

Matthew A. Haulk (SBN 272457)
Email: mhaulk@hemploymentlaw.com
Jose M. Herrera (SBN 289590)
Email: jherrera@hemploymentlaw.com
HAULK & HERRERA LLP
100 Pine Street, Suite 1250
San Francisco, CA 94111
Telephone: (415) 745-3219
Facsimile: (415) 745-3301

Attorneys for Plaintiff and all others similarly situated
CARLOS R. PEREZ

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

CARLOS R. PEREZ, an individual, on
behalf of himself and all others similarly
situated,

Plaintiff,

vs.

BOC CONSTRUCTION, INC., a California
Corporation; BRIAN OLIVER, an individual;
and DOES 1 through 100,

Defendants.

CASE NO.: 23STCV23156

[Assigned to Honorable Elihu M. Berle,
Dept. 6]

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR:**

- (1) UNPAID WAGES**
- (2) REST PERIOD VIOLATIONS**
- (3) FAILURE TO PROVIDE MEAL PERIODS**
- (4) FAILURE TO PROVIDE ACCURATE WAGE STATEMENTS**
- (5) WAITING TIME VIOLATIONS**
- (6) FAILURE TO REIMBURSE EMPLOYEE FOR NECESSARY EXPENDITURES OR LOSSES**
- (7) PAGA PENALTIES**
- (8) UNFAIR/UNLAWFUL BUSINESS PRACTICES**

DEMAND FOR JURY TRIAL
UNLIMITED CIVIL CASE

Complaint Filed: September 25, 2023
Trial Date: None

I. INTRODUCTION

1. Plaintiff Carlos R. Perez ("Plaintiff") brings this action on behalf of himself, and as a class action, for Defendant Boc Construction, Inc.'s (the "Company") failure to

1 pay its California construction workers overtime wages at a premium rate of pay, failure to
2 provide rest periods, failure to provide meal periods, failure to pay premium wages for
3 missed/delayed rest/meal periods, failure to issue accurate itemized wage statements,
4 failure to reimburse necessary business expense, civil penalties under the Private
5 Attorney General Act ("PAGA") and failure to pay all wages due upon separation of
6 employment. As a result of these acts or omissions, the Company has violated California
7 statutory laws as described below.

8 **II. JURISDICTION AND VENUE**

9 2. Plaintiff, on behalf of himself and all other similarly situated, hereby brings
10 this Complaint for recovery of unpaid wages and penalties under California Business and
11 Professions Code § 17200, *et seq.*, applicable provisions of the California Labor Code,
12 including 201, 202, 203, 204, 206, 221, 223, 224, 226, 226.7 and 510, and the Industrial
13 Welfare Commission Wage Order No. 16-2001 (the "IWC Wage Order"), in addition to
14 declaratory relief and restitution.

15 3. This court has jurisdiction over Defendants' violations of the California Labor
16 Code because the amount in controversy exceeds this court's jurisdictional minimum.
17 Venue in this court is proper because Defendants actively and regularly conducted
18 business in Los Angeles County, and a significant portion of the events giving rise to this
19 action occurred here.

20 4. Plaintiff assert no claims arising under federal law. Rather, Plaintiff brings
21 causes of action based solely on, and arising from, California law. The claims of the class
22 are also individual claims for violations of California law described herein. These claims
23 arise from Defendants' common and systemic failure to pay their workers overtime wages,
24 for their failure to authorize and permit rest breaks, their failure to issue accurate itemized
25 wage statements, failure to pay all wages due upon separation, and their unfair business
26 practices based on the foregoing.

27 **III. PARTIES**

28 5. Plaintiff Carlos Perez is an individual over the age of eighteen and a

1 California resident. Plaintiff was employed by the Company from 2004 through March 2023
2 as a laborer.

3 6. Defendant Boc Construction Inc. is a California Corporation and holds
4 Contractor's License No. 453832. The Company's headquarters is located in La Canada,
5 California, with a principal place of business at 2222 Foothill Blvd., Suite E, La Canada,
6 California 91011.

7 7. Defendant Brian Oliver is a natural person, domiciled in California and
8 regularly conducts business in Los Angeles County, California.

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

19 9. At all times herein mentioned, each of said Defendants participated in the
20 doing of the acts hereinafter alleged to have been done by the named Defendants; and
21 furthermore, the Defendants, and each of them, were the agents, servants, and
22 employees of each and every one of the other Defendants, as well as the agents of all
23 Defendants, and at all times herein mentioned were acting within the course and scope of
24 said agency and employment. Defendants, and each of them, approved of, condoned,
25 and/or otherwise ratified each and every one of the acts or omissions complained of herein

26 10. At all times mentioned herein, Defendants, and each of them, were members
27 of and engaged in a joint venture, partnership, and common enterprise, and acting within
28 the course and scope of and in pursuance of said joint venture, partnership, and common

enterprise. Further, Plaintiff alleges that all Defendants were joint employers for all purposes of Plaintiff and all members of the Class.

IV. LABOR CODE SECTION 558.1 LIABILITY

11. Brian Oliver and Doe Defendants 1-50 acted as an employer or “other person acting on behalf of an employer” with regard to Plaintiff and the Class. Defendants violated, or caused to be violated, provisions regulating minimum wages or hours and days of work in the IWC Wage Order and/or violated, or caused to be violated, Labor Code sections 203, 226, 226.7, 1193.6, or 2802. Defendants are therefore liable under Labor Code section 558.1(a) as the employer for such violation(s).

V. PAGA ALLEGATIONS

12. On or around the date of filing of this lawsuit, Plaintiff filed a claim with the California Labor and Workforce Development Agency (hereafter, “LWDA”) and provided a copy by certified mail to Defendant. The LWDA has 60 calendar days to respond and, if it does not do so, Plaintiff will have exhausted Plaintiff’s administrative remedies and, pursuant to Labor Code section 2699.2, will be permitted to pursue Plaintiff’s PAGA claims in this court. The period for the LWDA to respond to the has not expired. If the LWDA does not respond within the applicable statutory period, Plaintiff will amend this Complaint to add a cause of action under PAGA.

VI. CLASS ACTION ALLEGATIONS

13. Plaintiff brings this case as a class action pursuant to California Code of Civil Procedure § 382 on behalf of a class (hereafter the “Class”) and on behalf of a sub-class (hereafter the “Waiting Time Penalties Subclass”) consisting of the following:

- a. The Class: All persons who performed services in the State of California during the Class Period as a construction worker for the Company (“Class Members”). The Class Period is the time period starting four years before the filing of the initial Complaint in this action plus any additional time during which the statutes of limitation for the causes of action herein were tolled pursuant to Emergency Rule 9 of

the California Rules of Court, the “Emergency Rules Related to COVID-19”.

b. The Waiting Time Penalties Subclass: All members of the Class who separated from their working relationship with the Company during the three years immediately preceding the filing of the Complaint through the present plus any additional time during which the statute of limitation was tolled pursuant to the Emergency Rules Related to COVID-19 (the “Subclass Members”). On information and belief, all members of the Waiting Time Penalty Subclass that are no longer working for the Company were not paid all wages due at the time of their respective separation/termination.

14. Plaintiff reserves the right under Rule 3.765(b) of the California Rules of Court to amend or modify the class description with greater specificity, by division into subclasses, or by limitation to particular issue.

15. This action has been brought and may properly be maintained as a class action under the provisions of § 382 of the Code of Civil Procedure because there is a well-defined community of interest in the litigation and the Class and Waiting Time Penalties Subclass are easily ascertainable.

16. Numerosity. The members of the Class and Waiting Time Penalties Subclass are so numerous that joinder of all members would be unfeasible and not practicable. The membership of the class and subclass are unknown to Plaintiff at this time; however, it is estimated that the Class and Subclass number greater than fifty (50) individuals. The identity of such membership is readily ascertainable via inspection of the Company’s employment and personnel records.

17. Typicality. Plaintiff’s claims are typical of the claims of the members of the Class. Defendants subjected all Class Members and Subclass Members to identical violations of the California Labor Code, the Wage Orders of the California Industrial Welfare Commission, and the California Business and Professions Code. The factual

1 grounds of Defendants' violations are common to all Class Members and Subclass
2 Members and represent a common thread of unlawful conduct resulting in injury to all
3 members of the Class and Subclass.

4 18. Commonality. Common questions of law and fact exist with respect to the all
5 members of the Class and predominate over any questions solely affecting individual
6 members. Issues of law and fact common to the Class include:

- 7 a. Whether the Company failed to pay overtime wages for all overtime
8 hours worked by Plaintiff and other aggrieved employees, in violation
9 of to Cal. Labor Code § 510.
- 10 b. Whether Plaintiff and members of the Class were authorized and
11 permitted to take 10 minute rest breaks for every 3.5 hours of work or
12 major fraction therein;
- 13 c. Whether Plaintiff and members of the Class were paid one hour of
14 premium pay for each day Defendants failed to authorize and permit
15 a rest break;
- 16 d. Whether Plaintiff and members of the Class were provided with and
17 were able to take 30 minute off-duty meal breaks by the fifth hour of
18 the shift;
- 19 e. Whether Plaintiff and members of the Class were paid one hour of
20 premium pay for each day Defendants failed to provide a meal break;
- 21 f. Whether Plaintiff and members of the Subclass who are former
22 employees were paid all wages owed to them upon separation
23 pursuant to Cal. Labor Code §§ 201-203;
- 24 g. Whether Defendants issued itemized wage statements which failed
25 to accurately state the actual hours and/or pay rates that Plaintiff and
26 Class Members worked and the actual wages earned in violation of
27 Cal. Labor Code § 226;
- 28 h. Whether Defendants failed to reimburse Plaintiff and Class Members

1 for all necessary expenditures or losses incurred by them in direct
2 consequence to the discharge of their duties in violation of Labor
3 Code section 2802, or of their obedience of the direction of the
4 Defendants; and

- 5 i. Whether the violations alleged in (a-e) above constitute unfair
6 business practices in violation of California's Unfair Competition Law,
7 Section 17200 et seq. of the Business and Professions Code.

8 19. Adequacy. Plaintiff will fairly and adequately represent the interests of the
9 Classes and has no interests adverse to or in conflict with other Class Members. Plaintiff
10 is represented by attorneys who have class action experience in wage and hour and class
11 action law and are committed to vigorously prosecuting this action on behalf of the
12 members of the Class.

13 20. Superiority. A class action is superior to the other available methods for the
14 fair and efficient adjudication of this controversy since, among other things, joinder of all
15 Class Members is impracticable, and a class action will reduce the risk of inconsistent
16 adjudications or repeated litigation over the same conduct. Further, the expense and
17 burden of individual lawsuits would make it impossible for Class Members, Defendant, or
18 the court to cost-effectively redress separately the unlawful conduct alleged. Plaintiff
19 knows of no difficulties to be encountered in the management of this action that would
20 preclude its maintenance as a class action.

21 **VII. GENERAL FACTUAL ALLEGATIONS**

22 21. Plaintiff and the Class Members, including the Subclass Members, were
23 employed as construction workers in California by the Defendants at various times during
24 the Class Period.

25 **A. Failure to Pay Regular and Overtime Wages**

26 22. During the Class Period, Plaintiff, like other members of the Class, typically
27 and routinely worked in excess of eight hours per day and/or forty hours per week without
28 payment of required overtime premium. Instead, Plaintiff, like other members of the Class,

1 was paid his straight rate of pay for all hours worked. Defendants maintained a uniform
2 policy of compensating employees at a straight rate of pay for all overtime hours worked.
3 Any hours exceeding forty hours per week were compensated through a "gas
4 reimbursement."

5 **B. Failure to Provide Rest/M Meal Breaks**

6 23. During the Class Period, Plaintiff, like other members of the Class, was
7 discouraged from taking code compliant rest and meal breaks and Company did not
8 authorize or permit code compliant rest and meal breaks. For example, Class Members
9 were provided with one thirty-minute meal period at 11:00am and no other break was
10 permitted. During the Class Period, Plaintiff, like other members of the Class, was not paid
11 one hour of premium pay for missed or delayed rest and/or meal breaks.

12 **C. Failure to Issue Accurate Itemized Wage Statements**

13 24. During the Class Period, Plaintiff, like other Class Members, was never
14 issued accurate or itemized wage statements reflecting the actual hours worked and
15 wages owed. This includes, but is not limited to, wage statements showing overtime wages
16 and premium pay owed for missed and delayed rest periods.

17 **D. Failure to Pay Waged Upon Separation**

18 25. During the Class Period, Plaintiff separated from employment with the
19 Company. However, and like other Subclass Members, he was not paid all wages owed
20 to him at the time of separation, including regular wages, overtime wages, and premium
21 pay for missed and delayed rest periods. On information and belief, the Company's refusal
22 to pay all wages owed to former employees continues, and none of the Subclass Members
23 have been paid all wages owed, despite weeks, months, and years since their respective
24 employment separations.

25 **E. Failure to Reimburse Necessary Business Expenses**

26 26. During the Class Period, Plaintiff, like other Class Members, was not
27 reimbursed for necessary and reasonable business expenses including but not limited to
28 mobile telephone expenses.

FIRST CAUSE OF ACTION
UNPAID HOURLY WAGES
(Plaintiff on Behalf of the Himself and the Class against All Defendants)

27. Plaintiff, on behalf of himself and the Class Members, incorporates by reference all other paragraphs of this Complaint as if they were re-alleged and set forth herein.

28. Under Labor Code §§ 204, 215, 216, 218.5, 510, 1194, 1194.2, 1197, 1199, and the applicable IWC Wage Order, it is unlawful for an employer to suffer or permit an employee to work without paying wages for all hours worked. "Hours worked" is defined to include the time an employee is suffered or permitted to work, whether or not required to do so. At all relevant times, Defendants have failed to pay Plaintiff and Class Members for all hours worked and/or have regularly and consistently maintained policies and practices of refusing to pay Class Members for all hours worked.

29. Plaintiff and Class Members should have received regular wages according to the hours worked during employment. Defendants owe Class Members regular wages and have failed and refused, and continue to fail and refuse, to pay Plaintiff and Class Members the amounts owed as regular wages.

30. Plaintiff and Class Members were entitled to overtime compensation for all overtime hours worked during their employment. Defendants failed and continue to fail to pay Plaintiff and Class Members for all hours worked, including overtime hours, and Plaintiff and Class Members are therefore entitled to the amounts owed as overtime wages.

31. As a direct and proximate result of Defendants' conduct, as set forth herein, Plaintiff has sustained damages and been deprived of wages and overtime compensation that are owed in amounts to be proven at trial. Plaintiff is entitled to recovery of such amounts, plus interest, liquidated damages under Labor Code section 1194.2(a), and attorneys' fees and costs.

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SECOND CAUSE OF ACTION
REST PERIOD VIOLATIONS
(Plaintiff on Behalf of the Himself and the Class against All Defendants)

32. Plaintiff, on behalf of himself and the Class, incorporates by reference all other paragraphs of this Complaint as if they were re-alleged and set forth herein.

33. The Wage Orders authorize employees to take paid rest periods based on the total hours worked daily at the rate of ten minutes rest per four hours or major fraction thereof.

34. Cal. Labor Code §226.7(a) provides: "No employer shall require an employee to work during any ... rest period mandated by an applicable order of the Industrial Welfare Commission."

35. Defendants had and still have a uniform policy and practice of not providing employees with lawful rest breaks. Plaintiff and Class Members did not and do not receive timely and full rest breaks. During the relevant time period, Defendants required Plaintiff and the Class Members to work (8) hours (or more) without providing them any rest period and failed to pay Plaintiff and the other Class Members the full rest period premium for work performed during rest periods.

36. By requiring Plaintiff and the Class Members to miss these rest periods, Defendants violated the Wage Orders and California Labor Code section 226.7. As a result of the unlawful acts of Defendants set forth herein, Plaintiff and the Class Members have been unfairly and illegally deprived of rest periods and are entitled to one additional hour of premium pay for each missed rest period.

THIRD CAUSE OF ACTION
FAILURE TO PROVIDE MEAL PERIODS
(Plaintiff on Behalf of Himself and the Class against All Defendants)

37. Plaintiff, on behalf of himself and the Class Members, incorporates by reference all other paragraphs of this Complaint as if they were re-alleged and set forth herein.

38. California Labor Code § 512 provides, in pertinent part, as follows: "An employer may not employ an employee for a work period of more than five hours per day

1 without providing the employee with a meal period of not less than 30 minutes except that
2 if the total work period per day of the employee is no more than six hours, the meal period
3 may be waived by mutual consent of both the employer and the employee”.

4 39. Pursuant to Defendants’ policies, the demands of Plaintiff’s the Class
5 Members’ duties, Plaintiff was required to, and actually did, forego the meal periods
6 required to be provided to Plaintiff or was required to take them in an untimely manner that
7 violated the law. By failing to provide Plaintiff and the Class Members with these meal
8 periods, Defendants violated California Labor Code sections 512 and 226.7 and the
9 applicable IWC Wage Order. As a result of the unlawful acts of Defendants set forth herein,
10 Plaintiff and the Class Members are entitled to additional wages for the missed and
11 delayed meal periods.

12 **FOURTH CAUSE OF ACTION**
13 **FAILURE TO PROVIDE ACCURATE WAGE STATEMENTS**
(Plaintiff on Behalf of the Himself and the Class against All Defendants)

14 40. Plaintiff, on behalf of himself and the Class, incorporates by reference all
15 other paragraphs of this Complaint as if they were re-alleged and set forth herein.

16 41. Defendants knowingly and intentionally failed to provide timely, accurate,
17 itemized wage statements in accordance with Cal. Lab. Code §226(a) and the applicable
18 IWC Wage Order to Plaintiff and the Class. Such failure caused injury to Plaintiff and the
19 Class by, among other things, impeding Plaintiff and the Class from knowing the amount
20 of wages to which Plaintiff and the Class are and was legally entitled. At all times relevant
21 herein, Defendants have failed to maintain records of hours worked by Plaintiff and the
22 Class as required under Labor Code §1174(d).

23 42. Prior to the completion of discovery, and to the best of Plaintiff’s knowledge
24 at the time of filing this Complaint, Plaintiff’s good faith estimate of the number of pay
25 periods in which Defendants have failed to provide accurate itemized wage statements to
26 Plaintiff and the Class in each and every pay period. Plaintiff and the Class are entitled to
27 damages in the amount provided under Cal. Lab. Code §226(e), including the greater of
28 all actual damages or fifty dollars (\$50) for the initial pay period in which a violation

1 occurred and one hundred dollars (\$100) for each violation in a subsequent pay period,
2 not exceeding an aggregate penalty of four thousand dollars (\$4,000) and is entitled to an
3 award of costs and reasonable attorney's fees.

4 **FIFTH CAUSE OF ACTION**
5 **WAITING TIME VIOLATIONS**
6 **(Plaintiff on Behalf of the Himself and the Waiting Time Penalty Subclass against**
7 **All Defendants)**

8 43. Plaintiff, on behalf of himself and the Waiting Time Penalty Subclass,
9 incorporates by reference all other paragraphs of this Complaint as if they were re-alleged
10 and set forth herein.

11 44. California Labor Code §201(a) provides, in pertinent part, as follows: "If an
12 employer discharges an employee, the wages earned and unpaid at the time of discharge
13 are due and payable immediately."

14 45. California Labor Code §202(a) provides, in pertinent part, as follows: "If an
15 employee not having a written contract for a definite period quits his or her employment,
16 his or her wages shall become due and payable not later than 72 hours thereafter, unless
17 the employee has given 72 hours previous notice of his or her intention to quit, in which
18 case the employee is entitled to his or her wages at the time of quitting."

19 46. California Labor Code §206(a) provides, in pertinent part, as follows: "In
20 case of a dispute over wages, the employer shall pay, without condition, and within the
21 time set by this article, all wages, or parts thereof, conceded by him to be due, leaving to
22 the employee all remedies he might otherwise be entitled to as to any balance claimed."

23 47. Where an employer willfully fails to pay, without abatement or reduction, in
24 accordance with sections 201 through 203 of the California Labor Code, all wages due to
25 an employee who has been discharged or has quit, California Labor Code §203 entitles
26 the affected employee to receive from the employer a penalty of up to 30 days wages
27 calculated from the due date of the wages until the time an action to recover the wages is
28 commenced.

48. As alleged herein, Defendants have failed to pay earned wages (including

1 but not limited to premium pay for missed rest breaks, overtime pay and base pay for all
2 hours worked) to Plaintiff and the Waiting Time Penalty Subclass at the time they became
3 due and payable, and has thus violated sections 201, 202, 203 and 206 of the California
4 Labor Code.

5 49. Defendants' failure to pay wages as alleged herein was willful in that
6 Defendants knew that Plaintiff and the Waiting Time Penalty Subclass were not receiving
7 all of their earned compensation because, inter alia, Defendants knowingly did not fully,
8 fairly and properly compensate Plaintiff and the Waiting Time Penalty Subclass for
9 required break periods, and did not pay them for all hours worked or for overtime.

10 50. It has been more than 30 days since the date of termination of Plaintiff's
11 initial employment period and all members of the Waiting Time Penalty Subclass Class
12 that are no longer employed by Defendant.

13 51. As a result of Defendants' willful, unlawful acts, discussed herein, Plaintiff
14 and the Waiting Time Penalty Subclass Class are entitled to recover, pursuant to California
15 Labor Code §203, continuing wages as a penalty for a total of 30 days.

16 **SIXTH CAUSE OF ACTION**
17 **FAILURE TO REIMBURSE EMPLOYEE FOR**
18 **NECESSARY EXPENDITURES OR LOSSES**
(Plaintiff on Behalf of Herself and the Class against All Defendants)

19 52. Plaintiff, on behalf of herself and the Class, incorporates by reference all
20 other paragraphs of this Complaint as if they were re-alleged and set forth herein.

21 53. Plaintiff and the Proposed Class incurred expenditures and/or losses as a
22 direct consequence of discharging Plaintiff and the Proposed Class Members' job duties
23 and/or obeying the directions of Defendants. The expenditures and losses that Plaintiff
24 and the Proposed Class Members incurred were necessary and reasonable.

25 54. Defendants failed to reimburse Plaintiff and the Proposed Class Members
26 for the full amount of the expenditures and/or losses as required by law, including Labor
27 Code section 2802(a), and Plaintiff and the Proposed Class members have suffered
28 damages as a result.

SEVENTH CAUSE OF ACTION
CIVIL PENALTIES – PRIVATE ATTORNEY GENERAL ACT (“PAGA”)
(Plaintiff Against All Defendants)

55. Plaintiff incorporates by reference all other paragraphs of this Complaint as if they were re-alleged and set forth herein.

56. Plaintiff is an aggrieved employee. Plaintiff was employed by Defendants and the violations alleged herein were committed against Plaintiff. At the time of each violation, Defendants employed one or more employees. Plaintiff individually suffered the violations alleged herein, and which are the basis of this action, and therefore has standing to bring this claim on his behalf and on behalf of all other aggrieved employees falling within the statutory PAGA period (“PAGA Cohort”).

57. Plaintiff brings this cause of action on behalf of Plaintiff and the PAGA Cohort for civil penalties for each and every Labor Code violation alleged herein, for each and every Labor Code violation alleged in the PAGA Notice submitted to the Labor and Workforce Development Agency, and for those Labor Code violations arising from or the facts alleged herein and in the PAGA Notice (even if not specified by code section), including but not limited to Labor Code sections 201, 202, 203, 204, 226, 226.3, 226.7, 510, 512, 1194, *et seq*, and 2802.

58. On or around the date of the filing of this Complaint, Plaintiff filed a claim with the California Labor and Workforce Development Agency (hereafter, “LWDA”) and provided a copy by certified mail to Defendants. Plaintiff complied with all procedural requirements of Labor Code § 2699.3 and, if the LWDA does not respond to Plaintiff’s notice of the alleged violations within the statutory 65-day period, or any other period allowable by law, this PAGA Claim will have been perfected and proceed without further amendment or notice. In the event the LWDA responds to the PAGA notice, including but not limited to a notice of investigation, Plaintiff will comply with directives provided by the LWDA including, but not limited to, immediate dismissal of this cause of action.

59. As a result of the aforesaid wrongful and illegal conduct of the Defendants, and each of them, Plaintiff is entitled to civil penalties in an amount to be determined at

trial, costs, and attorney's fees.

EIGHTH CAUSE OF ACTION
UNFAIR/UNLAWFUL BUSINESS PRACTICES
(Plaintiff on Behalf of the Himself and the Class against All Defendants)

60. Plaintiff, on behalf of himself and the Class, incorporates by reference all other paragraphs of this Complaint as if they were re-alleged and set forth herein.

61. Defendants' violations of the Labor Code and other laws and regulations as alleged by this Complaint, including Defendants' failure and refusal to pay overtime wages to Plaintiff and the Class, Defendants' failure to provide rest breaks to Plaintiff and the Class, Defendants' failure to pay compensation due to Plaintiff and the Class in a timely manner, and other wrongful, tortious and illegal acts and omissions, all constitute unfair business practices in violation of the Unfair Competition Law, Business and Professions Code § 17200 et seq.

62. As a result of Defendants' unfair business practices, Defendants have reaped unfair benefits and illegal profits at the expense of Plaintiff and the Class, and members of the public. Defendants' utilization of such unfair business practices constitutes unfair competition and provides an unfair advantage over Defendants' competition. Defendants should be made to disgorge the ill-gotten gains and restore such monies to Plaintiff and the Class.

63. Defendants' unfair business practices entitles Plaintiff and the Class to seek preliminary and permanent injunctive relief, including but not limited to orders that Defendants account for, disgorge and restore to Plaintiff and the Class any compensation unlawfully withheld from them, and for which Defendants were unjustly enriched.

DEMAND FOR JURY TRIAL

64. Plaintiff hereby demands trial by jury against Defendants of their and the Class and Subclass' claims against Defendants.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendants:

1. For compensatory damages in the amount of Plaintiff's and each Class

Member's unpaid regular and overtime wages, plus liquidated damages, as well as an award of costs, interest, and reasonable attorney's fees.

2. For compensatory damages in the amount of Plaintiff's and each Class Members hourly wage at the appropriate regular rate of compensation for each rest period that Defendants failed to provide, in accordance with proof at the time of trial;

3. For penalties pursuant to Labor Code §226(6) for violation of Labor Code § 226(a) in the amount of fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000);

4. For waiting time penalties pursuant to Labor Code § 203 for Plaintiff and each Subclass Member who was terminated or resigned equal to their daily wage times thirty (30) days;

5. For civil penalties under PAGA as permitted by law;

6. For temporary, preliminary, and permanent injunctive relief enjoining Defendants from unlawfully depriving Plaintiff and Class Members from proper rest periods, unpaid regular and overtime wages, accurate and itemized wage statements, and wages upon termination/resignation in accordance with the law;

7. For restitution for unfair competition pursuant to Business and Professions Code section 17200, *et seq.*, including disgorgement of profits, in an amount as may be determined;

8. For all statutory penalties and liquidated damages as authorized by law;

9. Pre-judgment interest on any damages or other amounts deemed payable;

10. For attorney's fees and costs of suit; and

11. For other or further relief as the Court deems just and proper.

Dated: November 25, 2024

HAULK & HERRERA

By:



JOSE M. HERRERA, ESQ.

Attorneys for Plaintiff and all other
similarly situated CARLOS R. PEREZ

PROOF OF SERVICE

Carlos R. Perez v. BOC Construction, Inc., et al.

Los Angeles County Superior Court Case No.: 23STCV23156

1.	At the time of service, I was at least 18 years of age and not a party to this legal action.	
2.	My business address is 100 Pine Street, Suite 1250, San Francisco, CA 94111	
3.	I served copies of the following document(s): FIRST AMENDED CLASS ACTION COMPLAINT FOR: (1) UNPAID WAGES (2) REST PERIOD VIOLATIONS (3) FAILURE TO PROVIDE MEAL PERIODS (4) FAILURE TO PROVIDE ACCURATE WAGE STATEMENTS (5) WAITING TIME VIOLATIONS (6) FAILURE TO REIMBURSE EMPLOYEE FOR NECESSARY EXPENDITURES OR LOSSES (7) PAGA PENALTIES (8) UNFAIR/UNLAWFUL BUSINESS PRACTICES DEMAND FOR JURY TRIAL	
4.	I served the documents listed above in Item 3 on the following persons at the addresses listed: Raymond J. Nhan, Esq. Paul Berkowitz, Esq. Emma Husseman, Esq. Sheppard Mullin Richter & Hampton LLP 1901 Avenue of the Stars, Suite 1600 Los Angeles, CA 90067 Telephone: (310) 288-3700 Email: rnhan@sheppardmullin.com PBerkowitz@sheppardmullin.com ehusseman@sheppardmullin.com AiHarris@sheppardmullin.com <i>Attorney for Defendants</i> <i>BOC Construction, Inc. and Brian Oliver</i>	
5.	a.	By Personal Service. I personally delivered the documents on the date shown below to the persons at the addresses listed above in Item 4. (1) For a party represented by an attorney, delivery was made to the attorney or at the attorney's office by leaving the documents in an envelope or package clearly labeled to identify the attorney being served with a receptionist or an individual in charge of the office. (2) For a party delivery was made to the party or by leaving the documents in the party's residence between the

		hours of eight in the morning and six in the evening with some person not less than 18 years of age.
	b.	By United States Mail. I enclosed the documents in a sealed envelope or package, in the mail at San Rafael, California, where I am a resident or employee in the County of Marin where the mailing occurred. I addressed the sealed envelope or package to the persons at the addresses in Item 4 and (specify one):
	(1)	Deposited the sealed envelope in a United States Postal Service mailbox with the postage fully prepaid on the date shown below
	(2)	Placed the envelope for collection and mailing on the date shown below, following our ordinary business practices and I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.
	c.	By Overnight Delivery. Pursuant to California Rules of Court, Rule 8.25, I enclosed the documents on the date shown below in an envelope or package provided by an overnight delivery carrier and addressed to the person at the addresses in Item 4. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.
	d.	By Messenger Service. I served the documents on the date shown below by placing them in an envelope or package addressed to the person on the addresses listed in Item 4 and providing them to a professional messenger service for service.
	e.	By Fax Transmission. Based on an agreement to accept service by fax transmission, I faxed the documents on the date shown below to the fax numbers of persons listed in Item 4. No error was reported by the fax machine that I used
	f. X	By Electronic Transmission. I caused the documents to be electronically served via Case Anywhere on the date shown below to the recipients designated on the Service List with Case Anywhere.
6.	I served the documents by the means described above on December 4, 2024	

I declare under penalty of perjury that this document is signed in Los Angeles, California under the laws of the State of California and that the foregoing is true and correct.

December 4, 2024	Toni Gesin	
Date	(Type or Print Name)	(Signature of Declarant)