

STANSBURY BROWN LAW, PC
DANIEL J. BROWN (SBN 307604)
dbrown@stansburybrownlaw.com
KATHLEEN J. BECKET (SBN 334091)
kbecket@stansburybrownlaw.com
2610 ½ Abbot Kinney Blvd.
Venice, California 90291
Tel: (323) 204-3124

Attorneys for Plaintiff

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF FRESNO**

Case No. 24CECG05061

BRIAN MICHAEL SYLVESTER BELTRAN,
JR., as an individual, and on behalf of all
others similarly situated,

Plaintiff,

v.

LIBERTY BELL EQUIPMENT
CORPORATION, a Pennsylvania corporation;
ORS NASCO, LLC, an Illinois limited liability
company, and DOES 1 through 100, inclusive,

Defendants.

Amended as a Matter of Right Pursuant to
Labor Code Section 2699.3(a)(2)(C)
**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION
COMPLAINT:**

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

**CIVIL PENALTIES UNDER THE
PRIVATE ATTORNEYS GENERAL
ACT (LABOR CODE § 2698 *et seq.*).
DEMAND FOR JURY TRIAL
UNLIMITED CIVIL CASE**

1 Plaintiff Brian Michael Sylvester Beltran, Jr. (hereinafter "Plaintiff"), as an individual,
2 and on behalf of all others similarly situated, hereby brings this First Amended Class and
3 Representative Action Complaint against Liberty Bell Equipment Corporation; ORS Nasco, LLC
4 and DOES 1 to 100, inclusive (collectively "Defendants"), and on information and belief alleges
5 as follows:

6 **JURISDICTION**

7 1. Plaintiff hereby brings this First Amended Class and Representative Action
8 Complaint for recovery of unpaid wages and penalties under California Business and Professions
9 Code § 17200 *et seq.*, Labor Code §§ 201-204, 226 *et seq.*, 226.2, 226.7, 510, 512, 516, 558,
10 1182.12, 1194, 1194.2, 1197, 1198, 2698 *et seq.*, and the Industrial Welfare Commission Wage
11 Orders ("the Wage Orders"), in addition to seeking declaratory relief and restitution. This
12 Complaint is brought pursuant to California Code of Civil Procedure § 382. This Court has
13 jurisdiction over Defendants' violations of the California Labor Code because the amount in
14 controversy exceeds this Court's jurisdictional minimum.

15 **VENUE**

16 2. Venue is proper in this judicial district pursuant to California Code of Civil
17 Procedure §§ 395(a) and 395.5, as at least some of the acts and omissions complained of herein
18 occurred in the County of Fresno. Defendants own, maintain offices, transact business, have an
19 agent or agents within the County of Fresno, and/or otherwise are found within the County of
20 Fresno, and Defendants are within the jurisdiction of this Court for purposes of service of process.

21 **PARTIES**

22 3. Plaintiff is an individual over the age of eighteen (18). At all relevant times herein,
23 Plaintiff was and currently is a California resident. During the four years immediately preceding
24 the filing of the Complaint in this action and within the statute of limitations periods applicable
25 to each cause of action pled herein, Plaintiff was employed by Defendants as a non-exempt
26 employee. Plaintiff was and is a victim of Defendants' policies and/or practices complained of
27 herein, lost money and/or property, and has been deprived of the rights guaranteed by Labor Code
28 §§ 201-204, 226 *et seq.*, 226.2, 226.7, 510, 512, 516, 558, 1182.12, 1194, 1194.2, 1197, 1198,

1 2698 *et seq.*, California Business and Professions Code § 17200 *et seq.* (“Unfair Competition
2 Law”), and the Wage Orders.

3 4. Plaintiff is informed and believes, and based thereon alleges, that during the four
4 years preceding the filing of the Complaint and continuing to the present, Defendants did (and
5 continue to do) business in the automotive and warehousing industries, employed Plaintiff within
6 Fresno County and the state of California and, therefore, were (and are) doing business in Fresno
7 County and the State of California.

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

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

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

25 8. At all times mentioned herein, Defendants, and each of them, were members of
26 and engaged in a joint venture, partnership, and common enterprise, and acting within the course
27 and scope of, and in pursuance of said joint venture, partnership, and common enterprise. Further,
28 Plaintiff alleges that all Defendants were joint employers for all purposes towards Plaintiff and

all members of the Classes.

GENERAL FACTUAL ALLEGATIONS

9. Plaintiff worked for Defendants from approximately December 17, 2020 to March 13, 2024. Defendants are in the automotive and warehousing industries. Plaintiff worked for Defendants as a picker, packer and receiver of tools, as a warehouse associate or distribution associate and for approximately 2 to 3 months in inventory control. Plaintiff was generally scheduled to work 5 or 6 days per week from Monday through Friday and every other Saturday unless he was in school. For a couple of months out of each year, he was generally scheduled to work every Saturday. Plaintiff was generally scheduled to work from 8:00 a.m. to 4:30 p.m., but he often worked longer until 5:30 p.m. or up to 6:30 p.m. During the peak season in approximately October and/or November of each year, Plaintiff worked 12 hours per day also 5 to 6 days per week.

10. Throughout the duration of Plaintiff's employment with Defendants, Plaintiff and other non-exempt employees were not paid for all hours worked as Defendants would not accurately keep track of their actual hours worked. Upon information and belief, the time records maintained by Defendants were not reflective of the actual number of hours that Plaintiff and other non-exempt employees actually worked. Plaintiff and other non-exempt employees generally clocked in to work with a badge on a computer screen in the break room. Defendants instructed Plaintiff and other non-exempt employees to arrive 10 minutes prior to clocking in. Additionally, Plaintiff and other non-exempt employees spent at least 2 to 4 minutes in line waiting to clock in. Defendants did not pay Plaintiff and other non-exempt employees for the time they spent waiting prior to clocking in. Overall, Plaintiff estimates that he and other non-exempt employees spent at least approximately 50 minutes each week working off the clock.

11. When Plaintiff and other non-exempt employees worked overtime, they were not always compensated at the correct regular rate. Plaintiff and other non-exempt employees worked overtime hours, but did not receive overtime compensation equal to one and one-half times their regular rates of pay for all overtime hours worked. Upon information and belief, Defendants systematically applied the incorrect overtime rate. Even though Plaintiff and other non-exempt

employees qualified for approximately \$50 to \$300 of bonus pay approximately every 3 months, Defendants did not incorporate bonus pay issued to Plaintiff and other non-exempt employees into their regular rates. Also, sometimes, Defendants paid overtime to Plaintiff and other non-exempt employees at the straight rate. For example, check number 17069 with a pay date of May 13, 2022 reflects that Plaintiff was paid at the straight rate of \$17.59 for approximately 2.08 hours of overtime worked. As a result, Defendants failed to ensure that Plaintiff and other non-exempt employees were being paid at least the minimum wage for all hours actually worked, and failed to ensure that Plaintiff and other non-exempt employees received proper overtime wages for all overtime hours worked, in compliance with the Wage Orders.

12. Defendants also did not provide Plaintiff and other non-exempt employees with all legally compliant first meal periods when they worked shifts in excess of 5.0 hours and generally did not provide a legally compliant second meal period when they worked shifts longer than 10 hours. Plaintiff and other non-exempt employees missed their first meal period approximately at least once per year when instructed to help other employees. Even though Plaintiff and other non-exempt employees sometimes worked more than 10 hours each day for at least one month out of each year, Defendants did not generally provide Plaintiff and other non-exempt employees with a second meal period. Despite Defendants' failure to provide Plaintiff and other non-exempt employees with all lawful meal periods due to their uniform and unlawful practices, Defendants did not provide Plaintiff and other non-exempt employees with an hour of pay at their regular rate for each meal period violation as required by Labor Code § 226.7. Upon information and belief, during at least a portion of the class period, Defendants maintained no payroll code or another mechanism for the payment of meal period premiums in the event Plaintiff and other non-exempt employees were not authorized to take lawful meal periods.

13. Plaintiff and other non-exempt employees were not authorized to take all legally required first, second and third rest periods. Approximately once per year, Plaintiff and other non-exempt employees missed their first and/or second rest periods due to helping other employees with work tasks such as locating items. On the days when Plaintiff and other non-

1 exempt employees worked approximately 12 hours, Defendants generally did not provide them
2 with a third rest period. Despite Defendants' failure to authorize and permit Plaintiff and other
3 non-exempt employees to take all lawful paid rest periods, due to their uniform and unlawful
4 practices, Defendants never provided Plaintiff and other non-exempt employees with an hour of
5 pay at their regular rate for each rest period violation as required by Labor Code § 226.7. Upon
6 information and belief, during at least a portion of the class period, Defendants maintained no
7 payroll code or another mechanism for the payment of rest period premiums in the event Plaintiff
8 and other non-exempt employees were not authorized to take lawful rest periods.

9
10 14. Defendants have maintained inaccurate payroll records, failed to timely pay all
11 wages owed to employees, and failed to timely pay separating employees at the time of their
12 separation, and issued inaccurate wage statements. This is in part a result of Defendants' failure
13 to accurately compensate Plaintiff and other non-exempt employees for all minimum and
14 overtime wages, and failure to pay premium pay for failing to provide all required meal periods
15 and authorize all rest periods.

16 15. Defendants failed to issue to Plaintiff and other non-exempt employees accurate
17 itemized statements in writing showing (1) gross wages earned, (2) total hours worked by the
18 employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee
19 is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written
20 orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the
21 inclusive dates of the period for which the employee is paid, (7) the name of the employee and
22 only the last four digits of his or her social security number or an employee identification number
23 other than a social security number, (8) the name and address of the legal entity that is the
24 employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding
25 number of hours worked at each hourly rate by the employee.

26 16. Finally, Defendants failed to conform to the requirements of Labor Code § 2810.5
27 by failing to provide Plaintiff and other aggrieved employees written notices, in the language
28 normally used to communicate employment related information to the employees, containing

information regarding their: i) rate(s) of pay and the basis thereof; ii) allowances claimed as part of the minimum wage; iii) regular payday designated by the employer; iv) the legal name of the employer; v) the address of the legal entity that is the employer; vi) the telephone number of the employer; vii) identifying information for the employer's workers' compensation insurance carrier; and viii) information informing the employee of their right to accrue and use paid sick leave. Despite maintaining an obligation to provide these disclosures to Plaintiff and other aggrieved employees, Defendants failed to do so, in violation of Labor Code § 2810.5.

CLASS ACTION ALLEGATIONS

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

- a. The Minimum Wage Class consists of all current and former non-exempt employees of Defendants who performed in California and were subject to Defendants' timekeeping systems and/or practices during the four years immediately preceding the filing of this lawsuit through the present.
- b. The Overtime Wage Class consists of all current and former non-exempt employees of Defendants who performed work for in California and who worked overtime hours during the four years immediately preceding the filing of this lawsuit through the present.
- c. The Rest Period Class consists of all current and former non-exempt employees of Defendants who performed work in California and who worked at least one shift in excess of 3.5 hours during the four years immediately preceding the filing of this lawsuit through the present.
- d. The Meal Period Class consists of all current and former non-exempt employees of Defendants who performed work in California and: (i) worked at least one shift in excess of 5.0 hours without a meal period of at least 30 minutes in duration commencing prior to the conclusion of the fifth hour of work, and who do not have a corresponding meal period premium payment made for such shifts and/or (ii)

1 worked at least one shift in excess of 10.0 hours while performing work for
2 Defendants in California without a second meal period of at least 30 minutes in
3 duration commencing prior to the conclusion of the tenth hour of work, and who
4 do not have a corresponding meal period premium payment made for such shifts
5 during the four years preceding the filing of this lawsuit through the present.

6 e. The Wage Statement Class consists of all members of the Rest Period Class,
7 Minimum Wage Class, Overtime Class, and/or Meal Period Class who received a
8 wage statement from Defendants during the one year immediately preceding the
9 filing of this lawsuit through the present.

10 f. The Waiting Time Class consists of all of Defendants' formerly employed non-
11 exempt employees who performed work in California and were subject to
12 Defendants' timekeeping systems and/or practices, during the three years
13 immediately preceding the filing of this lawsuit through the present.

14
15 18. **Numerosity/Ascertainability:** The members of the Classes are so numerous that
16 joinder of all members would be unfeasible and not practicable. The membership of the Classes is
17 unknown to Plaintiff at this time; however, it is estimated that the members of the Classes number
18 greater than fifty (50) individuals. The identity of such membership is readily ascertainable via
19 inspection of Defendants' employment records.

20 19. **Common Questions of Law and Fact Predominate/Well Defined Community**
21 **of Interest:** There are common questions of law and fact as to Plaintiff and all other similarly
22 situated employees, which predominate over questions affecting only individual members. Those
23 common questions include, without limitation:

24 i. Whether Defendants paid all minimum wages owed for all hours worked to
25 members of the Minimum Wage Class pursuant to Labor Code §§ 1182.12, 1194,
26 1194.2, and 1197;

27 ii. Whether Defendants violated the applicable Labor Code provisions, including, but
28 not limited to, §§ 510 and 1194 and the Wage Orders by requiring members of the

Overtime Wage Class to perform overtime work and not paying for said work in accordance with the overtime laws of the State of California;

- iii. Whether Defendants' timekeeping policies/practices resulted in the failure to properly compensate members of the Minimum Wage Class;
- iv. Whether Defendants provided all legally compliant meal periods to members of the Meal Period Class pursuant to Labor Code §§ 226.7 and 512;
- v. Whether Defendants provided all legally compliant rest periods to members of the Rest Period Class pursuant to Labor Code §§ 226.7 and 516;
- vi. Whether Defendants provided accurate, itemized wage statements to members of the Classes; and
- vii. Whether Defendants' policies and/or practices for the timing and amount of payment of final wages to members of the Waiting Time Class at the time of separation from employment were lawful.

20. **Predominance of Common Questions:** Common questions of law and fact predominate over questions that affect only individual members of the Classes. The common questions of law set forth above are numerous and substantial and stem from Defendants' policies and/or practices applicable to each individual class member, such as Defendants' uniform timekeeping policies and practices, meal and rest period policies and practices, non-reimbursement policies and practices, wage statement policies and practices, and the policies and practices regarding the timely payment of final wages. As such, the common questions predominate over individual questions concerning each individual class member's showing as to his or her eligibility for recovery or as to the amount of his or her damages.

21. **Typicality:** The claims of Plaintiff are typical of the claims of the Classes because Plaintiff was employed by Defendants as a non-exempt employee in California during the statute(s) of limitations period applicable to each cause of action pled in the Complaint. As alleged herein, Plaintiff, like the members of the Classes, was subject to Defendants' meal/rest period and timekeeping policies and practices, was subjected to Defendants' unlawful failure to reimburse

business expenses, was provided inaccurate wage statements, and was not paid all wages earned at the time of his separation of employment.

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

23. **Superiority:** The California Labor Code is broadly remedial in nature and serves an important public interest in establishing minimum working conditions and standards in California. These laws and labor standards protect the average working employee from exploitation by employers who have the responsibility to follow the laws and who may seek to take advantage of superior economic and bargaining power in setting onerous terms and conditions of employment. The nature of this action and the format of laws available to Plaintiff and members of the Classes make the class action format a particularly efficient and appropriate procedure to redress the violations alleged herein. If each employee were required to file an individual lawsuit, Defendants would necessarily gain an unconscionable advantage since they would be able to exploit and overwhelm the limited resources of each individual plaintiff with their vastly superior financial and legal resources. Moreover, requiring each member of the Classes to pursue an individual remedy would also discourage the assertion of lawful claims by employees who would be disinclined to file an action against their former and/or current employer for real and justifiable fear of retaliation and permanent damages to their careers at subsequent employment. Further, the prosecution of separate actions by the individual class members, even if possible, would create a substantial risk of inconsistent or varying verdicts or adjudications with respect to the individual class members against Defendants herein; and which would establish potentially incompatible standards of conduct for Defendants; and/or legal determinations with respect to individual class members which would, as a practical matter, be

dispositive of the interest of the other class members not parties to adjudications or which would substantially impair or impede the ability of the class members to protect their interests. Further, the claims of the individual members of the Classes are not sufficiently large to warrant vigorous individual prosecution considering all of the concomitant costs and expenses attending thereto. As such, the Classes (as defined herein) are maintainable as a Class under § 382 of the Code of Civil Procedure.

FIRST CAUSE OF ACTION
MINIMUM WAGE VIOLATIONS
(AGAINST ALL DEFENDANTS)

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

25. The Wage Orders and California Labor Code §§ 1197 and 1182.12 establish the right of employees to be paid minimum wages for all hours worked in amounts set by state law. Labor Code §§ 1194(a) and 1194.2(a) provide that an employee who has not been paid the legal minimum wage as required by Labor Code § 1197 may recover the unpaid balance together with attorneys' fees and costs of suit, as well as liquidated damages in an amount equal to the unpaid wages and interest accrued thereon. At all relevant times herein, Defendants failed to conform their pay practices to the requirements of the law by failing to pay Plaintiff and the Minimum Wage Class for all hours actually worked including, but not limited to, all hours he was subject to the control of Defendants and/or suffered or permitted to work under the California Labor Code and the Wage Orders.

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

27. As a direct and proximate result of Defendants' unlawful conduct as alleged herein, Plaintiff and the Minimum Wage 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

1 entitled to recover economic and statutory damages and penalties and other appropriate relief as
2 a result of Defendants' violations of the California Labor Code and the Wage Orders.

3 28. Defendants' practice and uniform administration of corporate policy regarding
4 illegal employee compensation is unlawful and creates an entitlement to recovery by Plaintiff and
5 the Minimum Wage Class in a civil action for the unpaid amount of minimum wages, liquidated
6 damages, including interest thereon, statutory penalties, and attorneys' fees and costs of suit
7 according to California Labor Code §§ 204, 558, 1194, *et seq.*, 1197, 1198 and Code of Civil
8 Procedure § 1021.5.

9 **SECOND CAUSE OF ACTION**

10 **FAILURE TO PAY ALL OVERTIME WAGES**

11 **(AGAINST ALL DEFENDANTS)**

12 29. Plaintiff re-allege and incorporates by reference all previous paragraphs.

13 30. This cause of action is brought pursuant to Labor Code §§ 204, 510, 558, 1194,
14 and 1198, which provide that non-exempt employees are entitled to overtime wages for all
15 overtime hours worked, and provide a private right of action for the failure to pay all overtime
16 compensation for overtime work performed.

17 31. At all times relevant herein, Defendants were required to properly compensate
18 Plaintiff and members of the Overtime Class for all overtime hours worked pursuant to California
19 Labor Code § 1194 and the Wage Orders. The Wage Orders requires an employer to pay overtime
20 wages when an employee's hours worked cross certain thresholds or meet certain criteria set forth
21 in the Wage Orders.

22 32. The foregoing policies and practices are unlawful and create entitlement to
23 recovery by Plaintiff and the Overtime Class in a civil action for the unpaid amount of overtime
24 premiums owing, including interest thereon, statutory penalties, and attorneys' fees and costs of
25 suit according to California Labor Code §§ 204, 510, 558, 1194, and 1198, the Wage Orders, and
26 Code of Civil Procedure § 1021.5.

27 ///

28 ///

THIRD CAUSE OF ACTION
MEAL PERIOD VIOLATIONS
(AGAINST ALL DEFENDANTS)

33. Plaintiff re-alleges and incorporate by reference all previous paragraphs.

34. Plaintiff is informed and believe, and based thereon allege, that Defendants failed in their affirmative obligation to provide all of their non-exempt employees in California, including Plaintiff and members of the Meal Period Class with all legally compliant meal periods in accordance with the mandates of the California Labor Code and the Wage Orders. Despite Defendants' violations, Defendants did not pay an additional hour of pay to Plaintiff and the Meal Period Class at their respective regular rate of pay, in accordance with California Labor Code §§ 204, 210, 226.7, and 512.

35. As a result, Defendants are responsible for paying premium compensation for meal period violations including interest thereon, as well as statutory penalties, civil penalties, and costs of suit, pursuant to Labor Code §§ 226.7, 512, and 558, the Wage Orders, and Civil Code §§ 3287(b) and 3289.

FOURTH CAUSE OF ACTION
REST PERIOD VIOLATIONS
(AGAINST ALL DEFENDANTS)

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

37. The Wage Orders and California Labor Code §§ 226.2, 226.7 and 516 establish the right of employees to be authorized and permitted to take a paid rest period of at least ten (10) minutes net rest time for each four (4) hour period worked, or major fraction thereof.

38. As alleged herein, Defendants failed to authorize and permit Plaintiff and members of the Rest Period Class to take all legally compliant rest periods.

39. The foregoing violations create an entitlement to recovery by Plaintiff and members of the Rest Period Class in a civil action for the unpaid rest period wages and the amount of rest period premiums owing, including interest thereon, as well as statutory penalties, civil penalties, and costs of suit according to California Labor Code §§226.2, 226.7, 516, 558, and

Civil Code §§ 3287(b) and 3289.

FIFTH CAUSE OF ACTION

WAITING TIME PENALTIES

(AGAINST ALL DEFENDANTS)

40. Plaintiff re-alleges and incorporate by reference all previous paragraphs.

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

42. Defendants failed to timely pay Plaintiff and members of the Waiting Time Class all final wages due to them at the time of their separation including, among other things, unpaid and/or underpaid overtime and minimum wages owed, and meal & rest period premium wages. Further, Plaintiff is informed and believes, and based thereon alleges, that as a matter of uniform policy and practice, Defendants continue to fail to pay members of the Waiting Time Class all earned wages at the end of employment in a timely manner pursuant to the requirements of Labor Code §§ 201-203. Defendants' failure to pay all final wages was willful within the meaning of Labor Code § 203.

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

SIXTH CAUSE OF ACTION

WAGE STATEMENT VIOLATIONS

(AGAINST ALL DEFENDANTS)

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

1 45. Plaintiff is informed and believes, and based thereon alleges, that Defendants
2 knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Plaintiff
3 and the Wage Statement Class with complete and accurate wage statements reflecting the accurate
4 number of hours worked, and meal & rest period premiums in violation of Labor Code § 226 et
5 seq.

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

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

15 **SEVENTH CAUSE OF ACTION**

16 **UNFAIR COMPETITION**

17 **(AGAINST ALL DEFENDANTS)**

18 48. Plaintiff re-alleges and incorporate by reference all previous paragraphs.

19 49. Defendants have engaged and continue to engage in unfair and/or unlawful
20 business practices in California in violation of California Business and Professions Code § 17200
21 et seq., by failing to pay Plaintiff and the Classes all minimum and overtime wages, provide all
22 required meal and rest periods, or pay premium payments in lieu thereof, failing to furnish
23 accurate, itemized wage statements, failing to reimburse for necessary business expenses, and
24 willfully failing to timely pay Plaintiff and members of the Waiting Time class all final wages
25 due upon separation of employment.

26 50. Defendants' utilization of these unfair and/or unlawful business practices deprived
27 Plaintiff and continues to deprive members of the Classes of compensation to which they are
28 legally entitled, constitutes unfair and/or unlawful competition, and provides an unfair advantage

over Defendants' competitors who have been and/or are currently employing workers and attempting to do so in honest compliance with applicable wage and hour laws.

51. Because Plaintiff is a victim of Defendants' unfair and/or unlawful conduct alleged herein, Plaintiff for himself and on behalf of the members of the Classes, seek full restitution of monies, as necessary and according to proof, to restore any and all monies withheld, acquired and/or converted by Defendants pursuant to Business and Professions Code §§ 17203 and 17208.

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

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

EIGHTH CAUSE OF ACTION

UNFAIR COMPETITION

(AGAINST ALL DEFENDANTS)

54. Plaintiff re-alleges and incorporates by reference all prior paragraphs as though fully set forth herein.

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

1 employee per pay period; (3) \$100.00 for each initial violation and \$250.00 for each subsequent
2 violation pursuant to Labor Code § 1197.1 per employee per pay period; (4) \$250.00 for each
3 initial violation and \$1,000.00 for each subsequent violation pursuant to Labor Code § 226.3 per
4 employee per pay period; and/or (5) \$100.00 for each initial violation and \$200 for each
5 subsequent violation per employee per pay period for those violations of the Labor Code for which
6 no civil penalty is specifically provided, based on the following Labor Code violations:

- 7 a. Failing to pay minimum wages for all hours worked to Plaintiff, the Minimum
8 Wage Class, and other aggrieved employees in violation of Labor Code §§
9 551-552, 558, 1182.12, 1194, 1194.2, 1197, and 1198;
- 10 b. Failing to pay Plaintiff, the Overtime Class, and other aggrieved employees all
11 earned overtime compensation in violation of Labor Code §§ 204, 510, 558,
12 1194, and 1198;
- 13 c. Failing to authorize and permit all legally required rest periods, and failure to
14 pay rest period premium wages, to Plaintiff, the Rest Period Class, and other
15 aggrieved employees at the regular rate of compensation in violation of Labor
16 Code §§ 226.7, 516, and 558;
- 17 d. Failing to provide all legally required meal periods, and failure to pay meal
18 period premium wages, to Plaintiff, the Meal Period Class, and other aggrieved
19 employees at the regular rate of compensation in violation of Labor Code §§
20 226.7, 512, and 1198;
- 21 e. Failing to furnish Plaintiff, the Wage Statement Class, and other aggrieved
22 employees with complete, accurate, itemized wage statements in violation of
23 Labor Code § 226;
- 24 f. Failing to timely pay all final wages and compensation earned by Plaintiff, the
25 Waiting Time Class, and other aggrieved employees at the time of separation
26 in violation of Labor Code §§ 201, 202, and 203;
- 27 g. Failing to pay Plaintiff and other aggrieved employees all earned wages at least
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twice during each calendar month in violation of Labor Code § 204;

h. Failing to provide legally mandated disclosures and/or written notices regarding the terms of employment of Plaintiff and other aggrieved employees in violation of Labor Code § 2810.5;

i. Failing to pay all agreed-upon wages, including bonus wages accrued, to Plaintiff and other aggrieved employees, in violation of Labor Code §§ 204 and 221-223;

j. Failing to maintain accurate records on behalf of Plaintiff and other aggrieved employees in violation of Labor Code §§ 1174 and 1198.

56. On November 18, 2024, Plaintiff notified Defendants via certified mail, and notified the California Labor and Workforce Development Agency ("LWDA") via its website, of Defendants' violations of the California Labor Code and Plaintiff's intent to bring a claim for civil penalties under California Labor Code § 2698 et seq. with respect to violations of the California Labor Code identified in Paragraph 55 (a)-(j). Now that more than sixty-five days have passed from Plaintiff's notifying Defendants and the LWDA of these violations, and the LWDA has not provided notice that it intends to investigate the violations, Plaintiff has exhausted his administrative requirements for bringing a claim under the Private Attorneys General Act with respect to these violations.

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

PRAYER

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

1. For an order certifying the proposed Classes;
2. For an order appointing Plaintiff as representative of the Classes;

3. For an order appointing Counsel for Plaintiff as Counsel for the Classes;
4. Upon the First Cause of Action, for payment of minimum wages, liquidated damages, and penalties according to proof pursuant to Labor Code §§ 1182.12, 1194, 1194.2, 1198 and the Wage Orders;
5. Upon the Second Cause of Action, for compensatory, consequential, general, and special damages according to proof pursuant to Labor Code §§ 204, 510, 558, 1194, 1198 and the Wage Orders.
6. Upon the Third Cause of Action, for compensatory, consequential, general and special damages according to proof pursuant to Labor Code §§ 226.7, 512, and 558;
7. Upon the Fourth Cause of Action, for compensatory, consequential, general and special damages according to proof pursuant to Labor Code §§ 226.2, 226.7, 516, and 558;
8. Upon the Fifth Cause of Action, for statutory waiting time penalties pursuant to Labor Code §§ 201-203;
9. Upon the Sixth Cause of Action, for statutory penalties pursuant to Labor Code § 226;
10. Upon the Seventh Cause of Action, for restitution to Plaintiff of all money and/or property unlawfully acquired by Defendants by means of any acts or practices declared by this Court to be in violation of Business and Professions Code § 17200 *et seq.*;
11. Upon the Eighth Cause of Action, for (1) \$100.00 for each initial violation for each failure to pay each employee and \$200 for each subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100 for each subsequent violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per employee per pay period; (4) \$250.00 for each initial violation and \$1,000.00 for each subsequent violation pursuant to Labor Code § 226.3 per employee per pay period; and/or (5) \$100.00 for each initial violation and \$200 for each subsequent violation per employee per pay period for the violations of the Labor Code Sections cited in Labor Code § 2699.5;

1 12. Prejudgment interest on all due and unpaid wages pursuant to California Labor
2 Code § 218.6 and Civil Code §§ 3287 and 3289;

3 13. On all causes of action, for attorneys' fees and costs as provided by Labor Code
4 §226, and Code of Civil Procedure § 1021.5; and

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

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7 Dated: February 20, 2025

Respectfully submitted,
STANSBURY BROWN LAW, PC

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10 By:



Daniel J. Brown
Kathleen J. Becket
Attorneys for Plaintiff

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15 **DEMAND FOR JURY TRIAL**

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

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18 Dated: February 20, 2025

Respectfully submitted,
STANSBURY BROWN LAW, PC

19
20 By:



Daniel J. Brown
Kathleen J. Becket
Attorneys for Plaintiff

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PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years and not a party to the within action; my business address is 2610 ½ Abbot Kinney Blvd. Venice, CA 90291

On February 20, 2025, I served the document listed below on the parties in this action as follows:

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

☐ (BY MAIL) I placed such envelope on the above date, with postage fully prepaid, for deposit in the U.S. Postal Service at my place of business at Venice, California, following the ordinary business practices of my place of business. I am readily familiar with the business practice at my place of business for collection and processing of correspondence for mail with the U.S. Postal Service. Under that practice, such correspondence is deposited with the U.S. Postal Service the same day it is collected and processed in the ordinary course of business.

☒ (BY EMAIL or ELECTRONIC TRANSMISSION) By electronically transmitting the document(s) listed above to the email address(es) of the person(s) set forth on the attached service list from the email address assistant@stansburybrownlaw.com. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful. Service by e-mail was made pursuant to agreement of the parties, confirmed in writing, or as an additional method of service as a courtesy to the parties or pursuant to Court Order. See Cal. R. Ct. R. 2.260.

☒ (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on February 20, 2025, at South Gate, CA.

Laura Romero

Laura Romero

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SERVICE LIST

I. Jackson Lewis P.C.
Scott P. Jang, Esq.
Mark Marsenovic, Esq.
50 California Street, 9th Floor
San Francisco, CA. 94111
scott.jang@jacksonlewis.com
mark.marsenovic@jacksonlewis.com
lauretta.adams@jacksonlewis.com

Attorneys for Defendants Liberty Bell Equipment Corp. and ORS Nasco, LLC