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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

BENNY ADAMS, individually and on behalf of all others similarly situated,

Plaintiff,

V.

CROSSING, INC, a DELAWARE corporation;
SILIANG DI, an individual, and DOES 1 to 50,
inclusive,

Defendants.

CLASS ACTION

Case No: 24STCV27904

CLASS ACTION COMPLAINT FOR:

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

DEMAND FOR JURY TRIAL

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

3 **I.**

4 **INTRODUCTION**

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

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

14 **II.**

15 **JURISDICTION AND VENUE**

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

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

21 **III.**

22 **THE PARTIES**

23 **A. The Plaintiff.**

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

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

hours in a workweek, but did not receive compensation of all wages, including minimum wages, or overtime compensation to which he was entitled;

- (d) Who did not receive statutorily mandated rest or meal periods;
- (e) Who did not receive accrued sick days;
- (f) Who did not receive accurate itemized wage statements;
- (g) Who was not paid all wages due upon termination; and
- (h) Who is a member of the Class as defined in paragraph 13 below.

B. The Defendants.

9 6. Plaintiff is informed and believes, and based upon that information and belief alleges,
10 that Defendant CROSSING, INC. is, and at all times herein mentioned was:

- (a) A Delaware corporation conducting business in the County of Los Angeles, City of Culver, State of California;
- (b) A former employer of Plaintiff and of the Class, as defined in paragraph 13, that:
 - i. Failed to pay minimum wages for all hours worked;
 - ii. Failed to pay overtime compensation for hours worked in excess of 8 hours in a workday and/or over forty hours in a workweek;
 - iii. Failed to provide statutorily mandated rest or meal periods;
 - iv. Failed to provide non-exempt employees with accrued sick days;
 - v. Failed to provide employees with accurate itemized wage statements; and
 - vi. Failed to pay employees all wages due upon termination of their employment relationship.

24 7. Plaintiff is informed and believe, and thereupon alleges, that Defendant CROSSING,
25 INC. initially incorporated under the name “Vernacular English, Inc.,” on August 13, 2019, and
26 subsequently changed its name to “Crossing Media, Inc.” on July 16, 2020, and then to “Crossing
27 Inc.” on July 12, 2022. By virtue of the foregoing, the common law doctrine of successor liability
28 applies because the successor entities here are or were mere continuations or reincarnations of their

1 respective predecessors. *See Ray v. Alad Corp.* (1977) 19 Cal.3d 22, 28 (successor liability attaches
2 where the transaction amounts to a consolidation or merger of the two corporations, the purchasing
3 corporation is a mere continuation of the seller, or the transfer of assets to the purchaser is for the
4 fraudulent purpose of escaping liability).

5 8. Plaintiff is informed and believes, and based upon that information and belief alleges,
6 that Defendant SILIANG DI is, and at all times herein mentioned was:

- 7 (a) An individual residing the state of the California, conducting business in the
8 City of Culver, County of Los Angeles;
- 9 (b) Is the owner, shareholder, director, and/or manager of Defendant CROSSING,
10 INC., including its previous reincarnations, and the joint employer of the Class
11 as defined in paragraph 13 below, who:
 - 12 i. Failed to pay minimum wages for all hours worked;
 - 13 ii. Failed to pay overtime compensation for hours worked in excess of 8
14 hours in a workday and/or over forty hours in a workweek;
 - 15 iii. Failed to provide statutorily mandated rest or meal periods;
 - 16 iv. Failed to provide non-exempt employees with accrued sick days;
 - 17 v. Failed to provide employees with accurate itemized wage statements;
18 and
 - 19 vi. Failed to pay employees all wages due upon termination of their
20 employment relationship.

21 9. The true names and capacities, whether individual, corporate, partnership, associate,
22 alter ego, or otherwise of defendants DOES 1 through 50, inclusive, are unknown to Plaintiff who
23 therefore sues these defendants by such fictitious names pursuant to section 474 of the California Code
24 of Civil Procedure. Plaintiff will seek leave to amend the Complaint to allege that the defendants
25 named herein, including DOES 1 through 50, inclusive, are responsible in some manner for one or
26 more of the events and happenings that proximately caused the injuries and damages hereinafter
27 alleged.

28 10. All Defendants, including DOES 1 through 50, are “employers” as defined by the

1 Industrial Welfare Commission because they satisfy one or more of the following three disjunctive
2 elements: “(a) to exercise control over the wages, hours or working conditions, or (b) to suffer or
3 permit to work, or (c) to engage, thereby creating a common law employment relationship.” *See*
4 *Martinez v. Combs* (2010) 49 Cal.4th 35, 64; *see also*, INDUSTRIAL WAGE ORDER No. 5, paragraph (2),
5 subparagraphs (E), (F), and (H), (codified under 8 CAL. CODE REGS. §§ 11050(2), (E), (F), and (H)).

6 11. To the extent that any defendant named herein, including DOES 1 through 50, are
7 natural persons who are an owner, director, officer, or managing agent of any of the defendants named
8 herein, section 558.1(a) of the California Labor Code provides that:

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

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

14 **IV.**

15 **CLASS ALLEGATIONS**

16 13. The members of the Class consist of:

17 All current and former non-exempt employees who work or worked for Crossing, Inc.,
Crossing Media, Inc., Crossing Cards, Vernacular English, Inc., and/or Siliang Di,
18 during the time-period of October 24, 2020, to the present.

19 14. The persons who comprise the Class are so numerous that joinder of all such persons is
20 impracticable, and the disposition of their claims will benefit the parties and the Court. Plaintiff’s
21 claims are typical of the claims of the Class that Plaintiff seeks to represent. Plaintiff will fairly and
22 adequately protect the interests of the Class that he seeks to represent. Plaintiff does not have any
23 interests that are antagonistic to the Class that he seeks to represent. Counsel for Plaintiff is
24 experienced, qualified, and generally able to conduct complex class action litigation.

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

27 (a) The questions of law and fact common to the Class predominate over any
28 question affecting only individual members;

- (b) A class action is superior to any other available method for the fair and efficient adjudication of the claims of the members of the Class;
- (c) The members of the Class are so numerous that it is impractical to bring all members of the Class before the Court;
- (d) Plaintiff and the other Class members will not be able to obtain effective and economic legal redress unless this action is maintained as a class action;
- (e) There is a community of interest in obtaining appropriate legal and equitable relief for the legal and statutory violations and other improprieties and in obtaining adequate compensation for the damages and injuries that Defendant's actions have inflicted upon the Class;
- (f) There is a community of interest in ensuring that the combined assets and available insurance of Defendants are sufficient to adequately compensate the members of the Class for injuries sustained;
- (g) Without class certification, the prosecution of separate actions by individual members of the Class for the injuries sustained; would create a risk of (i) inconsistent or varying adjudications with respect to individual members of the Class which would establish incompatible standards of conduct for Defendants, and/or (2) Adjudications with respect to the individual members of the Class which would, as a practical matter, be dispositive of the interests of other members not parties to the adjudications or would substantially impair or impede their ability to protect their interests, due to factors including but not limited to the potential exhaustion of funds available from the parties who are, or may be, responsible for compensation;
- (h) Defendants have acted or refused to act on grounds generally applicable to the Class, thereby making final injunctive relief appropriate with respect to the Class as a whole.

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V.

FACTUAL ALLEGATIONS

16. Plaintiff is informed and believes, and thereupon alleges, that Defendants are in the business of buying, selling, and trading collectable trading cards, products, and related accessories and merchandise. Defendants primarily advertise, market, and sell their products through online streaming platforms.

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

18. Plaintiff is informed and believes, and thereupon alleges, that non-exempt employees are and were responsible for managing Defendants' live stream operations and online sales. Their duties include maintaining and counting inventory, managing and processing online orders, packaging and shipping products, ensuring live stream sessions run smoothly by engaging with the audience and providing commentary, and tracking daily performance metrics such viewer engagement and sales. Non-exempt employees are and were also required to clean and restock the workspace area before and after each live stream session.

19. Plaintiff is informed and believes, and thereupon alleges, that he and the Class are and were only paid for the time it takes to stream each session. Any time for work performed before or after each streaming session, such as preparation, cleaning, or filling orders, is uncompensated.

20. Plaintiff is informed and believes, and thereupon alleges, that Defendants only pay overtime to their non-exempt employees for any work exceeding 40 hours a workweek, but not for work exceeding 8 hours per workday.

21. Plaintiff is informed and believes, and thereupon alleges, that it is and was Defendants' common policy, procedure, and/or business practice to no provide its non-exempt employees, including Plaintiff and the Class, with accrued sick days as required under section 245, *et seq.*, of the California Labor Code, and/or not itemizing accrued sick days in their wage statements.

22. Plaintiff is informed and believes, and thereupon alleges, that it is and was Defendants' common policy, procedure, and/or business practice to require all non-exempt employees to work during their meal and rest periods. Plaintiff is further informed and believes, and thereupon further

1 alleges, that it is and was Defendants' common policy, procedure, and/or business practice to require
2 on-duty meal periods in the absence of on-duty meal period agreements. Thus, all non-exempt
3 employees, including Plaintiff herein, work or worked shifts without being provided with statutorily
4 required meal or rest periods.

5 23. Plaintiff is further informed and believes, and thereupon further alleges, that for every
6 occurrence of rest and meal period violations, Defendants commonly failed to pay an hour premium
7 payment to its non-exempt employees, including Plaintiff herein.

8 24. Based on the foregoing, Plaintiff is informed and believes, and thereupon alleges, that
9 Defendants required him and members of the Class to work shifts exceeding eight (8) hours a day
10 and/or forty (40) hours a week without overtime and/or double-time compensation.

11 25. Due to Defendants' failure to properly pay its employees for all hours worked,
12 including overtime compensation, double time compensation, or meal and rest break premiums, along
13 with their failure to itemize accrued sick days, as a derivative result Plaintiff and members of the Class
14 were not provided with accurate itemized wage statements, nor were they paid all wages due upon
15 termination or resignation.

16 26. In addition, because Plaintiff and members of the Class were not compensated for all
17 hours worked, their paychecks did not, and do not, accurately or correctly reflect all hours worked or
18 the corresponding rates of pay, including premium payments owed for each meal or rest period
19 violation.

20 **VI.**

21 **FIRST CAUSE OF ACTION**

22 **Failure to Pay Minimum Wages**

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

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

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

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

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

30. On April 4, 2016, Governor Jerry Brown signed into legislation Senate Bill 3 “SB 3” adopting a six-step increase to the state minimum wage. Relevant here,

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

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

(E) From January 1, 2021, to December 31, 2021, inclusive, -fourteen dollars (\$14) per hour. [9]

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

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

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

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

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

34. Plaintiff is informed and believes, and thereupon alleges, that from October 24, 2020, and ongoing, Defendant, including DOES 1 through 50, both individually and in the aggregate, employed 26 or more employees, including Plaintiff and members of the Class.

35. Plaintiff and members of the Class were not compensated for all hours worked, as alleged herein. By virtue of Defendants' unlawful failure to pay Plaintiff or members of the Class

their respective and applicable minimum wages, they have suffered, and will continue to suffer, damages in amounts which are presently unknown, but which exceed the jurisdictional limits of this Court, and which will be ascertained according to proof at trial.

36. By virtue of Defendants' unlawful failure to pay Plaintiff and members of the Class their respective and applicable minimum wages, they are entitled to recover the unpaid balance of the full amounts of minimum wages as applicable, including interest thereon, reasonable attorneys' fees, and costs of suit. CAL. LAB. CODE §§ 218.5 and 1194.

37. In addition, Plaintiff and members of the Class are “entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.” CAL. LAB. CODE § 1194.2.

VII.

SECOND CAUSE OF ACTION

Failure to Pay Overtime and Double Time Compensation

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

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

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

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

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

civil action.

41. Plaintiff and members of the Class were not compensated for all hours worked. As a result, Plaintiff and members of the Class worked more than eight (8) hours in a workday, and/or more than forty (40) hours in a workweek as non-exempt employees of Defendants, including DOES 1 through 50, without receiving overtime or double time compensation.

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

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

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

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

VIII.

THIRD CAUSE OF ACTION

Failure to Provide Meal Periods

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

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

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

47. CAL. LAB. CODE § 512(a) provides that no employer shall employ any person for a work period of more than five (5) hours without providing a meal period of not less than 30 minutes.

48. INDUSTRIAL WAGE ORDER No. 4-2001(11)(A), which is codified under 8 CAL. CODE

1 REGS. § 11040(11)(A), states that an employer must relieve the employee of all work-related duties
2 during meal breaks; otherwise, the employee will be considered to be “on duty,” which constitutes
3 compensable time.

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

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

7 ***

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

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

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

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

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

IX.

FOURTH CAUSE OF ACTION

Failure to Provide Rest Periods

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

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

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

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

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

* * *

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

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

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

CAL. LAB. CODE § 227.7(c).

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

58. 8 CAL. CODE REGS. § 11040(12)(A) also requires that an employer provide its employees with a 10-minute rest break for every four-hour increment of time worked, or major fraction thereof. *See also, Brinker Restaurant Corp. v. Sup. Ct.* (2012) 53 Cal. 4th 1004, 1029 (“Employees are entitled to 10 minute rests for shifts from three and one-half to six hours in length, 20 minutes for shifts of more than six hours up to 10 hours, 30 minutes for shifts of more than 10 hours up to 14 hours, and so on.”).

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

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

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

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

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

12 **X.**

13 **FIFTH CAUSE OF ACTION**

14 **Failure to Provide Accurate Wage Statements**

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

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

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

19 64. CAL. LAB. CODE § 226 provides that an employer shall provide its employees with
20 accurate wage statements as follows:

21 (a) Every employer shall, semimonthly or at the time of each payment of wages, furnish
22 each of his or her employees, either as a detachable part of the check, draft, or voucher
23 paying the employee's wages, or separately when wages are paid by personal check or
24 cash, an accurate itemized statement in writing showing (1) gross wages earned, (2)
25 total hours worked by the employee...[,] (3) the number of piece-rate units earned and
26 any applicable piece rate if the employee is paid on a piece-rate basis, (4) all
27 deductions, provided that all deductions made on written orders of the employee may
28 be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of
the period for which the employee is paid, (7) the name of the employee and only the
last four digits of his or her social security number or an employee identification
number other than a social security number, (8) the name and address of the legal entity
that is the employer...[,] and (9) all applicable hourly rates in effect during the pay
period and the corresponding number of hours worked at each hourly rate by the
employee and, beginning July 1, 2013, if the employer is a temporary services
employer as defined in Section 201.3, the rate of pay and the total hours worked for
each temporary services assignment At all times relevant hereto, the fundamental,

1 formally established public policy of the State of California as expressed in Article I,
2 section 8 of the California Constitution was and is that employees be free from race-
based and disability-based discrimination and harassment in their employment.

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

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

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

16 8 CAL. CODE REGS. §§ 11040(7), (B)-(C).

17 66. At all times relevant herein, Defendant, including DOES 1 through 50, failed to
18 properly and accurately itemize the number of hours worked by Plaintiff and the Class at their
19 effective regular rates of pay, including the effective overtime rates of pay. The wage statements also
20 failed to itemize any premium wages owed for each meal or rest period violation, as alleged herein.

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

25 68. Defendants willfully, knowingly, and intentionally failed to comply with CAL. LAB.
26 CODE § 226 by failing to pay minimum wages, overtime compensation for hours worked in excess of
27 forty, and by failing to provide meal breaks or paying the appropriate premium wages for missed meal
28 breaks, as required by law, thereby causing damages to Plaintiff and the Class by failing to include all
hours worked and wages earned in their wage statements. These damages include and are not limited
to costs expended calculating the true hours worked and the amount of employment taxes that were
not properly paid to state and federal tax authorities, are difficult to estimate. Therefore, Plaintiff elects
to recover penalties on behalf of themselves and on behalf of the Class pursuant to CAL. LAB. CODE §

1 226 in an amount \$4,000 each, and reasonable attorney's fees and costs pursuant to CAL. LAB. CODE §
2 226(g) and CAL. CODE CIV. PROC. § 1032, *et seq.*

3 **XI.**

4 **SIXTH CAUSE OF ACTION**

5 **Waiting Time Penalties**

6 **[CAL. LABOR CODE §§ 201, 202, and 203]**

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

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

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

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

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

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

23 74. Plaintiff and the Class are also entitled to seek and recover interest at a rate of 10%, and
24 costs pursuant to CAL. LAB. CODE § 218.6, CAL. CIVIL CODE § 3289, and CAL. CODE CIV. PROC. §
25 1032, *et seq.*

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XII.

SEVENTH CAUSE OF ACTION

Unfair Competition and Unlawful Business Practices

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

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

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

76. Each Defendant, including DOES 1 through 50, are considered a "person," as the term is defined under section 17021 of the California Business & Professions Code.

77. Section 17200 of the California Business and Professions Code defines unfair competition as any unlawful, unfair, or fraudulent business act or practice.

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

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

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

(a) Failure to timely pay wages at the appropriate rates of pay, including minimum and overtime wages, in violation of CAL. LAB. CODE §§ 204, 510, 511, 558,

1 1182.12, 1194, 1197, 1198, and 8 CAL. CODE REGS. §§ 11040(3), *et seq.*, and
2 11040(4), *et seq.*;

3 (b) Failure to provide meal periods as mandated by CAL. LAB. CODE §§ 226.7 and
4 512, and 8 CAL. CODE REGS. § 11040(11), *et seq.*;

5 (c) Failure to provide rest periods as mandated by CAL. LAB. CODE § 226.7, and 8
6 CAL. CODE REGS. § 11040(12), *et seq.*;

7 (d) Failure to provide aggrieved employees with accrued paid sick days pursuant to
8 sections 245, 246, and 246.5, *et seq.*, of the California Labor Code;

9 (e) Failure to provide accurate itemized wage statements in violation of CAL. LAB.
10 CODE §§ 226 and 226.3; and

11 (f) Failure to provide prompt payment of wages to employees upon separation in
12 violation of CAL. LAB. CODE §§ 201, 202, and 203.

13 81. By and through the unfair, fraudulent, and unlawful business practices described herein,
14 Defendants, including DOES 1 through 50, have obtained valuable property, money, and services from
15 Plaintiff and the Class, and has deprived them of valuable rights and benefits guaranteed by the law,
16 all to their detriment.

17 82. Furthermore, Plaintiff is informed and believes, and thereupon alleges, that Defendants
18 have underreported to federal and state authorities the wages earned by Plaintiff and the members of
19 the Class, and therefore, have underpaid state and federal taxes, employer matching funds,
20 unemployment premiums, Social Security, Medicare and Workers' Compensation premiums. This
21 conduct is criminal in nature and subjects Defendants to sanctions, fines, and imprisonment, and is
22 actionable under CAL. BUS. & PROF. CODE §§ 1700, *et seq.* and 17200 *et seq.*

23 83. Plaintiff is informed and believes, and based upon that information and belief alleges,
24 that by requiring Plaintiff and the Class to work without minimum wage compensation, or work
25 overtime without receiving overtime compensation, and failing to provide meal and rest periods,
26 Defendants have engaged in business within the state of California to offer its services at a lower price
27 for the purpose of injuring competitors and/or destroying competition in violation of CAL. BUS. &
28 PROF. CODE § 17043.

84. Pursuant to CAL. BUS. & PROF. CODE §§ 17071 and 17075, Defendants' failure to pay wages, overtime compensation, related benefits, and employment taxes, is admissible as evidence of Defendants' intent to violate Chapter 4 of the Unfair Business Trade Act.

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

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

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

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

XIII.

PRAYER

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

A. On The First Cause of Action.

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

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

3. For an award of interest, including prejudgment interest at the legal rate pursuant to

CAL. LAB. CODE §§ 218.6, 1194, and CAL. CIV. CODE § 3289, *et seq.*; and

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

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

2 4. For compensatory damages, including lost wages, in an amount in an amount according
3 to proof;

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

6 6. For reasonable attorneys' fees and costs of suit pursuant to CAL. LAB. CODE §§ 218.5,
7 1194, and CAL. CODE CIV. PROC. § 1032.

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

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

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

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

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

14 10. For statutory penalties pursuant to CAL. LAB. CODE § 226; and

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

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

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

20 13. For costs of suit pursuant to CAL. CODE CIV. PROC. § 1032.

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

22 14. That Defendants, including DOES 1 through 50, be ordered and enjoined to pay
23 restitution and penalties to Plaintiff and the Class for Defendants' unlawful and/or unfair business
24 practices, pursuant to Business and Professions Code §§ 17200-05, plus interest thereon at a rate of
25 10%, pursuant to CAL. LAB. CODE § 218.6 and CAL. CIVIL CODE § 3289;

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

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

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

G. On All Causes of Action.

18. For an order granting class certification

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

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

XIV.

DEMAND FOR JURY TRIAL

Plaintiff requests a jury trial on all triable issues.

Dated: October 24, 2024

**BAKER BURTON & LUNDY, P.C.
LAW OFFICE OF RICHARD KIM, P.C.**

By:

ALBRO L. LUNDY, III
ROLANDO J. GUTIERREZ
RICHARD KIM

Attorneys for Plaintiff and the Putative Class