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And on behalf of all others similarly situated.

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO

ELIAS J. SAMPSON, individually and on
behalf of all others similarly situated

Plaintiff,

vs.

ARCTIC GLACIER U.S.A., INC.; and
DOES 1 through 20, inclusive,

Defendants.

Case No.

CLASS ACTION COMPLAINT FOR:

1. Failure to Pay Minimum Wages;
2. Failure to Pay Overtime Wages;
3. Failure to Timely Pay All Earned Wages;
4. Failure to Provide Meal Periods;
5. Failure to Permit Rest Breaks;
6. Failure to Provide Accurate Itemized Wage Statements;
7. Failure to Pay All Wages Due Upon Separation of Employment;
8. Failure to Reimburse Necessary Business Expenses; and
9. Violation of Business and Professions Code §§ 17200, *et seq.*

DEMAND FOR JURY TRIAL

1 Plaintiff Elias J. Sampson, individually and on behalf of others similarly situated,
2 alleges as follows:

3 **NATURE OF ACTION AND INTRODUCTORY STATEMENT**

4 1. Plaintiff Elias J. Sampson (“Plaintiff”) brings this putative class action against
5 Defendant Arctic Glacier U.S.A., Inc., (“Defendant”) and DOES 1 through 20, inclusive
6 (collectively, “Defendants”), on behalf of himself individually and a putative class of
7 employees working throughout California.

8 2. Defendant is in the business of distributing ice and ice equipment.

9 3. Through this action, Plaintiff alleges that Defendants have engaged in a
10 systematic pattern of wage and hour violations under the California Labor Code and Industrial
11 Welfare Commission (“IWC”) Wage Orders, all of which contribute to Defendants’ deliberate
12 unfair competition.

13 4. Plaintiff is informed and believes, and thereon alleges, that Defendants have
14 increased their profits by violating state wage and hour laws by, among other things:

15 (a) Failing to pay all wages for all hours worked, including minimum and overtime
16 wages;

17 (b) Failing to pay overtime wages at the proper rates;

18 (c) Failing to timely pay all earned wages;

19 (d) Failing to provide meal periods or compensation in lieu thereof;

20 (e) Failing to authorize or permit rest breaks or provide compensation in lieu thereof;

21 (f) Failing to provide accurate itemized wage statements;

22 (g) Failing to pay all wages due upon separation of employment; and

23 (h) Failing to reimburse all business expenses incurred by employees in direct
24 consequence of the discharge of his or her duties.

25 5. Plaintiff brings this lawsuit seeking monetary relief against Defendants on
26 behalf of himself and all others similarly situated in California to recover, among other things,
27 unpaid wages and benefits, interest, attorneys’ fees, costs and expenses and penalties pursuant
28

1 to Labor Code §§ 201, 202, 203, 204, 210, 226, 226.7, 510, 512, 1182.12, 1194, 1194.2, 1197,
2 1198, 2800, and 2802.

3 **JURISDICTION AND VENUE**

4 6. This is a class action, pursuant to California Code of Civil Procedure § 382. The
5 monetary damages and restitution sought by Plaintiff exceeds the minimal jurisdictional limits
6 of the Superior Court and will be established according to proof at trial.

7 7. This Court has jurisdiction over this action pursuant to the California
8 Constitution, Article VI, § 10, which grants the Superior Court original jurisdiction in all
9 causes except those given by statutes to other courts. The statutes under which this action is
10 brought do not specify any other basis for jurisdiction.

11 8. This Court has jurisdiction over all Defendants because, upon information and
12 belief, they are citizens of California, have sufficient minimum contacts in California or
13 otherwise intentionally avail themselves of the California market so as to render the exercise of
14 jurisdiction over them by the California courts consistent with traditional notions of fair play
15 and substantial justice.

16 9. Venue is proper in this Court because, upon information and belief, Defendants
17 reside, transact business or have offices in this county and the acts and omissions alleged herein
18 took place in this county.

19 **THE PARTIES**

20 10. Plaintiff is a citizen of California. Plaintiff was employed by Defendants during
21 the Class Period in California.

22 11. Plaintiff is informed and believes, and thereon alleges, that Defendants at all
23 times hereinafter mentioned, were and are employers as defined in and subject to the Labor
24 Code and IWC Wage Orders, whose employees were and are engaged throughout this county
25 and the State of California.

26 12. Plaintiff is unaware of the true names or capacities of the defendants sued herein
27 under the fictitious names DOES 1 through 20, but will seek leave of this Court to amend this
28

1 Complaint and serve such fictitiously named defendants once their names and capacities
2 become known.

3 13. Plaintiff is informed and believes, and thereon alleges, that each defendant acted
4 in all respects pertinent to this action as the agent of the other defendant, carried out a joint
5 scheme, business plan or policy in all respects pertinent hereto, and the acts of each defendant
6 are legally attributable to the other defendant. Furthermore, defendants in all respects acted as
7 the employer and/or joint employer of Plaintiff and the class members.

8 14. Plaintiff is informed and believes, and thereon alleges, that each and all of the
9 acts and omissions alleged herein were performed by, or are attributable to, Defendants and/or
10 DOES 1 through 20, acting as the agent or alter ego for the other, with legal authority to act on
11 the other's behalf. The acts of any and all Defendants were in accordance with, and represent,
12 the official policy of Defendants.

13 15. At all relevant times, Defendants, and each of them, acted within the scope of
14 such agency or employment, or ratified each and every act or omission complained of herein.
15 At all relevant times, Defendants, and each of them, aided and abetted the acts and omissions of
16 each and all the other Defendants in proximately causing the damages herein alleged.

17 16. Plaintiff is informed and believes, and thereon alleges, that each of said
18 Defendants is in some manner intentionally, negligently or otherwise responsible for the acts,
19 omissions, occurrences and transactions alleged herein.

20 **CLASS ACTION ALLEGATIONS**

21 17. Plaintiff brings this action under Code of Civil Procedure § 382 on behalf of
22 himself and all others similarly situated who were affected by Defendants' Labor Code,
23 Business and Professions Code §§ 17200 and IWC Wage Order violations.

24 18. All claims alleged herein arise under California law for which Plaintiff seeks
25 relief authorized by California law.

26 19. Plaintiff's proposed Class consists of and is defined as follows:

27 Class

1 All current and former employees who worked for Defendants in the State of
2 California from April 9, 2017 to the date the class is certified.¹

3 20. Plaintiff also seeks to certify the following Subclasses of employees:

4 Exempt Misclassification Subclass

5 All members of the Class who Defendants classified as exempt but who did not
6 meet the salary test or the duties test required to be classified as exempt.

7 Waiting Time Subclass

8 All members of the Class who separated their employment from Defendants from
9 April 9, 2018 to the date the class is certified.

10 21. Members of the Class and Subclass described above will be collectively referred
11 to as “class members.” Plaintiff reserves the right to establish other or additional subclasses, or
12 modify any Class or Subclass definition, as appropriate based on investigation, discovery and
13 specific theories of liability.

14 22. This action has been brought and may properly be maintained as a class action
15 under the California Code of Civil Procedure § 382 because there are common questions of law
16 and fact as to the Class that predominate over questions affecting only individual members
17 including, but not limited to:

- 18 (a) Whether Defendants misclassified Plaintiff and class members as exempt
19 employees;
- 20 (b) Whether Defendants failed to pay all minimum wages and overtime wages owed
21 to Plaintiff and class members;
- 22 (c) Whether Defendants paid Plaintiff and class members overtime compensation at
23 the proper rates;
- 24 (d) Whether Defendants failed to timely pay all wages earned by Plaintiff and class
25 members;
- 26 (e) Whether Defendants deprived Plaintiff and class members of compliant meal
27 periods or required Plaintiff and class members to work through meal periods
28 without compensation;

¹ The statute of limitations for this matter was tolled pursuant to Cal. Rules of Court, Appendix I, Emergency Rule No. 9.

- 1 (f) Whether Defendants deprived Plaintiff and class members of compliant rest
2 breaks;
- 3 (g) Whether Defendants failed to timely pay Plaintiff and former class members all
4 wages due upon termination or within 72 hours of resignation;
- 5 (h) Whether Defendants failed to furnish Plaintiff and class members with accurate,
6 itemized wage statements;
- 7 (i) Whether Defendants required Plaintiff and class members to incur business
8 expenses without reimbursing those expenses;
- 9 (j) Whether Defendants engaged in unfair business practices in violation of Business
10 & Professions Code §§ 17200, *et seq.*

11 23. There is a well-defined community of interest in this litigation and the Class is
12 readily ascertainable:

- 13 (a) Numerosity: The members of the Class are so numerous that joinder of all
14 members is impractical. Although the members of the Class are unknown
15 to Plaintiff at this time, on information and belief, the Class is estimated to
16 be greater than 100 individuals. The identity of the class members are
17 readily ascertainable by inspection of Defendants' employment and payroll
18 records.
- 19 (b) Typicality: The claims (or defenses, if any) of Plaintiff are typical of the
20 claims (or defenses, if any) of the Class because Defendants' failure to
21 comply with the provisions of California wage and hour laws entitled each
22 class member to similar pay, benefits and other relief. The injuries
23 sustained by Plaintiff are also typical of the injuries sustained by the Class
24 because they arise out of and are caused by Defendants' common course of
25 conduct as alleged herein.
- 26 (c) Adequacy: Plaintiff is qualified to, and will fairly and adequately represent
27 and protect the interests of all members of the Class because it is in his best
28 interest to prosecute the claims alleged herein to obtain full compensation

1 and penalties due to him and the Class. Plaintiff's attorneys, as proposed
2 class counsel, are competent and experienced in litigating large
3 employment class actions and are versed in the rules governing class action
4 discovery, certification and settlement. Plaintiff has incurred and,
5 throughout the duration of this action, will continue to incur attorneys' fees
6 and costs that have been and will be necessarily expended for the
7 prosecution of this action for the substantial benefit of each class member.

8 (d) Superiority: The nature of this action makes the use of class action
9 adjudication superior to other methods. A class action will achieve
10 economies of time, effort and expense as compared with separate lawsuits,
11 and will avoid inconsistent outcomes because the same issues can be
12 adjudicated in the same manner and at the same time for each Class. If
13 appropriate this Court can, and is empowered to, fashion methods to
14 efficiently manage this case as a class action.

15 (e) Public Policy Considerations: Employers in the State of California and
16 other states violate employment and labor laws every day. Current
17 employees are often afraid to assert their rights out of fear of direct or
18 indirect retaliation. Former employees are fearful of bringing actions
19 because they believe their former employers might damage their future
20 endeavors through negative references and/or other means. Class actions
21 provide the class members who are not named in the complaint with a
22 type of anonymity that allows for the vindication of their rights at the
23 same time as affording them privacy protections.

24 **GENERAL ALLEGATIONS**

25 24. At all relevant times mentioned herein, Defendants employed Plaintiff and other
26 persons as exempt or non-exempt employees throughout California.

27 25. Plaintiff is informed and believes, and thereon alleges, that at all times herein
28 mentioned, Defendants were advised by skilled lawyers, employees and other professionals

1 who were knowledgeable about California's wage and hour laws, employment and personnel
2 practices and the requirements of California law.

3 26. Plaintiff is informed and believe, and thereon alleges, that Defendants knew or
4 should have known that Plaintiff and class members should have been classified as "non-
5 exempt" employees, and afforded the protections of the California Labor Code and applicable
6 IWC Wage Order. Plaintiff and class members do not meet the requirements to be classified as
7 "exempt" under the salary test or duties tests and should have been classified as nonexempt
8 employees and afforded the protections of the California Labor Code and applicable IWC
9 Wage Order.

10 27. Plaintiff is informed and believes, and thereon alleges, that as a result of
11 misclassifying Plaintiff and other similarly situated employees as exempt, Defendant failed to
12 pay Plaintiff and other aggrieved employees' wages for all hours worked, including minimum
13 and overtime wages, failed to provide legally compliant meal and rest periods, failed to provide
14 accurate itemized wage statements, and failed to pay all wages due and owed during and upon
15 separation of employment.

16 28. Plaintiff is informed and believe, and thereon alleges, that Defendants knew or
17 should have known that Plaintiff and class members were entitled to receive wages for all hours
18 worked and that they were not receiving all wages earned for work that was required to be
19 performed. In violation of the Labor Code and IWC Wage Orders, Plaintiff and class members
20 were not paid all wages earned, including for off-the-clock work. Because Plaintiff and class
21 members worked shifts of eight hours or more, this unpaid time qualified for overtime premium
22 payment. Further, Defendants failed to pay Plaintiff and class members all overtime and
23 double-time wages earned at the correct regular rate because they failed to include
24 commissions and other non-discretionary performance-based pay in the regular rate of pay.

25 29. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
26 should have known that Plaintiff and class members were entitled to receive itemized wage
27 statements that accurately showed their gross and net wages earned, total hours worked and all
28 applicable hourly rates in effect and the number of hours worked at each hourly rate in

1 accordance with California law, among the other items required by Labor Code section 226.
2 However, Defendants failed to accurately provide the information required by Labor Code
3 section 226.

4 30. Plaintiff is informed and believes, and thereon alleges, Defendants failed to
5 provide Plaintiff and class members timely, uninterrupted, off-duty meal periods of no less than
6 thirty minutes for each five hours of work. Plaintiff and class members would also often be
7 required to work through meal periods. These policies, among others, have resulted in a denial
8 of these employees' rights to 30-minute meal periods in violation of California law.

9 31. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
10 should have known that Plaintiff and class members were entitled to receive all required meal
11 periods or payment of one (1) additional hour of pay at Plaintiff and class members' regular
12 rate of pay when they did not receive a timely meal period. In violation of the Labor Code and
13 IWC Wage Orders, Plaintiff and class members did not receive all timely meal periods or
14 payment of one (1) additional hour of pay at Plaintiff and class members' regular rate of pay
15 when they did not receive a timely, uninterrupted meal periods.

16 32. Plaintiff is informed and believes, and thereon alleges, Defendants failed to
17 provide Plaintiff and class members timely, uninterrupted, on-the-clock rest periods of no less
18 than ten minutes for every four hours worked, or every major fraction thereof. Instead,
19 Defendants would often require Plaintiff and class members to work through their rest periods
20 or Defendants fail to provide an opportunity to take compliant rest periods. These policies,
21 among others, have resulted in a denial of these employees' rights to a ten-minute rest period in
22 violation of California law.

23 33. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
24 should have known that Plaintiff and class members were entitled to receive all rest breaks or
25 payment of one (1) additional hour of pay at Plaintiff and class members' regular rate of pay
26 when a rest break was missed. In violation of the Labor Code and IWC Wage Orders, Plaintiff
27 and class members did not receive all rest breaks or payment of one (1) additional hour of pay
28 at Plaintiff and class members' regular rate of pay when a rest break was missed.

1 34. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
2 should have known that Plaintiff and Waiting Time Subclass members were entitled to timely
3 payment of wages due upon separation of employment. In violation of the Labor Code,
4 Plaintiff and Waiting Time Subclass members did not receive payment of all wages within
5 permissible time periods.

6 35. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
7 should have known that Plaintiff and class members were entitled to reimbursement for
8 necessary expenditures incurred in connection with the performance and execution of their job
9 duties. In violation of the California Labor Code, Plaintiff and class members did not receive
10 adequate reimbursement for necessary business expenses, including but not limited to
11 reimbursement for use of their personal cell phones, masks, gloves, and purchase of gas.

12 36. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
13 should have known they had a duty to compensate Plaintiff and class members, and Defendants
14 had the financial ability to pay such compensation but willfully, knowingly and intentionally
15 failed to do so all in order to increase Defendants' profits.

16 **FIRST CAUSE OF ACTION**

17 **FAILURE TO PAY MINIMUM WAGES**

18 **(Violation of Labor Code §§ 1182.12, 1194, 1194.2, 1197; Violation of IWC Wage Order § 3)**

19 37. Plaintiff hereby re-allege and incorporate by reference all paragraphs above as
20 though fully set forth herein.

21 38. Labor Code §§ 1194 and 1197 provide that the minimum wage for employees
22 fixed by the IWC is the minimum wage to be paid to employees, and the payment of a lesser
23 wage than the minimum so fixed is unlawful.

24 39. During the relevant time period, Defendants paid Plaintiff and class members
25 less than minimum wages due to Defendants classifying Plaintiff and class members as exempt,
26 and due to Defendants requiring Plaintiff and class members to work off-the-clock.

27 ///

28 ///

40. During the relevant time period, Defendants regularly failed to pay at least minimum wage to Plaintiff and class members for all hours worked pursuant to Labor Code §§ 1194 and 1197.

41. Defendants' failure to pay Plaintiff and class members the minimum wage as required violates Labor Code §§ 1194 and 1197. Pursuant to these sections, Plaintiff and class members are entitled to recover the unpaid balance of their minimum wage compensation as well as interest, costs and attorney's fees.

42. Pursuant to Labor Code § 1194.2, Plaintiff and class members are entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

SECOND CAUSE OF ACTION

FAILURE TO PAY OVERTIME WAGES

(Violation of Labor Code §§ 510, 1194 and 1198; Violation of IWC Wage Order)

43. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as though fully set forth herein.

44. Labor Code § 1198 and the applicable IWC Wage Order provide that it is unlawful to employ persons without compensating them at a rate of pay either one and one-half or two times the person's regular rate of pay, depending on the number of hours worked by the person on a daily or weekly basis.

45. Pursuant to California Labor Code §§ 510 and 1194, during the relevant time period, Defendants were required to compensate Plaintiff and class members for all overtime hours worked, calculated at one and one-half (1½) times the regular rate of pay for hours worked in excess of eight (8) hours per day and/or forty (40) hours per week and for the first eight (8) hours of the seventh consecutive work day, with double time after eight (8) hours on the seventh day of any work week, or after twelve (12) hours in any work day.

46. Plaintiff and class members were or should have been classified as non-exempt employees entitled to the protections of California Labor Code §§ 510 and 1194.

1 47. During the relevant time period, Defendants failed to pay Plaintiff and class
2 members overtime wages at the correct rate due to Defendants classifying of Plaintiff and class
3 members as exempt, and due to Defendants requiring non-exempt employees to work off-the-
4 clock. Because Plaintiff and class members worked shifts of eight hours or more, this unpaid
5 time qualified for overtime premium payment. Further, Defendants failed to pay Plaintiff and
6 class members all overtime and double-time wages earned at the correct regular rate because
7 they failed to include commissions and other non-discretionary performance-based pay in the
8 regular rate of pay.

9 48. In violation of state law, Defendants have knowingly and willfully refused to
10 perform their obligations and compensate Plaintiff and class members for all wages earned as
11 alleged above.

12 49. Defendants' failure to pay Plaintiff and class members the unpaid balance of
13 overtime compensation, as required by California law, violates the provisions of Labor Code
14 §§ 510 and 1198, and is therefore unlawful.

15 50. Pursuant to Labor Code § 1194, Plaintiff and class members are entitled to
16 recover their unpaid overtime compensation as well as interest, costs and attorneys' fees.

17 **THIRD CAUSE OF ACTION**

18 **FAILURE TO TIMELY PAY ALL EARNED WAGES**

19 **(Violation of Labor Code §§ 204 and 210; Violation of IWC Wage Order)**

20 51. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as
21 though fully set forth herein.

22 52. Labor Code § 204 provides that all wages earned by an employee are due and
23 payable twice during each calendar month.

24 53. Defendants failed to timely pay Plaintiff and class members all of their earned
25 wages as required by Labor Code Section 204.

26 54. Plaintiff and class members have been deprived of their rightfully earned wages
27 as a direct and proximate result of Defendants' failure to pay said compensation. Plaintiff and
28

1 class members are entitled to recover such amounts, plus interest thereon, attorney's fees and
2 costs.

3 55. In addition, Plaintiff and class members are entitled to penalties pursuant to
4 Labor Code § 210 as follows: (1) for Defendants' initial violation, \$100 for each failure to pay
5 each Class Member; and (2) for each of Defendants' subsequent violations, or any willful or
6 intentional violation, \$200 for each failure to pay each class member, plus 25 percent of the
7 amount unlawfully held.

8 **FOURTH CAUSE OF ACTION**

9 **FAILURE TO PROVIDE MEAL PERIODS**

10 **(Violation of Labor Code §§ 226.7 and 512; Violation of IWC Wage Order)**

11 56. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as
12 though fully set forth herein.

13 57. Labor Code § 226.7 provides that no employer shall require an employee to work
14 during any meal period mandated by the IWC Wage Orders.

15 58. Section 11 of the applicable IWC Wage Order states, "no employer shall employ
16 any person for a work period of more than five (5) hours without a meal period of not less than
17 30 minutes, except that when a work period of not more than six (6) hours will complete the
18 day's work the meal period may be waived by mutual consent of the employer and the
19 employee."

20 59. Labor Code § 512(a) provides that an employer may not require, cause or permit
21 an employee to work for a period of more than five (5) hours per day without providing the
22 employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if
23 the total work period per day of the employee is not more than six (6) hours, the meal period
24 may be waived by mutual consent of both the employer and the employee.

25 60. Labor Code § 512(a) also provides that an employer may not employ an
26 employee for a work period of more than ten (10) hours per day without providing the employee
27 with a second meal period of not less than thirty (30) minutes, except that if the total hours
28 worked is no more than twelve (12) hours, the second meal period may be waived by mutual

1 consent of the employer and the employee only if the first meal period was not waived.

2 61. During the relevant time period, Plaintiff and class members did not receive
3 compliant meal periods for each five (5) hours worked because their meal periods were missed,
4 late, short, interrupted, and/or they were required to work through their meal period.

5 62. Labor Code § 226.7(b) and section 11 of the applicable IWC Wage Order require
6 an employer to pay an employee one additional hour of pay at the employee's regular rate of
7 compensation for each work day that a meal period is not provided.

8 63. At all relevant times, Defendants failed to pay Plaintiff and class members all
9 meal period premiums due for meal period violations pursuant to Labor Code § 226.7(b) and
10 section 11 of the applicable IWC Wage Order.

11 64. As a result of Defendants' failure to pay Plaintiff and class members an
12 additional hour of pay for each day a meal period was not provided, Plaintiff and class members
13 suffered and continue to suffer a loss of wages and compensation.

14 **FIFTH CAUSE OF ACTION**

15 **FAILURE TO PERMIT REST BREAKS**

16 **(Violation of Labor Code §§ 226.7; Violation of IWC Wage Order)**

17 65. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as
18 though fully set forth herein.

19 66. Labor Code § 226.7(a) provides that no employer shall require an employee to
20 work during any rest period mandated by the IWC Wage Orders.

21 67. Section 12 of the applicable IWC Wage Order states "every employer shall
22 authorize and permit all employees to take rest periods, which insofar as practicable shall be in
23 the middle of each work period" and the "authorized rest period time shall be based on the total
24 hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major
25 fraction thereof" unless the total daily work time is less than three and one-half (3½) hours.

26 68. During the relevant time period, Plaintiff and class members did not receive a ten
27 (10) minute rest period for every four (4) hours or major fraction thereof worked.

28 69. Labor Code § 226.7(b) and section 12 of the applicable IWC Wage Order

1 requires an employer to pay an employee one additional hour of pay at the employee's regular
2 rate of compensation for each workday that the rest period is not provided.

3 70. At all relevant times, Defendants failed to pay Plaintiff and class members all
4 rest period premiums due for rest period violations pursuant to Labor Code § 226.7(b) and
5 section 12 of the applicable IWC Wage Order.

6 71. As a result of Defendants' failure to pay Plaintiff and class members an
7 additional hour of pay for each day a rest period was not provided, Plaintiff and class members
8 suffered and continue to suffer a loss of wages and compensation.

9 **SIXTH CAUSE OF ACTION**

10 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**

11 **(Violation of Labor Code § 226; Violation of IWC Wage Order)**

12 72. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as
13 though fully set forth herein.

14 73. Labor Code § 226(a) requires Defendants to provide each employee with an
15 accurate wage statement in writing showing nine pieces of information, including: (1) gross
16 wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units
17 earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all
18 deductions, provided that all deductions made on written orders of the employee may be
19 aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period
20 for which the employee is paid, (7) the name of the employee and the last four digits of his or
21 her social security number or an employee identification number other than a social security
22 number, (8) the name and address of the legal entity that is the employer, and (9) all applicable
23 hourly rates in effect during the pay period and the corresponding number of hours worked at
24 each hourly rate by the employee.

25 74. During the relevant time period, Defendants have knowingly and intentionally
26 failed to comply with Labor Code § 226(a) on wage statements that were provided to Plaintiff
27 and class members. The deficiencies include, among other things, the failure to correctly state
28 the gross and net wages earned, and all applicable hourly rates in effect and the number of

1 hours worked at each hourly rate by Plaintiff and class members.

2 75. As a result of Defendants' violation of California Labor Code § 226(a), Plaintiff
3 and class members have suffered injury and damage to their statutorily protected rights.
4 Specifically, Plaintiff and class members have been injured by Defendants' intentional
5 violation of California Labor Code § 226(a) because they were denied both their legal right to
6 receive, and their protected interest in receiving, accurate itemized wage statements under
7 California Labor Code § 226(a). Plaintiff has had to file this lawsuit in order to determine the
8 extent of the underpayment of wages, thereby causing Plaintiff to incur expenses and lost time.
9 Plaintiff would not have had to engage in these efforts and incur these costs had Defendants
10 provided the accurate wages earned. This has also delayed Plaintiff's ability to demand and
11 recover the underpayment of wages from Defendants.

12 76. California Labor Code § 226(a) requires an employer to pay the greater of all
13 actual damages or fifty dollars (\$50.00) for the initial pay period in which a violation occurred,
14 and one hundred dollars (\$100.00) per employee for each violation in subsequent pay periods,
15 plus attorney's fees and costs, to each employee who was injured by the employer's failure to
16 comply with California Labor Code § 226(a).

17 77. Defendants' violations of California Labor Code § 226(a) prevented Plaintiff
18 and class members from knowing, understanding and disputing the wages paid to them, and
19 resulted in an unjustified economic enrichment to Defendants. As a result of Defendants'
20 knowing and intentional failure to comply with California Labor Code § 226(a), Plaintiff and
21 class members have suffered an injury, and the exact amount of damages and/or penalties is all
22 in an amount to be shown according to proof at trial.

23 78. Plaintiff and class members are also entitled to injunctive relief under California
24 Labor Code § 226(h), compelling Defendants to comply with California Labor Code § 226, and
25 seek the recovery of attorneys' fees and costs incurred in obtaining this injunctive relief.

26 **SEVENTH CAUSE OF ACTION**

27 **FAILURE TO PAY ALL WAGES DUE UPON SEPARATION OF EMPLOYMENT AND**

28 **WITHIN THE REQUIRED TIME**

1 **(Violation of Labor Code §§ 201, 202 and 203; Violation of IWC Wage Order)**

2 79. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as
3 though fully set forth herein.

4 80. California Labor Code §§ 201 and 202 provide that if an employer discharges an
5 employee, the wages earned and unpaid at the time of discharge are due and payable
6 immediately, and that if an employee voluntarily leaves his employment, his wages shall
7 become due and payable not later than seventy-two (72) hours thereafter, unless the employee
8 has given seventy-two (72) hours previous notice of his intention to quit, in which case the
9 employee is entitled to his wages at the time of quitting.

10 81. During the relevant time period, Defendants willfully failed to pay Plaintiff and
11 Waiting Time Subclass members all their earned wages upon termination including, but not
12 limited to, proper minimum wages and overtime compensation, either at the time of discharge
13 or within seventy-two (72) hours of their leaving Defendants' employ.

14 82. Defendants' failure to pay Plaintiff and Waiting Time Subclass members all
15 their earned wages at the time of discharge or within seventy-two (72) hours of their leaving
16 Defendants' employ is in violation of Labor Code §§ 201 and 202.

17 83. California Labor Code § 203 provides that if an employer willfully fails to pay
18 wages owed immediately upon discharge or resignation in accordance with Labor Code §§ 201
19 and 202, then the wages of the employee shall continue as a penalty from the due date at the
20 same rate until paid or until an action is commenced; but the wages shall not continue for more
21 than thirty (30) days.

22 84. Plaintiff and Waiting Time Subclass members are entitled to recover from
23 Defendants the statutory penalty which is defined as Plaintiff's and Waiting Time Subclass
24 members' regular daily wages for each day they were not paid, at their regular hourly rate of
25 pay, up to a thirty (30) day maximum pursuant to Labor Code § 203.

26 **EIGHTH CAUSE OF ACTION**

27 **FAILURE TO REIMBURSE ALL BUSINESS EXPENSES**

28 **(Violation of Labor Code §§ 2800, 2802)**

1 85. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as
2 though fully set forth herein.

3 86. Labor Code § 2800 provides, in pertinent part, “[a]n employer shall in all cases
4 indemnify his employee for losses caused by the employer’s want of ordinary care.”

5 87. Labor Code § 2802 provides, in pertinent part, “[a]n employer shall indemnify
6 his or her employee for all necessary expenditures or losses incurred by the employee in direct
7 consequence of the discharge of his or her duties...”

8 88. Further, Labor Code § 2802 additionally provides, in pertinent part: “(c)...the term
9 ‘necessary expenditures or losses’ shall include all reasonable costs, including but not limited to,
10 attorney’s fees incurred by the employee enforcing the rights granted by this section.”

11 89. During the relevant time period, Defendants were required to indemnify and
12 reimburse Plaintiffs and class members for all expenditures or losses caused by the employer’s
13 want of ordinary care and/or incurred in direct consequent of the discharge of their duties, but
14 failed to indemnify and reimburse Plaintiffs and class members in violation of Labor Codes §§
15 2800 and 2802.

16 90. During the relevant time period, Plaintiff and class members did not receive
17 adequate reimbursement for necessary business expenses, including but not limited to
18 reimbursement for use of their personal cell phones, masks, gloves, and gas.

19 91. As a direct and proximate result, Plaintiffs and class members have suffered, and
20 continue to suffer, substantial losses, related to the use and enjoyment of such monies to be
21 reimbursed, lost interest on such monies, and expenses and attorney’s fees in seeking to compel
22 Defendants to fully perform their obligations under California law, all to their damage in amounts
23 according to proof at the time of trial.

24 **NINTH CAUSE OF ACTION**

25 **VIOLATION OF BUSINESS AND PROFESSIONS CODE §§ 17200, ET SEQ.**

26 92. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as
27 though fully set forth herein.

28 93. Defendants’ conduct, as alleged herein, has been and continues to be unfair,

1 unlawful and harmful to Plaintiff and class members. Plaintiff seeks to enforce important
2 rights affecting the public interest within the meaning of Code of Civil Procedure § 1021.5.

3 94. Defendants' activities, as alleged herein, violate California law and constitute
4 unlawful business acts or practices in violation of California Business and Professions Code
5 §§ 17200, *et seq.*

6 95. A violation of Business and Professions Code §§ 17200, *et seq.* may be
7 predicated on the violation of any state or federal law.

8 96. Defendants' policies and practices have violated state law in at least the
9 following respects:

- 10 (a) Failing to pay all minimum wages to Plaintiff and class members in
11 violation of Labor Code §§ 1182.12, 1194, 1194.2, and 1197;
- 12 (b) Failing to pay all overtime wages to Plaintiff and class members in
13 violation of Labor Code §§ 510, 1194 and 1198;
- 14 (c) Failing to timely pay all wages earned by Plaintiff and class members in
15 violation of Labor Code §§ 204 and 210;
- 16 (d) Failing to provide timely meal periods without paying Plaintiff and class
17 members premium wages for every day said meal periods were not
18 provided in violation of Labor Code §§ 226.7 and 512;
- 19 (e) Failing to authorize or permit rest breaks without paying Plaintiff and
20 class members premium wages for every day said rest breaks were not
21 authorized or permitted in violation of Labor Code § 226.7;
- 22 (f) Failing to provide Plaintiff and class members with accurate itemized
23 wage statements in violation of Labor Code § 226;
- 24 (g) Failing to timely pay all earned wages to Plaintiff and Waiting Time
25 Subclass members upon separation of employment in violation of Labor
26 Code §§ 201, 202, and 203; and
- 27 (h) Failing to reimburse all necessary business expenses incurred by Plaintiff
28 and class members in violation of Labor Code §§ 2800 and 2802.

97. Defendants intentionally avoided paying Plaintiff and class members' wages and monies, thereby creating for Defendants an artificially lower cost of doing business in order to undercut their competitors and establish and gain a greater foothold in the marketplace.

98. Pursuant to Business and Professions Code §§ 17200, *et seq.* Plaintiff and class members are entitled to restitution of the wages unlawfully withheld and retained by Defendants during a period that commences four years prior to the filing of the Complaint; an award of attorneys' fees pursuant to Code of Civil Procedure § 1021.5 and other applicable laws; and an award of costs.

PRAYER FOR RELIEF

Plaintiff, on his own behalf and on behalf of all others similarly situated, pray for relief and judgment against Defendants, jointly and severally, as follows:

1. For certification of this action as a class action, including certifying the Class and Subclass alleged by Plaintiff;
2. For appointment of Elias J. Sampson as the class representative;
3. For appointment of Aegis Law Firm, PC as class counsel for all purposes;
4. For compensatory damages in an amount according to proof with interest thereon;
5. For economic and/or special damages in an amount according to proof with interest thereon;
6. For reasonable attorneys' fees, costs of suit and interest to the extent permitted by law, including pursuant to Code of Civil Procedure § 1021.5, Labor Code §§ 226(e) and 1194;
7. For statutory penalties to the extent permitted by law, including those pursuant to the Labor Code and IWC Wage Orders;
8. For restitution as provided by Business and Professions Code §§ 17200, *et seq.*;
9. For an order requiring Defendants to restore and disgorge all funds to each employee acquired by means of any act or practice declared by this Court to be unlawful, unfair or fraudulent and, therefore, constituting unfair competition under Business and Professions

1 Code §§ 17200, *et seq.*;

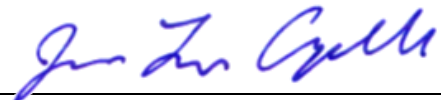
2 10. For an award of damages in the amount of unpaid compensation including, but
3 not limited to, unpaid wages, benefits and penalties, including interest thereon;

4 11. For pre-judgment interest; and

5 12. For such other relief as the Court deems just and proper.

6
7 Dated: October 4, 2021

AEGIS LAW FIRM, PC

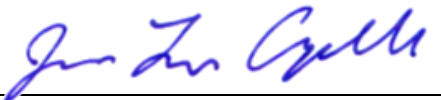
8 By: 
9 Jessica L. Campbell
10 Attorney for Plaintiff Elias J. Sampson,
11

12 **DEMAND FOR JURY TRIAL**

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

14 Dated: October 4, 2021

AEGIS LAW FIRM, PC

15 By: 
16 Jessica L. Campbell
17 Attorney for Plaintiff Elias J. Sampson,
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