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and all others similarly situated

ELECTRONICALLY

**FILED**

Superior Court of California,  
County of San Francisco

**03/11/2024**

**Clerk of the Court**

BY: DAEJA ROGERS

Deputy Clerk

**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN FRANCISCO**

**CGC-24-613006**

AARON SOWEMIMO, an individual, and  
PATRICK BROWN, an individual, on  
behalf of themselves and all others similarly  
situated,

Plaintiffs,

v.

DHL EXPRESS USA, INC., an Ohio  
Corporation, and DOES 1-10, Inclusive,

Defendants.

Case No.

**CLASS ACTION COMPLAINT FOR:**

- (1) FAILURE TO PAY REGULAR AND/OR OVERTIME WAGES;**
- (2) FAILURE TO PROVIDE MEAL PERIODS;**
- (3) FAILURE TO PROVIDE REST PERIODS;**
- (4) FAILURE TO FURNISH TIMELY AND ACCURATE WAGE STATEMENTS;**
- (5) FAILURE TO REIMBURSE BUSINESS EXPENSES;**
- (6) FAILURE TO PAY ALL WAGES DUE UPON TERMINATION;**
- (7) VIOLATION OF CALIFORNIA'S UNFAIR COMPETITION LAW ("UCL"), Bus. & Prof. Code § 17200 et seq.**

**DEMAND FOR JURY TRIAL**

1 Plaintiffs AARON SOWEMIMO and PATRICK BROWN (“Plaintiffs”), by and through  
2 their attorneys of record, bring this Class Action Complaint against DHL EXPRESS USA, INC.  
3 (“DHL” or “Defendant”), and respectfully allege the following:

4 **NATURE OF THE ACTION**

5 1. This is a class action for wage and labor violations arising out of Defendant’s failure  
6 to pay wages for all time worked and failure to provide timely and uninterrupted meal and rest  
7 periods, and for derivative claims.

8 2. As set forth below, Defendant: failed to pay its employees wages for all hours  
9 worked, including overtime wages for work in excess of eight hours a day or forty hours a week,  
10 for time they had to arrive early in order to secure a scanner, lifts and/or related equipment, which  
11 was necessary to perform their job duties during their shift, time spent attending weekly pre-shift  
12 meetings, and for time they were required to perform work during their meal and/or rest periods;  
13 failed to provide timely and uninterrupted meal and rest periods to its California non-exempt  
14 employees in violation of California Labor Code §§ 512 and 226.7, and the applicable Industrial  
15 Wage Order; failed to pay its employees one hour of pay at the regular rate of compensation for  
16 each instance that Defendant failed to provide statutorily mandated rest periods and timely off-duty  
17 meal periods; failed to furnish timely and accurate wage statements; failed to reimburse its  
18 California non-exempt employees for necessary business expenses incurred; failed to pay all wages  
19 due upon termination; and, is in violation of California’s Unfair Competition Law (“UCL”).

20 3. Plaintiffs seek to represent all those similarly situated who are or were residents of  
21 the State of California.

22 **JURISDICTION AND VENUE**

23 4. This Court has jurisdiction over this action because this is a civil action where the  
24 matter in controversy, exclusive of interest and costs, exceeds the jurisdictional minimum of the  
25 Court. The acts and omissions complained of in this action took place in the State of California.  
26 Venue is proper because upon information and belief, Defendant conducts substantial business in  
27 this county and maintains facilities in California in this county.

**PARTIES**

5. Plaintiff AARON SOWEMIMO is a resident of Los Angeles, California. Plaintiff SOWEMIMO was employed at Defendant's facility in Los Angeles International Airport, California, from approximately July 2020 to approximately September 2021, as an International Service Agent/Cargo/Ramp/Warehouse Agent.

6. Plaintiff PATRICK BROWN is a resident of Hemet, California. Plaintiff BROWN was employed at Defendant's facility in Ontario International Airport in Ontario, California., from approximately October 2022 to approximately March 17, 2023, as an Order Filler Picker.

7. At all times material herein, Defendant was an Ohio corporation authorized to do business in California, including but not limited to conducting business within the County of San Francisco. Defendant is in the Logistics and Courier Services Industry, specializing in international shipping, courier services and transportation. Upon information and belief, DHL operates throughout all fifty states, including in California. At all relevant times alleged herein, Plaintiffs are informed and believe that Defendant is authorized to and conducts business in California, including but not necessarily limited to the County of San Francisco. Defendant employs/employed Agents and Order Filler Pickers all throughout the State of California.

8. Plaintiffs are informed and believe, and on that basis allege, that DHL is engaged in transportation, selling, processing and shipping packages to customers as part of interstate and international commerce.

9. Plaintiffs are currently unaware of the true names and capacities, whether individual, corporate, associate, or otherwise, of the defendants sued herein under fictitious names Does 1 through 10, inclusive, and therefore sue such defendants by such fictitious names. Plaintiffs will seek leave to amend this complaint to allege the true names and capacities of said fictitiously named defendants when their true names and capacities have been ascertained. Plaintiffs are informed and believe and thereon allege that each of the fictitiously named defendants is legally responsible in some manner for the events and occurrences alleged herein, and for the damages suffered by the Class.

10. Plaintiffs are informed and believe and thereon allege that all defendants, including

1 the fictitious Doe defendants, were at all relevant times acting as actual agents, conspirators,  
2 partners and/or joint ventures and/or employees of all other defendants, and that all acts alleged  
3 herein occurred within the course and scope of said agency, employment, partnership, and joint  
4 venture, conspiracy or enterprise, and with the express and/or implied permission, knowledge,  
5 consent, authorization and ratification of their co-defendants.

### 6 FACTS

7 11. Between approximately July 2020 to approximately September 2021, Plaintiff  
8 SOWEMIMO was employed by Defendant, as a non-exempt, hourly-paid International Service  
9 Agent/Cargo/Ramp/Warehouse Agent at Defendant's warehouse in Los Angeles International  
10 Airport in Los Angeles, California. Plaintiff SOWEMIMO's duties included, but were not limited  
11 to, handling of material arriving and exiting the LAX Gateway. Plaintiff SOWEMIMO processed  
12 time-sensitive materials for pick-up, transit, and delivery including sorting, loading, unloading, and  
13 material handling. The packages Plaintiff SOWEMIMO handled included packages moving from  
14 other states into California.

15 12. Plaintiff SOWEMIMO typically worked 12 hours per shift, six days per week;  
16 however, on weekends, Plaintiff SOWEMIMO's shift would be 22 to 24 hours long.

17 13. Between approximately October 2022 to approximately March 2023, Plaintiff  
18 BROWN was employed by Defendant, as a non-exempt, hourly-paid Order Filler Picker at  
19 Defendant's warehouse in Ontario International Airport in Ontario, California. Plaintiff BROWN's  
20 duties included, but were not limited to, handling of material arriving and exiting the Ontario  
21 International Airport. Plaintiff BROWN was responsible for filling customer orders, replenishing  
22 product, and obtaining merchandise from bins or shelves to fill the order. The packages Plaintiff  
23 BROWN handled included packages moving from other states into California.

24 14. Plaintiff BROWN typically worked 8 hours per shift, five days per week; however,  
25 during the peak busy season, Plaintiff BROWN was required to work at least 10 hours per shift.

26 15. The Defendant is in the business of transporting, selling, processing, and shipping  
27 packages to customers as part of interstate and international commerce. Defendant employs class  
28 members, such as Plaintiffs, who handle packages to deliver to customers as part of international

1 and interstate commerce. Thus, Plaintiffs and members of the class are within a class of workers  
2 engaged in interstate commerce, and any arbitration agreements with class action waivers signed by  
3 Plaintiffs and class members, to the extent they exist, are not enforceable under the exemption in  
4 section 1 of the Federal Arbitration Act. *See Southwest Airlines Co. v. Saxon*, 142 S.Ct. 1783  
5 (2022).

6 16. Plaintiffs often had to arrive to work early - up to 45 minutes to one hour before a  
7 shift started - in order to secure the equipment needed to use during their shifts, such as a scanner or  
8 lift. If Plaintiffs did not arrive early, they risked not having the needed equipment to perform their  
9 duties during their shift. Certain equipment was given out on a first-come, first-serve basis. In  
10 addition, Plaintiffs were required to attend pre-shift meetings prior to clocking in for their shift.  
11 Plaintiffs were not paid for this time, even though: (1) no practical administrative difficulty of  
12 recording the additional time exists or existed for Defendant during the relevant time period; (2) it  
13 is or was feasible for Defendant to determine or estimate the average time it takes each employee to  
14 attend these pre-shift meetings, as class members at issue in this action were required to attend pre-  
15 shift meetings prior to clocking in for the day. *See Troester v. Starbucks Corp.*, (2018) 5 Cal.5th  
16 829.

17 17. Defendant failed to properly compensate Plaintiffs and class members for all hours  
18 worked at the appropriate overtime rate for time that Plaintiffs and class members spent to arrive  
19 early to secure equipment, in pre-shift meetings, and performing work during meal breaks,  
20 including responding to interruptions from management.

21 18. At times, Plaintiffs were required to work through their meal breaks and/or received  
22 short meal breaks. For example, when Plaintiff Sowemimo was able to take a meal break,  
23 Plaintiff's supervisor would start the break time before Plaintiff was ready, as Plaintiff still had  
24 tasks to finish, like parking the cart used to load/unload and transport packages, cutting his meal  
25 break short. Additionally, when Plaintiffs were able to take their meal break, they were often  
26 interrupted by their managers with work-related questions or to address work-related issues.  
27 Supervisors would seek Plaintiffs out in the breakroom to interrupt them on their meal breaks. For  
28 example, Plaintiff Brown would be interrupted when a rush shipment came in. Plaintiffs were not

1 paid a meal period premium for these missed, interrupted, and/or shortened meal periods.

2       19.     Additionally, Defendant failed to provide Plaintiffs and other class members with  
3 timely meal periods on shifts over 10 hours, in violation of California law. Plaintiffs and other class  
4 members who worked shifts of over 10 hours are entitled to a second 30-minute uninterrupted meal  
5 period. However, Plaintiffs and other class members worked shifts over 10 hours and no second  
6 meal break was provided, nor any meal period premium paid. When Plaintiffs worked on the  
7 weekends for up to 24 hours and/or during the peak busy season, they were only provided with one  
8 30-minute meal break (at most). Plaintiffs frequently complained to managers and supervisors  
9 regarding the above-mentioned claims, and nothing was ever done. Plaintiffs do not recall signing a  
10 meal break waiver nor any other similar document.

11       20.     Further, due to press of business and management interruptions, Defendant often  
12 failed to provide Plaintiffs with rest breaks in violation of Labor Code § 226.7. Plaintiffs were not  
13 paid a rest period premium for these non-compliant rest periods. Further, Plaintiffs often worked  
14 shifts of over 10 hours and were not offered a third rest break as required under California law.  
15 Plaintiffs were not paid rest break premiums for each workday over ten hours that a third rest break  
16 was not provided.

17       21.     Plaintiffs and other class members' wage statements failed to correctly state the rate  
18 of pay for regular and/or overtime wages, meal and rest break premiums, and consequently the  
19 gross and net wages due, among other required information. Because of Defendant's failure to list  
20 the correct gross wages earned, net wages, and meal and rest break premiums earned on wage  
21 statements, Plaintiffs and other class members have been prevented from verifying, solely from  
22 information on the wage statements themselves, that they were paid correctly and in full.

23       22.     Also, during the relevant time period, Plaintiffs and other class members were  
24 required to use their personal cellphones for work purposes. Supervisors would call Plaintiffs and  
25 class members on their personal cellphones. Plaintiffs would need to use their personal cellphones  
26 to run the company application and/or send photos of the pallets to document compliance,  
27 shipments and equipment to their supervisors. No company phone was provided. Plaintiffs and  
28 class members have not been reimbursed for all cellphone expenses.

23. Upon information and belief, the above-mentioned unlawful employment practices by Defendant were applied the same to all International Service Agents and Cargo Agents/Ramp Agents/Warehouse Agents and Order Filler Pickers in all of Defendant's warehouses in the State of California.

24. Defendant's conduct, as alleged here, has caused Plaintiffs and class members damages including, but not limited to, loss of wages and compensation. Defendant is liable to Plaintiffs and the class for failing to pay meal and rest break premiums, failing to pay all straight-time and/or overtime wages owed for each pay period, failing to provide timely and accurate wage statements, failing to pay all wages due upon termination, and unfair competition.

25. Plaintiffs are a member of, and seek to be representatives for, the class of similarly situated employees who all have been exposed to, have suffered, and/or were permitted to work under Defendant's unlawful employment practices as alleged herein.

#### **CLASS DEFINITIONS AND CLASS ALLEGATIONS**

26. Plaintiffs bring this action on behalf of themselves and on behalf of all others similarly situated, and as members of the Class they seek to represent. The class period is from four years prior to the filing of the Complaint in this action until the trial of this action ("class period.") The Class is defined as:

*All current and former non-exempt, hourly-paid International Service Agents and/or Cargo Agents/Ramp Agents/Warehouse Agents, and/or Order Filler Pickers, and/or other non-exempt, hourly-paid employees who, in performance of their work duties handled packages and goods as part of international and/or interstate commerce, employed by Defendant in California during the time period commencing four years before this complaint was filed, and until the present ("Class Period").*

27. Plaintiffs further seek to represent the following subclasses:

##### **The Regular Wages Subclass**

"All current and former non-exempt, hourly-paid International Service Agents and/or Cargo Agents/Ramp Agents/Warehouse Agents, and/or Order Filler Pickers, and/or other non-exempt, hourly-paid employees who, in performance of their work duties handled packages and goods as part of international and/or interstate commerce, employed by Defendant in California during the Class Period, and who worked at least one shift less than eight hours in a workday and/or worked less than 40 hours during the workweek."

##### **The Overtime Wages Subclass**

"All current and former non-exempt, hourly-paid International Service Agents and/or Cargo Agents/Ramp Agents/Warehouse Agents, and/or Order Filler Pickers, and/or other non-

1 exempt, hourly-paid employees who, in performance of their work duties handled packages  
2 and goods as part of international and/or interstate commerce, employed by Defendant in  
3 California during the Class Period, and who worked at least one shift longer than eight  
4 hours in a workday and/or worked more than 40 hours during the workweek.”

5 **The Meal Break Subclass**

6 “All current and former non-exempt, hourly-paid International Service Agents and/or Cargo  
7 Agents/Ramp Agents/Warehouse Agents, and/or Order Filler Pickers, and/or other non-  
8 exempt, hourly-paid employees who, in performance of their work duties handled packages  
9 and goods as part of international and/or interstate commerce, employed by Defendant in  
10 California during the Class Period, and who worked at least one shift longer than five hours  
11 in a workday.”

12 **The Second Meal Break Subclass**

13 “All current and former non-exempt, hourly-paid International Service Agents and/or Cargo  
14 Agents/Ramp Agents/Warehouse Agents, and/or Order Filler Pickers, and/or other non-  
15 exempt, hourly-paid employees who, in performance of their work duties handled packages  
16 and goods as part of international and/or interstate commerce, employed by Defendant in  
17 California during the Class Period, and who worked at least one shift longer than ten hours  
18 in a workday.”

19 **The Rest Break Subclass**

20 “All current and former non-exempt, hourly-paid International Service Agents and/or Cargo  
21 Agents/Ramp/Warehouse Agents, and/or Order Filler Pickers, and/or other non-exempt,  
22 hourly-paid employees who, in performance of their work duties handled packages and  
23 goods as part of international and/or interstate commerce, employed by Defendant in  
24 California during the Class Period and who worked at least one shift longer than three and  
25 a half hour in a workday.”

26 **The Itemized Wage Statement Subclass**

27 “All current and former non-exempt, hourly-paid International Service Agents and/or Cargo  
28 Agents/Ramp Agents/Warehouse Agents, and/or Order Filler Pickers, and/or other non-  
exempt, hourly-paid employees who, in performance of their work duties handled packages  
and goods as part of international and/or interstate commerce, employed by Defendant in  
California during the Class Period, and who have received at least one wage statement from  
Defendant.”

**The Expense Reimbursement Subclass**

“All current and former non-exempt, hourly-paid International Service Agents and/or Cargo  
Agents/Ramp Agents/Warehouse Agents, and/or Order Filler Pickers, and/or other non-  
exempt, hourly-paid employees who, in performance of their work duties handled packages  
and goods as part of international and/or interstate commerce, employed by Defendant in  
California during the Class Period, and who incurred business expenses.”

**The Waiting Time Penalties Subclass**

“All members of the Class, the Regular Wages Subclass, Overtime Wages Subclass, Meal  
Break Subclass, Second Meal Break Subclass, and the Rest Break Subclass who separated  
employment with Defendant at any point during the past three (3) years prior to the filing of  
this action.”



1           **The UCL Subclass**

2           “All current and former non-exempt, hourly-paid International Service Agents and/or Cargo  
3           Agents/Ramp Agents/Warehouse Agents, and/or Order Filler Pickers, and/or other non-  
4           exempt, hourly-paid employees who, in performance of their work duties handled packages  
5           and goods as part of international and/or interstate commerce, employed by Defendant in  
6           California during the Class Period, regarding whom Defendant has engaged in unlawful,  
7           unfair and/or fraudulent business acts or practices prohibited by B&PC §17200, et seq. as  
8           specifically described herein.”

9           28.     Plaintiffs reserve the right to amend or otherwise alter the class definition, or to  
10          propose or eliminate subclasses, in response to facts learned through discovery, legal arguments  
11          advanced by Defendant or otherwise.

12          29.     This action has been brought and may be properly maintained as a class action  
13          pursuant to the provisions of Code of Civil Procedure § 382 and other applicable law.

14          30.     **Numerosity of the Class:** Pursuant to Code of Civil Procedure § 382, members of  
15          the Class are so numerous that their individual joinder is impracticable. Plaintiffs estimate, on  
16          information and belief, that there are several hundred current and former non-exempt employees of  
17          Defendant employed in warehouses in California during the class period. The precise number of  
18          Class members and their addresses are known to Plaintiffs or will be known to Plaintiffs through  
19          discovery. Class members may be notified of the pendency of this action by mail, electronic mail,  
20          the Internet, or published notice.

21          31.     **Existence of Predominance of Common Questions of Law and Fact:** Pursuant  
22          to Code of Civil Procedure § 382, common questions of law and fact and common answers exist as  
23          to all members of the Class. These questions predominate over any questions affecting only  
24          individual Class members. These common legal and factual questions and answers include:

- 25           a.     Whether Plaintiffs and the members of the class were not paid all wages owed to them,  
26                 including regular and overtime wages;
- 27           b.     Whether Defendant had a policy or practice of not paying for time spent securing  
28                 necessary equipment before the shift start, attending pre-shift meetings, and performing  
               work during meal breaks;
- c.     Whether Defendant violated Labor Code § 226.7 and/or 512, applicable California

1 Industrial Welfare Commission Order, and engaged in a pattern or practice of failing to  
2 provide timely, off-duty thirty (30) minute meal periods to Plaintiffs and members of  
3 the class;

4 d. Whether Defendant engaged in a pattern or practice of impeding Plaintiffs and the  
5 members of the class from taking statutory off-duty thirty (30) minute meal periods on a  
6 timely basis;

7 e. Whether Defendant engaged in a pattern or practice of failing to properly compensate  
8 Plaintiffs and the members of the class for missed, untimely or on-duty meal periods as  
9 required by California law;

10 f. Whether Defendant engaged in a pattern or practice of failing to properly compensate  
11 Plaintiffs and the members of the class for failing to provide ten (10) minute,  
12 uninterrupted rest periods as contemplated by California law for work periods in excess  
13 of three and one-half (3 ½) hours;

14 g. Whether Defendant had a policy or practice of not paying meal or rest period premiums;

15 h. Whether Plaintiffs and the members of the class were not provided with accurate wage  
16 statements as required by Labor Code section 226;

17 i. Whether Defendant violated Labor Code § 226(a) by issuing inaccurate itemized  
18 wage statements to Plaintiffs and members of the class that failed to include payments  
19 for missed, untimely, and/or on-duty meal periods among wages earned throughout the  
20 Class Period;

21 j. Whether Defendant violated Labor Code § 226(a) by issuing inaccurate itemized wage  
22 statements to Plaintiffs and members of the class that failed to include payment for all  
23 hours worked;

24 k. Whether Defendant violated Labor Code § 226(a) by issuing inaccurate itemized wage  
25 statements to Plaintiffs and members of the class that failed to accurately state the total  
26 hours worked, to the detriment of Plaintiffs and the members of the class;

27 l. Whether Defendant failed to compensate, and therefore violated Labor Code § 226(a),  
28 226.7, and the applicable Industrial Wage Order by failing to provide ten (10) minute,

uninterrupted rest periods as contemplated by California law for work periods in excess of three and one-half (3 ½) hours;

m. Whether Defendant violated Labor Code §2802, by failing to reimburse Plaintiffs and the members of the class incurred necessary business expenses, including for using their personal cell phones to send messages to managers to prove compliance with their work;

n. Whether Defendant violated Labor Code §§ 201-203 by failing to pay all wages due upon termination to all Class Members who were terminated or voluntarily quit; and

o. Whether Defendant engaged in unfair practices and violated California Business & Professions Code § 17200 by failing to provide Plaintiffs and the members of the class with their statutory off-duty meal and rest periods on a timely basis;

p. Whether Defendant engaged in unfair practices and violated California Business & Professions Code section 17200 by failing to pay Plaintiffs and the members of the class for all time worked, failing to reimburse necessarily incurred business expenses, and failing to provide meal and rest periods nor pay premiums; and

q. The nature and extent of class-wide injury and the measure of damages or restitution.

32. **Typicality:** Plaintiffs' claims are typical of the claims of the members of the class they seek to represent because Plaintiffs, as non-exempt employees of Defendant, were exposed and subjected to the same unlawful business practices as other employees employed by Defendant during the class period. Plaintiffs and the members of the class they seek to represent sustained the same types of damages and losses.

33. **Adequacy:** Plaintiffs are adequate representatives of the class they seek to represent because their interests do not conflict with the interests of the members of the class Plaintiffs seek to represent. Plaintiffs have retained counsel competent and experienced in complex class action litigation and Plaintiffs intend to prosecute this action vigorously. The interests of the members of the class will be fairly and adequately protected by Plaintiffs and their counsel.

34. **Superiority and Substantial Benefit:** The class action is superior to other available means for the fair and efficient adjudication of Plaintiffs' and the Class members' claims.

1 The damages suffered by each individual Class member may be limited. Damages of such  
2 magnitude are small given the burden and expense of individual prosecution of the complex and  
3 extensive litigation necessitated by Defendant's conduct. Further, it would be virtually impossible  
4 for the Class members to redress the wrongs done to them on an individual basis. Even if members  
5 of the Class themselves could afford such individual litigation, the court system could not.  
6 Individualized litigation increases the delay and expense to all parties and the court system due to  
7 the complex legal and factual issues of the case. By contrast, the class action device presents far  
8 fewer management difficulties and provides the benefits of single adjudication, economy of scale,  
9 and comprehensive supervision by a single court.

10 35. The Class should also be certified because:

- 11 a. The prosecution of separate actions by individual members of the Class would create a  
12 risk of inconsistent or varying adjudications with respect to individual Class members  
13 which would establish incompatible standards of conduct for Defendant;  
14 b. The prosecution of separate actions by individual members of the Class would create a  
15 risk of adjudication with respect to them, which would, as a practical matter, be  
16 dispositive of the interests of the other Class members not parties to the adjudications,  
17 or substantially impair or impede their ability to protect their interests; and  
18 c. Defendant has acted or refused to act on grounds generally applicable to the Class,  
19 and/or the general public, thereby making appropriate final and injunctive relief with  
20 respect to the Class as a whole.

21 **FIRST CAUSE OF ACTION**

22 **FAILURE TO PAY REGULAR AND/OR OVERTIME WAGES**  
23 **(Violation of Labor Code §§ 218, 218.5, 218.6, 510, 1194, 1198, and the applicable Wage**  
**Order)**  
24 **(Against all defendants)**

25 36. Plaintiffs re-allege and incorporate all preceding paragraphs as if fully set forth  
26 herein.

27 37. The California Labor Code establishes the fundamental right of all employees in  
28 the State of California to be paid wages in a timely fashion for their work.

38. The applicable Industrial Wage Order provides that an employer may not pay

1 employees less than the applicable minimum wage for all hours worked.

2       39. Pursuant to the applicable Industrial Wage Order, Defendant is required to pay  
3 Plaintiffs, and the members of the Class, for all hours worked, meaning the time which an  
4 employee is subject to the control of the employer.

5       40. At all relevant times during the class period, Defendant failed to pay Plaintiffs and  
6 other members of the class wages for all hours worked, in that Plaintiffs and the class were  
7 interrupted with work-related issues while not clocked in to Defendant's timekeeping program,  
8 resulting in unpaid wages. Further, Plaintiffs and other members of the class were not paid for the  
9 time they had to arrive early to secure their equipment to use for their shift, and time spent  
10 attending pre-shift meetings prior to clocking in. As a result, Plaintiffs and other class members  
11 worked hours they were not paid for, including overtime in the instances Plaintiffs and other class  
12 members worked over eight hours in a day and/or 40 hours a week. Plaintiffs and the Class  
13 Members therefore seek unpaid wages and penalties.

14       41. Labor Code § 510 and the applicable Wage Order provide that employees in  
15 California shall not be employed more than eight hours in any workday or forty hours in a  
16 workweek unless they receive additional compensation beyond their regular wages in amounts  
17 specified by law. Specifically, Labor Code § 510(a) requires that: Any work in excess of eight  
18 hours in one workday and any work in excess of 40 hours in any one workweek shall be  
19 compensated at the rate of no less than one and one-half times the regular rate of pay for an  
20 employee.

21       42. Labor Code § 1194 establishes an employee's right to recover unpaid overtime  
22 compensation, and interest thereon, together with the costs of suit, and attorneys' fees. Labor Code  
23 §1198 makes employment of an employee for longer hours than the IWC set or under conditions  
24 the IWC prohibits unlawful.

25       43. During the class period, Plaintiffs and other class members have worked more than  
26 eight hours in a workday, and/or more than forty hours in a workweek.

27       44. During the class period, Defendant has failed to pay Plaintiffs and other class  
28 members the overtime compensation premium for those unpaid hours they have worked in excess

1 of the maximum hours permissible by law as required by Labor Code § 510 and 1198, and the  
2 applicable Wage Order.

3 45. In committing the violations of state law as herein alleged, Defendant has  
4 knowingly and willfully refused to perform its obligations to compensate Plaintiffs and members  
5 of the class for all wages earned and all hours worked. As a direct result, Plaintiffs and other  
6 members of the class have suffered and continue to suffer, substantial losses related to the use and  
7 enjoyment of such compensation, wages and lost interest on such monies and expenses and  
8 attorney's fees in seeking to compel Defendant to fully perform their obligation under state law,  
9 all to their respective damage in amounts according to proof at trial and within the jurisdiction of  
10 this Court.

11 46. Plaintiffs seek to recover in a civil action the unpaid balance of the full amount of  
12 the unpaid wages resulting from Defendant's regular and overtime wage violations including  
13 interest thereon, reasonable attorney's fees and costs of suit, and liquidated damages to the fullest  
14 extent permissible pursuant to Labor Code § 218, 218.5, 218.6, and 1194(a).

15 **SECOND CAUSE OF ACTION**  
16 **FAILURE TO PROVIDE MEAL PERIODS**  
17 **(Violation of Labor Code §§ 512, 226.7, and the Applicable Wage Order)**  
18 **(Against all defendants)**

19 47. Plaintiffs re-allege and incorporate all preceding paragraphs as if fully set forth  
20 herein.

21 48. California Labor Code § 226.7(b) provides, "An employer shall not require an  
22 employee to work during a meal or rest period mandated pursuant to an applicable order of the  
23 Industrial Welfare Commission".

24 49. The applicable wage order provides, in pertinent part: "[n]o employer shall employ  
25 any person for a work period of more than five (5) hours without a meal period of not less than 30  
26 minutes, except that when a work period of not more than six (6) hours will complete the day's  
27 work the meal period may be waived by mutual consent of the employer and the employee."

28 50. Labor Code § 512(a) provides, in pertinent part: "[a]n employer may not employ an  
employee for a work period of more than five hours per day without providing the employee with a

1 meal period of not less than 30 minutes, except that if the total work period per day of the employee  
2 is no more than six hours, the meal period may be waived by mutual consent of both the employer  
3 and employee. An employer may not employ an employee for a work period of more than 10 hours  
4 per day without providing the employee with a second meal period of not less than 30 minutes,  
5 except that if the total hours worked is no more than 12 hours, the second meal period may be  
6 waived by mutual consent of the employer and the employee only if the first meal period was not  
7 waived.”

8         51. As alleged herein, Defendant failed to authorize and permit timely and uninterrupted  
9 meal periods during the Class period. Plaintiffs and members of the class were routinely required to  
10 work without a timely and uninterrupted meal break at the direction of Defendant and/or with  
11 Defendant’s knowledge and acquiescence. Additionally, Plaintiffs were not paid premiums for each  
12 instance their meal periods were interrupted, missed and/or untimely.

13         52. In addition, Defendant failed to authorize and permit timely second meal periods  
14 during the Class period. Plaintiffs and members of the class regularly worked shifts over 10 hours  
15 but were not offered a second meal period. Plaintiffs and members of the class were routinely  
16 required to work without a timely second meal break at the direction of Defendant and/or with  
17 Defendant’s knowledge and acquiescence. Plaintiffs did not waive their second meal break.

18         53. By its actions in requiring its employees to work through meal periods and/or its  
19 failure to relieve the employees of their duties for their off-duty meal periods, Defendant has  
20 violated California Labor Code §§ 226.7, 512 and the applicable wage order, and is liable to  
21 Plaintiffs and the class.

22         54. As a result of the unlawful acts of Defendant, Plaintiffs and the class have been  
23 deprived of timely off-duty meal periods, and are entitled to recovery under Labor Code §§  
24 226.7(c), 512 and the applicable wage order, in the amount of one additional hour of pay at the  
25 employee’s regular rate of compensation for each workday in which Defendant failed to provide its  
26 employees with timely statutory off-duty meal periods.

27         55. Plaintiffs, and the other members of the class, are entitled to seek and recover  
28 reasonable attorneys’ fees and costs pursuant to Labor Code §§ 226.7 and 512.

**THIRD CAUSE OF ACTION**  
**FAILURE TO PROVIDE REST PERIODS**  
**(Violation of Labor Code §§ 226.7 and the applicable Wage Order)**  
**(Against all defendants)**

56. Plaintiffs re-allege and incorporate all preceding paragraphs as if fully set forth herein.

57. California Labor Code § 226.7(b) provides, “An employer shall not require an employee to work during a meal or rest period mandated pursuant to an applicable order of the Industrial Welfare Commission”.

58. The applicable Industrial Wage Order provides, in pertinent part: “[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof. However, a rest period need not be authorized for employees whose total daily work time is less than three and one-half (3 ½) hours. Authorized rest period time shall be counted as hours worked for which there shall be no deduction from wages”.

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

60. As alleged herein, Defendant failed to authorize and permit rest breaks during the Class period. Plaintiffs and members of the class were routinely required to work through rest periods at the direction of Defendant and/or with Defendant’s knowledge and acquiescence. Further, Plaintiffs often worked shifts of over 10 hours and were not offered a third rest break as required under California law.

61. By its actions in requiring its employees during the class period to work through rest periods and/or its failure to relieve the employees of their duties for their rest periods, Defendant violated the applicable Industrial Wage Order and California Labor Code § 226.7 and is liable to Plaintiffs and the class.



62. Defendant's unlawful conduct alleged herein occurred in the course of employment of Plaintiffs and all others similarly situated and such conduct has continued through the filing of this complaint.

63. As a direct and proximate result of Defendant's unlawful action, Plaintiffs and the class have been deprived of timely rest periods and/or were not paid for rest periods taken during the Class period, and are entitled to recovery under Labor Code § 226.7(c) in the amount of one additional hour of pay at the employee's regular rate of compensation for each workday in which Defendant failed to provide employees with timely and/or paid rest periods.

64. Plaintiffs, and the other members of the class, are entitled to seek and recover reasonable attorneys' fees and costs pursuant to Labor Code § 226.7.

**FOURTH CAUSE OF ACTION**  
**FAILURE TO FURNISH TIMELY AND ACCURATE WAGE STATEMENTS**  
**(Violation of Labor Code §226)**  
**(Against all defendants)**

65. Plaintiffs re-allege and incorporate all preceding paragraphs as if fully set forth herein.

66. California Labor Code § 226(a) provides: “[e]very employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees, either as a detachable part of the check, draft, or voucher paying the employee’s wages, or separately when wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee [...], (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number, [...], (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...”.

67. Labor Code § 226(e) provides that an employee is entitled to recover \$50 for the

1 initial pay period in which a violation of Labor Code § 226 occurs and \$100 for each subsequent  
2 pay period, for all pay periods in which the employer knowingly and intentionally failed to provide  
3 accurate itemized statements to the employee causing the employee to suffer injury.

4 68. Plaintiffs are informed, believe and thereon allege that at all times relevant,  
5 Defendant knowingly and intentionally failed to furnish and continues to knowingly and  
6 intentionally fail to furnish Plaintiffs and the members of the class with timely and accurate  
7 itemized statements showing the gross wages earned by each of them, as required by Labor Code §  
8 226(a), in that the premiums owed to Plaintiffs and the members of the class for missed meal and  
9 rest periods were not included in gross wages earned by Plaintiffs and the members of the class.

10 69. Further, wages owed to Plaintiffs and the members of the class for time they worked  
11 before their shift and the time spent working through meal breaks, were not included in gross wages  
12 earned by Plaintiffs and the members of the class.

13 70. Defendant's failure to provide Plaintiffs and members of the class with accurate  
14 itemized wage statements during the class period has caused Plaintiffs and the members of the class  
15 to incur economic damages in that they were not aware that they were owed and not paid  
16 compensation for missed rest periods and on-duty meal periods, and for all hours worked. In  
17 addition, Defendant provided inaccurate information regarding hours worked, which masked its  
18 underpayment of wages to Plaintiffs and the members of the class.

19 71. As a result of Defendant's issuance of inaccurate itemized wage statements to  
20 Plaintiffs and the members of the class in violation of Labor Code § 226(a), Plaintiffs and the  
21 members of the class are each entitled to recover penalties pursuant to Labor Code § 226(e).

22 **FIFTH CAUSE OF ACTION**  
23 **FAILURE TO REIMBURSE INCURRED NECESSARY BUSINESS EXPENSES**  
24 **(Violation of Labor Code § 2802, *et seq.*)**  
**(Against all defendants)**

25 72. Plaintiffs re-allege and incorporate all preceding paragraphs as if fully set forth  
26 herein.

27 73. California Labor Code section 2802 provides that an employer must reimburse  
28 employees for all necessary expenditures.

74. At all relevant times during the class period, Plaintiffs and the members of the class incurred necessary business-related expenses and costs that were not fully reimbursed by Defendant, including, but not limited to, personal cellphone usage.

75. Defendant has intentionally and willfully failed to fully reimburse Plaintiffs and the members of the class for necessary business-related expenses and costs. Defendant's conduct violates California Labor Code Section 2802.

76. Plaintiffs and the members of the class are entitled to recover from Defendant their business-related expenses incurred during the course and scope of their employment, plus interest, pursuant to California Labor Code section 2802.

**SIXTH CAUSE OF ACTION**  
**FAILURE TO PAY ALL WAGES DUE UPON TERMINATION**  
**(Violation of Labor Code §§ 201-203)**  
**(Against all defendants)**

77. Plaintiffs re-allege and incorporate all preceding paragraphs as if fully set forth herein.

78. California Labor Code §§ 201-203 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two hours thereafter, unless the employee has given seventy-two hours prior notice of his or her intention to quit in which case the employee is entitled to his or her wages at the time of quitting.

79. During the Class period, Defendant willfully failed to pay Plaintiffs and the members of the class who are no longer employed by Defendant all their earned wages, specifically, meal and rest period premiums not paid for missed or interrupted meal and rest periods, and wages for all hours worked, either at the time of discharge or within seventy-two hours of their leaving Defendant's employ in violation of California Labor Code §§ 201, 202, and 203.

80. Therefore, Plaintiffs and the members of the class are entitled to waiting time penalties for each day that has passed that they have not received all wages owed to them, up to 30 days.

**SEVENTH CAUSE OF ACTION**  
**VIOLATION OF CALIFORNIA'S UNFAIR COMPETITION LAW**  
**(Violation of California's Unfair Competition Law, Bus. & Prof. Code §§ 17200 *et seq.*)**  
**(Against all defendants)**

81. Plaintiffs re-allege and incorporate all preceding paragraphs as if fully set forth herein.

82. Section 17200 of the California Business and Professions Code (the "UCL") prohibits any unlawful, unfair, or fraudulent business practices.

83. Through its action alleged herein, Defendant has engaged in unfair competition within the meaning of the UCL. Defendant's conduct, as alleged herein, constitutes unlawful, unfair, and/or fraudulent business practices under the UCL.

84. Defendant's unlawful conduct under the UCL includes, but is not limited to, violating the statutes alleged herein. Defendant's unfair conduct under the UCL includes, but is not limited to, failure to pay members of the class wages and compensation they earned through labor provided, and failing to otherwise compensate members of the class as alleged herein. Defendant's fraudulent conduct includes, but is not limited to, issuing wage statements containing false and/or misleading information about the time the members of the class worked and the amount of wages or compensation due, failing to provide meal and rest breaks, and failing to reimburse necessarily incurred expenses.

85. Plaintiffs have standing to assert this claim because they have suffered injury in fact and have lost money as a result of Defendant's conduct.

86. Plaintiffs and the members of the class seek restitutionary disgorgement from Defendant of monies owed for all hours worked and for unpaid meal and rest period premiums.

87. Plaintiffs have assumed the responsibility of enforcement of the laws and public policies specified here by suing on behalf of themselves and other similarly situated class members previously or presently working for Defendant in California. Plaintiffs' success in this action will enforce important rights affecting the public interest. Plaintiffs will incur a financial burden in pursuing this action in the public interest. Therefore, an award of reasonable attorneys' fees to Plaintiffs is appropriate pursuant to Code of Civil Procedure § 1021.5.

1 **PRAYER**

2 WHEREFORE, Plaintiffs, on behalf of themselves and all others similarly situated, pray for  
3 judgment against Defendant as to the appropriate causes of action as follows:

4 **ON THE FIRST CAUSE OF ACTION**

- 5 1. For all straight-time and/or overtime wages owed to Plaintiffs and each Class Member for  
6 all hours worked;
- 7 2. For other compensatory damages and/or statutory damages and statutory penalties resulting  
8 from improper compensation according to proof;
- 9 3. For statutory attorney fees according to proof;
- 10 4. For statutory interest according to proof; and
- 11 5. For reasonable attorneys' fees and costs pursuant to the California Labor Code.

12 **ON THE SECOND CAUSE OF ACTION**

- 13 1. For one hour of wages due to Plaintiffs and each Class member for each work period of  
14 more than five (5) hours when they did not receive an uninterrupted thirty (30) minute meal  
15 period;
- 16 2. For waiting time penalties according to proof;
- 17 3. For statutory costs according to proof; and
- 18 4. For statutory interest according to proof.

19 **ON THE THIRD CAUSE OF ACTION**

- 20 1. For one hour of wages due to Plaintiffs and each Class member for each work period of  
21 more than three and one-half (3 ½) hours when they did not receive an uninterrupted ten  
22 (10) minute rest period for each four (4) hours or major fraction thereof worked;
- 23 2. For waiting penalties according to proof;
- 24 3. For statutory costs according to proof; and
- 25 4. For statutory interest according to proof.

26 **ON THE FOURTH CAUSE OF ACTION**

- 27 1. For statutory compensation for any harm caused;
- 28 2. For compensatory damages and interest thereon for actual harm caused; and

- 1 3. For statutory penalties under Labor Code § 226(e), interest and attorneys' fees and  
2 costs.

3 **ON THE FIFTH CAUSE OF ACTION**

- 4 1. For reimbursement of incurred necessary business expenses under Labor Code § 2802;  
5 2. For statutory interest according to proof; and  
6 3. For reasonable attorney's fees and costs pursuant to the Labor Code.

7 **ON THE SIXTH CAUSE OF ACTION**

- 8 1. For statutory penalties, including thirty (30) days' wages at the correct hourly rate for  
9 all wages not timely paid upon termination;  
10 2. For penalty enhancement for willful conduct;  
11 3. For statutory interest according to proof; and  
12 4. For reasonable attorney's fees and costs pursuant to the Labor Code.

13 **ON THE SEVENTH CAUSE OF ACTION**

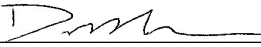
- 14 1. For the equitable, injunctive and declaratory relief;  
15 2. For liquidated damages pursuant to Labor Code § 1194.1; and  
16 3. For restitutionary disgorgement pursuant to the UCL.

17 **ON ALL CAUSES OF ACTION**

- 18 1. An order that this action may proceed and be maintained as a class action;  
19 2. Reasonable attorney's fees;  
20 3. General, special and consequential damages, to the extent allowed by law;  
21 4. Costs of suit;  
22 5. For attorneys' fees pursuant to Code of Civil Procedure § 1021.5;  
23 6. Prejudgment interest at the maximum legal rate; and  
24 7. Such other relief as the Court may deem just and proper.

25 DATED: March 11, 2024

**THE MARKHAM LAW FIRM**

26 By:   
27 David R. Markham  
28 Lisa Brevard  
*Attorneys for Plaintiffs and all others  
similarly situated*

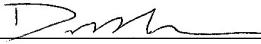
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**DEMAND FOR JURY TRIAL**

Plaintiffs demand a trial by jury for themselves and the members of the class on all claims so triable.

DATED: March 11, 2024

**THE MARKHAM LAW FIRM**

By:   
David R. Markham  
Lisa Brevard  
*Attorneys for Plaintiffs*  
*and all others similarly situated*