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

MIGUEL MENDOZA, as an individual, and
on behalf of all others similarly situated,

Plaintiff,

v.

VALMETAL TULARE, INC., a California
corporation; and DOES 1 through 100,
inclusive,

Defendants.

Case No. CASE NO. VCU315822

Assigned for All Purposed to:
Hon. Gary M Johnson

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) **WAGE STATEMENT VIOLATIONS
(LABOR CODE § 226, *et seq.*);**
- (4) **UNFAIR COMPETITION (BUS &
PROF CODE § 17200, *et seq.*);**
- (5) **FAILURE TO REIMBURSE FOR
NECESSARY BUSINESS
EXPENSES (LABOR CODE § 2802);**
- (6) **FAILURE TO PAY ALL AGREED-
UPON WAGES INCLUDING
BONUS WAGES ACCRUED
(LABOR CODE § § 221-223);**

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**(7) FAILURE TO PROVIDE
EMPLOYMENT RECORDS (LABOR
CODE § 1198.5); AND**

**(8) CIVIL PENALTIES UNDER THE
PRIVATE ATTORNEYS GENERAL
ACT (LABOR CODE § 2698 et seq.)**

**DEMAND FOR JURY TRIAL
UNLIMITED CIVIL CASE**

1 Plaintiff Miguel Mendoza (hereinafter “Plaintiff”), as an individual, and on behalf of all
2 others similarly situated, hereby brings this First Amended Class and Representative Action
3 Complaint against Valmetal Tulare Inc. a Connecticut corporation; and DOES 1 to 100, inclusive
4 (collectively “Defendants”), and on information and belief alleges as follows:

5 **JURISDICTION**

6 1. Plaintiff hereby brings this First Amended Class and Representative Action
7 Complaint for recovery of unpaid wages and penalties under California Business and Professions
8 Code § 17200 *et seq.*, Labor Code §§ 204, 221-223, 226 *et seq.*, 510, 558, 1182.12, 1194, 1194.2,
9 1197, 1198, 1198.5, 2802, 2698 *et seq.*, and Industrial Welfare Commission Wage Order 1
10 (“Wage Order 1”), in addition to seeking declaratory relief and restitution. This Complaint is
11 brought pursuant to California Code of Civil Procedure § 382. This Court has jurisdiction over
12 Defendants’ violations of the California Labor Code because the amount in controversy exceeds
13 this Court's jurisdictional minimum.

14 **VENUE**

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

20 **PARTIES**

21 3. Plaintiff is an individual over the age of eighteen (18). At all relevant times herein,
22 Plaintiff was and currently is a California resident. During the four years immediately preceding
23 the filing of the Complaint in this action and within the statute of limitations periods applicable
24 to each cause of action pled herein, Plaintiff was employed by Defendants as a non-exempt
25 employee. Plaintiff was and is a victim of Defendants’ policies and/or practices complained of
26 herein, lost money and/or property, and has been deprived of the rights guaranteed by Labor Code
27 204, 221-223, 226 *et seq.*, 510, 558, 1182.12, 1194, 1194.2, 1197, 1198, 1198.5, 2802, 2698 *et*
28 *seq.*, California Business and Professions Code § 17200 *et seq.* (“Unfair Competition Law”), and

1 Wage Order 1, which sets employment standards for the manufacturing industry.

2 4. Plaintiff is informed and believes, and based thereon alleges, that during the four
3 years preceding the filing of the Complaint and continuing to the present, Defendants did (and
4 continue to do) business by manufacturing farm equipment in California and the United States,
5 employed Plaintiff within Tulare County and the state of California and, therefore, were (and are)
6 doing business in Tulare County and the State of California.

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

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

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

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

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2 **GENERAL FACTUAL ALLEGATIONS**

3 9. Plaintiff is employed by Defendants as a welder. He began employment with
4 Defendants in approximately April 2014 and he is presently employed. Defendants are in the
5 business of manufacturing farm equipment. Plaintiff is generally scheduled to work 5 days per
6 week from approximately 7:00 a.m. to 3:30 p.m.

7 10. Throughout the duration of Plaintiff's employment with Defendants, Plaintiff and
8 other non-exempt employees were not paid for all hours worked. Defendants required Plaintiff
9 and other non-exempt employees to clock in and out on a time clock. Upon information and
10 belief, Defendants had a practice of rounding the hours of Plaintiff and other non-exempt
11 employees so as to systemically pay them for less time than they actually worked notwithstanding
12 the fact Defendants had the ability to accurately record Plaintiff's and the putative classes' work
13 time to the minute.

14 11. Defendants maintained a policy/practice of not compensating Plaintiff and other
15 non-exempt employees for all their overtime hours worked in the pay period. As discussed above,
16 upon information and belief, Defendants maintained a policy/practice of rounding the hours of
17 Plaintiff and other non-exempt employees for purposes of avoiding payment for all overtime
18 hours worked.

19 12. Moreover, during Plaintiff's employment with Defendants, Plaintiff and other
20 non-exempt employees earned production-based bonuses in addition to other forms of non-
21 discretionary pay that must be included in the regular rate of pay (hereinafter referred to as
22 "Incentive Pay"). However, Defendants failed to properly calculate Plaintiff's and other non-
23 exempt employees' respective regular rates of pay for overtime purposes as a result of their receipt
24 of Incentive Pay. Instead, Plaintiff and non-exempt employees were paid less than one and one
25 half times (or two times in the case of double-time hours) the legal regular rate of pay for all
26 overtime hours worked. By way of example, employees received quarterly production bonuses
27 known as "Gains Sharing" based on work performed throughout the entire quarter, but the value
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of those bonuses was not included in the regular rate of pay for calculating overtime, sick pay, and other payments that must be paid at the regular rate of pay. Plaintiff's wage statement dated February 9, 2024, shows that Plaintiff earned a "Gs" payment of \$96.15. However, he was only compensated for overtime during this period at a rate of \$43.80 per overtime hour worked, which is exactly 1.5 times his base hourly rate of pay of \$29.20 per hour. As such, his overtime rate did not include the value of his "Gs" productivity bonus pay.

13. Moreover, Defendant also paid Plaintiff and other non-exempt employees hourly bonuses identified on wage statements as "Shift Diff" depending on certificates they obtained and the type of work they performed but did not include the value of those bonuses when calculating the regular rate of pay for sick pay and premium payments. For example, on Plaintiff's wage statement dated February 9, 2024, Plaintiff earned "Shift Diff" and also took sick leave during the pay period. However, he was only paid at an hourly rate of \$29.20 per hour for his sick leave, which is the same as his base hourly pay rate. As such, Defendants did not include the value of "Shift Diff" in his sick pay, thereby underpaying the amount of sick pay he was owed.

14. Under Defendants' stated policies and Plaintiff's agreement with Defendants, Plaintiff earned bonus wages and was entitled to bonus payments pursuant to an incentive plan. Plaintiff received some bonus payments at least approximately each quarter. Plaintiff was not paid all bonuses owed. Nor did Defendants provide Plaintiff with a written incentive plan. This prevented Plaintiff from reviewing the criteria on which the bonus payments were based and determining whether his bonus payments were properly calculated.

15. Furthermore, Defendants failed to adequately reimburse Plaintiff and other non-exempt employees for all reasonable and necessary work expenditures, including, but not limited to, requiring Plaintiff and other non-exempt employees to purchase boots, welding jackets, welding sleeves, gloves, helmets, helmet lenses, and respirators.

16. Defendants have maintained inaccurate payroll records, failed to timely pay all wages owed to employees, and issued inaccurate wage statements. This is in part a result of Defendants' failure to accurately compensate Plaintiff and other non-exempt employees for all

1 minimum and overtime wages, and failure to properly account to Incentive Pay for payment
2 purposes.

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

13 **CLASS ACTION ALLEGATIONS**

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

- 16 a. The Minimum Wage Class consists of all current and former non-exempt
17 employees of Defendants in California who were subject to Defendants'
18 timekeeping systems and/or practices, during the four years immediately
19 preceding the filing of this lawsuit through the present.
- 20 b. The Overtime Wage Class consists of all current and former non-exempt
21 employees of Defendants in California who worked overtime hours and were
22 subject to Defendants' timekeeping systems and/or practices, during the four years
23 immediately preceding the filing of this lawsuit through the present.
- 24 c. The Agreed-Upon Wage Class consists of all current and former non-exempt
25 employees of Defendants in California who were paid less than all agreed-upon
26 wages owed, including bonuses accrued, during the four years immediately
27 preceding the filing of this action through the present.
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1 d. The Employee Expense Class consists of all current and former non-exempt
2 employees of Defendants in California who were not reimbursed for expenses in
3 the performance of their job duties, including, but not limited to purchases of
4 boots, welding jackets, welding sleeves, gloves, helmets, helmet lenses, and
5 respirators for necessary business purposes during the four years immediately
6 preceding the filing of this lawsuit to the present.

7 e. The Wage Statement Class consists of all current and former non-exempt
8 employees of Defendants in California who received a wage statement from
9 Defendants during the one year immediately preceding the filing of this lawsuit
10 through the present.

11 19. **Numerosity/Ascertainability:** The members of the Classes are so numerous that
12 joinder of all members would be unfeasible and not practicable. The membership of the Classes is
13 unknown to Plaintiff at this time; however, it is estimated that the members of the Classes number
14 greater than one hundred (100) individuals. The identity of such membership is readily
15 ascertainable via inspection of Defendants' employment records.

16 20. **Common Questions of Law and Fact Predominate/Well Defined Community**
17 **of Interest:** There are common questions of law and fact as to Plaintiff and all other similarly
18 situated employees, which predominate over questions affecting only individual members. Those
19 common questions include, without limitation:
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21 i. Whether Defendants paid all minimum wages owed for all hours worked to
22 members of the Minimum Wage Class pursuant to Labor Code §§ 118.2, 1194,
23 1194.2, and 1197;

24 ii. Whether Defendants violated the applicable Labor Code provisions, including, but
25 not limited to, §§ 510 and 1194 and Wage Order 1 by requiring members of the
26 Overtime Wage Class to perform overtime work and not paying for said work in
27 accordance with the overtime laws of the State of California;

28 iii. Whether Defendants' timekeeping policies/practices resulted in the failure to

properly compensate members of the Minimum Wage Class;

iv. Whether Defendants failed to pay the members of the Agreed-Up On Wage Class all agreed-upon wages including bonuses accrued, pursuant to Labor Code §§ 221-223.

v. Whether Defendants failed to reimburse members of the Employee Expense Class for business expenditures necessarily incurred in the performance of their duties;

vi. Whether Defendants provided accurate, itemized wage statements to members of the Classes; and

21. **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, 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.

22. **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' and timekeeping policies and practices, was provided inaccurate wage statements, and was not paid all wages earned at the time of his separation of employment.

23. **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

1 prosecuting this action on behalf of the members of the Classes.

2 24. **Superiority:** The California Labor Code is broadly remedial in nature and serves
3 an important public interest in establishing minimum working conditions and standards in
4 California. These laws and labor standards protect the average working employee from
5 exploitation by employers who have the responsibility to follow the laws and who may seek to
6 take advantage of superior economic and bargaining power in setting onerous terms and
7 conditions of employment. The nature of this action and the format of laws available to Plaintiff
8 and members of the Classes make the class action format a particularly efficient and appropriate
9 procedure to redress the violations alleged herein. If each employee were required to file an
10 individual lawsuit, Defendants would necessarily gain an unconscionable advantage since they
11 would be able to exploit and overwhelm the limited resources of each individual plaintiff with
12 their vastly superior financial and legal resources. Moreover, requiring each member of the
13 Classes to pursue an individual remedy would also discourage the assertion of lawful claims by
14 employees who would be disinclined to file an action against their former and/or current employer
15 for real and justifiable fear of retaliation and permanent damages to their careers at subsequent
16 employment. Further, the prosecution of separate actions by the individual class members, even
17 if possible, would create a substantial risk of inconsistent or varying verdicts or adjudications
18 with respect to the individual class members against Defendants herein; and which would
19 establish potentially incompatible standards of conduct for Defendants; and/or legal
20 determinations with respect to individual class members which would, as a practical matter, be
21 dispositive of the interest of the other class members not parties to adjudications or which would
22 substantially impair or impede the ability of the class members to protect their interests. Further,
23 the claims of the individual members of the Classes are not sufficiently large to warrant vigorous
24 individual prosecution considering all of the concomitant costs and expenses attending thereto.
25 As such, the Classes (as defined herein) are maintainable as a Class under § 382 of the Code of
26 Civil Procedure.
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FIRST CAUSE OF ACTION
MINIMUM WAGE VIOLATIONS
(AGAINST ALL DEFENDANTS)

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

26. Wage Order 1, § 4 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 Wage Order 1.

27. 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.

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

29. Defendants' practice and uniform administration of corporate policy regarding illegal employee compensation is unlawful and creates an entitlement to recovery by Plaintiff and the Minimum Wage Class in a civil action for the unpaid amount of minimum wages, liquidated damages, including interest thereon, statutory penalties, and attorneys' fees and costs of suit

1 according to California Labor Code §§ 204, 558, 1194, *et seq.*, 1197, 1198 and Code of Civil
2 Procedure § 1021.5.

3 **SECOND CAUSE OF ACTION**

4 **FAILURE TO PAY ALL OVERTIME WAGES**

5 **(AGAINST ALL DEFENDANTS)**

6 30. Plaintiff re-allege and incorporates by reference all previous paragraphs.

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

11 32. At all times relevant herein, Defendants were required to properly compensate
12 Plaintiff and members of the Overtime Class for all overtime hours worked pursuant to California
13 Labor Code § 1194 and Wage Order 1. Wage Order 1, § 3 requires an employer to pay overtime
14 wages when an employee's hours worked cross certain thresholds or meet certain criteria set forth
15 in the Wage Order.

16 33. The foregoing policies and practices are unlawful and create entitlement to
17 recovery by Plaintiff and the Overtime Class in a civil action for the unpaid amount of overtime
18 premiums owing, including interest thereon, statutory penalties, and attorneys' fees and costs of
19 suit according to California Labor Code §§ 204, 510, 558, 1194, and 1198, Wage Order 1, and
20 Code of Civil Procedure § 1021.5.

21 **THIRD CAUSE OF ACTION**

22 **WAGE STATEMENT VIOLATIONS**

23 **(AGAINST ALL DEFENDANTS)**

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

25 35. Plaintiff is informed and believes, and based thereon alleges, that Defendants
26 knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Plaintiff
27 and the Wage Statement Class with complete and accurate wage statements all compensation
28 earned and hours worked.

1 36. Defendants' failures in furnishing Plaintiff and the Wage Statement Class with
2 complete and accurate itemized wage statements resulted in actual injury, as said failures led to,
3 among other things, the non-payment of all minimum and overtime wages, and deprived them of
4 the information necessary to identify the discrepancies in Defendants' reported data.

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

9 **FOURTH CAUSE OF ACTION**

10 **UNFAIR COMPETITION**

11 **(AGAINST ALL DEFENDANTS)**

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

13 39. Defendants have engaged and continue to engage in unfair and/or unlawful
14 business practices in California in violation of California Business and Professions Code § 17200
15 et seq., by failing to pay Plaintiff and the Classes all minimum and overtime wages, and failing
16 to furnish accurate, itemized wage statements,.

17 40. Defendants' utilization of these unfair and/or unlawful business practices deprived
18 Plaintiff and continues to deprive members of the Classes of compensation to which they are
19 legally entitled, constitutes unfair and/or unlawful competition, and provides an unfair advantage
20 over Defendants' competitors who have been and/or are currently employing workers and
21 attempting to do so in honest compliance with applicable wage and hour laws.

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

26 42. The acts complained of herein occurred within the last four years immediately
27 preceding the filing of the Complaint in this action.
28

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

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10 **FIFTH CAUSE OF ACTION**
11 **FAILURE TO REIMBURSE BUSINESS EXPENSES**
12 **(AGAINST ALL DEFENDANTS)**

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

14 45. At all relevant times herein, Defendants were subject to Labor Code § 2802, which
15 states that "an employer shall indemnify his or her employees for all necessary expenditures or
16 losses incurred by the employee in direct consequence of the discharge of his or her duties, or of
17 his or her obedience to the directions of the employer..."

18 46. Due to Defendants' unlawful policy and practice of requiring employees to
19 purchase boots, welding jackets, welding sleeves, gloves, helmets, helmet lenses, and respirators
20 to perform their work duties, Defendants have violated Labor Code § 2802.

21 47. Plaintiff and the members of the Employee Expense Class are entitled to attorneys'
22 fees and costs of suit pursuant to Labor Code § 2802(c) for bringing this action.

23 48. Pursuant to Labor Code §2802(b), any action brought for the reimbursement of
24 necessary expenditures carries interest at the same rate as judgments in civil actions. Thus,
25 Plaintiff and members of the Employee Expense Class are entitled to interest, which shall accrue
26 from the date on which they incurred the initial necessary expenditure.

27 **SIXTH CAUSE OF ACTION**
28 **FAILURE TO PAY ALL AGREED-UPON WAGES INCLUDING BONUS WAGES**

1 **ACCRUED**

2 **(AGAINST ALL DEFENDANTS)**

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

4 50. This cause of action is brought pursuant to Labor Code §§ 204 and 221-223 which
5 provide that all non-exempt employees are entitled to be paid all agreed-upon wages owed,
6 inclusive of bonus wages accrued and provide a right of action for the failure to pay all agreed-
7 upon wages owed for all work performed.

8 51. At all times relevant herein, Defendants were required to properly compensate
9 Plaintiff and the members of the Agreed-Upon Wage Class for all hours worked at the agreed-
10 upon wages, inclusive of bonus wages accrued, pursuant to California Labor Code §§ 221-223.
11 At all relevant times herein, Defendants required Plaintiff and the members of the Agreed-Upon
12 Wage Class to remain under Defendants' control and perform work without paying them all
13 agreed-upon wages owed, including bonus wages accrued, which resulted in Plaintiff and the
14 members of the Agreed-Upon Wage Class earning less than all agreed-upon wages owed for their
15 work. This pattern and practice by Defendants of failing to pay all agreed-upon wages owed,
16 inclusive of bonus wages for all work performed violates the Labor Code and constitutes unjust
17 enrichment.
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19 52. Pursuant to Labor Code § 204, all wages earned by any person in any employment
20 are due and payable twice during each calendar month, on days designated in advance by the
21 employer at the regular pay days. All wages earned for labor in excess of the normal work period
22 shall be paid no later than the payday for the next regular payroll period.

23 53. Pursuant to Labor Code § 204.1, commission wages paid to any person by an
24 employer are due and payable once during each calendar month on a day designated in advance
25 by the employer as the regular payday.

26 54. Plaintiff and other non-exempt employees earned agreed-upon wages including
27 bonus wages through their employment.

28 55. Defendants have refused to pay all of Plaintiff's agreed-upon wages including

1 bonus wages accrued. Defendants' failure to pay all agreed-upon wages including bonus wages
2 accrued was intentional and without cause or other reason.

3 56. The foregoing practices and policies are unlawful and create entitlement to
4 recovery by Plaintiff and the members of the Agreed-Upon Wage Class in a civil action for the
5 unpaid amount of agreed-upon wages owing, including interest thereon, as well as statutory
6 penalties, and attorneys' fees and costs of suit, pursuant to Labor Code §§ 204, 318.5, 218.6, 221,
7 and 558, and California Code of Civil Procedure § 1021.5.
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10 **SEVENTH CAUSE OF ACTION**

11 **FAILURE TO PROVIDE EMPLOYMENT RECORDS**

12 **(AGAINST ALL DEFENDANTS)**

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

14 58. Pursuant to Labor Code § 1198.5, employers in California are required to provide
15 the requesting current or former employee a copy of the requesting current or former employee's
16 personnel files and records that relate to the current or former employee's performance or to any
17 grievance concerning the employee. The employer must provide the file within 30 days from the
18 date that the employer receives the written request.

19 59. Pursuant to Labor Code § 226 (b) and (c), employers in California are required to
20 provide the requesting current or former employee a copy of employment and payroll records
21 within 21 days of request for such records. A violation of subdivision (c) is an infraction.

22 60. Plaintiff requested his personnel and payroll records pursuant to Labor Code §§
23 1198.5 and 226 on approximately April 30, 2024. Defendants failed to provide all requested
24 records within the allotted time. In particular, to date, Defendants have not provided the incentive
25 plan and corresponding time records to permit Plaintiff to calculate whether his bonuses were
26 properly calculated.

27 61. Plaintiff has been prejudiced in his efforts to obtain relief by his inability to access
28 critical employment information.

62. Defendants have thus violated Labor Code sections §§ 1198.5 and 226 by failing to provide complete employee personnel and payroll records within the allotted time of Plaintiff's request. As a result, Plaintiff is entitled to recover the seven-hundred and fifty dollar (\$750) penalty from Defendants, as well as attorney's fees, as provided by Labor Code §§ 226(f) and (h) and 1198.5(k).

EIGHTH CAUSE OF ACTION

PRIVATE ATTORNEYS GENERAL ACT

(AGAINST ALL DEFENDANTS)

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

64. 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 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 those violations of the Labor Code for which no civil penalty is specifically provided, based on the following Labor Code violations:

- a. Failing to pay minimum wages for all hours worked to Plaintiff, the Minimum Wage Class, and other aggrieved employees in violation of Labor Code §§ 551-552, 558, 1182.12, 1194, 1194.2, 1197, and 1198;
- b. Failing to pay Plaintiff, the Overtime Class, and other aggrieved employees all earned overtime compensation in violation of Labor Code §§ 204, 510, 558, 1194, and 1198;
- c. Failing to authorize and permit all legally required rest periods, and failure to pay rest period premium wages, to Plaintiff, the Rest Period Class, and other aggrieved employees at the regular rate of compensation in violation of Labor Code §§ 226.7, 516 and 558;
- d. Failing to provide all legally required meal periods, and failure to pay meal period premium wages, to Plaintiff, the Meal Period Class, and other aggrieved employees at the regular rate of compensation in violation of Labor Code §§ 226.7, 512, and 1198;
- e. Failing to reimburse Plaintiff, the Employee Expense Class and other aggrieved employees for necessary business expenditures incurred by Plaintiff, and other aggrieved employees in violation of Labor Code §§ 2800, 2802 and 2804;
- f. Failing to furnish Plaintiff, the Wage Statement Class, and other aggrieved employees with complete, accurate, itemized wage statements in violation of Labor Code § 226;
- g. Failing to timely pay all final wages and compensation earned by Plaintiff, the Waiting Time Class, and other aggrieved employees at the time of separation in violation of Labor Code §§ 201, 202, and 203;
- h. Failing to pay Plaintiff and other aggrieved employees all earned wages at least twice during each calendar month in violation of Labor Code § 204;
- i. Failing to pay Plaintiff and other aggrieved employees accrued paid sick leave at the regular rate of pay in violation of Labor Code §§ 233, 245.5, 246(b), and 246.5;

- j. 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;
- k. Failing to maintain accurate records on behalf of Plaintiff and other aggrieved employees in violation of Labor Code §§ 1174 and 1198; and
- l. Failure to pay all agreed-upon wages including bonus wages accrued in violation of Labor Code §§ 221-223).

65. On December 6, 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 64 (a)-(1). 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.

66. Plaintiff was compelled to retain the services of counsel to file this court action to protect her 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 she 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;

1 4. Upon the First Cause of Action, for payment of minimum wages, liquidated
2 damages, and penalties according to proof pursuant to Labor Code §§ 1182.12, 1194, 1194.2,
3 1198 and Wage Order 1 § 4(A);

4 5. Upon the Second Cause of Action, for compensatory, consequential, general, and
5 special damages according to proof pursuant to Labor Code §§ 204, 510, 558, 1194, 1198 and
6 Wage Order 1 § 3(A);

7 6. Upon the Third Cause of Action, for statutory penalties pursuant to Labor Code §
8 226;

9 7. Upon the Fourth Cause of Action, for restitution to Plaintiff of all money and/or
10 property unlawfully acquired by Defendants by means of any acts or practices declared by this
11 Court to be in violation of Business and Professions Code § 17200 *et seq.*;

12 8. Upon the Fifth Cause of Action, for compensatory, consequential, general, and
13 special damages according to proof pursuant to Labor Code § 2802;

14 9. Upon the Sixth Cause of Action, for compensatory, consequential, general and
15 special damages according to proof pursuant to Labor Code §§ 204 and 221-223;

16 10. Upon the Seventh Cause of Action, for statutory penalties pursuant to Labor Code
17 §§ 226 and 1198.5;

18 11. Upon the Eighth Cause of Action, for (1) \$100.00 for each initial violation for each
19 failure to pay each employee and \$200 for each subsequent violation or willful or intentional
20 violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the
21 amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100 for each subsequent
22 violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial
23 violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per
24 employee per pay period; (4) \$250.00 for each initial violation and \$1,000.00 for each subsequent
25 violation pursuant to Labor Code § 226.3 per employee per pay period; and/or (5) \$100.00 for
26 each initial violation and \$200 for each subsequent violation per employee per pay period for the
27 violations of the Labor Code Sections cited in Labor Code § 2699.5

28 12. Prejudgment interest on all due and unpaid wages pursuant to California Labor

Code § 218.6 and Civil Code §§ 3287 and 3289;

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

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

Dated: March 7, 2025

Respectfully submitted,
STANSBURY BROWN LAW, PC

By: _____



Daniel J. Brown
Kathleen J. Becket
Attorneys for Plaintiff

DEMAND FOR JURY TRIAL

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

Dated: March 7, 2025

Respectfully submitted,
STANSBURY BROWN LAW, PC

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 March 10, 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 March 10, 2025, at South Gate, CA.

Laura Romero

Laura Romero

SERVICE LIST

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