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Attorney for Plaintiff, RAUL RAMIREZ GARCIA

**SUPERIOR COURT OF THE STATE OF CALIFORNIA,
COUNTY OF RIVERSIDE**

RAUL RAMIREZ GARCIA, an
individual, on his own behalf and on behalf
of all others similarly situated,

Plaintiffs,

v.

DAP HEALTH, INC., DBA REVIVALS
THRIFT STORES, a California non-profit
corporation; and DOES 1 through 100,
inclusive,

Defendants.

Case No.: CVRI2406994

[Assigned for all purposes to Hon Harold W.
Hopp, in Dept. 1]

**PLAINTIFF'S FIRST AMENDED
COMPLAINT FOR:**

- 1. FAILURE TO PAY PREMIUM OVERTIME WAGES DUE (Cal. Labor Code §§ 510, 511, 558, 1194, 1198; IWC Wage Order No. 4);**
- 2. FAILURE TO PAY MINIMUM WAGES (Cal. Labor Code §§1194, 1194.2, 1997, 1197.1, 1198; IWC Wage Order No. 4);**
- 3. FAILURE TO PROVIDE TIMELY OFF DUTY MEAL PERIODS (Cal. Labor Code §§ 226.7, 512; IWC Wage Order No. 4);**
- 4. FAILURE TO PROVIDE TIMELY OFF DUTY REST PERIODS (Cal. Labor Code §§ 226.7, 512; IWC Wage Order No. 4);**
- 5. FAILURE TO MAINTAIN RECORDS AND PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS (Cal. Labor Code §226; IWC Wage Order No. 4);**
- 6. FAILURE TO PAY WAGES DUE ON TERMINATION (Cal. Labor Code §§ 201-203);**

7. **FAILURE TO REIMBURSE BUSINESS EXPENSES (Cal. Labor Code § 2802);**
8. **FAILURE TO PROVIDE UNIFORM MAINTENANCE ALLOWANCE (Cal. Labor Code § 2802);**
9. **FAILURE TO ALLOW INSPECTION OF EMPLOYMENT RECORDS (Cal. Labor Code §1198.5);**
10. **UNFAIR COMPETITION (Cal. Bus. & Prof. Code §§17200 et seq.); and**
11. **DAMAGES PURSUANT TO THE PRIVATE ATTORNEY GENERAL ACT (“PAGA”)**

DEMAND FOR A JURY TRIAL

All allegations in this First Amended Complaint are based upon information and belief except for those allegations that 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.

RAUL RAMIREZ GARCIA (“Plaintiff”) alleges the following:

1. This is a class action brought under California law by an individual who was employed by DAP Health, Inc. dba Revivals Thrift Stores (“RTS” or “Defendant”) (along with DOES 1 through 100, collectively “Defendants”). Plaintiff brings this action on behalf of himself and others similarly situated to recover wages from Defendant due to Defendant’s systematic failure to pay overtime wages, failure to pay minimum wages, failure to provide meal breaks (or pay the statutory compensation due), failure to provide rest breaks (or pay the statutory compensation due), failure to issue accurate wage statements, failure to pay wages due on termination, failure to reimburse business expenses, failure to provide a uniform maintenance allowance and failure to allow inspection of employment records.

2. Plaintiffs have worked as employees for Defendant in Palm Springs, California. While working, Plaintiffs have been forced to endure stressful and illegal workplace conditions created by Defendant’s efforts to maximize profits and tightly control labor costs.

1 3. Plaintiff, like his coworkers whom Defendant also employed during the applicable
2 limitations period, spent their workdays in Palm Springs, California, under illegal and highly
3 regimented circumstances. That regimen results from Defendant's insistence to strictly monitor
4 and curtail labor costs, which Defendant accomplishes by not paying for all labor costs, failing
5 to pay overtime, and minimum wages, refusing to provide proper meal periods, refusing to
6 provide proper rest periods, not paying the required extra hour for missed meal/rest breaks, failing
7 to pay all wages due on termination, failing to reimburse business expenses, failing to pay a
8 uniform maintenance allowance, failing to allow inspection of employment records, and by using
9 other unlawful stratagems to ensure that labor costs remain artificially low.

10 4. Plaintiff brings this class action to recover, among other things, wages and
11 penalties from unpaid wages earned and due, including but not limited to premium overtime
12 wages, minimum wages, missed meal/rest break wages, penalties for failure to provide accurate
13 itemized wage statements, wages owed on termination, failure to reimburse business expenses,
14 failure to pay a uniform maintenance allowance, failure to allow inspection of employment
15 records and interest, attorneys' fees, costs, and expenses.

16 5. Plaintiff seeks compensatory, statutory, declaratory, and injunctive relief for
17 himself and all members of the class to compensate these workers for the unpaid wages and to
18 protect current and future workers of Defendant from being subjected to similar wage theft and
19 otherwise unlawful working conditions.

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

24 7. Pursuant to the California Labor Code, on or about December 11, 2024, Plaintiff
25 filed a notice with the Labor and Workforce Development Agency (LWDA) of his intent to
26 pursue claims against Defendant under the Private Attorney General Act (PAGA). More than 65
27 days have passed since the above letter, and Plaintiff's counsel has not received any notice from
28 the LWDA stating an intention to prosecute Plaintiff's PAGA claims.

8. As such, Plaintiff now seeks to amend his Complaint to include a cause of action for damages pursuant to the Private Attorney General Act.

9. As such, Plaintiff further reserves the right to amend this First Amended Complaint once he completes and complies with the provisions under the law.

JURISDICTION AND VENUE

10. 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 Raul Ramirez Garcia brings this First Amended Complaint on his own behalf and on behalf of all persons in the Class as defined in paragraph 20 below.

11. 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 Riverside and because Defendant owned and operated its thrift store in the County of Riverside.

THE PARTIES

PLAINTIFF

12. At all times relevant hereto, Plaintiff was:

- (a) An individual over age 18 and a resident of Riverside County, California;
- (b) Employed as an hourly employee for Defendant in Palm Springs, California;
- (c) Did not receive overtime compensation required by *Labor Code* §§510 and 1194 and IWC Wage Order No. 4;
- (d) Did not receive minimum wages as required by *Labor Code* §§1194, 1194.2, 1997, 1197.1, 1198 and IWC Wage Order No. 4;
- (e) Did not receive the meal periods required by *Labor Code* §266.7 and IWC Wage Order No. 4;
- (f) Did not receive the rest periods required by *Labor Code* §266.7 and IWC Wage Order No. 4;

- (g) Did not receive accurate wage statements as mandated by *Labor Code* §226;
- (h) Was not paid all wages due on termination as required by *Labor Code* §§201-203;
- (i) Was not reimbursed necessary business expenses as required by *Labor Code* §2802;
- (j) Was not provided a uniform maintenance allowance as required by *Labor Code* §2802; and
- (k) Was not provided his personnel records. Each of these was a violation of the *Labor Code*.

DEFENDANT

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

- (a) A California non-profit corporation with a principal place of business at 1695 N. Sunrise Way, Palm Springs, California 92262. Defendant has been authorized to do business and has been doing business in the County of Riverside;
- (b) The former employer of Plaintiff and the current and former employer of the putative Class members;
- (c) Paid Plaintiff and all Class Members on an hourly basis;
- (d) Failed to pay Plaintiff and all putative Class members premium overtime wages;
- (e) Failed to pay Plaintiff and all putative Class members minimum wages;
- (f) Failed to provide Plaintiff and all putative Class members with meal/rest periods and failed to provide Plaintiff and all putative Class members with accurate itemized wage statements;
- (g) Failed to pay Plaintiff and all putative Class members all wages due on termination;

- 1 (h) Failed to reimburse Plaintiff and all putative Class members for their
2 necessary business expenses;
- 3 (i) Failed to provide Plaintiff and all putative Class members a uniform
4 maintenance allowance; and
- 5 (j) Failed to provide their personnel records. Each of these was a violation of
6 the *Labor Code*.

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

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

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

24 17. Plaintiff is informed and believes, and based on that information and belief alleges,
25 that Defendants named in this First Amended Complaint, including DOES 1 through 100,
26 inclusive, are, and at all times mentioned herein were, the agents, servants, and/or employees of
27 each of the other Defendants and that each Defendant was acting within the course and scope of
28 his, hers or its authority as the agent, servant and/or employee of each of the other Defendants.

18. 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 were 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 Defendant and worked for Defendant 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 Defendant and worked for Defendant in California and left the employ of Defendant 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”).”

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1 21. Plaintiff reserves his right under Rule 3.765 of the California Rules of Court to
2 amend or modify the Class description with greater specificity or further division into subclasses
3 or limitation to particular issues.

4 **B. Maintenance of the Action**

5 22. Plaintiff brings this action individually and on behalf of himself and as
6 representative of all similarly situated persons under *Business & Professions Code* §§ 17203 and
7 17204 and *Code of Civil Procedure* § 382.

8 **C. The Class Requisites**

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

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

- 12 (a) The persons who comprise the Class are so numerous that the joinder of all
13 those persons is impracticable, and the disposition of their claims as a Class
14 will benefit the parties and the Court;
- 15 (b) Nearly all factual, legal, statutory, declaratory and injunctive relief issues
16 that are raised in this First Amended Complaint are common to the Class and
17 will apply uniformly to every Class member;
- 18 (c) The claims of the representative Plaintiff are typical of the claims of each
19 Class member. Plaintiff, like all Class members, has sustained damages
20 arising from Defendant's violations of the laws of the State of California.
21 Plaintiff, and the Class members, were and are similarly or identically
22 harmed by the same unlawful, deceptive, unfair, systematic and pervasive
23 pattern of misconduct engaged in by the Defendant;
- 24 (d) The representative Plaintiff has, and will continue to, fairly and adequately
25 represent and protect the interests of the Class and has retained counsel who
26 are competent and experienced in class action litigation. There are no
27 material conflicts between the claims of the representative Plaintiff and the
28

1 Class members that would make class certification inappropriate. Counsel
2 for the Class will vigorously assert the claims of all Class members.
3

4 25. 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 is experienced, qualified and generally able to conduct complex class action litigation.

10 26. 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:

27 ///

- 1 i. Inconsistent or varying adjudications for individual Class
2 members that would establish incompatible standards of conduct
3 for Defendant; and/or,
4 ii. Adjudication for individual Class members that would, as a
5 practical matter, dispose of other non-party members' interests, or
6 that would substantially impair or impede the non-parties' ability to
7 protect their interests, by, for example, potentially exhausting the
8 funds available from Defendant, and
9 (g) Defendant has acted or refused to act on grounds generally applicable to
10 the Classes, making final injunctive relief appropriate for the Class, as a
11 whole.
12

13 27. Plaintiff contemplates eventually issuing notice to the proposed Class Members
14 that would set forth the subject and nature of the action. The Defendant's own business records
15 may be utilized for assisting in preparing and issuing the contemplated notice. To the extent that
16 any further notices may be required, Plaintiff would contemplate using additional media and/or
17 mailing.

18 **GENERAL ALLEGATIONS**
19

20 28. At all times material hereto, Defendant RTS has been and is a California non-
21 profit corporation that owns thrift stores.

22 29. Plaintiff and members of the Class were employed as Donation Box Van Drivers
23 and other non-exempt employees by Defendant in California at various times during the Class
24 Period.

25 30. The employment by Defendant of the Class Members, and each them, is governed
26 by Industrial Welfare Commission Wage Order 4, which covers those persons employed in the
27 professional, technical, clerical, mechanical and similar occupations.

28 **THE CONDUCT**

1
2 31. Plaintiff seeks relief from Defendant's uniform policies and practices of denying
3 Plaintiff and members of the Class wages and compensation owed under California law.

4 32. Starting on or about March 7, 2019, and continuing to April 22, 2024, Defendant
5 employed Plaintiff on an hourly basis as a Donation Box Van Driver in Palm Springs, California.

6 33. While employed by Defendant as a Donation Box Van Driver, Plaintiff was paid
7 approximately \$23.85 per hour.

8 **OFF-THE-CLOCK WORK**

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

13 35. Defendant required Plaintiff and the Class to regularly perform compensable tasks
14 pre-shift off the clock for which they did not receive any compensation. Specifically, Plaintiff
15 and Class members were required to engage in pre-shift off-the-clock work since they were
16 required to undergo COVID-related checks consisting of daily temperature checks for 5 minutes
17 per day beginning in March 2020 and continuing until the end of 2020. Further, Plaintiff and
18 Class members were routinely required to clock out for their meal breaks before the fifth hour of
19 work but to continue then working and take their meal breaks later, after the fifth hour.

20 36. As a result, and because they improperly treated such off-the-clock work as non-
21 compensable, Defendant failed to compensate Plaintiff and the Class for such time.

22 **FAILURE TO PAY OVERTIME TIME WAGES**

23 37. Under California law, non-exempt employees, as defined by Wage Order No. 4,
24 are entitled to premium wages for overtime worked. Under California law, non-exempt
25 employees, as defined by IWC Wage Order No. 4, are entitled to premium wages for overtime
26 worked. Under California law, an hourly paid employee is entitled to overtime pay when they
27 exceed eight hours of work in a single day, exceed 40 hours of work in a week or work seven
28 days in a row.

1 38. Here, at all times during the relevant time period, because Plaintiff and the Class
2 engaged in off-the-clock work, Plaintiff and the Class routinely worked schedules such that they
3 were due pay at overtime rates. During this period, it was the practice and policy of Defendant to
4 not pay employees' overtime. Monies for unpaid overtime remain due and owing.

5 **FAILURE TO PAY MINIMUM WAGES**

6 39. Under California law, non-exempt employees, as defined by IWC Wage Order
7 No. 4, are entitled to minimum wages. Labor Code Section 1197 states the California requirement
8 that employees must be paid at least the minimum wage fixed by the Commission or by any
9 applicable state or local law, and any payment of less than the minimum wage is unlawful.
10 Similarly, Labor Code Section 1194 entitles "any employee receiving less than the legal
11 minimum wage...is entitled to recover in a civil action the unpaid balance of the full amount of
12 this minimum wage." IWC Wage Order No. 4 obligates employers to pay each employee
13 minimum wages for all hours worked.

14 40. These minimum wage standards apply to each hour employees worked or were
15 subject to control by the employer for which they were not paid. Therefore, an employer's failure
16 to pay for any particular hour of time worked by an employee or subject to the employer's control
17 is unlawful, even if averaging an employee's total pay over all hours worked, paid or not, results
18 in an average hourly wage above minimum wage. *Armenta v. Osmose, Inc.*, 135 Cal. App. 4th
19 314, 324 (2005).

20 41. Plaintiff and the Class were not paid minimum wages due to Defendant's failure
21 to afford proper meal/rest breaks.

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

26 **MEAL BREAKS NOT AFFORDED**

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28 ///

1 43. Under California law, non-exempt employees, as defined by IWC Wage Order
2 No. 4, are entitled to premium wages for overtime worked, a 30-minute lunch period for every 5
3 hours worked, or major fraction thereof. Non-exempt employees are entitled to one-hour pay at
4 their regular pay rate for each day the requisite meal periods are not provided.

5 44. Plaintiff and Class members were routinely not afforded compliant meal breaks.
6 Plaintiff and Class members' meal breaks were not afforded, shortened, afforded late and/or
7 interrupted.

8 45. Defendant's policies and procedures were applied to all non-exempt employees in
9 California and resulted in non-exempt employees working time which was not compensated by
10 any wages in violation of Labor Code sections 510, 1194 and the IWC Wage Order No. 4. As a
11 result, Defendant owes wages at the legal overtime rate and minimum wage rate for unpaid
12 overtime and minimum wages to each of their California non-exempt employees whose daily
13 hours were reduced and their meals periods were afforded late, interrupted and/or not at all.

14 **REST PERIODS NOT AFFORDED**

15 46. Plaintiff and Class members were not afforded compliant rest breaks. Plaintiff and
16 Class members were restricted from leaving their truck to take rest breaks and their rest breaks
17 were at times interrupted.

18 **FAILURE TO ISSUE ACCURATE WAGE STATEMENTS**

19 47. As a result of Defendant's failure to pay employees at required overtime time
20 rates, minimum wage rates and premium pay for late and/or missed meal/rest breaks, the wage
21 statements issued to the employees did not comply with *Labor Code* §226 and the California
22 Industrial Welfare Commission ("IWC") Wage Order No. 4 in that they did not accurately reflect
23 all wages earned and due and owing.

24 **FAILURE TO PAY WAGES DUE ON TERMINATION**

25 48. As a further result of Defendant's failure to pay employees at required overtime,
26 minimum wage rates and afford proper meal/rest breaks, when the employees left their employ,
27 they were not timely paid all wages due them, as required by Labor Code §§ 201, 202 and IWC
28 Wage Order No. 4.

49. Further, it was the practice of Defendant to not pay employees the final paychecks within the time periods mandated by Labor Code §§201, 202 and the IWC Wage Order No. 4.

FAILURE TO REIMBURSE BUSINESS EXPENSES

50. Defendant failed to reimburse Plaintiff and Class members for their necessary business expenses, such as cell phone use. Defendant required Plaintiff and Class members to use their personal cell phones for work-related activities such as clocking in/out on a work-specific app and communication regarding work.

FAILURE TO PROVIDE UNIFORM MAINTENANCE ALLOWANCE

51. Defendant failed to provide Plaintiff and Class members with a uniform maintenance allowance. Plaintiff and Class members were required to wear uniforms consisting of company shirts with logos but were required to maintain the uniforms themselves.

FAILURE TO ALLOW INSPECTION OF PERSONNEL RECORDS

52. Defendant failed to allow Plaintiff to timely inspect his records and payroll files.

FIRST CAUSE OF ACTION

FAILURE TO PAY OVERTIME

(Labor Code §§510, 511, 558, 1194, 1198 and IWC Wage Order No. 4 by Plaintiffs Against Defendant and Does 1-100)

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

54. During Plaintiff's entire employment with Defendant, pursuant to Cal. Lab. Code §§510, 1194, and 1198, and IWC Wage Order No. 4, Defendant was required to compensate Plaintiff and Class members with premium pay for all overtime work performed, for hours worked in excess of eight (8) hours per day and/or forty (40) hours per week and for the first eight (8) hours on the seventh (7th) consecutive day of any work week.

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

1 56. Pursuant to IWC Wage Order No. 4, § 3, “Employment beyond eight (8) hours in
2 any workday is permissible provided the employee is compensated for such overtime at not less
3 than: (a) One and one-half (1 1/2) times the employee’s regular rate of pay for all hours worked
4 in excess of eight (8) hours up to and including twelve (12) hours in any workday...”

5 57. California Labor Code section 558 provides in pertinent part:

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

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

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

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

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

17 58. Throughout Plaintiff’s and Class members’ employment, Plaintiff and Class
18 members engaged in off-the-clock work and, therefore, worked overtime hours and were not paid
19 overtime pay due.

20 59. Although Plaintiff did not receive gift cards from Defendant, his paystub dated
21 April 15, 2024, shows “Birthday Gift Card” and “Giftcards” paid to Plaintiff under YTD. This
22 may have caused regular rate issues.

23 60. Throughout Plaintiff’s and Class members’ employment, Defendant failed and
24 refused to pay and properly calculate overtime compensation to Plaintiff and Class members as
25 required by law.

26 61. The foregoing overtime compensation is owed and unpaid. As a direct and
27 proximate result of Defendant’s failure and refusal to pay overtime, Plaintiff and Class Members
28 suffered damages in an amount to be proven at trial.

62. 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 DUE TO TIME ROUNDING

**(IWC Wage Order No. 4; Labor Code §§ 1194, 1194.2, 1997, 1197.1, 1198 By Plaintiffs
Against Defendant and Does 1 through 100)**

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

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

65. *Labor Code* § 1197 states the California requirement that employees must be paid at least the minimum wage fixed by the Commission, and any payment of less than the minimum wage is unlawful. Similarly, *Labor Code* § 1194 entitles "any employee receiving less than the legal minimum wage...entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage." IWC Wage Order No. 4-2001 also obligates employers to pay each employee minimum wages for all hours worked. These minimum wage standards apply to each hour employees worked for which they were not paid. Therefore, an employer's failure to pay for any particular hour of time worked by an employee is unlawful, even if averaging an employee's total pay over all hours worked, paid or not, results in an average hourly wage above minimum wage. *Armenta v. Osmose, Inc.*, 135 Cal. App. 4th 314, 324 (2005).

66. Pursuant to IWC Wage Order No. 4, Defendant is required to pay the members of the Class for all hours worked, meaning the time during which an employee is subject to the control of an employer, including all the time the employee is suffered or permitted to work, whether or not required to do so.

1 67. Furthermore, pursuant to *Labor Code* § 1198, “[t]he maximum hours of work and
2 the standard conditions of labor fixed by the commission shall be the maximum hours of work
3 and the standard conditions of labor for employees. The employment of any employee for longer
4 hours than those fixed by the order or under conditions of labor prohibited by the order is
5 unlawful.”

6 68. Defendant failed to satisfy minimum wage requirements because they improperly
7 failed to afford Plaintiff and Class members compliant meal/rest breaks in violation of *Labor*
8 *Code* §§ 226.7, 1197, 1198 and IWC Wage Order No. 4.

9 69. Defendant’s pattern, practice, and uniform administration of corporate policy
10 regarding illegal employee compensation as described herein is unlawful and creates an
11 entitlement, pursuant to *Labor Code* § 218, to recovery by Plaintiff and the members of the Class
12 in a civil action, of the unpaid balance of the full amount of wages owing, calculated at the
13 appropriate rate.

14 70. *Labor Code* § 1194.2 allows an employee to recover liquidated damages in an
15 amount equal to the wages unlawfully unpaid and interest thereon for any action under *Labor*
16 *Code* § 1194. Where an employee, such as Plaintiff and the other Class members, are not paid for
17 all hours worked under *Labor Code* § 1194, the employee may recover minimum wages for the
18 time associated with the overtime for which they received no compensation. *See Sillah v.*
19 *Command Int’l Sec. Servs.*, 154 F. Supp. 3d 891 (N.D. Cal. 2015) (holding that employees suing
20 for failure to pay overtime could recover liquidated damages under § 1194.2 if they also showed
21 they were paid less than minimum wage); *accord Andrade v. Arby’s Rest. Grp., Inc.*, 225 F. Supp.
22 3d 1115, 1132-33 (N.D. Cal. 2016).

23 71. Plaintiff and the other Class Members suffered and continue to suffer losses
24 related to the use and enjoyment of compensation due and owing to them as a direct result of
25 Defendant’s unlawful acts and *Labor Code* violations in an amount to be shown according to
26 proof at trial and within the jurisdictional limitations of this Court.

27 ///

28 ///

72. 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 Defendant owes 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. 4; Labor Code §§ 226.7, 512 By Plaintiffs Against Defendant and Does 1 through 100)

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

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

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

76. IWC Wage Order No. 4 provides, in relevant part: "No employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30-minutes, except that when a work period of not more than six (6) hours will complete the day's work the meal period may be waived by mutual consent of the employer and the employee."

77. IWC Wage Order No. 4, section (11)(c) further provides, in relevant part: "Unless the employee is relieved of all duty during a 30-minute meal period, the meal period shall be considered an 'on duty' meal period and counted as time worked."

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

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1 An employer may not employ an employee for a work period of more than five
2 hours per day without providing the employee with a meal period of not less
3 than 30-minutes, except that if the total work period per day of the employee is
4 no more than six hours, the meal period may be waived by mutual consent of
5 both the employer and employee. An employer may not employ an employee
6 for a work period of more than 10 hours per day without providing the
7 employee with a second meal period of not less than 30-minutes, except that if
8 the total hours worked is no more than 12 hours, the second meal period may be
9 waived by mutual consent of the employer and the employee only if the first
10 meal period was not waived.

11 79. The Labor Code and Wage Order provisions cited above require California
12 employers to provide employees with off-duty 30-minute meal periods on or before the fifth hour
13 of their shifts. To satisfy this obligation, California employers must: (1) make employees aware
14 of their right to off-duty 30-minute meal periods before the fifth hour of their shifts, and (2) ensure
15 that employees are actually free of job duties for thirty minutes per day on or before the fifth hour
16 of their shifts.

17 80. As alleged herein, Defendant failed to relieve employees of duties for timely meal
18 breaks throughout the Class Period. Plaintiff and the members of the Class's meal periods were
19 routinely not afforded, afforded late, shortened and/or interrupted.

20 81. Under California law, employers must also record their employees' meal periods:
21 "Every employer shall keep accurate information with respect to each employee, including the
22 following: ... Meal periods ... shall also be recorded. Meal periods during which operations cease
23 ... need not be recorded." IWC Wage Order No. 4, § (7)(A)(3). Where the employer has failed to
24 keep records required by statute, the consequences of such failure should fall on the employer,
25 not the employee. In such a situation, imprecise evidence by the employee can provide a sufficient
26 basis for liability." *Hernandez v. Mendoza*, 199 Cal. App. 3d 721, 727 (1988). Inasmuch as
27 Defendant had an obligation under the record-keeping requirements of the Wage Order to track
28 meal periods unless "all work ceases," Defendant knew or should have known its employees were
regularly afforded late and/or missing meal periods during the Class Period.

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1 82. Defendant has a policy or practice of failing to ensure that Plaintiff and members
2 of the class take proper meal periods and clock in/out for meal periods as required by California
3 Labor Code §226.7 and IWC Wage Order No. 4, §11.

4 83. Every day, Plaintiff and Class members were required to clock out on their way
5 to pick up locations prior to the 5th hour of work. However, Plaintiff and Class members would
6 not take their meal breaks until a later time, after the 5th hour. The scheduled pick-ups were too
7 many, and the workload was too great to allow Plaintiff and Class members to take their meal
8 breaks before the fifth hour of work. Nonetheless, Plaintiff and Class members were required to
9 clock out prior to the fifth hour of work in order to avoid discipline by Defendant.

10 84. At least one time per week, Plaintiff and Class members were required to work
11 during their meal breaks. At least two times per week, Plaintiff and Class members' meal breaks
12 were shortened to between 10-20 minutes in length.

13 85. By their actions in affording Plaintiff and Class members proper meal periods,
14 Defendant violated Cal. Lab. Code §226.7(b) and section 11 of Wage Order No. 4 in the amount
15 of one additional hour of pay at the employee's regular rate of compensation for each work period
16 during each day in which Defendant failed to provide employees with proper statutory off-duty
17 meal periods.

18 86. Defendant also has a policy or practice of failing to pay each of their employees
19 who was not provided with a proper meal period an additional one hour of compensation at each
20 employee's regular rate of pay.

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

24 88. As a direct and proximate result of Defendant's unlawful conduct as alleged
25 herein, Plaintiff and members of the Class have sustained economic damages, including but not
26 limited to unpaid wages and lost interest, in an amount to be established at trial, and are entitled
27 to recover economic and statutory damages, attorneys' fees and penalties and other appropriate
28 relief due to Defendant's violations of the California Labor Code and IWC Wage Order No. 4.

1 **FOURTH CAUSE OF ACTION**

2 **FOR FAILURE TO PROVIDE REST PERIODS**

3 **(Labor Code § 226.7 and IWC Wage Order No. 4 By Plaintiffs Against Defendant and**
4 **Does 1 through 100)**

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

7 90. Labor Code § 226.7 and IWC Wage Order No. 4 provide that employers shall
8 authorize and permit all employees to take rest periods at the rate of ten minutes net rest time per
9 four hours of work, or major fraction thereof.

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

14 92. Defendant has intentionally and improperly denied compliant rest periods to
15 Plaintiff and the Class in violation of Labor Code § 226.7 and IWC Wage Order No. 4. Plaintiff
16 and Class members' rest breaks were at times interrupted. Further, Plaintiff and Class members
17 were restricted from leaving their trucks during their rest breaks.

18 93. At all times relevant hereto, Plaintiff and members of the Class have worked eight
19 or more hours daily.

20 94. At all times relevant hereto, Defendant failed to provide proper rest periods as
21 required by Labor Code § 226.7, and IWC Wage Order No. 4. Plaintiff and Class members rest
22 breaks were routinely not afforded.

23 95. By virtue of Defendant's unlawful failure to provide proper rest periods to the
24 Plaintiff and the Class, Plaintiff and the Class have suffered, and will continue to suffer, damages
25 in amounts that are presently unknown to Plaintiff and the Class, but which exceed the
26 jurisdictional limits of the Court and which will be ascertained according to proof at trial.

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FIFTH CAUSE OF ACTION
FOR FAILURE TO MAINTAIN RECORDS AND PROVIDE ACCURATE ITEMIZED
WAGE STATEMENTS
(Labor Code §226 and IWC Wage Order No. 4 By Plaintiffs Against Defendant and Does 1 through 100)

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

97. Pursuant to IWC Wage Order No. 4, Defendant was the employer of Plaintiff and the Class.

98. Pursuant to California Labor Code sections 226 and 1174, and IWC Wage Order No. 4, section 7, Defendant is required to maintain and provide accurate records relating to employee compensation, including all formulas and production records used to calculate wages due.

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

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

101. Notwithstanding these provisions. Defendant has engaged in a uniform practice of refusing to maintain and provide the accurate records and wage statements required by California law.

102. Further, the company name listed on the California Secretary of State's website is slightly different from the company name listed on Plaintiff's and Class members' paystubs.

103. On the Secretary of State's website, the company name is DAP Health, Inc. On the paystubs, the name listed is DAP Health.

104. Throughout the Class Period, Defendant intentionally and knowingly provided Plaintiff and other members of the Class with weekly itemized wage statements containing inaccurate information regarding the wages earned by Plaintiff and members of the Class in that the payments owed to Plaintiff and the members of the Class for overtime compensation, minimum wages, missed, late and/or interrupted meal/rest periods, were not included in gross wages earned by Plaintiff and members of the Class.

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

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

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

108. As a 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 Defendant's improper conduct.

SIXTH CAUSE OF ACTION

FOR FAILURE TO PAY WAGES UPON TERMINATION

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

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

110. 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.

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

4 112. Plaintiff and the Class were discharged and/or resigned from Defendant's employ,
5 and Defendant willfully failed to pay Plaintiff and the Class wages due them.

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

8 **SEVENTH CAUSE OF ACTION**

9 **FAILURE TO REIMBURSE BUSINESS EXPENSES**

10 ***(Labor Code §2802 By Plaintiffs Against Defendant and Does 1 through 100)***

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

13 115. Labor Code §2802 requires employers to indemnify employees for all necessary
14 expenditures incurred by employees in the discharge of their duties.

15 116. At all times relevant herein, Defendant was aware that Plaintiff and Class
16 members were using their personal cell phones for business but failed to indemnify Plaintiff and
17 Class members for all their business-related expenses, including wear and tear expenses, in
18 accordance with Labor Code §2802. Defendant required Plaintiff and Class members to use their
19 cell phones every day for work-related activities such as clocking in/out and communicating for
20 work purposes.

21 117. Plaintiff and Class members were required to use their personal cell phones to
22 punch in and out on a work-specific app. Defendant required the use of Plaintiff and Class
23 members' personal cell phones for work-related activities as a backup to their work phones, for
24 texts and calls with coworkers and management, use of work-required apps and GPS to go to
25 pick-up sites. Plaintiff and Class members used their personal cell phones when their work phones
26 were not working.

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118. Plaintiff is informed and believes and thereon alleges that at all relevant times, Defendant maintained a practice of not reimbursing Plaintiff and Class Members for their work-related expenses that they incurred in using their cell phones for work-related purposes.

119. As a result of Defendant's conduct, Plaintiff and Class Members suffered damages in an amount, subject to proof, to the extent they were not reimbursed for all of their business-related expenses incurred in the discharge of their duties.

120. Pursuant to Labor Code §2802, Plaintiff and Class Members are entitled to recover the full amount of their unreimbursed business expenses, reasonable attorneys' fees and costs of suit.

EIGHTH CAUSE OF ACTION

FAILURE TO PAY UNIFORM MAINTENANCE ALLOWANCE

(Cal. Labor Code § 2802 By Plaintiff Against Defendant and Does 1 through 100)

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

122. Under California law, if an employer requires employees to wear a uniform, the employer must pay for and maintain the uniform for the employee. Labor Code §2802.

123. An employer may never impose a financial burden on employees, with respect to paying for and maintaining clothing, which would reduce the employees' wage rate below the minimum wage.

124. Here, Defendant required Plaintiff and Class members to wear uniforms consisting of company shirts. However, Plaintiff and Class members were required to maintain their uniforms themselves.

125. Defendant failed to reimburse Plaintiff and members of the Class for their uniform maintenance expenses.

126. As a proximate result of the aforementioned violations of Labor Code § 2802, Plaintiff and members of the Class have been damaged in an amount according to proof at the time of trial.

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127. As a proximate result of the aforementioned violations of § 2802, Plaintiff and members of the Class are entitled to recovery from Defendant for reimbursement of necessary expenditures, including interest and attorneys' fees.

NINTH CAUSE OF ACTION

FAILURE TO ALLOW INSPECTION OF EMPLOYMENT RECORDS

(Labor Code §1198.5 By Plaintiffs Against Defendant and Does 1 through 100)

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

129. California Labor Code Section 1198.5 provides:

- (a) Every current and former employee, or his or her representative, has the right to inspect and receive a copy of the personnel records that the employer maintains relating to the employee's performance or to any grievance concerning the employee.
- (b) The employer shall make the contents of those personnel records available for inspection to the current or former employee, or his or her representative, at reasonable intervals and at reasonable times, but not later than 30 calendar days from the date the employer receives a written request, unless the current or former employee, or his or her representative, and the employer agree in writing to a date beyond 30 calendar days to inspect the records, and the agreed-upon date does not exceed 35 calendar days from the employer's receipt of the written request to inspect the records. Upon a written request from a current or former employee, or his or her representative, the employer shall also provide a copy of the personnel records..... later than 30 calendar days from the date the employer receives the request...
- (k) If an employer fails to permit a current or former employee, or his or her representative, to inspect or copy personnel records within the times specified in this section... the current or former employee may recover a penalty of seven hundred fifty dollars (\$750) from the employer.
- (1) A current or former employee may also bring an action for injunctive relief to obtain compliance with this section, and may recover costs and reasonable attorney's fees in such an action.

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130. Additionally, pursuant to IWC Wage Order No. 4, at section 7 re: Records, employers are required to keep accurate payroll records on each employee, and such records must be made readily available for inspection by the employee upon reasonable request. The employer must also maintain accurate production records.

131. On or about December 11, 2024, Plaintiff's counsel issued a written request to Defendant for copies of his personnel records.

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

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

TENTH CAUSE OF ACTION

UNFAIR COMPETITION

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

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

135. Pursuant to IWC Wage Order No. 4, Defendant was the employer of Plaintiff and the Class. Defendant is also a "person," as that term is defined in Business & Professions Code §17021.

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1 136. The Business & Professions Code defines unfair competition as any unlawful,
2 unfair, or fraudulent business practice. At all times relevant herein, by and through the conduct
3 described herein, Defendant has engaged in unfair and unlawful practices by failing to (1) pay
4 Plaintiff and the Class overtime compensation; (2) pay minimum wages; (3) pay Plaintiff and the
5 Class for meal periods not afforded, (4) pay Plaintiff and the Class for rest periods not afforded,
6 (5) furnish Plaintiff and the Class with accurate itemized wage statements, as mandated by the
7 applicable Labor Code and Industrial Welfare Commission requirements, (6) pay all wages due
8 on termination, (7) reimburse business expenses, (8) provide a uniform maintenance allowance,
9 and (9) provide personnel records, all in violation of Business & Professions Code §§ 17200 *et*
10 *seq.*

11 137. By and through the unfair and unlawful business practices described herein,
12 Defendant has obtained valuable property, money and services from the Plaintiff and the Class
13 and has deprived them of valuable rights and benefits guaranteed by law, all to the detriment of
14 Plaintiff and the Class.

15 138. All the acts described herein are violations of, among other things, the Labor Code
16 and Industrial Commission Wage Order No. 4, are unlawful and in violation of public policy; and
17 in addition, are immoral, unethical, oppressive, and unscrupulous, and thereby constitute unfair
18 and unlawful business practices in violation of Business & Professions Code §§ 17200 *et seq.*

19 139. Plaintiff and the Class are entitled to, and do, seek such relief as may be necessary
20 to restore to them the money and property which Defendant has acquired, or of which Plaintiff
21 and the Class have been deprived by means of the above-described unfair and unlawful business
22 practices.

23 140. Plaintiff and the Class are further entitled to, and do, seek a declaration that the
24 above-described business practices are unfair and unlawful, and that injunctive relief should be
25 issued restraining Defendant from engaging in any of the above-described unfair and unlawful
26 business practices in the future.

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1 141. Plaintiff and the Class have no plain, speedy, and/or adequate remedy at law to
2 redress the injuries which they have suffered as a consequence of the unfair and unlawful business
3 practices of Defendant. As a result of the unfair and unlawful business practices described above,
4 Plaintiff and the Class have suffered and will continue to suffer irreparable harm unless Defendant
5 is restrained from continuing to engage in these unfair and unlawful business practices. In
6 addition, Defendant should be required to disgorge the unpaid moneys to Plaintiff and the Class.

7 **ELEVENTH CAUSE OF ACTION**

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

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

12 143. Plaintiff brings this action on his own behalf and on behalf of all current and
13 former employees of Defendants who were employed in California for the previous four years,
14 seeking to recover wages from Defendant due to Defendants' failure to pay overtime/double time,
15 failure to pay minimum wages, provide meal/rest breaks (or pay the statutory compensation due),
16 to issue accurate wage statements, to pay wages due on termination, to reimburse business
17 expenses, to provide a uniform maintenance allowance, to allow inspection of employment
18 records and unfair competition as set forth in this pleading.

19 144. On December 6, 2024, Plaintiff, pursuant to California Labor Code §§2699, et
20 seq., by and through Plaintiff's attorneys, uploaded a Private Attorney General Act ("PAGA")
21 claim to the State of California Labor and Workforce Development Agency ("LWDA") and sent
22 a letter via Certified Mail Return Receipt Requested to the defendant.

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

26 146. Plaintiff has, therefore complied with the administrative exhaustion requirements
27 of PAGA.

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

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Plaintiff respectfully prays that this Court enter judgment in his favor
5 and against Defendant as follows:

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

8 2. For compensatory damages in the amount minimum wages due to Plaintiff and
9 Class Members, according to proof;

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

12 4. For one (1) hour of pay at the regular rate of compensation for Plaintiff and Class
13 members for each workday that a meal period was provided late and/or missed;

14 5. For one (1) hour of pay at the regular rate of compensation for Plaintiff and Class
15 members for each workday that a rest period was not afforded;

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

21 7. For specific relief, enforcing waiting time penalties of 30 days of per diem wages
22 pursuant to *Cal. Bus. & Prof. Code* §17200 and *Cal. Lab. Code* §203, according to proof;

23 8. For compensatory damages in the amount of Plaintiff and Class members' cell
24 phone expenses for business purposes, costs and attorneys' fees pursuant to *Cal. Code Civ. Proc.*
25 §2802(c);

26 9. For compensatory damages in the amount of Plaintiff's out-of-pocket expenses
27 for the purchase of uniforms, plus interest, costs and attorneys' fees pursuant to *Cal. Code Civ.*
28 *Proc.* §2802(c);

- 1 10. For an award of consequential damages in Plaintiff and Class members' favor and
2 against Defendant, in an amount to be proven at trial;
- 3 11. For statutory damages pursuant to *Cal. Lab. Code* §226, according to proof;
- 4 12. For specific relief, enforcing waiting time penalties of 30 days of per diem wages
5 pursuant to *Cal. Bus. & Prof. Code* §17200, according to proof;
- 6 13. 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 14. For statutory penalties pursuant to *Cal. Lab. Code* §§ 558, 226.7, 1198.5,
10 according to proof;
- 11 15. For civil penalties pursuant to *Cal. Labor Code* §1198 and IWC Wage Order No.
12 4;
- 13 16. For penalties provided by the Labor Code Private Attorney General Act;
- 14 17. For reasonable costs, including attorneys' fees, in an amount according to proof
15 pursuant to, *inter alia*, *Cal. Labor Code* §§1194, 1198.5(1), 218.5, 2802, 2699, and *Cal. Code of*
16 *Civ. Proc.* §1021.5;
- 17 18. For an award of restitution of wages to Plaintiff and Class members in an amount
18 equal to the amount of wages owed and unpaid, according to proof;
- 19 19. For injunctive relief requiring Defendant to comply with Labor Code
20 1198.5(b)(1);
- 21 20. For injunctive relief ordering the continuing unfair business acts and practices to
22 cease, as the Court deems just and proper;
- 23 21. For other injunctive relief ordering Defendant to notify Plaintiff and Class
24 members that they have not been paid the proper amounts in accordance with California law;
- 25 22. For punitive and exemplary damages in a sum to be determined at trial; and
- 26 23. For such other and further relief as the Court deems just and proper.

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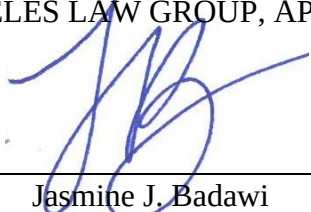
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DEMAND FOR JURY TRIAL

Plaintiff Raul Ramirez Garcia 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 20, 2025

LIPELES LAW GROUP, APC

By: 

Jasmine J. Badawi
Attorneys for Plaintiff,
RAUL RAMIREZ GARCIA