the fact that they were entitled to all pay under the Labor Code until shortly before the filing of this lawsuit nor was there ever any discussion about Plaintiff's and the Class's waiver of their Constitutional rights of trial by jury, right to collectively organize and oppose unlawful pay practices under California law as well as obtain injunctive relief preventing such practices from continuing. As a result, the applicable statutes of limitation were tolled until such time as Plaintiff and the Class members discovered their claims.

FIRST CAUSE OF ACTION
FAILURE TO PAY MINIMUM WAGES
(Against All Defendants)

62. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

63. Defendants failed to pay Employees minimum wages for all hours worked. Defendants had a consistent policy of failing to pay Employees for all hours worked. Employees would work hours and not receive wages, including as alleged above in connection with off the clock work and rounding and time shaving, including all the time required to remain on duty and under Defendants' control during breaks and due to the work demands placed upon them by Defendants' management and customers. Defendants' uniformly applied policies required systematic off the clock work and underpayment of all wages owed to Employees over a period of time, while benefiting Defendants. During the relevant time period, Defendants thus regularly failed to pay minimum wages to Plaintiff and the Class members, including by requiring systematic off the clock work. To the extent any local wage ordinances were also applicable to paying the employees an hourly rate above the minimum wage rate, Defendants failed to comply with the local wage ordinances. Defendants' uniform pattern of unlawful wage and hour practices manifested, without limitation, applicable to the Class as a whole, as a result of implementing a uniform policy and practice that denied accurate compensation to Plaintiff and the other members of the Class as to minimum wage pay.

1 64. In California, employees must be paid at least the applicable state minimum wage
2 for all hours worked, including under Labor Code § 1197, IWC Wage Order MW-2014, and
3 paragraphs 2(K), 2(S), and 4(A)-4(C) of the applicable IWC Wage Orders. Also, pursuant to
4 California Labor Code § 204, other applicable laws and regulations, and public policy, an
5 employer must timely pay its employees for all hours worked. Defendants failed to do so.

6 65. California Labor Code § 1197, entitled “Pay of Less Than Minimum Wage”
7 states: “The minimum wage for employees fixed by the commission is the minimum wage to be
8 paid to employees, and the payment of a less wage than the minimum so fixed is unlawful.” The
9 applicable minimum wage rate fixed by the commission for work during the relevant period is
10 found in the Wage Orders.

11 66. The minimum wage provisions of California Labor Code are enforceable by private
12 civil action pursuant to Labor Code § 1194(a) which states: “Notwithstanding any agreement to
13 work for a lesser wage, any employee receiving less than the legal minimum wage or the legal
14 overtime compensation applicable to the employee is entitled to recover in a civil action the
15 unpaid balance of the full amount of this minimum wage or overtime compensation, including
16 interest thereon, reasonable attorney’s fees and costs of suit.”

17 67. As described in California Labor Code §§ 1185 and 1194.2, any action for wages
18 incorporates the applicable Wage Order of the California Industrial Welfare Commission. Also,
19 California Labor Code §§ 1194, 1197, 1197.1 and those Industrial Welfare Commission Wage
20 Orders entitle non-exempt employees to an amount equal to or greater than the minimum wage for
21 all hours worked. All hours must be paid at the statutory or agreed rate, or at the minimum rate in
22 the absence of a contractually agreed upon one.

23 68. In committing these violations of the California Labor Code, Defendants
24 inaccurately recorded, or required Plaintiff and the Class members to input times that did not
25 reflect their actual hours worked, or miscalculated hours or rates or otherwise underpaid the actual
26 time worked by Plaintiff and other members of the Class, including by requiring off the clock
27 work as addressed in detail above. Defendants acted in an illegal attempt to avoid the payment of
28 all earned wages, and other benefits in violation of the California Labor Code, the Industrial

1 Welfare Commission requirements and other applicable laws and regulations. As a result of these
2 violations, Defendants also failed to timely pay all wages earned in accordance with California
3 Labor Code § 1194.

4 69. California Labor Code § 1194.2 also provides for the following remedies: “In any
5 action under Section 1194 . . . to recover wages because of the payment of a wage less than the
6 minimum wages fixed by an order of the commission, an employee shall be entitled to recover
7 liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.”

8 70. In addition to restitution for all unpaid wages, pursuant to California Labor Code §
9 1197.1, Plaintiff and Class members are entitled to recover a penalty of \$100.00 for the initial
10 failure to timely pay each employee minimum wages, and \$250.00 for each subsequent failure to
11 pay each employee minimum wages. Pursuant to California Labor Code § 1194.2, Plaintiff and
12 Class members are further entitled to recover liquidated damages in an amount equal to wages
13 unlawfully unpaid and interest thereon.

14 71. Defendants have the ability to pay minimum wages for all time worked and have
15 willfully refused to pay such wages with the intent to secure for Defendants a discount upon this
16 indebtedness with the intent to annoy, harass, oppress, hinder, delay, or defraud Employees.

17 72. Plaintiff and the Class members are entitled to recover the unpaid minimum wages
18 (including double minimum wages) and local wage ordinance wages and liquidated damages in an
19 amount equal to the minimum wages unlawfully unpaid, interest thereon and reasonable attorney’s
20 fees and costs of suit pursuant to California Labor Code § 1194(a). Plaintiff and the other
21 members of the Class further request recovery of all unpaid wages, according to proof, interest,
22 statutory costs, as well as the assessment of any statutory penalties against Defendants, in a sum as
23 provided by the California Labor Code and/or other applicable statutes. To the extent minimum
24 wage compensation is determined to be owed to the Class members who have terminated their
25 employment, Defendants’ conduct also violates Labor Code §§ 201 and/or 202, and therefore
26 these individuals are also entitled to waiting time penalties under California Labor Code § 203,
27 which penalties are sought herein on behalf of these Class members. Defendants’ failure to timely
28 pay all wages owed also violated Labor Code § 204 and resulted in violations of Labor Code §

226 because they resulted in the issuance of inaccurate wage statements. Defendants' conduct as alleged herein was willful, intentional, and not in good faith. Further, Plaintiff and other Class members are entitled to seek and recover statutory costs.

SECOND CAUSE OF ACTION

FAILURE TO PAY WAGES AND OVERTIME UNDER LABOR CODE § 510

(Against All Defendants)

73. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

74. California Labor Code § 1194 provides that "any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees, and costs of suit." The action may be maintained directly against the employer in an employee's name without first filing a claim with the Division of Labor Standards and Enforcement.

75. By their conduct, as set forth herein, Defendants violated Labor Code § 1194 and Labor Code § 510 (and paragraphs 2(K), 2(S), 3(A) and 4(A)-4(B) of the relevant orders of the Industrial Welfare Commission) by failing to pay Employees: (a) time and one-half their regular hourly rates for hours worked in excess of eight (8) hours in a workday or in excess of forty (40) hours in any workweek or for the first eight (8) hours worked on the seventh day of work in any one workweek; or (b) twice their regular rate of pay for hours worked in excess of twelve (12) hours in any one (1) day or for hours worked in excess of eight (8) hours on any seventh day of work in a workweek.

76. Defendants had a consistent policy of not paying Employees wages for all hours worked, including by requiring off the clock work and rounding as addressed above, by unlawful deductions, by under-reporting actual hours worked, and by requiring Employees to do so as well. Defendants have also failed to include all forms of remuneration in the regular rate of pay used to calculate and pay overtime, and failed to begin paying overtime when it was incurred due to the off the clock work, as detailed above.

1 77. Defendants thus had a consistent policy of not paying Employees wages for all
2 hours worked, including hours at their required regular, overtime, and double-time rates.
3 Defendants, and each of them, have intentionally and improperly rounded, changed, adjusted
4 and/or modified certain employees' hours, including Plaintiff's, or required Plaintiff and the Class
5 members to do so, or otherwise caused them to work off the clock to avoid paying Plaintiff and the
6 Class members all earned and owed straight time and overtime wages and other benefits, in
7 violation of the California Labor Code, the California Code of Regulations and the IWC Wage
8 Orders and guidelines set forth by the Division of Labor Standards and Enforcement. Defendants
9 have also violated these provisions by requiring Plaintiff and other similarly situated non-exempt
10 employees to work through meal periods or remain under Defendants' control when they were
11 required to be clocked out or to otherwise work off the clock to complete their daily job duties and
12 respond to demands from customers and management.

13 78. Therefore, Employees were not properly compensated, nor were they paid overtime
14 rates for hours worked in excess of eight hours in a given day, and/or forty hours in a given week.
15 Based on information and belief, Defendants did not make available to Employees a reasonable
16 protocol for correcting time records when Employees worked overtime hours or to fix incorrect
17 time entries or those that Defendants unlawfully under-recorded to the Employee's detriment.
18 Defendants have also violated these provisions by requiring Plaintiff and other similarly situated
19 Class members to work through meal periods when they were required to be clocked out or to
20 otherwise work off the clock to complete their daily job duties.

21 79. Defendants' failure to pay Plaintiff and the Class members the unpaid balance of
22 regular wages owed and overtime compensation for all hours worked, as required by California
23 law, violates the provisions of Labor Code §§ 510 and 1198 and paragraph 3(A) of the applicable
24 IWC Wage Order, and is therefore unlawful. Defendants also failed to correctly calculate the
25 regular rate used to calculate and pay overtime, and meal and rest premiums, as addressed above.

26 80. Additionally, Labor Code § 558(a) provides "any employer or other person acting
27 on behalf of an employer who violates, or causes to be violated, a section of this chapter or any
28 provisions regulating hours and days of work in any order of the IWC shall be subject to a civil

1 penalty as follows: (1) For any violation, fifty dollars (\$50) for each underpaid employee for each
2 pay period for which the employee was underpaid in addition to an amount sufficient to recover
3 underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each
4 underpaid employee for each pay period for which the employee was underpaid in addition to an
5 amount sufficient to recover underpaid wages. (3) Wages recovered pursuant to this section shall
6 be paid to the affected employee.” Labor Code § 558(c) states, “the civil penalties provided for in
7 this section are in addition to any other civil or criminal penalty provided by law.” Defendants
8 have violated provisions of the Labor Code regulating hours and days of work as well as the IWC
9 Wage Orders. Accordingly, Plaintiff and the Class members seek the remedies set forth in Labor
10 Code § 558.

11 81. Defendants’ failure to pay compensation in a timely fashion also constituted a
12 violation of California Labor Code § 204, which requires that all wages shall be paid
13 semimonthly. From four (4) years prior to the filing of this lawsuit to the present, in direct
14 violation of that provision of the California Labor Code, Defendants have failed to pay all wages
15 and overtime compensation earned by Employees. Each such failure to make a timely payment of
16 compensation to Employees constitutes a separate violation of California Labor Code § 204.

17 82. Employees have been damaged by these violations of California Labor Code §§
18 204 and 510 (and the relevant orders of the Industrial Welfare Commission). Additionally, under
19 Labor Code § 1199(a)-(c), it is a misdemeanor and Defendants are subject to a fine of not less
20 than \$100 for causing Employees “to work for longer hours than those fixed, or under conditions
21 of labor prohibited by an order of the commission” or if the employer pays “a wage less than the
22 minimum fixed by an order of the commission” or “violates...any provision of this chapter or
23 any order or ruling of the commission.”

24 83. Consequently, pursuant to the California Labor Code, including Labor Code §§
25 204, 510, 558, 1194, 1198, 1199, and the relevant paragraphs of the IWC Wage Orders, including
26 paragraphs 2(K), 2(S), 3(A), 4, and 20, Defendants are liable to Employees for the full amount of
27 all their unpaid wages and overtime compensation for all their hours worked, with interest, plus
28 their reasonable attorneys’ fees and costs, as well as the assessment of any statutory penalties

1 against Defendants, and each of them, and any additional sums as provided by the Labor Code
2 and/or other statutes.

3 **THIRD CAUSE OF ACTION**

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

5 **(Against All Defendants)**

6 84. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
7 full herein.

8 85. Employees regularly worked shifts greater than five (5) hours and in some
9 instances, greater than ten (10) hours. Pursuant to Labor Code § 512, and paragraph 11 of the
10 applicable IWC Wage Order, an employer may not employ someone for a shift of more than five
11 (5) hours without providing him or her with a meal period of not less than thirty (30) minutes or
12 for a shift of more than ten (10) hours without providing him or her with a second meal period of
13 not less than thirty (30) minutes.

14 86. Defendants failed to provide Employees with meal periods as required under the
15 Labor Code and paragraph 11 of the applicable IWC Wage Order. Employees were often required
16 to work or to otherwise remain under Defendants' control during meal periods, or Defendants
17 provided them after Employees worked beyond the fifth hour of their shifts or Employees
18 otherwise had them shortened and interrupted by work demands and requirements to perform off
19 the clock work and remain under Defendants' control. Furthermore, upon information and belief,
20 on the occasions when Employees worked more than ten hours in a given shift, they did so
21 without receiving a second uninterrupted thirty-minute meal period as required by law.

22 87. Defendants thus failed to provide Plaintiff and the Class members with meal
23 periods as required by the Labor Code and paragraph 11 of the applicable IWC Wage Order,
24 including by not providing them with the opportunity to take meal breaks, by providing them late
25 or for less than thirty minutes, or by requiring them to perform work during breaks.

26 88. Moreover, Defendants failed to compensate Employees for each meal period not
27 provided or inadequately provided, as required under Labor Code § 226.7 and paragraphs 11 and
28 20 of the applicable IWC Wage Orders, which provide that, if an employer fails to provide an

1 employee a meal period in accordance with this section, the employer shall pay the employee one
2 hour of pay at the employee's regular rate of compensation for each workday that the meal period
3 is not provided. As detailed above, on the occasions when Defendants did pay any meal period
4 premiums, they upon information and belief underpaid them by miscalculating the regular rate of
5 compensation by not including all forms of remuneration in it. Defendants thus failed to
6 compensate the Employees for each meal period not provided or inadequately provided, as
7 required under Labor Code § 226.7 and paragraphs 11 and 20 of the applicable IWC Wage Order.

8 89. Therefore, pursuant to Labor Code § 226.7 and paragraphs 11 and 20 of the
9 applicable IWC Wage Order, Employees in the Class are entitled to damages in an amount equal
10 to one hour of wages at their effective hourly rates of pay for each meal period not provided or
11 deficiently provided, a sum to be proven at trial, as well as the assessment of any statutory
12 penalties against the Defendants, and each of them, in a sum as provided by the Labor Code and
13 other statutes and applicable IWC Wage Order paragraphs.

14 **FOURTH CAUSE OF ACTION**

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

16 **(Against All Defendants)**

17 90. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
18 full herein.

19 91. Labor Code §§ 226.7 and paragraph 12 of the applicable IWC Wage Orders
20 provide that employers must authorize and permit all employees to take rest periods at the rate of
21 ten minutes net rest time per four (4) work hours.

22 92. Employees consistently worked consecutive four hour shifts and were generally
23 scheduled for shifts of greater than 3.5 hours total, thus requiring Defendants to authorize and
24 permit them to take rest periods. Pursuant to the Labor Code and paragraph 12 of the applicable
25 IWC Wage Order, Employees were entitled to paid rest breaks of not less than ten minutes for
26 each consecutive four hour shift, and Defendants failed to provide Employees with timely rest
27 breaks of not less than ten minutes for each consecutive four hour shift. Defendants made no effort
28 to schedule or otherwise authorize and permit Plaintiff and the Class members to take lawful rest

1 breaks. Employees were often required to work or to otherwise remain under Defendants' control
2 during rest periods he was ever able to take, including by responding to work requirements, and
3 Defendants' prohibition from leaving the premises, and had breaks provided untimely as a result
4 of the above described off the clock work.

5 93. Labor Code §§ 226.7 and paragraphs 12 and 20 of the applicable IWC Wage
6 Orders provide that if an employer fails to provide an employee rest period in accordance with this
7 section, the employer shall pay the employee one hour of pay at the employee's regular rate of
8 compensation for each workday that the rest period is not provided. Defendants failed to do so.

9 94. Defendants, and each of them, have therefore intentionally and improperly denied
10 rest periods to Plaintiff and the Class members in violation of Labor Code §§ 226.7 and 512 and
11 paragraph 12 of the applicable IWC Wage Orders.

12 95. Defendants failed to authorize and permit Plaintiff and the Class members to take
13 rest periods, as required by the Labor Code. Moreover, Defendants did not compensate Employees
14 with an additional hour of pay at each Employee's hourly rate for each day that Defendants failed
15 to provide them with adequate rest breaks, as required under Labor Code § 226.7 and paragraphs
16 12 and 20 of the applicable IWC Wage Orders.

17 96. Therefore, pursuant to Labor Code § 226.7 and paragraphs 12 and 20 of the
18 applicable IWC Wage Orders, Employees are entitled to damages in an amount equal to one hour
19 of wages at their effective hourly rates of pay for each day worked without the required rest
20 breaks, a sum to be proven at trial, as well as the assessment of any statutory penalties against
21 Defendants, and each of them, in a sum as provided by the Labor Code and/or other statutes.

22 **FIFTH CAUSE OF ACTION**

23 **FAILURE TO PAY VACATION WAGES**

24 **(Against All Defendants)**

25 97. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
26 full herein.

27 98. Pursuant to California Labor Code § 227.3, whenever a contract of employment or
28 employment policy provides for paid vacation and an employee is terminated without having

1 taken off his vested vacation time, all vested vacation shall be paid to him as wages at his final rate
2 in accordance with said contract of employment or policy respecting eligibility or time served.

3 99. Defendants paid shift differentials, nondiscretionary commissions, incentive pay,
4 and/or nondiscretionary bonuses to Employees but Defendants failed to include these forms of
5 remuneration in the regular rate of pay upon which vacation wages were calculated and paid.

6 100. Therefore, pursuant to, Plaintiff and Employees seek to recover penalties pursuant
7 to Labor Code § 227.3.

8 **SIXTH CAUSE OF ACTION**
9 **VIOLATION OF LABOR CODE § 226(a)**
10 **(Against All Defendants)**

11 101. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
12 full herein.

13 102. California Labor Code § 226(a) requires an employer to furnish each of his or her
14 employees with an accurate, itemized statement in writing showing the gross and net earnings,
15 total hours worked, and the corresponding number of hours worked at each hourly rate; these
16 statements must be appended to the detachable part of the check, draft, voucher, or whatever else
17 serves to pay the employee's wages; or, if wages are paid by cash or personal check, these
18 statements may be given to the employee separately from the payment of wages; in either case the
19 employer must give the employee these statements twice a month or each time wages are paid.

20 103. Defendants failed to provide Plaintiff and the similarly situated Employee Class
21 members with accurate itemized wage statements in writing, as required by the Labor Code and
22 paragraph 7 of the applicable IWC Wage Orders. Specifically, the wage statements issued to
23 Employees by Defendants failed to accurately account for wages, overtime, and premium pay,
24 including for all overtime and double time hours worked and for deficient meal periods and rest
25 breaks, all of which Defendants knew or reasonably should have known were owed to the
26 Employees, as alleged above.

27 104. Throughout the liability period, Defendants thus intentionally failed to furnish to
28 Plaintiff and the Class members, upon each payment of wages, itemized statements accurately

1 showing: (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-
2 rate units earned and any applicable piece rate paid on a piece-rate basis, (4) all deductions, (5) net
3 wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of
4 the employee and only the last four digits of his or her social security number or an employee
5 identification number other than a social security number, (8) the name and address of the legal
6 entity that is the employer and (9) all applicable hourly rates in effect during the pay period and
7 the corresponding number of hours worked at each hourly rate by the employee pursuant to Labor
8 Code § 226 and paragraph 7 of the applicable IWC Wage Orders, amongst other statutory
9 requirements. Defendants knowingly and intentionally failed to provide Plaintiff and the Class
10 members with such timely and accurate wage and hour statements.

11 105. Plaintiff and the Class members suffered injury as a result of Defendants' knowing
12 and intentional failure to provide them with the wage and hour statements as required by law and
13 are presumed to have suffered injury and entitled to penalties under Labor Code § 226(e), as the
14 Defendants have failed to provide an accurate wage statement, failed to provide accurate and
15 complete information as required by any one or more of items Labor Code § 226 (a)(1) to (9),
16 inclusive, and the Plaintiff and Class members cannot promptly and easily determine from the
17 wage statement alone one or more of the following: (i) The amount of the gross wages or net
18 wages paid to the employee during the pay period or any of the other information required to be
19 provided on the itemized wage statement pursuant to items (2) to (4), inclusive, (6), and (9) of
20 subdivision (a), (ii) Which deductions the employer made from gross wages to determine the net
21 wages paid to the employee during the pay period, (iii) The name and address of the employer
22 and, (iv) The name of the employee and only the last four digits of his or her social security
23 number or an employee identification number other than a social security number. For purposes
24 of Labor Code § 226(e) "promptly and easily determine" means a reasonable person [i.e. an
25 objective standard] would be able to readily ascertain the information without reference to other
26 documents or information.

27 106. Additionally, under paragraph 4(B) of the applicable IWC Wage Orders, employers
28 are required "to pay each employee, on the established payday for the period involved, not less

1 than the applicable minimum wage for all hours worked in the payroll period, ...” Under Labor
2 Code § 1198, “[t]he employment of any employee for longer hours than those fixed by the order
3 or under conditions of labor prohibited by the order is unlawful.” Plaintiff and the Class members
4 may therefore pursue damages and penalties for violations of Labor Code § 204 and paragraph
5 4(B) of the applicable IWC Wage Orders, including penalties under paragraph 20.

6 107. Therefore, as a direct and proximate cause of Defendants’ violation of Labor Code
7 § 226(a) and paragraphs 4(b), 7, and 20 of the applicable IWC Wage Orders, the Employees in the
8 Class suffered injuries, including among other things confusion over whether they received all
9 wages owed them, the difficulty and expense involved in reconstructing pay records, and forcing
10 them to make mathematical computations to analyze whether the wages paid in fact compensated
11 them correctly for all hours worked.

12 108. Pursuant to Labor Code §§ 226(a) and 226(e), and paragraph 20 of the applicable
13 IWC Wage Order, Plaintiff and the Employee Class members are entitled to recover the greater of
14 all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and
15 one hundred dollars (\$100) for each violation in a subsequent pay period, not exceeding an
16 aggregate penalty of four thousand dollars (\$4,000) under Section 226(e). They are also entitled to
17 an award of costs and reasonable attorneys’ fees.

18 **SEVENTH CAUSE OF ACTION**
19 **VIOLATION OF LABOR CODE § 221**
20 **(Against All Defendants)**

21 109. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
22 full herein.

23 110. Labor Code § 221 provides, “It shall be unlawful for any employer to collect or
24 receive from an employee any part of wages theretofore paid by said employer to said employee.”
25 Additionally, pursuant to California Labor Code § 204, other applicable laws and regulations, and
26 public policy, an employer must timely pay for all hours worked. Defendants failed to do so.

27 111. Defendants unlawfully received and/or collected wages from the Employees in the
28 Class by requiring off the clock work and rounding, by miscalculating overtime, and by

1 automatically deducting time for meal periods when they were not lawfully provided and not
2 paying one hour of pay at the regular rate of compensation for every violation endured by Plaintiff
3 and the other Class members, as alleged above. By not compensating Employees for all hours
4 worked, Defendants unlawfully deducted wages earned in violation of Labor Code § 221.

5 112. As a direct and proximate cause of the unauthorized deductions, Employees have
6 been damaged, in an amount to be determined at trial.

7 **EIGHTH CAUSE OF ACTION**
8 **VIOLATION OF LABOR CODE § 204**
9 **(Against All Defendants)**

10 113. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
11 full herein.

12 114. Labor Code § 204 instructs that: “All wages, ...earned by any person in any
13 employment are due and payable twice during each calendar month, on days designated in
14 advance by the employer as the regular paydays. Labor performed between the 1st and 15th days,
15 inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month
16 during which the labor was performed, and labor performed between the 16th and the last day,
17 inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following
18 month.” Additionally, the requirements of this section shall be deemed satisfied by the payment
19 of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven
20 calendar days following the close of the payroll period.” As detailed above, Defendants
21 maintained a consistently applied policy and practice of not paying all wages earned between the
22 1st and 15th days of a month between the 16th and 26th day and failed to pay all wages earned
23 between the 16th and the last day of the month between the 1st and 10th day of the following month.
24 Defendants similarly failed to pay all wages earned by not more than seven calendar days
25 following the close of the payroll period.

26 115. All wages due and owing to Plaintiff and the Class members, including as required
27 under Labor Code § 510, were therefore not timely paid by Defendants. Additionally, wages
28 required by Labor Code § 1194 and other sections became due and payable to each employee in

1 each pay period that he or she was not provided with a meal period or rest period or paid straight
2 or overtime wages to which he or she was entitled.

3 116. Defendants violated Labor Code § 204 by systematically refusing to timely pay
4 wages due under the Labor Code, as addressed above. Additionally, under paragraph 4(B) of the
5 applicable IWC Wage Orders, employers are required “to pay each employee, on the established
6 payday for the period involved, not less than the applicable minimum wage for all hours worked in
7 the payroll period, ...” Under Labor Code § 1198, “[t]he employment of any employee for longer
8 hours than those fixed by the order or under conditions of labor prohibited by the order is
9 unlawful.” Plaintiff and the Class members may therefore pursue damages and penalties for
10 violations of Labor Code § 204 and paragraph 4(B) of the applicable IWC Wage Orders, including
11 penalties under paragraph 20 of the applicable IWC Wage Orders.

12 117. As a result of the unlawful acts of Defendants, Plaintiff and the Class they seek to
13 represent have been deprived of wages in amounts to be determined at trial, and they are entitled
14 to recovery of such amounts, plus interest and penalties thereon, attorneys’ fees, and costs,
15 pursuant to Labor Code § 204, 210, 218.5, 1194 and 1198, and paragraphs 4(B) and 20 of the
16 applicable IWC Wage Orders.

17 **NINTH CAUSE OF ACTION**
18 **VIOLATION OF LABOR CODE § 203**
19 **(Against All Defendants)**

20 118. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
21 full herein.

22 119. Plaintiff and numerous Class members are no longer employed by Defendants; they
23 either quit Defendants’ employ or were fired therefrom.

24 120. Defendants failed to pay these Employees all wages due and certain at the time of
25 termination or within seventy-two hours of resignation.

26 121. The wages withheld from these Employees by Defendants remained due and owing
27 for more than thirty days from the date of separation from employment. Additionally, Defendants
28 failed to timely pay Plaintiff all of their final wages at the end of their employment.

122. Defendants thus failed to pay Plaintiff and the Class members without abatement, all wages as defined by applicable California law. Among other things, these Employees were not paid all regular and overtime wages, including by Defendants failing to pay for all hours worked or requiring off the clock work or by unlawfully under-recording time entries to the detriment of Employees, and Defendants failed to pay premium wages owed for unprovided meal periods and rest periods, as further detailed in this Complaint. Defendants' failure to pay said wages within the required time was willful within the meaning of Labor Code § 203.

123. Additionally, under paragraph 4(B) of the applicable IWC Wage Orders, employers are required “to pay each employee, on the established payday for the period involved, not less than the applicable minimum wage for all hours worked in the payroll period, ...” Under Labor Code § 1198, “[t]he employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.” Plaintiff and the Class members may therefore pursue damages and penalties for violations of Labor Code § 203 and paragraph 4(B) of the applicable IWC Wage Orders, including penalties under paragraph 20 of the applicable IWC Wage Orders. Additionally, under Labor Code § 1199(a)-(c), it is a misdemeanor and Defendants are subject to a fine of not less than \$100 for causing Employees “to work for longer hours than those fixed, or under conditions of labor prohibited by an order of the commission” or if the employer pays “a wage less than the minimum fixed by an order of the commission” or “violates...any provision of this chapter or any order or ruling of the commission.”

124. Defendants' failure to pay wages, as alleged, entitles Plaintiff and these former Employee Class members to penalties under Labor Code § 203 and the applicable paragraphs of the IWC Wage Orders as addressed above, including the requirement that an employee's wages shall continue until paid for up to thirty (30) days from the date they were due.

TENTH CAUSE OF ACTION

FAILURE TO KEEP REQUIRED PAYROLL RECORDS, LABOR CODE §§ 1174, 1174.5

(Against All Defendants)

125. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

1 126. California Labor Code § 1174 requires that all employers shall keep accurate time
2 and wage records for all employees. California Labor Code § 1174.5 further requires that any
3 employee suffering injury due to a willful violation of the aforementioned obligations may seek
4 damages, including civil penalties, from the employer.

5 127. During the course of Plaintiff and Employees' employment, Defendants
6 consistently failed to maintain accurate time and wage records for Plaintiff and Class Members as
7 required by California Labor Code § 1174 by failing to pay them proper wages, overtime, and
8 premium pay as discussed above and failing to document and pay for actual hours worked.

9 128. Defendants are also required by the California Labor Code § 1198 and the
10 applicable Wage Order to maintain a tracking system that accurately records the times during
11 which Employees work.

12 129. Defendants have maintained a common unlawful policy and practice of failing to
13 accurately record all hours worked and all meal period start and end times and by adjusting or
14 otherwise rounding and shaving hours worked.

15 130. Defendants' failure to pay wages, as alleged above, was willful in that Defendants
16 knew wages to be due but failed to pay them.

17 131. Accordingly, Defendants are liable for civil penalties pursuant to the California
18 Labor Code including § 1174.5, for the three years prior to the filing of this Complaint.

19 **ELEVENTH CAUSE OF ACTION**
20 **FOR FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENSES**
21 **UNDER LABOR CODE § 2802**
22 **(Against All Defendants)**

23 132. Plaintiff realleges and incorporates all preceding paragraphs, as though set forth in
24 full herein.

25 133. Plaintiff is informed and believes and based thereon alleges that throughout the
26 period applicable, Defendants required Plaintiff and the Class members to pay for necessary work
27 related expenses they incurred. These included requiring Plaintiff to provide his own tools, drills,
28 socket sets, screwdrivers, pliers, saws, hammers, cut-resistant gloves, respirator, body harness,

lanyard, fire-resistant clothing, and rain gear. Plaintiff and the Class members must be reimbursed for these necessary business expenses under Labor Code § 2802 and Defendants systematically failed to do so.

134. Defendants thus followed a uniform policy and practice of failing to reimburse Employees for these necessary work related expenses or losses incurred in direct discharge of their job duties during employment with Defendants and at the direction of the Defendants pursuant to Labor Code § 2802(a) and the applicable IWC Wage Orders, paragraph 9.

135. Defendants' knowing and willful failure to reimburse lawful necessary work related expenses and losses to Plaintiff and the Class members resulted in damages because, among other things, Defendants did not inform employees of their right to be reimbursed for those work related expenses. As Defendants failed to inform and misled Plaintiff and the Class members with regard to their rights, Plaintiff and the Class members were led to believe that incurring those lawful and necessary expenses was an expected and essential function of their employment with Defendants and that failure to incur those expenses would have adverse consequences on their employment.

136. Therefore, Plaintiff and the Class members are entitled to reimbursement for any and all necessary work related expenses, as provided for in Labor Code § 2802(b) and paragraph 9 of the applicable IWC Wage Orders, incurred during the direct discharge of their duties while employed by Defendants, as well as accrued interest on those expenses that were not reimbursed from the date Plaintiff and the Class members incurred those expenses. Further, Plaintiff and the Class members are entitled to costs and attorney's fees pursuant to Labor Code § 2802(c).

TWELFTH CAUSE OF ACTION

VIOLATION OF BUSINESS & PROFESSIONS CODE § 17200 ET SEQ.

(Against All Defendants)

137. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein. Plaintiff, on behalf of himself, the Employees in the Class, and the general public, brings this claim pursuant to Business & Professions Code § 17200 *et seq.* The conduct of Defendants as alleged in this Complaint has been and continues to be unfair, unlawful, and harmful to Employees and the general public. Plaintiff seeks to enforce important rights affecting

1 the public interest within the meaning of Code of Civil Procedure § 1021.5.

2 138. Plaintiff is a “person” within the meaning of Business & Professions Code
3 § 17204, has suffered injury, and therefore has standing to bring this cause of action for
4 injunctive relief, restitution, and other appropriate equitable relief.

5 139. Business & Professions Code § 17200 *et seq.* prohibits unlawful and unfair
6 business practices. By the conduct alleged herein, Defendants’ practices were deceptive and
7 fraudulent in that Defendants’ policy and practice failed to provide the required amount of
8 compensation for missed meal and rest breaks, and failed to adequately compensate Plaintiff and
9 Class members for all hours worked, due to systematic business practices as alleged herein that
10 cannot be justified, pursuant to the applicable California Labor Code and Industrial Welfare
11 Commission requirements in violation of California Business and Professions Code §§ 17200, *et*
12 *seq.*, and for which this Court should issue injunctive and equitable relief, pursuant to California
13 Business & Professions Code § 17203, including restitution of wages wrongfully withheld.

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

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

27 142. Defendants’ conduct, as alleged above, constitutes unfair competition in violation
28 of the Business & Professions Code § 17200 *et seq.*

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

144. By the conduct alleged herein, Defendants have engaged and continue to engage in a business practice which violates California and federal law, including but not limited to, the applicable Industrial Wage Order(s), the California Code of Regulations, and the California Labor Code including Sections 204, 226, 226.7, 510, 512, 1194, 1197, and 1198 for which this Court should issue declaratory and other equitable relief pursuant to California Business & Professions Code § 17203 as may be necessary to prevent and remedy the conduct held to constitute unfair competition, including restitution of wages wrongfully withheld.

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

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

RELIEF REQUESTED

WHEREFORE, Plaintiff prays for the following relief:

1. For an order certifying this action as a class action;
2. For compensatory damages in the amount of the unpaid minimum wages for work performed by Employees and unpaid overtime compensation from at least four (4) years prior to the filing of this action, as may be proven;
3. For liquidated damages in the amount equal to the unpaid minimum wage and interest thereon, from at least four (4) years prior to the filing of this action, according to proof;

1 4. For compensatory damages in the amount of all unpaid wages, including overtime
2 and double-time pay, as may be proven;

3 5. For compensatory damages in the amount of the hourly wage made by Employees
4 for each missed or deficient meal period where no premium pay was paid therefor from four (4)
5 years prior to the filing of this action, as may be proven;

6 6. For compensatory damages in the amount of the hourly wage made by Employees
7 for each day requisite rest breaks were not provided or were deficiently provided where no
8 premium pay was paid therefor from at least four (4) years prior to the filing of this action, as may
9 be proven;

10 7. For penalties pursuant to Labor Code § 226(e) for Employees, as may be proven;

11 8. For restitution and/or damages and penalties for Defendants' failure to pay all
12 wages due twice monthly under Labor Code § 204, as may be proven;

13 9. For restitution and/or damages for all amounts unlawfully withheld from the wages
14 for all class members in violation of Labor Code § 221, as may be proven;

15 10. For penalties pursuant to Labor Code § 203 for all Employees who quit or were
16 fired in an amount equal to their daily wage times thirty (30) days, as may be proven;

17 11. For penalties pursuant to Labor Code § 1174.5, as may be proven;

18 12. For penalties pursuant to Labor Code §§ 226 and 1198.5, as may be proven;

19 13. For restitution for unfair competition pursuant to Business & Professions Code
20 § 17200 *et seq.*, including disgorgement or profits, as may be proven;

21 14. For an order enjoining Defendants and their agents, servants, and employees, and
22 all persons acting under, in concert with, or for them, from acting in derogation of any rights or
23 duties adumbrated in this Complaint;

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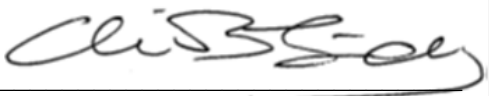
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- 1 15. For other wages and penalties under the Labor Code as may be proven;
2 16. For all general, special, and incidental damages as may be proven;
3 17. For an award of pre-judgment and post-judgment interest;
4 18. For an award providing for the payment of the costs of this suit;
5 19. For an award of attorneys' fees; and
6 20. For such other and further relief as this Court may deem proper and just.

7
8 DATED: October 31, 2024

D.LAW, INC.

9
10 By



David Yeremian
Alvin B. Lindsay
Jean Hopkins Power
Attorneys for Plaintiff Louis Ruffin
and the putative class

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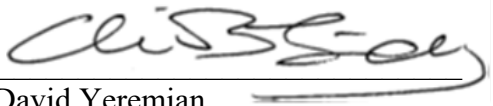
DEMAND FOR JURY TRIAL

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

DATED: October 31, 2024

D.LAW, INC.

By



David Yeremian
Alvin B. Lindsay
Jean Hopkins Power
Attorneys for Plaintiff Louis Ruffin
and the putative class