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David W. Slayton,
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4 *Attorneys for Plaintiff and the Putative Class*

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7 SUPERIOR COURT OF THE STATE OF CALIFORNIA
8 FOR THE COUNTY OF LOS ANGELES
9

10 JEREMY MCARTHUR, individually and on
11 behalf of all others of the public similarly
situated,

12 Plaintiff,

13 v.

14 PACIFIC DESIGN CENTER 1, LLC, an out-of-
15 state, limited liability company; PACIFIC RED,
16 LLC, an out-of-state limited liability company;
and COHEN PDC, LLC, an out-of-state limited
liability company, and DOES 1 to 50, inclusive,

17 Defendants.
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CLASS ACTION

Case No: **24STCV03908**

CLASS ACTION COMPLAINT FOR:

1. **Failure to Pay Minimum Wages [CAL. LAB. CODE §§ 1182, 1182.12, 1194, 1194.2, 1197 and 1197.1; 8 CAL. CODE REGS. § 11040(4)];**
2. **Failure to Pay Overtime and Double Time Compensation [CAL. LAB. CODE §§ 510, 1194, 1198; 8 CAL. CODE REGS. § 11040(3)];**
3. **Failure to Provide Meal Periods [CAL. LAB. CODE §§ 226.7, 512; 8 CAL. CODE REGS. § 11040(11)];**
4. **Failure to Provide Rest Periods [CAL. LAB. CODE § 226.7, CAL. CODE REGS. § 11040(12)];**
5. **Failure to Indemnify [CAL. LAB. CODE § 2802; 8 CAL. CODE REGS. § 11040(9)(B)];**
6. **Failure to Provide Accurate Itemized Wage Statements [CAL. LAB. CODE §§ 226, 226.3; 8 CAL. CODE REGS. § 11040(7)];**
7. **Waiting Time Penalties [CAL. LAB. CODE §§ 201, 202, and 203]; and**
8. **Unfair Competition and Unlawful Business Practices [CAL. BUS. & PROF. CODE § 17200, et seq.]**

DEMAND FOR JURY TRIAL

1 COMES NOW, Plaintiff JEREMY MCARTHUR (“Plaintiff”), and submits this unverified
2 Class Action Complaint (“Complaint”) as follows:

3 **I.**

4 **INTRODUCTION**

5 1. Plaintiff brings this action on behalf of himself and all similarly situated individuals for
6 (1) Failure to Pay Minimum Wages; (2) Failure to Pay Overtime Wages; (3) Failure to Provide Meal
7 Periods; (4) Failure to Provide Rest Periods; (5) Failure to Indemnity; (6) Failure to Provide Accurate
8 Wage Statements; (7) Failure to Pay Earned Wages Upon Separation; and (8) Unfair Competition and
9 Unlawful Business Practices.

10 2. All allegations in this Complaint are based upon information and belief except those
11 allegations that pertain to the named Plaintiff and his counsel. Each allegation in this Complaint either
12 has evidentiary support or is likely to have evidentiary support after a reasonable opportunity for
13 further investigation and discovery.

14 **II.**

15 **JURISDICTION AND VENUE**

16 3. This Court has jurisdiction over this action pursuant to section 410.10 of the California
17 Code of Civil Procedure.

18 4. Venue is proper in this Court pursuant to sections 395 and 395.5 of the California Code
19 of Civil Procedure because the facts and circumstances giving rise to this action as alleged occurred in
20 the County of Los Angeles.

21 **III.**

22 **THE PARTIES**

23 **A. The Plaintiff**

24 5. Plaintiff is, and at all times mentioned herein was, an individual:

- 25 (a) Residing in the County of San Bernardino, State of California;
- 26 (b) Who worked for Defendants, including DOES 1 through 50, as a non-exempt
27 employee;
- 28 (c) Who worked in excess of eight (8) hours in a workday and more than forty (40)



- 1 hours in a workweek, but did not receive compensation of all wages, including
- 2 minimum wages, overtime, and double time compensation to which he was
- 3 entitled;
- 4 (d) Who did not receive statutorily mandated rest or meal periods;
- 5 (e) Who was not indemnified or reimbursed all reasonable expenses incurred for
- 6 the benefit of Defendants;
- 7 (f) Who did not receive accurate itemized wage statements;
- 8 (g) Who was not paid all wages due upon termination; and
- 9 (h) Who is a member of the Class as defined in paragraph 13 below.

10 **B. The Defendants**

11 6. Plaintiff is informed and believes, and based upon that information and belief alleges,
12 that Defendant PACIFIC DESIGN CENTER 1, LLC is, and at all times herein mentioned was:

- 13 (a) An out-of-state limited liability company conducting business in the County of
- 14 Los Angeles, State of California;
- 15 (b) A former and current dual employer of Plaintiff and of the Class, as defined in
- 16 paragraph 13, that:
 - 17 i. Failed to pay overtime and double time compensation for hours worked
 - 18 in excess of 8 hours in a workday and/or over forty hours in a
 - 19 workweek;
 - 20 ii. Failed to provide statutorily mandated rest or meal periods;
 - 21 iii. Failed to reimburse or indemnify employees for reasonable expenses;
 - 22 iv. Failed to provide employees with accurate itemized wage statements;
 - 23 and
 - 24 v. Failed to pay employees all wages due upon termination of their
 - 25 employment relationship.

26 7. Plaintiff is informed and believes, and based upon that information and belief alleges,
27 that Defendant PACIFIC, LLC is, and at all times herein mentioned was:

- 28 (a) An out-of-state limited liability company conducting business in the County of

1 Los Angeles, State of California;

2 (b) A former and current dual employer of Plaintiff and of the Class, as defined in
3 paragraph 13, that:

- 4 i. Failed to pay overtime and double time compensation for hours worked
5 in excess of 8 hours in a workday and/or over forty hours in a
6 workweek;
- 7 ii. Failed to provide statutorily mandated rest or meal periods;
- 8 iii. Failed to reimburse or indemnify employees for reasonable expenses;
- 9 iv. Failed to provide employees with accurate itemized wage statements;
10 and
- 11 v. Failed to pay employees all wages due upon termination of their
12 employment relationship.

13 8. Plaintiff is informed and believes, and based upon that information and belief alleges,
14 that Defendant COHEN PDC, LLC is, and at all times herein mentioned was:

15 (a) An out-of-state limited liability company conducting business in the County of
16 Los Angeles, State of California;

17 (b) A former and current dual employer of Plaintiff and of the Class, as defined in
18 paragraph 31, that:

- 19 i. Failed to pay overtime and double time compensation for hours worked
20 in excess of 8 hours in a workday and/or over forty hours in a
21 workweek;
- 22 ii. Failed to provide statutorily mandated rest or meal periods;
- 23 iii. Failed to reimburse or indemnify employees for reasonable expenses;
- 24 iv. Failed to provide employees with accurate itemized wage statements;
25 and
- 26 v. Failed to pay employees all wages due upon termination of their
27 employment relationship.

28 9. The true names and capacities, whether individual, corporate, partnership, associate, or

1 otherwise of defendants DOES 1 through 50, inclusive, are unknown to Plaintiff who therefore sues
2 these Defendants by such fictitious names pursuant to section 474 of the California Code of Civil
3 Procedure. Plaintiff will seek leave to amend the Complaint to allege that the Defendants named
4 herein, including DOES 1 through 50, inclusive, are responsible in some manner for one or more of
5 the events and happenings that proximately caused the injuries and damages hereinafter alleged.

6 10. All Defendants, including DOES 1 through 50, are “employers” as defined by the
7 Industrial Welfare Commission because they satisfy one or more of the following three disjunctive
8 elements: “(a) to exercise control over the wages, hours or working conditions, or (b) to suffer or
9 permit to work, or (c) to engage, thereby creating a common law employment relationship.” *See*
10 *Martinez v. Combs* (2010) 49 Cal.4th 35, 64; *see also*, INDUSTRIAL WAGE ORDER No. 4, paragraph (2),
11 subparagraphs (E), (F), and (H), (codified under 8 CAL. CODE REGS. §§ 11040(2), (E), (F), and (H)).

12 11. To the extent that any of the DOES 1 through 50 are natural persons who are an owner,
13 director, officer, or managing agent of any of the Defendants named herein, section 558.1(a) of the
14 California Labor Code provides that:

15 Any employer or other person acting on behalf of an employer, who violates, or causes
16 to be violated, any provision regulating minimum wages or hours and days of work in
17 any order of the Industrial Welfare Commission, or violates, or causes to be violated,
18 Sections 203, 226, 226.7, 1193.6, 1194, or 2802, may be held liable as the employer for
19 such violation.

20 12. All named Defendants, including DOES 1 through 50, inclusive are collectively
21 referred to herein as the “Defendants.”

22 IV.

23 CLASS ALLEGATIONS

24 13. The members of the Class consist of:

25 All current and former non-exempt employees who work or worked for Pacific Red,
26 LLC, Pacific Design Center 1, LLC, and/or Cohen PDC LLC during the time-period of
27 February 15, 2020, to the Present.

28 14. The persons who comprise the Class are so numerous that joinder of all such persons is
impracticable, and the disposition of their claims will benefit the parties and the Court. Plaintiff’s
claims are typical of the claims of the Class that Plaintiff seeks to represent. Plaintiff will fairly and
adequately protect the interests of the Class that he seeks to represent. Plaintiff does not have any

1 interests that are antagonistic to the Class that he seeks to represent. Counsel for Plaintiff is
2 experienced, qualified, and generally able to conduct complex class action litigation.

3 15. The Court should permit this action to be maintained as a class action pursuant to
4 section 382 of the California Code of Civil Procedure because:

- 5 (a) The questions of law and fact common to the Class predominate over any
6 question affecting only individual members;
- 7 (b) A class action is superior to any other available method for the fair and efficient
8 adjudication of the claims of the members of the Class;
- 9 (c) The members of the Class are so numerous that it is impractical to bring all
10 members of the Class before the Court;
- 11 (d) Plaintiff and the other Class members will not be able to obtain effective and
12 economic legal redress unless this action is maintained as a class action;
- 13 (e) There is a community of interest in obtaining appropriate legal and equitable
14 relief for the legal and statutory violations and other improprieties and in
15 obtaining adequate compensation for the damages and injuries that Defendant's
16 actions have inflicted upon the Class;
- 17 (f) There is a community of interest in ensuring that the combined assets and
18 available insurance of Defendants are sufficient to adequately compensate the
19 members of the Class for injuries sustained;
- 20 (g) Without class certification, the prosecution of separate actions by individual
21 members of the Class for the injuries sustained; would create a risk of (i)
22 inconsistent or varying adjudications with respect to individual members of the
23 Class which would establish incompatible standards of conduct for Defendants,
24 and/or (2) Adjudications with respect to the individual members of the Class
25 which would, as a practical matter, be dispositive of the interests of other
26 members not parties to the adjudications or would substantially impair or
27 impede their ability to protect their interests, due to factors including but not
28 limited to the potential exhaustion of funds available from the parties who are,

1 or may be, responsible for compensation;

2 (h) Defendants have acted or refused to act on grounds generally applicable to the
3 Class, thereby making final injunctive relief appropriate with respect to the
4 Class as a whole.

5 V.

6 **FACTUAL ALLEGATIONS**

7 16. Within four years preceding the initiation of this Action and ongoing, Plaintiff and
8 members of the Class were and/or are currently employed by Defendants as non-exempt employees.

9 17. Defendants own and/or operate a 1.6 million square-foot, multi-use facility in West
10 Hollywood, California, that operates as a hub for professionals in interior design and the architecture
11 industry, which is a key destination for the design community and the general public to view
12 exhibitions, lectures, and meetings related to the arts.

13 18. While job classifications and duties may vary among non-exempt employees, such as
14 “engineers”; security; janitors; and in-house restaurant, café, and fitness center staff members, Plaintiff
15 alleges that Defendants’ policies, procedures, and/or practices were uniformly enforced against *all*
16 non-exempt employees.

17 19. Plaintiff is informed and believes, and thereupon alleges, that it is Defendants’ common
18 policy, procedure, and/or business practice to require *all* non-exempt employees, irrespective of job
19 classification or job duties, to work during their meal and rest breaks. It is also Defendants’ common
20 policy, practice, and/or procedure to require on-duty meal breaks in the absence of an on-duty meal
21 break agreements.

22 20. Plaintiff further alleged that Defendants has a policy, procedure, and/or practice to
23 require non-exempt employees to carry a radio at all times, and thus, they are never relieved of their
24 respective duties during breaks.

25 21. Based on the foregoing, Plaintiff is informed and believes, and thereupon alleges, that
26 Defendants required him and members of the Class to work shifts exceeding eight (8) hours a day
27 and/or forty (40) hours a week but failed to compensate them with overtime and/or double-time
28 compensation for all time worked in excess of eight (8) hours in a workday and/or forty (40) hours in

1 any given workweek.

2 22. In addition, for each occurrence of these rest and meal period violations, Defendants
3 failed to pay Plaintiff and members of the Class an hour premium payment at their regular rate of pay.

4 23. Plaintiff also informed and believes, and thereupon alleges, that it was and is
5 Defendants' common policy and practice to require its employees, including Plaintiff and members of
6 the Class, to use their own tools and equipment. Defendants, however, failed to reimburse or
7 indemnify Plaintiffs or members of the Class for using their personal property for the benefit of
8 Defendants' business operations.

9 24. Due to Defendants' failure to properly pay its employees for all hours worked,
10 including overtime compensation, double time compensation, and meal and rest break premiums, as a
11 derivative result Plaintiff and members of the Class were not provided with accurate itemized wage
12 statements, nor were they paid all wages due upon termination.

13 25. In addition, because Plaintiff and members of the Class were not compensated for all
14 hours worked, their paychecks did not, and do not, accurately or correctly reflect all hours worked or
15 the corresponding rates of pay.

16 **VI.**

17 **FIRST CAUSE OF ACTION**

18 **Failure to Pay Minimum Wages**

19 **[CAL. LAB. CODE §§ 1182, 1182.12, 1194, 1194.2, 1197, and 1197.1; 8 CAL. CODE REGS. § 11040(4)]**

20 **(By Plaintiff and Putative Class as Against all Defendants, including DOES 1 through 50)**

21 26. Plaintiff re-alleges and incorporates herein each and every allegation contained in each
22 of the preceding paragraphs in this Complaint as fully set forth herein by reference.

23 27. California law requires the state minimum wage to be at least equal to the federal
24 minimum wage. CAL. LAB. CODE § 1182(b).

25 28. Notwithstanding section 1182(b) of the California Labor Code, the minimum wage may
26 be fixed by applicable state or local law and the payment of a lower wage than the minimum so fixed
27 is unlawful. CAL. LAB. CODE § 1197.

28 29. On April 4, 2016, Govern Jerry Brown signed into legislation Senate Bill 3 "SB 3"

1 adopting a six-step increase to the state minimum wage. Relevant here,

2 For any employer who employees 26 or more employees, and minimum wage shall be
3 as follows: [¶]

4 ***

5 (D) From January 1, 2020, to December 31, 2020, inclusive,-thirteen dollars (\$13) per
6 hour. [¶]

7 (E) From January 1, 2021, to December 31, 2021, inclusive,-fourteen dollars (\$14) per
8 hour. [¶]

9 (F) From January 1, 2022, and until adjusted by subdivision (c)-fifteen dollars (\$15) per
10 hour.

11 CAL. LAB. CODE § 1182.12(b)(1)(D)-(F), *et. seq.*; *see also*, 8 CAL. CODE REGS. § 11040(4)(A)(2).

12 30. One of the protections outlined SB 3 involves an annual review of the United States
13 Consumer Price Index for Urban Wage Earners and Clerical Workers (U.S. CPI-W) by the
14 Department of Finance. CAL. LAB. CODE § 1182.12(d), *et seq.*

15 31. In July 2022, the Department of Finance found that the inflation rate had increased by
16 7.9%, which required an increase in the minimum wage by 3.5%, resulting in the \$15.50 minimum
17 hourly rate effective January 1, 2023. 8 CAL. CODE REGS. § 11040(4)(A)(1)(b).

18 32. In July 2023, the Department of Finance found that the inflation rate had increased by
19 6.16% percent for the period from July 1, 2022, to June 30, 2023, compared to the prior 12-month
20 period, which required an increase in the minimum wage by 3.5%, resulting in the \$16.00 minimum
21 hourly rate effective January 1, 2024. 8 CAL. CODE REGS. § 11040(4)(A)(1)(a).

22 33. Plaintiffs are informed and believe, and thereupon allege, that from February 15, 2020,
23 and ongoing, Defendants, including DOES 1 through 50, both individually and in the aggregate,
24 employed 26 or more employees, including Plaintiffs and members of the Class.

25 34. Plaintiffs and members of the Class were not compensated for all hours worked, as
26 alleged herein. By virtue of Defendants' unlawful failure to pay Plaintiffs or members of the Class
27 their respective and applicable minimum wages, Plaintiffs and members of the Class have suffered,
28 and will continue to suffer, damages in amounts which are presently unknown, but which exceed the
jurisdictional limits of this Court, and which will be ascertained according to proof at trial.

35. By virtue of Defendants' unlawful failure to pay Plaintiffs and members of the Class

1 their respective and applicable minimum wages, Plaintiffs and members of the Class are entitled to
2 recover the unpaid balance of the full amounts of minimum wages as applicable, including interest
3 thereon, reasonable attorneys' fees, and costs of suit. CAL. LAB. CODE §§ 218.5 and 1194.

4 36. In addition, Plaintiffs and members of the Class are "entitled to recover liquidated
5 damages in an amount equal to the wages unlawfully unpaid and interest thereon." CAL. LAB. CODE §
6 1194.2.

7 **VII.**

8 **SECOND CAUSE OF ACTION**

9 **Failure to Pay Overtime Wages and Double Time Compensation**

10 **[CAL. LAB. CODE §§ 510, 1194, 1198; 8 CAL. CODE REGS. § 11040(3)]**

11 **(By Plaintiff and Putative Class as Against all Defendants, including DOES 1 through 50)**

12 37. Plaintiff re-alleges and incorporates herein each and every allegation contained in each
13 of the preceding paragraphs in this Complaint as fully set forth herein by reference.

14 38. CAL. LAB. CODE §§ 510, 1194, and 1198 and INDUSTRIAL WAGE ORDER No. 4-
15 2001(3)(A)(1)(a), which is codified under 8 CAL. CODE REGS. § 11040(3)(A)(1)(a), as amended,
16 provide that employees in California shall not be employed more than eight (8) hours in any workday
17 or more than forty (40) hours in any workweek, unless they receive additional compensation beyond
18 their regular wages in amounts specified by law. In addition, an employer must pay double the
19 employee's regular rate of pay for all hours worked in excess of twelve (12) hours in any workday,
20 and for all hours worked in excess of eight (8) hours on the seventh (7th) consecutive day of work in a
21 workweek. 8 CAL. LAB. CODE § 11040(3)(A)(1)(b).

22 39. CAL. LAB. CODE § 1194 provides that an employee who has not been paid overtime
23 compensation as required by section 1198 may recover the unpaid balance of the full amount of such
24 overtime compensation, together with costs of suit, penalties, interest thereon, and attorneys' fees in a
25 civil action.

26 40. Plaintiffs and members of the Class were not compensated for all hours worked. As a
27 result, Plaintiff and members of the Class worked more than eight (8) hours in a workday, and/or more
28 than forty (40) hours in a workweek as non-exempt employees of Defendants, including DOES 1

1 through 50, without receiving overtime or double time compensation.

2 41. At all times relevant hereto, Defendants, including DOES 1 through 50, failed to pay
3 Plaintiff or members of the Class overtime and double time compensation for the hours he worked in
4 excess of the maximum hours permissible by law as required by 8 CAL. CODE REGS. § 11040 and CAL.
5 LAB. CODE §§ 510, 1194, and 1198.

6 42. At no time relevant hereto were Plaintiff or members of the Class exempt from any
7 wage and hour provision under California law, including without limitation, any statute, rule, or
8 regulation governing the payment of overtime compensation.

9 43. By virtue of Defendants' unlawful failure to pay additional compensation to the
10 Plaintiff and the Class for their overtime hours, they have suffered, and will continue to suffer,
11 damages in the form of unpaid overtime and double time compensation subject to proof.

12 44. Plaintiff and the Class are also entitled to seek and recover interest at a rate of 10%, and
13 reasonable attorney's fees and costs pursuant to CAL. LAB. CODE §§ 128.5, 218.6, 1194, CAL. CODE
14 CIV. PROC. § 1032, and CAL. CIVIL CODE § 3289, *et. seq.*

15 **VIII.**

16 **THIRD CAUSE OF ACTION**

17 **Failure to Provide Meal Periods**

18 **[CAL. LAB. CODE §§ 226.7, 512; 8 CAL. CODE REGS. § 11040(11)]**

19 **(By Plaintiff and the Putative Class Against All Defendants, Including DOES 1 through 50)**

20 45. Plaintiff re-alleges and incorporates herein each and every allegation contained in each
21 of the preceding paragraphs in this Complaint as fully set forth herein by reference.

22 46. CAL. LAB. CODE § 512(a) provides that no employer shall employ any person for a
23 work period of more than five (5) hours without providing a meal period of not less than 30 minutes.
24 An employee who works no more than six (6) hours may waive the meal period by mutual consent.

25 47. INDUSTRIAL WAGE ORDER No. 4-2001 (11)(A), which is codified under 8 CAL. CODE
26 REGS. § 11040(10)(A), states that an employer must relieve the employee of all work-related duties
27 during meal breaks; otherwise, the employee will be considered to be "on duty," which constitutes
28 compensable time.

1 48. In addition, CAL. LAB. CODE § 226.7 provides, in relevant part, as follows:

2 (b) An employer shall not require an employee to work during a meal... period
3 mandated pursuant to an applicable statute, or applicable regulation, standard, or order
of the Industrial Welfare Commission....

4 ***

5 (c) If an employer fails to provide an employee a meal... period in accordance with a
6 state law, including, but not limited to, an applicable statute or applicable regulation,
7 standard, or order of the Industrial Welfare Commission[.]..., the employer shall pay the
employee one additional hour of pay at the employee's regular rate of compensation for
each workday that the meal... period is not provided.

8 49. For every instance where an employer fails to provide an employee with an
9 uninterrupted meal period in accordance with INDUSTRIAL WAGE ORDER No. 4(11)(A), the employer
10 shall pay the employee one hour of pay at the employee's regular rate of compensation for each
11 workday that the meal period is not provided. 8 CAL. CODE REGS. § 11040(11)(B); *see also*, CAL.
12 LAB. CODE § 226.7(c).

13 50. At all relevant times hereto, Plaintiff and members of the Class regularly worked more
14 than five-hour increments; however, at all times relevant hereto, Defendants, including DOES 1
15 through 50, failed to provide uninterrupted meal periods to Plaintiff and members of the Class as
16 required by CAL. LAB. CODE §§ 226.7, 512 and 8 CAL. CODE REGS. § 11040(11), as further alleged
17 herein.

18 51. By virtue of requiring Plaintiff and the Class to work through meal periods free from
19 work duties, Defendants have intentionally and improperly denied statutorily mandated meal periods
20 in violation of CAL. LAB. CODE §§ 226.7, 512, and 8 CAL. CODE REGS. § 11040(11). Plaintiff and the
21 Class have suffered, and will continue to suffer, damages in the form of unpaid meal break premium
22 payments in an amount according to proof, along with interest pursuant to section 3287 of the
23 California Civil Code.

24 52. Plaintiff and the Class are also entitled to seek and recover interest at a rate of 7%
25 pursuant to CAL. CONST., ART. XV, § 1, and costs pursuant to CAL. CIVIL CODE § 1032, *et. seq.*

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IX.
FOURTH CAUSE OF ACTION
Failure to Provide Rest Periods

[CAL. LAB. CODE § 226.7; 8 CAL. CODE REGS. § 11040(12)]

(By Plaintiff and the Putative Class Against All Defendants, Including DOES 1 through 50)

53. Plaintiff re-alleges and incorporates herein each and every allegation contained in each of the preceding paragraphs in this Complaint as fully set forth herein by reference.

54. CAL. LAB. CODE § 226.7 provides in relevant part, as follows:

(b) An employer shall not require an employee to work during a... rest... period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission....

(d) A rest... period mandated pursuant to a state law, including, but not limited to, an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission[]..., shall be counted as hours worked, for which there shall be no deduction from wages.

55. The California Labor Code also states, in relevant part:

If an employer fails to provide an employee a... rest... period in accordance with a state law, including, but not limited to, an applicable statute or applicable regulation, standard, or order of the Industrial Welfare Commission[]..., the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the... rest... period is not provided.

CAL. LAB. CODE § 227.7(c).

56. INDUSTRIAL WAGE ORDER No. 4-2001 (12)(A), which is codified under 8 CAL. CODE REGS. § 11040(12)(A), requires employers to provide rest breaks that shall be counted as hours worked for which there shall be no deduction of wages.

57. 8 CAL. CODE REGS. § 11040(12)(A), also requires that an employer provide its employees with a 10-minute rest break for every four-hour increment of time worked, or major fraction thereof. *See also, Brinker Restaurant Corp. v. Sup. Ct.* (2012) 53 Cal. 4th 1004, 1029 (“Employees are entitled to 10 minute rests for shifts from three and one-half to six hours in length, 20 minutes for shifts of more than six hours up to 10 hours, 30 minutes for shifts of more than 10 hours up to 14 hours, and so on.”).

58. CAL. LAB. CODE § 226.7 and 8 CAL. CODE REGS. § 11040(12)(B), further require that

1 for every workday in which it fails to provide a rest period during any four-hour increment, the
2 employer must pay the employee premium wages at a rate of an hour's pay at the employee's regular
3 rate of pay.

4 59. Plaintiff and members of the Class regularly worked four-hour increments and were not
5 provided with statutorily mandated rest breaks during their shifts.

6 60. By virtue of Defendants' unlawful failure to authorize, permit, and provide rest periods
7 as required by law, Plaintiff and members of the Class have suffered, and will continue to suffer,
8 damages in the form of unpaid rest break premium payments in an amount according to proof, along
9 with interest pursuant to section 3287 of the California Civil Code.

10 61. Plaintiff and the Class are also entitled to seek and recover interest at a rate of 7%
11 pursuant to CAL. CONST., ART. XV, § 1, and costs pursuant to CAL. CIVIL CODE § 1032, *et seq.*

12 **X.**

13 **FIFTH CAUSE OF ACTION**

14 **Failure to Indemnify**

15 **[CAL. LAB. CODE § 2802; 8 CAL. CODE REGS. § 11040(9)(B)]**

16 **(By Plaintiff and the Putative Class Against All Defendants, Including DOES 1 through 50)**

17 62. Plaintiff re-alleges and incorporates herein each and every allegation contained in each
18 of the preceding paragraphs in this Complaint as fully set forth herein by reference.

19 63. INDUSTRIAL WAGE ORDER No. 4-2001, which is codified under 8 CAL. CODE REGS. §
20 11040, as amended, states in relevant part: "[w]hen tools or equipment or are necessary for the
21 performance of a job, such tools and equipment shall be provided and maintained by the employer...."
22 8 CAL. CODE REGS. § 11040(9)(B).

23 64. Section 2802(a) of the California Labor Code provides that "[a]n employer shall
24 indemnify his or her employee for all necessary expenditures or losses incurred by the employee in
25 direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of
26 the employer...."

27 65. In addition:

28 All awards made by a court or by the Division of Labor Standards Enforcement for
reimbursement of necessary expenditures under this section shall carry interest at the

1 same rate as judgments in civil actions. Interest shall accrue from the date on which the
2 employee incurred the necessary expenditure or loss.

3 *Id.* § 2802(b). Under this section the term “necessary expenditures or losses” includes attorneys’ fees.

4 *Id.* § 2802(c).

5 66. It was and is Defendants’ common policy and practice to require its employees,
6 including Plaintiff and members of the Class, to use their own tools and equipment. Plaintiff and
7 members of the Class, however, were never reimbursed for the use of their personal tools or
8 equipment, which were used for the benefit of the Defendants herein.

9 67. As a proximate result of Defendants’ unlawful actions and omissions, Plaintiff and the
10 Class have been damaged in an amount according to proof at trial, and they seek reimbursement of all
11 necessary expenditures, plus interest thereon at a rate of 10% pursuant to section 2802(b) of the
12 California Labor Code.

13 68. Additionally, Plaintiff and the Class are entitled to an award of costs, expenses, and
14 reasonable attorneys’ fees, pursuant to CAL. LAB. CODE § 2802(c) and CAL. CIV. CODE § 1032, *et seq.*

15 **XI.**

16 **SIXTH CAUSE OF ACTION**

17 **Failure to Provide Accurate Wage Statements**

18 **[CAL. LAB. CODE §§ 226, 226.3; 8 CAL. CODE REGS. § 11040(7)]**

19 **(By Plaintiff and the Putative Class Against All Defendants, Including DOES 1 through 50)**

20 69. Plaintiff re-alleges and incorporates herein each and every allegation contained in each
21 of the preceding paragraphs in this Complaint as fully set forth herein by reference.

22 70. CAL. LAB. CODE § 226 provides that an employer shall provide its employees with
23 accurate wage statements as follows:

- 24 (a) Every employer shall, semimonthly or at the time of each payment of wages, furnish
25 each of his or her employees, either as a detachable part of the check, draft, or voucher
26 paying the employee's wages, or separately when wages are paid by personal check or
27 cash, an accurate itemized statement in writing showing (1) gross wages earned, (2)
28 total hours worked by the employee...[,] (3) the number of piece-rate units earned and
any applicable piece rate if the employee is paid on a piece-rate basis, (4) all
deductions, provided that all deductions made on written orders of the employee may
be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of
the period for which the employee is paid, (7) the name of the employee and only the
last four digits of his or her social security number or an employee identification

1 number other than a social security number, (8) the name and address of the legal entity
2 that is the employer...[,] and (9) all applicable hourly rates in effect during the pay
3 period and the corresponding number of hours worked at each hourly rate by the
4 employee and, beginning July 1, 2013, if the employer is a temporary services
5 employer as defined in Section 201.3, the rate of pay and the total hours worked for
6 each temporary services assignment At all times relevant hereto, the fundamental,
7 formally established public policy of the State of California as expressed in Article I,
8 section 8 of the California Constitution was and is that employees be free from race-
9 based and disability-based discrimination and harassment in their employment.

6 71. INDUSTRIAL WAGE ORDER NO. 4-2001, which is codified under 8 CAL. CODE REGS. §
7 11040, as amended, states in relevant part:

8 (B) Every employer who has control over wages, hours, or working conditions shall
9 semimonthly or at the time of each payment of wages furnish each employee an
10 itemized statement in writing showing: (1) all deductions; (2) the inclusive dates of the
11 period for which the employee is paid; (3) the name of the employee or the employee's
12 social security number; and (4) the name of the employer, provided all deductions made
13 on written orders of the employee may be aggregated and shown as one item. [¶]

12 (C) All required records shall be in the English language and in ink or other indelible
13 form, dated properly, showing month, day and year. The employer who has control
14 over wages, hours, or working conditions shall also keep said records on file at the
15 place of employment or at a central location for at least three years. An employee's
16 records shall be available for inspection by the employee upon reasonable request.

15 8 CAL. CODE REGS. §§ 11040(7), (B)-(C).

16 72. At all times relevant herein, Defendants, including DOES 1 through 50, failed to
17 properly and accurately itemize the number of hours worked by Plaintiff and the Class at their
18 effective regular rates of pay, including the effective overtime rates of pay. The wage statements also
19 failed to identify the correct or true employers of Plaintiff or the Class.

20 73. By failing to pay Plaintiffs and members of the Class wages for all hours worked,
21 including overtime compensation, Defendants have violated the requirement that the total hours
22 worked, and all wages earned be included in the wage statements that must be provided to the Plaintiff
23 and the Class.

24 74. Defendants willfully, knowingly, and intentionally failed to comply with CAL. LAB.
25 CODE § 226 by failing to pay minimum wages, overtime compensation for hours worked in excess of
26 forty, and by failing to provide meal breaks or paying the appropriate premium wages for missed meal
27 breaks, as required by law, thereby causing damages to Plaintiff and the Class by failing to include all
28 hours worked and wages earned in their wage statements. These damages include and are not limited

1 to costs expended calculating the true hours worked and the amount of employment taxes that were
2 not properly paid to state and federal tax authorities, are difficult to estimate. Therefore, Plaintiff elects
3 to recover penalties on behalf of themselves and on behalf of the Class pursuant to CAL. LAB. CODE §
4 226 in an amount \$4,000 each, and reasonable attorney's fees and costs pursuant to CAL. LAB. CODE §
5 226(g) and CAL. CODE CIV. PROC. § 1032, *et. seq.*

6 **XII.**

7 **SEVENTH CAUSE OF ACTION**

8 **Waiting Time Penalties**

9 **[Cal. Labor Code §§ 201, 202, and 203]**

10 **(By Plaintiff and the Putative Class Against All Defendants, Including DOES 1 through 50)**

11 75. Plaintiff re-alleges and incorporates herein each and every allegation contained in each
12 of the preceding paragraphs in this Complaint as fully set forth herein by reference.

13 76. Sections 201 and 202 of the California Labor Code require employers to pay their
14 employees all wages due immediately upon discharge, or within seventy-two hours of resigning
15 without notice.

16 77. Section 203 of the California Labor Code provides that when an employer willfully
17 fails to make a timely payment of final wages pursuant to sections 201 and 202 of the California Labor
18 Code, the employer must, as a penalty, continue to pay the employee's wages at an employee's daily
19 rate, up to thirty days.

20 78. Defendants, including DOES 1 through 50, willfully, knowingly, and intentionally
21 failed to fully compensate all wages due to Plaintiff and the Class, including minimum wages,
22 overtime, double time, and meal and rest break premiums, as further alleged herein.

23 79. Since Plaintiff and the members of the Class have yet to be fully compensated for all
24 hours worked, they are entitled to waiting time penalties in the amount of their daily rate of pay up to
25 thirty days pursuant to section 203 of the California Labor Code, in an amount according to proof,

26 80. Plaintiff and the Class are also entitled to seek and recover interest at a rate of 10%, and
27 costs pursuant to CAL. LAB. CODE § 218.6, CAL. CIVIL CODE § 3289, and CAL. CODE CIV. PROC. §
28 1032, *et seq.*

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XIII.

EIGHTH CAUSE OF ACTION

Unfair Competition and Unlawful Business Practices

[CAL. BUS. & PROF. CODE § 17200, *et seq.*]

(By Plaintiff and the Putative Class Against All Defendants, Including DOES 1 through 50)

81. Plaintiff re-alleges and incorporates herein each and every allegation contained in each of the preceding paragraphs in this Complaint as fully set forth herein by reference.

82. Each Defendant named herein is considered a “person,” as the term is defined under CAL. BUS. & PROF. CODE § 17021.

83. CAL. BUS. & PROF. CODE § 17200 defines unfair competition as any unlawful, unfair, or fraudulent business act or practice.

84. Plaintiff and the members of the Class have suffered an injury-in-fact as a result of Defendants’ conduct in violation of the Unfair Competition Law (CAL. BUS. & PROF. CODE § 17200 *et seq.*). Specifically, Plaintiff and the Class have lost money and/or property as a result of Defendants’ wrongful conduct. The injuries suffered by Plaintiff and the Class were directly related to Defendants’ wrongful conduct.

85. At all times relevant hereto, by and through the conduct described herein, Defendants, including DOES 1 through 50, have engaged in unfair, fraudulent and unlawful practices, in violation of CAL. BUS. & PROF. CODE §§ 17200 *et seq.*, and have thereby deprived Plaintiff and members of the Class of fundamental rights and privileges guaranteed to all employees under the California Labor Code.

86. All of the acts described herein as violations of, among other things, the California Labor Code and applicable IWC Wage Orders, are unlawful and in violation of public policy, and are immoral, unethical, oppressive, and unscrupulous, and thereby constitute unfair, unlawful, and/or fraudulent business practices in violation of CAL. BUS. & PROF. CODE §§ 17200 *et seq.* Specifically, Defendants’ unfair, unlawful, and/or fraudulent business practices include the following violations:

- (a) Failure to timely pay wages at the appropriate rate of pay, including minimum wages, in violation of CAL. LAB. CODE §§ 204, 510, 511, 558, 1182.12, 1194,

- 1 1197, 1198, and 8 CAL. CODE REGS. §§ 11040(4), *et seq.*, and 11040(3), *et seq.*;
- 2 (b) Failure to provide meal periods as mandated by CAL. LAB. CODE §§ 226.7 and
- 3 512, and 8 CAL. CODE REGS. § 11040(11), *et seq.*;
- 4 (c) Failure to provide rest periods as mandated by CAL. LAB. CODE § 226.7, and 8
- 5 CAL. CODE REGS. § 11040(12), *et seq.*;
- 6 (d) Failure to provide prompt payment of wages to employees upon termination and
- 7 resignation in violation of CAL. LAB. CODE §§ 201, 202, and 203;
- 8 (e) Failure to provide accurate itemized wage statements to employees in violation
- 9 of CAL. LAB. CODE §§ 226 and 226.3; and
- 10 (f) Failure to indemnify or reimburse for all out-of-pocket expenses in violation of
- 11 CAL. LAB. CODE § 2802, and 8 CAL. CODE REGS. § 11040(9)(B).

12 87. By and through the unfair, fraudulent, and unlawful business practices described herein,

13 Defendants, including DOES 1 through 50, have obtained valuable property, money, and services from

14 Plaintiffs and the Class, and has deprived them of valuable rights and benefits guaranteed by the law,

15 all to their detriment.

16 88. Furthermore, Plaintiff is informed and believes, and thereupon alleges, that Defendants

17 have underreported to federal and state authorities the wages earned by Plaintiff and the members of

18 the Class, and therefore, have underpaid state and federal taxes, employer matching funds,

19 unemployment premiums, Social Security, Medicare and Workers' Compensation premiums. This

20 conduct is criminal in nature and subjects Defendants to sanctions, fines, and imprisonment, and is

21 actionable under CAL. BUS. & PROF. CODE §§ 1700, *et seq.* and 17200 *et seq.*

22 89. Plaintiff is informed and believes, and based upon that information and belief alleges,

23 that by requiring Plaintiff and the Class to work without minimum wage compensation, or work

24 overtime without receiving overtime compensation, and failing to provide meal and rest periods,

25 Defendants have engaged in business within the state of California to offer its services at a lower price

26 for the purpose of injuring competitors and/or destroying competition in violation of CAL. BUS. &

27 PROF. CODE § 17043.

28 90. Pursuant to CAL. BUS. & PROF. CODE §§ 17071 and 17075, Defendants' failure to pay

1 wages, overtime compensation, related benefits, and employment taxes, is admissible as evidence of
2 Defendants' intent to violate Chapter 4 of the Unfair Business Trade Act.

3 91. Defendants' practices are unlawful, unfair, deceptive, untrue, and misleading.

4 92. Plaintiff is entitled to seek, and does seek, such relief as may be necessary to restore the
5 money and property that Defendants have acquired, or of which Plaintiff and members of the Class
6 have been deprived of, by means of the above-described unfair and unlawful business practices.

7 93. Plaintiff and the Class have no plain, speedy, and/or adequate remedy at law to redress
8 the injuries that they have suffered as a consequence of Defendants' unfair and unlawful business
9 practices. As such, Defendants should be required to disgorge the unpaid moneys owed to Plaintiff and
10 the Class.

11 94. Because Plaintiff seeks to enforce an important right affecting the public interest, *to wit*,
12 the lawful payment of wages as required by law, the disgorgement of ill-gotten gains, and the
13 restitution of unlawfully withheld wages, with interest thereon at a rate of 10% pursuant to CAL. LAB.
14 CODE § 218.6, and CAL. CIVIL CODE § 3289, Plaintiff requests an award of attorneys' fees, pursuant to
15 CAL. CODE CIV. PROC. § 1021.5, and costs pursuant to CAL. CODE CIV. PROC. § 1032.

16 **XIV.**

17 **PRAYER**

18 WHEREFORE, Plaintiff prays for judgment against each of Defendants as follows:

19 **A. On The First Cause of Action.**

20 1. For compensatory damages, including unpaid wages, and other losses in an amount
21 according to proof;

22 2. For liquidated damages pursuant to CAL. LAB. CODE § 1194.2;

23 3. For an award of interest, including prejudgment interest at the legal rate pursuant to
24 CAL. LAB. CODE §§ 218.6, 1194, and CAL. CIV. CODE § 3289, *et seq.*; and

25 For reasonable attorneys' fees and costs of suit pursuant to CAL. LAB. CODE §§ 218.5, 1194, and CAL.
26 CODE CIV. PROC. § 1032.

27 **B. On The Second Cause of Action.**

28 4. For compensatory damages, including lost wages, in an amount in an amount according

1 to proof;

2 5. For an award of interest, including prejudgment interest at the rate of 10% CAL. LAB.
3 CODE §§ 218.6, 1194, and CAL. CIV. CODE § 3289, *et seq.*; and

4 6. For reasonable attorneys' fees and costs of suit pursuant to CAL. LAB. CODE §§ 218.5,
5 1194, and CAL. CODE CIV. PROC. § 1032.

6 **C. On the Third and Fourth Causes of Actions.**

7 7. For unpaid premium payments in an amount according to proof;

8 8. For an award of interest, including prejudgment interest, at a rate of 7% pursuant to
9 CAL. CONST., ART. XV, § 1; and

10 9. For reasonable costs of suit pursuant to CAL. CODE CIV. PROC. § 1032.

11 **D. On the Fifth Cause of Action.**

12 10. For reimbursement of all necessary expenditures, plus interest thereon at a rate of 10%,
13 pursuant to CAL. LAB. CODE § 2802(b); and

14 11. For costs and attorneys' fees pursuant to CAL. LAB. CODE § 2802(c) and CAL. CIV.
15 CODE § 1032, *et seq.*

16 **E. On the Sixth Cause of Action.**

17 12. For statutory penalties pursuant to CAL. LAB. CODE § 226; and

18 13. For attorneys' fees and costs pursuant to CAL. LAB. CODE § 226(g) and CAL. CODE CIV.
19 PROC. § 1032, *et seq.*

20 **F. On the Seventh Cause of Action.**

21 14. For statutory penalties CAL. LAB. CODE § 203, plus interest thereon at a rate of 10%,
22 pursuant to CAL. LAB. CODE § 218.6 and CAL. CIVIL CODE § 3289;

23 15. For costs of suit pursuant to CAL. CODE CIV. PROC. § 1032.

24 **G. On the Eighth Cause of Action.**

25 16. That Defendants, including DOES 1 through 50, be ordered and enjoined to pay
26 restitution and penalties to Plaintiffs due to Defendants' unlawful and/or unfair activities, pursuant to
27 Business and Professions Code §§ 17200-05, plus interest thereon at a rate of 10%, pursuant to CAL.
28 LAB. CODE § 218.6 and CAL. CIVIL CODE § 3289;



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17. That Defendants, including DOES 1 through 50, further be enjoined to cease and desist from unlawful and/or unfair activities in violation of Business and Professions Code § 17200, *et seq.*;

18. For costs of suit pursuant to CAL. CODE CIV. PROC. § 1032; and

19. For attorneys' fees pursuant to CAL. CODE CIV. PROC. § 1021.5.

H. On All Causes of Action.

20. For an order granting class certification

21. For costs of suit pursuant to CAL. CODE CIV. PROC. § 1032; and

22. For other and further relief as the Court deems just and proper


XV.

DEMAND FOR JURY TRIAL

Plaintiff requests a trial by jury on all issues so triable.

Dated: February 15, 2024

BROWN WHITE & OSBORN LLP

By: 
ROLANDO J. GUTIERREZ

Attorneys for Plaintiff and the Putative Class