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ELECTRONICALLY
FILED
Superior Court of California,
County of San Francisco
02/04/2025
Clerk of the Court
BY: SAHAR ENAYATI
Deputy Clerk

Attorney for Plaintiff, JAIME ARGELIO AMAYA QUINTEROS

**SUPERIOR COURT OF THE STATE OF CALIFORNIA,
COUNTY OF SAN FRANCISCO**

JAIME ARGELIO AMAYA
QUINTEROS, an individual, on his own
behalf and on behalf of all others similarly
situated,

Plaintiff,

v.

HARBOR DISTRIBUTING, LLC, a
Delaware limited liability company; REYES
HOLDINGS, LLC, an entity of unknown
form; REYES BEVERAGE GROUP, an
entity of unknown form; GOLDEN
BRANDS BEVERAGE GROUP, an entity of
unknown form; and DOES 1 through 100,
inclusive,

Defendants.

Case No.: CGC-24-620226

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR:**

- 1. FAILURE TO PAY PREMIUM
OVERTIME WAGES DUE (Cal. *Labor Code* §§ 510, 1198; IWC Wage Order No. 1);**
- 2. FAILURE TO PAY MINIMUM WAGES
(Cal. *Labor Code* §§1194, 1194.2, 1997,
1197.1, 1198; IWC Wage Order No. 1);**
- 3. FAILURE TO PROVIDE TIMELY OFF
DUTY MEAL PERIODS (Cal. *Labor Code* §§ 226.7, 512; IWC Wage Order
No. 1);**
- 4. FAILURE TO PROVIDE TIMELY OFF
DUTY MEAL PERIODS (Cal. *Labor Code* §§ 226.7, 512; IWC Wage Order
No. 1)**
- 5. FAILURE TO MAINTAIN RECORDS
AND PROVIDE ACCURATE
ITEMIZED WAGE STATEMENTS
(Cal. *Labor Code* §226; IWC Wage Order
No. 1);**
- 6. FAILURE TO PAY WAGES DUE
UPON TERMINATION (Cal. *Labor Code* §§201-203);**

- 1 7. VIOLATION OF CAL. LAB. CODE
2 §1024.5; CAL. CIV. CODE §1786 IN
3 CONDUCTING EMPLOYMENT
4 RELATED BACKGROUND CHECK;
5 8. FAILURE TO ALLOW INSPECTION
6 OF EMPLOYMENT RECORDS (Cal.
7 *Labor Code* §1198.5);
8 9. UNFAIR COMPETITION (Cal. *Bus. &*
9 *Prof. Code* §§17200 *et seq.*) and
10 10. PRIVATE ATTORNEY GENERAL ACT
11 (“PAGA”)
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13 **DEMAND FOR A JURY TRIAL**
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15 Action Filed: December 2, 2024
16 Trial Date: Not Set
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All allegations in this First Amended Complaint are based upon information and belief except for those allegations which pertain to the Plaintiff named herein and his counsel. Each allegation has evidentiary support or is likely to have evidentiary support after a reasonable opportunity for further investigation and discovery.

Jaime Argelio Amaya Quinteros (“Plaintiff”) alleges the following:

1. This is a class action brought under California law by an individual who was employed by Harbor Distributing, LLC (“HD”), Reyes Holdings, LLC (“RH”), Reyes Beverage Group, LLC (“RBG”) and Golden Brands Beverage Group (“GBBG”) (along with DOES 1 through 100, collectively “Defendants”). Plaintiff brings this action on behalf of himself and others similarly situated to recover wages from Defendants due to Defendants’ systematic failure to pay overtime wages, failure to pay minimum wages, failure to provide meal and rest breaks (or pay the statutory compensation due), failure to issue accurate wage statements, failure to pay wages on termination, violation of Cal. Lab. Code section 1024.5 and Cal. Civ. Code section 1786 and failure to allow inspection of employment records.

1 2. Plaintiffs have worked as employees for Defendants as Drivers and other non-
2 exempt employees in California. While working, Plaintiffs have been forced to endure stressful
3 and illegal workplace conditions created by Defendants' efforts to maximize profits and tightly
4 control labor costs.

5 3. Plaintiff, like his co-workers whom Defendants also employed during the
6 applicable limitations period, spend their workdays delivering beer to stores, bars and restaurants
7 throughout California, under illegal and highly regimented circumstances. That regimen results
8 from Defendants' insistence to strictly monitor and curtail labor costs, which Defendants
9 accomplish by not paying for all labor costs, failing to pay overtime, failing to pay minimum
10 wages, refusing to provide meal periods, refusing to provide rest breaks, not paying the required
11 extra hour for missed meal/rest breaks, failing to issue accurate wage statements, failing to pay
12 wages on termination, violating of Cal. Lab. Code section 1024.5 and Cal. Civ. Code section
13 1786, failing to allow inspection of employment records, and by using other unlawful stratagems
14 to ensure that labor costs remain artificially low.

15 4. Plaintiff brings this class action to recover, among other things, wages and
16 penalties from unpaid wages earned and due, including but not limited to, premium overtime
17 wages, minimum wages, interrupted/missed meal break wages, missed rest break wages, wages
18 due to discharged or quitting employees, penalties for failure to provide accurate itemized wage
19 statements, damages for violation of Cal. Lab. Code section 1024.5 and Cal. Civ. Code section
20 1786, damages for failure to allow inspection of employment records and interest, attorneys'
21 fees, costs, and expenses.

22 5. Plaintiff seeks compensatory, statutory, declaratory, and injunctive relief for
23 himself and all members of the class, to compensate these workers for the unpaid wages and to
24 protect current and future workers of Defendants from being subjected to similar wage theft and
25 otherwise unlawful working conditions.

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6. Plaintiff also brings an action seeking relief for Defendants' violations of California *Business & Professions Code* §§ 17200 *et seq.*, including full restitution and disgorgement of all compensation retained by Defendants as a result of its unlawful and unfair business practices, as well as injunctive relief.

7. Plaintiff now seeks to amend her Complaint to add a cause of action pursuant to PAGA under Labor code §§ 2699, et seq.

JURISDICTION AND VENUE

8. This Court has jurisdiction over this First Amended Complaint under Code of Civil Procedure §410.10. This action is brought under *Code of Civil Procedure* § 382, and *Business & Professions Code* §§ 17200 *et seq.* Plaintiff Jaime Argelio Amaya Quinteros brings this First Amended Complaint on his own behalf and on behalf of all persons in the Class as defined in paragraph 20 below.

9. Venue is proper in this Court pursuant to *Code of Civil Procedure* §§ 395 and 395.5, because the claims made, and the *Labor Code* violations as against the persons identified herein, occurred in the County of San Francisco and because Defendants owned and operated their businesses in the County of San Francisco.

THE PARTIES

PLAINTIFF

10. At all times relevant hereto, Plaintiff was:

- (a) An individual over age 18 and a resident of San Francisco County, California;
- (b) Employed as an hourly employee for Defendants in South San Francisco;
- (c) Did not receive overtime compensation required by *Labor Code* §§510 and 1194 and IWC Wage Order No. 1;
- (d) Did not receive minimum wages due to illegal rounding in violation of *Labor Code* §§1194, 1194.2, 1997, 1197.1, 1198 and IWC Wage Order No. 1;

- 1 (e) Did not receive the meal periods required by *Labor Code* §266.7 and IWC
2 Wage Order No. 1;
- 3 (f) Did not receive the rest periods required by *Labor Code* §266.7 and IWC
4 Wage Order No. 1;
- 5 (g) Did not receive accurate wage statements as mandated by *Labor Code*
6 §226;
- 7 (h) Was not paid all wages on termination of employment;
- 8 (i) Was required to undergo a background check in violation of Cal. Lab.
9 Code §1024.5 and Cal. Civ. Code §1786; and
- 10 (j) Was not provided his personnel records. Each of these was a violation of
11 the *Labor Code*.

12 **DEFENDANTS**

13 11. Plaintiff is informed and believes, and based on that information and belief,
14 alleges, Defendant HD is, and at all times mentioned herein was:

- 15 (a) A Delaware limited liability company, with a principal place of business
16 at 6250 N. River Road, Suite 9000, Rosemont, Illinois 60018. Defendant
17 HD has been authorized to do business and has been doing business in the
18 County of San Francisco;
- 19 (b) The former employer of Plaintiff and the current and former employer of
20 the putative Class members;
- 21 (c) Paid Plaintiff and all Class members on an hourly basis;
- 22 (d) Failed to pay Plaintiff and all putative Class members premium overtime
23 wages;
- 24 (e) Failed to provide Plaintiff and all putative Class members with meal and
25 rest periods;
- 26 (f) Failed to provide Plaintiff and all putative Class Members with accurate
27 itemized wage statements;
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- 1 (g) Failed to issue final paychecks timely to Plaintiff and all putative Class
2 Members;
3 (h) Performed illegal background checks; and
4 (i) Failed to allow Plaintiff to inspect his employment records. Each of these
5 was a violation of the *Labor Code*.

6 12. Plaintiff is informed and believes, and based on that information and belief,
7 alleges, Defendant RH is, and at all times mentioned herein was:

- 8 (a) An entity of unknown form, with a principal place of business at 6250
9 North River Road, Rosemont, IL 60018. Defendant RH has been
10 authorized to do business and has been doing business in the County of
11 San Francisco;
12 (b) The former employer of Plaintiff and the current and former employer of
13 the putative Class members;
14 (c) Paid Plaintiff and all Class members on an hourly basis;
15 (d) Failed to pay Plaintiff and all putative Class members premium overtime
16 wages;
17 (e) Failed to provide Plaintiff and all putative Class members with meal and
18 rest periods;
19 (f) Failed to provide Plaintiff and all putative Class Members with accurate
20 itemized wage statements;
21 (g) Failed to issue final paychecks timely to Plaintiff and all putative Class
22 Members;
23 (h) Performed illegal background checks; and
24 (i) Failed to allow Plaintiff to inspect his employment records. Each of these
25 was a violation of the *Labor Code*.

26 13. Plaintiff is informed and believes, and based on that information and belief,
27 alleges, Defendant RBG is, and at all times mentioned herein was:
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- 1 (a) An entity of unknown form, with a principal place of business at 2602 N.
2 Elston Avenue, Chicago, IL 60647. Defendant RBG has been authorized
3 to do business and has been doing business in the County of San Francisco;
4 (b) The former employer of Plaintiff and the current and former employer of
5 the putative Class members;
6 (c) Paid Plaintiff and all Class Members on an hourly basis;
7 (d) Failed to pay Plaintiff and all putative Class members premium overtime
8 wages;
9 (e) Failed to provide Plaintiff and all putative Class members with meal and
10 rest periods;
11 (f) Failed to provide Plaintiff and all putative Class Members with accurate
12 itemized wage statements;
13 (g) Failed to issue final paychecks timely to Plaintiff and all putative Class
14 Members;
15 (h) Performed illegal background checks; and
16 (i) Failed to allow Plaintiff to inspect his employment records. Each of these
17 was a violation of the *Labor Code*.

18 14. Plaintiff is informed and believes, and based on that information and belief,
19 alleges, Defendant GBBG is, and at all times mentioned herein was:

- 20 (a) An entity of unknown form, with a principal place of business at 245 S
21 Spruce Ave #900, South San Francisco, CA 94080;
22 (b) Defendant GBBG has been authorized to do business and has been doing
23 business in the County of San Francisco;
24 (c) The former employer of Plaintiff and the current and former employer of
25 the putative Class members;
26 (d) Paid Plaintiff and all Class Members on an hourly basis;
27 (e) Failed to pay Plaintiff and all putative Class members premium overtime
28 wages;

- 1 (f) Failed to provide Plaintiff and all putative Class members with meal and
2 rest periods;
- 3 (g) Failed to provide Plaintiff and all putative Class Members with accurate
4 itemized wage statements;
- 5 (h) Failed to issue final paychecks timely to Plaintiff and all putative Class
6 Members;
- 7 (i) Performed illegal background checks; and
- 8 (j) Failed to allow Plaintiff to inspect his employment records. Each of these
9 was a violation of the *Labor Code*.

10 15. The true names and capacities, whether individual, corporate, subsidiary,
11 partnership, associate or otherwise of Defendants DOES 1 through 100, inclusive, are unknown
12 to Plaintiff, who therefore sues these Defendants by such fictitious names pursuant to *Code of*
13 *Civil Procedure* § 474. Plaintiff will seek leave to amend his Complaint to allege the true names
14 and capacities of DOES 1 through 100, inclusive, when they are ascertained.

15 16. Plaintiff is informed and believes, and based on that information and belief alleges,
16 that Defendant DOES 1 through 100 are persons, corporations or other entities which reside in or
17 are authorized to do, or are otherwise doing, business in the State of California. Specifically,
18 DOES 1 through 100 maintain offices, operate businesses, employ persons, and conduct business
19 in the County of San Francisco. Each of the Defendants DOES 1 through 100 was the managerial
20 agent, employee, predecessor, successor, joint-venturers, co-conspirator, alter ego and/or
21 representative of one or more of the other Defendants named herein, and acting with permission,
22 authorization, and/or ratification and consent of the other Defendants.

23 17. Plaintiff is informed and believes, and based on that information and belief alleges,
24 that the Defendants named in this First Amended Complaint, including DOES 1 through 100,
25 inclusive, are responsible in some manner for one or more of the events and happenings that
26 proximately caused the injuries and damages hereinafter alleged.

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18. Plaintiff is informed and believes, and based on that information and belief alleges, that Defendants named in this First Amended Complaint, including DOES 1 through 100, inclusive, are, and at all times mentioned herein were, the agents, servants, and/or employees of each of the other Defendants and that each Defendant was acting within the course and scope of his, hers or its authority as the agent, servant and/or employee of each of the other Defendants. Consequently, all of the Defendants are jointly and severally liable to the Plaintiff, and the Class, for the damages sustained as a proximate result of their conduct.

19. Plaintiff is informed and believes, and based on that information and belief alleges, that the Defendants named in this First Amended Complaint, including DOES 1 through 100, inclusive, knowingly and willfully acted in concert, conspired and agreed together among themselves and entered into a combination and systemized campaign of activity to *inter alia* damage Plaintiff, and the Class, and to otherwise consciously and/or recklessly act in derogation of the rights of Plaintiff and the Class, and the trust reposed by Plaintiff, and the Class, in each of the Defendants, the acts being negligently and/or intentionally inflicted. Their conspiracy, and Defendants' concerted actions, were such that, to Plaintiff's information and belief, and to all appearances, Defendants, and each of them, represented a unified body so that the actions of one Defendant was accomplished in concert with, and with the knowledge, ratification, authorization and approval of each of the other Defendants.

CLASS ALLEGATIONS

A. The Definition of the Class

20. The Class (“the Class”) is defined as follows:

(a) “All current and former employees who were hourly paid employees of Defendants and worked for Defendants in California at any time during the period commencing on the date that is four (4) years prior to the filing of this Complaint and continuing through the present date (the “Class Period”).”

(b) “All persons who were hourly paid employees of Defendants and worked for Defendants in California and left the employ of Defendants at any time during

the period commencing on the date that is within one (1) year prior to the filing of this Complaint and continuing through the present date (the “Class Period”). Plaintiff reserves his right under Rule 3.765 of the California Rules of Court to amend or modify the Class description with greater specificity or further division into subclasses or limitations to particular issues.

A. Maintenance of the Action

21. Plaintiff brings this action individually and on behalf of himself and as representative of all similarly situated persons under *Business & Professions Code* §§ 17203 and 17204 and *Code of Civil Procedure* § 382.

B. The Class Requisites

22. At all material times, Plaintiff was a member of the Class.

23. The Class action meets the statutory prerequisites for maintaining a class action under Code of Civil Procedure § 382 in that:

- (a) The persons who comprise the Class are so numerous that the joinder of all those persons is impracticable and the disposition of their claims as a Class will benefit the parties and the Court;
- (b) Nearly all factual, legal, statutory, declaratory and injunctive relief issues that are raised in this First Amended Complaint are common to the Class and will apply uniformly to every Class member;
- (c) The claims of the representative Plaintiff are typical of the claims of each Class member. Plaintiff, like all Class members, has sustained damages arising from Defendants’ violations of the laws of the State of California. Plaintiff, and the Class members, were and are similarly or identically harmed by the same unlawful, deceptive, unfair, systematic and pervasive pattern of misconduct engaged in by the Defendants;
- (d) The representative Plaintiff has, and will continue to, fairly and adequately represent and protect the interests of the Class and has retained counsel who are competent and experienced in class action litigation. There are no

1 material conflicts between the claims of the representative Plaintiff and the
2 Class members that would make class certification inappropriate. Counsel
3 for the Class will vigorously assert the claims of all Class members.

4 24. The persons who comprise the Class are so numerous that joining all of them is
5 impracticable, and jointly adjudicating their claims will benefit the parties and the Court.
6 Plaintiff's claims are typical of the claims of the Class that Plaintiff seeks to represent. Plaintiff
7 will fairly and adequately protect the interests of the Class he seeks to represent. Plaintiff does
8 not have any interests that are antagonistic to the Class he seeks to represent. Counsel for Plaintiff
9 are experienced, qualified and generally able to conduct complex class action litigation.

10 25. The Court should permit the action to be maintained as a class action under *Code*
11 *of Civil Procedure* § 382 because:

- 12 (a) The questions of law and fact common to the Class predominate over any
13 question affecting only individual members;
- 14 (b) A class action is superior to any other available method for fairly and
15 efficiently adjudicating the claims of the Class;
- 16 (c) The Class members are so numerous that it is impractical to bring all of
17 them before the Court;
- 18 (d) Plaintiff and other Class members will not be able to obtain effective and
19 economic legal redress unless the action is maintained as a class action;
- 20 (e) There is a community of interest in obtaining appropriate legal and
21 equitable relief for the statutory violations, and in obtaining adequate
22 compensation for the damages and injuries for which Defendant is
23 responsible in an amount sufficient to adequately compensate the Class
24 members;
- 25 (f) Without Class certification, the prosecution of separate actions by
26 individual Class members would create a risk of:

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- i. Inconsistent or varying adjudications for individual Class members that would establish incompatible standards of conduct for Defendants; and/or,
 - ii. Adjudication for individual Class members that would, as a practical matter, dispose of other non-party members' interests, or that would substantially impair or impede the non-parties' ability to protect their interests, by, for example, potentially exhausting the funds available from Defendants, and
- (g) Defendants have acted or refused to act on grounds generally applicable to the Classes, making final injunctive relief appropriate for the Class, as a whole.

26. Plaintiff contemplates eventually issuing notice to the proposed Class Members that would set forth the subject and nature of the action. The Defendants' own business records may be utilized for assisting to prepare and issue the contemplated notice. To the extent that any further notices may be required, Plaintiff would contemplate using additional media and/or mailing.

GENERAL ALLEGATIONS

27. At all times material hereto, Defendant HD, has been and is, a beer distribution company.

28. At all times material hereto Defendant RH, has been and is, a food and beverage distributor.

29. At all times material hereto, Defendant RBG, has been and is, a beer distribution company.

30. At all times material hereto Defendant GBBG, has been and is, a beverage distributor.

31. Plaintiff and members of the Class were employed as Truck Drivers by Defendants in California at various times during the Class Period.

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THE CONDUCT

32. Plaintiff seeks relief from Defendants’ uniform policies and practices of denying Plaintiff and members of the Class wages and compensation owed under California law.

33. Starting in or about April 8, 2024 and continuing to June 3, 2024, Defendants employed Plaintiff on an hourly basis as a Truck Driver in California.

34. While employed by Defendants as a Truck Driver, Plaintiff was paid approximately \$33.00 per hour.

35. The employment by Defendants of the Class Members, and each of them, is governed by Industrial Welfare Commission Wage Order 1, which covers those persons employed in the manufacturing industry.

OFF-THE-CLOCK WORK

36. Employers must compensate non-exempt employees for “off-the-clock” work (before punching in or after punching out on a time clock) if the employers knew or should have known that the employees were working those hours. *Morillion v. Royal Packing Co.* (2000) 22 Cal. 4th 575, 585.

37. Defendants required Plaintiff and the Class to regularly perform compensable tasks pre-shift off-the-clock for which they did not receive any compensation. Specifically, at all times relevant, Plaintiff and Class members were required by management to perform pre-trip inspections of their trucks for 15-20 minutes before clocking in. Defendants were aware of Plaintiff and Class members’ off-the-clock work.

38. As a result, and because they improperly treated such pre-shift time as non-compensable, Defendants failed to compensate Plaintiff and the Class for such time.

FAILURE TO PAY OVERTIME/MINIMUM WAGES

39. Under California law, non-exempt employees as defined by Wage Order 1, are entitled to premium wages for overtime worked. Under California law, an hourly paid employee is entitled to overtime pay when they exceed eight hours of work in a single day, exceed 40 hours of work in a week or work seven days in a row.

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1 40. Under California law, non-exempt employees as defined by IWC Wage Order No.
2 1 are entitled to minimum wages. Labor Code Section 1197 states the California requirement that
3 employees must be paid at least the minimum wage fixed by the Commission or by any applicable
4 state or local law, and any payment of less than the minimum wage is unlawful. Similarly, Labor
5 Code Section 1194 entitles “any employee receiving less than the legal minimum wage...is
6 entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage.”
7 The applicable IWC Wage Order(s), including IWC Wage Order No. 1-2001, obligates
8 employers to pay each employee minimum wages for all hours worked.

9 41. These minimum wage standards apply to each hour employees worked or were
10 subject to control by the employer for which they were not paid. Therefore, an employer’s failure
11 to pay for any particular hour of time worked by an employee or subject to the employer’s control
12 is unlawful, even if averaging an employee’s total pay over all hours worked, paid or not, results
13 in an average hourly wage above minimum wage. *Armenta v. Osmose, Inc.*, 135 Cal. App. 4th
14 314, 324 (2005).

15 42. Defendants required Plaintiff and the Class to regularly perform compensable
16 tasks pre-shift off-the-clock for which they did not receive any compensation. Class members are
17 entitled to overtime pay for any time spent performing pre-trip inspections off the clock.

18 43. Plaintiff and the Class were not paid minimum wages due to non-compliant
19 meal/rest breaks.

20 44. At all times during the relevant time period, Plaintiff and the Class routinely
21 worked schedules such that they were due pay at overtime and minimum wage rates. During this
22 period, it was the practice and policy of Defendants to not pay employees’ overtime and minimum
23 wages. Monies for unpaid overtime and minimum wages remain due and owing.

24 **INTERRUPTED AND/OR MEAL BREAKS NOT AFFORDED**

25 45. Under California law, non-exempt employees as defined by Wage Order 1, are
26 entitled to premium wages for overtime worked, a 30-minute lunch period for each 5 hours
27 worked, a 10-minute paid rest break for every four hours worked, or major fraction thereof.

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1 46. Non-exempt employees are entitled to one hour pay at their regular pay rate for
2 each day the requisite rest and/or meal periods are not provided.

3 47. Plaintiff and Class Members' meal breaks were at times interrupted and/or meal
4 breaks were not afforded. Further, when Plaintiff and Class members worked 10 or more hours
5 per day, they were not afforded second meal breaks.

6 48. Defendants' policies and procedures were applied to all non-exempt employees in
7 California and resulted in non-exempt employees working time which was not compensated by
8 any wages in violation of Labor Code sections 510, 1194 and IWC Wage Order No. 1. As a result,
9 Defendants owe wages at the legal overtime rate for unpaid overtime to each of their California
10 non-exempt employees whose daily hours were reduced even though their meals periods were
11 interrupted and/or were never afforded.

12 49. Defendants failed to ensure that Plaintiff and members of the Class recorded their
13 meal breaks. Plaintiff did not record his meal breaks' start and stop times. Defendants had an
14 unlawful policy and procedure of automatically deducting ("auto-deduct") 30 minutes for meal
15 periods from employees' daily hours even if employees did not receive their meals periods and/or
16 meal periods were interrupted. This auto-deduct policy was unlawful and did not account for
17 whether meal periods were actually provided, whether employees were able to take their meal
18 periods at all, whether they took meal periods of less than 30 minutes and whether they were free
19 from interruption for the full 30 minutes. As a result of this policy, Defendants failed to
20 compensate these employees with at least minimum wage rate for all time worked when their
21 daily hours were automatically reduced even though employees did not receive a meal period
22 and/or their meal periods were interrupted.

23 50. Defendants' policies and procedures were applied to all non-exempt employees in
24 California and resulted in non-exempt employees working time which was not compensated by
25 any wages in violation of Labor Code sections 510, 1194 and IWC Wage Order No. 1. As a result,
26 Defendants owe wages at the legal overtime rate for unpaid overtime to each of their California
27 non-exempt employees whose daily hours were automatically reduced even though they did not
28 take meals periods and/or their meal periods were interrupted.

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REST BREAKS NOT AFFORDED

51. Plaintiff and Class members were not afforded rest breaks. Further, on days when Plaintiff and Class members worked 10 or more hours, they were not afforded third rest breaks.

FAILURE TO ISSUE ACCURATE WAGE STATEMENTS

52. As a result of Defendants’ failure to pay employees at required overtime, minimum wages and premium pay for missed meal/rest breaks, the wage statements issued to the employees did not comply with Labor Code §226 and California Industrial Welfare Commission (“IWC”) Wage Order 1 in that they did not accurately reflect all wages earned and due and owing.

FAILURE TO PAY WAGES ON TERMINATION OF EMPLOYMENT

53. As a further result of Defendants’ failure to pay employees at required overtime, minimum wage rates and failure to afford meal/rest breaks, when the employees left their employ, they were not timely paid all wages due them, as required by Labor Code §§ 201, 202 and Wage Order 1. Further, it was the practice of Defendants to not pay employees the final paychecks within the time periods mandated by Labor Code §§201, 202 and Wage Order 1.

VIOLATION OF CAL. LABOR CODE §1024.5 AND CAL. CIV. CODE §1786

54. Defendants violated Labor Code section 1024.5 by unlawfully obtaining a credit check and background check on Plaintiff and Class members for employment purposes. As per Labor Code section 1024.5, Plaintiff and Class members are not within the categories of employees for whom an employer or prospective employer may use a credit report for employment purposes. Defendants also violated Civil Code section 1786 since they did not state the permissible purpose of the report under Labor Code section 1024.5 and/or there was no permissible purpose.

FAILURE TO ALLOW INSPECTION OF PERSONNEL RECORDS

55. Defendants failed to allow Plaintiff and Class members to timely inspect their records and payroll files.

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1 **FIRST CAUSE OF ACTION**

2 **FAILURE TO PAY OVERTIME**

3 **(Labor Code §§510, 558, 1194.3 and Wage Order 1 By Plaintiffs Against Defendants and**
4 **Does 1-100)**

5 56. Plaintiff and the Class reallege and incorporate by reference all of the allegations
6 set forth in this First Amended Complaint.

7 57. During Plaintiff's entire employment with Defendants, pursuant to Cal. Lab. Code
8 §§510, 1194, and 1198, and IWC Wage Order No. 1, Defendants were required to compensate
9 Plaintiff with premium pay for all overtime work performed, for hours worked in excess of eight
10 (8) hours per day and/or forty (40) hours per week and for the first eight (8) hours on the seventh
11 (7th) consecutive day of any work week.

12 58. At all times relevant herein, Cal. Lab. Code §1194(a) provided that an employee
13 who had not been paid overtime compensation could recover the unpaid balance of the full
14 amount of overtime wages due, including interest thereon, together with reasonable attorneys'
15 fees and costs of suit.

16 59. Pursuant to IWC Wage Order No. 1-2001, § 3, "Employment beyond eight (8)
17 hours in any workday is permissible provided the employee is compensated for such overtime at
18 not less than: (a) One and one-half (1 1/2) times the employee's regular rate of pay for all hours
19 worked in excess of eight (8) hours up to and including twelve (12) hours in any workday...

20 60. California Labor Code section 558 provides in pertinent part:

21 (a) Any employer or other person acting on behalf of an employer who
22 violates, or causes to be violated, a section of this chapter or any provision
23 regulating hours and days of work in any order of the Industrial Welfare
Commission shall be subject to a civil penalty as follows:

24 (1) For any initial violation, fifty dollars (\$50) for each underpaid
25 employee for each pay period for which the employee was underpaid in
addition to an amount sufficient to recover underpaid wages.

26 (2) For each subsequent violation, one hundred dollars (\$100) for each
27 underpaid employee for each pay period for which the employee was
28 underpaid in addition to an amount sufficient to recover underpaid wages.

(3) Wages recovered pursuant to this section shall be paid to the affected employee...

(c) The civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law.

61. Throughout Plaintiff and class members' employment, Plaintiff and Class members worked overtime hours due to off-the-clock work and were not paid overtime pay for the off-the-clock work.

62. Defendants required Plaintiff and the Class to regularly perform compensable tasks pre-shift off-the-clock for which they did not receive any compensation. Specifically, Plaintiff and Class members engaged in off-the-clock activities such as pre-trip inspections for 15-20 minutes prior to clocking in each day.

63. The amount of time spent by Class members working off the clock was not *de minimis*.

64. Throughout Plaintiff's employment, Defendants failed and refused to pay and properly calculate overtime compensation to Plaintiff and Class Members as required by law.

65. The foregoing overtime compensation is owed and unpaid. As a direct and proximate result of Defendants' failure and refusal to pay overtime, Plaintiff and Class members suffered damages in an amount to be proven at trial.

66. Pursuant to Cal. Lab. Code §1194(a), Plaintiff, who retained the services of legal counsel in order to enforce Plaintiff's rights to overtime pay, is entitled to recover Plaintiff's attorneys' fees, costs and interest.

SECOND CAUSE OF ACTION

FAILURE TO PAY MINIMUM WAGES

(IWC Wage Order No. 1; Labor Code §§ 1194, 1194.2, 1997, 1197.1, 1198 By Plaintiffs

Against Defendants and Does 1 through 100)

67. Plaintiff and the Class reallege and incorporate by reference all of the allegations set forth in this First Amended Complaint.

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1 68. Labor Code §§ 1194(a) states: “Notwithstanding any agreement to work for a
2 lesser wage, any employee receiving less than the legal minimum wage or the legal overtime
3 compensation applicable to the employee is entitled to recover in a civil action the unpaid balance
4 of the full amount of this minimum wage or overtime compensation, including interest thereon,
5 reasonable attorney's fees, and costs of suit.”

6 69. *Labor Code* § 1197 states the California requirement that employees must be paid
7 at least the minimum wage fixed by the Commission, and any payment of less than the minimum
8 wage is unlawful. Similarly, *Labor Code* § 1194 entitles “any employee receiving less than the
9 legal minimum wage...entitled to recover in a civil action the unpaid balance of the full amount
10 of this minimum wage.” IWC Wage Order 1-2001 also obligates employers to pay each employee
11 minimum wages for all hours worked. These minimum wage standards apply to each hour
12 employees worked for which they were not paid. Therefore, an employer’s failure to pay for any
13 particular hour of time worked by an employee is unlawful, even if averaging an employee’s total
14 pay over all hours worked, paid or not, results in an average hourly wage above minimum wage.
15 *Armenta v. Osmose, Inc.*, 135 Cal. App. 4th 314, 324 (2005).

16 70. Pursuant to Wage Order 1, Defendants are required to pay the members of the
17 Class for all hours worked, meaning the time during which an employee is subject to the control
18 of an employer, including all the time the employee is suffered or permitted to work, whether or
19 not required to do so.

20 71. Furthermore, pursuant to *Labor Code* § 1198, “[t]he maximum hours of work and
21 the standard conditions of labor fixed by the commission shall be the maximum hours of work
22 and the standard conditions of labor for employees. The employment of any employee for longer
23 hours than those fixed by the order or under conditions of labor prohibited by the order is
24 unlawful.”

25 72. Defendants failed to satisfy minimum wage requirements because they did not
26 provide compliant meal/rest breaks to Plaintiff and the Class.

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73. Defendants' pattern, practice and uniform administration of corporate policy regarding illegal employee compensation as described herein is unlawful and creates an entitlement, pursuant to Labor Code § 218, to recovery by Plaintiff and the members of the Class, in a civil action, of the unpaid balance of the full amount of wages owing, calculated at the appropriate rate.

74. *Labor Code* § 1194.2 allows an employee to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon for any action under *Labor Code* § 1194. Where an employee, such as Plaintiff and the other Class members, are not paid for all hours worked under *Labor Code* § 1194, the employee may recover minimum wages for the time associated with the overtime for which they received no compensation. *See Sillah v. Command Int'l Sec. Servs.*, 154 F. Supp. 3d 891 (N.D. Cal. 2015) (holding that employees suing for failure to pay overtime could recover liquidated damages under § 1194.2 if they also showed they were paid less than minimum wage); *accord Andrade v. Arby's Rest. Grp., Inc.*, 225 F. Supp. 3d 1115, 1132-33 (N.D. Cal. 2016).

75. Plaintiff and the other Class Members suffered and continue to suffer losses related to the use and enjoyment of compensation due and owing to them as a direct result of Defendants' unlawful acts and Labor Code violations in an amount to be shown according to proof at trial and within the jurisdictional limitations of this Court.

76. Therefore, pursuant to Labor Code §§200, 218.5, 558 and 1194, Plaintiff and the Class are entitled to recover the unpaid balances of the minimum wages Defendants owe them, plus interest, penalties, attorneys' fees, expenses and costs of suit, in amounts according to proof.

THIRD CAUSE OF ACTION

FOR FAILURE TO PROVIDE TIMELY OFF-DUTY MEAL PERIODS

(IWC Wage Order No. 1; Labor Code §§ 226.7, 512 By Plaintiffs Against Defendants and Does 1 through 100)

77. Plaintiff and the Class reallege and incorporate by reference all of the allegations set forth in this First Amended Complaint.

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1 78. California Labor Code §226.7(a) prohibits an employer from requiring an
2 employee to work during any meal period mandated by an applicable Industrial Wage Order.
3 Section 226.7(b) of the California Labor Code provides that "[a]n employer shall not require an
4 employee to work during a meal or rest break or recovery period mandated pursuant to an
5 applicable statute, or applicable regulation, standard, or order of the Industrial Welfare
6 Commission..."

7 79. California Labor Code §1198 makes the employment of an employee unlawful
8 under conditions the IWC prohibits.

9 80. IWC Order No. 1-2001(11)(A) provides, in relevant part: "No employer shall
10 employ any person for a work period of more than five (5) hours without a meal period of not
11 less than 30-minutes, except that when a work period of not more than six (6) hours will complete
12 the day's work the meal period may be waived by mutual consent of the employer and the
13 employee."

14 81. IWC Order No. 1-2001 (11)(c) further provides, in relevant part: "Unless the
15 employee is relieved of all duty during a 30-minute meal period, the meal period shall be
16 considered an 'on duty' meal period and counted as time worked."

17 82. Section 512(a) of the California Labor Code provides, in relevant part, that:

18 An employer may not employ an employee for a work period of more than five
19 hours per day without providing the employee with a meal period of not less
20 than 30-minutes, except that if the total work period per day of the employee is
21 no more than six hours, the meal period may be waived by mutual consent of
22 both the employer and employee. An employer may not employ an employee
23 for a work period of more than 10 hours per day without providing the
24 employee with a second meal period of not less than 30-minutes, except that if
the total hours worked is no more than 12 hours, the second meal period may be
waived by mutual consent of the employer and the employee only if the first
meal period was not waived.

25 83. The Labor Code and Wage Order provisions cited above require California
26 employers to provide employees with off-duty 30-minute meal periods on or before the fifth hour
27 of their shifts.

28 ///

1 84. To satisfy this obligation, California employers must: (1) make employees aware
2 of their right to off-duty 30-minute meal periods before the fifth hour of their shifts, and (2) ensure
3 that employees are actually free of job duties for thirty minutes per day on or before the fifth hour
4 of their shifts.

5 85. Plaintiff and the members of the Class's meal periods were routinely interrupted
6 and/or not afforded. Further, when Plaintiff and Class members worked 10 or more hours per
7 day, they were not afforded second meal breaks.

8 86. Under California law, employers must also record their employees' meal periods:
9 "Every employer shall keep accurate information with respect to each employee, including the
10 following: ... Meal periods ... shall also be recorded. Meal periods during which operations cease
11 ... need not be recorded." IWC Order No. 1, § (7)(A)(3). Where the employer has failed to keep
12 records required by statute, the consequences of such failure should fall on the employer, not the
13 employee. In such a situation, imprecise evidence by the employee can provide a sufficient basis
14 for liability." *Hernandez v. Mendoza*, 199 Cal. App. 3d 721, 727 (1988). Inasmuch as Defendant
15 had an obligation under the record-keeping requirements of the Wage Order to track meal periods
16 unless "all work ceases", Defendant knew or should have known its employees were regularly
17 missing meal periods during the Class Period.

18 87. Plaintiff and Class members did not record the start and end times of their meal
19 periods in violation of *Donohue v. AMN Services, LLC* (2021) 11 Cal. 5th 58.

20 88. Defendants had an unlawful policy and procedure of automatically deducting
21 ("auto-deduct") 30 minutes for meal periods from employees' daily hours even if employees did
22 not receive their meals periods and/or their meal were interrupted. This auto-deduct policy was
23 unlawful and did not account for whether meal periods were actually provided, whether
24 employees were able to take their meal periods at all, whether they took meal periods of less than
25 30 minutes and whether they were free from interruption for the full 30 minutes. As a result of
26 this policy, Defendants failed to compensate these employees with at least minimum wage rate
27 for all time worked when their daily hours were automatically reduced even though employees
28 did not receive a meal period, their meal periods were cut short and/or interrupted.

89. Defendants have a policy or practice of failing to ensure that Plaintiff and members of the class take the meal periods required by California Labor Code §226.7 and IWC Wage Order No. 1-2001 §11.

90. By their actions in not affording Plaintiff and Class members meal periods and/or not affording them compliant meal periods, Defendants violated Cal. Lab. Code §226.7(b) and section 11 of Wage Order No. 1 in the amount of one additional hour of pay at the employee's regular rate of compensation for each work period during each day in which Defendant failed to provide employees with statutory off-duty meal periods.

91. Defendants also have a policy or practice of failing to pay each of their employees who was not provided with a meal period as required an additional one hour of compensation at each employee's regular rate of pay.

92. Cal. Labor Code § 218 authorizes Plaintiff and the members of the Class to bring a private right of action to recover wages due based on the deprivation of timely meal periods under Cal. Labor Code § 226.7(b).

93. As a direct and proximate result of Defendants' unlawful conduct as alleged herein, Plaintiff and members of the Class have sustained economic damages, including but not limited to unpaid wages and lost interest, in an amount to be established at trial, and are entitled to recover economic and statutory damages, attorneys' fees and penalties and other appropriate relief due to Defendant's violations of the California Labor Code and IWC Wage Order No. 1.

FOURTH CAUSE OF ACTION

FOR FAILURE TO PROVIDE REST PERIODS

(Labor Code § 226.7 and IWC Wage Order No. 1 By Plaintiffs Against Defendants and Does 1 through 100)

94. Plaintiff and the Class reallege and incorporate by reference all of the allegations set forth in this First Amended Complaint.

95. Labor Code § 226.7 and IWC Wage Order No. 1 provide that employers shall authorize and permit all employees to take rest periods at the rate of ten minutes net rest time per four hours of work, or major fraction thereof.

1 96. Labor Code § 226.7 and IWC Wage Order No. 1 provide that if an employer fails
2 to provide an employee with rest periods in accordance with those provisions, the employer shall
3 pay the employee one hour of pay at the employee's regular rate of compensation for each
4 workday that the rest periods were not so provided.

5 97. Defendants have intentionally and improperly denied any rest periods to Plaintiff
6 and the Class in violation of Labor Code § 226.7 and IWC Wage Order No. 1.

7 98. At all times relevant hereto, Plaintiff and members of the Class have worked 8 or
8 more hours daily.

9 99. At all times relevant hereto, Defendants failed to provide rest periods as required
10 by Labor Code § 226.7 and IWC Wage Order No. 1. Plaintiff and Class were not afforded any
11 rest breaks. On days when Plaintiff and Class members worked 10 or more hours, they were not
12 afforded third rest breaks.

13 100. By virtue of Defendants' unlawful failure to provide rest periods to the Plaintiff
14 and the Class, Plaintiff and the Class have suffered, and will continue to suffer, damages in
15 amounts which are presently unknown to Plaintiff and the Class, but which exceed the
16 jurisdictional limits of the Court and which will be ascertained according to proof at trial.

17 **FIFTH CAUSE OF ACTION**

18 **FOR FAILURE TO MAINTAIN RECORDS AND PROVIDE ACCURATE WAGE**

19 **ITEMIZED STATEMENTS**

20 **(Labor Code §226 By Plaintiffs Against Defendants and Does 1 through 100)**

21 101. Plaintiff and the Class reallege and incorporate by reference all of the allegations
22 set forth in this First Amended Complaint.

23 102. Pursuant to IWC Wage Order No. 1, Defendants were the employers of Plaintiff
24 and the Class.

25 103. Pursuant to California Labor Code sections 226 and 1174, and Wage Order 1-2001
26 section 7, Defendants are required to maintain and provide accurate records relating to employee
27 compensation including all formulas and production records used to calculate wages due.

28 ///

1 104. Defendants are further required to provide, *inter alia*, semimonthly or at the time
2 of each payment of wages, an accurate itemized statement showing: (1) gross wages earned; (2)
3 all deductions from wages; (3) net wages earned; (4) the inclusive dates of the period for which
4 the employee is being paid; (5) the name of the employee; and (6) the name and address of the
5 legal entity that is the employee's actual employer. Cal. Labor Code §226(a).

6 105. Section 226(e) provides that an employee is entitled to recover \$50 for the initial
7 pay period in which a violation of Section 226 occurs and \$100 for each subsequent pay period,
8 not to exceed \$4,000, plus an award of costs and reasonable attorneys' fees, for all pay periods in
9 which the employer knowingly and intentionally failed to provide accurate itemized statements
10 to the employee causing the employee to suffer injury.

11 106. Notwithstanding these provisions. Defendants have engaged in a uniform practice
12 of refusing to maintain and provide the accurate records and wage statements required by
13 California law.

14 107. Throughout the Class Period, Defendants intentionally and knowingly provided
15 Plaintiff and other members of the Class with weekly itemized wage statements containing
16 inaccurate information regarding the wages earned by Plaintiff and members of the Class in that
17 the payments owed to Plaintiff and the members of the Class for overtime compensation,
18 minimum wages, interrupted or missed meal and rest periods, were not included in gross wages
19 earned by Plaintiff and members of the Class.

20 108. As a result, Plaintiff and members of the Class have been injured by having been
21 deprived of the true facts pertaining to their compensation and employment.

22 109. Plaintiff and members of the Class were damaged by these failures because,
23 among other things, the failures led them to believe that they were not entitled to overtime
24 compensation, minimum wages, pay for meal and rest periods not provided, even though they
25 were so entitled and these failures hindered them from determining the amounts of wages owed
26 to them.

27 110. Plaintiff and members of the Class are entitled to the amounts provided in Labor
28 Code §226(e), plus attorneys' fees and costs.

111. As result, Plaintiff seeks recovery of the penalties authorized by Labor Code sections 226(e) and 558, and such other penalties and legal and equitable remedies as are provided by law for Defendants' improper conduct.

SIXTH CAUSE OF ACTION

FAILURE TO PAY WAGES ON TERMINATION OF EMPLOYMENT

(Cal. Labor Code §§201-203 By Plaintiffs Against Defendant and Does 1 through 100)

112. Plaintiff and the Class reallege and incorporate by reference all of the allegations set forth in this First Amended Complaint.

113. Labor Code § 201(a) provides that a discharged employee's unpaid wages are due and payable immediately. Labor Code § 202(a) provides that when an employee resigns from employment, unpaid wages are due and payable within 72 hours of resignation.

114. Labor Code § 203(a) provides that if an employer willfully fails to pay wages as mandated by Labor Code §§ 201 and 202, the employee's wages shall continue to accrue until paid, not to exceed thirty days.

115. Plaintiff and the Class were discharged and/or resigned from Defendants' employ and Defendants willfully failed to pay Plaintiff and the Class wages due them due to Defendants' failure to pay overtime, minimum wages, and premium pay for meal/rest breaks not afforded.

116. Defendants terminated Plaintiff on June 8, 2024, yet failed to pay him the wages due to him.

117. Under Labor Code § 203(a), Plaintiff and the Class are entitled to one day's wages for each day he or she was not timely paid, not to exceed 30 days' wages.

SEVENTH CAUSE OF ACTION

VIOLATION OF CAL. LAB. CODE §1024.5 AND CAL. CIV. CODE §1786 IN

CONDUCTING EMPLOYMENT-RELATED BACKGROUND CHECK

(Cal. Lab. Code §1024.5; California Civil Code §1786, By Plaintiffs Against Defendants and Does 1 through 100)

118. Plaintiff and the Class reallege and incorporate by reference all of the allegations set forth in this First Amended Complaint.

1 119. California Labor Code§1024.5 states that a consumer credit report can only be
2 used for employment purposes as follows:

3 (a) An employer or prospective employer shall not use a consumer credit report
4 for employment purposes unless the position of the person for whom the report is
5 sought is any of the following:

6 (1) A managerial position.

7 (2) A position in the state Department of Justice.

8 (3) That of a sworn peace officer or other law enforcement position.

9 (4) A position for which the information contained in the report is required by law
10 to be disclosed or obtained.

11 (5) A position that involves regular access, for any purpose other than the routine
12 solicitation and processing of credit card applications in a retail establishment, to
13 all of the following types of information of any one person:

14 (A) Bank or credit card account information.

15 (B) Social security number.

16 (C) Date of birth.

17 (6) A position in which the person is, or would be, any of the following:

18 (A) A named signatory on the bank or credit card account of the employer.

19 (B) Authorized to transfer money on behalf of the employer.

20 (C) Authorized to enter into financial contracts on behalf of the employer.

21 (7) A position that involves access to confidential or proprietary information,
22 including a formula, pattern, compilation, program, device, method, technique,
23 process or trade secret that (i) derives independent economic value, actual or
24 potential from not being generally known to and not being readily ascertainable
25 by proper means by, other persons who may obtain economic value from the
26 disclosure or use of the information, and (ii) is the subject of an effort that is
27 reasonable under the circumstances to maintain secrecy of the information.

28 ///

1 (8) A position that involves regular access to cash totaling ten thousand dollars
2 (\$10,000) or more of the employer, a customer, or client, during the workday.

3 120. Defendants violated Labor Code section 1024.5 by unlawfully obtaining a credit
4 check and background check on Plaintiff and Class members' for employment purposes. As per
5 Labor Code section 1024.5, Plaintiff and Class members are not within the categories of
6 employees for whom an employer or prospective employer may use a credit report for
7 employment purposes.

8 121. Section 1785.3(c) of the Consumer Credit Reporting Agencies Act ("CCRAA")
9 defines "consumer credit report" as:

10 Any written, oral, or other communication of any information by a consumer
11 credit reporting agency bearing on a consumer's credit worthiness, credit
12 standing, or credit capacity, which is used or is expected to be used, or collected
13 in whole or in part, for the purpose of serving as a factor in establishing the
14 consumer's eligibility for:... (2) employment purposes...

15 122. Thus, the at-issue consumer report procured by Defendants on Plaintiff and Class
16 members qualifies as a consumer credit report under the CCRAA.

17 123. As described above, Plaintiff alleges that in evaluating Plaintiff and Class
18 members' employment, Defendants procured a credit report/background check on him and Class
19 members as defined by section 1785.3(c).

20 124. The disclosure provided by Defendants do not identify the specific basis under
21 subdivision (a) of section 1024.5 of the Labor Code for use of the credit report. Plaintiff alleges
22 that, in fact, there is no permissible purpose under section 1024.5 of the Labor Code which allows
23 Defendants to procure, or cause to be prepared, a consumer credit report on Plaintiff and Class
24 members.

25 125. The Investigative Consumer Reporting Act ("ICRAA") section 1786 (B) (ii)
26 mandates that the permissible purpose of the report must be identified. This omission clearly
27 violates section 1786 (B) (ii) of the ICRAA. Defendants did not state the permissible purpose of
28 the report under Labor Code section 1024.5 and/or there was no permissible purpose.

1 126. Defendants were either grossly negligent in violating, or willfully violated, the
2 ICRAA by acting without a good faith, reasonable belief in the legality of their actions, and/or in
3 deliberate or reckless disregard of their legal obligations and the rights of Plaintiff and Class
4 members under the statute.

5 127. As a result of Defendants' illegal procurement of a credit report/background check
6 of the Plaintiff and Class members, Plaintiff and Class members have been injured including, but
7 not limited to, having their privacy and statutory rights invaded in violation of the ICRAA.

8 128. Plaintiff and Class members have been damaged by these violations and seek the
9 following relief pursuant to Civil Code § 1786.50:

- 10 a. Any actual damages sustained by the consumer as a result of the failure or,
11 ten thousand dollars (\$10,000), whichever sum is greater;
12 b. the costs of the action together with reasonable attorney's fees as determined
13 by the court; and
14 c. In the case of a violation that was grossly negligent or willful, punitive
15 damages.

16 **EIGHTH CAUSE OF ACTION**

17 **FAILURE TO ALLOW INSPECTION OF EMPLOYMENT RECORDS**

18 ***(Labor Code §1198.5 By Plaintiffs Against Defendants and Does 1 through 100)***

19
20 129. Plaintiff and the Class reallege and incorporate by reference all of the allegations
21 set forth in this First Amended Complaint.

22 130. California Labor Code Section 1198.5 provides:

- 23 (a) Every current and former employee, or his or her representative, has the
24 right to inspect and receive a copy of the personnel records that the
25 employer maintains relating to the employee's performance or to any
26 grievance concerning the employee.
27 (b) The employer shall make the contents of those personnel records available
28 for inspection to the current or former employee, or his or her
29 representative, at reasonable intervals and at reasonable times, but not later
30 than 30 calendar days from the date the employer receives a written request,
31 unless the current or former employee, or his or her representative, and the

1 employer agree in writing to a date beyond 30 calendar days to inspect the
2 records, and the agreed-upon date does not exceed 35 calendar days from
3 the employer's receipt of the written request to inspect the records. Upon a
4 written request from a current or former employee, or his or her
5 representative, the employer shall also provide a copy of the personnel
6 records,..... later than 30 calendar days from the date the employer receives
7 the request...

8 (k) If an employer fails to permit a current or former employee, or his or her
9 representative, to inspect or copy personnel records within the times specified I
10 this section... the current or former employee may recover a penalty of seven
11 hundred fifty dollars (\$750) from the employer.

12 (1) A current or former employee may also bring an action for injunctive relief
13 to obtain compliance with this section, and may recover costs and reasonable
14 attorney's fees in such an action.

15 131. Additionally, pursuant to Wage Order 1, at section 7 re: Records, employers are
16 required to keep accurate payroll records on each employee, and such records must be made
17 readily available for inspection by the employee upon reasonable request. The employer must
18 also maintain accurate production records.

19 132. On or about November 27, 2024, Plaintiff's counsel issued a written request to
20 Defendants for copies of his personnel records.

21 133. Under California Labor Code Sections 226, 432 and 1198.5, such records were to
22 include all records relating to Plaintiff's hours worked, wage statements and compensation.
23 Plaintiff's counsel and Defendants did not enter into an agreement to enlarge the time for
24 Defendants' compliance, and Defendants have failed and refused to permit Plaintiff copies of his
25 records.

26 134. As a direct result and consequence of Defendants' failure and refusal to permit
27 Plaintiff full access to his records, Plaintiff seeks injunctive relief in the form of an order or decree
28 mandating Defendants' compliance. Plaintiff has suffered and will suffer harm as a result of
Defendants' ongoing refusal to comply. Plaintiff also seeks recovery of the statutory penalty of
\$750 based upon Defendants' violation of §1198.

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1 **NINTH CAUSE OF ACTION**

2 **UNFAIR COMPETITION**

3 **(Business & Professions Code §§ 17200 *et seq.* By Plaintiffs Against Defendants and Does**
4 **1 through 100)**

5 135. Plaintiff and the Class reallege and incorporate by reference all of the allegations
6 set forth in this First Amended Complaint.

7 136. Pursuant to IWC Wage Order No. 1, Defendants were the employers of Plaintiff
8 and the Class. Defendants are also "person(s)" as that term is defined in Business & Professions
9 Code §17021.

10 137. The Business & Professions Code defines unfair competition as any unlawful,
11 unfair, or fraudulent business practice. At all times relevant herein, by and through the conduct
12 described herein, Defendants have engaged in unfair and unlawful practices by failing to (1) pay
13 Plaintiff and the Class overtime compensation; (2) pay minimum wages; (3) pay Plaintiff and the
14 Class for meal periods not provided, (4) pay Plaintiff and the Class rest periods not provided, (5)
15 furnish Plaintiff and the Class with accurate itemized wage statements, as mandated by the
16 applicable Labor Code and Industrial Welfare Commission requirements, (6) pay Plaintiff and
17 the Class all wages due on termination of employment and (7) provide personnel records, all in
18 violation of Business & Professions Code §§ 17200 *et seq.*

19 138. By and through the unfair and unlawful business practices described herein,
20 Defendants have obtained valuable property, money and services from the Plaintiff and the Class
21 and has deprived them of valuable rights and benefits guaranteed by law all to the detriment of
22 Plaintiff and the Class.

23 139. All the acts described herein are violations of, among other things, the Labor Code
24 and Industrial Commission Wage Order No. 1, are unlawful and in violation of public policy; and
25 in addition are immoral, unethical, oppressive, and unscrupulous, and thereby constitute unfair
26 and unlawful business practices in violation of Business & Professions Code §§ 17200 *et seq.*

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1 140. Plaintiff and the Class are entitled to, and do, seek such relief as may be necessary
2 to restore to them the money and property which Defendants have acquired, or of which Plaintiff
3 and the Class have been deprived by means of the above-described unfair and unlawful business
4 practices.

5 141. Plaintiff and the Class are further entitled to, and do, seek a declaration that the
6 above-described business practices are unfair and unlawful and that injunctive relief should be
7 issued restraining Defendants from engaging in any of the above described unfair and unlawful
8 business practices in the future.

9 142. Plaintiff and the Class have no plain, speedy, and/or adequate remedy at law to
10 redress the injuries which they have suffered as a consequence of the unfair and unlawful business
11 practices of Defendants. As a result of the unfair and unlawful business practices described
12 above, Plaintiff and the Class have suffered and will continue to suffer irreparable harm unless
13 Defendants are restrained from continuing to engage in these unfair and unlawful business
14 practices. In addition, Defendants should be required to disgorge the unpaid moneys to Plaintiff
15 and the Class.

16 **TENTH CAUSE OF ACTION**

17 **PRIVATE ATTORNEY GENERAL ACT**

18 **(Damages Pursuant to Private Attorney General Act Against All Defendants and Does 1**
19 **through 100)**

20 143. Plaintiff and the Class reallege and incorporation by reference all of the allegations
21 set forth in this First Amended Complaint.

22 144. Plaintiff brings this action on her behalf and others similarly situated to recover
23 wages from Defendants due to Defendants' systematic failure to pay overtime/double-time, to
24 pay minimum wages, provide meal/rest breaks (or pay the statutory compensation due), to issue
25 accurate wage statements, to pay wages due on termination, to allow inspection of employment
26 records and unfair competition.

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145. On November 27, 2024, Plaintiff, pursuant to California Labor Code §§2699, et seq., by and through Plaintiff’s attorneys, uploaded a Private Attorney General Act (“PAGA”) claim to the State of California Labor and Workforce Development Agency (“LWDA”) and sent a letter via Certified Mail Return Receipt Requested to the Defendants.

146. More than 65 days have passed since the above letter, and Plaintiff's counsel has not received any notice from the LWDA stating an intention to prosecute Plaintiff's PAGA claims.

147. Plaintiff has, therefore, complied with the administrative exhaustion requirements of PAGA.

148. Plaintiff seeks Labor Code penalties, attorney's fees, and costs in an amount according to proof at trial, as provided by the Labor Code Private Attorney General Act.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that this Court enter judgment in his favor and against Defendants, and each of them, as follows:

1. For compensatory damages in the amount of unpaid overtime due to Plaintiff and Class members, according to proof;

2. For compensatory damages in the amount of the minimum wages due to Plaintiff and Class members, according to proof;

3. For payment of unpaid wages in accordance with California labor and employment law;

4. For one (1) hour of pay at the regular rate of compensation for Plaintiff and Class Members for each workday that a meal and/or rest period was not provided;

5. For payment to Plaintiff and Class members of waiting time penalties pursuant to *Cal. Lab. Code* §203, in an amount equal to their respective daily rates of pay at the time of termination or layoff, multiplied by the total amount of days elapsed between the date of the involuntary termination, and/or 72 hours after notice of the voluntary termination, up to a maximum of 30 days' pay, according to proof;

- 1 6. For an award of consequential damages in Plaintiff and Class members' favor and
2 against Defendants, in an amount to be proven at trial;
- 3 7. For statutory damages pursuant to *Cal. Lab. Code* §226, according to proof;
- 4 8. For specific relief enforcing waiting time penalties of 30 days of per diem wages
5 pursuant to *Cal. Bus. & Prof. Code* §17200 and *Cal. Lab. Code* §203, according to proof;
- 6 9. For prejudgment interest accrued on all due and unpaid overtime and minimum
7 wages from the date that wages were due and payable, pursuant to *Cal. Lab. Code* §§218.6 and
8 1194(a), according to proof;
- 9 10. For statutory penalties pursuant to *Cal. Lab. Code* §§ 558, 226.7, 1198.5,
10 according to proof;
- 11 11. For civil penalties pursuant to *Cal. Labor Code* §1198 and Wage Order 1-
12 2001(14);
- 13 12. For compensatory, statutory and punitive damages allowed pursuant to Civil Code
14 §1786.50;
- 15 13. For reasonable costs, including attorneys' fees, in an amount according to proof
16 pursuant to, *inter alia*, *Cal. Labor Code* §§1194, 1198.5(1), 218.5, Cal. Civil Code §1786.50,
17 Cal. Code of Civ. Proc. §1021.5 and/or Private Attorney General Act;
- 18 14. For penalties pursuant to *Cal. Labor Code* § 2699(g);
- 19 15. For an award of restitution of wages to Plaintiff and Class members in an amount
20 equal to the amount of wages owed and unpaid, according to proof;
- 21 16. For injunctive relief requiring Defendants to comply with Labor Code
22 1198.5(b)(1);
- 23 17. For injunctive relief ordering the continuing unfair business acts and practices to
24 cease, as the Court deems just and proper;
- 25 18. For other injunctive relief ordering Defendants to notify Plaintiff and Class
26 members that they have not been paid the proper amounts in accordance with California law;
- 27 19. For punitive and exemplary damages in a sum to be determined at trial; and
28 20. For such other and further relief as the Court deems just and proper.

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DEMAND FOR JURY TRIAL

Plaintiff Jaime Argelio Amaya Quinteros hereby respectfully requests a trial by jury for all claims and issues raised in his First Amended Complaint that may be entitled to a jury trial.

Date: February 3, 2025

LIPELES LAW GROUP, APC

By:  _____
Jasmine J. Badawi
Attorneys for Plaintiff,
JAIME ARGELIO AMAYA QUINTEROS