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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES – CENTRAL DISTRICT

RIGOBERTO HENRIQUEZ ZELAYA,

Plaintiff,

v.

DELRAY LIGHTING, LLC and DOES 1 to 50,

Defendants.

Case No.: 24STCV32569

COMPLAINT FOR DAMAGES, PENALTIES AND OTHER RELIEF:

1. Failure to Pay Overtime
2. Failure to Pay Minimum Wages
3. Meal Period Violations
4. Rest Break Violations
5. Failure to Pay Vested Vacation Benefits
6. Sick and Covid Period/Benefits Violations
7. Failure to Maintain Employee Records
8. Unreimbursed Business Expenses
9. Release of Claims for Wage Violations
10. Reporting Time Violations
11. Untimely Payment of Wages
12. Failure to Timely Pay Wages at Separation
13. Wage Statements Violations
14. Misclassification
15. Failure to Pay Regular Rate of Pay
16. Unfair Business Practices
17. Wrongful Termination in Violation of Public Policy

Demand for a Jury Trial

INTRODUCTORY ALLEGATIONS

1. Plaintiff is Rigoberto Henriquez Zelaya ("Plaintiff" and/or "Mr. Zelaya"). At all times here, Mr. Zelaya was a resident of the County of Los Angeles, State of California.

2. Mr. Zelaya initially started working for Employers from 2008 through 2011 and was later rehired from 2013 through April 10, 2024. Mr. Zelaya was primarily in charge of assembling light and light fixtures throughout his employment period. Employers operated from various locations in the State of California, with a base identity or principal place of business in the State of Florida. For the duration of his employment, Plaintiff worked from Employers' Burbank location, at 7545 N. Lockheed Drive, Burbank, California 91505-1045, but toward the termination of his employment, Employers moved to the Chatsworth location, at 9200 Deering Ave., Chatsworth, CA 91311. As a result of the transition, Mr. Zelaya was advised by Employers that there was no more work available for him at the Chatsworth location, which representation, in truth, was an excuse by Employers to discriminatorily terminate Mr. Zelaya due to his age, with a date of birth of 10/09/1963, at the age of 60. In fact, Employers business operation thrived at the new location with a surcharge in the employee count and hiring ratio. Going back for at least four years and continuing at the present time, the Employers/Defendants have engaged in the following employment practices in violation of California employment laws. The gravamen of this action is multiple illegal employment practices giving rise to the following:

a. Fifteen (15) Causes of Action for multiple violations of various wage/hour and related laws which deprived Mr. Zelaya of employment benefits and rights mandated under California law.

b. A Cause of Action for Unfair Business Practices.

c. A Cause of Action for Wrongful Termination in Violation of Public Policy.

d. A Cause of Action, upon amending this Complaint, for FEHA Violations, including discrimination and harassment.

e. A Cause of Action, upon amending this Complaint, for Labor Code Violations Pursuant to the California Private Attorney General Act, in accordance with

12/05/2024 Notice of said violation to the California Department of Labor and Workforce Development Agency ("LWDA") - LWDA Case No. LWDA-CM-1065312-24.

3. Plaintiff brings this action against Defendants DELRAY LIGHTING, LLC, and DOES 1 through 50, and Defendants' parent companies, subsidiaries, successors, owners, officers, directors, and managing agents (also referred to as "Defendants" or "Employers"). At all times here, Employers have been engaged in the business of manufacturing lights and related fixtures and accessories. According to their website, they are known to be "a manufacturer of energy-efficient decorative architectural lighting fixtures." The types of products include "pendants, chandeliers, tubes, and linear lights, as well as semi-recessed downlights" in the State of California. Defendants have employed/jointly employed Employees (including Mr. Zelaya) to perform work and services in furtherance of their business/joint enterprise. Defendants' principal place of business has been in the state of Florida, at 1700 NW 18th Street, Suite 905, Pompano Beach, FL, 33069. Plaintiff will seek to hold all owners, directors, officers and managing agents of his Employer personally liable for violations under Labor Code § 558 and/or Labor Code § 558.1. Defendants were authorized to do business in the State of California.

4. Defendant business entities were the alter-egos of each and every other entity, and at all times herein mentioned, has existed, a unity of interest and ownership between said entities and individuals such that any separateness between them ceased to exist in that said individuals and other entities have completely controlled, dominated, managed, and operated the business entities and have intermingled the assets of each to suit convenience. As well, said entities were, mere shells, instrumentalities, and conduits through which the other above-referenced entities/individuals carried out their business while exercising complete control and dominance of the business such that individuality or separateness did not truly exist.

5. Defendants and their parent companies, subsidiaries, successors, owners, officers, directors, and/or managing agents have been engaged in a joint enterprise. Moreover, said persons/individuals are joint employers for the following reasons: 1) They indirectly exercised

control over the wages, hours or working conditions of employees; 2) They had knowledge (either personally or through officers, directors and/or managing agents) of the work employees were doing for them while supposedly being employed by another entity/individual and failed to prevent the work from occurring; and 3) Said entities retained or assumed a general right of control over hiring, direction, supervision, discipline, discharge, and relevant day-to-day aspects of the workplace behavior of employees.

6. Each of the above-referenced Defendants had authority to set Employer's policies, procedures, and practices as well as the authority to hire, transfer, promote, assign, reward, discipline employees or to effectively recommend said actions. Defendants also had responsibility to act on employee grievances and/or to effectively recommend actions on employee grievances. Defendants also had the authority and/or responsibility to direct Plaintiff's daily work activities. The exercise of said authority and responsibility by the above-referenced individual Defendants required the use of their independent judgment.

7. At all times herein and for prior years, Defendants either employed individuals in California and/or were involved in managing businesses and/or employees in California. During those years, Defendants were provided with notifications from various governmental agencies as well as various publications advising them of the requirements of the employment laws referenced here. Accordingly, Defendants knew the obligations owed to employees/joint employees under California law. As such, Defendants' failures to comply with the applicable Labor Code sections, Industrial Wage Orders, regulations, and local laws as described here were done willfully, intentionally and with knowledge of their illegality. Despite said knowledge, said Defendants deliberately approved, established and/or implemented company-wide policies, procedures and/or practices they knew violated California law as set forth here and did so for the purpose of maximizing the profits of and/or their own personal gain (monetary or otherwise) to the illegal detriment of employees, including Mr. Zelaya.

8. Additionally, Defendants knew it was necessary to possess, and Defendants did possess, a certain level of knowledge and skill in order to comply with the labor and employment laws applicable to their area of business. Said knowledge was vastly superior to that of Defendants'

employees. Moreover, Defendants' employees depended on Defendants to know, record and/or track certain information to ensure California labor laws were followed. Such things include the dates and times worked by employees, when wages were owed to employees, the number of rest and meal breaks, when rest and meal breaks were required to be provided, the information required to be accurately reported on employee wage statements, when employees should be paid their final wages, etc.

9. The facts linking the fictitiously designated Defendants with the causes of action alleged herein and/or the true names and capacities, whether individual, corporate, partnership, or otherwise of Defendants, DOES 1 through 50, are unknown to Plaintiff(s) at this time, who therefore sue said Defendants by such fictitious names and will seek to amend this Complaint to show their true names and/or capacities when ascertained.

10. There is no legally recognized exemption or exception which excused Defendants; therefore, Defendants were without legal justification or excuse for failing to comply with laws.

FIRST CAUSE OF ACTION – FAILURE TO PAY OVERTIME WAGES, BY PLAINTIFF RIGOBERTO HENRIQUEZ ZELAYA AGAINST ALL DEFENDANTS

11. Plaintiff incorporates paragraphs 1 through 10 of this Complaint.

12. Pursuant to Labor Code § 510 and the applicable Industrial Wage Orders, Defendants \ were required to pay Plaintiff as well as other non-exempt employees overtime pay as follows:

a. For works in excess of 8 hours in one workday, no less than one and one-half times the employee's regular rate of pay for all hours worked in excess of 8 hours up to and including 12 hours in one workday.

b. For work in excess of 12 hours in one workday, no less than twice the employee's regular rate of pay.

c. For work in excess of 40 hours in any one workweek, no less than one and one-half times the employee's regular rate of pay for all hours in excess of 40 hours.

13. At all times during the statute of limitations period applicable to this cause of action, Defendants, and each of them, willfully, knowingly, and intentionally failed to calculate and compensate Mr. Zelaya the overtime wages per Labor Code § 510 and/or applicable Industrial

Wage Order. Specifically, Defendants unfairly rounded Mr. Zelaya' work hours and/or failed to include all the time Mr. Zelaya worked, in calculating the wages that were owed for each pay period. Thereby, Plaintiff was denied overtime wages.

14. Plaintiff is entitled to recover the wages, damages, penalties, awards, and remedies set forth in the Prayer for Damages - "Individual Causes of Action for Labor Law Violations."

SECOND CAUSE OF ACTION – FAILURE TO PAY MINIMUM WAGES, BY PLAINTIFF RIGOBERTO HENRIQUEZ ZELAYA AGAINST ALL DEFENDANTS

15. Plaintiff incorporates paragraphs 1 through 10 of this Complaint.

16. At all times herein, pursuant to Labor Code § 1182.12, applicable Industrial Wage Orders, and local ordinances, Defendants were required to pay Mr. Zelaya and their other non-exempt employees at least the minimum hourly wage.

17. Defendants willfully, knowingly, and intentionally failed to calculate and compensate Mr. Zelaya the minimum wages for all the hours worked, including, but not limited to, off the clock work, travel time, rounded time, and the time required to clock in/out for rest and/or meal breaks, etc. Said violations also include non-compliance with the local wage ordinances in place at all times relevant here.

18. Plaintiff is entitled to recover the wages, damages, penalties, awards, and remedies set forth in the Prayer for Damages - "Individual Causes of Action for Labor Law Violations."

THIRD CAUSE OF ACTION -- FAILURE TO PROVIDE MEAL PERIODS OR PREMIUM PAY, BY PLAINTIFF RIGOBERTO HENRIQUEZ ZELAYA AGAINST ALL DEFENDANTS

19. Plaintiff incorporates paragraphs 1 through 10 of this Complaint.

20. At all times herein, pursuant to Labor Code § 512 and the applicable Wage Orders, an employer may not employ an employee to work more than a five hours per day without providing the employee with a thirty-minute meal break within the first five hours.

21. Labor Code § 512 and the applicable Wage Order further provide that an employer may not employ an employee for a work period of more than ten hours per day without providing the employee with a second meal period of not less than 30 minutes. California law also

requires that for a meal period to qualify as a valid meal period under the law, the meal period must be timely, off-duty, unrestricted, and uninterrupted.

22. Defendants either deprived Mr. Zelaya of taking the meal period(s) required each workday, required Plaintiff to take his meal periods after the fifth hour of work, restricted his meal periods, and/or interrupted his meal periods. As a result, Defendants were required by Labor Code § 226.7 and/or the applicable IWC Wage Orders to pay Plaintiff "premium pay," i.e., one (1) hour of pay at their regular rate of pay for each workday.

23. For the period that Mr. Zelaya was employed by Defendants, Defendants failed to provide meal periods and failed to pay Plaintiff the premium pay.

24. Plaintiff is entitled to recover the wages, damages, penalties, awards, and remedies set forth in the Prayer for Damages - "Individual Causes of Action for Labor Law Violations."

FOURTH CAUSE OF ACTION – FAILURE TO PROVIDE REST PERIODS OR PREMIUM PAY, BY PLAINTIFF RIGOBERTO HENRIQUEZ ZELAYA AGAINST ALL DEFENDANTS

25. Plaintiff incorporates paragraphs 1 through 10 of this Complaint.

26. At all times herein, pursuant to the California Labor Code, the applicable Industrial Wage Order, and/or applicable regulation, employers must authorize and permit employees to take paid rest periods at the rate of 10 minutes net rest time per four hours or major fraction thereof (unless the total work time is less than 3 ½ hours). So far as practical, the mandatory rest breaks must be provided in the middle of each work period of the workday. And, the rest break must be paid, timely, off-duty, unrestricted, and uninterrupted.

27. Mr. Zelaya regularly worked more than 6 hours a day, entitling him to two 10-minute rest breaks -- one in the middle of his first work period of each workday and one in the middle of his second work period during each workday.

28. In violation of California law, Defendants either 1) deprived Mr. Zelaya of taking the rest periods required under California law, 2) required him to take his rest breaks too early or too late (even though it was practical for Plaintiff to take his rest breaks in the middle of each work period), 3) restricted the rest breaks and/or 4) interrupted the rest breaks.

29. In violation of Labor Code § 226.7, Defendants also failed to pay Mr. Zelaya one (1) hour of pay at his regular rate of pay for each workday that a rest break was not provided, was provided too early or too late, was on-duty, was restricted, and/or was interrupted.

30. Plaintiff is entitled to recover the wages, damages, penalties, awards, and remedies set forth in the Prayer for Damages - "Individual Causes of Action for Labor Law Violations."

FIFTH CAUSE OF ACTION – FAILURE TO PAY VESTED VACATION BENEFITS, BY PLAINTIFF RIGOBERTO HENRIQUEZ ZELAYA AGAINST ALL DEFENDANTS

31. Plaintiff incorporates paragraphs 1 through 10 of this Complaint.

32. As required by Labor Code § 227.3, unless otherwise provided by a collective-bargaining agreement, whenever a contract of employment or employer policy provides for paid vacations, and an employee is terminated without having taken off his vested vacation time, all vested vacation shall be paid to him as wages at his final rate in accordance with such contract of employment or employer policy respecting eligibility or time served; provided, however, that an employment contract or employer policy shall not provide for forfeiture of vested vacation time upon termination.

33. Defendants have violated and continue to violate Labor Code § 227.3 by failing to pay Plaintiff his vested vacation time at the time of his separation from Defendants.

34. Plaintiff is entitled to recover the wages, damages, penalties, awards, and remedies set forth in the Prayer for Damages - "Individual Causes of Action for Labor Law Violations."

SIXTH CAUSE OF ACTION – FAILURE TO PROVIDE/PERMIT ACCRUED SICK TIME & COVID BENEFITS, BY PLAINTIFF RIGOBERTO HENRIQUEZ ZELAYA AGAINST ALL DEFENDANTS

35. Plaintiff incorporates paragraphs 1 through 10 of this Complaint.

36. Pursuant to Labor Code §246, employers in California are required to provide employees with sick leave time that accrues at the rates mandated or other applicable law. An employee shall accrue paid sick days at the rate of not less than one hour per every 30 hours worked, beginning at the commencement of employment or the operative date as set forth in the Code, whichever is later, subject to the use and accrual limitations set forth. Defendants are

also required to notify employees of the amount of their accrued sick leave either in their wage statements or in a separate writing with the employee's payment of wages.

38. Pursuant to Labor Code § 233, employers are also required to permit employees to use accumulated sick time for any of the reasons specified in Labor Code § 246.5 including the following: diagnosis, care, or treatment of an existing health condition of (or preventive care for) an employee or an employee's family member. Labor Code § 246.5 specifically prohibits an employer from denying employees the right to use accrued sick days or attempting to exercise their right to use accrued sick days.

39. Pursuant to Labor Code § 246 as well, an employer may lend paid sick days to an employee in advance of accrual, at the employer's discretion and with proper documentation. Defendants were also duty bound to provide Mr. Zelaya with written notice that sets forth the amount of paid sick leave available, or paid time off leave Defendants provided in lieu of sick leave, for use on either Mr. Zelaya' itemized wage statement described in Section 226 or in a separate writing provided on the designated pay date with the Plaintiff's payment of wages.

40. Furthermore, a covered employee, who is considered full-time or who worked or was scheduled to work an average of at least 40 hours per week in the two weeks before the leave is taken, is entitled to up to 80 hours of medical leave, comprised of 40 hours of COVID-19 Supplemental Paid Sick Leave and an additional 40 hours if the covered employee or the qualifying family member tests positive for COVID-19.

41. Defendants failed to confer Code compliant sick leave and Covid benefits to Plaintiff.

42. Plaintiff is entitled to recover the wages, damages, penalties, awards, and remedies set forth in the Prayer for Damages - "Individual Causes of Action for Labor Law Violations."

SEVENTH CAUSE OF ACTION – FOR FAILURE TO MAINTAIN EMPLOYEE RECORDS, BY PLAINTIFF RIGOBERTO HENRIQUEZ ZELAYA AGAISNT ALL DEFENDANTS

43. Plaintiff incorporates paragraphs 1 through 10 of this Complaint.

44. Defendants have failed and continue to fail record keeping practices in compliance with Labor Code Sections 1174 (c) and (d), which in pertinent part provide: "(c) Keep a record

showing the names and addresses of all employees employed and the ages of all minors. (d) Keep at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by, and any applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept in accordance with rules established for this purpose by the commission, but in any case, shall be kept on file for not less than three years. An employer shall not prohibit an employee from maintaining a personal record of hours worked, or, if paid on a piece-rate basis, piece-rate units earned."

45. It became evident after review of the records and relevant data that record keeping practices were lawfully deficient for computation of wages, premium and overtime wages, regular rate of pay adjustments, PTO benefits, and reporting requirements for the wage statements.

46. Defendants' wage statements do not accurately set forth all the hourly rates in effect to the pay period and/or the accurate corresponding number of hours worked at each hourly rate by Employees. The aggrieved employees were affected by said violations and none were provided the opportunity to examine their respective records at all times relevant here.

47. Plaintiff is not in receipt of the employee records of Plaintiff in accordance with Labor Code §§ 226, 432 and 1198.5 and applicable Industrial Wage Orders. Therefore, Plaintiff reserves the right to amend this cause of action upon review and examination of said records.

48. Plaintiff is entitled to recover the wages, damages, penalties, awards, and remedies set forth in the Prayer for Damages - "Individual Causes of Action for Labor Law Violations."

EIGHTH CAUSE OF ACTION – FOR FAILURE TO REIMBURSE ALL BUSINESS EXPENSES, BY PLAINTIFF RIGOBERTO HENRIQUEZ ZELAYA AGAISNT ALL DEFENDANTS

49. Plaintiff incorporates paragraphs 1 through 10 of this Complaint.

50. Labor Code § 2800 provides, in pertinent part, "[a]n employer shall in all cases indemnify the employee for losses caused by the employer's want of ordinary care." Labor Code § 2802 provides, in pertinent part, "[a]n employer shall indemnify the employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of him

of his duties…"

51. Defendants required Plaintiff to incur certain expenses during the course and scope of his work for Defendants, and Defendants have failed to reimburse Plaintiff for said business related expenses under California law.

52. Plaintiff is entitled to recover the wages, damages, penalties, awards, and remedies set forth in the Prayer for Damages - "Individual Causes of Action for Labor Law Violations."

NINTH CAUSE OF ACTION – FOR RELEASE OF CLAIMS FOR WAGE VIOLATIONS, BY PLAINTIFF RIGOBERTO HENRIQUEZ ZELAYA AGAISNT ALL DEFENDANTS

53. Plaintiff incorporates paragraph 1 – 51, except for paragraphs 11, 14, 15, 18, 19, 24, 25, 30, 31, 34, 35, 42, 43, 48, and 49 of this Complaint.

54. California Labor Code section 206.5 prohibits employers from requiring employees to execute releases of a claim or right "on account of wages due, or to become due, or made as an advance on wages to be earned, unless payment of those wages has been made. A release required or executed in violation of the provisions of this section shall be null and void as between the employer and the employee."

55. The Employer required Mr. Zelaya and other aggrieved employees to release their claims for unpaid wages, penalties, and other claims as a condition to receiving their paychecks. That practice is in violation of California Labor Code § 206.5. As such, Mr. Zelaya is entitled to penalties, attorney's fees, costs, and interest, per Labor Code §§ 2699(a), (f)-(g).

56. Plaintiff is entitled to recover the wages, damages, penalties, awards, and remedies set forth in the Prayer for Damages - "Individual Causes of Action for Labor Law Violations."

TENTH CAUSE OF ACTION – FOR REPORTING TIME VIOLATIONS BY PLAINTIFF RIGOBERTO HENRIQUEZ ZELAYA AGAINST ALL DEFENDANTS

57. Plaintiff incorporates paragraphs 1 through 10 of this Complaint.

58. No employer may employ an employee prohibited by the applicable IWC wage orders. California Labor Code section 1198 further requires that ". . . the standard conditions of labor fixed by the commission shall be the . . .standard conditions of labor for employees. The

employment of any employee . . . under conditions of labor prohibited by the order is unlawful."

59. California Code of Regulations, Title 8, section 11160(5)(A) provides that "[e]ach workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee's usual or scheduled day's work, the employee shall be paid for half the usual or scheduled day's work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee's regular rate of pay, which shall not be less than the minimum wage."

60. Defendants violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11160(5), because they failed to pay Mr. Zelaya reporting time pay when he reported to work.

61. Mr. Zelaya is entitled to recover damages, civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g), and as set forth in the Prayer for "Individual Causes of Action for Labor Law Violations."

ELEVENTH CAUSE OF ACTION – FAILURE TO PAY WAGES/ TIMELY PAY WAGES FOR ALL TIME WORKED, BY PLAINTIFF RIGOBERTO HENRIQUEZ ZELAYA AGAINST ALL DEFENDANTS

62. Plaintiff incorporates paragraph 1 – 61, except for paragraphs 11, 14, 15, 18, 19, 24, 25, 30, 31, 34, 35, 42, 43, 48, 49, 52, 53, 56, and 57 of this Complaint.

63. Pursuant to Labor Code § 200, wages in California include all amounts for labor performed by employees of every description, whether the amount is fixed or ascertained by the standard of time, task, piece, commission basis, or other method of calculation. Wages under Labor Code § 200 also include vested benefits such as premium pay for missed, untimely, on-duty, restricted and/or interrupted meal periods and/or rest breaks. All non-exempt employees must be paid all earned wages within the timeframes set forth in Labor Code § 204.

64. Defendants willfully, knowingly, and intentionally failed to pay Mr. Zelaya for all time worked whether or not reported for travel time between job locations and for unfairly rounded punch-in/out times. Defendants also illegally required Mr. Zelaya to clock out for rest and/or

meal breaks that were legally required to be paid by Defendants and failed to pay for missed, untimely, short, on-duty, interrupted or restricted meal and/or rest breaks.

65. Since such wages were not paid, said wages were also not paid in accordance with the time frames set forth in Labor Code § 204.

66. Plaintiff is entitled to recover the wages, damages, penalties, awards, and remedies set forth in the Prayer for Damages - "Individual Causes of Action for Labor Law Violations."

TWELFTH CAUSE OF ACTION FOR FAILURE TO TMELY PAY WAGES OWED AT TIME OF SEPARATION, BY PLAINTIFF RIGOBERTO HENRIQUEZ ZELAYA AGAINST ALL DEFENDANTS

67. Plaintiff incorporates paragraph 1 – 65, except for paragraphs 11, 14, 15, 18, 19, 24, 25, 30, 31, 34, 35, 42, 43, 48, 49, 52, 53, 56, 57, 61, and 62 of this Complaint.

68. Pursuant to Labor Code § 201, employers are required to immediately pay employees all wages due at the time employees are discharged. Additionally, pursuant to Labor Code § 202, if an employee gives at least 72-hours previous notice of their intent to quit/retire, the employer is required to pay the employee all wages due the time the employee quits/retires. Pursuant to Labor Code § 202, if an employee does not give 72-hours previous notice of their intention to quit/retire, the employer is required to pay the employee all wages due to the employee within 72-hours of the time the employee leaves employment.

69. In violation of Labor Code §§ 201-202, Mr. Zelaya was not timely paid all wages due at the time of his separation from Defendants even though said Defendants knew such payment was owed in accordance with Labor Code §§ 201-202. Plaintiff was not paid the overtime, regular time, minimum, premium, and reporting time wages. Also, Mr. Zelaya was not paid vacation and accrued sick and Covid benefits that were owed at the time of the separation of Mr. Zelaya from Defendants. Defendants thereby willfully violated Labor Code §§ 201-202 and the applicable IWC Wage Order(s).

70. Because Mr. Zelaya was not paid all the wages owed in accordance with the time frames set forth in Labor Code §§ 201-202, pursuant to Labor Code § 203, Defendants were required to pay Plaintiff his regular wages from the due date thereof at the same rate until paid, up to a

maximum of thirty (30) days of pay.

71. Plaintiff is entitled to recover the wages, damages, penalties, awards, and remedies set forth in the Prayer for Damages - "Individual Causes of Action for Labor Law Violations."

THIRTEENTH CAUSE OF ACTION – FAILURE TO PROVIDE ACCURATE WAGE STATEMENTS, BY PLAINTIFF RIGOBERTO HENRIQUEZ ZELAYA AGAINST ALL DEFENDANTS

72. Plaintiff incorporates paragraph 1 – 70, except for paragraphs 11, 14, 15, 18, 19, 24, 25, 30, 31, 34, 35, 42, 43, 48, 49, 52, 53, 56, 57, 61, 62, 66, and 67 of this Complaint.

73. At all times herein, pursuant to Labor Code § 226(a), each time an employer pays wages to an employee, the Employer is required to furnish the employee with an "accurate itemized statement in writing" that itemizes the following: 1) gross wages earned; 2) total hours worked; 3) the number of piece-rate units earned and the applicable piece rates; 4) all deductions; 5) net wages earned; 6) the inclusive dates for which the employee is being paid; 7) name of the employee and only the last 4 digits of his/her social security number or employee I.D. number; 8) the name and address of the legal entity of the employer; and 9) all hourly rates in effect to the pay period and hours worked at each hourly rate.

74. Defendants violated Labor Code §226(a) by not providing Mr. Zelaya with Code compliant wage statements at all times relevant here.

75. As a result, Plaintiff was not reasonably able to promptly and easily determine the information intended to be communicated to Mr. Zelaya by the Employer. A reasonable person would also have been unable to readily discern the above information without reference to other documents or information.

76. Plaintiff is entitled to recover the wages, damages, penalties, awards, and remedies set forth in the Prayer for Damages - "Individual Causes of Action for Labor Law Violations."

FOURTEENTH CAUSE OF ACTION – MISCLASSIFICATION OF PLAINTIFF AS INDEPENDENT CONTRACTORS/EXEMPT EMPLOYEES, BY HENRIQUEZ ZELAYA AGAINST ALL DEFENDANTS

77. Plaintiff incorporates paragraph 1 – 75, except for paragraphs 11, 14, 15, 18, 19, 24,

25, 30, 31, 34, 35, 42, 43, 48, 49, 52, 53, 56, 57, 61, 62, 66, 67, 72, and 73 of this Complaint.

78. At all times that Plaintiffs worked at Defendants, they were employees/joint employees of Defendants for the following reasons:

a. They were under the control and direction of Defendants. On a daily basis, Defendants directed the specific worked that they performed, when it would be performed, how it would be performed, and for how long it would be performed. Additionally, the kind of work performed by said employees was the kind of work usually done under the direction of a supervisor rather than as a specialist without a supervisor.

b. The work that Plaintiffs performed at Defendants was within the usual course of Defendants' businesses; and

c. During the time that Plaintiffs performed work at Defendants, they were not customarily engaged in an independently established trade, occupation, or business of the same nature as the work that they performed.

79. At all times that Plaintiffs provided work at Defendants, they were non-exempt employees of Defendants for the following reasons:

a. They were either not paid a salary or the salary they were paid was not at least twice the minimum wage for full-time employment.

b. Their primary duties did not consist of administrative, executive, or professional tasks.

c. Their job duties did not involve the use of discretion or independent judgment.

d. Other reasons are set forth in the applicable Industrial Wage Orders.

80. Based on the above and pursuant to California law, at all times herein, Plaintiffs were non-exempt employee rather than exempt employees of Defendants.

81. At different times during the time that Plaintiffs were employed by Defendants, they were misclassified as independent contractors and exempt employees. Misclassifying Plaintiffs as independent contractors and/or exempt employees was done willfully by Defendants for the purpose of maximizing the business profits of Defendants and to the illegal detriment of said employees. This was accomplished by depriving said employees of employment benefits that employers owe to employees/non-exempt employees (but not independent contractors/exempt

employees) under California law including the following: Employer contributions to federal and state tax accounts (including Social Security), sick leave benefits, medical benefits, reimbursement of business expenses under Labor Code §2802, overtime wages, legally compliant rest breaks and meal periods, workers' compensation benefits, legally compliant and accurate wage statements, etc.

82. Plaintiff is entitled to recover the wages, damages, penalties, awards, and remedies set forth in the Prayer for Damages - "Individual Causes of Action for Labor Law V for Labor Law Violations."

FIFTEENTH CAUSE OF ACTION – FAILURE TO PAY REGULAR RATE OF PAY, BY PLAINTIFF RIGOBERTO HENRIQUEZ ZELAYA AGAINST ALL DEFENDANTS

83. Plaintiff incorporates paragraph 1 – 81, except for paragraphs 11, 14, 15, 18, 19, 24, 25, 30, 31, 34, 35, 42, 43, 48, 49, 52, 53, 56, 57, 61, 62, 66, 67, 71, 72, 76 and 77 of this Complaint.

84. Defendants have failed and continue to fail to take into consideration the "regular rate of pay," encompassing all nondiscretionary payments, not just hourly wages, in their computation of premium pay for non-compliant meal, rest or recovery period under Labor Code Section 226.7(c) and Ferra v. Loews Hollywood Hotel, LLC (2021) 11 Cal5th 858.

85. Defendants have also failed and continues to fail to take into consideration the regular rate of pay in their computation of overtime pay pursuant to Labor Code Section 510(a). Mr. Zelaya received non-discretionary bonuses relevant here and was denied the appropriate adjustments to the wages based on the requisite regular rate analysis.

86. Plaintiff is entitled to recover the damages, penalties, awards, and other remedies set forth in the Prayer for Damages - "Individual Causes of Action for Labor Law Violations."

SIXTEENTH CAUSE OF ACTION – UNFAIR BUSINESS PRACTICES, BY PLAINTIFF RIGOBERTO HENRIQUEZ ZELAYA AGAINST ALL DEFENDANTS

87. Plaintiff incorporates paragraph 1 – 85, except for paragraphs 11, 14, 15, 18, 19, 24, 25, 30, 31, 34, 35, 42, 43, 48, 49, 52, 53, 56, 57, 61, 62, 66, 67,71, 72, 76, 77, 78, 82, and 83 of this Complaint.

88. Business and Professions Code §17200 provides as applicable ". . . [U]nfair competition shall mean and include any unlawful, unfair or fraudulent business act or practice ...."

89. Business and Professions Code §17205 provides that unless otherwise expressly provided, the remedies or penalties provided for unfair competition "are cumulative to each other and to the remedies or penalties available under all other laws of this state."

90. Business and Professions Code §17204 provides that an action for any relief from unfair competition may be prosecuted by any person who has suffered injury in fact and has lost money or property as a result of such unfair competition.

91. Defendants have engaged in unlawful business acts or practices, including those set forth in the preceding paragraphs of the Complaint, and, thereby, have wrongfully deprived Plaintiff from the minimum working standards and conditions under the California Labor Code, the Code of Regulations and/or applicable IWC Wage Order(s), as set forth herein.

92. Defendants have also engaged in unfair business practices in California by practicing, employing, and utilizing the employment practices outlined in the preceding paragraphs, which have been incorporated for this Cause of Action.

93. Defendants' use of such illegal and unfair practices constitutes an unfair business practice, unfair competition and provides an unfair advantage over Defendants' competitors who comply with the above-referenced employment laws and regulations.

94. Defendants have engaged in said unlawful and unfair business practices on a continuous basis for many years up until the present time. As a result, Plaintiff has suffered injury in fact and has lost money and/or property as described herein.

95. Defendants are required to pay restitution to restore any and all monies withheld, acquired and/or converted, and the court is requested to issue an injunction prohibiting Defendants from engaging in the foregoing conduct, and as necessary, appoint a receiver.

96. Plaintiff is entitled in addition to an award of attorneys' fees and costs of suit on this cause of action pursuant to Code of Civil Procedure §1021.5.

97. Plaintiff is entitled to penalties, awards, fees, costs, interest, and other remedies set forth in the Prayer for Damages - "Unfair Business Practices Cause of Action."

SEVENTEENTH CAUSE OF ACTION – WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY, BY PLAINTIFF RIGOBERTO HENRIQUEZ ZELAYA AGAINST ALL DEFENDANTS

98. Plaintiff incorporates paragraph 1 – 85, except for paragraphs 11, 14, 15, 18, 19, 24, 25, 30, 31, 34, 35, 42, 43, 48, 49, 52, 53, 56, 57, 61, 62, 66, 67,71, 72, 76, 77, 78, 82, and 83 of this Complaint.

99. Plaintiff Cervantes' termination was in violation of fundamental, basic, and substantial public policies of the State of California, including, but not limited to, the public policies set forth in California's Fair Employment and Housing Act (the FEHA), which includes unlawful discrimination and harassment.

100. Plaintiff is entitled to penalties, awards, fees, costs, interest, and other remedies set forth in the Prayer for Damages - "Wrongful Termination and FEHA Causes of Action."

PRAYER FOR DAMAGES, AWARDS AND OTHER RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendants, and each of them:

Individual Causes of Action for Labor Law Violations

1. Unpaid/underpaid wages (including but not limited to regular wages, overtime wages, reporting time wages, vacation and sick leave/Covid benefits, and/or minimum wages) owed to Plaintiff for $100,000 or in an amount as proven at the time of the trial.
2. All premium pay/wages owed to Plaintiff for untimely, missed, or interrupted meal periods and/or rest breaks for $75,000 or in an amount as proven at the time of the trial.
3. Continuing wages under Labor Code § 203 in the amount of $5,000 or as proven.
4. All statutory penalties under the Labor Code for an individual employee to recover from an employer for violation(s) of the Labor Code, applicable Industrial Wage Order(s) and/or applicable local laws/ordinances which were violated with respect to Plaintiff's employment as alleged herein, in the amount of $50,000 or in an amount as proven.
5. All liquidated damages in the amount of $20,000 or in an amount as proven.
6. All equitable relief permitted under California law, according to proof.
7. Attorney's fees to the fullest extent permitted under California law, according to proof.

8. Costs to the fullest extent permitted under California law.

9. Prejudgment and post-judgment interest and other relief under the law.

Unfair Business Practices Cause of Action

1. Full restitution of all monies pursuant to Bus. & Prof. Code § 17200, in the amount of $100,000 or in an amount as proven at the time of the trial.

2. A preliminary and permanent injunction prohibiting Defendants from engaging in the unlawful and/or unfair employment practices and appointment of a receiver.

3. Attorneys' fees, costs, prejudgment and post-judgment interest and other relief.

Wrongful Termination and FEHA Causes of Action

1. Damages for all past, present, and future economic and non-economic damages and losses, to the fullest extent permitted under California law, according to proof.

2. Punitive and exemplary damages to the fullest extent permitted under California law, according to proof.

3. Attorneys' fees and costs to the fullest extent under California law.

4. Prejudgment and post judgment interest to the fullest extent under California law.

5. Such other relief as permitted by law.

DATED: December 9, 2024 **MOORADIAN LAW, APC**

Zorik Mooradian

By: _____
Zorik Mooradian,
Attorneys for Plaintiff
RIGOBERTO HENRIQUEZ ZELAYA

DEMAND FOR A JURY TRIAL

Plaintiff, RIGOBERTO HENRIQUEZ ZELAYA, hereby demands a jury trial.

DATED: December 9, 2024 **MOORADIAN LAW, APC**

Zorik Mooradian

By: _____
Zorik Mooradian,
Attorneys for Plaintiff
RIGOBERTO HENRIQUEZ ZELAYA