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on behalf of himself and others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SOLANO

KEVIN AGUIRRE GAMARRA, on behalf of himself and others similarly situated, Plaintiff, vs. CORPORATE EMPLOYMENT RESOURCES, INC.; a Delaware corporation; LONZA; an entity of unknown form; and DOES 1 through 50, inclusive, Defendants.	Case No.: CU26-08149 CLASS ACTION Assigned for All Purposes To: Hon.: Wendy G. Getty Dept.: 8 **FIRST AMENDED CLASS ACTION COMPLAINT FOR:** 1. Failure to Pay Minimum Wages; 2. Failure to Pay Wages and Overtime Under Labor Code § 510; 3. Meal-Period Liability Under Labor Code § 226.7; 4. Rest-Break Liability Under Labor Code § 226.7; 5. Failure to Pay Vacation Wages; 6. Failure to Comply with Labor Code §§ 245 *et seq.* and 246 7. Failure to Pay Split-Shift Premiums (IWC Order 1-15, § 4); 8. Violation of Labor Code § 226(a); 9. Penalties Pursuant to Labor Code § 203; 10. Violation of Business & Professions Code § 17200 *et seq*; and 11. Penalties under PAGA, Labor Code § 2698 **DEMAND FOR JURY TRIAL**

Plaintiff KEVIN AGUIRRE GAMARRA, (hereinafter "Plaintiff") on behalf of himself and all others similarly situated (collectively, "Employees") complains of CORPORATE EMPLOYMENT RESOURCES, INC., LONZA, and LONZA MANUFACTURING, LLC; Defendants, and each of them, as follows:

INTRODUCTION

1. Plaintiff brings this action on behalf of himself and all current and former Employees within the State of California who, at any time four (4) years prior to the filing of this lawsuit, are or were employed as non-exempt, hourly employees by CORPORATE EMPLOYMENT RESOURCES, INC.; a Delaware corporation; LONZA, an entity of unknown form, LONZA MANUGACTURING, LLC; a Delaware limited liability company and DOES 1 through 50 (all defendants being collectively referred to herein as "Defendants"). Plaintiff alleges that Defendants, and each of them, violated various provisions of the California Labor Code, relevant orders of the Industrial Welfare Commission (IWC) and California Business & Professions Code, and seeks redress.

2. Plaintiff is a resident of California and during the time period relevant to this Complaint was employed by Defendants as a non-exempt hourly employee within the State of California at Defendants' facilities and offices in California. Plaintiff and the other Class members worked for Defendants in Solano County and/or throughout California and consistently worked at Defendants' behest without being paid all wages due. More specifically, Plaintiff and the other similarly situated Class members were employed by Defendants and worked at Defendants' offices and other facilities where the conduct giving rise to the allegations in this Class Action Complaint occurred. Upon information and belief, Plaintiff was employed by Defendants and (1) shared similar job duties and responsibilities, (2) was subjected to the same policies and practices, and (3) endured similar violations at the hands of Defendants as the other Employee Class members who served in similar and related positions.

3. Defendants required Plaintiff and the Employees in the Class to perform work off the clock and failed to record accurate time worked by these Employees, failed to pay all wages due and owing at termination or resignation, and provided Plaintiff and Class members with inaccurate

wage statements that prevented them from learning of these unlawful pay practices. Defendants further failed to accurately record time worked by Plaintiff and the Employees by rounding hours worked to their detriment. Defendants also failed to provide Plaintiff and the Class with lawful meal and rest periods, as employees were not provided with the opportunity to take timely, uninterrupted, and duty-free meal and rest periods as required by the Labor Code.

THE PARTIES

A. The Plaintiff

4. Plaintiff KEVIN AGUIRRE GAMARRA has resided in California and during the time period relevant to this Complaint, was employed by Defendants as a non-exempt hourly employee within the State of California.

B. The Defendants

5. Defendant LONZA MANUFACTURING, LLC is a Delaware limited liability company with its principal executive offices in New Jersey and has been listed as the "customer" on wage statements issued to Plaintiff during the relevant time period. LONZA MANUFACTURING, LLC lists New Jersey on the California Secretary of State and employed Plaintiff and the Employees in Solano County, including at Defendants' plant in Vacaville, California. Defendants conduct business throughout California. Plaintiff is informed and believes, and based thereon alleges, that LONZA MANUFACTURING, LLC is a "client employer" within the meaning of Labor Code §2810.3 that procures outplacement staffing and payroll services from various staffing agencies, including but not limited to, CORPORATE EMPLOYMENT RESOURCES, INC.

6. Defendant LONZA is an entity of unknown form and has been listed as the employer on the handbook issued to Plaintiff during the relevant time period. LONZA employs Plaintiff and Class members in California including at Defendants offices and facilities in Vacaville, California and throughout California and conducts business throughout California. Plaintiff is informed and believes, and based thereon alleges, that LONZA is a "client employer" within the meaning of Labor Code §2810.3 that procures outplacement staffing and payroll services from various staffing agencies, including but not limited to, CORPORATE EMPLOYMENT RESOURCES, INC.

7. Defendant CORPORATE EMPLOYMENT RESOURCES, INC. is a Delaware corporation with its principal executive offices in Atlanta, Georgia, and does business throughout California, including in the County of Solano. CORPORATE EMPLOYMENT RESOURCES, INC. is listed as the employer on wage statements issued to Plaintiff during the relevant time period. CORPORATE EMPLOYMENT RESOURCES, INC. lists Atlanta, Georgia on the California Secretary of State and employed Plaintiff and the Employees in Solano County, including at Defendants' offices and facilities in Vacaville, California. Plaintiff is informed and believes, and based thereon alleges, that PGI is a "labor contractor" within the meaning of Labor Code § 2810.3 that provides outplacement staffing and payroll services for various industries and professions, including for LONZA MANUFACTURING, LLC.

8. Additionally, under California Labor Code § 2810.3, LONZA MANUFACTURING, LLC share with CORPORATE EMPLOYMENT RESOURCES, INC., and any other staffing agency it uses, in civil legal responsibility for all workers supplied to LONZA MANUFACTURING, LLC for their collective failure to pay all earned wages. California Labor Code § 2810.3 requires that "A client employer shall share with a labor contractor all civil legal responsibility and civil liability for all workers supplied by that labor contractor for... the payment of wages." A "labor contractor" (here, CORPORATE EMPLOYMENT RESOURCES, INC.), is defined as "an individual or entity that supplies, either with or without a contract, a client employer with workers to perform labor within the client employer's usual course of business." "Client employer" (here LONZA MANUFACTURING, LLC) is defined as "a business entity, regardless of its form, that obtains or is provided workers to perform labor within its usual course of business from a labor contractor." Upon information and belief, Defendants LONZA MANUFACTURING, LLC is and has been a client employer within the definition of Labor Code §2810.3 and shares with CORPORATE EMPLOYMENT RESOURCES, INC., the labor contractor, all civil legal responsibility, and civil liability for failure to pay all wages earned by Plaintiff and the Class Members.

9. The true names and capacities, whether individual, corporate, associate, or whatever else, of the Defendants sued herein as Does 1 through 50, inclusive, are currently unknown to

Plaintiff, who therefore sues these Defendants by such fictitious names under Code of Civil Procedure § 474. Plaintiff is informed and believes and thereon alleges that Defendants designated herein as Does 1 through 50, inclusive, and each of them, are legally responsible in some manner for the unlawful acts referred to herein. Plaintiff will seek leave of court to amend this Complaint to reflect the true names and capacities of the Defendants designated herein as Does 1 through 50 when their identities become known.

10. Plaintiff is informed and believes and thereon alleges that each Defendant acted in all respects pertinent to this action as the agent of the other Defendants, that Defendants carried out a joint scheme, business plan, or policy in all respects pertinent hereto, and that the acts of each Defendant are legally attributable to the other Defendants. Furthermore, Defendants acted in all respects as the employers or joint employers of Employees. Defendants, and each of them, exercised control over the wages, hours or working conditions of Employees, or suffered or permitted Employees to work, or engaged, thereby creating a common law employment relationship, with Employees. Therefore, Defendants, and each of them, employed or jointly employed Employees.

JURISDICTION AND VENUE

11. This Court has jurisdiction over this Action pursuant to California Code of Civil Procedure § 410.10 and California Business & Professions Code § 17203. This Action is brought as a Class Action on behalf of similarly situated Employees of Defendants pursuant to California Code of Civil Procedure § 382. Venue as to Defendants is also proper in this judicial district pursuant to California Code of Civil Procedure § 395 *et seq*. Upon information and belief, the obligations and liabilities giving rise to this lawsuit occurred at least in part in Solano County and Defendants maintain and operate in facilities in Solano County, and employ Plaintiff and other Class Members in Solano County and throughout California.

FACTUAL BACKGROUND

12. The Employees who comprise the Class and Collective, including Plaintiff, are nonexempt employees pursuant to the applicable Wage Order of the IWC. Defendants hire Employees who work in nonexempt positions at the direction of Defendants in the State of California. Plaintiff and the Class members were either not paid by Defendants for all hours worked

or were not paid at the appropriate minimum, regular and overtime rates. Specifically, Plaintiff and Employees were not paid for all the overtime hours they worked, including time spent working while clocked out for meal breaks. Plaintiff also contends that Defendants failed to pay Plaintiff and the Class members all wages due and owing by unlawfully rounding to their detriment or under-recording of hours worked and failed to provide meal and rest breaks, all in violation of various provisions of the California Labor Code and applicable Wage Orders. Additionally, Defendants paid Plaintiff and Employees nondiscretionary commissions, incentive pay, shift differentials, and/or nondiscretionary bonuses. However, upon information and belief, Defendants failed to incorporate all remunerations, including nondiscretionary commissions, incentive pay, shift differentials, and/or nondiscretionary bonuses, into the calculation of the regular rate of pay for purposes of calculating the overtime wage rate. Therefore, during times when Plaintiff and Employees worked overtime and received nondiscretionary commissions, incentive pay, shift differentials, and/or nondiscretionary bonuses, Defendants failed to pay all overtime wages by paying a lower overtime rate than required. Lastly, Defendants failed to incorporate the prevailing wage rate into the regular rate of pay used to calculate and pay for overtime and double time pay.

13. From at least four (4) years prior to the filing of this lawsuit and continuing to the present, Defendants paid Plaintiff and Employees nondiscretionary commissions, incentive pay, shift differentials, and/or nondiscretionary bonuses. However, upon information and belief, Defendants failed to incorporate all remunerations, including nondiscretionary commissions, incentive pay, shift differentials, and/or nondiscretionary bonuses, into the calculation of the regular rate of pay for purposes of calculating sick pay. Additionally, Defendants failed to incorporate the prevailing wage rate into the regular rate of pay used to calculate sick pay. Therefore, during times when Plaintiff and Employees worked overtime and received nondiscretionary commissions, incentive pay, shift differentials, nondiscretionary bonuses, and/or prevailing wages, Defendants failed to pay all sick pay by paying a lower overtime rate than required.

14. Defendants required Class Members to track hours worked on an Online Employee Portal. The timekeeping system thus permitted Defendants to record clock in and clock out times to the real-time minute. However, rather than paying Class Members for all hours and minutes they

actually worked, Defendant would round those times and generally did so to the detriment of the Employees, and these unlawfully rounded time entries were inputted into Defendants' payroll system from which wage statements and payroll checks were created. Defendants did so with the ostensible intent of paying Class Members only for the hours they were scheduled to work, rather than the hours they were actually under Defendants' control. Plaintiff contends this policy is not neutral and results, over time, to the detriment of the Class Members by systematically under compensating them.

15. From at least four (4) years prior to the filing of this lawsuit and continuing to the present, Defendants failed to pay Plaintiff and Employees all vested vacation wages at the time of termination.

16. During the course of Plaintiff and the Class members' employment with Defendants, they were not paid all wages they were owed, including for all work performed and for all overtime hours worked and were forced to work during their meal and rest breaks.

17. As a matter of Company practice and culture, Plaintiff and the Class members were required to work during their meal breaks which were not compensated by Defendants in violation of the California Labor Code. Plaintiff and the Class members were also not paid regular wages and overtime for the time they were required to comply with other requirements imposed upon them, which they had to complete while working through their meal breaks and without compensation. As a result, Plaintiff and the Class members worked shifts over eight (8) hours in a day and over forty (40) hours in a work week, but they were not paid at the appropriate overtime rate for all such hours, including by being required to perform work duties and tasks without pay and while off-the-clock which caused overtime to begin accruing before it did in Defendants' timekeeping and payroll systems. As a result, Plaintiff and the Class members worked substantial overtime hours during their employment with Defendants for which they were not compensated, in violation of the California Labor Code, applicable IWC Wage Orders.

18. As a result of the above described daily work demands and pressures to work through breaks, and the other wage violations they endured at Defendants' hands, Plaintiff and the Class members were not properly paid for all wages earned and for all wages owed to them by Defendants,

including when working more than eight (8) hours in any given day and/or more than forty (40) hours in any given week. As a result of Defendants' unlawful policies and practices, Plaintiff and Class members incurred overtime hours worked for which they were not adequately and completely compensated. To the extent applicable, Defendants also failed to pay Plaintiff and the Class members at an overtime rate of 1.5 times the regular rate for the first eight hours of the seventh consecutive workday in a week and overtime payments at the rate of 2 times the regular rate for hours worked over eight (8) on the seventh consecutive workday, as required under the Labor Code, applicable IWC Wage Orders.

19. Therefore, from at least four (4) years prior to the filing of this lawsuit and continuing to the present, Defendants had a consistent policy or practice of failing to pay Employees for all hours worked and failing to pay minimum wage for all time worked as required by California Law.

20. Additionally from at least four (4) years prior to the filing of this lawsuit and continuing to the present, Defendants had a consistent policy or practice of failing to pay Employees overtime compensation at premium overtime rates for all hours worked in excess of eight (8) hours a day and/or forty (40) hours a week, and double-time rates for all hours worked in excess of twelve (12) hours a day, in violation of Labor Code § 510 and the corresponding sections of IWC Wage Orders.

21. Additionally from at least four (4) years prior to the filing of this lawsuit and continuing to the present, Defendants have required Employees to work shifts in excess of five (5) hours without providing them with timely, off-duty meal periods of not less than thirty (30) minutes and shifts in excess of ten (10) hours without providing them with second meal periods of not less than thirty minutes; nor did Defendants pay Employees "premium pay," i.e. one hour of wages at each Employee's effective regular rate of pay, for each meal period that Defendants failed to provide or deficiently provided. Employees would clock out for their meal periods and continue working. What meal periods were provided were frequently provided late or were shorter than thirty minutes. In addition, Plaintiff and Employees were required to keep their cell phones on during their meal periods and respond to them resulting in on-duty and interrupted meal periods.

22. From at least four (4) years prior to the filing of this lawsuit and continuing to the

present, Defendants have failed to provide Employees with paid rest breaks of not less than ten (10) minutes for every work period of four (4) or more consecutive hours; nor did Defendant pay Employees premium pay for each day on which requisite rest breaks were not provided or were deficiently provided at one hour of wages at each Employee's effective regular rate of pay, for each rest period that Defendants failed to provide or deficiently provided.

23. Additionally, from at least three (3) years prior to the filing of this lawsuit, and continuing to the present, Defendants have consistently failed to keep accurate time and wage records as required by California wage-and-hour laws.

24. Additionally, from at least four (4) years prior to filing of this lawsuit and continuing to the present, Defendants have had a consistent policy of failing to pay all wages fur and owed to Employees at the time of their termination or within seventy-two (72) hours of their resignation, as required by California wage-and-hour laws.

25. In light of the foregoing, Employees bring this action pursuant to, inter alia, Labor Code §§ 201, 202, 203, 204, 210, 218.5, 218.6, 226.7, 227.3, 245 *et seq*., 246, 510, 512, 558, 558.1, 1182.12, 1185, 1194, 1194.2 1197, 1198, 1199, 2698, and 2699, *et seq.*; provisions of the Industrial Welfare Commission (IWC) Wage Order(s); and California Business & Professions Code § 17200 *et seq*.

26. Furthermore, pursuant to Business and Professions Code §§ 17200-17208, Plaintiff and Employees seek injunctive relief, restitution, and disgorgement of all benefits Defendants have enjoyed from their violations of Labor Code.

CLASS ALLEGATIONS

27. Plaintiff brings this class action on behalf of himself, and all others similarly situated pursuant to Code of Civil Procedure § 382. Plaintiff seeks to represent a class defined as follows: all individuals employed as non-exempt employees by CORPORATE EMPLOYMENT RESOURCES, INC., LONZA, and LONZA MANUFACTURING, LLC within the State of California at any time within four (4) years of the filing of this lawsuit.

28. Further, Plaintiff seeks to represent the following Subclasses composed of and defined as follows:

a. Subclass 1. Minimum Wages Subclass. All Class members who were not compensated for all hours worked for Defendants at the applicable minimum wage.

b. Subclass 2. Wages and Overtime Subclass. All Class members who were not compensated for all hours worked for Defendants at the required rates of pay, including for all hours worked in excess of eight in a day and/or forty in a week.

c. Subclass 3. Meal Period Subclass. All Class members who were subject to Defendants' policy and/or practice of failing to provide timely unpaid 30-minute uninterrupted and duty-free meal periods or one hour of pay at the Employee's regular rate of pay in lieu thereof.

d. Subclass 4. Rest Break Subclass. All Class members who were subject to Defendants' policy and/or practice of failing to authorize and permit Employees to take uninterrupted, duty-free, 10-minute rest periods for every four hours worked, or major fraction thereof, and failing to pay one hour of pay at the Employee's regular rate of pay in lieu thereof.

e. Subclass 5. Failure to Reimburse for Necessary Business Expenditures Subclass. All Class members who were subject to Defendants failing to reimburse for expenses necessarily incurred in the performance of Employees' job duties for Defendants which were necessary to perform their duties under Defendants' employ.

f. Subclass 6. Wage Statement Subclass. All Class members who, within the applicable limitations period, were not provided with accurate itemized wage statements.

g. Subclass 7. Payroll Records Subclass. All Class members who were subject to Defendants' policy and/or practice of failing to keep accurate time and wage records as required by California wage-and-hour laws.

h. Subclass 8. Termination Pay Subclass. All Class members who, within the applicable limitations period, either voluntarily or involuntarily separated from their employment and were subject to Defendants' policy and/or practice of failing to timely pay wages upon termination or separation.

i. Subclass 9. Split-Shift Premium Sub-Class. All Class members who did not reside at the place of their employment with Defendants and whose work schedules were interrupted by non-paid and non-working time periods which were longer than bona fide meal or rest periods and were

established by Defendants.

j. Subclass 10. UCL Subclass. All Class members who are owed restitution as a result of Defendants' business acts and practices, to the extent such acts and practices are found to be unlawful, deceptive, and/or unfair.

29. Plaintiff reserves the right under California Rule of Court 3.765 to amend or modify the class description with greater particularity or further division into subclasses or limitation to particular issues.

30. This action has been brought and may properly be maintained as a class action under the provisions of Code of Civil Procedure § 382 because there is a well-defined community of interest in litigation and proposed class is easily ascertainable.

A. Numerosity

31. The potential members of the class as defined are so numerous that joinder of all the members of the class is impracticable. While the precise number of class members has not been determined at this time, Plaintiff is informed and believes that Defendants employ or, during the time period relevant to this lawsuit, employed more than 100 non-exempt individuals within the State of California.

32. Accounting for employee turnover during the relevant time period increases this number substantially. Plaintiff alleges that Defendants' employment records will provide information as to the number and location of all class members.

B. Commonality

33. There are questions of law and fact common to the class that predominate over any questions affecting only individual class members. These common questions of law and fact include:

a. Whether Defendants failed to pay Employees minimum wages;

b. Whether Defendants failed to pay Employees wages for all hours worked;

c. Whether Defendants failed to pay Employees overtime as required under Labor Code § 510;

d. Whether Defendants violated Labor Code §§ 226.7 and 512, and the applicable IWC Wage Orders, by failing to provide Employees with requisite meal periods or premium pay in lieu

thereof;

e. Whether Defendants violated Labor Code §§ 226.7, and the applicable IWC Wage Orders, by failing to provide Employees with requisite rest breaks or premium pay in lieu thereof;

f. Whether Defendants failed to pay Employees vacation wages as required under Labor Code § 227.3;

g. Whether Defendants failed to pay Employees sick pay as required under Labor Code § 245;

h. Whether Defendants violated Labor Code § 226(a);

i. Whether Defendants violated Labor Code §§ 201, 202, and 203 by failing to pay wages and compensation due and owing at the time of termination or separation of employment;

j. Whether Defendants violated Business and Professions Code § 17200 *et seq.*;

k. Whether Defendants are liable for penalties under Labor Code § 2699, *et seq;* and

l. Whether Employees are entitled to equitable relief pursuant to Business and Professions Code § 17200 *et seq.*

C. Typicality

34. The claims of the named plaintiff are typical of those of the other Employees. Employees all sustained injuries and damages arising out of and caused by Defendants' common course of conducts in violation of statutes, as well as regulations that have the force and effect of law, as alleged herein.

D. Adequacy of Representation

35. Plaintiff will fairly and adequately represent and protect the interest of Employees. Counsel who represents Employees are experienced and competent in litigating employment class actions.

E. Superiority of Class Action

36. A class action is superior to other available means for the fair and efficient adjudication of this controversy. Individual joinder of all Employees is not practicable, and questions of law and fact common to all employees predominate over any questions affecting only individual employees. Each employee has been damaged and is entitled to recovery by reason of

Defendants' illegal policies or practices of failing to compensate Employees properly.

37. Class action treatment will allow those persons similarly situated to litigate their claims in the manner that is most efficient and economical for the parties and the judicial system. Plaintiff is unaware of any difficulties in managing this case that should preclude class action.

FIRST CAUSE OF ACTION

FAILURE TO PAY MINIMUM WAGES

(Against All Defendants)

38. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

39. Defendants failed to pay Employees minimum wages for all hours worked. Defendants had a consistent policy of misstating Employees' time records and failing to pay Employees for all hours worked. Specifically, Plaintiff and Employees were not paid for all the overtime hours they worked, including time spent working while clocked out for meal breaks. Additionally, Defendants rounded timekeeping entries and revisions made to timekeeping records to reflect less time worked than was actually worked and Defendants have also intentionally and improperly rounded, changed, adjusted and/or modified Employee hours, while benefiting Defendants. This caused Employees to work without compensation in excess of their eight-hour shift in a given workday. Defendants' uniform pattern of unlawful wage and hour practices manifested, without limitation, applicable to Employees, as a result of implementing a uniform policy and practice that denied accurate compensation to Plaintiff and the other members of the Employees as to minimum wage pay.

40. California Labor Code § 1197, entitled "Pay of Less Than Minimum Wage" states:

> The minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a less wage than the minimum so fixed is unlawful.

41. The applicable minimum wages fixed by the commission for work during the relevant period is found in the Wage Orders. Pursuant to the Wage Orders, Employees are therefore entitled to double the minimum wage during the relevant period.

42. The minimum wage provisions of California Labor Code are enforceable by private civil action pursuant to California Labor Code § 1194(a) which 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.

43. As described in California Labor Code §§ 1185 and 1194.2, any action for wages incorporates the applicable Wage Order of the California Industrial Welfare Commission.

44. California Labor Code § 1194.2 also provides for the following remedies:

> In any action under Section 1194 . . . to recover wages because of the payment of a wage less than the minimum wages fixed by an order of the commission, an employee shall be entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

45. Defendants have the ability to pay minimum wages for all time worked and have willfully refused to pay such wages with the intent to secure for Defendants a discount upon this indebtedness with the intent to annoy, harass, oppress, hinder, delay, or defraud Employees.

46. Wherefore, Employees are entitled to recover the unpaid minimum wages (including double minimum wages), liquidated damages in an amount equal to the minimum wages unlawfully unpaid, interest thereon and reasonable attorney's fees and costs of suit pursuant to California Labor Code § 1194(a).

SECOND CAUSE OF ACTION

FAILURE TO PAY WAGES AND OVERTIME UNDER LABOR CODE § 510

(Against All Defendants)

47. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

48. By their conduct, as set forth herein, Defendants violated California Labor Code § 510 (and the relevant orders of the Industrial Welfare Commission) by failing to pay Employees: (a) time and one-half their regular hourly rates for hours worked in excess of eight (8) hours in a workday or in excess of forty (40) hours in any workweek or for the first eight (8) hours worked on

the seventh day of work in any one workweek; or (b) twice their regular rate of pay for hours worked in excess of twelve (12) hours in any one (1) day or for hours worked in excess of eight (8) hours on any seventh day of work in a workweek.

49. Defendants consistently improperly rounded down, changed, adjusted Employees time records, paid Employees less than their time records showed.

50. Defendants had a common policy and practice of requiring Plaintiff and Employees to perform work, off the clock for which they were not paid wages. Specifically, Plaintiff and Employees were not paid for all the overtime hours they worked, including time spent working while clocked out for meal breaks. All the forgoing work was performed by Employees and under the direction and control of Defendants, for which no wages were paid.

51. Employees have been damaged by these violations of California Labor Code §§ 204 and 510 (and the relevant orders of the Industrial Welfare Commission).

52. Consequently, pursuant to California Labor Code §§ 204, 510, and 1194 (and the relevant orders of the Industrial Welfare Commission), Defendants are liable to Employees for the full amount of all their unpaid wages and overtime compensation, with interest, plus their reasonable attorneys' fees and costs.

53. The forgoing uncompensated work caused Plaintiff and Employees to work in excess of eight (8), ten (10), and twelve (12) hours a day, and/or forty (40) hours a week, entitling them to overtime and double-time wages which were systemically denied.

54. Defendants' failure to pay compensation in a timely fashion also constituted a violation of California Labor Code § 204, which requires that all wages shall be paid semimonthly. From four (4) years prior to the filing of this lawsuit to the present, in direct violation of that provision of the California Labor Code, Defendants have failed to pay all wages and overtime compensation earned by Employees. Each such failure to make a timely payment of compensation to Employees constitutes a separate violation of California Labor Code § 204.

55. Employees have been damaged by these violations of California Labor Code §§ 204 and 510 (and the relevant orders of the Industrial Welfare Commission).

56. Consequently, pursuant to California Labor Code §§ 204, 510, and 1194 (and the

relevant orders of the Industrial Welfare Commission), Defendants are liable to Employees for the full amount of all their unpaid wages and overtime compensation, with interest, plus their reasonable attorneys' fees and costs.

THIRD CAUSE OF ACTION

MEAL-PERIOD LIABILITY UNDER LABOR CODE § 226.7

(Against All Defendants)

57. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

58. Employees regularly worked shifts greater than five (5) hours and greater than ten (10) hours. Pursuant to Labor Code § 512 an employer may not employ someone for a shift of more than five (5) hours without providing him or her with a meal period of not less than thirty (30) minutes or for a shift of more than ten (10) hours without providing him or her with a second meal period of not less than thirty (30) minutes.

59. Defendants failed to provide Employees with meal periods as required under the Labor Code. Employees were consistently required to work through their meal periods which they were consistently denied. Employees were also required to take meal periods after working well beyond the five (5) hour shifts. Furthermore, Employees were regularly required to work for more than 10 hours in a given shift without receiving a second uninterrupted thirty (30) minute meal period as required by law.

60. Moreover, Defendants failed to compensate Employees for each meal period not provided or inadequately provided, as required under Labor Code § 226.7. Additionally, as detailed above, when Defendants did pay meal period premiums, they did so at the normal regular rate of pay without factoring in all forms or remuneration/compensation or by otherwise incorrectly calculating the regular rate.

61. Therefore, pursuant to Labor Code § 226.7, Employees are entitled to damages in an amount equal to one (1) hour of wages at their effective regular rates of pay for each meal period not provided or deficiently provided, a sum to be proven at trial.

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FOURTH CAUSE OF ACTION

REST-BREAK LIABILITY UNDER LABOR CODE § 226.7

(Against All Defendants)

62. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

63. Employees consistently worked consecutive four (4) hour shifts. Pursuant to the Labor Code and the applicable IWC Wage Order, Employees were entitled to paid rest breaks of not less than ten (10) minutes for each consecutive four (4) hour shift.

64. Defendants failed to provide Employees with timely rest breaks of not less than ten (10) minutes for each consecutive four (4) hour shift.

65. Additionally, under *Augustus v. ABM Security Services, Inc.,* 2 Cal.5th 257, 260 (2016) "[D]uring required rest periods, employers must relieve their employees of all duties and relinquish any control over how employees spend their time." Defendants did not allow Employees to leave the Defendants' location, and this is directly at odds with *Augustus*, as it "tethered [employees] by time and policy to a particular location" and therefore fails to relieve employees of all work duties and employer control during rest periods. *Augusts,* 2 Cal.5th at 269.

66. Moreover, Defendants did not compensate Employees with an additional hour of pay at each Employee's effective regular rate for each day that Defendants failed to provide them with adequate rest breaks, as required under Labor Code § 226.7. Additionally, as detailed above, when Defendants did pay rest period premiums, they did so at the normal regular rate of pay without factoring in all forms or remuneration/compensation or by otherwise incorrectly calculating the regular rate.

67. Therefore, pursuant to Labor Code § 226.7, Employees are entitled to damages in an amount equal to one (1) hour of wages at their effective regular rates of pay for each day worked without the required rest breaks, a sum to be proven at trial.

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FIFTH CAUSE OF ACTION

FAILURE TO PAY VACATION WAGES

(Against All Defendants)

68. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

69. Pursuant to California Labor Code § 227.3, whenever a contract of employment or employment policy provides for paid vacation and an employee is terminated without having taken off his vested vacation time, all vested vacation shall be paid to her as wages at his final rate in accordance with said contract of employment or policy respecting eligibility or time served.

70. Defendants failed to pay all vested vacation time upon termination.

71. Therefore, Plaintiff and Employees seek to recover penalties pursuant to Labor Code § 227.3.

SIXTH CAUSE OF ACTION

FAILURE TO COMPLY WITH LABOR CODE §§ 245 *ET SEQ.* AND 246

(Against All Defendants)

72. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

73. California Labor Code § 245 *et seq.* requires that Defendants provide paid sick time to Employees, including at the amount, terms, and rate of compensation set forth in said law. At times relevant, Defendants have failed to compute the amount due for paid sick time in conformance with the pay calculation under California Labor Code § 246(l).

74. Defendants paid nondiscretionary commissions, incentive pay, shift differentials, and/or nondiscretionary bonuses to Employees but Defendants failed to include these forms of remuneration in the regular rate of pay upon which sick pay was calculated and paid. Defendants also failed to incorporate the prevailing wage rate into the regular rate of pay used to calculate and pay sick pay. Rather than calculating the amount of paid sick time due when sick time is used according to the requirements set forth in California Labor Code § 246(1), Defendants paid sick leave to Employees at a lower rate, in violation of the law.

75. Therefore, Plaintiff and Employees seek to recover penalties pursuant to Labor Code §§ 245 *et seq.* and 246.

SEVENTH CAUSE OF ACTION

FAILURE TO PAY SPLIT-SHIFT PREMIUMS

(Against All Defendants)

76. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged herein.

77. At all relevant times, Plaintiff and Split-Shift Sub-Class members are or have been non-exempt employees of Defendants entitled to the full protections of the Labor Code and the applicable Wage Order.

78. Section 4 of the applicable Industrial Welfare Commission Wage Order imposes an affirmative obligation on employers to pay non-exempt employees one (1) hour's pay at the minimum wage in addition to the minimum wage for that workday when an employee works a split shift.

79. Plaintiff alleges that, at all relevant times during the applicable limitations period, Defendants maintained a policy or practice of failing to pay premium wages to Split-Shift SubClass members when their schedules were interrupted by non-paid and non-working time periods established by the employer. The time periods between these shifts were longer than a bona fide meal or rest periods and were for the benefit of the employer. 99. At no time did the Split-Shift Sub-Class members reside at the place of their employment.

80. As a result of Defendants' unlawful conduct, Plaintiff and Split-Shift Sub-Class members have suffered damages in an amount, subject to proof, to the extent they were not paid the full amount of split-shift premiums earned during each pay period during the applicable limitations period.

81. Pursuant to Labor Code section 204, 218.6 and 226.7, Plaintiff, on behalf of himself and the Split-Shift Sub-Class members, seeks to recover unpaid premium wages, interest thereon, and costs of suit.

82. Pursuant to Labor Code section 1194, Code of Civil Procedure section 1021.5, the

substantial benefit doctrine, and/or the common fund doctrine, Plaintiff, on behalf of himself and Split-Shift Sub-Class members, seeks to recover reasonable attorneys' fees.

EIGHTH CAUSE OF ACTION

VIOLATION OF LABOR CODE § 226(a)

(Against All Defendants)

83. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

84. California Labor Code § 226(a) requires an employer to furnish each of his or her employees with an accurate, itemized statement in writing showing the gross and net earnings, total hours worked, and the corresponding number of hours worked at each hourly rate; these statements must be appended to the detachable part of the check, draft, voucher, or whatever else serves to pay the employee's wages; or, if wages are paid by cash or personal check, these statements may be given to the employee separately from the payment of wages; in either case the employer must give the employee these statements twice a month or each time wages are paid.

85. Defendants failed to provide Employees with accurate itemized wage statements in writing, as required by the Labor Code. Specifically, the wage statements given to Employees, by Defendants, failed to include the above requirements enumerated above. Employees' wage statements did not include: the total hours worked in violation of Labor Code § 226(a)(2) and failed to accurately set forth all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each such rate in violation of Labor Code § 226 (a)(9). The wage statements provided to Employees were confusing and required Employees to engage in discovery and refer to outside sources to verify whether their pay was correct and potentially resulting in a miscalculation by the Employees. Moreover, Defendants failed in their affirmative obligation to keep accurate records of the correct overtime wages based on proper regular rate calculations that included nondiscretionary commissions, incentive pay, shift differentials, and/or nondiscretionary bonuses earned, and the total amount of compensation of their Employees. Additionally, the wage statements given to Employees by Defendants failed to accurately account for wages, overtime, and premium pay for deficient meal and rest periods, all of which Defendants

knew or reasonably should have known were owed to Employees, as alleged hereinabove.

86. As a direct and proximate cause of Defendants' violation of Labor Code § 226(a), Employees suffered injuries, including among other things confusion over whether they received all wages owed them, the difficulty and expense involved in reconstructing pay records, and forcing them to make mathematical computations to analyze whether the wages paid in fact compensated them correctly for all hours worked.

87. Pursuant to Labor Code §§ 226(a) and 226(e), Employees are entitled to recover the greater of all actual damages or fifty dollars ($50) for the initial pay period in which a violation occurs and one hundred dollars ($100) for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars ($4,000). They are also entitled to an award of costs and reasonable attorneys' fees.

88. With respect to violations of Labor Code § 226, Labor Code § 226.3 imposes a civil penalty of two hundred and fifty dollars ($250) for initial violations for each employee for each pay period, and one thousand dollars ($1000) for each subsequent violation for each employee for each pay period.

89. Plaintiff is seeking penalties against Defendants under Labor Code § 226.3, and any other applicable statute allowing recovery of penalties as alleged herein in an amount to be shown according to proof

NINTH CAUSE OF ACTION

VIOLATION OF LABOR CODE § 203

(Against All Defendants)

90. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

91. Numerous Employees are no longer employed by Defendants; they either quit Defendants' employ or were fired therefrom.

92. Defendants failed to pay these Employees all wages due and certain at the time of termination or within seventy-two (72) hours of resignation.

93. The wages withheld from these Employees by Defendants remained due and owing

for more than thirty (30) days from the date of separation of employment.

94. Defendants' failure to pay wages, as alleged above, was willful in that Defendants knew wages to be due but failed to pay them; this violation entitles these Employees to penalties under Labor Code § 203, which provides that an employee's wages shall continue until paid for up to thirty (30) days from the date they were due. Plaintiff and Employees are also entitled to an award of costs and reasonable attorneys' fees.

TENTH CAUSE OF ACTION

VIOLATION OF BUSINESS & PROFESSIONS CODE § 17200 *ET SEQ.*

(Against All Defendants)

95. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

96. Plaintiff, on behalf of himself, Employees, and the General public, brings this claim pursuant to Business & Professions Code § 17200 *et seq.* The conduct of Defendants as alleged in this Complaint has been and continues to be unfair, unlawful, and harmful to Employees and the general public. Plaintiff seeks to enforce important rights affecting the public interest within the meaning of Code of Civil Procedure § 1021.5.

97. Plaintiff is a "person" within the meaning of Business & Professions Code § 17204, has suffered injury, and therefore has standing to bring this cause of action for injunctive relief, restitution, and other appropriate equitable relief.

98. Business & Professions Code § 17200 *et seq.* prohibits unlawful and unfair business practices.

99. Wage-and-hour laws express fundamental public policies. Paying employees their wages and overtime, providing them with meal and rest periods, etc., are fundamental public policies of California. Labor Code § 90.5(a) articulates the public policies of this State vigorously to enforce minimum labor standards, to ensure that employees are not required or permitted to work under substandard and unlawful conditions, and to protect law-abiding employers and their employees from competitors who lower costs to themselves by failing to comply with minimum labor standards.

100. Defendants have violated statutes and public policies. Through the conduct alleged in this Complaint, Defendants have acted contrary to these public policies, have violated specific provisions of the Labor Code, and have engaged in other unlawful and unfair business practices in violation of Business & Professions Code § 17200 *et seq.*; which conduct has deprived Plaintiff, and all persons similarly situated, and all interested persons, of the rights, benefits, and privileges guaranteed to all employees under the law.

101. Defendants' conduct, as alleged hereinabove, constitutes unfair competition in violation of the Business & Professions Code § 17200 *et seq.*

102. Defendants, by engaging in the conduct herein alleged, by failing to pay wages and overtime, failing to provide meal and rest periods, etc., either knew or in the exercise of reasonable care should have known that their conduct was unlawful. Therefore, Defendants' conduct violates the Business & Professions Code § 17200 *et seq.*

103. As a proximate result of the above-mentioned acts of Defendants, Employees have been damaged, in a sum to be proven at trial.

104. Unless restrained by this Court, Defendants will continue to engage in such unlawful conduct as alleged above. Pursuant to the Business & Professions Code, this Court should make such orders or judgments, including the appointment of a receiver, as may be necessary to prevent the use by Defendants or their agents or employees of any unlawful or deceptive practice prohibited by the Business & Professions Code, including but not limited to the disgorgement of such profits as may be necessary to restore Employees to the money Defendants have unlawfully failed to pay.

ELEVENTH CAUSE OF ACTION

VIOLATION OF LABOR CODE § 2698, ET SEQ.

(Against All Defendants)

105. Plaintiff realleges and incorporates all preceding paragraphs, as though set forth in full herein.

106. Plaintiff and the Employees in the Class are also Class Members as defined under Labor Code § 2699(c) in that they suffered the violations alleged in this Complaint and either were or are employed by the alleged violators, Defendants.

107. Plaintiff seeks penalties under Labor Code §§ 2698 and 2699 for Defendants' violation of all Labor Code provisions included under Labor Code § 2699.5 and includes the penalty provisions, without limitation, based on the following California Labor Code sections: 201, 202, 203, 204, 210, 218.5, 218.6, 226.7, 227.3, 245 *et seq*., 246, 510, 512, 558, 558.1, 1182.12, 1185, 1194, 1194.2 1197, 1198, 1199, 2698, and 2699, *et seq*.

108. The penalties shall be allocated as follows: 65% to the Labor and Workforce Development Agency (LWDA) and 35% to the affected employee.

109. Employees also seek any and all penalties and remedies set forth in Labor Code § 558, which states:

> (a) Any employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars ($50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (2) For each subsequent violation, one hundred dollars ($100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (3) Wages recovered pursuant to this section shall be paid to the affected employee.
>
> (b) If upon inspection or investigation the Labor Commissioner determines that a person had paid or caused to be paid a wage for overtime work in violation of any provision of this chapter, or any provision regulating hours and days of work of the Industrial Welfare Commission, the Labor Commissioner may issue a citation. The procedures for issuing, contesting, and enforcing judgments for citations of civil penalties issued by the Labor Commissioner for violation of this chapter shall be the same as those set out in Section 1197.1.
>
> (c) The civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by the law.

110. Labor Code § 226.3 provides that "[a]ny employer who violates subdivision (a) of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars ($250) per employee per violation in an initial violation and one thousand dollars ($1,000) per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage

deduction statement or fails to keep the required in subdivision (a) of Section 226." To the extent that Labor Code § 226.3 applies, Plaintiff and Employees also seeks such penalties on

111. Plaintiff has exhausted his administrative remedies by sending a certified letter to the LWDA and Defendants postmarked on September 23, 2026, addressing in detail the specific provisions of the Labor Code Defendants have violated and addressing the facts and legal theories to support the alleged violations and requested penalties. The LWDA has not provided notice of its intent to investigate the alleged violations within 65 calendar days of the postmark date of the letter, and Plaintiff adds this claim seeking penalties under the PAGA for the violations addressed herein and in the PAGA Notice Letter and the original Complaint.

RELIEF REQUESTED

WHEREFORE, Plaintiff prays for the following relief:

1. For an order certifying this action as a class action;

2. An order that Plaintiff be appointed class representative;

3. An order that counsel for Plaintiff be appointed class counsel;

4. For compensatory damages in the amount of the unpaid minimum wages for work performed by Employees and unpaid overtime compensation from at least four (4) years prior to the filing of this action, as may be proven;

5. For liquidated damages in the amount equal to the unpaid minimum wage and interest thereon, from at least four (4) years prior to the filing of this action, according to proof;

6. For compensatory damages in the amount of the hourly wage made by Employees for each missed or deficient meal period where no premium pay was paid therefor from four (4) years prior to the filing of this action, as may be proven;

7. For compensatory damages in the amount of the hourly wage made by Employees for each day requisite rest breaks were not provided or were deficiently provided where no premium pay was paid therefor from at least four (4) years prior to the filing of this action, as may be proven;

8. For penalties pursuant to Labor Code § 226(e) for Employees, as may be proven;

9. For penalties pursuant to Labor Code § 226.3, as may be proven;

10. For penalties pursuant to Labor Code § 203 for all Employees who quit or were fired

in an amount equal to their daily wage times thirty (30) days, as may be proven;

11. For penalties pursuant to Labor Code § 227.3, as may be proven;

12. For penalties pursuant to Labor Code §§ 245 and 246, as may be proven;

13. For restitution for unfair competition pursuant to Business & Professions Code § 17200 *et seq.*, including disgorgement or profits, as may be proven;

14. For compensatory damages pursuant to Labor Code § 2802 in the amount of all previously unreimbursed business expenditures necessarily incurred by Employees in the discharge of their job duties for Defendants from four (4) years prior to the original filing of this action, as may be proven;

15. For an order enjoining Defendants and their agents, servants, and employees, and all persons acting under, in concert with, or for them, from acting in derogation of any rights or duties adumbrated in this Complaint;

16. For penalties pursuant to Labor Code § 2698 et seq., as may be proven;

17. For all general, special, and incidental damages as may be proven;

18. For an award of pre-judgment and post-judgment interest;

19. For an award providing for the payment of the costs of this suit;

20. For an award of attorneys' fees; and

21. For such other and further relief as this Court may deem proper and just.

DATED: October 29, 2026

D.LAW, INC.

By _____
Roman Shkodnik
Amanda Fazio
Attorneys for Plaintiff KEVIN AGUIRRE GAMARRA and the putative class

DEMAND FOR JURY TRIAL

Plaintiff hereby demands trial of his claims by jury to the extent authorized by law.

DATED: October 29, 2026

D.LAW, INC.

By _____
Roman Shkodnik
Amanda Fazio
Attorneys for Plaintiff KEVIN AGUIRRE GAMARRA and the putative class

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES:

I, the undersigned, am over the age of 18 years and not a party to this action. My business address is 250 N Madison Avenue, 2nd Floor, Pasadena, CA 91101, which is located in Los Angeles County, where the service herein occurred.

On the date of execution hereof, I caused to be served the following attached document:

FIRST AMENDED CLASS ACTION COMPLAINT

on the interested parties in this action, addressed as follows:

Attorneys for Defendant LONZA MANUFACTURING, LLC:

Phillip J. Ebsworth
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using the following service method(s):

x **VIA PROCEED E-SERVICE:** A true and correct copy of the foregoing document(s) was electronically served on counsel of record by transmission through Proceed electronic service.

I declare under penalty of perjury under the laws of the United States of America and the State of California that the foregoing is true and correct.

Executed on **October 29, 2026**, at Pasadena, California.

Akiko Iwata
Akiko Iwata