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**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN BERNARDINO  
SAN BERNARDINO DISTRICT

MAR 28 2022

BY   
EDUARDO HERNANDEZ, DEPUTY

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
11 **FOR THE COUNTY OF SAN BERNARDINO**

13 BROOK FREEZE, as an individual and on  
14 behalf of all others similarly situated,

15 Plaintiff,

16 vs.

17 MHX, LLC, a California company; MHX  
18 HOLDINGS, LLC, a California company; and  
DOES 1 through 50, inclusive,

19 Defendants.  
20  
21  
22

Case No.

**CIV SB 2205903**

**CLASS ACTION COMPLAINT**

1. Failure to Pay All Minimum Wages
2. Failure to Pay Overtime Wages
3. Meal Period Violations
4. Rest Period Violations
5. Untimely Payment of Wages
6. Wage Statement Violations
7. Waiting Time Penalties
8. Violations of the Unfair Competition Law



1 Plaintiff BROOK FREEZE (“Plaintiff”), on behalf of a class of all other similarly situated  
2 current and former California employees, brings this action against Defendants MHX, LLC; MHX  
3 HOLDINGS, LLC; and DOES 1 through 50 (collectively, “Defendants”), alleging as follows:

### 4 INTRODUCTION

5 1. This is a class action filed for wage and hour violations of the California Labor  
6 Code. Plaintiff worked as an hourly, non-exempt employee for Defendants from July 2021 through  
7 December 2021. As a Class A-licensed Truck Driver, Plaintiff was required to work before and  
8 after shifts without pay. Defendants required Plaintiff and other employees to clock in and out only  
9 at their scheduled start times, but nonetheless knowingly required them to perform “off the clock”  
10 work such as connecting trailers and performing vehicle inspections prior to and after their shifts.

11 2. Defendants also required Plaintiff and other employees to work through their meal  
12 and rest breaks as a matter of company practice, and failed to pay Plaintiff and other employees for  
13 such time. This resulted in an undercounting and underpayment for hours worked each pay period  
14 for the Plaintiff and other employees.

15 3. Defendants also failed to pay meal or rest period premiums to Plaintiff and other  
16 employees for such “on duty” breaks. Defendants thus failed to provide compliant meal and rest  
17 periods (or premiums in lieu thereof) as required.

18 4. As a result of these violations, Defendants failed to timely pay Plaintiff and Class  
19 Members each pay period on paydays and upon separation of employment, and thus are liable for  
20 waiting time and other statutory penalties.

21 5. Defendants’ employment policies and practices and payroll administration systems  
22 enabled and facilitated these violations on a company-wide basis with respect to the Class  
23 Members.

### 24 JURISDICTION & VENUE

25 6. Jurisdiction of this action is proper in this Court under Article VI, Section 10 of the  
26 California Constitution.

27 //

28 //

1 7. Venue as to each defendant is proper in this judicial district under Code of Civil  
2 Procedure sections 395 and 395.5 because Defendants conduct business in this county, employed  
3 Plaintiff in this county, and committed some of the alleged violations in this county.

4 8. Plaintiff is informed, believes, and alleges that all or most of the Class Members in  
5 this action are citizens of the State of California, which is where the principal injuries of  
6 Defendants' alleged conduct occurred.

## 7 **PARTIES**

### 8 **A. Plaintiff Brook Freeze**

9 9. Plaintiff Brook Freeze is a citizen of California over 18 years of age who worked for  
10 Defendants in San Bernardino County as an hourly, non-exempt employee. Plaintiff worked for  
11 Defendants in California from June 2021 to December 2021 as a driver distributing and transporting  
12 goods out of the Rancho Cucamonga location.

### 13 **B. Defendants**

14 10. Plaintiff is informed, believes, and alleges that Defendant MHX, LLC is a California  
15 limited liability company doing business and employing individuals in San Bernardino, California  
16 and throughout the state of California.

17 11. Plaintiff is informed, believes, and alleges that Defendant MHX Holdings, LLC is a  
18 California limited liability company doing business and employing individuals in San Bernardino,  
19 California and throughout the state of California. Defendants MHX, LLC and MHX Holdings, LLC  
20 are hereinafter referred to together as "Defendants."

21 12. Defendants' website states that it operates a "full service logistics operation in  
22 California" that provides "transload and transportation service which partners in moving product  
23 via truck, rail, or vessel." Defendants allegedly provide "import and export services" for "steel  
24 products, aluminum, lumber, wallboard, rebar, tires, dry build, break bulk, consumer goods, and  
25 food grade material," and distribute such commodities to their final destination. Defendants, on  
26 information and belief, operate 10 facilities throughout California, including in the cities of  
27 Fontana, Carson, Vernon, Compton, Helendale, Rancho Cucamonga, and Stockton. "[Seven] of  
28

1 these facilities are served by the BNSF and [three] are served by the Union Pacific,” which operate  
2 rail networks covering the United States.

3 13. Plaintiff is informed and alleges that no class action asserting similar factual  
4 allegations has been filed against any of the named defendants within the preceding three years.

5 14. The true names and capacities, whether individual, corporate, or otherwise, of the  
6 parties sued as DOES 1 through 50, are presently unknown to Plaintiff, who sues them by such  
7 fictitious names under Code of Civil Procedure section 474. Plaintiff is informed, believes and  
8 alleges that each of the fictitious defendants is responsible in some manner for the acts and omissions  
9 alleged herein. Plaintiff will seek leave to amend this Complaint to reflect their true names and  
10 capacities when they become known.

11 15. The true names and capacities, whether individual, corporate, or otherwise, of the  
12 parties sued as DOES 1 through 50, are presently unknown or uncertain to Plaintiff, who sues them  
13 by such fictitious names under Code of Civil Procedure section 474. Plaintiff is informed, believes,  
14 and alleges that each of the factiously named defendants is responsible in some manner for the acts  
15 and omissions alleged herein. Plaintiff will seek leave to amend this Complaint to reflect their true  
16 names and capacities when they become known.

17 16. Plaintiff is informed, believes, and alleges that all defendants in this action are  
18 employers and/or joint employers and part of an integrated employer enterprise, as each defendant  
19 exercises control over the wages, hours, and working conditions of Plaintiff and other employees,  
20 suffers and permits them to work, and engages the workforce creating a common law employment  
21 relationship. Additionally, all Defendants have common ownership, common management,  
22 interrelationship of operations, and centralized control over labor relations and are therefore part of  
23 an integrated enterprise and thus jointly and severally responsible for the acts and omissions alleged  
24 herein.

25 17. Plaintiff is informed, believes, and alleges that each defendant acted in all respects  
26 pertinent to this action as an alter-ego, agent, servant, joint employer, joint venturer, co-conspirator,  
27 partner, in an integrated enterprise, or in some other capacity on behalf of all other co-defendants,  
28 such that the acts and omissions of each defendant are legally attributable to all others.

1 18. Plaintiff is informed, believes and alleges that the above-mentioned defendants  
2 violated and/or caused to be violated Labor Code and IWC Wage Order provisions and/or  
3 regulating minimum wages and days of work and other provisions of the Labor Code with respect  
4 to the Class of aggrieved employees. As a result, they may be held personally liable under Labor  
5 Code sections 558, 558.1, and 1197.1. (*See, e.g., Atempa v. Pedrazzani* (2018) 27 Cal. App. 5th  
6 809.)

### 7 **GENERAL ALLEGATIONS**

8 19. Plaintiff was employed by Defendants as a driver from June 2021 through December  
9 2021. Plaintiff was an hourly, non-exempt employee throughout the duration of his employment.

10 20. As a driver, Plaintiff was required to perform work before and after his shifts,  
11 without compensation. For example, he and other employees were required to be ready to load and  
12 drive their trucks at the time they clocked in, which required them to perform tasks such as  
13 connecting their trailers, checking fluids and tire pressure, and completing pre-trip inspections  
14 before their clock-in time. Defendants were aware of the work performed “off the clock,” and  
15 pressured employees to only clock in when they started driving. Similarly, Plaintiff and others were  
16 required to complete post-driving work off the clock after they were required to clock out for their  
17 scheduled shifts. When Plaintiff tried clocking in to be compensated for all work performed, he was  
18 instructed to only clock in at his scheduled start time, and not for the pre or post trip work  
19 performed. Plaintiff is informed, believes, and thereon alleges that all drivers and non-exempt  
20 employees employed by Defendants faced similar pressure to perform work “off the clock” for  
21 which they were not paid.

22 21. Furthermore, Defendants failed to consistently provide timely, off-duty 30-minute  
23 meal periods to Plaintiff and Class Members within the first five hours of work, and timely second  
24 off-duty 30-minute meal periods to the extent they worked shifts of 10 hours or more, in violation  
25 of Labor Code sections 226.7, 512 and section 11 of the applicable IWC Wage Orders. (*See, e.g.,*  
26 *Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal. 5th 858, 863 [“We hold that the terms are  
27 synonymous: “regular rate of compensation” under section 226.7(c), like “regular rate of pay”  
28 under section 510(a), encompasses all nondiscretionary payments, not just hourly wages.”])

1 Defendants' policy and practice of not paying all meal period premiums at the required regular rate  
2 of pay is a matter of common corporate policy and payroll administration such that it applies and  
3 affected all other non-exempt employees.

4 22. Due to the number of routes required each day, and as directed by Defendants,  
5 Plaintiff and other employees were required to take most meal breaks while driving their routes.  
6 However, Defendants still required Plaintiff and other employees to clock out for lunch, even when  
7 they were required to work or drive or otherwise remain on-duty during that time. As such,  
8 Defendants failed to provide compliant first and second meal periods (or compensation at the lawful  
9 wage for work performed off-the-clock). Plaintiff understands that Defendants maintain a uniform  
10 policy and businesses operations that apply the same pressure to other employees, and thus failing  
11 to provide compliant meal periods to the entire group of Class Members.

12 23. When Plaintiff and other Class Members worked through and/or during meal  
13 periods, Defendants failed to pay all minimum, regular, and/or overtime wages owed for that time  
14 worked.

15 24. When Defendants did not provide compliant meal periods, Defendants failed to  
16 always pay Plaintiff and other employees a meal period premium as required by Labor Code section  
17 226.7. Although some meal period premiums were paid to Plaintiff and other employees during the  
18 relevant period, Defendants did not pay all meal period premiums owed for late, short, missed, or  
19 interrupted meal periods. Defendants' policy and practice of not paying all meal period premiums at  
20 the lawful rate is a matter of common corporate policy and payroll administration such that it  
21 applies and affected all other Class Members and are evident from communications, data, and  
22 records showing short, late, or missed meal periods without an associated meal period premium on  
23 the corresponding employee wage statement.

24 25. Defendants also failed to authorize or *permit* ten-minute rest periods for every four  
25 hours of work or major faction thereof as required by Labor Code section 226.7 and 516 and section  
26 12 of the applicable IWC Wage Order. Defendants did not authorize rest periods and did not afford  
27 sufficient staffing for Plaintiff and other employees to take compliant 10-minute rest periods in  
28 accordance with California law. Legally compliant breaks were usually precluded due to Plaintiff's

1 and Class Members' work load and the tasks required of them each day, and due to Defendants'  
2 lack of compliant policies and practices with respect to 10-minute rest periods.

3         26. When Defendants did not provide a fully compliant rest period to Plaintiff or other  
4 Class Members, Defendants failed to pay Plaintiff and other Class Members a rest period premium  
5 at the lawful "regular rate of compensation" in violation of Labor Code section 226.7. On  
6 information and belief, Plaintiff alleges that Defendants did not pay a single rest period premium to  
7 any of its employees. Plaintiff is informed, believes, and alleges that Defendants failed to maintain  
8 lawful meal and rest period policies that apprised Plaintiff and other Class Members of their  
9 respective rights under California law.

10         27. With respect to the unpaid wages and premiums owed to Plaintiff and Class  
11 Members, Defendants failed to pay those wages on time each pay period or upon separation of  
12 employment. Because Defendants did not pay Plaintiff and the Class for all wages/premiums owed  
13 each pay period their employment, Defendants failed to timely pay all wages owed each pay day or  
14 upon separation of employment (or within 72 hours thereof), in violation of Labor Code sections  
15 201 through 203 (waiting time) and 204 and 204b (paydays).

16         28. Defendants equally failed in their affirmative obligation to provide accurate itemized  
17 wage statements each pay period to Plaintiff and Class Members. Defendants issued wage  
18 statements to Plaintiff and, on information and belief, Class Members, which contain several types  
19 of violations.

20         29. First, on each wage statement furnished, Defendants failed to accurately state the  
21 "gross wages earned" and "net wages earned" in violation of Labor Code § 226(a)(1) and (5), as  
22 Plaintiff and Class Members earned regular and overtime wages, but were underpaid, and were  
23 deprived of wages and meal and rest period premiums earned at the lawful rate, resulting in an  
24 inaccurate itemization of gross and net wages earned on those wage statements.

25         30. Second, on each wage statement furnished to Plaintiff and, on information and  
26 belief, the Class Members, Defendants failed to accurately state "all applicable hourly rates in effect  
27 during the pay period and the corresponding number of hours worked at each hourly rate by the  
28 employee" in violation of Labor Code § 226(a)(9), as the wage statements issued to Plaintiff and

1 Class Members do not accurately list the actual hours worked by employees, but instead list  
2 deflated hours and wages.

3 31. Third, Defendants inaccurately listed total hours worked during the pay period, as  
4 Plaintiff and Class Members worked off-the-clock during many of the meal periods and otherwise,  
5 resulting in an inaccurate reflection of total hours worked on those corresponding wage statements.

6 32. Defendants' wage statement issues described above rendered the wage statements  
7 inaccurate and confusing to Plaintiff and Class Members, concealing the underpayments and  
8 presenting a false portrayal of accuracy on the wage statements relied upon by Plaintiff and Class  
9 Members as the sole documentary evidence of their respective earnings.

10 33. Plaintiff and Class Members suffered injury in the form of confusion regarding  
11 amounts paid for hours worked, and in the form of concealment of the common payroll practices  
12 causing the violations and underpayment of wages and wage statement deficiencies as addressed in  
13 this Complaint.

14 34. Indeed, Plaintiff and, on information and belief, Class Members were misinformed  
15 and misled by the wage statements wages, hours, rates, and earnings. As a result of the  
16 inaccuracies on the wage statements, Plaintiff and, on information and belief, Class Members were  
17 led to believe that the hourly rates and net and gross wages reflected were a complete and accurate  
18 reflection of the wages actually earned under California law.

19 35. Defendants' wage statement violations were knowing and intentional as a matter of  
20 law with respect to Plaintiff and California Class Members given that the legal obligation was not  
21 disputed, the wage statement and wage laws are clear and unambiguous as written, and because  
22 Defendants nevertheless failed to comply despite the means and ability to do so.

23 36. Because of the violations set forth in this Complaint, including Defendants' failure  
24 to accurately maintain records of pay for all hours worked at the appropriate lawful rates of pay  
25 (*i.e.*, unrecorded off-the-clock hours), Defendants violated Labor Code section 1174 and the IWC  
26 Wage Orders by failing to maintain records showing accurate daily hours worked at the  
27 corresponding wage rate, and the wages paid to each employee.

28



1 37. Plaintiff is informed, believes, and alleges that Defendants’ acts and omissions have  
2 knowingly and intentionally caused harm to Plaintiff and the Class. Plaintiff is informed, believes,  
3 and alleges that Defendants have engaged in systemic violations of the Labor Code and IWC Wage  
4 Orders by maintaining practices, policies, and customs that are inconsistent with their obligations  
5 under California law.

6 **CLASS ACTION ALLEGATIONS**

7 38. ***Class Definition.*** The named individual Plaintiff seeks class certification under  
8 California Code of Civil Procedure section 382. Plaintiff proposes the following class:

9 a. All individuals currently or formerly employed by Defendants in the State of  
10 California as hourly non-exempt employees at any time from **March 25, 2018**  
11 through the time of trial in this action (the “Class” or “Class Members” and the  
12 “Class Period”).

13 39. ***Subclasses.*** Further, Plaintiff proposes the following subclasses:

14 a. All Class Members who separated from employment with Defendants at any  
15 time from **March 25, 2019** through the time of trial in this action (the “Waiting  
16 Time Subclass”).

17 b. All Class Members who received a wage statement from Defendants at any time  
18 from **March 25, 2021** through the time of trial in this action (“Wage Statement  
19 Subclass”).

20 c. All Class Members who worked shifts of five hours or more without a duty-free  
21 meal period of at least 30 minutes, who were not paid one hour of pay at the  
22 regular rate of compensation for each of those days (“Meal Period Subclass”).

23 d. All Class Members who worked shifts of four hours or major fraction thereof  
24 without being authorized or permitted an uninterrupted rest period of at least  
25 10 minutes, who were not paid one hour at the regular rate of compensation for  
26 each of those days (“Rest Period Subclass”).

27 e. All Class Members who were not paid all regular, overtime, or minimum or  
28 other wages for all hours worked each pay period (“Unpaid Wage Subclass”).

1           40. Plaintiff reserves the right to move the Court to amend or modify the class  
2 definitions and to establish additional classes and subclasses as appropriate.

3           41. **Numerosity.** The members of the Class are so numerous that joinder of all  
4 individuals is impracticable. The identity of the Class Members is readily ascertainable by review  
5 of Defendants' employment and payroll records. Plaintiff is informed, believes and alleges there  
6 are more than 50 Class Members.

7           42. **Adequacy of Representation.** Plaintiff is an adequate class representative. Plaintiff  
8 will take all necessary steps to adequately and fairly represent and protect the interest of the Class.  
9 Plaintiff is represented by attorneys who have substantial experience prosecuting and resolving  
10 wage-and-hour class actions in the past and currently have numerous wage-and-hour class actions  
11 pending in California state and federal courts.

12           43. **Manageability.** This class action is manageable because the liability and damages to  
13 Class Members can be ascertained by forensic review of corporate and employer timekeeping and  
14 payroll records along with other evidence that Defendants maintained and is required by law to  
15 maintain. This class action is manageable because the contact information and identity of  
16 percipient witnesses—namely, Defendants employees (the putative class members)—is readily  
17 maintained by Defendants.

18           44. **Superiority.** A class action is superior to other means for adjudication of the claims  
19 of the Class and is beneficial and efficient for the parties and the Court. Class treatment will allow  
20 for the common issues to be resolved in a single forum, simultaneously and without duplication of  
21 effort and expense.

22           45. **Commonality.** Common questions of law and fact and a community of interest  
23 exists amongst Plaintiff and the Class. These common issues arise from the employment  
24 relationship with Defendants and predominate over any individual issues.

25           46. **Typicality.** Plaintiff's claims are typical of the claims of the other Class Members.  
26 Plaintiff and Class Members were subject to the same policies and practices of Defendants, which  
27 resulted in losses to Plaintiff and Class Members.

28

1 47. Proof of common unlawful business practices, which Plaintiff experienced and is  
2 representative of, will establish the right of the Class to recover on the causes of action alleged  
3 herein.

4 **FIRST CAUSE OF ACTION**

5 **FAILURE TO PAY ALL REGULAR AND MINIMUM WAGES**

6 **Labor Code §§ 1194 and 1194.2**

7 48. Plaintiff incorporates all outside paragraphs of this Complaint as if set forth herein.

8 49. Defendants willfully failed in their affirmative obligation to pay Plaintiff and Class  
9 Members at least the lawful minimum wage for each hour worked in violation of Labor Code  
10 sections 1182.12, 1194, 1197, 1197.1 and 1198 and the IWC Wage Orders (the “Hours and Days of  
11 Work” and “Minimum Wages” sections of the applicable orders), including payment at the lawful  
12 local and county minimum wage ordinances in effect.

13 50. Defendants’ unlawful acts and omissions deprived Plaintiff and the Class of  
14 minimum, regular and overtime wages in amounts to be determined at trial. Plaintiff and the Class  
15 are entitled to recover to the full amount of the unpaid wages, plus liquidated damages in an amount  
16 equal to the wages unlawfully unpaid (and interest thereon), in addition to interest, attorneys’ fees,  
17 and costs to the extent permitted by law, including under Labor Code sections 1194 and 1194.2.

18 **SECOND CAUSE OF ACTION**

19 **FAILURE TO PAY ALL OVERTIME WAGES**

20 **Labor Code §§ 510 and 1194**

21 51. Plaintiff incorporates all outside paragraphs of this Complaint as if set forth herein.

22 52. Defendants failed in their affirmative obligation to pay Plaintiff and Class Members  
23 no less than one and one-half times their respective “regular rate of pay” for all hours worked in  
24 excess of eight hours in one day, 40 hours in one week, or the first eight hours worked on the  
25 seventh day of work in any one workweek, and no less than twice their respective “regular rate of  
26 pay” for all hours over 12 hours in one day and any work in excess of eight hours on any seventh  
27 day of a workweek in violation of Labor Code sections 510, 1194, and 1198 and the IWC Wage  
28 Orders (the “Hours and Days of Work” sections of the applicable orders).

1 53. Defendants' unlawful acts and omissions deprived Plaintiff and the Class of  
2 overtime wages in amounts to be determined at trial. Plaintiff and the Class are entitled to recover  
3 to the full amount of the unpaid overtime wages, in addition to interest, attorneys' fees, and costs to  
4 the extent permitted by law, including under Labor Code section 1194.

5 **THIRD CAUSE OF ACTION**

6 **MEAL PERIOD VIOLATIONS**

7 **Labor Code §§ 226.7 and 512**

8 54. Plaintiff incorporates all outside paragraphs of this Complaint as if set forth herein.

9 55. Defendants willfully failed in their affirmative obligation to consistently provide  
10 Plaintiff and Class Members compliant, duty-free meal periods of not less than 30 minutes  
11 beginning before the fifth hour for each work period of more than five hours per day and a second  
12 on-duty meal period of not less than 30 minutes beginning before the tenth hour of hour of work in  
13 violation of Labor Code sections 226.7 and 512 and the IWC Wage Orders (the "Meal Periods"  
14 sections of the applicable orders).

15 56. Further, Defendants willfully failed in their affirmative obligation to consistently pay  
16 Plaintiff and Class Members one additional hour of pay at the respective regular rate of  
17 compensation for each workday that a fully compliant meal period was not provided, in violation of  
18 Labor Code sections 226.7, 512, and 1198 and the IWC Wage Orders (the "Meal Periods" sections  
19 of the applicable orders).

20 57. Defendants' unlawful acts and omissions deprived Plaintiff and the Class of meal  
21 periods and meal period premiums in amounts to be determined at trial. Plaintiff and the Class are  
22 entitled to recover to the full amount of the unpaid premiums, in addition to interest, attorneys' fees,  
23 and costs to the extent permitted by law, including under Code of Civil Procedure section 1021.5.

24 **FOURTH CAUSE OF ACTION**

25 **REST PERIOD VIOLATIONS**

26 **Labor Code §§ 226.7 and 516**

27 58. Plaintiff incorporates all outside paragraphs of this Complaint as if set forth herein.  
28

1 59. Defendants willfully failed in their affirmative obligation to consistently authorize  
2 and permit Plaintiff and Class Members to receive compliant, duty-free rest periods of not less than  
3 ten (10) minutes for every four hours worked (or major fraction thereof) in violation of Labor Code  
4 sections 226.7, 516, and 1198 and the IWC Wage Orders (the “Rest Periods” sections of the  
5 applicable orders).

6 60. Further, Defendants willfully failed in their affirmative obligation to consistently pay  
7 Plaintiff and Class Members one additional hour of pay at the respective regular rate of  
8 compensation for each workday that a fully compliant rest period was not provided, in violation of  
9 Labor Code sections 226.7 and 1198 and the IWC Wage Orders.

10 61. Defendants’ unlawful acts and omissions deprived Plaintiff and the Class of rest  
11 periods and rest period premiums in amounts to be determined at trial. Plaintiff and the Class are  
12 entitled to recover to the full amount of the unpaid premiums, in addition to interest, attorneys’ fees,  
13 and costs to the extent permitted by law, including under Code of Civil Procedure section 1021.5.

14 **FIFTH CAUSE OF ACTION**

15 **UNTIMELY PAYMENT OF WAGES**

16 **Labor Code §§ 204, 204b and 210**

17 62. Plaintiff incorporates all outside paragraphs of this Complaint as if set forth herein.

18 63. Defendants willfully failed in their affirmative obligation to timely pay all wages and  
19 premiums earned by Plaintiff and Class Members twice during each calendar month on days  
20 designated in advance by the employer as regular paydays (for employees paid on a non-weekly  
21 basis) and on the regularly-scheduled weekly payday weekly employees, if any, in violation of  
22 Labor Code sections 204 and 204b and the IWC Wage Orders (the “Minimum Wages” sections of  
23 the applicable orders).

24 64. Defendants’ unlawful acts and omissions deprived Plaintiff and the Class of timely  
25 wages in amounts to be determined at trial. Plaintiff and the Class are entitled to recover to the full  
26 amount of the unpaid wages, in addition to a statutory penalty in the amount of \$100 for the initial  
27 violation for each failure to pay each employee and \$200 for all subsequent violations and for all  
28 willful or intentional violations for each failure to pay each employee, plus 25 percent of the

1 amount unlawfully withheld under provided in Labor Code section 210, in addition to interest,  
2 attorneys' fees, and costs to the extent permitted by law.

3 **SIXTH CAUSE OF ACTION**

4 **WAGE STATEMENT VIOLATIONS**

5 **Labor Code § 226**

6 65. Plaintiff incorporates all outside paragraphs of this Complaint as if set forth herein.

7 66. Defendants knowingly and intentionally failed in their affirmative obligation provide  
8 accurate itemized wage statements to Plaintiff and Class Members in violation of Labor Code  
9 section 226(a).

10 67. As an initial matter, on information and belief, Plaintiff alleges that Defendants  
11 maintained a policy and practice of non-compliance with Labor Code section 226(a)'s statutory  
12 mandate by failing to issue or make available wage statements to Class Members each pay period  
13 that list any of the information required by Labor Code section 226.

14 68. Moreover, based on the wage statements issued by Defendants, Plaintiff alleges that  
15 these wage statements fail to correctly list (1) gross wages earned each pay period, (2) total hours  
16 actually worked each pay period, (5) net wages earned, (9) all hourly rates in effect and the total  
17 number of hours worked each pay period.

18 69. Defendants' unlawful acts and omissions deprived Plaintiff and the Class of accurate  
19 itemized wage statements, causing confusion and concealing wage and premium underpayments/  
20 As a result, Plaintiff and the Class are entitled to recover the statutory penalty of \$50 per employee  
21 for the initial pay period in which a violation occurred and \$100 per employee for each violation in  
22 a subsequent pay period, up to an aggregate penalty of \$4,000 per employee, in addition to interest,  
23 attorneys' fees, and costs to the extent permitted by law, including under Labor Code section  
24 226(e).

25 **SEVENTH CAUSE OF ACTION**

26 **WAITING TIME PENALTIES**

27 **Violation of Labor Code §§ 201 through 203**

28 70. Plaintiff incorporates all outside paragraphs of this Complaint as if set forth herein.

1 71. Defendants willfully failed in their affirmative obligation to pay all wages earned  
2 and unpaid to Plaintiff and members of the Waiting Time Subclass immediately upon termination  
3 of employment or within 72 hours thereafter for employees who did not provide at least 72 hours  
4 prior notice of his or her intention to quit, and further failed to pay those sums for 30 days thereafter  
5 in violation of Labor Code sections 201 through 203 and the IWC Wage Orders.

6 72. Defendants' unlawful acts and omissions deprived Plaintiff and the Class of timely  
7 wages upon separation of employment in amounts to be determined at trial. Plaintiff and the Class  
8 are entitled to recover to the wages of Plaintiff and members of the Waiting Time Subclass as a  
9 waiting time penalty for a period of up to 30 days, in addition to interest, attorneys' fees, and costs  
10 to the extent permitted by law.

11 **NINTH CAUSE OF ACTION**

12 **VIOLATIONS OF THE UNFAIR COMPETITION LAW**

13 **Business and Professions Code §§ 17200, *et seq.***

14 73. Plaintiff incorporates all outside paragraphs of this Complaint as if set forth herein.

15 74. Defendants willfully failed in their affirmative obligation to timely pay each payday  
16 or at other required intervals all minimum, regular, and overtime wages, meal and rest period  
17 premium wages, and reimbursements to Plaintiff and Class Members. These failures constitute  
18 unlawful, deceptive, and unfair business acts and practices in violation of Business and Professions  
19 Code section 17200, *et seq.*

20 75. Because Plaintiff is a victim of Defendants' unfair and unlawful conduct, as alleged  
21 throughout this Complaint, Plaintiff, as an individual and on behalf of the Class seeks restitution of  
22 all monies and property withheld, acquired, or converted by Defendants in violation of the Labor  
23 Code and IWC Wage Orders under Business and Professions Code section 17202, 17203, 17204  
24 and 17208.

25 76. Defendants' unlawful acts and omissions deprived Plaintiff and Class Members of  
26 monies and property in amounts to be determined at trial. Plaintiff and the Class are entitled to  
27 injunctive relief against Defendants, restitution, and other equitable relief to return all funds over  
28 which Plaintiff and the Class have an ownership interest and to prevent future damage under

1 Business and Professions Code section 17200, *et seq.* in addition to interest, attorneys' fees, and  
2 costs to the extent permitted by law, including under Code of Civil Procedure section 1021.5.

3 **PRAYER FOR RELIEF**

4 Plaintiff prays for judgment as follows:

- 5 a. For certification of this action as a class action;
- 6 b. For appointment of Plaintiff as the representative of the Class;
- 7 c. For appointment of counsel for Plaintiff as Class Counsel;
- 8 d. For injunctive relief;
- 9 e. For compensatory damages in amount according to proof;
- 10 f. For all recoverable pre- and post-judgment interest;
- 11 g. For recovery of all statutory penalties and liquidated damages;
- 12 h. For disgorgement of all amounts wrongfully obtained;
- 13 i. For reasonable attorneys' fees and costs of suit, including expert fees, to the extent  
14 permitted by law, including under California Labor Code sections 218.5, 226, 1194,  
15 1198.5, 2802, and Code of Civil Procedure section 1021.5;
- 16 j. For such other relief the Court deems just and proper.

17 Dated: March 25, 2022

Ferraro Vega Employment Lawyers, Inc.

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Nicholas J. Ferraro  
21 Attorney for Plaintiff Brook Freeze