

1 **BIBIYAN LAW GROUP, P.C.**
David D. Bibiyan (Cal. Bar No. 287811)
2 *david@tomorrowlaw.com*
Diego Aviles (Cal. Bar No. 315533)
3 *diego@tomorrowlaw.com*
Sara Ehsani-Nia (Cal. Bar No. 326501)
4 *sara@tomorrowlaw.com*
8484 Wilshire Boulevard, Suite 500
5 Beverly Hills, California 90211
Telephone: (310) 438-5555; Facsimile: (310) 300-1705

6 Attorneys for Plaintiff, CECIL K. REYES, on
7 behalf of himself and all others similarly situated

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF ORANGE**

10
11 CECIL K. REYES, on behalf of himself and
12 all others similarly situated,

13 Plaintiffs,

14 v.

15 IMPERIAL SPRINKLER SUPPLY, INC., a
California corporation; DARLENE HUNN, an
16 individual; and DOES 1 through 100,
inclusive,

17 Defendants.
18

CASE NO.: 30-2020-01167748-CU-OE-CXC
[Hon. Peter Wilson, in Dept. CX102]

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR:**

1. FAILURE TO PAY OVERTIME WAGES;
2. FAILURE TO PAY MINIMUM WAGES;
3. FAILURE TO PROVIDE MEAL PERIODS;
4. FAILURE TO PROVIDE REST PERIODS;
5. WAITING TIME PENALTIES;
6. WAGE STATEMENT VIOLATIONS;
7. FAILURE TO INDEMNIFY;
8. UNFAIR COMPETITION;
9. CIVIL PENALTIES UNDER LABOR CODE § 210;
10. CIVL PENALTIES UNDER LABOR CODE § 226.3;
11. VIOLATION OF LABOR CODE § 558;
12. VIOLATION OF LABOR CODE § 1174.5;
13. VIOLATION OF LABOR CODE § 1197.1; and
14. CIVIL PENALTIES UNDER LABOR CODE § 2699.

DEMAND FOR JURY TRIAL

[Amount in Controversy Exceeds \$25,000.00]

1 COMES NOW plaintiff CECIL K. REYES (“Plaintiff”), on behalf of Plaintiff and all others
2 similarly situated and aggrieved, and alleges as follows:

3 **GENERAL ALLEGATIONS**

4 **INTRODUCTION**

5 1. This is a Class Action, pursuant to Code of Civil Procedure section 382, against
6 IMPERIAL SPRINKLER SUPPLY, INC. (“IMPERIAL”), and any of its respective subsidiaries or
7 affiliated companies within the State of California (“IMPERIAL”) and DARLENE HUNN
8 (“HUNN” and with “IMPERIAL” and DOES 1 through 100. as further defined below,
9 “Defendants”) on behalf of Plaintiff and all other current and former non-exempt California
10 employees employed by or formerly employed by Defendants (“Class Members”).

11 **PARTIES**

12 **A. Plaintiff**

13 2. Plaintiff is a resident of the State of California. At all relevant times herein, Plaintiff
14 is informed and believes, and based thereon alleges that Defendants employed Plaintiff as a non-
15 exempt employee, with duties that included, but were not limited to driving, lifting pallets, and
16 making deliveries. Plaintiff is informed and believes that Plaintiff worked for Defendants from
17 approximately February of 2019 through approximately February 14, 2020.

18 **B. Defendants**

19 3. Plaintiff is informed and believes and based thereon alleges that defendant
20 IMPERIAL is, and at all times relevant hereto was, a limited liability company organized and
21 existing under and by virtue of the laws of the State of California and doing business in the County
22 of Orange, State of California.

23 4. Plaintiff is informed and believes and based thereon alleges that defendant HUNN
24 is, and at all times relevant hereto was, an individual residing in California, as well as the chief
25 executive officer of IMPERIAL, and DOES 1 through 100, as further defined below. Plaintiff is
26 further informed and believes and based thereon alleges that HUNN violated, or caused to be
27 violated, the above-referenced and below-referenced Labor Code provisions in violation of Labor
28 Code section 558.1.

1 5. The true names and capacities, whether individual, corporate, associate, or otherwise,
2 of defendants sued herein as DOES 1 through 100, inclusive, are currently unknown to Plaintiff,
3 who therefore sues defendants by such fictitious names under Code of Civil Procedure section 474.
4 Plaintiff is informed and believes and based thereon alleges that each of the defendants designated
5 herein as DOE is legally responsible in some manner for the unlawful acts referred to herein.
6 Plaintiff will seek leave of court to amend this Complaint to reflect the true names and capacities of
7 the defendants designated hereinafter as DOES when such identities become known. Plaintiff is
8 informed and believes, and based thereon alleges, that each defendant acted in all respects pertinent
9 to this action, as the agent of the other defendant(s), carried out a joint scheme, business plan or
10 policy in all respects pertinent hereto, and the acts of each defendant are legally attributable to the
11 other defendants. Whenever, heretofore or hereinafter, reference is made to "Defendants," it shall
12 include IMPERIAL, HUNN, and any of their parent, subsidiary, or affiliated companies within the
13 State of California, as well as DOES 1 through 100 identified herein.

14 **JOINT LIABILITY ALLEGATIONS**

15 6. Plaintiff is informed and believes and based thereon alleges that all the times
16 mentioned herein, each of the Defendants was the agent, principal, employee, employer,
17 representative, joint venture or co-conspirator of each of the other defendants, either actually or
18 ostensibly, and in doing the things alleged herein acted within the course and scope of such agency,
19 employment, joint venture, and conspiracy.

20 7. All of the acts and conduct described herein of each and every corporate defendant
21 was duly authorized, ordered, and directed by the respective and collective defendant corporate
22 employers. and the officers and management-level employees of said corporate employers. In
23 addition thereto, said corporate employers participated in the aforementioned acts and conduct of
24 their said employees, agents, and representatives, and each of them: and upon completion of the
25 aforesaid acts and conduct of said corporate employees, agents, and representatives, the defendant
26 corporation respectively and collectively ratified, accepted the benefits of, condoned, lauded,
27 acquiesced, authorized, and otherwise approved of each and all of the said acts and conduct of the
28 aforementioned corporate employees, agents and representatives.

1 8. Plaintiff is further informed and believes and based thereon alleges that HUNN
2 violated, or caused to be violated, the above-referenced and below-referenced Labor Code
3 provisions in violation of Labor Code section 558.1.

4 9. Plaintiff is informed and believes, and based thereon alleges, that there exists such a
5 unity of interest and ownership between Defendants, and each of them, that their individuality and
6 separateness have ceased to exist.

7 10. Plaintiff is informed and believes, and based thereon alleges that despite the
8 formation of the purported corporate existence of IMPERIAL, and DOES 1 through 50, inclusive
9 (the "Alter Ego Defendants"), they, and each of them, are one and the same with HUNN and DOES
10 51 through 100 ("Individual Defendants"), and each of them, due to, but not limited to, the following
11 reasons:

12 A. The Alter Ego Defendants are completely dominated and controlled by the Individual
13 Defendants who personally committed the wrongful and illegal acts and violated the
14 laws as set forth in this Complaint, and who has hidden and currently hide behind the
15 Alter Ego Defendants to perpetrate frauds, circumvent statutes, or accomplish some
16 other wrongful or inequitable purpose;

17 B. The Individual Defendants derive actual and significant monetary benefits by and
18 through the Alter Ego Defendants' unlawful conduct, and by using the Alter Ego
19 Defendants as the funding source for the Individual Defendants' own personal
20 expenditures;

21 C. Plaintiff is informed and believes and thereon alleges that the Individual Defendants
22 and the Alter Ego Defendants, while really one and the same, were segregated to
23 appear as though separate and distinct for purposes of perpetrating a fraud,
24 circumventing a statute, or accomplishing some other wrongful or inequitable
25 purpose;

26 D. Plaintiff is informed and believes and thereon alleges that the business affairs of the
27 Individual Defendants and the Alter Ego Defendants are, and at all relevant times
28 mentioned herein were, so mixed and intermingled that the same cannot reasonably

1 be segregated, and the same are inextricable confusion. The Alter Ego Defendants
2 are, and at all relevant times mentioned herein were, used by the Individual
3 Defendants as mere shells and conduits for the conduct of certain of their, and each
4 of their affairs. The Alter Ego Defendants are, and at all relevant times mentioned
5 herein were, the alter egos of the Individual Defendants;

6 E. The recognition of the separate existence of the Individual Defendants and the Alter
7 Ego Defendants would promote injustice insofar that it would permit defendants to
8 insulate themselves from liability to Plaintiff for violations of the Civil Code, Labor
9 Code, and other statutory violations. The corporate existence of these defendants
10 should thus be disregarded in equity and for the ends of justice because such
11 disregard is necessary to avoid fraud and injustice to Plaintiff herein;

12 F. Accordingly, the Alter Ego Defendants constitute the alter ego of the Individual
13 Defendants (and vice versa), and the fiction of their separate corporate existence must
14 be disregarded;

15 11. As a result of the aforementioned facts, Plaintiff is informed and believes, and based
16 thereon alleges that Defendants, and each of them, are joint employers.

17 JURISDICTION

18 12. Jurisdiction exists in the Superior Court of the State of California pursuant to Code
19 of Civil Procedure section 410.10.

20 13. Venue is proper in Orange County, California pursuant to Code of Civil Procedure
21 sections 392, et seq. because, among other things, Orange County is where the causes of action
22 complained of herein arose; the county in which the employment relationship began; the county in
23 which performance of the employment contract, or part of it, between Plaintiff and Defendants was
24 due to be performed; the county in which the employment contract, or part of it, between Plaintiff
25 and Defendants was actually performed; and the county in which Defendants, or some of them,
26 reside. Moreover, the unlawful acts alleged herein have a direct effect on Plaintiff, Class Members
27 and Aggrieved Employees in Orange County, and because Defendants employ numerous Class
28 Members and Aggrieved Employees in Orange County.

1 14. Plaintiff is also an “aggrieved employee” under PAGA, as he was employed by
2 Defendants during the applicable statutory period and suffered one or more of the Labor Code
3 violations set forth herein. Other aggrieved employees Plaintiff seeks to represent are all other non-
4 exempt employees of Defendants. Accordingly, Plaintiff seeks to recover, on behalf of himself and
5 all other current and former employees of Defendants (“other aggrieved employees”), the civil
6 penalties provided by PAGA plus reasonable attorneys’ fees and costs, as the term “civil penalty”
7 is defined under *ZB N.A. v. Superior Court* (2019) 8 Cal.5th 175.

8 15. Specifically, Plaintiff seeks to recover PAGA civil penalties through a representative
9 action permitted by PAGA and the California Supreme Court in, among other authorities, *Arias v.*
10 *Superior Court* (2009) 46 Cal.4th 969. According to the same authorities, class certification of the
11 PAGA allegations described herein is not required.

12 16. During the period beginning one (1) year preceding the provision of notice to the
13 LWDA regarding the herein-described Labor Code violations (the “Civil Penalty Period”),
14 Defendants violated, *inter alia*, Labor Code sections 96, 98.6, 200, 201, 202, 203, 204, 210, 226,
15 226.3, 226.7, 227.3, 232, 232.5, 246, *et seq.*, 432, 510, 512, 558, 1102.5, 1174, 1174.5, 1194, 1197,
16 1197.1, 1197.5, 1198.5, 2699, 2802 and 2810.5, among others.

17 17. Labor Code section 2699, subdivisions (a) and (g), authorizes aggrieved employees
18 such as Plaintiff, on behalf of himself and all other aggrieved current and former employees within
19 the statutory period, to bring a civil action to recover civil penalties pursuant to the procedures
20 specified in Labor Code section 2699.3.

21 18. Plaintiff has complied with the procedures for bringing suit specified in Labor Code
22 section 2699.3. On or around July 27, 2020, Plaintiff gave written notice to the Labor and
23 Workforce Development Agency (“LWDA”) and to Defendants of the specified provisions of the
24 Labor Code alleged to have been violated by it. Plaintiff provided a further amended written notice
25 to the LWDA and Defendants of the specified provisions of the Labor Code alleged to have been
26 violated by them on October 27, 2020. The LWDA did not provide notice of its intention to
27 investigate Defendants’ alleged violations within sixty-five (65) calendar days of the October 27,
28 2020 postmarked date of the herein-described notice sent by Plaintiff to the LWDA and Defendants.

FACTUAL BACKGROUND

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19. For at least four (4) years prior to the filing of this action and continuing to the present, Defendants have, at times, failed to pay overtime wages to Plaintiff. Class Members and Aggrieved Employees, or some of them, in violation of California state wage and hour laws as a result of, without limitation, Plaintiff, Class Members and Aggrieved Employees working over eight (8) hours per day, forty (40) hours per week, and seven consecutive work days in a work week without being properly compensated for hours worked in excess of (8) hours per day in a work day, forty (40) hours per week in a work week, and/or hours worked on the seventh consecutive work day in a work week by, among other things, failing to accurately track and/or pay for all minutes actually worked by, including but not limited to, detrimentally rounding, manipulating and/or editing time entries to show lesser minutes than actually worked during the pay period; engaging, suffering, or permitting employees to work off the clock, including, without limitation, by requiring employees to carry cellular telephones and/or radios during meal breaks and other off-duty times, to clock out for meal periods and continue working, for time spent donning and doffing mandatory uniforms and/or safety equipment off the clock, auto-deducting meal periods not taken; paying regular pay instead of overtime or otherwise failing to pay overtime at the proper rate of pay; and failing to include all forms of remuneration, including non-discretionary bonuses and/or incentive pay, into the regular rate of pay for the pay periods where overtime was worked and a non-discretionary bonus and/or incentive pay was earned, for the purpose of calculating the overtime rate of pay, to the detriment of Plaintiff, Class Members and Aggrieved Employees.

20. For at least four (4) years prior to the filing of this Action and continuing to the present, Defendants have, at times, failed to pay minimum wages to Plaintiff. Class Members and Aggrieved Employees, or some of them, in violation of California state wage and hour laws as a result of, among other things, at times, failing to accurately track and/or pay for all minutes actually worked by, including but not limited to, detrimentally rounding, manipulating and/or editing time entries to show lesser minutes than actually worked during the pay period; engaging, suffering, or permitting employees to work off the clock, including, without limitation, by requiring employees to carry cellular telephones and/or radios during meal breaks and other off-duty times, to clock out

1 for meal periods and continue working, for time spent donning and doffing mandatory uniforms
2 and/or safety equipment off the clock, auto-deducting meal periods not taken; and failing to pay
3 reporting time, to the detriment of Plaintiff, Class Members and Aggrieved Employees.

4 21. For at least four (4) years prior to the filing of this Action and continuing to the
5 present, Defendants have, at times, failed to provide Plaintiff, Class Members and Aggrieved
6 Employees, or some of them, full, timely thirty (30) minute uninterrupted meal period for days on
7 which they worked more than five (5) hours in a work day and a second thirty (30) minute
8 uninterrupted meal period for days on which they worked in excess of ten (10) hours in a work day,
9 and failing to provide compensation for such unprovided meal periods as required by California
10 wage and hour laws.

11 22. For at least four (4) years prior to the filing of this action and continuing to the
12 present, Defendants have, at times, failed to authorize and permit Plaintiff, Class Members and
13 Aggrieved Employees, or some of them, to take rest periods of at least ten (10) minutes per four (4)
14 hours worked or major fraction thereof and failed to provide compensation for such unprovided rest
15 periods as required by California wage and hour laws.

16 23. For at least three (3) years prior to the filing of this action and continuing to the
17 present, Defendants have, at times, failed to pay Plaintiff, Class Members and Aggrieved
18 Employees, or some of them, the full amount of their wages owed to them upon termination and/or
19 resignation as required by Labor Code sections 201 and 202.

20 24. For at least one (1) year prior to the filing of this Action and continuing to the present,
21 Defendants have, at times, failed to furnish Plaintiff, Class Members and Aggrieved Employees, or
22 some of them, with itemized wage statements that accurately reflect gross wages earned; total hours
23 worked; net wages earned; all applicable hourly rates in effect during the pay period and the
24 corresponding number of hours worked at each hourly rate; and other such information as required
25 by Labor Code section 226, subdivision (a). As a result, thereof, Defendants have further failed to
26 furnish employees with an accurate calculation of gross and gross wages earned, as well as gross
27 and net wages paid.

28 25. For at least three (3) years prior to the filing of this action and continuing to the

1 present, Defendants have, at times, failed to indemnify Class Members and Aggrieved Employees,
2 or some of them, for the costs incurred in separately laundering mandatory uniforms, for the
3 purchase of tools and safety equipment, including, without limitation, mandatory steel-toe boots,
4 and for the purchase and maintenance of cellular phones and cellular phone plans, necessary to
5 perform work duties.

6 26. Plaintiff, on Plaintiff's own behalf and on behalf of Class Members, brings this action
7 pursuant to, including but not limited to, Labor Code sections 200, 201, 202, 203, 226, 226.7, 510,
8 512, 558.1, 1194, 1194.2, 1197, 2802, and California Code of Regulations, Title 8, section 11040,
9 seeking overtime wages, minimum wages, payment of premium wages for missed meal and rest
10 periods, waiting time penalties, wage statement penalties, failure to indemnify work-related
11 expenses, other such provisions of California law, and reasonable attorneys' fees and costs.

12 27. Plaintiff, on Plaintiff's own behalf and on behalf of Class Members and Aggrieved
13 Employees, pursuant to Business and Professions Code sections 17200 through 17208, also seeks
14 (an) injunction(s) prohibiting Defendants from further violating the Labor Code and requiring the
15 establishment of appropriate and effective means to prevent further violations, as well as all monies
16 owed but withheld and retained by Defendants to which Plaintiff, Class Members and Aggrieved
17 Employees are entitled, as well as restitution of amounts owed.

18 **CLASS ACTION ALLEGATIONS**

19 28. Plaintiff brings this action on behalf of Plaintiff and Class Members as a class action
20 pursuant to Code of Civil Procedure section 382. Plaintiff seeks to represent a class of all current
21 and former non-exempt employees of Defendants within the State of California at any time
22 commencing four (4) years preceding the filing of Plaintiff's complaint up until the time that notice
23 of the class action is provided to the class (collectively referred to as "Class Members").

24 29. Plaintiff reserves the right under California Rule of Court rule 3.765, subdivision (b)
25 to amend or modify the class description with greater specificity, further divide the defined class
26 into subclasses, and to further specify or limit the issues for which certification is sought.

27 30. This action has been brought and may properly be maintained as a class action under
28 the provisions of Code of Civil Procedure section 382 because there is a well-defined community

1 of interest in the litigation and the proposed Class is easily ascertainable.

2 **A. Numerosity**

3 31. The potential Class Members as defined are so numerous that joinder of all the
4 members of the Class is impracticable. While the precise number of Class Members has not been
5 determined yet, Plaintiff is informed and believes that there are over seventy-five (75) Class
6 Members employed by Defendants within the State of California.

7 32. Accounting for employee turnover during the relevant periods necessarily increases
8 this number. Plaintiff alleges Defendants' employment records would provide information as to the
9 number and location of all Class Members. Joinder of all members of the proposed Class is not
10 practicable.

11 **B. Commonality**

12 33. There are questions of law and fact common to Class Members. These common
13 questions include, but are not limited to:

- 14 A. Did Defendants violate Labor Code sections 510 and 1194 by failing to pay all hours
15 worked at a proper overtime rate of pay?
- 16 B. Did Defendants violate Labor Code sections 510, 1194 and 1197 by failing to pay
17 for all other time worked at the employee's regular rate of pay and a rate of pay that
18 is greater than the applicable minimum wage?
- 19 C. Did Defendants violate Labor Code section 512 by not authorizing or permitting
20 Class Members to take compliant meal periods?
- 21 D. Did Defendants violate Labor Code section 226.7 by not providing Class Members
22 with additional wages for missed or interrupted meal periods?
- 23 E. Did Defendants violate applicable Wage Orders by not authorizing or permitting
24 Class Members to take compliant rest periods?
- 25 F. Did Defendants violate Labor Code section 226.7 by not providing Class Members
26 with additional wages for missed rest periods?
- 27 G. Did Defendants violate Labor Code sections 201 and 202 by failing to pay Class
28 Members upon termination or resignation all wages earned?

- 1 H. Are Defendants liable to Class Members for waiting time penalties under Labor Code
2 section 203?
- 3 I. Did Defendants violate Labor Code section 226, subdivision (a) by not furnishing
4 Class Members with accurate wage statements?
- 5 J. Did Defendants fail to indemnify Class Members for all necessary expenditures or
6 losses incurred in direct consequence of the discharge of their duties or by obedience
7 to the directions of Defendants as required under Labor Code section 2802?
- 8 K. Did Defendants violate the Unfair Competition Law, Business and Professions Code
9 section 17200, *et seq.*, by their unlawful practices as alleged herein?
- 10 L. Are Class Members entitled to restitution of wages under Business and Professions
11 Code section 17203?
- 12 M. Are Class Members entitled to costs and attorneys' fees?
- 13 N. Are Class Members entitled to interest?

14 **C. Typicality**

15 34. The claims of Plaintiff herein alleged are typical of those claims which could be
16 alleged by any Class Members, and the relief sought is typical of the relief which would be sought
17 by each Class Member in separate actions. Plaintiff and Class Members sustained injuries and
18 damages arising out of and caused by Defendants' common course of conduct in violation of laws
19 and regulations that have the force and effect of law and statutes as alleged herein.

20 **D. Adequacy of Representation**

21 35. Plaintiff will fairly and adequately represent and protect the interest of Class
22 Members. Counsel who represents Plaintiff is competent and experienced in litigating wage and
23 hour class actions.

24 **E. Superiority of Class Action**

25 36. A class action is superior to other available means for the fair and efficient
26 adjudication of this controversy. Individual joinder of all Class Members is not practicable, and
27 questions of law and fact common to Class Members predominate over any questions affecting only
28 individual Class Members. Class Members, as further described therein, have been damaged and

1 are entitled to recovery by reason of Defendants' policies and/or practices that have resulted in the
2 violation of the Labor Code at times, as set out herein.

3 37. Class action treatment will allow Class Members to litigate their claims in a manner
4 that is most efficient and economical for the parties and the judicial system. Plaintiff is unaware of
5 any difficulties that are likely to be encountered in the management of this action that would
6 preclude its maintenance as a class action.

7 **FIRST CAUSE OF ACTION**

8 **(Failure to Pay Overtime Wages – Against All Defendants)**

9 38. Plaintiff realleges and incorporates by reference all of the allegations contained in
10 the preceding paragraphs as though fully set forth hereat.

11 39. At all relevant times, Plaintiff, Class Members were employees or former employees
12 of Defendants covered by Labor Code sections 510, 1194 and 1199, as well as applicable Wage
13 Orders.

14 40. At all times relevant to this Complaint, Labor Code section 510 was in effect and
15 provided: "(a) Eight hours of labor constitutes a day's work. Any work in excess of eight hours in
16 one workday and any work in excess of forty hours in any one workweek . . . shall be compensated
17 at the rate of no less than one and one-half times the regular rate of pay for an employee."

18 41. At all times relevant to this Complaint, Labor Code section 510 further provided that
19 "[a]ny work in excess of 12 hours in one day shall be compensated at the rate of no less than twice
20 the regular rate of pay for an employee. In addition, any work in excess of eight hours on any
21 seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of
22 pay."

23 42. Four (4) years prior to the filing of the Complaint in this Action through the present,
24 Plaintiff and Class Members, at times, worked for Defendants during shifts that consisted of more
25 than eight (8) hours in a workday and/or more than forty hours in a workweek, and/or seven (7)
26 consecutive workdays in a workweek, without being paid overtime wages for all hours worked as a
27 result of, including but not limited to, Defendants failing to accurately track and/or pay for all
28 minutes actually worked by, including but not limited to, detrimentally rounding, manipulating

1 and/or editing time entries to show lesser minutes than actually worked during the pay period;
2 engaging, suffering, or permitting employees to work off the clock, including, without limitation,
3 by requiring employees to carry cellular telephones and/or radios during meal breaks and other off-
4 duty times, to clock out for meal periods and continue working, for time spent donning and doffing
5 mandatory uniforms and/or safety equipment off the clock, auto-deducting meal periods not taken;
6 paying regular pay instead of overtime or otherwise failing to pay overtime at the proper rate of pay;
7 and failing to include all forms of remuneration, including non-discretionary bonuses and/or
8 incentive pay, into the regular rate of pay for the pay periods where overtime was worked and a non-
9 discretionary bonus and/or incentive pay was earned, for the purpose of calculating the overtime
10 rate of pay, to the detriment of Plaintiff and Class Members.

11 43. Accordingly, by requiring Plaintiff and Class Members to, at times, work greater
12 than eight (8) hours per workday, forty (40) hours per workweek, and/or seven (7) straight workdays
13 without properly compensating overtime wages at the proper overtime rate of pay, Defendants, on
14 occasion, willfully violated the provisions of the Labor Code, among others, sections 510, 1194, and
15 applicable IWC Wage Orders, and California law.

16 44. As a result of the unlawful acts of Defendants, Plaintiff and Class Members have
17 been deprived of overtime wages in amounts to be determined at trial, and are entitled to recovery,
18 plus interest and penalties thereon, attorneys' fees and costs, pursuant to Labor Code section 1194
19 and 1199, Code of Civil Procedure section 1021.5 and 1032, and Civil Code section 3287.

20 **SECOND CAUSE OF ACTION**

21 **(Failure to Pay Minimum Wages – Against All Defendants)**

22 45. Plaintiff realleges and incorporates by reference all of the allegations contained in
23 the preceding paragraphs as though fully set forth hereat.

24 46. At all relevant times, Plaintiff and Class Members were employees or former
25 employees of Defendants covered by Labor Code sections 1197, 1199 and applicable Wage Orders.

26 47. Pursuant to Labor Code section 1197 and applicable Wage Orders, Plaintiff and
27 Class Members were entitled to receive minimum wages for all hours worked or otherwise under
28 Defendants' control.

1 48. For four (4) years prior to the filing of the Complaint in this Action through the
2 present, Defendants failed, at times, to accurately track and/or pay for all minutes actually worked
3 by, including but not limited to, detrimentally rounding, manipulating and/or editing time entries to
4 show lesser minutes than actually worked during the pay period; engaging, suffering, or permitting
5 employees to work off the clock, including, without limitation, by requiring employees to carry
6 cellular telephones and/or radios during meal breaks and other off-duty times, to clock out for meal
7 periods and continue working, for time spent donning and doffing mandatory uniforms and/or safety
8 equipment off the clock, auto-deducting meal periods not taken; and failing to pay reporting time to
9 the detriment of Plaintiff and Class Members.

10 49. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have
11 suffered damages in an amount, subject to proof, to the extent they were not paid minimum wages
12 for all hours worked or otherwise due.

13 50. Pursuant to Labor Code sections 218.6, 1194, 1194.2, Code of Civil Procedure
14 sections 1021.5 and 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to
15 recover the full amount of unpaid minimum wages, interest and penalties thereon, liquidated
16 damages, reasonable attorneys' fees and costs of suit.

17 **THIRD CAUSE OF ACTION**

18 **(Failure to Provide Meal Periods – Against All Defendants)**

19 51. Plaintiff realleges and incorporates by reference all of the allegations contained in
20 the preceding paragraphs as though fully set forth hereat.

21 52. At all relevant times, Plaintiff and Class Members were employees or former
22 employees of Defendants covered by Labor Code section 512 and applicable Wage Orders.

23 53. Pursuant to Labor Code section 512 and applicable Wage Orders, no employer shall
24 employ an employee for a work period of more than five (5) hours without a timely meal break of
25 not less than thirty (30) minutes in which the employee is relieved of all of his or her duties.
26 Furthermore, no employer shall employ an employee for a work period of more than ten (10) hours
27 per day without providing the employee with a second timely meal period of not less than thirty (30)
28 minutes in which the employee is relieved of all of his or her duties.

1 54. Pursuant to Labor Code section 226.7, if an employer fails to provide an employee
2 with a meal period as provided in the applicable Wage Order of the Industrial Welfare Commission,
3 the employer shall pay the employee one (1) additional hour of pay at the employee's regular rate
4 of compensation for each workday that the meal period is not provided.

5 55. For four (4) years prior to the filing of the Complaint in this Action through the
6 present, Plaintiff and Class Members were, at times, not provided complete, timely 30-minute, duty-
7 free uninterrupted meal periods every five hours of work without waiving the right to take them, as
8 permitted. Moreover, at times, Defendants failed to provide one (1) additional hour of pay at the
9 Class Member's regular rate of compensation on the occasions that Class Members were not
10 provided compliant meal periods.

11 56. By their failure to provide Plaintiff and Class Members compliant meal periods as
12 contemplated by Labor Code section 512, among other California authorities, and failing, at times,
13 to provide compensation for such unprovided meal periods, as alleged above, Defendants willfully
14 violated the provisions of Labor Code section 512 and applicable Wage Orders.

15 57. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have
16 suffered damages in an amount, subject to proof, to the extent they were not paid additional pay
17 owed for missed, untimely, interrupted, incomplete and/or on-duty meal periods.

18 58. Plaintiff and Class Members are entitled to recover the full amount of their unpaid
19 additional pay for unprovided compliant meal periods, in amounts to be determined at trial, plus
20 interest and penalties thereon, attorneys' fees, and costs, under Labor Code sections 226 and 226.7,
21 Code of Civil Procedure sections 1021.5 and 1032, and Civil Code section 3287.

22 **FOURTH CAUSE OF ACTION**

23 **(Failure to Provide Rest Periods – Against All Defendants)**

24 59. Plaintiff realleges and incorporates by reference all of the allegations contained in
25 the preceding paragraphs as though fully set forth hereat.

26 60. At all relevant times, Plaintiff and Class Members were employees or former
27 employees of Defendants covered by applicable Wage Orders.

28 / / /

1 61. California law and applicable Wage Orders require that employers “authorize and
2 permit” employees to take ten (10) minute rest periods in about the middle of each four (4) hour
3 work period “or major fraction thereof.” Accordingly, employees who work shifts of three and-a-
4 half (3 ½) to six (6) hours must be provided ten (10) minutes of paid rest period, employees who
5 work shifts of more than six (6) and up to ten (10) hours must be provided with twenty (20) minutes
6 of paid rest period, and employees who work shifts of more than ten (10) hours must be provided
7 thirty (30) minutes of paid rest period.

8 62. Pursuant to Labor Code section 226.7, if an employer fails to provide an employee
9 with a meal period or rest period as provided in the applicable Wage Order of the Industrial Welfare
10 Commission, the employer shall pay the employee one (1) additional hour of pay at the employee’s
11 regular rate of compensation for each work day that the rest period is not provided.

12 63. For four (4) years prior to the filing of the Complaint in this Action through the
13 present, Plaintiff and Class Members were, at times, not authorized or permitted to take complete,
14 timely 30-minute, duty-free uninterrupted rest periods every four (4) hours of work or major fraction
15 thereof. Moreover, at times, Defendants failed to provide one (1) additional hour of pay at the Class
16 Member’s regular rate of compensation on the occasions that Class Members were not authorized
17 or permitted to take compliant rest periods.

18 64. By their failure, at times, to authorize and permit Plaintiff and Class Members to take
19 rest periods contemplated by California law, and one (1) additional hour of pay at the employee’s
20 regular rate of compensation for such unprovided rest periods, as alleged above, Defendants
21 willfully violated the provisions of Labor Code section 226.7 and applicable Wage Orders.

22 65. As a result of Defendants’ unlawful conduct, Plaintiff and Class Members have
23 suffered damages in an amount, subject to proof, to the extent they were not paid additional pay
24 owed for rest periods that they were not authorized or permitted to take.

25 66. Plaintiff and Class Members are entitled to recover the full amount of their unpaid
26 additional pay for unprovided compliant meal periods, in amounts to be determined at trial, plus
27 interest and penalties thereon, attorneys’ fees, and costs, under Labor Code sections 226 and 226.7,
28 Code of Civil Procedure sections 1021.5 and 1032, and Civil Code section 3287.

FIFTH CAUSE OF ACTION

(Failure to Pay All Wages Due Upon Termination – Against All Defendants)

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3 67. Plaintiff realleges and incorporates by reference all of the allegations contained in
4 the preceding paragraphs as though fully set forth hereat.

5 68. At all relevant times, Plaintiff and Class Members were employees or former
6 employees of Defendants covered by Labor Code sections 201, 202 and 203, as well as applicable
7 Wage Orders.

8 69. Pursuant to Labor Code sections 201 and 202, Plaintiff and Class Members were
9 entitled upon termination to timely payment of all wages earned and unpaid prior to termination.
10 Discharged Class Members were entitled to payment of all wages earned and unpaid prior to
11 discharge immediately upon termination. Class Members who resigned were entitled to payment
12 of all wages earned and unpaid prior to resignation within 72 hours after giving notice of resignation
13 or, if they gave 72 hours previous notice, they were entitled to payment of all wages earned and
14 unpaid at the time of resignation.

15 70. Plaintiff is informed and believes, and based thereon alleges, that in the three (3)
16 years before the filing of the Complaint in this Action through the present, Defendants, due to the
17 failure, at times, to provide overtime wages mentioned above, failed to pay Plaintiff and Class
18 Members all wages earned prior to resignation or termination in accordance with Labor Code
19 sections 201 or 202.

20 71. Plaintiff is informed and believes Defendants' failure, at times, to pay Plaintiff and
21 Class Members all wages earned prior to termination or resignation in accordance with Labor Code
22 sections 201 and 202 was willful. Defendants had the ability to pay all wages earned by Plaintiff
23 and Class Members at the time of termination in accordance with Labor Code sections 201 and 202,
24 but intentionally adopted policies or practices incompatible with the requirements of Labor Code
25 sections 201 and 202 resulting in the failure, at times, to pay all wages earned prior to termination
26 or resignation.

27 72. Pursuant to Labor Code section 203, Plaintiff and Class Members are entitled to
28 waiting time penalties from the date their earned and unpaid wages were due, upon termination or

1 resignation, until paid, up to a maximum of thirty (30) days.

2 73. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have
3 suffered damages in an amount subject to proof, to the extent they were not paid for all wages earned
4 prior to termination or resignation.

5 74. Pursuant to Labor Code section 203 and 218.6, Code of Civil Procedure sections
6 1021.5 and 1032, and Civil Code section 3287, Plaintiff, Class Members are entitled to recover
7 waiting time penalties, interest, and their costs of suit, as well.

8 **SIXTH CAUSE OF ACTION**

9 **(Failure to Provide Accurate Wage Statements – Against All Defendants)**

10 75. Plaintiff realleges and incorporates by reference all of the allegations contained in
11 the preceding paragraphs as though fully set forth hereat.

12 76. At all relevant times, Plaintiff and Class Members were employees or former
13 employees of Defendants covered by Labor Code section 226, as well as applicable Wage Orders.

14 77. Pursuant to Labor Code section 226, subdivision (a). Plaintiff, Class Members were
15 entitled to receive, semi-monthly or at the time of each payment of wages, an accurate itemized
16 statement that accurately reflects, among other things, gross wages earned; total hours worked; net
17 wages earned; all applicable hourly rates in effect during the pay period and the corresponding
18 number of hours worked at each hourly rate, among other things.

19 78. Plaintiff is informed and believes, and based thereon alleges, that in the one (1) year
20 before the filing of the Complaint in this Action through the present. Defendants failed to comply
21 with Labor Code section 226, subdivision (a) by adopting policies and practices that resulted in their
22 failure, at times, to furnish Plaintiff and Class Members with accurate itemized statements that
23 accurately reflect, among other things, gross wages earned; total hours worked; net wages earned;
24 all applicable hourly rates in effect during the pay period and the corresponding number of hours
25 worked at each hourly rate, among other things.

26 79. Defendants' failure to, at times, provide Plaintiff and Class Members with accurate
27 wage statements was knowing, intentional, and willful. Defendants had the ability to provide
28 Plaintiff and the other Class Members with accurate wage statements, but, at times, willfully

1 provided wage statements that Defendants knew were not accurate.

2 80. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have
3 suffered injury. The absence of accurate information on Class Members' wage statements at times
4 has delayed timely challenge to Defendants' unlawful pay practices; requires discovery and
5 mathematical computations to determine the amount of wages owed; causes difficulty and expense
6 in attempting to reconstruct time and pay records; and led to submission of inaccurate information
7 about wages and amounts deducted from wages to state and federal governmental agencies, among
8 other things.

9 81. Pursuant to Labor Code section 226, subdivision (e), Plaintiff, Class Members are
10 entitled to recover \$50 for the initial pay period during the period in which violation of Labor Code
11 section 226 occurred and \$100 for each violation of Labor Code section 226 in a subsequent pay
12 period, not to exceed an aggregate \$4,000.00 per employee.

13 82. Pursuant to Labor Code sections 226, subdivisions (e) and (g), Code of Civil
14 Procedure section 1032, Civil Code section 3287, Plaintiff, Class Members and aggrieved
15 employees are entitled to recover the full amount of penalties due under Labor Code section 226,
16 subdivision (e), reasonable attorneys' fees, and costs of suit.

17 **SEVENTH CAUSE OF ACTION**

18 **(Violation of Labor Code § 2802 – Against All Defendants)**

19 83. Plaintiff realleges and incorporates by reference all of the allegations contained in
20 the preceding paragraphs as though fully set forth hereat.

21 84. At all relevant times, Plaintiff and Class Members were employees or former
22 employees of Defendants covered by Labor Code section 2802 and applicable Wage Orders.

23 85. Labor Code section 2802, subdivision (a) provides that "an employer shall indemnify
24 his or her employee for all necessary expenditures or losses incurred by the employee in direct
25 consequence of the discharge of his or her duties . . ."

26 86. For three (3) years prior to the filing of the Complaint in this Action through the
27 present, Defendants required Plaintiff and Class Members, or some of them, to incur, at times,
28 necessary expenditures or losses in direct consequence of the discharge of their duties or at the

1 obedience to the directions of Defendants that included, without limitation: separately laundering
2 mandatory uniforms, for the purchase of tools and safety equipment. including, without limitation,
3 mandatory steel-toe boots, and for the purchase and maintenance of cellular phones and cellular
4 phone plans, necessary to perform work duties.

5 87. During that time period, Plaintiff is informed and believes, and based thereon alleges
6 that Defendants failed and refused, and still fail and refuse, at times, to reimburse Plaintiff and Class
7 Members for those losses and/or expenditures.

8 88. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have
9 suffered damages in an amount subject to proof, to the extent they were not reimbursed for the
10 herein-described losses and/or expenditures.

11 89. Pursuant to Labor Code section 2802, Code of Civil Procedure sections 1021.5 and
12 1032, and Civil Code section 3287, Plaintiff, Class Members are entitled to recover reimbursement
13 for their herein-described losses and/or expenditures, reasonable attorneys' fees and costs of suit.

14 **EIGHTH CAUSE OF ACTION**

15 **(Unfair Competition – Against All Defendants)**

16 90. Plaintiff realleges and incorporates by reference all of the allegations contained in
17 the preceding paragraphs as though fully set forth hereat.

18 91. Plaintiff is informed and believes, and based thereon alleges that the unlawful
19 conduct of Defendants alleged herein constitutes unfair competition within the meaning of Business
20 and Professions Code section 17200. Due to their unlawful business practices in violation of the
21 Labor Code, Defendants have gained a competitive advantage over other comparable companies
22 doing business in the State of California that comply with their obligations to compensate employees
23 in accordance with the Labor Code.

24 92. As a result of Defendants' unfair competition as alleged herein, Plaintiff and Class
25 Members have suffered injury in fact and lost money or property.

26 93. Pursuant to Business and Professions Code section 17203, Plaintiff and Class
27 Members are entitled to (an) injunction(s) prohibiting Defendants from further violating the Labor
28 Code and requiring the establishment of appropriate and effective means to prevent further

1 violations, as well as restitution of all wages and other monies owed to them under the Labor Code,
2 including interest thereon, in which they had a property interest and which Defendants nevertheless
3 failed to pay them and instead withheld and retained for themselves. Restitution of the money owed
4 to Plaintiff and Class Members is necessary to prevent Defendants from becoming unjustly enriched
5 by their failure to comply with the Labor Code.

6 94. Plaintiff and Class Members are entitled to costs of suit under Code of Civil
7 Procedure section 1032 and interest under Civil Code section 3287.

8 NINETH CAUSE OF ACTION

9 **(Civil Penalties Under Labor Code § 210 – Against All Defendants)**

10 95. Plaintiff re-alleges each and every allegation set forth in the preceding paragraphs
11 and incorporates each by reference as though fully set forth hereat.

12 96. At all relevant times herein, Labor Code section 204, requires and required that:
13 “[l]abor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for
14 between the 16th and 26th day of the month during which the labor was performed, and labor
15 performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for
16 between the 1st and 10th day of the following month.”

17 97. At all relevant times herein, Labor Code section 210, subdivision (a) states and stated
18 that “[i]n addition to, and entirely independent and apart from, any other penalty provided in this
19 article, every person who fails to pay the wages of each employee as provided in Sections 201.3,
20 204, 204b, 204.1, 205, 205.5, and 1197.5, shall be subject to a civil penalty as follows: (1) For any
21 initial violation, one hundred dollars (\$100) for each failure to pay each employee” and “(2) For
22 each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for
23 each failure to pay each employee, plus 25 percent of the amount unlawfully withheld.”

24 98. At all relevant times herein, Defendants have had a consistent policy or practice of
25 failing to pay Plaintiff and/or Aggrieved Employees during their employment on a timely basis as
26 per Labor Code section 204. Thus, pursuant to Labor Code section 210, Plaintiff and other
27 Aggrieved Employees are entitled to recover civil penalties for Defendants’ violations of Labor
28 Code section 204, in the amount of one hundred dollars (\$100) for each Aggrieved Employee for

1 each initial violation per employee, and two hundred dollars (\$200) for each Aggrieved Employee
2 for each subsequent violation in connection with each payment that was made in violation of Labor
3 Code section 204.

4 **TENTH CAUSE OF ACTION**

5 **(Civil Penalties Under Labor Code § 226.3 – Against All Defendants)**

6 99. Plaintiff re-alleges each and every allegation set forth in the preceding paragraphs
7 and incorporates each by reference as though fully set forth hereat.

8 100. Defendants had and have a policy or practice of failing to comply with Labor Code
9 section 226, subdivision (a) by intentionally failing to furnish Plaintiff and Aggrieved Employees
10 with itemized wage statements that accurately reflect gross wages earned; total hours worked; net
11 wages earned; the name and address of each employer with whom they have been placed to work;
12 all applicable hourly rates in effect during the pay period and the corresponding number of hours
13 worked at each hourly rate; the legal name of the employer and/or the name and address of the legal
14 entity securing the employer's services if the employer is a farm labor contractor; and other such
15 information as required by Labor Code section 226, subdivision (a).

16 101. Labor Code section 226.3 states that “[a]ny employer who violates subdivision (a)
17 of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250)
18 per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for
19 each violation in a subsequent citation, for which the employer fails to provide the employee a wage
20 deduction statement or fails to keep the records required in subdivision (a) of Section 226.”

21 102. Labor Code section 226.3 further provides that “[t]he civil penalties provided for in
22 this section are in addition to any other penalty provided by law.”

23 Plaintiff is informed and believes, and based thereon alleges, that Defendants had and have
24 a policy or practice of failing to furnish non-exempt employees, including, without
25 limitation, Plaintiff, with itemized wage statements that accurately reflect gross wages
26 earned; total hours worked; net wages earned; all deductions; all applicable hourly rates in
27 effect and the corresponding number of hours worked at each hourly rate in effect during the
28 pay period; and other such information as required by Labor Code section 226, subdivision

1 (a).

2 104. Pursuant to Labor Code section 226.3, Plaintiff and other Aggrieved Employees are
3 entitled to recover civil penalties for Defendants' violation of Labor Code section 226, subdivision
4 (a) in the amount of two hundred fifty dollars (\$250) for each Aggrieved Employee per pay period
5 for the initial violation, and one thousand dollars (\$1,000) for each Aggrieved Employee per pay
6 period for each subsequent violation.

7 **ELEVENTH CAUSE OF ACTION**

8 **(Violation of Labor Code § 558 – Against All Defendants)**

9 105. Plaintiff re-alleges each and every allegation set forth in the preceding paragraphs
10 and incorporates each by reference as though fully set forth hereat.

11 106. Pursuant to Labor Code section 558, subdivision (a): "Any employer or other person
12 acting on behalf of an employer who violates, or causes to be violated . . . any provision regulating
13 hours and days of work in any of the Industrial Welfare Commission" shall be subject to a civil
14 penalty as follows:

15 (1) For any initial violation, fifty dollars (\$50) for each underpaid employee and for each
16 pay period for which the employee was underpaid in addition to an amount sufficient
17 to recover underpaid wages;

18 (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid
19 employee for each pay period for which the employee was underpaid in addition to
20 an amount sufficient to recover underpaid wages;

21 (3) Wages recovered pursuant to this section shall be paid to the affected employee."

22 107. Plaintiff is informed and believes, and based thereon allege, that Defendants, and
23 each of them, violated, or caused to be violated, the Labor Code sections described herein, including
24 causing Plaintiff and other Aggrieved Employees not to: be paid overtime wages and minimum
25 wages; receive meal and rest periods or compensation in lieu thereof; be paid timely wages during
26 their employment and after their employment separation; receive accurate, itemized wage
27 statements; be provided with the opportunity to inspect employment records; be provided with
28 notice as required under Labor Code section 2810.5; be provided with the proper accrual and use of

1 paid sick leave; and/or be paid out all paid time off and/or vacation wages owed at the proper rate
2 of pay.

3 108. As a direct and proximate result of the herein-described Labor Code violations,
4 pursuant to Labor Code section 558, Plaintiff and other Aggrieved Employees are entitled to recover
5 civil penalties for Defendants' herein-described Labor Code violations in the amount fifty dollars
6 (\$50) for each Aggrieved Employee per pay period for the initial violation, and one hundred dollars
7 (\$100) for each Aggrieved Employee per pay period for each subsequent violation.

8 **TWELFTH CAUSE OF ACTION**

9 **(Violation of Labor Code § 1174.5 – Against All Defendants)**

10 109. Plaintiff re-alleges each and every allegation set forth in the preceding paragraphs
11 and incorporates each by reference as though fully set forth hereat.

12 110. At all times mentioned herein, Labor Code section 1174, subdivision (b) has required
13 every person employing labor in California to “[a]llow any member of the commission or the
14 employees of the Division of Labor Standards Enforcement free access to the place of business or
15 employment of the person to secure any information or make any investigation that they are
16 authorized by this chapter to ascertain or make. The commission may inspect or make excerpts,
17 relating to the employment of employees, from the books, reports, contracts, payrolls, documents,
18 or papers of the person.”

19 111. At all times mentioned herein, Labor Code section 1174, subdivision (c) has required
20 every person employing labor in California to “[k]eep a record showing the names and addresses of
21 all employees employed and the ages of all minors.”

22 112. At all times mentioned herein, Labor Code section 1174, subdivision (d) has required
23 every person employing labor in California to “[k]eep, at a central location in the state or at the
24 plants or establishments at which employees are employed, payroll records showing the hours
25 worked daily by and the wages paid to, and the number of piece-rate units earned by and applicable
26 piece rate paid to, employees employed at the respective plants or establishments. These records
27 shall be kept in accordance with rules established for this purpose by the commission, but in any
28 case, shall be kept on file for not less than three years. An employer shall not prohibit an employee

1 from maintaining a personal record of hours worked, or, if paid on a piece-rate basis, piece-rate units
2 earned.”

3 113. Pursuant to Labor Code section 1174.5, “[a]ny person employing labor who willfully
4 fails to maintain the records required by subdivision (c) of [Labor Code] Section 1174 or accurate
5 and complete records required by subdivision (d) of [Labor Code] Section 1174, or to allow any
6 member of the commission or employees of the division to inspect records pursuant to subdivision
7 (b) of [Labor Code] Section 1174, shall be subject to a civil penalty of five hundred dollars (\$500).

8 114. Plaintiff is informed and believes, and based thereon alleges, that Defendants have
9 willfully failed to maintain the records required by Labor Code subdivision (c), failed to maintain
10 accurate and complete records required by Labor Code subdivision (d), and/or failed to allow
11 inspection of records as required by Labor Code subdivision (b).

12 115. As a direct and proximate result of the herein-described Labor Code violations,
13 pursuant to Labor Code section 1174.5, Plaintiff and other Aggrieved Employees are entitled to
14 recover civil penalties for Defendants’ herein-described Labor Code violations in the amount of five
15 hundred dollars (\$500) per violation per Aggrieved Employee.

16 **THIRTEENTH CAUSE OF ACTION**

17 **(Violation of Labor Code § 1197.1 – Against All Defendants)**

18 116. Plaintiff re-alleges each and every allegation set forth in the preceding paragraphs
19 and incorporates each by reference as though fully set forth hereat.

20 117. Pursuant to Labor Code section 1197.1, subdivision (a): “Any employer or other
21 person acting either individually or as an officer, agent, or employee of another person, who pays
22 or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or
23 local law, or by an order of the commission shall be subject to a civil penalty, restitution of wages,
24 liquidated damages payable to the employee, and any applicable penalties imposed pursuant to
25 Section 203 as follows:

- 26 (1) For any initial violation that is intentionally committed, one hundred dollars
27 (\$100) for each underpaid employee for each pay period for which the
28 employee is underpaid. This amount shall be in addition to an amount

1 sufficient to recover underpaid wages, liquidated damages pursuant to Section
2 1194.2, and any applicable penalties imposed pursuant to Section 203.

3 (2) For each subsequent violation for the same specific offense, two hundred fifty
4 dollars (\$250) for each underpaid employee for each pay period for which the
5 employee is underpaid regardless of whether the initial violation is
6 intentionally committed. This amount shall be in addition to an amount
7 sufficient to recover underpaid wages, liquidated damages pursuant to Section
8 1194.2, and any applicable penalties imposed pursuant to Section 203.

9 (3) Wages, liquidated damages, and any applicable penalties imposed pursuant to
10 Section 203, recovered pursuant to this section shall be paid to the affected
11 employee.”

12 118. Plaintiff is informed and believes, and based thereon alleges, that Defendants caused
13 Plaintiff and Aggrieved Employees not to be paid minimum wages as a result of Defendants, without
14 limitation, routinely failing to accurately track and/or pay for all minutes actually worked by,
15 including but not limited to, detrimentally rounding, manipulating and/or editing time entries to
16 show lesser minutes than actually worked during the pay period; engaging, suffering, or permitting
17 employees to work off the clock, including, without limitation, by requiring employees to carry
18 cellular telephones and/or radios during meal breaks and other off-duty times, to clock out for meal
19 periods and continue working, for time spent donning and doffing mandatory uniforms and/or safety
20 equipment off the clock, auto-deducting meal periods not taken; and failing to pay reporting time.

21 119. As a direct and proximate result of the herein-described Labor Code violations,
22 pursuant to Labor Code section 1197.1, Plaintiff and other Aggrieved Employees are entitled to
23 recover civil penalties for Defendants’ herein-described Labor Code violations in the amount one
24 hundred dollars (\$100) for each Aggrieved Employee per pay period for the initial violation, and
25 two hundred and fifty dollars (\$250) for each Aggrieved Employee per pay period for each
26 subsequent violation.

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1 **FOURTEENTH CAUSE OF ACTION**

2 **(Civil Penalties Under Labor Code § 2699 – Against All Defendants)**

3 120. Plaintiff re-alleges each and every allegation set forth in the preceding paragraphs
4 and incorporates each by reference as though fully set forth hereat.

5 121. Pursuant to Labor Code section 2699, subdivision (a), notwithstanding any other
6 provision of law, any provision of the Labor Code that provides for a civil penalty to be assessed
7 and collected by the LWDA or any of its departments, divisions, commissions, boards, agencies or
8 employees for a violation of the Labor Code may, as an alternative, be recovered through a civil
9 action brought by an aggrieved employee on behalf of himself or herself and other current or former
10 employees pursuant to the procedures specified in Labor Code section 2699.3.

11 122. Pursuant to Labor Code section 2699, subdivision (f), for all provisions of the Labor
12 Code except those for which a civil penalty is specifically provided, the established civil penalty for
13 a violation of those provisions is as follows: if, at the time of the alleged violation, the person
14 employs one or more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved
15 employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved
16 employee per pay period for each subsequent violation.

17 123. Plaintiff is informed and believes and based thereon alleges that Defendants, and
18 each of them, violated the Labor Code sections described herein, including, without limitation, for
19 the failure to: pay overtime wages and minimum wages; provide meal and rest periods or
20 compensation in lieu thereof; provide accurate, itemized wage statements; pay timely wages during
21 employment and after employment separation; provide employees the opportunity to inspect
22 employment records; reimburse Aggrieved Employees for costs incurred in furtherance of their
23 work duties; provide notice as required under Labor Code section 2810.5; provide the proper accrual
24 and use of paid sick leave; paying employees all owed paid time off and vacation time owed by
25 separation at the proper rate of pay; and placing restraints on competition, whistleblowing and
26 freedom of speech, entitling Plaintiff and other Aggrieved Employees to civil penalties for each of
27 these Labor Code violations in the amounts set forth in Labor Code section 2699, subdivision (f).

28 124. Moreover, Plaintiff and other Aggrieved Employees within the State of California

1 whom he seeks to represent are entitled to an award of reasonable attorneys' fees and costs in
2 connection with their herein-described claims for civil penalties.

3 **DEMAND FOR JURY TRIAL**

4 125. Plaintiff demands a trial by jury on all causes of action contained herein.

5 **PRAYER**

6 WHEREFORE, on behalf of Plaintiff, Class Members and Aggrieved Employees, Plaintiff
7 prays for judgment against Defendants as follows:

- 8 A. An order certifying this case as a Class Action;
- 9 B. An Order appointing Plaintiff as Class representative and appointing Plaintiff's
10 counsel as class counsel;
- 11 C. Damages for all wages earned and owed, including minimum and overtime wages
12 under Labor Code sections 510, 558, 1194, 1197 and 1199;
- 13 D. Liquidated damages pursuant to Labor Code sections 558.1 1194.2;
- 14 E. Damages for unpaid premium wages from missed meal and rest periods under,
15 among other Labor Code sections, 512, 558.1 and 226.7;
- 16 F. Penalties for inaccurate wage statements under Labor Code sections 226,
17 subdivision (e) and 558.1;
- 18 G. Waiting time penalties under Labor Code sections 203 and 558.1;
- 19 H. Damages under Labor Code sections 558.1 and 2802;
- 20 I. Preliminary and permanent injunctions prohibiting Defendants from further
21 violating the California Labor Code and requiring the establishment of appropriate
22 and effective means to prevent future violations;
- 23 J. Restitution of wages and benefits due which were acquired by means of any unfair
24 business practice, according to proof;
- 25 K. Prejudgment and post-judgment interest at the maximum rate allowed by law;
- 26 L. An award of civil penalties pursuant to Labor Code sections 210, 226.3, 558,
27 1174.5, 1197.1, and 2699;
- 28 M. An award of reasonable attorneys' fees and costs pursuant to Labor Code sections

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210, 226.3, 558, 1174.5, 1197.1, and 2699;

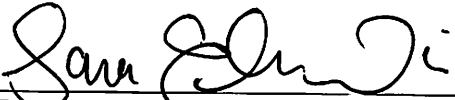
N. For attorneys' fees in prosecuting this action;

O. For costs of suit incurred herein; and

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

Dated: January 4, 2021

BIBIYAN LAW GROUP. P.C.

BY: 
SARA EHSANI-NIA
DAVID D. BIBIYAN
Attorneys for Plaintiff CECIL K. REYES on behalf of
himself and all others similarly situated

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen years and not a party to the within action; my business address is 8484 Wilshire Blvd, Suite 500, Beverly Hills, California 90211.

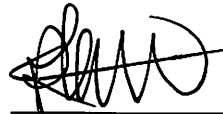
On January 4, 2021, and pursuant to the California Judicial Council's Emergency Rules, Appendix I, Emergency Rule 12, I caused a true and correct copy of the foregoing document(s) described as **FIRST AMENDED COMPLAINT** to be served by electronic transmission to the below referenced electronic e-mail address as follows:

Erick J. Becker
Cummins & White LLP
2424 S.E. Bristol Street, Suite 300
Newport Beach, California 92660
ebecker@ewlawyers.com

Counsel for Defendants Imperial Sprinkler Supply, Inc. and Darlene Hunn

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

Executed on January 4, 2021 at Beverly Hills, California.



Rosemary Martir