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22 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
23 **LOS ANGELES COUNTY**

24 OMAR RODRIGUEZ, individually and on
25 behalf of all others similarly situated,

26 Plaintiff,

27 v.

28 HAWK II ENVIRONMENTAL CORP., a
California corporation; and DOES 1-10,
inclusive,

Defendants.

CONFORMED COPY
OF ORIGINAL FILED
Los Angeles Superior Court

JUN 24 2016

Sherri R. Carter, Executive Officer/Clerk
By: Moses Soto, Deputy

FILED BY FAX

Case No.

BC 6 25 1 2 1

COMPLAINT

[Class Action]

1. Failure to Provide Adequate Pay Stubs, Cal. Lab. Code § 226 [on Behalf of Plaintiff and the Class]
2. Failure to Provide Meal Periods, Cal. Lab. Code §§ 512, 226.7 [on Behalf of Plaintiff and the Class]
3. Failure to Provide Rest Breaks, Cal. Lab. Code § 226.7 [on Behalf of Plaintiff and the Class]
4. Failure to Pay Overtime Compensation, Cal. Lab. Code §§ 510, 1194, 1198 [on Behalf of Plaintiff and the Class]
5. Failure to Reimburse Employee for Uniform, Cal. Lab. Code § 2802 [on Behalf of Plaintiff and the Class]

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- 6. Violation of Unfair Competition Law, Cal. Bus. & Prof. Code § 17200 *et seq.* [on Behalf of Plaintiff and the Class]
- 7. Failure to Pay Wages upon Termination, Cal. Lab. Code §§ 201, 202, 203 [on Behalf of Plaintiff and the Class]
- 8. Private Attorneys General Act, Cal. Lab. Code § 2698 *et seq.* [on Behalf of Plaintiff and Aggrieved Employees]

DEMAND FOR JURY TRIAL

INTRODUCTION

1. Plaintiff OMAR RODRIGUEZ, individually and on behalf of all others similarly situated, brings this class action against Defendants HAWK II ENVIRONMENTAL CORP., a California corporation (“Hawk”); and DOES 1 through 10 (collectively, “Defendants”).

2. As alleged below, Defendants have violated the California Labor Code by failing to provide their employees with accurate and proper itemized wage statements, *i.e.*, pay stubs. Defendants therefore are liable to their current and former employees for the damages set forth by section 226 of the Labor Code. Defendants also have violated the Labor Code by failing to furnish their employees uninterrupted meal and rest breaks in violation of sections 512 and 226.7 of the Labor Code, and for failing to pay their employees for at least fifteen minutes of daily overtime in violation of sections 510 and 1198 of the Labor Code. Finally, Defendants’ charged their employees for required uniforms in violation of section 2802.

3. Plaintiff brings this action under California’s minimum-wage and overtime statutes and regulations, and under California’s unfair-competition laws. In addition, Plaintiff brings a cause of action under the Private Attorneys General Act (“PAGA”) against Defendants on behalf of himself and all other aggrieved employees. Plaintiff asserts that he and all other aggrieved employees are entitled to unpaid wages, including unpaid overtime wages; compensation for missed meal and rest periods; reimbursement for necessary business expenses; and all applicable damages and penalties.

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1 **JURISDICTION AND VENUE**

2 4. **Subject-Matter Jurisdiction.** This action arises under the Labor Code. This Court
3 therefore has original jurisdiction under article VI, section 10 of the California Constitution.

4 5. **Personal Jurisdiction.** This Court has personal jurisdiction over Defendants because, as
5 alleged below, they are domiciled in California or have sufficient minimum contacts with California.

6 6. **Venue.** Venue is proper in this Court because, as alleged below, Defendants employed
7 Plaintiff in Los Angeles County, California. Defendants' obligation and liability to Plaintiff therefore
8 arose in Los Angeles County.

9 **PARTIES**

10 7. Plaintiff is, and at all times relevant to this action was, a resident of Los Angeles County,
11 California. The events giving rise to this action also arose in Los Angeles County.

12 8. Plaintiff is informed and believes, and based thereon alleges, that Hawk is a corporation
13 organized under the laws of the State of California. Hawk owns at least three gas stations in the greater
14 Los Angeles area. One is a Chevron station located at 901 North Alameda Street, Los Angeles,
15 California 90057, in the Olvera Street, Chinatown, and Terminal Annex neighborhood of downtown Los
16 Angeles. (This station shall be referred to in this Complaint as the "Alameda Station.") Another is a
17 Chevron station located at 2321 South Hacienda Boulevard, Hacienda Heights, California 91745. (This
18 station shall be referred to as the "Hacienda Station.") The third location is a Shell station located at 801
19 West Olympic Boulevard, Montebello, California 90640. Hawk's business office is located at the
20 Hacienda Station.

21 9. Plaintiff is unaware of the true names and capacities of the Defendants sued herein under
22 the fictitious names "Doe 1" through "Doe 10." However, Plaintiff is informed and believes, and based
23 thereon alleges, that each Defendant acted as the agent or alter ego of the other Defendants, with the
24 legal authority to act on the others' behalf, and that the acts and omissions of each Defendant were in
25 accordance with, and represent, the official practice and policy of all Defendants. Plaintiff is further
26 informed and believes, and based thereon alleges, that each Defendant acted within the scope of such
27 agency, or ratified each and every act or omission alleged herein. In addition, Plaintiff is informed and
28 believes, and based thereon alleges, that each Defendant aided and abetted each and every act or

1 omission alleged herein. Likewise, Plaintiff is informed and believes, and based thereon alleges, that
2 each Defendant is in some manner intentionally, negligently, or otherwise responsible for each and
3 every act or omission alleged herein. Finally, Plaintiff alleges that each Defendant was a joint employer
4 of Plaintiff and the Class. Plaintiff will seek leave of this Court to amend this Complaint once the names
5 and capacities of Doe 1 through Doe 10 become known.

6 ***GENERAL ALLEGATIONS***

7 10. Plaintiff worked as a cashier, parking attendant, and general custodian for Defendants
8 from approximately July 2013 through December 2015 in the Alameda Station. His last day of work
9 was on or about December 10, 2015.

10 11. Throughout his employment, Plaintiff was denied full uninterrupted meal periods.
11 Defendants' management told Plaintiff that the company needed him to remain on the Alameda Station
12 premises during his meal breaks and that he needed to interrupt his break if his services were required
13 for any reason, which they were daily.

14 12. Plaintiff is informed and believes, and based thereon alleges, that, as a matter of policy
15 and practice, all of Defendants' stations are understaffed so that no staff member could leave the
16 premises for breaks, as the station would remain unattended. Defendants told such employees that the
17 company needed them to remain on the station premises during their meal breaks and that the employees
18 needed to interrupt their breaks if their services were required for any reason. Therefore, within the four
19 years preceding the filing of this lawsuit, Defendants denied other current and former employees full
20 uninterrupted meal periods.

21 13. Similarly, Defendants never guaranteed other current and former employees any rest
22 breaks during the work day, and Plaintiff is informed and believes, and based on such information and
23 belief alleges, that they never took full and uninterrupted rest breaks.

24 14. Despite paying Plaintiff near minimum wage (\$8.00/hour when he started and
25 \$11.25/hour upon termination), Defendants charged Plaintiff for his uniform, a Chevron t-shirt with the
26 Chevron name on the front, which he was required to wear. On information and belief, Plaintiff alleges
27 that Defendants required all other former and current employees to purchase their required uniforms
28 with the Chevron logo on them.

1 15. During his employment, toward the end of his shift, Plaintiff was required to clock out
2 while he was still on duty and working. On average, Plaintiff worked approximately fifteen minutes of
3 unpaid overtime each workday, or approximately one hour and fifteen minutes each workweek. On
4 information and belief, Plaintiff alleges that all other current and former employees were required to
5 work approximately fifteen minutes each day without compensation.

6 16. Plaintiff is informed and believes, and based thereon alleges, that their unpaid labor was
7 not the result of an isolated or unintentional payroll error; instead, he is informed and believes, and
8 based thereon alleges, that Defendants specifically adopted a policy that deliberately and unfairly
9 benefited Defendants.

10 17. Throughout his employment, Plaintiff was denied full uninterrupted meal periods.
11 Defendants' management told Plaintiff that the company required him to remain on the premises during
12 his meal breaks and that he needed to interrupt his breaks if his services were required for any reason.
13 Plaintiff was not allowed to leave the premises for lunch and was regularly interrupted during his meal
14 breaks. On information and belief, Plaintiff alleges that this was the same policy and practice enforced
15 upon all other employees in the three gas stations.

16 18. Similarly, throughout his employment at Hawk, Plaintiff was required to remain at the
17 gas station's cashier desk or perform other tasks throughout the workday. Plaintiff was never allowed
18 any ten-minute rest breaks during the work day, and, as a result, he never took any.

19 19. In addition, Defendants provided Plaintiff with pay stubs that failed to include the
20 employer's address, failed to include the inclusive dates of the pay period, and also erroneously included
21 the employee's complete social security number rather than correctly including either the last four digits
22 of the social security number or an employee identification number. A true and correct copy of
23 Plaintiff's pay stub for the pay period ending in August 5, 2015, is attached hereto as **Exhibit 1**.

24 20. Plaintiff is informed and believes, and based thereon alleges, that all of the other pay
25 stubs issued to him by Defendants failed to set forth the employer's address, as well as Plaintiff's
26 employee ID number or the last four digits of his social-security number, and the inclusive dates of the
27 pay period for which he was being paid.

28 21. Plaintiff worked for Defendants during each of the pay periods covered by each of the

1 pay stubs that he received.

2 22. Plaintiff is informed and believes, and based thereon alleges, that Defendants' outright
3 failure to provide any pay stubs reflecting the employer's address, the inclusive dates of work, and the
4 employee identification number (or only last four digits of his social security number) was not the result
5 of an isolated or unintentional payroll error; instead, he is informed and believes, and based thereon
6 alleges, that Defendants specifically adopted a pay-stub template that failed to include that information.
7 He is further informed and believes, and based thereon alleges, that Defendants have used that same
8 template since at least February 2015 to generate the pay stubs for all of their other employees.

9 ***CLASS-ACTION ALLEGATIONS***

10 23. Plaintiff seeks to represent the following Class under section 382 of the California Code
11 of Civil Procedure: All individuals who, at any time since four years before the filing of the initial
12 Complaint, worked for Defendants at a gas station in California on an hourly basis.

13 24. Plaintiff reserves the right to amend or modify the proposed Class, or to propose
14 subclasses or limitations to particular issues, in response to facts later ascertained.

15 25. ***Numerosity.*** The identities of Class Members may be ascertained from Defendants'
16 employment and payroll records—records that employers are required by law to keep. Plaintiff is
17 informed and believes, and based thereon alleges, that the total number of Class Members exceeds forty.
18 Joinder of all Class Members therefore would be impracticable.

19 26. ***Commonality.*** There are questions of law and fact that are common to the Class and that
20 predominate over any questions affecting only individual Class Members. Those common questions
21 include, without limitation:

22 a. Whether an employer is required to list employee identification numbers or the
23 last four digits of employees' social-security numbers on its pay stubs.

24 b. Whether an employer is required to list employees' actual hours worked on its
25 pay stubs.

26 c. Whether an employer is required to include the inclusive dates worked on its pay
27 stubs.

28 d. Whether a reasonable person would be able to determine the missing information

1 on Defendants' pay stubs without any reference to other documents or information.

- 2 e. Whether employees were prevented from taking uninterrupted meal breaks.
- 3 f. Whether employees were prevented from taking rest breaks.
- 4 g. Whether employees were allowed to leave the premises during their meal breaks.
- 5 h. Whether employees worked after they were required to clock out.
- 6 i. Whether employees were compensated for all hours worked.
- 7 j. Whether employees were required to purchase uniforms.
- 8 k. Whether the employee uniforms could be used outside of their employment.
- 9 l. Whether employees were reimbursed for their required uniforms.
- 10 m. Whether former employees were paid all of their wages upon discharge.

11 27. **Typicality.** Plaintiff's claims are typical of those of the Class because he was employed
12 by Defendants in California and because he did not receive pay stubs that complied with Labor Code
13 section 226, did not receive proper rest and meal breaks, worked uncompensated hours, was required to
14 purchase uniforms but not reimbursed for them, and was not paid all of his wages upon discharge.

15 28. **Adequacy.** Plaintiff will fairly and adequately protect the interests of the Class. He is not
16 aware of any conflicts that he has with any Class Members, and he plans on pursuing the litigation
17 vigorously. He also has the same interests as those of the Class, and he has retained counsel who are
18 competent and experienced in class-action litigation. In addition, he has been actively involved in the
19 litigation; he will continue to participate in, and will make himself available for, the duration of the
20 litigation; and he understands the duties that he holds to the Class.

21 29. **Superiority.** A class action is superior to other available methods for the fair and
22 efficient adjudication of this controversy. The individual joinder of all Class Members is impracticable
23 because of the above-described numerosity, as well as because the amount that any given Class Member
24 stands to receive is small when judged relative to the resources available to Defendants. In addition, the
25 judicial system would be burdened with multiple trials of the same issues—including those common
26 issues identified above—were the matter not to proceed as a class action, which would increase the
27 potential for inconsistent or contradictory judgments. The common questions detailed above, in fact,
28 predominate in this action, as Class Members' claims arise out of the same course of conduct to which

1 Plaintiff himself was subject. A class action therefore would conserve the resources of the parties and
2 the Court while protecting the rights of Class Members. Moreover, it is a matter of public interest to
3 obtain definitive answers to the legality of Defendants' acts and omissions in a single case.

4 ***FIRST CAUSE OF ACTION***

5 *Failure to Provide Adequate Pay Stubbs*

6 *Cal. Lab. Code § 226*

7 *[On Behalf of Plaintiff and the Class]*

8 30. Plaintiff re-pleads, re-alleges, and incorporates by reference each and every allegation set
9 forth in this Complaint.

10 31. Subdivision (a) of section 226 of the Labor Code provides:

11 Every employer shall, semimonthly or at the time of each payment of wages,
12 furnish each of his or her employees, either as a detachable part of the check, draft, or
13 voucher paying the employee's wages, or separately when wages are paid by personal
14 check or cash, an accurate itemized statement in writing showing (1) gross wages earned,
15 (2) *total hours worked by the employee, except for any employee whose compensation is*
16 *solely based on a salary* and who is exempt from payment of overtime under subdivision
17 (a) of [s]ection 515 or any applicable order of the Industrial Welfare Commission, (3) the
18 number of piece-rate units earned and any applicable piece rate if the employee is paid on
19 a piece-rate basis, (4) all deductions, provided that all deductions made on written orders
20 of the employee may be aggregated and shown as one item, (5) *net wages earned*, (6) the
21 inclusive dates of the period for which the employee is paid, (7) *the name of the employee*
22 *and only the last four digits of his or her social security number or an employee*
23 *identification number other than a social security number*, (8) *the name and address of*
24 *the legal entity that is the employer . . .*, and (9) all applicable hourly rates in effect
25 during the pay period and the corresponding number of hours worked at each hourly rate
26 by the employee

27 Cal. Lab. Code § 226(a) (emphasis supplied).

28 32. Section 226 goes on to state:

1 An employee suffering injury as a result of a knowing and intentional failure by
2 an employer to comply with subdivision (a) is entitled to recover the greater of all actual
3 damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and
4 one hundred dollars (\$100) per employee for each violation in a subsequent pay period,
5 not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an
6 award of costs and reasonable attorney's fees.

7 Id. § 226(e)(1). As to "injury," section 226 provides:

8 An employee is deemed to suffer injury . . . if the employer fails to provide
9 accurate and complete information as required by any one or more items (1) to (9),
10 inclusive, of subdivision (a) and the employer cannot promptly and easily determine from
11 the wage statement alone one or more of the following:

12 (i) any of the . . . information required to be provided on the itemized wage
13 statement *pursuant to item[] (2)*.

14

15 (iv) [t]he name of the employee *and only the last four digits of his or her social*
16 *security number or an employee identification number other than a social security*
17 *number.*

18 Id. § 226(e)(2)(B) (emphasis supplied). As also set forth in section 226, the term "'promptly and easily
19 determine' means a reasonable person would be able to readily ascertain the information without
20 reference to other documents or information." Id. § 226(e)(2)(C).

21 33. As alleged above, Defendants specifically adopted a pay-stub template that did not list
22 employee identification numbers, the last four digits of employees' social-security numbers, the
23 employee's inclusive dates worked, or the employer's address. Because a reasonable person necessarily
24 would need to refer to extrinsic documents or information to determine this information, Plaintiff and
25 Class Members have suffered an injury under section 226(a) and are entitled to the statutory damages set
26 forth by section 226(e), along with costs and attorney's fees.

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1 **SECOND CAUSE OF ACTION**

2 *Failure to Provide Meal Breaks*

3 *Cal. Lab. Code §§ 512, 226.7*

4 *[On Behalf of Plaintiff and the Class]*

5 34. Plaintiff re-pleads, re-alleges, and incorporates by reference each and every allegation set
6 forth in this Complaint.

7 35. Labor Code section 512(a) provides that “[a]n employer may not employ an employee for
8 a work period of more than five hours per day without providing the employee with a meal period of not
9 less than 30 minutes.” *Id.* § 512(a).

10 36. Wage Order 7, section 11 provides:

11 11. Meal Periods.

12 (A) No employer shall employ any person for a work period of more than five
13 (5) hours without a meal period of not less than 30 minutes

14

15 (C) Unless the employee is relieved of all duty during a 30 minute meal
16 period, the meal period shall be considered an “on duty” meal period and counted as time
17 worked.

18 8 Cal. Code Regs. § 11070, subsec. 11.

19 37. Labor Code section 226.7(b) provides that no employer shall “require an employee to
20 work during a meal or rest . . . period mandated pursuant to an applicable statute, or applicable
21 regulation, standard, or order of the Industrial Welfare Commission.” Cal. Lab. Code § 226.7(b)

22 38. Throughout his employment, Plaintiff was denied full uninterrupted meal periods.
23 Defendants’ management told Plaintiff that the company needed him to remain on the Alameda Station
24 premises during his meal breaks and that he needed to interrupt his break if his services were required
25 for any reason, which they were daily.

26 39. Plaintiff is informed and believes, and based thereon alleges, that, as a matter of policy
27 and practice, all of Defendants’ stations are understaffed so that no staff member could leave the
28 premises for breaks, as the station would remain unattended. Defendants told such employees that the

1 company needed them to remain on the station premises during their meal breaks and that they needed
2 to interrupt their breaks if their services were required for any reason. Therefore, within the four years
3 preceding the filing of this lawsuit, Hawk denied other current and former employees full uninterrupted
4 meal periods.

5 40. By failing to furnish Plaintiffs and other current and former employees with a duty-free
6 meal period, Defendants violated Labor Code sections 226.7 and Wage Order 7.

7 41. Labor Code section 226.7(c) provides that any employer who “fails to provide an
8 employee a meal or rest . . . period in accordance with a state law, including, but not limited to, an
9 applicable statute or applicable regulation, standard, or order of the Industrial Welfare Commission . . .
10 shall pay the employee one additional hour of pay at the employee’s regular rate of compensation for
11 each work day that the meal period or rest period is not provided.” *Id.* § 226.7(c). Defendants therefore
12 are liable to Plaintiff and Class Members under section 226.7(c) for one additional hour of pay at the
13 employees’ respective regular hourly rates for each day that the meal period that was not provided.

14 42. The remedy provided for in Labor Code section 226.7 constitutes a wage, and Plaintiff is
15 entitled to interest thereon. Murphy v. Kenneth Cole Productions, Inc., 40 Cal. 4th 1094, 1099–1100
16 (2007). Accordingly, Defendants are liable to Plaintiff and Class Members under section 226.7 of the
17 Labor Code according to proof.

18 ***THIRD CAUSE OF ACTION***

19 *Failure to Provide Rest Breaks*

20 *Cal. Lab. Code §§ 226.7*

21 *[On Behalf of Plaintiff and the Class]*

22 43. Plaintiff re-pleads, re-alleges, and incorporates by reference each and every allegation set
23 forth in this Complaint.

24 44. Labor Code section 226.7(b) provides that no employer shall “require an employee to
25 work during a meal or rest . . . period mandated pursuant to an applicable statute, or applicable
26 regulation, standard, or order of the Industrial Welfare Commission.” Cal. Lab. Code § 226.7(b). Wage
27 Order 7, section 12, provides:

28 12. Rest Periods.

1 (A) Every employer shall authorize and permit all employees to take rest
2 periods, which insofar as practicable shall be in the middle of each work period. The
3 authorized rest period time shall be based on the total hours worked daily at the rate of
4 ten (10) minutes net rest time per four (4) hours or major fraction thereof. . . . Authorized
5 rest period time shall be counted as hours worked for which there shall be no deduction
6 from wages.

7 8 Cal. Code. Regs. § 11070, subsec. 12.

8 45. Defendants never guaranteed other current and former employees any rest breaks during
9 the work day, and Plaintiff is informed and believes, and based on such information and belief alleges,
10 that they never took full and uninterrupted rest breaks.

11 46. By failing to furnish Plaintiff and other current and former employees with rest periods
12 throughout their employment, Defendants violated Wage Order 7 and Labor Code section 226.7(b).

13 47. Labor Code section 226.7(c) provides that any employer who “fails to provide an
14 employee a meal or rest . . . period in accordance with a state law, including, but not limited to, an
15 applicable statute or applicable regulation, standard, or order of the Industrial Welfare Commission . . .
16 shall pay the employee one additional hour of pay at the employee’s regular rate of compensation for
17 each work day that the meal period or rest period is not provided.” Cal. Lab. Code § 226.7(c).
18 Defendants therefore are liable to Plaintiff and the Class under section 226.7(c) for a premium of one
19 additional hour of pay at the employees’ respective regular hourly rates for each day in which a rest
20 period was not provided. This premium is separate from the premium due on account of Defendants’
21 failure to furnish meal periods. UPS v. Super. Ct., 196 Cal. App. 4th 57 (2011).

22 48. The remedy provided for in Labor Code section 226.7 constitutes a wage, and Plaintiff is
23 entitled to interest thereon. Murphy, 40 Cal. 4th at 1099–1100. Plaintiff is entitled to damages under
24 section 226.7 according to proof.

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1 **FOURTH CAUSE OF ACTION**

2 *Failure to Pay Overtime Compensation*

3 *Cal. Lab. Code §§ 510, 1194, 1198*

4 *[On Behalf of Plaintiff and the Class]*

5 49. Plaintiff re-pleads, re-alleges, and incorporates by reference each and every allegation set
6 forth in this Complaint.

7 50. Labor Code section 510 and Wage Order 7, section 3(A) provide that a workday consists
8 of eight hours and a workweek consists of forty hours. Labor Code section 510 requires an employer to
9 compensate an employee who works overtime hours at one-and-one-half (1½) times the employee's
10 regular rate of compensation for hours worked over eight in a workday, but under twelve hours.
11 Defendants frequently employed Plaintiff and other current and former employees for more than eight
12 hours per day, and on occasion more than forty hours per workweek, without paying them overtime
13 compensation. This overtime must be calculated to include unpaid on-duty meal time and work
14 performed off-the-clock when employees' hours exceeded eight in a day or forty in a week.

15 51. Labor Code section 1198 provides that it shall be unlawful for an employer to employ an
16 employee for longer than the maximum hours established by law and the standard conditions of labor.

17 52. Labor Code section 1194(a) states, "Notwithstanding any agreement to work for a lesser
18 wage, any employee receiving less than the legal minimum wage or the legal overtime compensation
19 applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of
20 this minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees,
21 and costs of suit." Cal. Lab. Code § 1194(a).

22 53. Labor Code section 558 states:

23 Any employer . . . who violates . . . any provision regulating hours and days of
24 work in any order of the Industrial Welfare Commission shall be subject to a civil penalty
25 as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee
26 for each pay period for which the employee was underpaid in addition to an amount
27 sufficient to recover underpaid wages. (2) For each subsequent violation, one hundred
28 dollars (\$100) for each underpaid employee for each pay period for which the employee

1 was underpaid in addition to an amount sufficient to recover underpaid wages.

2 Id. § 558(a). Moreover, section 558 confirms that “[w]ages recovered pursuant to this section shall be
3 paid to the affected employee” and that “civil penalties provided for in this section are in addition to any
4 other civil or criminal penalty provided by law.” Id. § 558(a)(3), (d).

5 54. Defendants have unlawfully denied Plaintiff and other current and former employees the
6 payment of earned overtime compensation in violation of Labor Code sections 510, 558, 1194, 1198,
7 and Wage Order 7. Defendants therefore are liable to Plaintiff and the Class for unpaid overtime
8 compensation.

9 55. Under Labor Code section 1194, Plaintiff and the Class and are entitled to recover such
10 unpaid overtime compensation, interest, attorney’s fees, and costs.

11 ***FIFTH CAUSE OF ACTION***

12 *Failure to Reimburse Employees for Uniforms*

13 *Cal. Lab. Code § 2802*

14 *[On Behalf of Plaintiff and the Class]*

15 56. Plaintiff re-pleads, re-alleges, and incorporates by reference each and every allegation set
16 forth in this Complaint.

17 57. Labor Code section 2802(a) provides:

18 An employer shall indemnify his or her employee for all necessary expenditures
19 or losses incurred by the employee in direct consequence of the discharge of his or her
20 duties, or of his or her obedience to the directions of the employer, even though unlawful,
21 unless the employee, at the time of obeying the directions, believed them to be unlawful.

22 Id. § 2802(a).

23 58. Defendants required Plaintiff and the Class to purchase their own uniforms and did not
24 reimburse Plaintiff and the Class for said uniforms. The uniforms, which included a Chevron t-shirt
25 with a Chevron logo, could not be worn outside of employment.

26 59. Accordingly, under Labor Code section 2802, Plaintiff and the Class are entitled to
27 recover reimbursement for payment of their uniforms and reasonable costs, including attorney’s fees,
28 incurred in enforcing their rights granted by section 2802.

1 **SIXTH CAUSE OF ACTION**

2 *Unfair Competition Law Violations*

3 *Business & Professions Code §§ 17200 et seq.*

4 *[On Behalf of Plaintiff and the Class]*

5 60. Plaintiff re-pleads, re-alleges, and incorporates by reference each and every allegation set
6 forth in this Complaint.

7 61. Defendants, and each of them, are “persons” as defined under California Business and
8 Professions Code section 17201. Each of the directors, officers, and/or agents of Defendants is equally
9 responsible for the acts of the others as set forth in Business and Professions Code section 17095.

10 62. Defendants “sell” “articles” or “products” to the public as defined in Business and
11 Professions Code sections 17022 and 17024.

12 63. Plaintiff is informed and believe that, for the last four years, Defendants have
13 intentionally and improperly failed to pay Plaintiff and the Class all of their wages, and failed to
14 reimburse Plaintiff and the Class for payment of their required uniforms in violation of Labor Code
15 sections 226.7, 510, 512, 1194, 1198, 2802, and Wage Order 7.

16 64. The consequences of Defendants’ failure to pay required wages include under-reporting
17 to federal and state authorities of the amount of wages earned by Plaintiff and consequently underpaying
18 state and federal taxes, unemployment premiums, and FICA.

19 65. Defendants’ failure to pay for all hours worked and failure to pay wages earned is either
20 unfair and/or an offense punishable by both statutory fine and imprisonment for each violation.
21 Defendants’ acts constitute a continuing and ongoing unfair and unlawful activity prohibited by
22 Business and Professions Code section 17200 *et seq.*, and justify the issuance of an injunction,
23 restitution, and other equitable relief pursuant to Business and Professions Code section 17203 both as to
24 the company and its managing agents and officers.

25 66. Plaintiff is informed and believes, and based on such information and belief alleges, that,
26 by failing to pay Plaintiff all wages earned and by otherwise violating the provisions of the Labor Code
27 and Wage Order, Defendants have gained a competitive advantage and unfairly injured competitors in
28 violation of Business and Professions Code section 17043.

1 67. The victims of these unfair and/or illegal business practices include, but are not limited
2 to, Plaintiff, Defendants’ other employees, competing businesses, and the general public. Plaintiff is
3 informed and believes, and based on such information and belief alleges, that Defendants performed the
4 above-mentioned acts with the intent of gaining an unfair competitive advantage and thereby injuring
5 Plaintiff, Defendants’ other employees, competitors, and the general public.

6 68. Pursuant to Business and Professions Code section 17203, Plaintiff requests restitution
7 and/or disgorgement of all wages wrongfully retained by Defendants in violation of Business and
8 Professions Code sections 172000 *et seq.* Further, Plaintiff requests attorney’s fees and costs pursuant
9 to Code of Civil Procedure section 1021.5.

10 ***SEVENTH CAUSE OF ACTION***

11 *Failure to Pay Wages upon Termination*

12 *Cal. Lab. Code § 203*

13 *[On Behalf of Plaintiff and the Class]*

14 69. Plaintiff re-pleads, re-alleges, and incorporates by reference each and every allegation set
15 forth in this Complaint.

16 70. Labor Code section 201(a) provides, in pertinent part: “If an employer discharges an
17 employee, the wages earned and unpaid at the time of discharge are due and payable immediately.” *Id.*
18 § 2031(a).

19 71. Labor Code section 202(a) provides in pertinent part:

20 If an employee not having a written contract for a definite period quits his or her
21 employment, his or her wages shall become due and payable not later than 72 hours
22 thereafter, unless the employee has given 72 hours previous notice of his or her intention
23 to quit, in which case the employee is entitled to his or her wages at the time of quitting.
24 Notwithstanding any other provision of law, an employee who quits without providing a
25 72-hour notice shall be entitled to receive payment by mail if he or she so requests and
26 designates a mailing address.

27 *Id.* § 202(a).

28 72. Labor Code section 203(a) provides in pertinent part:

1 If an employer willfully fails to pay, without abatement or reduction, in
2 accordance with [s]ections 201, 201.3, 201.5, 201.9, 202, and 205.5, any wages of an
3 employee who is discharged or who quits, the wages of the employee shall continue as a
4 penalty from the due date thereof at the same rate until paid or until an action therefor is
5 commenced; but the wages shall not continue for more than 30 days.

6 Id. § 203(a).

7 73. In violation of California law, Defendants have knowingly and willfully refused to
8 perform their obligations to compensate Plaintiff for all wages earned and all hours worked upon his
9 termination of employment. Plaintiff alleges that all terminated and quitting employees have likewise
10 not been compensated all of their wages within the time requirements under Labor Code sections 201
11 and 202.

12 74. Pursuant to Labor Code section 203, Plaintiff and the Class are each entitled to
13 continuing wages for up to thirty days.

14 ***EIGHTH CAUSE OF ACTION***

15 Private Attorneys General Act

16 *Cal. Lab. Code § 2698 et seq.*

17 *[On Behalf of Plaintiff and Aggrieved Employees]*

18 75. Plaintiff re-pleads, re-alleges, and incorporates by reference each and every allegation set
19 forth in this Complaint.

20 76. On or about April 25, 2016, Plaintiff provided written notice via certified mail to the
21 Labor and Workforce Development Agency (“LWDA”) and Hawk of the specific violations of the
22 Labor Code detailed above.

23 77. No response was provided from the LWDA to Plaintiff’s letter. Plaintiff therefore has
24 exhausted all administrative procedures required of him under Labor Code sections 2698, 2699, and
25 2699.3, and, as a result, he is justified as a matter of right in bringing a civil-penalties cause of action
26 under PAGA.

27 78. PAGA provides:

28 [A]ny provision of th[e Labor C]ode that provides for a civil penalty to be

1 assessed and collected by the Labor and Workforce Development Agency or any of its
2 departments, divisions, commissions, boards, agencies, or employees for a violation of
3 th[e Labor C]ode[] may . . . be recovered through a civil action brought by an aggrieved
4 employee on behalf of himself or herself and other current or former employees pursuant
5 to the procedures specified in [s]ection 2699.3.

6 Id. § 2699(a).

7 79. Labor Code section 558 states:

8 Any employer . . . who violates a section of this chapter or any provision
9 regulating hours and days of work in any order of the Industrial Welfare Commission
10 shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars
11 (\$50) for each underpaid employee for each pay period for which the employee was
12 underpaid in addition to an amount sufficient to recover underpaid wages. (2) For each
13 subsequent violation, one hundred dollars (\$100) for each underpaid employee for each
14 pay period for which the employee was underpaid in addition to an amount sufficient to
15 recover underpaid wages.

16 Id. § 558(a). Moreover, section 558 confirms that “[w]ages recovered pursuant to this section shall be
17 paid to the affected employee” and that “civil penalties provided for in this section are in addition to any
18 other civil or criminal penalty provided by law.” Id. § 558(a)(3), (d).

19 80. PAGA similarly provides:

20 (f) For all provisions of this [C]ode except those for which a civil penalty is
21 provided, there is established a civil penalty for a violation of these provisions, as
22 follows: . . . the civil penalty is one hundred dollars (\$100) for each aggrieved employee
23 per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved
24 employee per pay period for each subsequent violation. . . .

25 (g)(1) Any employee who prevails in any action shall be entitled to an award
26 of reasonable attorney’s fees and costs.

27 Id. § 2699(f), (g)(1).

28 81. As a result of the acts alleged above, Plaintiff seeks penalties under PAGA on behalf of

1 himself and all other aggrieved employees.

2 ***PRAYER FOR RELIEF***

3 Plaintiff prays for the following relief:

4 1. With respect to all causes of action, that the Court certify the Class under section 382 of
5 the Code of Civil Procedure.

6 2. With respect to the first cause of action, that the Court enter judgment in favor of Plaintiff
7 and Class Members for damages, reasonable attorney's fees, costs of suit, and applicable civil penalties,
8 each according to proof, against Defendants in accordance with section 226(e) of the Labor Code.

9 3. With respect to the second cause of action, that the Court enter judgment in favor of
10 Plaintiff and Class Members for damages in the amount of one hour of pay at their respective final
11 regular hourly rates for each day that a meal period that was not provided, applicable civil penalties, and
12 interest, all according to proof.

13 4. With respect to the third cause of action, that the Court enter judgment in favor of
14 Plaintiff and Class Members for damages in the amount of one hour of pay at their respective regular
15 hourly rates for each day in which a rest period was not provided, applicable civil penalties, interest,
16 attorney's fees, and costs, all according to proof.

17 5. With respect to the fourth cause of action, that the Court enter judgment in favor of
18 Plaintiff and Class Members for damages in the amount of unpaid overtime compensation, applicable
19 civil penalties, wages, interest, attorney's fees, and costs, all according to proof.

20 6. With respect to the fifth cause of action, that the Court enter judgment in favor of
21 Plaintiff and Class Members for damages by reimbursing Plaintiff and Class Members for the cost of the
22 uniform, attorney's fees, costs, and civil penalties, all according to proof.

23 7. With respect to the sixth cause of action, that the Court enter judgment in favor of
24 Plaintiff and Class Members for damages, including restitution of unpaid wages, interest, attorney's
25 fees, and costs, all according to proof.

26 8. With respect to the seventh cause of action, that the Court enter judgment in favor of
27 Plaintiff and the Class for continuing wages under Labor Code section 203, according to proof.

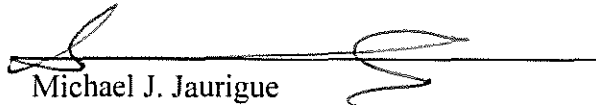
28 9. With respect to the eighth cause of action, that the Court enter judgment in favor of

1 Plaintiff, on behalf of himself and all aggrieved employees, for civil penalties, attorney's fees, and costs,
2 all according to proof.

3 10. For such other and further relief that the Court may deem just and proper, including
4 attorney's fees and costs under Labor Code section 218.5 and Code of Civil Procedure section 1021.5.

5
6 Dated: June 24, 2016

7 JAURIGUE LAW GROUP
8 HEKMAT LAW GROUP

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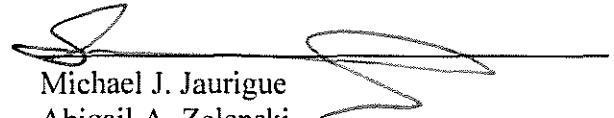
10 Michael J. Jaurigue
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14 Joseph Hekmat
15 *Attorneys for Plaintiff OMAR RODRIGUEZ*

DEMAND FOR JURY TRIAL

Plaintiff requests a trial by jury as to all causes of action.

Dated: June 24, 2016

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