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SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CRUZ

23CV00040

ANGEL LUNA individually, and on
behalf of all others similarly situated,

Plaintiff,

vs.

DAVEY TREE SURGERY COMPANY,
a Delaware Corporation; and DOES 1
through 50, inclusive,

Defendants.

Case No.

**CLASS ACTION COMPLAINT FOR
DAMAGES, INJUNCTIVE AND
DECLARATORY RELIEF, PENALTIES
AND RESTITUTION**

1. **Failure to Pay Wages For All Hours Worked** (Cal. Lab. Code §§ 204, 218, 1194, 1194.2);
2. **Failure to Pay Overtime Wages** (Cal. Lab. Code §§ 218, 510, 1194);
3. **Failure to Provide Mandatory Meal-and-Rest Breaks** (Cal. Lab. Code §§ 226.7, 512);
4. **Violation of Labor Code § 2802 (Unreimbursed Business Expenses);**
5. **Failure to Provide Accurate Wage Statements** (Cal. Lab. Code §§ 226, 1174);
6. **Waiting Time Penalties** (Cal. Labor Code §§ 201-203); and
7. **Violation of California's Unfair Competition Law** (Cal. Business & Professions Code §§ 17200, *et seq.*).
8. **Violation of Labor Code §§ 2698 et seq. ("PAGA");**

DEMAND FOR JURY TRIAL

1 1. Plaintiff ANGEL LUNA (“Plaintiff”), individually, and on behalf of themselves and
2 classes of those similarly situated, file this Class Action Complaint against DAVEY TREE
3 SURGERY COMPANY, a Delaware Corporation; and DOES 1 through 50 (collectively,
4 “Defendants”), and alleges as follows:

5
6 **I. INTRODUCTION AND FACTUAL BACKGROUND**

7 2. Plaintiff brings this class action pursuant to Code of Civil Procedure § 382
8 against Defendants for, among other things: (a) nonpayment of wages (including minimum
9 wages and overtime wages); (b) nonprovision of compliant meal periods; (c) nonprovision of
10 compliant rest breaks; (d) failure to reimburse for business expenses; (e) failure to provide
11 accurate wage statements; and (f) for failure to pay all wages due upon termination of
12 employment.

13 3. For the four years prior to the filing of the original Complaint to the present
14 including tolling (the “Class Period”), Defendants have and continue to employ non-exempt hourly
15 employees.

16 4. Plaintiff is informed and believes, and thereon allege, that at all times herein
17 mentioned, Defendants were advised by skilled lawyers and other professionals, employees and
18 advisors knowledgeable about California labor and wage law, employment and personnel practices,
19 and about the requirements of California law.

20 5. Labor Code § 1198 provides: “The maximum hours of work and the standard
21 conditions of labor fixed by the commission shall be the maximum hours of work and the standard
22 conditions of labor for employees. The employment of any employee for longer hours than those
23 fixed by the order or under conditions of labor prohibited by the order is unlawful.”

24 6. In accordance with its power under section 1198, the Industrial Welfare
25 Commission adopted Wage Orders prescribing the minimum wages, maximum hours, and standard
26 conditions of employment for employees in this state.

27 7. During the relevant time period, Defendants did not authorize and permit lawful
28

1 meal periods and rest breaks for Plaintiff and Class members. This was based on policies (or
2 lack thereof) as well as their practices that applied to all Class members.

3 8. Plaintiff and Class members were regularly not provided with all compliant
4 meal periods to which they were entitled, including for a second meal period. This includes
5 that Defendants regularly required Plaintiff and Class members (to the extent meal periods were
6 actually provided) to take them well after the 5th hour (both including and excluding accounting
7 for the off the clock time addressed herein). The meal periods were also regularly interrupted
8 so that they were not sufficiently long to comply with the law or there was a a complete lack
9 of a meal period. Even when meal periods were shorter than 30 minutes or none was provided,
10 Class members still had 30 minutes deducted from their daily time, and meal period premiums
11 were not paid. Furthermore, meal periods (including second meal periods) were regularly
12 untimely or not taken at all including because of the press of business and pressure of
13 Defendants to complete tasks. Again, compliant meal period premiums were not paid.

14 9. Additionally, Defendants' non-exempt employees were not authorized and
15 permitted lawful rest breaks as required (including providing the correct number required).
16 Plaintiff and Class members were not permitted or authorized to take these, and in fact did not
17 take them, due to, among other things, the press of business and Defendants' requirements.
18 Defendant was aware of this but did not pay Plaintiff and Class members a compliant rest break
19 premium.
20

21 10. As such, Plaintiff and Class members were not authorized and permitted lawful meal
22 periods and rest breaks and were not provided with one hour's wages in lieu thereof in violation of,
23 among others, California Labor Code §§ 512 and 226.7 and applicable IWC Wage Orders. This has
24 also resulted in a failure to pay for all wages for hours worked during meal periods.

25 11. Defendants' non-exempt employees were not authorized and permitted lawful meal
26 periods and rest breaks and were not provided with one hour's wages in lieu thereof, in one or more
27 of the following manners.

28 a. employees were regularly not authorized and permitted full and timely thirty-

1 minute meal periods for workdays in excess of five and/or ten hours and were
2 not compensated one hour's wages in lieu thereof, all in violation of, among
3 others, Labor Code §§ 226.7, 512, and applicable IWC Wage Orders;

4 b. employees were regularly not authorized and permitted full and timely ten-
5 minute rest breaks for workdays in excess of four and/or eight and/or twelve
6 hours and were not compensated one hour's wages in lieu thereof, all in
7 violation of, among others, Labor Code §§ 226.7 and applicable IWC Wage
8 Orders;

9 c. employees were required to work through their daily meal period(s) and rest
10 break(s);

11 d. employees were required to work longer than five hours or 10 hours before being
12 allowed to take a meal period;

13 e. employees were required to work longer than four hours before being allowed to
14 take a rest break; and

15 f. employees were severely restricted in their ability to take a meal period or rest break.

16 12. On information and belief, Plaintiff alleges that he and the Class members did
17 not waive meal periods during the Class period.
18

19 13. During the course of Plaintiff's and Class members' employment, Defendants
20 also failed to compensate Plaintiff and the Class members for all hours worked (including
21 minimum wage and overtime wages). This includes, working through meal periods and off the
22 clock work. Plaintiff and Class members were required to perform work at the yard before the
23 "start" of their shift (which was leaving the yard) and after the "end" of their shift. However,
24 Defendant was the one controlling the recording of the time and refused to accurately record
25 the true hours and clock in and clock out times (which included simply listing total attendance
26 hours for the day and not including the pre and post shift times during which Plaintiff and Class
27 members were under its control and working). As a result, Defendant has failed to pay all
28 wages due (including minimum wage and the resulting liquidated damages) and based on the

1 hours worked, compensation for overtime hours as well. Furthermore, separately from the off
2 the clock work, Defendant failed to properly pay overtime for all overtime hours worked,
3 including for daily overtime hours.

4 14. Despite Plaintiff and Class members regularly working in excess of eight hours
5 per day and/or 40 hours per week, they were not paid all wages, or wages at the proper rate, for
6 this time as required by Labor Code §§ 510 and 1194 in one or more of the following manners:

- 7 1. By failing to pay for all hours worked;
- 8 2. By failing to pay for all hours worked at the appropriate rate;
- 9 3. By deducting time for meal periods during which employees were actually
10 working;
- 11 4. By arbitrarily reducing hours worked;
- 12 5. Through failure to maintain proper records; and
- 13 6. Through other methods to be discovered.

14 15. Furthermore, Defendants failed to reimburse Plaintiffs and Class members for
15 reasonable business expenses. This includes refusing to pay for the use of personal cell phones
16 and electronic devices and required classes for Defendants' business.

17 16. Furthermore, as a result of Defendants' illegal and unlawful conduct as set forth
18 above, Defendants have knowingly and intentionally failed to comply with the itemized wage-
19 statement provisions and have failed to pay the damages and penalties for said violations as required
20 by California law, including the failure to include gross and net wages earned, total hours worked
21 and the applicable rate of pay, meal period and rest break premiums (including at the correct rate).
22 They also failed to record hours and meal periods and maintain accurate payroll in violation of
23 California Labor Code §§ 226 and 1198, as well as the Industrial Wage Order.

24 17. Furthermore, Defendants failed to timely pay for all wages owed to Class
25 members upon termination of employment. As detailed above, Class members were not
26 provided proper meal periods and/or rest breaks and were not provided with a one-hour penalty
27 in lieu thereof, and were not paid all wages owed.
28

18. As a result of the above, Defendants have also engaged in unfair, fraudulent and deceptive business practices within the meaning of the Business & Professions Code §§ 17200, *et seq.*, as further detailed below.

19. Plaintiff, on behalf of himself and the non-exempt employees, bring this action pursuant to California Labor Code §§ 201-203, 204, 210, 218, 226, 226.7, 510, 512, 558, 558.1, 1194, 1194.2, 1197, 1197.1, 1198, and 2802 and the applicable Industrial Welfare Commission Wage Orders (“Wage Orders”), seeking unpaid wages (including minimum and overtime wages), unpaid meal period and rest break premiums, penalties, injunctive and other equitable relief, and reasonable attorneys’ fees and costs.

20. Plaintiff, on behalf of himself and the non-exempt employees, pursuant to Business & Professions Code §§ 17200, *et seq.*, also seeks injunctive relief, and restitution, from Defendants for their failure to pay the wages and penalties as set forth above.

II. THE PARTIES

A. The Plaintiff

21. Plaintiff is a current resident of Watsonville, California. He has been employed by Defendants during the class period. He will serve as an adequate, typical and active participant and class representative for the proposed Class and/or Subclasses as defined herein.

22. As detailed above, Plaintiff was not paid for all hours worked, was not provided all compliant meal periods and was not authorized and permitted all compliant rest breaks during the Class Period, and was not reimbursed for business expenses.

23. Plaintiff reserves the right to seek leave to amend this complaint to add new plaintiffs, if necessary, in order to establish suitable representative(s) pursuant to *La Sala v. American Savings and Loan Association*, 5 Cal. 3d 864, 872 (1971), and other applicable law.

B. The Defendants

24. Defendants employed Plaintiff and other non-exempt employees in California. The illegal and unlawful policies and practices described herein were performed by Defendants in California.

25. Defendant DAVEY TREE SURGERY COMPANY was and is, upon information and belief, a Delaware Corporation with the capacity to sue and to be sued, and doing business, in the State of California,. At all times hereinafter mentioned, Defendant DAVEY TREE SURGERY COMPANY was an employer whose employees were engaged throughout this county and the State of California.

26. The true names and capacities, whether individual, corporate, associate or otherwise, of defendants DOES 1 through 50 are unknown to Plaintiff, who therefore sues these defendants by fictitious names pursuant to Code of Civil Procedure § 474. Plaintiff further alleges that each of these fictitious defendants is in some manner responsible for the acts and occurrences herein set forth. Plaintiff will amend this Complaint to show these defendants' true names and capacities when ascertained, as well as the manner in which each fictitious defendant is responsible.

27. At all times mentioned herein, the Defendants named as DOES 1-50, inclusive, and each of them, were residents of, doing business in, availed themselves of the jurisdiction of, and/or injured Plaintiff and aggrieved employees in the State of California.

28. At all times mentioned herein, each Defendant was the agent, servant, or employee of the other Defendants and in acting and omitting to act as alleged herein did so within the course and scope of that agency or employment.

III. JURISDICTION AND VENUE

29. The unlawful acts alleged herein arise under the laws of the State of California and have a direct effect on Plaintiff and other employees who work and/or performed work within the State of California.

30. Business & Professions Code § 17204 provides that any person acting on his or her own behalf may bring an action in a court of competent jurisdiction.

31. The Santa Cruz County Superior Court has personal jurisdiction over Defendants because: (1) they operate within this County; (2) are qualified with the California Secretary of State to do business and is doing business in California, and in this County; and (3) because many of the acts complained of occurred and arose in California, and specifically,

1 this County. Additionally, each is either a citizen of California, has sufficient minimum contacts
2 in California, or otherwise intentionally avails itself of the California market so as to render the
3 exercise of jurisdiction over it by the California courts consistent with traditional notions of fair
4 play and substantial justice.

5 32. Venue as to Defendants is proper in this judicial district, pursuant to Code of
6 Civil Procedure § 395, as one or more of the named Defendants reside, transact business, or
7 have offices in this county and the acts and omissions alleged herein took place in this county.

8 33. California Labor Code sections 2699 et seq., the “Labor Code Private Attorneys
9 General Act” (“PAGA”), authorizes aggrieved employees to sue directly for various civil penalties
10 under the California Labor Code.

11 34. Plaintiff timely provided notice to the California Labor Workforce Development
12 Agency (“LWDA”) and to Defendants, pursuant to California Labor Code section
13 2699.3(a). Therefore, he may proceed with this action for penalties pursuant to California Labor
14 Code § 2699, et seq.

15 35.

16 IV. CLASS ACTION ALLEGATIONS

17 36. Plaintiff is a non-exempt employees who was employed by Defendants during the
18 Class Period.

19 37. Plaintiff brings this action individually, as well as on behalf of each and all other
20 persons similarly situated in a concerted effort to improve wages and working conditions for
21 other non-exempt and/or hourly employees, and thus seek class certification under Code of
22 Civil Procedure § 382.

23 38. The proposed Class consists of and is defined as:

24 All individuals (a) who are currently or formerly employed by
25 Defendants and performed work in California as non-exempt hourly
26 employees or similar job position, job title, job code, job classification,
27 or job description, and (b) who were subject to Defendants’ illegal
28 policies and practices as alleged herein during the Class Period.

39. The proposed sub-classes consist of and are defined as:

1
2 UNPAID WAGE SUBCLASS: All members of the Class who
3 Defendants failed to pay an hourly wage for each hour worked
(or other required compensation) during the Class Period.

4 OVERTIME SUB-CLASS: All members of the Class who
5 were not paid overtime compensation (or not paid at the
6 applicable overtime rate) for all hours worked in excess of
eight hours per day and/or 40 hours per week.

7 MEAL PERIOD SUB-CLASS: All members of the Class who
8 were not authorized and permitted to take a 30-minute,
uninterrupted meal period for every five hours worked per day,
9 and were not compensated one hour's pay for each day on which
such meal period was not authorized and permitted.

10 REST BREAK SUB-CLASS: All members of the Class who were
11 not authorized and permitted to take a 10-minute, uninterrupted
12 rest break for every four hours worked per day, or major fraction
13 thereof, and were not compensated one hour's pay for each day on
which such rest break was not authorized and permitted.

14 BUSINESS EXPENSE SUBCLASS: All members of the Class who
15 Defendants failed to reimburse for all business expenses during the
Class Period.

16 WAGE STATEMENT SUBCLASS: All members of the Class that
17 Defendants did not provide accurate itemized wage statements showing
18 all hours actually worked, all wages earned, meal period and rest break
premiums and the applicable rates of pay during the Class Period.

19 WAITING TIME SUB-CLASS: All members of the Class who, at any
20 time after the date three years prior to the filing of the original
21 Complaint, separated their employment from Defendants and were not
22 paid wages within the times specified by Labor Code §§ 201-203 and
are owed restitution for waiting time penalties deriving from wages.

23 UCL SUBCLASS: All members of the Class who, during the Class
24 Period, are owed restitution of unpaid wages resulting from Defendants'
25 systematic violations of California's Labor Code and the Wage Orders.

26 40. Throughout discovery in this litigation, Plaintiff may find it appropriate and/or
27 necessary to amend the definition of the Subclasses and reserves the right to do so. In any
28

1 event, Plaintiff will formally define and designate a class definition at such time when Plaintiff
2 seek to certify the Class or Subclasses defined herein.

3 41. At all material times, Plaintiff were members of the Class.

4 42. There is a well-defined community of interest in the litigation and the Class is
5 readily ascertainable:

6 a. Numerosity: The members of the class (and each subclass, if any) are so numerous
7 that joinder of all members would be unfeasible and impractical. The membership
8 of the entire class is unknown to Plaintiff at this time; however, the class is estimated
9 to be greater than one hundred (100) individuals and the identity of such
10 membership is readily ascertainable by inspection of Defendants' employment
11 records.

12 b. Typicality: Plaintiff is qualified to, and will, fairly and adequately protect the
13 interests of each class member with whom there is a shared, well-defined
14 community of interest. Plaintiff's claims (or defenses, if any) are typical of all Class
15 members as demonstrated herein.

16 c. Adequacy: Plaintiff is qualified to, and will, fairly and adequately protect the
17 interests of each Class member with whom there is a shared, well-defined
18 community of interest and typicality of claims, as demonstrated herein. Plaintiff
19 acknowledges that Plaintiff has an obligation to make known to the Court any
20 relationship, conflicts or differences with any Class member. Plaintiff's attorneys,
21 the proposed Class counsel, are well versed in the rules governing class action
22 discovery, certification, and settlement.

23 d. Superiority: The nature of this action makes the use of class action adjudication
24 superior to other methods. A class action will achieve economies of time, effort,
25 and expense as compared with separate lawsuits, and will avoid inconsistent
26 outcomes because the same issues can be adjudicated in the same manner and at the
27 same time for the entire class.
28

1 e. Public Policy Considerations: Employers in the State of California violate
2 employment and labor laws every day. Current employees are often afraid to assert
3 their rights out of fear of direct or indirect retaliation. Former employees are fearful
4 of bringing actions because they believe their former employers might damage their
5 future endeavors through negative references and/or other means. Class actions
6 provide the Class members who are not named in the complaint with a type of
7 anonymity that allows for the vindication of their rights at the same time as their
8 privacy is protected.

9 f. Manageability of Class and Common Proof: The nature of this action and the
10 nature of laws available to Plaintiff make use of the class action format and
11 procedure a particularly efficient and appropriate procedure to afford relief to
12 Plaintiff and members of the Class for the wrongs alleged herein. Specifically,
13 liability will turn on Defendants' own uniform, systematic practices of failing
14 to properly pay their employees, failing to provide lawful meal periods and
15 authorize and permit lawful rest breaks, and failing to reimburse for business
16 expenses in violation of California law during the Class Period. Therefore, the
17 wage violations are predominant questions of fact that are easily capable of
18 being determined through manageable devices of common proof, such as
19 statistical random sampling, survey evidence based on scientific principles,
20 representative testimony, documentary evidence and common
21 practices/procedures of Defendants in treating each of the members of the Class
22 as a homogeneous group. Once the predominant issues of wage compliance are
23 determined, then each of the derivative subclass claims and damages suffered
24 by each member of the Class will be capable of being shown by several means
25 of common proof and limited by individual showings of entitlement to recovery
26 that can be professionally administered and tailored to the facts and
27 circumstances of the case.
28

1 43. There are common questions of law and fact as to the Class (and each subclass, if any) that
2 predominate over questions affecting only individual members, including but not limited
3 to:

- 4 a. Whether Defendants' failure to pay wages, without abatement or reduction, in
5 accordance with the California Labor Code, was willful;
- 6 b. Whether Defendants deprived Plaintiff and Class members of lawful meal periods
7 or one hour of pay in lieu thereof or required Plaintiff and Class members to work
8 during meal periods without full compensation;
- 9 c. Whether Defendants deprived Plaintiff and Class members of lawful rest breaks or
10 one hour of pay in lieu thereof;
- 11 d. Whether Defendants' conduct was willful or reckless;
- 12 e. Whether Defendants violated Labor Code § 226 by failing to timely furnish Plaintiff
13 and Class members with accurate wage statements;
- 14 f. Whether Defendants failed to timely pay all wages due to Plaintiff and Class
15 members upon their discharge or resignation;
- 16 g. Whether Defendants violated Labor Code § 204/210 by failing to pay employees all
17 wages due;
- 18 h. Whether Defendants violated Labor Code §2802 by failing to reimburse
19 Plaintiffs and Class members for business expenses;
- 20 i. Whether Defendants engaged in unfair business practices in violation of California
21 Business & Professions Code § 17200, et seq.;
- 22 j. Whether the members of the Class are entitled to compensatory damages, and if
23 so, the means of measuring such damages;
- 24 k. Whether the members of the Class are entitled to injunctive relief;
- 25 l. Whether the members of the Class are entitled to restitution; and
- 26 m. Whether Defendants are liable for attorneys' fees and costs to the extent
27 permitted by California law.
28

1 44. Class certification is appropriate under Cal. Civ. Proc. Code § 382 because
2 questions of law and fact common to the Class and Subclasses predominate over any questions
3 affecting only individual members of the Class and Subclasses of this litigation. Defendants'
4 policies and practices unlawfully treated members of the Class and Subclasses in a uniform
5 fashion. The damages suffered by individual members of the Class and Subclasses are small
6 compared to the expense and burden of individual prosecution of this litigation. In addition,
7 class certification is superior because it will obviate the need for unduly duplicative litigation
8 that might result in inconsistent judgments about Defendants' practices.

9 45. Class certification is also appropriate pursuant to Cal. Civ. Proc. Code § 382 because
10 Defendants have acted or refused to act on grounds generally applicable to the Class, making
11 appropriate declaratory relief with respect to and the Class and Subclasses as a whole.

12 46. Plaintiff intends to send notice to all members of the Class and Subclasses to the
13 extent required by law and each will be given an opportunity to opt out of the proceedings.

14 47. Pursuant to the Private Attorneys General Act ("PAGA"), Plaintiff has also
15 given notice to the California Labor and Workforce Development Agency ("LWDA") of the
16 Labor Code violations alleged in this Complaint. The Complaint seeks all recoverable penalties
17 for Labor Code violations as permitted and proscribed by the PAGA. This cause of action
18 includes allegations and remedies available under Labor Code §§ 2699, 2699.5, and 2933.3,
19 among others. *See* Cal. Labor Code § 2933.3(a)(2)(C) ("Notwithstanding any other provisions
20 of law, a plaintiff may as a matter of right amend an existing complaint to add a cause of action
21 arising under this part within 65 days of the time periods specified in this part.")

22 48. Defendants have willfully refused to pay Plaintiff and the members of the Class the
23 required compensation for all hours worked (including minimum wage, overtime), and meal
24 period and rest break premiums including at the correct rate, failed to reimburse for business
25 expenses and failed to keep compliant records as required by law.

26 49. Defendants' company-wide policies and practices violate California law as pled
27 herein. Plaintiff seeks declaratory relief, wages, premium wages for meal period and rest break
28

1 violations, liquidated damages, and other damages and penalties as permitted by California law,
2 interest, and attorneys' fees and costs.

3 **V. CAUSES OF ACTION**

4 **FIRST CAUSE OF ACTION**

5 **(Failure to Pay Wages For All Hours Worked)**

6 **(Labor Code §§ 204, 210, 218 and 1194, 1194.2)**

7 **(Brought by Plaintiff on Behalf of Themselves And Members of The Class Against All**
8 **Defendants)**

9 50. Plaintiff realleges and incorporates by this reference each of the preceding and
10 foregoing paragraphs as if fully set forth herein.

11 51. At all times herein relevant, Labor Code §§ 204, 218, 1194 and 1194.2, and the
12 applicable Wage Orders were in full force and effect. Labor Code § 204 requires employers to
13 pay all wages earned by any employee due and payable twice during each calendar month.

14 52. Pursuant to Labor Code § 218, Plaintiff may bring a civil action for unpaid
15 wages due directly against the employer.

16 53. At all times herein relevant, the Wage Orders and applicable California Code of
17 Regulations have applied and continue to apply to Plaintiff's and the Class Members'
18 employment with Defendants, which state that "every employer shall pay to each employee
19 wages. . . for all hours worked."

20 54. "Hours worked" is defined as "the time during which an employee is subject to
21 the control of an employer and includes all the time the employee is suffered or permitted to
22 work, whether or not required to do so."

23 55. At all times pertinent hereto, Labor Code § 1194 provided: "Notwithstanding
24 any agreement to work for a lesser wage, any employee receiving less than the legal minimum
25 wage or the legal overtime compensation applicable to the employee is entitled to recover in a
26 civil action the unpaid balance of the full amount of this minimum wage or overtime
27 compensation, including interest thereon, reasonable attorney's fees, and costs of suit."

28 56. At all times pertinent hereto, Labor Code § 1194.2 provides for the recovery of

1 prejudgment interest in any action brought to recover the nonpayment of wages, at the rate
2 specified in Civil Code § 3289.

3 57. Labor Codes §§ 218.5, 218.6, 1194(a) and 1194.2(a) provide that an employee
4 who has not been paid the legal wage may recover the unpaid balance and together with
5 attorney's fees and costs of suit, as well as liquidated damages in an amount equal to the wages
6 unpaid and interest thereon.

7 58. At all relevant times herein, Defendants were required to compensate Plaintiff
8 and the members of the Class for all hours worked pursuant to Labor Code § 1194.

9 59. By uniformly failing to track and record all of the hours worked by Plaintiff and
10 members of the Class, requiring them to work off the clock and not paying for all overtime
11 hours at the correct rate, as addressed above, Defendants were able to skim wages from
12 employees by not paying them a separate hourly wage for each and every hour worked as
13 required by California law. Through this unlawful and illegal policy and practice, Defendants
14 have failed to pay Plaintiff and the Class all wages owed to them.

15 60. By the course of conduct set forth above, Defendants failed to pay all wages and
16 violated the minimum wage requirements as set forth in Labor Code §§ 218 and 1194.

17 61. Plaintiff is informed and believe and based thereupon allege that the result of
18 the unlawful and illegal policy and practice caused damage in the nonpayment of minimum and
19 regular wages to themselves and the proposed Class and/or Unpaid Wage Subclass, in an
20 amount according to proof at trial.

21 62. Plaintiff is informed and believe that the nonpayment of wages is fixed and
22 ascertainable on a class wide basis such that prejudgment interest on those wages is
23 recoverable.

24 63. As a direct and proximate result of Defendants' unlawful conduct, as set forth
25 herein, Plaintiff and the Class Members have sustained damages, including loss of earnings, in
26 an amount to be established at trial, plus prejudgment interest pursuant to statute.

27 64. Pursuant to Labor Code sections 1194, Plaintiff and the proposed Class and/or
28 Unpaid Wage Subclass are entitled to, and seek to, recover unpaid minimum wage and overtime

1 compensation, and other unpaid wages, plus interest, penalties, attorneys' fees and costs, and
2 liquidated damages in an amount equal to the amount unlawfully unpaid according to Labor
3 Code § 1194.2. The specific amounts are to be determined at trial.

4 **SECOND CAUSE OF ACTION**

5 **(Failure to Pay Overtime Wages)**

6 **(Labor Code §§ 510 and 1194)**

7 **(Brought by Plaintiff on Behalf of Themselves And Members of the Class Against All**
8 **Defendants)**

9 65. Plaintiff realleges and incorporates by this reference each of the preceding and
10 foregoing paragraphs as if fully set forth herein.

11 66. Plaintiff seeks to represent the proposed Class or, in the alternative, the
12 Overtime Subclass as a basis to enforce equal or greater protections for wages owed that are
13 offered by California law. Because the practices alleged herein are uniform, systematic and
14 continuous and affect each proposed member of the Class in a legally identical way, Plaintiff,
15 at the appropriate time will move to certify the Class or Overtime Subclass to the extent
16 permitted by Cal. Civ. Proc. Code § 382.

17 67. Plaintiff and the Class were at all times subject to California's laws and
18 regulations protecting the employees' entitlement to be paid and presumption to be paid
19 overtime wages for requisite hours worked beyond a normal workday or a normal work week,
20 as specified, without limitation, by Cal. Labor Code §§ 510, 1194 and the Wage Orders.

21 68. California law requires employers, such as Defendants, to pay overtime
22 compensation to all nonexempt employees for all hours worked over 40 hours per week or over
23 8 hours per day. Labor Code § 204 establishes the fundamental right of all employees in the
24 State of California to be paid wages, including straight time and overtime, in a timely fashion
25 for their work. This precludes any waiver for unpaid due and owing wages that remain unpaid
26 at the time of separation.

27 69. Labor Code § 510(a) states in pertinent part: "Any work in excess of eight hours
28 in one workday and any work in excess of 40 hours in any one workweek ... shall be

1 compensated at the rate of no less than one and one-half times the regular rate of pay for any
2 employee.” In addition, Labor Code § 510(a) provides that “[a]ny work in excess of 12 hours
3 in one day shall be compensated at the rate of no less than twice the regular rate of pay for an
4 employee.”

5 70. Pursuant to Labor Code § 1198, it is unlawful to employ persons for longer than
6 the hours set by the IWC.

7 71. As set forth above, Plaintiff and the members of the Class were entitled to be
8 paid overtime compensation for all overtime hours worked. Plaintiff, and members of the
9 Class, were regularly and consistently required to work overtime during the Class Period, but
10 were not paid for all overtime hours worked (including for time worked off the clock) or paid
11 at the correct rate for such hours for all of their time.

12 72. Throughout the Class Period, Plaintiff and the members of the Class worked in
13 excess of 8 hours in a workday and/or 40 hours in a workweek.

14 73. During the Class Period, Defendants did not pay Plaintiff and members of the
15 Class overtime pay for all overtime hours worked and Defendants did not pay Plaintiff and
16 members of the Class at the correct overtime rate of pay.

17 74. As a direct and proximate result of Defendants’ unlawful conduct as set forth
18 herein, Plaintiff and members of the Class have sustained damages, including loss of earnings
19 for unpaid overtime hours worked, in an amount to be established at trial, prejudgment interest,
20 and costs and attorneys’ fees, pursuant to California law.

21 **THIRD CAUSE OF ACTION**

22 **(Failure to Provide Compliant Meal-and-Rest Break)**

23 **(Labor Code §§ 226.7, 512, and Industrial Wage Order)**

24 **(Brought by Plaintiff on Behalf of Themselves And Members of the Class Against All**
25 **Defendants)**

26 75. Plaintiff realleges and incorporates by this reference each of the preceding and
27 foregoing paragraphs as if fully set forth herein.

28 76. Labor Code § 226.7(b) provides that “[a]n employer shall not require an employee

1 to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or
2 applicable regulation, standard, or order of the [IWC] ...”

3 77. Labor Code 512(a) provides that “[a]n employer may not employ an employee for
4 a work period of more than five hours per day without providing the employee with a meal period
5 of not less than 30 minutes, except that if the total work period per day of the employee is no more
6 than six hours, the meal period may be waived by mutual consent of both the employer and
7 employee.”

8 78. Labor Code § 512(a) further provides that “[a]n employer may not employ an
9 employee for a work period of more than 10 hours per day without providing the employee with a
10 second meal period of not less than 30 minutes, except that if the total hours worked is no more than
11 12 hours, the second meal period may be waived by mutual consent of the employer and the
12 employee only if the first meal period was not waived.”

13 79. Labor Code § 516 provides that the IWC may adopt or amend working condition
14 orders with respect to meal periods for any workers in California consistent with the health and
15 welfare of those workers.

16 80. The Wage Order provides that “[u]nless the employee is relieved of all duty during
17 a 30-minute meal period, the meal period shall be considered an ‘on duty’ meal period and counted
18 as time worked.” “An ‘on duty’ meal period shall be permitted only when the nature of the work
19 prevents an employee from being relieved of all duty and when by written agreement between the
20 parties an on-the-job paid meal period is agreed to. The written agreement shall state that the
21 employee may, in writing, revoke the agreement at any time.”

22 81. The Wage Order further provides that “[i]f an employer fails to provide an employee
23 a meal period in accordance with the applicable provisions of this order, the employer shall pay the
24 employee one (1) hour of pay at the employee’s regular rate of compensation for each workday that
25 the meal period is not provided.”

26 82. The members of the Class consistently worked over 5 hours per shift and therefore
27 were entitled to a meal period of not less than 30 minutes prior to exceeding 5 hours of work.
28

1 In addition, the members of the Class consistently worked over 10 hours per shift and therefore
2 were entitled to a second meal period of not less than 30 minutes prior to exceeding 10 hours of
3 work.

4 83. Throughout the Class Period, Defendants failed to consistently allow and provide
5 the meal periods required by applicable California law, including the Wage Orders. Plaintiff and
6 the members of the Class regularly worked a full day and did not receive proper meal periods (as
7 detailed above). Instead, Plaintiff and Class members were required and/or encouraged to shorten,
8 work through or miss their meal periods, were prevented from taking them until past the 5th hour/10th
9 hour, or had their meal periods interrupted or limited.

10 84. Defendants failed to provide Plaintiff and the members of the Class compliant meal
11 periods as required by law or compensate them at one hour of “premium wage” at the employee’s
12 regular rate of pay for each day that a meal period was not authorized, permitted or otherwise
13 compliant with California law.

14 85. The members of the Class did not waive their meal periods by mutual consent with
15 Defendants or otherwise.

16 86. The members of the Class did not enter into any written agreement with Defendants
17 agreeing to an on-the-job paid meal period.

18 87. Similarly, Plaintiff and members of the Class were entitled to be authorized and
19 permitted paid, duty-free, uninterrupted 10-minute rest break for every four hours worked (or every
20 major fraction thereof)

21 88. Plaintiff and the members of the Class regularly worked shifts in excess of four
22 hours without being permitted the opportunity to take a paid rest break of at least ten (10)
23 consecutive minutes, uninterrupted, relieved of all job duties; worked more than six (6) hours at a
24 time without being allowed a second paid ten (10) consecutive minute, uninterrupted, rest break,
25 relieved of all job duties; worked shifts in excess of ten hours without being allowed a third paid ten
26 (10) consecutive minute, uninterrupted, rest break, relieved of all job duties.
27
28

1 89. Defendants failed to authorize and permit Plaintiff and the members of the Class to
2 take adequate rest breaks as required by law or compensate them at one hour of “premium wage” at
3 the employee’s regular rate of pay for each day that a rest break was not authorized, permitted or
4 otherwise compliant with California law.

5 90. Plaintiff and the members of the Class are therefore entitled to payment of additional
6 wages as provided by law.

7 91. Defendants failed to comply with the required meal period and rest break laws
8 established by Labor Code §§ 226.7, 512, 516 and the Wage Orders.

9 92. Therefore, the members of the Class or, in the alternative, the Meal Period Subclass
10 and the Rest Break Subclass, were effectively deprived of their legally requisite meal-and-rest
11 periods.

12 93. Under the Wage Order– which states “[i]f an employer fails to provide an employee
13 a meal or rest ... period in accordance with a state law ..., the employer shall pay the employee one
14 additional hour of pay at the employee’s regular rate of compensation for each workday that the
15 meal or rest ... period is not provided” – the members of the Meal Period and Rest Break Subclasses
16 are entitled to damages in an amount equal to one additional hour of pay at each employee’s regular
17 rate of compensation for each work day that the meal period or rest break was not provided, in a
18 sum to be proven at trial.

19 94. Pursuant to Labor Code § 218.6 and Civil Code § 3287, the members of the Meal
20 Period Subclass and the Rest Break Subclass seek recovery of prejudgment interest on all amounts
21 recovered herein.

22 95. Plaintiff limits the recovery of “premium wages” to one hour of pay per day for each
23 day that a meal period was not authorized, permitted or otherwise compliant with California law,
24 and one hour of pay for each day that a rest break was not authorized, permitted or otherwise
25 compliant with California law for each employee at their respective regular rate of pay, as set forth
26 in the Division of Labor Standards Enforcement Policy Manual guidelines, for a maximum recovery
27 of two premium wage payments per employee per day.
28

1 **FOURTH CAUSE OF ACION**

2 **(Failure to Reimburse for Business Expenses)**

3 **(Labor Code §2800 et. seq.)**

4 **(Brought by Plaintiffs on Behalf of Themselves And Members of the Class)**

5 96. Plaintiff realleges and incorporate by this reference each of the preceding and
6 foregoing paragraphs as if fully set forth herein.

7 97. Labor Code § 2802(a) provides that “[a]n employer shall indemnify his or her
8 employee for all necessary expenditures or losses incurred by the employee in direct
9 consequences of the discharge of his or her duties, or of his or her obedience to the directions
10 of the employer, even though unlawful, unless the employee, at the time of obeying the
11 directions, believed them to be unlawful.”

12 98. As alleged above, Defendants failed and continue to fail to reimburse the Class
13 members for all the necessary expenditures they incurred while performing their duties
14 including, but not limited to, use of personal cell phones and electronic device for Defendants’
15 business activities and required classes. Therefore, Plaintiff and Class members are entitled to
16 recover from Defendants the unpaid balance of these expenses, plus interest thereon.

17 99. Plaintiffs further requests an award of attorney’s fees pursuant to Labor Code
18 §218.5 and Code of Civil Procedure § 1021.5, and an award of prejudgment interest.
19

20 **FIFTH CAUSE OF ACTION**

21 **(Failure to Provide Accurate Wage Statements)**

22 **(Labor Code §§ 226, 1174, 1174.5, and Industrial Wage Order)**

23 **(Brought by Plaintiff on Behalf of Themselves And Members of the Class Against All**
24 **Defendants)**

25 100. Plaintiff realleges and incorporates by this reference each of the preceding and
26 foregoing paragraphs as if fully set forth herein.

27 101. Defendants knowingly and intentionally failed to provide accurate, itemized wage
28 statements including, *inter alia*, total hours worked, gross and net wages earned (including minimum

1 wage and overtime), meal period and break premiums in accordance with Labor Code § 226(a).

2 102. Labor Code § 226(a) states, in pertinent part, that “[e]very employer shall,
3 semimonthly or at the time of each payment of wages, furnish each of his or his employees, either
4 as a detachable part of the check, draft, or voucher paying the employee’s wages, or separately when
5 wages are paid by personal check or cash, an accurate itemized statement in writing showing (1)
6 gross wages earned, (2) total hours worked by the employee ..., (5) net wages earned, (6) the
7 inclusive dates of the period for which the employee is paid ..., and (9) all applicable hourly rates
8 in effect during the pay period and the corresponding number of hours worked at each hourly rate
9 by the employee ...”

10 103. Labor Code § 226 (e)(1) states that “[a]n employee suffering injury as a result of a
11 knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover
12 the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation
13 occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period,
14 not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of
15 costs and reasonable attorney’s fees.”

16 104. Labor Code § 226(e)(2)(B) states “[a]n employee is deemed to suffer injury for
17 purposes of this subdivision if the employer fails to provide accurate and complete information as
18 required by any one or more of items (1) to (9), inclusive, of subdivision (a) and the employee cannot
19 promptly and easily determine from the wage statement alone one or more of the following: (i) The
20 amount of the gross wages or net wages paid to the employee during the pay period or any of the
21 other information required to be provided on the itemized wage statement pursuant to items (2) to
22 (4), inclusive, (6), and (9) of subdivision (a). (ii) Which deductions the employer made from gross
23 wages to determine the net wages paid to the employee during the pay period.”

24 105. Labor Code § 226(e)(2)(C) defines “promptly and easily determine” to mean “a
25 reasonable person would be able to readily ascertain the information without reference to other
26 documents or information.”
27
28

106. Labor Code § 226(e)(3) states that the phrase “knowing and intentional failure” “does not include an isolated and unintentional payroll error due to a clerical or inadvertent mistake.”

107. From the outset, Defendants have failed to comply with Labor Code § 226. As a matter of common policy and practice, Defendants did not include the non-exempt hourly employees’ “corresponding number of hours worked at each hourly rate by the employee.” In addition, the wage statements distributed to Plaintiff and members of the Class did not contain all wages earned (including minimum wage, overtime and meal period and rest break premiums). Defendants’ knowing, and intentional omissions caused Plaintiff and members of the Class to suffer “injury” by, among other things, impeding them from knowing the amount of wages to which they are and were entitled.

108. At all times relevant herein, Defendants failed to maintain records of hours worked by Plaintiff and the members of the Class as required under Labor Code § 1174(d).

109. Plaintiff and members of the California Class seek (i) injunctive relief requiring Defendants to comply with Labor Code §§ 226(a) and 1174(d), (ii) the amounts provided under Labor Code §§ 226(e) and 1174.5, including the greater of all actual damages or \$50 for the initial pay period in which a violation occurs and \$100 per employee for each violation in a subsequent pay period, and (iii) attorneys' fees and costs.

SIXTH CAUSE OF ACTION

(Failure to Timely Pay All Wages Due Upon Separation)

(Labor Code §§ 201, 202, and 203)

(Brought by Plaintiff on Behalf of Themselves And Members of the Class Against All Defendants)

110. Plaintiff realleges and incorporates by this reference each of the foregoing paragraphs as if fully set forth herein.

111. Labor Code §§ 201 and 202 require Defendants to pay their employees all wages due within the time specified by law. California Labor Code § 203 provides that if an employer willfully fails to timely pay such wages, the employer must continue to pay the subject employees’

1 wages until the back wages are paid in full or an action is commenced, up to a maximum of 30 days
2 of wages.

3 112. All members of the Class who ceased employment with Defendants are entitled to
4 unpaid compensation, but to date have not received such compensation.

5 113. More than 30 days have passed since certain members of the Class left Defendants'
6 employ.

7 114. As a consequence of Defendants' willful conduct in not paying compensation for all
8 hours worked, the members of the Class whose employment ended during the Class Period are
9 entitled to 30 days' wages under Labor Code § 203, together with interest thereon and attorneys'
10 fees and costs.

11 **SEVENTH CAUSE OF ACTION**

12 **(Violation of California's Unfair Competition Law)**

13 **(Bus. & Prof. Code § 17200, *et seq.*)**

14 **(Brought by Plaintiff on Behalf of Themselves And Members of the Class Against All**
15 **Defendants)**

16 115. Plaintiff realleges and incorporates by this reference each of the foregoing
17 paragraphs as if fully set forth herein.

18 116. Defendants' failure to pay all wages (including minimum wage and overtime
19 wages), failure to pay compliant premium wages for noncompliant meal periods and rest breaks,
20 and failure to reimburse for business expenses, and failure to provide drinking water and bathrooms
21 constitutes unlawful activity, acts and practices that are prohibited by Business & Professions Code
22 §§ 17200, *et seq.* The actions of Defendants described above constitute unfair, fraudulent and
23 deceptive business practices, within the meaning of Business and Professions Code §§ 17200, *et*
24 *seq.* Defendants have violated multiple provisions of California law and provisions of the Wage
25 Orders, which has the same force and effect of a violation of law. This includes, without limitation,
26 California Labor Code §§ 201-203, 204, 210, 218, 226, 226.7, 510, 512, 558, 558.1, 1194,
27
28

1 1194.2, 1197, 1197.1 1198, and 2802 et. seq. which serve as statutory predicates for which
2 restitution and disgorgement are owed by Defendants.

3 117. Plaintiff and members of the UCL Subclass are entitled to an injunction, restitution,
4 and other equitable relief against such unlawful practices in order to prevent future damage, for
5 which there is no adequate remedy at law, and to avoid a multiplicity of lawsuits.

6 118. As a result of these unlawful acts, Defendants have reaped and continue to reap
7 unfair benefits and illegal profits at the expense of Plaintiff and the members of the Class that
8 Plaintiff seeks to represent. Defendants should be enjoined from this activity and make restitution
9 for these ill-gotten gains to restore to Plaintiff and the members of the Class the wrongfully withheld
10 wages, pursuant to Business & Professions Code § 17203, and specific performance of payment of
11 penalties ordered under Business and Professions Code § 17202.

12 119. Plaintiff is informed and believes, and based thereon allege, that Defendants are
13 unjustly enriched through the acts described above and that he and the Class have and continue to
14 suffer irreparable prejudice by Defendants' unfair practices. Further, by engaging in such activities,
15 Defendants are illegally operating at an advantage to other law-abiding employers in the State of
16 California and underpaying payroll and other applicable taxes that are collected by the State and
17 local governmental entities in California.

18 120. The illegal conduct alleged herein is continuing, and there is no indication that
19 Defendants will not continue such activity into the future. Plaintiff alleges that if Defendants are
20 not enjoined from the conduct set forth in this Complaint, it will continue to fail to pay all wages,
21 premium wages for meal-and-rest violations, comply with the legal requirements addressed above,
22 and paying appropriate taxes, insurance, and unemployment withholdings.

23 121. Plaintiff will request that the Court issue a preliminary and permanent injunction
24 prohibiting Defendants from continuing to fail to fully pay all appropriate hourly and overtime rates
25 of pay, and all wages due at termination, and requiring Defendants to provide accurate hourly wage
26 statements.
27
28

1 **EIGHTH CAUSE OF ACTION**

2 **(Violation of PAGA)**

3 **(California Labor Code §§ 2698, et seq.)**

4 **(Brought by Plaintiff on Behalf of Himself And the Aggrieved Employees Against All**
5 **Defendants)**

6 122. Plaintiff realleges and incorporates by this reference each of the foregoing
7 paragraphs as if fully set forth herein.

8 123. California Labor Code §§ 2698, et seq. (“PAGA”) permits Plaintiff to recover
9 civil penalties for the violation(s) of the Labor Code sections enumerated in Labor Code §
10 2699.5.

11 124. At all times herein set forth, PAGA was applicable to Plaintiff’s employment
12 by Defendants.

13 125. At all times herein set forth, PAGA provides that any provision of law under the
14 California Labor Code that provides for a civil penalty to be assessed and collected by the
15 LWDA for violations of the California Labor Code may, as an alternative, be recovered through
16 a civil action brought by an aggrieved employee on behalf of himself and other current or
17 former employees pursuant to procedures outlined in California Labor Code § 2699.3.

18 126. Pursuant to PAGA, a civil action under PAGA may be brought by an “aggrieved
19 employee,” who is any person that was employed by the alleged violator and against whom one
20 or more of the alleged violations was committed.

21 127. Plaintiff and other employees are Aggrieved Employees as defined by California
22 Labor Code § 2699(c) in that they are all current or former employees of Defendants who are
23 or were employed by Defendants, and one or more of the alleged violations were committed
24 against them.

25 128. Pursuant to California Labor Code §§ 2699.3 and 2699.5, an aggrieved
26 employee, including Plaintiff, may pursue a civil action arising under PAGA after the following
27 requirements have been met:
28

- 1 a. The aggrieved employee shall give written notice (“Employee’s Notice”) to the
2 LWDA and by certified mail to the employer of the specific provisions of the
3 California Labor Code alleged to have been violated, including the facts and theories
4 to support the alleged violations.
- 5 b. The LWDA shall provide notice (“LWDA Notice”) to the employer and the
6 aggrieved employee by certified mail that it does not intend to investigate the alleged
7 violation within sixty (60) calendar days of the postmark date of the Employee’s
8 Notice. Upon receipt of the LWDA Notice, or if the LWDA Notice is not provided
9 within sixty-five (65) calendar days of the postmark date of the Employee’s Notice,
10 the aggrieved employee may commence a civil action pursuant to California Labor
11 Code § 2699 to recover civil penalties in addition to any other penalties to which the
12 employee may be entitled.

13 129. On October 31, 2022, Plaintiff provided written notice by certified mail to the
14 LWDA and to Defendants of the specific provisions of the California Labor Code alleged to
15 have been violated, including the facts and theories to support the alleged violations.

16 130. Plaintiff has satisfied the administrative prerequisites under California Labor
17 Code § 2699.3(a) to recover civil penalties against Defendants, in addition to other remedies,
18 for violations of California Labor Code including sections 201, 202, 203, 204, 210, 226(a),
19 226.3, 226.7, 510, 512, 558, 558.1, 1174, 1194, 1194.2, 1197, 1198, 2802, and Industrial
20 Welfare Orders including, but not limited to, Section 7.

21 131. Defendants’ conduct, as alleged herein, violates numerous sections of the
22 California Labor Code including but not limited to the following:

- 23 a. Violation of Labor Code § 226(a) and 226.3 for failing to provide accurate wage
24 statements, as herein alleged.
- 25 b. Violation of Labor Code §§ 226.7 and 512 for Defendants’ failure to provide all
26 meal periods and rest breaks as required, or pay meal period and rest break
27 premium wages in lieu thereof, as herein alleged.
- 28

- c. Violation of Labor Code §§ 201, 202 and 203 for failure to timely pay all wages owed upon termination, as herein alleged.
- d. Violation of Labor Code § § 204, 210 and 558 for failing to pay all wages owed, as herein alleged.
- e. Violation of Labor Code § 510 for failing to pay all overtime wages, as herein alleged.
- f. Violation of Labor Code § 1174 and Industrial Welfare Orders including, but not limited to, Section 7, for failure to maintain records.
- g. Violation of Industrial Welfare Orders regarding failure to record meal periods.
- h. Violation of Labor Code §§ 1194, 1194.2, 1197 and 1197.1 for failing to pay minimum wage.
- i. Violation of Labor Code §1198 for failure to comply with standard conditions of labor.
- j. Failure to provide clean drinking water and bathrooms.
- k. Violation of Labor Code §2802 for failure to reimburse for business expenses.
- l. Violation of Labor Code §558.1.

132. Pursuant to California Labor Code §§ 2699(a), 2699.3 and 2699.5, Plaintiff and all other aggrieved employees are entitled to recover civil penalties against Defendants, in addition to other remedies, for violations of California Labor Code sections 201, 202, 203, 204, 210, 226(a), 226.3, 226.7, 510, 512, 558, 558.1, 1174, 1194, 1194.2, 1197, 1198, 2802, and Industrial Welfare Orders including, but not limited to, Section 7.

133. Further Plaintiff is entitled to seek and recover reasonable attorneys' fees and costs pursuant to California Labor Code § 2699 and any other applicable statute.

VI. PRAYER FOR RELIEF

WHEREFORE, Plaintiff, on behalf of himself and all members of the Class and Subclasses he seeks to represent, prays for relief as follows:

1. For an order certifying the First through Seventh causes of action and maintaining

1 said causes of action as a class action pursuant to Cal. Civ. Proc. Code § 382 on
2 behalf of the members of the Class and/or Subclasses who were either employed or
3 who performed work here in the State of California within the Class Period and that
4 notice of the pendency of this action be provided to members of the Class;

5 2. Designation of Plaintiff as the Class Representative for the Class and/or Subclasses
6 and Plaintiff's attorneys as Class Counsel for the Class and/or Subclasses;

7 3. A declaratory judgment that the practices complained of herein are unlawful under
8 appropriate state law;

9 4. Appropriate equitable relief to remedy Defendants' violations of California law
10 including, but not necessarily limited to, an order enjoining Defendants from
11 continuing their unlawful practices;

12 5. For an award of unpaid wages and liquidated damages in an amount equal to the
13 amount unlawfully unpaid pursuant to Labor Code §§ 1194 and 1194.2;

14 6. For an award of unpaid overtime wages pursuant to Labor Code §§ 510 and
15 1194;

16 7. All appropriate California statutory penalties and civil penalties;

17 8. Compensation at the rate of one hour of regular pay for each instance in which a
18 member of the Class had non-compliant meal periods;

19 9. Compensation at the rate of one hour of regular pay for each instance in which a
20 member of the Class had non-compliant rest breaks;

21 10. Damages for failure to reimburse for business expenses.

22 11. Labor Code § 203 penalties;

23 12. Damages and penalties pursuant to Labor Code §§ 226(a);

24 13. For an order that Defendants make restitution to Plaintiff and the Class due to their
25 unlawful business practices, including unlawfully-collected compensation pursuant
26 to Business & Professions Code §§ 17203 and 17204;

27 14. Penalties, wages and attorney's fees and costs under PAGA;
28

- 1 15. Pre-judgment and post-judgment interest, as provided by law;
2 16. Such other equitable relief as the Court may deem just and proper; and
3 17. Attorneys' fees and costs of suit, including expert fees and fees pursuant to, among
4 others, California Labor Code §§ 218.5, 226, 1194, Code of Civil Procedure §
5 1021.5, and other applicable California laws.

6 **DEMAND FOR JURY TRIAL**

7 Plaintiff hereby demands a jury trial on all causes of action and claims with respect to
8 which he has a state and/or federal constitutional right to a jury trial.
9

10 Dated: January 5, 2023

BISNAR | CHASE LLP/ALPERS LAW GROUP

11
12 By: *Ian M. Silvers*
13 Brian D. Chase
14 Ian M. Silvers
15 Attorneys for Plaintiff and Putative Classes
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