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David W. Slayton,  
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6 Attorneys for Plaintiffs  
7

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **FOR THE COUNTY OF LOS ANGELES**

10 MICHAEL ARSENEAU; THOMAS  
PAPASMYRUS; SAMUEL FELICIANO; as  
11 individuals,

12 PLAINTIFFS,

13 v.

14 KUSH ALLEY INC., A CALIFORNIA  
CORPORATION; MVN PRODUCTIONS,  
15 LLC; and DOES 1 thru 50, inclusive,

16 DEFENDANTS.  
17  
18  
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CASE NO. 23STCV11977

**COMPLAINT FOR DAMAGES**

1. Strict Liability
2. Willful Misconduct
3. Fraudulent Concealment
4. Retaliation in Violation of Labor Code §§ 6310 and 6311
5. Retaliation in Violation of Labor Code § 1102.5
6. Wrongful Constructive Termination in Violation of Public Policy
7. Failure to Pay Wages and/or Overtime Under Labor Code §§ 510, 1194, and 1199
8. Violation of Labor Code § 226(a)
9. Failure to Reimburse Expenses Pursuant to Labor Code § 2802
10. Penalties Pursuant to Labor Code § 203
11. Violation of Business & Professions Code § 17200
12. Failure to Provide Meal Breaks Pursuant to Labor Code §§ 226.7 and 512
13. Failure to Provide Rest Breaks Pursuant to Labor Code §§ 226.7
14. Assault

1 Plaintiffs MICHAEL ARSENEAU (“Arseneau”); THOMAS PAPASMYRUS  
2 (“Papasmirus”); and SAMUEL FELICIANO (“Feliciano”), on behalf of themselves individually,  
3 complains of Defendants KUSH ALLEY INC. A CALIFORNIA CORPORATION (“Kush  
4 Alley”); MVN PRODUCTIONS, LLC (“MVN”), and DOES 1 thru 50, inclusive, (“Defendants”)  
5 and each of them, as follows:

6 **I.**

7 **JURISDICTION AND VENUE**

8 1. This Court has subject matter jurisdiction over all causes of action asserted herein  
9 pursuant to Article VI, § 10 of the California Constitution and California Code of Civil Procedure  
10 § 410.10 by virtue of the fact that this is a civil action in which the matter in controversy, exclusive  
11 of interest, exceeds \$25,000, and because each cause of action asserted arises under the laws of the  
12 State of California or is subject to adjudication in the courts of the State of California.

13 2. This Court has personal jurisdiction over Defendants because Defendants have  
14 caused injuries in the County of Los Angeles and the State of California through their acts, and by  
15 their violation of the California Labor Code, California state common law, and California Business  
16 & Professions Code § 17200, *et seq.*

17 3. Venue as to each Defendant is proper in this judicial district, pursuant to Code of  
18 Civil Procedure § 395. Defendant operates within California and does business within Los  
19 Angeles County. The unlawful acts alleged herein have a direct effect on Plaintiffs within the  
20 State of California and the county of Los Angeles.

21 **II.**

22 **PARTIES**

23 **A. PLAINTIFFS**

24 4. At all times set forth herein, Plaintiff MICHAEL ARSENEAU was a resident of  
25 California.

26 5. At all times set forth herein, Plaintiff THOMAS PAPASMYRUS was a resident of  
27 California.

28 6. At all times set forth herein, Plaintiff SAMUEL FELICIANO was a resident of

1 California.

2 7. Upon information and belief, Plaintiffs are covered by California Industrial Welfare  
3 Commission Occupational Wage Order No. 4-2001 (Title 8 Cal. Code of Regs. § 11040).

4 **B. DEFENDANTS**

5 8. Defendant KUSH ALLEY, INC., A CALIFORNIA CORPORATION, is believed  
6 to be a California corporation operating within the State of California. Defendant's corporate  
7 address is believed to be 16733 SCHOENBORN ST., NORTH HILLS, CA 91343. Upon  
8 information and belief, Defendant employed Plaintiffs as non-exempt hourly employees within  
9 California. Defendant has done and does business throughout the State of California.

10 9. Defendant MVN PRODUCTIONS, LLC is believed to be a California corporation  
11 operating within the State of California. Defendant's corporate address is believed to be 13540  
12 DESMOND ST., PACOIMA, CA 91331. Upon information and belief, Defendant employed  
13 Plaintiffs as non-exempt hourly employees within California. Defendant has done and does  
14 business throughout the State of California.

15 10. The true names and capacities, whether individual, corporate, associate, or  
16 otherwise, of Defendants sued herein as DOES 1 to 50, inclusive, are currently unknown to  
17 Plaintiffs, who therefore sues Defendants by such fictitious names under Code of Civil Procedure  
18 § 474. Plaintiffs are informed and believe, and based thereon alleges, that each of the Defendants  
19 designated herein as a DOE is legally responsible in some manner for the unlawful acts referred  
20 to herein. Plaintiffs will seek leave of court to amend this Complaint to reflect the true names and  
21 capacities of the Defendants designated hereinafter as DOES when such identities become known.

22 11. Plaintiffs are informed and believe, and based thereon alleges, that each of the  
23 fictitiously named Defendants is responsible in some manner for, and proximately caused, the  
24 harm and damages alleged herein below.

25 12. Plaintiffs are informed and believe, and based thereon alleges, that each of the  
26 Defendants named herein acted as the employee, agent, spouse, partner, alter-ego, joint-venturer,  
27 and/or joint-employer of each of the other Defendant named herein and, in doing the acts and in  
28 carrying out the wrongful conduct alleged herein, each of the Defendants acted within the scope

1 of their relationship with and with the permission, consent, and ratification of each of the other  
2 Defendants named herein. Furthermore, Defendants acted in all respects as the employers or joint  
3 employers. Defendants, and each of them, exercised control over the wages, hours or working  
4 conditions of Plaintiffs, or suffered or permitted Plaintiffs, or engaged, thereby creating a common  
5 law employment relationship, with Plaintiffs. Therefore, Defendants, and each of them, employed  
6 or jointly employed Plaintiffs.

7 13. Plaintiffs are informed and believe, and based thereon alleges, that each Defendant  
8 acted in all respects pertinent to this action as the agent of the other Defendants, carried out a joint  
9 scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendant are  
10 legally attributable to the other Defendants. Furthermore, Defendants in all respects acted as the  
11 employer and/or joint employer of Plaintiffs.

12 **III.**

13 **FACTUAL BACKGROUND**

14 14. Any limitations period referenced in this complaint is extended pursuant to  
15 Emergency Rule 9 (a) of the “Emergency Rules Related to COVID-19,” Appendix I to the  
16 California Rules of Court, adopted effective April 6, 2020, which provides that the statutes of  
17 limitation that exceed 180 days for civil actions are tolled from April 6, 2020 until October 1, 2020  
18 [“Notwithstanding any other law, the statutes of limitations and repose for civil causes of action  
19 that exceed 180 days are tolled from April 6, 2020 until October 1, 2020.”] Any reference to the  
20 relevant time period or statute of limitations referenced in this complaint is extended into the past  
21 by the number of days in which this tolling was in effect.

22 16. Defendants are cannabis companies that cultivate distribute and sell cannabis.

23 17. Plaintiffs worked for Defendants in the cultivation of cannabis.

24 18. At all relevant times, Plaintiffs were non-exempt employees.

25 19. Defendants subjected Plaintiffs to an unsafe workplace.

26 20. Defendants regularly required Plaintiffs to use and work with various dangerous  
27 and illegal chemicals during their employment.

28 21. Defendants required Plaintiffs to use and work with various dangerous and illegal

1 chemicals without providing required training and without providing proper and adequate personal  
2 protective equipment (“PPE”).

3 22. Defendants failed to provide Plaintiffs with adequate training on working with and  
4 using chemicals and pesticides and the effects of such chemicals on Plaintiffs’ health.

5 23. Defendants failed to provide Plaintiffs with proper gloves for chemical use and  
6 failed to require a medical evaluation and fit testing for respirators Defendants provided.  
7 Defendants provided expired PPE and used respirators and failed to provide an adequate amount  
8 of PPE during Plaintiffs’ employment.

9 24. Defendants also failed to inform Plaintiffs of the importance of wearing such  
10 protective gear when working with or around dangerous chemicals.

11 25. Defendants failed to ensure employees handling the chemicals as pesticides were  
12 required to be handled by properly licensed Integrated Pest Management licensees under licenses  
13 with the State of California, Department of Agriculture.

14 26. Defendants fraudulently concealed from employees the fact that the chemicals were  
15 harmful, hazardous, toxic, and/or dangerous.

16 27. Defendants fraudulently concealed from Plaintiffs that they were spraying  
17 chemicals or pesticides that were illegal to be spraying on cannabis plants.

18 28. The chemicals Defendants provided and chose to use included those not ever  
19 approved for use in the cultivation of Cannabis and were banned by the State of California and  
20 United States Department of Agriculture for such use.

21 29. Defendants knew it was illegal to use certain chemicals and required Plaintiffs,  
22 including those unlicensed, to use such chemicals in the workplace as pesticides.

23 30. Defendants required Plaintiffs to burn Sulfur, despite Defendants having known or  
24 should have known that the use of sulfur burning for pest control in enclosed spaces is not a  
25 permissible application method of products containing sulfur. The California Department of  
26 Pesticide Regulation has acknowledged sulfur burning to be illegal and hazardous to workers.

27 31. Despite EPA guidelines forbidding the use of sulfur and banning it inside within 24  
28 hours of use, Plaintiffs were exposed to indoor working conditions within hours of it being used

1 and without proper and adequate PPE.

2 32. Defendants then used sulfur to implement an illegal and dangerous spray alternative  
3 to circumvent the order from the Dept of Agriculture by using Microthiol disperss.

4 33. The chemical use, application, and exposure, and dangerous acts upon these  
5 employees, including Plaintiffs, occurred under the direct authority, supervision, knowledge and  
6 control of officers, directors, owners, and management of Defendants Kush Alley and MVN.

7 34. Defendants also required Plaintiffs to spray hazardous, dangerous, and/or harmful  
8 chemicals or pesticides including Actinovate, Botanigard 22 WP, Botanigard Maxx, Suffoil,  
9 Pyganic, sulfur, and Microthiol disperss.

10 35. Defendants' requirement that Plaintiffs spray such chemicals, Defendants' failure  
11 to provide proper and adequate PPE and proper equipment, and the concealment of the dangers of  
12 chemical use resulted in Plaintiffs suffering injuries.

13 36. Plaintiff Papasmyrus suffered injuries including recurring health issues with his  
14 lungs, eyes, heart, circulation, and stomach. Plaintiff Papasmyrus has suffered, and continues to  
15 suffer, serious eye infections from his exposure to the hazardous and/or illegal chemicals  
16 Defendants required him to use and exposed him to in the workplace.

17 37. Plaintiff Feliciano suffered injuries including coughing, diarrhea, disorientation,  
18 and nausea.

19 38. Defendants knew of the hazardous nature of the chemicals and pesticides they  
20 applied in the cultivation of its cannabis plants.

21 39. Defendants concealed the true nature of the sulfur application from the California  
22 Department of Agriculture and/or the Los Angeles County Agriculture Commission.

23 40. Defendants concealed the true nature of the sulfur application from employees.

24 41. At all relevant times, the aforesaid hazardous pesticides and chemicals were being  
25 employed in the manner and for the purposes for which they were intended. The exposure of  
26 Plaintiffs to the aforesaid chemicals and pesticides was substantially certain to result in injury and  
27 should have been anticipated by Defendants.

28 42. Plaintiffs' injuries could have been avoided if not for Defendants' unlawful

1 conduct.

2 43. Defendants failed to have, or implement, an injury and illness prevention program  
3 pursuant to Title 8 section 3203.

4 44. During their employment, Plaintiffs opposed Defendants' unsafe working  
5 conditions.

6 45. Plaintiffs opposed the lack of proper training.

7 46. Plaintiffs also opposed Defendants' use of chemicals after learning that they were  
8 not supposed to be used and/or experiencing their injurious effects.

9 47. Plaintiffs also opposed the burning of sulfur.

10 48. Plaintiff Arseneau repeatedly complained to management that they were not  
11 supposed to be burning sulfur.

12 49. Plaintiff Arseneau also repeatedly complained to management that it was unsafe to  
13 have employees work on treated cannabis plants before the 24-hour reentry interval was over.

14 50. Plaintiff Papasmyrus also repeatedly complained about chemical/pesticide use he  
15 reasonably believed to be unlawful.

16 51. Plaintiff Feliciano also repeatedly complained about chemical/pesticide use he  
17 reasonably believed to be unlawful.

18 52. Plaintiff Papasmyrus refused to continue spraying the chemicals he reasonably  
19 believed to be unlawful.

20 53. Defendants constructively terminated Plaintiffs. Defendants' unsafe and unlawful  
21 working conditions left Plaintiffs no choice but to resign from the intolerable conditions.

22 54. Plaintiff Arseneau was assaulted by Defendants' director, Charles, over a situation  
23 regarding an inspection and alleged violations uncovered by an investigator with the County of  
24 Los Angeles Agricultural Commissioner, Department of Weights and Measures.

25 55. In response to Defendants having problems with powdery mildew, Defendants  
26 instructed employees, including Plaintiffs, to spray sulfur.

27 56. Defendants required Plaintiff Arseneau to submit false statements to the LA County  
28 Agricultural Commissioner on a regular basis.

1           57. Defendants instructed Plaintiff Feliciano to hide pesticides from an Agricultural  
2 Commissioner inspector at Defendant MVN.

3           58. During an inspection, the Agricultural Commissioner inspector discovered that  
4 Defendants were providing respirators without requiring employees to have a medical evaluation  
5 and fit test. Defendants had required employees to lie to the Agricultural Commissioner that they  
6 were bringing their own masks, which would have exempted them from this rule requiring a  
7 medical evaluation and fit test. The Agricultural Commissioner fined Defendant MVN.

8           59. The next day, Defendants' engineer and director, Charles, sarcastically tells  
9 Plaintiff Arseneau "Good job on getting your team prepared to lie to the inspector." Plaintiff  
10 Arseneau complained to the cultivation manager, Aaron Betesh, about this.

11           60. Shortly thereafter, approximately January 21, 2022, Charles further pressured  
12 Plaintiff Arseneau to "cover up the violations" that had transpired as a result of the inspection.  
13 Charles also instructed Plaintiff Arseneau to not speak to employees.

14           61. On approximately January 25, 2022 Charles assaulted Plaintiff Arseneau by further  
15 placing pressure on him to comply and "mind his own business." Charles intentionally reached out  
16 aggressively to tell Plaintiff Arseneau to go back to work. Plaintiff Arseneau reasonably believed  
17 that he was about to be touched in a harmful or an offensive manner.

18           62. In a second altercation that day, Charles again assaulted Plaintiff Arseneau and  
19 pressured him to stay quiet about violations, saying he talks too much. When Plaintiff Arseneau  
20 was discussing a lab report with Mr. Betesh, Charles reiterated Plaintiff Arseneau needs to keep  
21 his mouth shut.

22           63. Plaintiff Arseneau reported these events to HR and management.

23           64. Plaintiff's reports and request for a mental health day were ignored repeatedly.

24           65. Defendants required Plaintiff Arseneau to sign paperwork from the LA County  
25 Agricultural Commissioner that would allow Defendants to receive their license. Plaintiff  
26 Arseneau refused to sign the documents he reasonably believed to contain false information.

27           66. Plaintiff Arseneau refused to participate in unlawful activity.

28           67. Defendants terminated, or constructively terminated, Plaintiff Arseneau, by



1 instructing him to resign and not return to work.

2 68. As non-exempt employees, Plaintiffs were entitled to one and one-half times their  
3 regular rate of pay for all hours worked over eight (8) hours and up to twelve hours per day and  
4 over 40 hours per week, and twice their regular rate for work over twelve (12) hours per day. From  
5 at least four (4) years prior to the filing of this action and continuing to the time of termination,  
6 Defendants consistently failed to pay Plaintiffs at the proper overtime rate when they worked more  
7 than eight (8) hours in a workday or in excess of 40 hours in any one workweek, or at the double-  
8 time rate when they worked more than twelve (12) hours in a workday.

9 69. Defendants failed to pay proper overtime pay when Plaintiffs worked at two of  
10 Defendants' locations in one day or one workweek, despite working over eight or twelve hours in  
11 one shift across two locations or working over 40 hours in any one workweek across two locations.

12 70. For at least four (4) years prior to the filing of this action to the time of termination,  
13 Plaintiffs have been required to work on a regular and consistent basis without being provided  
14 compliant meal breaks. Defendants frequently required Plaintiffs to work without being provided  
15 a thirty (30) minute uninterrupted meal break and failed to compensate Plaintiffs one (1) hour of  
16 pay at their regular rate of compensation for each workday that a thirty (30) minute meal period  
17 was not provided, was interrupted, or provided after five (5) hours, all in violation of California  
18 labor laws, regulations, and Industrial Welfare Commission Wage Orders. Specifically,  
19 Defendants failed to provide proper meal breaks when Plaintiffs worked for Defendants at two  
20 locations in one shift.

21 71. For at least four (4) years prior to the filing of this action to the time of termination,  
22 Plaintiffs have been required to work on a regular and consistent basis without being provided  
23 compliant rest breaks. Defendants have consistently failed to provide Plaintiffs with paid rest  
24 periods of at least ten (10) minutes per four (4) hours worked or major fraction thereof and failed  
25 to pay one (1) hour of pay at the employee's regular rate of compensation for each workday that  
26 the rest period was not provided, as required by California state wage and hour law. Specifically,  
27 Defendants failed to provide proper rest breaks when Plaintiffs worked for Defendants at two  
28 locations in one shift.

1 72. For at least four (4) years prior to the filing of this action and continuing to the time  
2 of termination, Defendants failed to reimburse Plaintiffs the cost of using their personal cell phone  
3 for business related purposes.

4 73. For at least one (1) year prior to the filing of this action and continuing to the  
5 present, Defendants failed to comply with IWC Wage Order 4-2001 and Labor Code § 226(a) by  
6 failing to issue Plaintiffs wage statements that accurately state gross wages earned, total hours  
7 worked, and applicable hourly rates in effect during the pay period and the corresponding number  
8 of hours worked at each hourly rate by the employee. (Labor Code §§226(a)(1),(2), and (9).)  
9 Further, Defendants issued itemized wage statements that do not accurately include meal and rest  
10 period premiums as a result of the claims alleged herein.

11 74. Defendants willfully failed to pay all wages due to Plaintiffs at the time of  
12 termination. This failure was willful, without legal justification, and interfered with Plaintiffs'  
13 rights.

14 75. Defendants' conduct has caused Plaintiffs financial and emotional harm.

15 76. Plaintiffs bring this action pursuant to Labor Code §§ 201, 202, 203, 226(a), 226.7,  
16 510, 512, 1102.5, 1194, 1194.2, 1199, 2802, 6310, 6311; Wage Order 4-2001, California Code of  
17 Regulations, Title 8, Section 11040, seeking unpaid wages, reimbursement of expenses, and other  
18 penalties, injunctive and other equitable relief, and reasonable attorneys' fees and costs.

19 77. Plaintiffs, on behalf of themselves, pursuant to Business & Professions Code §§  
20 17200-17208, also seek injunctive relief, restitution, and disgorgement of all benefits Defendants  
21 enjoyed from its unlawful conduct as described herein.

#### 22 IV.

#### 23 FIRST CAUSE OF ACTION

#### 24 STRICT LIABILITY

#### 25 (ALL PLAINTIFFS AGAINST ALL DEFENDANTS)

26 78. Plaintiffs reallege and incorporate by reference all previous paragraphs.

27 79. Plaintiffs were exposed to chemicals, including Actinovate, Botanigard 22 WP,  
28 Botanigard Maxx, Suffoil, Pyganic, sulfur, and Microthiol disperss, which were and are hazardous,

1 toxic, unsafe, and/or unreasonably dangerous.

2 80. Additionally, Plaintiffs were required to burn sulfur, which is unlawful, hazardous,  
3 unsafe, and unreasonably dangerous.

4 81. Defendants required Plaintiffs to use these chemicals regularly without adequate  
5 PPE and without proper training.

6 82. Additionally, Defendants failed to inform Plaintiffs of when chemicals were  
7 sprayed and failed to enforce reentry intervals after certain chemicals were used.

8 83. Defendants knew of the unsafe conditions at work caused by the regular use of the  
9 chemicals and the burning of sulfur that employees, including Plaintiffs, were exposed to and that  
10 said exposure would create a high risk of harm to Plaintiffs.

11 84. Defendants breached their duty to Plaintiffs by carrying out an ultrahazardous  
12 activity and are subject to strict liability for harm resulting from the activity.

13 85. Some, or all, of the hazardous substances used by Defendants were prohibited by  
14 law to be used as pesticides in the cultivation of cannabis.

15 86. Defendants failed to inform Plaintiffs of these risks and unknowing Plaintiffs  
16 exposed to these hazardous chemicals could not have eliminated the risk through the use of  
17 reasonable care.

18 87. Plaintiffs were exposed to the hazardous chemicals and pesticides in a manner  
19 reasonably anticipated.

20 88. Plaintiffs sustained their aforementioned injuries and damages as a direct result of  
21 Defendants' requiring Plaintiffs to spray and be exposed to hazardous chemicals.

22 89. As a direct result of Defendants' aforesaid breaches, Plaintiffs were severely  
23 injured, and sustained physical, psychological, and emotional injury and distress, all to their  
24 general damage in an amount subject to proof at trial.

25 90. As a further direct result of Defendants' breaches, Plaintiffs have incurred and will  
26 incur in the future medical and related expenses in an amount to be determined at trial.

27 91. The conduct described herein by Defendants was and is willful, malicious,  
28 outrageous, and in conscious disregard and indifference to the safety and health of their employees,

1 including Plaintiffs, and were done by managerial agents and employees of Defendant, or with the  
2 express knowledge, consent, and ratification of managerial employees of Defendant, and thereby  
3 justify the awarding of punitive and exemplary damages in an amount to be determined at the time  
4 of trial.

5 **V.**

6 **SECOND CAUSE OF ACTION**

7 **WILLFUL MISCONDUCT**

8 **(ALL PLAINTIFFS AGAINST ALL DEFENDANTS)**

9 92. Plaintiffs reallege and incorporate by reference all previous paragraphs.

10 93. Defendants intentionally exposed their workers, including Plaintiffs, to working  
11 conditions that were unsafe by requiring Plaintiffs to work without proper training and without  
12 adequate PPE while being exposed to chemicals and pesticides which were hazardous, toxic,  
13 unsafe, and/or unreasonably dangerous. Defendants had knowledge that serious injury would  
14 probably result, or acted with a reckless disregard for their safety.

15 94. Defendants intentionally failed to use proper measures to prevent their employees,  
16 including Plaintiffs, from being exposed to harmful pesticides, with knowledge that serious injury  
17 would probably result, or with a reckless disregard for their safety.

18 95. Defendants intentionally failed and refused to warn or advise their employees,  
19 including Plaintiffs, of the dangerous characteristics of the chemicals and pesticides and of the  
20 health threats or adverse consequences to those who might use or be exposed to these pesticides,  
21 with knowledge that serious injury would probably result, or with a reckless disregard for their  
22 safety.

23 96. Defendants intentionally failed to investigate, determine, impose, or comply with  
24 reasonable standards and regulations to protect and promote health and safety, or to minimize the  
25 dangers to those using or who would foreseeably use or be harmed by the aforesaid chemicals or  
26 substances, including Plaintiffs, with knowledge that serious injury would probably result, or with  
27 a reckless disregard for their safety.

28 97. Defendants intentionally made express and implied warranties and representations,

1 incorrectly and untruthfully, that the aforesaid pesticides were safe and suitable for use, with  
2 knowledge that serious injury would probably result, or with a reckless disregard for the safety of  
3 their employees, including Plaintiffs.

4 98. Defendants concealed the true nature of the sulfur application from the California  
5 Department of Agriculture and/or the Los Angeles County Agriculture Commission.

6 99. Defendants intentionally ignored and concealed their knowledge of the health  
7 hazards of the aforementioned chemicals and pesticides from Plaintiffs, with knowledge that  
8 serious injury would probably result, or with a reckless disregard for their safety.

9 100. Defendants had actual knowledge of the probable danger, harm, and/or  
10 consequences that their aforesaid wrongful acts would cause to Plaintiffs, and in spite of such  
11 actual knowledge, consciously failed to act in order to avoid the probable danger, harm, and/or  
12 consequences.

13 101. Defendants, by their willful, wanton, and intentional misconduct, exercised a total,  
14 conscious, and/or reckless disregard for the life, well-being, and safety of Plaintiffs.

15 102. As a direct result of Defendants' aforesaid breaches, Plaintiffs were severely  
16 injured, and sustained physical, psychological, and emotional injury and distress, all to their  
17 general damage in an amount subject to proof at trial.

18 103. As a further direct result of Defendants' breaches, Plaintiffs have incurred and will  
19 incur in the future medical and related expenses in an amount to be determined at trial.

20 104. The conduct described herein by Defendants was and is willful, malicious,  
21 outrageous, and in conscious disregard and indifference to the safety and health of their employees,  
22 including Plaintiffs, and were done by managerial agents and employees of Defendants, or with  
23 the express knowledge, consent, and ratification of managerial employees of Defendants, and  
24 thereby justify the awarding of punitive and exemplary damages in an amount to be determined at  
25 the time of trial.

26 **VI.**

27 **THIRD CAUSE OF ACTION**

28 **FRAUDULENT CONCEALMENT**

**(ALL PLAINTIFFS AGAINST ALL DEFENDANTS)**

105. Plaintiffs reallege and incorporate by reference all previous paragraphs.

106. Under Labor Code § 3602(b)(2) employees' work-related injuries fall outside of the Worker Compensation Exclusivity Act if those injuries are aggravated by the employer's fraudulent concealment.

107. Defendants required Plaintiffs to work with hazardous, toxic, unsafe, and/or unreasonably dangerous chemicals, thus exposing Plaintiffs to such chemicals.

108. Defendants knew of hazardous, toxic, unsafe, and/or unreasonably dangerous nature of the chemicals.

109. Defendants concealed the true nature of the sulfur application and other chemical use from the California Department of Agriculture and/or the Los Angeles County Agriculture Commission.

110. Defendants knew of the unsafe workplace, including that Plaintiffs were using dangerous chemicals without proper training and adequate PPE. Defendants knew of the hazardous effects of sulfur burning. Defendants fraudulently concealed the harmful effects of the chemicals, the illegality of certain chemical use as pesticides, and the illegality of sulfur burning for pesticide use from employees.

111. Defendants knowingly and deliberately did not inform Plaintiffs of the danger of working with the hazardous, toxic, unsafe, and/or unreasonably dangerous chemicals.

112. The chemical exposure was a substantial factor in bringing about, prolonging, and/or aggravating Plaintiffs' injuries alleged above.

113. Plaintiffs' injuries were caused by, aggravated, or made worse as a result of such fraudulent concealment.

114. As a direct and proximate cause of Defendants' fraudulent concealment of the toxic hazards of their chemicals, Plaintiffs were injured and continue to suffer injuries.

115. Defendants are liable for their compensatory and general damages under California law.

116. Defendants' conduct in exposing Plaintiffs to said hazardous, toxic, unsafe, and/or

1 unreasonably dangerous chemicals without adequate warnings of their hazards and without  
2 adequate instructions for safe handling and use was despicable, malicious, oppressive, and  
3 perpetrated in conscious disregard of the rights and safety of Plaintiffs, and were done by  
4 managerial agents and employees of Defendants, or with the express knowledge, consent, and  
5 ratification of managerial employees of Defendants, and thereby justify the awarding of punitive  
6 and exemplary damages in an amount to be determined at the time of trial.

7 **VII.**

8 **FOURTH CAUSE OF ACTION**

9 **RETALIATION IN VIOLATION OF LABOR CODE §§ 6310 AND 6311**

10 **(ALL PLAINTIFFS AGAINST ALL DEFENDANTS)**

11 117. Plaintiffs reallege and incorporate by reference all previous paragraphs.

12 118. Labor Code § 6310 provides, in pertinent part, as follows:

13 (a) No person shall discharge or in any manner discriminate against  
14 any employee because the employee has...(1) Made any oral or  
15 written complaint to...governmental agencies having statutory  
16 responsibility for or assisting the division with reference to  
employee safety or health [or] their employer...; (4) reported a  
work-related fatality, injury, or illness...

17 (b) Any employee who is discharged, threatened with discharge,  
18 demoted, suspended, or in any other manner discriminated against  
19 in the terms and conditions of employment by their employer  
20 because the employee has made a bona fide oral or written complaint  
21 to... governmental agencies having statutory responsibility for or  
22 assisting the division with reference to employee safety or health  
23 [or] their employer... of unsafe working conditions, or work  
24 practices, in their employment or place of employment...shall be  
entitled to reinstatement and reimbursement for lost wages and work  
benefits caused by the acts of the employer. Any employer who  
willfully refuses to rehire, promote, or otherwise restore an  
employee or former employee who has been determined to be  
eligible for rehiring or promotion by a grievance procedure,  
arbitration, or hearing authorized by law, is guilty of a misdemeanor.

25 119. Labor Code § 6311 provides, in pertinent part, as follows:

26 No employee shall be laid off or discharged for refusing to perform  
27 work in the performance of which this code, including Section 6400,  
28 any occupational safety or health standard, or any safety order of the  
division or standards board will be violated, where the violation

1 would create a real and apparent hazard to the employee or their  
2 fellow employees. Any employee who is laid off or discharged in  
3 violation of this section or is otherwise not paid because the  
4 employee refused to perform work in the performance of which this  
5 code, any occupational safety or health standard, or any safety order  
6 of the division or standards board will be violated and where the  
7 violation would create a real and apparent hazard to the employee  
8 or their fellow employees shall have a right of action for wages for  
9 the time the employee is without work as a result of the layoff or  
10 discharge.

11 120. Defendants violated Labor Code §§ 6310-6311 by constructively terminating  
12 Plaintiffs for complaining about unsafe and unlawful working conditions including Defendants'  
13 use of dangerous chemicals, sulfur burning, and lack of training.

14 121. Defendants retaliated against Plaintiffs for making bona fide complaints to  
15 Defendants regarding the existence of unsafe working conditions and practices as set forth above.

16 122. Pursuant to Labor Code § 6310(b), as a direct and proximate result of the  
17 aforementioned conduct of Defendants, Plaintiffs are entitled to reinstatement and reimbursement  
18 for lost wages and work benefits.

19 123. As a proximate result of the wrongful conduct of Defendants, Plaintiffs have  
20 suffered and continues to sustain substantial losses in earnings and other employment benefits in  
21 an amount according to proof at the time of trial.

22 124. As a proximate result of the wrongful acts of Defendants, Plaintiffs have suffered  
23 and continues to suffer actual, consequential, and incidental financial losses, including without  
24 limitation, loss of salary and benefits, emotional distress, humiliation, mental anguish, anger, and  
25 embarrassment, all in an amount subject to proof at the time of trial.

26 125. The aforementioned acts of Defendants were willful, wanton, malicious,  
27 intentional, oppressive, and despicable, and were done in willful and conscious disregard of the  
28 rights of Plaintiffs, and were done by managerial agents and employees of Defendants, or with the  
express knowledge, consent, and ratification of managerial employees of Defendants, and thereby  
justify the awarding of punitive and exemplary damages in an amount to be determined at the time  
of trial.

## VIII.



1 **FIFTH CAUSE OF ACTION**

2 **RETALIATION IN VIOLATION OF LABOR CODE § 1102.5**

3 **(ALL PLAINTIFFS AGAINST ALL DEFENDANTS)**

4 126. Plaintiffs reallege and incorporate by reference all previous paragraphs.

5 127. Labor Code § 1102.5(a) prohibits an employer, or any person acting on behalf of  
6 the employer, from making, adopting, or enforcing any rule or policy preventing an employee from  
7 disclosing information to a government or law enforcement agency, to a person with authority over  
8 the employee, or to another employee who has authority to investigate, discover, or correct the  
9 violation or noncompliance if the employee has reasonable cause to believe that the information  
10 discloses a violation of state or federal statute, or a violation of or noncompliance with a local,  
11 state, or federal rule or regulation.

12 128. Labor Code § 1102.5(b) prohibits retaliation by an employer, or any person acting  
13 on behalf of the employer, against an employee for disclosing any information to any person with  
14 authority to investigate, or any public body investigating, violation of a state or federal statute or  
15 regulation if the employee has reasonable cause to believe that the information discloses a violation  
16 of state or federal statute, or a violation of or noncompliance with a local, state, or federal rule or  
17 regulation.

18 129. Labor Code § 1102.5(c) prohibits an employer, or any person acting on behalf of  
19 the employer, from retaliating against an employee for refusing to participate in an activity that  
20 would result in a violation of state or federal statute, or a violation of or noncompliance with a  
21 local, state, or federal rule or regulation.

22 130. Defendants violated Labor Code § 1102.5(a) when they instructed Plaintiff  
23 Arseneau to keep quiet and instruct other employees to lie to the government agency inspecting  
24 the workplace.

25 131. Defendants violated Labor Code § 1102.5(b) by retaliating against Plaintiffs for  
26 complaining to Defendants about the unsafe workplace, including working with hazardous  
27 chemicals, burning sulfur, and the lack of training.

28 132. Defendants violated Labor Code § 1102.5(c) by retaliating against Plaintiffs for

1 refusing to participate in activity, including the burning of sulfur and unsafe spraying of chemicals,  
2 that would result in a violation of state and/or federal law.

3 133. Plaintiffs reasonably believed the conduct complained about was unlawful.

4 134. The California Labor Code and CAL OSHA regulate workplace safety, including  
5 the provision of protective equipment, training, and more.

6 135. Labor Code § 6400 requires employers to “furnish employment .... that is safe and  
7 healthful for the employees.” Labor Code § 6402 prohibits “requir[ing]...any employee to go or  
8 be in any employment ... which is not safe or healthful.” LC 6403 requires employers to do things  
9 “reasonably necessary to protect the life, safety, and health of employees.”

10 136. California Business and Professions Code section 2601.5(11)(A) requires  
11 workplace safety training under Cal-OSHA.

12 137. The California Department of Pesticide Regulation has acknowledged sulfur  
13 burning to be illegal and hazardous to workers. California Business and Professions Code section  
14 26060 designates the Department of Pesticide Regulation to develop guidelines for the use of  
15 pesticides in the cultivation of cannabis and prohibits the “use any pesticide that has been banned  
16 for use in the state.”

17 138. In retaliation for Plaintiffs’ protected complaints and repeated pressure to engage  
18 in unlawful activity, Defendants constructively terminated Plaintiffs.

19 139. Plaintiffs’ protected activity was at minimum a contributing factor in Defendants’  
20 termination of Plaintiffs.

21 140. As a direct and proximate cause of Defendants’ violation of Labor Code § 1102.5,  
22 Plaintiffs have suffered damages, including, but not limited to, lost wages and work benefits, in a  
23 sum to be determined at trial.

24 141. As a proximate result of the wrongful acts of Defendants, Plaintiffs have suffered  
25 and continues to suffer actual, consequential, and incidental financial losses, including without  
26 limitation, loss of salary and benefits, emotional distress, humiliation, mental anguish, anger, and  
27 embarrassment, all in an amount subject to proof at the time of trial.

28 142. The aforementioned acts of Defendants were willful, wanton, malicious,

1 intentional, oppressive, and despicable, and were done in willful and conscious disregard of the  
2 rights of Plaintiffs, and were done by managerial agents and employees of Defendants, or with the  
3 express knowledge, consent, and ratification of managerial employees of Defendants, and thereby  
4 justify the awarding of punitive and exemplary damages in an amount to be determined at the time  
5 of trial.

6 **IX.**

7 **SIXTH CAUSE OF ACTION**

8 **WRONGFUL CONSTRUCTIVE TERMINATION IN VIOLATION OF PUBLIC**

9 **POLICY**

10 **(ALL PLAINTIFFS AGAINST ALL DEFENDANTS)**

11 143. Plaintiffs reallege and incorporate by reference all previous paragraphs.

12 144. Jurisdiction is invoked pursuant to the public policy and common law of the State  
13 of California, pursuant to *Tameny v. Atlantic Richfield Company*, 27 Cal. 3d 167 (1980).

14 145. Labor Code § 6400 requires employers to “furnish employment .... that is safe and  
15 healthful for the employees.” Labor Code § 6402 prohibits “requir[ing]...any employee to go or  
16 be in any employment ... which is not safe or healthful.” LC 6403 requires employers to do things  
17 “reasonably necessary to protect the life, safety, and health of employees.” Labor Code §§ 6310-  
18 11 prohibit employers from retaliating against employees for complaining about unsafe working  
19 conditions.

20 146. Labor Code section 1102.5 also prohibits employers from retaliating against  
21 employees for protected disclosures of, or refusal to participate in, activity reasonably believed to  
22 be unlawful.

23 147. California Business & Professions Code § 26030(e), regulating the cannabis  
24 industry, states that “[g]rounds for disciplinary action include, but are not limited to, all of the  
25 following: (e) Knowing violations of any state or local law, ordinance, or regulation conferring  
26 worker protections or legal rights on the employees of a licensee.”

27 148. Defendants intentionally created or knowingly permitted the unsafe working  
28 conditions and required Plaintiffs to engage in unlawful activity.

1 149. Defendants' conditions of employment were so intolerable that a reasonable person  
2 in Plaintiffs' position would have had no reasonable alternative except to forcibly leave this  
3 situation.

4 150. Plaintiffs' constructive termination was wrongful in that it violated the fundamental  
5 public policies of California that prohibit retaliation against employees for making protected  
6 complaints. Defendants constructively terminated Plaintiffs in violation of the aforementioned  
7 public policies under California Labor Code §§ 1102.5, 6400, 6402, 6310, and 6311, and the  
8 California Business & Professions Code.

9 151. As a direct and proximate cause of their wrongful constructive discharge, Plaintiffs  
10 have suffered and will continue to suffer damages in an amount within the jurisdiction of this court,  
11 the exact amount to be proven at trial.

12 152. As a proximate result of the wrongful acts of Defendants, Plaintiffs have suffered  
13 and continues to suffer actual, consequential, and incidental financial losses, including without  
14 limitation, loss of salary and benefits, emotional distress, humiliation, mental anguish, anger, and  
15 embarrassment, all in an amount subject to proof at the time of trial.

16 153. The aforementioned acts of Defendants were willful, wanton, malicious,  
17 intentional, oppressive, and despicable, and were done in willful and conscious disregard of the  
18 rights of Plaintiffs, and were done by managerial agents and employees of Defendants, or with the  
19 express knowledge, consent, and ratification of managerial employees of Defendants, and thereby  
20 justify the awarding of punitive and exemplary damages in an amount to be determined at the time  
21 of trial.

22 **X.**

23 **SEVENTH CAUSE OF ACTION**

24 **FAILURE TO PAY WAGES AND/OR OVERTIME UNDER LABOR CODE §§ 510, 1194,**

25 **AND 1199**

26 **(ALL PLAINTIFFS AGAINST ALL DEFENDANTS)**

27 154. Plaintiffs reallege and incorporate by reference all previous paragraphs.

28 155. Labor Code §§ 510, 1194 and 1199 require an employer to compensate its

1 employees at the rate of no less than one and one-half times the regular rate of pay for any work  
2 in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek  
3 and twice their regular rate for work over twelve (12) hours per day.

4 156. Plaintiffs were forced to work on a regular and consistent basis without receiving  
5 compensation for all hours worked at the proper rate. Specifically, Plaintiffs were not paid at the  
6 proper overtime rate when they were working more than eight (8) hours in one day or forty (40)  
7 hours in one week. Specifically, Defendants failed to pay Plaintiffs all appropriate overtime when  
8 they worked at two locations during the same shift and/or workweek.

9 157. By their policy of requiring Plaintiffs to work in excess of eight (8) hours in a  
10 workday and/or forty (40) hours in a workweek without compensating them at the rate of one-half  
11 (1 ½) their regular rate of pay, Defendants willfully violated the provisions of Labor Code §§ 510,  
12 1194 and 1199.

13 158. As a result of the unlawful acts of Defendants, Plaintiffs have been deprived of  
14 wages and/or overtime in amounts to be determined at trial, and are entitled to recovery of such  
15 amounts, plus interest and penalties thereon, attorneys' fees, and costs.

16 **XI.**

17 **EIGHTH CAUSE OF ACTION**

18 **VIOLATION OF LABOR CODE § 226(A)**

19 **(ALL PLAINTIFFS AGAINST ALL DEFENDANTS)**

20 159. Plaintiffs reallege and incorporate by reference all previous paragraphs.

21 160. Labor Code § 226(a) requires that every employer shall, semimonthly or at the time  
22 of each payment of wages, furnish each of his or her employees an accurate itemized statement in  
23 writing accurately reporting gross wages earned, total hours worked, and all applicable hourly rates  
24 in effect during the pay period and the corresponding number of hours worked at each hourly rate,  
25 among other items. (Labor Code §§ 226(a)(1),(2), and (9).)

26 161. As a result of Defendants' failure to pay wages as described above, Defendants  
27 have failed to accurately report gross wages earned and total hours worked, and have failed to  
28 include the appropriate rates of pay and the accurate hours worked on itemized wage statements

1 for Plaintiffs. (Labor Code §§ 226(a)(1),(2), and (9).) Further, Defendants issued itemized wage  
2 statements that do not accurately include meal and rest period premiums as a result of the claims  
3 alleged herein.

4 162. Defendants' failure to provide accurate itemized wages statements according to  
5 Labor Code § 226(a) was all done on a regular and consistent basis.

6 163. An employee suffering injury as a result of a knowing and intentional failure by an  
7 employer to comply with Labor Code § 226(a) is entitled to recover the greater of all actual  
8 damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred  
9 dollars (\$100) per employee for each violation in a subsequent pay period, not exceeding an  
10 aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and  
11 reasonable attorneys' fees.

12 **XII.**

13 **NINTH CAUSE OF ACTION**

14 **FAILURE TO REIMBURSE EXPENSES PURSUANT TO LABOR CODE § 2802**

15 **(ALL PLAINTIFFS AGAINST ALL DEFENDANTS)**

16 164. Plaintiffs reallege and incorporate by reference all previous paragraphs.

17 165. Labor Code § 2802 requires employers to indemnify employees for all necessary  
18 expenditures incurred by employees in the discharge of their duties.

19 166. Defendants have failed to reimburse Plaintiffs for the cost of using their cellular  
20 telephones for work, which were not provided or paid for by Defendants but were necessary for  
21 the performance of Plaintiffs job duties.

22 167. As a result of the unlawful acts of Defendants, Plaintiffs have been deprived of  
23 reimbursement in the amounts to be determined at trial, and are entitled to recovery of such  
24 amounts, plus interest and penalties thereon, attorneys' fees, and costs.

25 **XIII.**

26 **TENTH CAUSE OF ACTION**

27 **PENALTIES PURSUANT TO LABOR CODE § 203**

28 **(ALL PLAINTIFFS AGAINST ALL DEFENDANTS)**

1 168. Plaintiffs reallege and incorporate by reference all previous paragraphs.

2 169. Plaintiffs are no longer employed by Defendants. They were constructively  
3 terminated from Defendants' employ.

4 170. Defendants' failure to pay wages, as alleged above, was willful in that Defendants  
5 knew wages to be due but failed to pay them, thus entitling Plaintiffs to penalties under Labor  
6 Code § 203, which provides that an employees' wages shall continue as a penalty until paid for a  
7 period of up to thirty (30) days from the time they were due.

8 171. Defendants have failed to pay Plaintiffs a sum certain at the time of termination or  
9 within seventy-two (72) hours of their resignation, and have failed to pay those sums for thirty  
10 (30) days thereafter. Pursuant to the provisions of Labor Code § 203, Plaintiffs are entitled to a  
11 penalty in the amount of Plaintiffs daily wage multiplied by thirty (30) days.

12 **XIV.**

13 **ELEVENTH CAUSE OF ACTION**

14 **VIOLATION OF BUSINESS & PROFESSIONS CODE § 17200**

15 172. Plaintiffs reallege and incorporate by reference all previous paragraphs.

16 173. Plaintiffs bring this claim pursuant to Business & Professions Code § 17200, *et seq.*  
17 The conduct of Defendant as alleged in this Complaint has been and continues to be unfair,  
18 unlawful, and harmful to Plaintiffs and the general public. Plaintiffs seek to enforce important  
19 rights affecting the public interest within the meaning of Code of Civil Procedure § 1021.5.

20 174. Each Plaintiff is a "person" within the meaning of Business & Professions Code  
21 § 17204, and therefore has standing to bring this cause of action for injunctive relief, restitution,  
22 and other appropriate equitable relief.

23 175. Business & Profession Code § 17200, *et seq.* prohibits unlawful and unfair business  
24 practices.

25 176. California's wage and hour laws express fundamental public policies. Providing  
26 employees with proper wages and compensation are fundamental public policies of this State and  
27 of the United States. Labor Code § 90.5(a) articulates the public policies of this State to enforce  
28 vigorously minimum labor standards, to ensure that employees are not required or permitted to

1 work under substandard and unlawful conditions, and to protect law-abiding employers and their  
2 employees from competitors who lower their costs by failing to comply with minimum labor  
3 standards.

4 177. Labor Code § 6400 requires employers to “furnish employment .... that is safe and  
5 healthful for the employees.” Labor Code § 6402 prohibits “requir[ing]...any employee to go or  
6 be in any employment ... which is not safe or healthful.” LC 6403 requires employers to do things  
7 “reasonably necessary to protect the life, safety, and health of employees.” Labor Code §§ 6310-  
8 11 prohibit employers from retaliating against employees for complaining about unsafe working  
9 conditions.

10 178. Labor Code section 1102.5 also prohibits employers from retaliating against  
11 employees for protected disclosures of, or refusal to participate in, activity reasonably believed to  
12 be unlawful.

13 179. Defendants have violated statutes and public policies as alleged herein. Through  
14 the conduct alleged in this Complaint, Defendants have acted contrary to these public policies,  
15 have violated specific provisions of the Labor Code, and have engaged in other unlawful and unfair  
16 business practices in violation of Business & Profession Code § 17200, *et seq.*, depriving Plaintiffs  
17 of rights, benefits, and privileges guaranteed to all employees under law.

18 180. Defendants’ conduct, as alleged hereinabove, constitutes unfair competition in  
19 violation of § 17200, *et seq.* of the Business & Professions Code.

20 181. Defendants, by engaging in the conduct herein alleged, either knew or in the  
21 exercise of reasonable care, should have known that the conduct was unlawful. As such it is a  
22 violation of § 17200, *et seq.* of the Business & Professions Code.

23 182. As a proximate result of the above-mentioned acts of Defendants, Plaintiffs have  
24 been damaged in a sum as may be proven.

25 183. Plaintiff seeks an order of this court awarding restitution, injunctive relief, and all  
26 other legal and equitable relief allowed under Business & Professions Code § 17200 *et seq.*, plus  
27 interest, attorneys’ fees and costs pursuant to, *inter alia*, Code of Civil Procedure § 1021.5.

28 **XV.**



1 **TWELFTH CAUSE OF ACTION**

2 **FAILURE TO PROVIDE MEAL PERIODS PURSUANT TO**

3 **LABOR CODE § 226.7 AND LABOR CODE § 512**

4 **(ALL PLAINTIFFS AGAINST ALL DEFENDANTS)**

5 180. Plaintiffs reallege and incorporate by reference all previous paragraphs.

6 181. Labor Code §§ 226.7 and 512 require an employer to pay an additional hour of  
7 compensation for each meal period the employer fails to provide. Employees are entitled to a first  
8 meal period of at least thirty (30) minutes for shifts over five (5) hours, to be provided within the  
9 first five (5) hours of the shift, and a second meal period of at least thirty (30) minutes for shifts  
10 over ten (10) hours. If an employee is entitled to a second meal period, it must be provided after  
11 no more than ten (10) hours of work. Defendants failed to maintain a policy informing Plaintiffs  
12 of these rights.

13 182. Plaintiffs worked shifts over five (5) hours. Defendants failed to provide Plaintiffs  
14 with proper meal periods of not less than thirty (30) minutes as required by the Labor Code during  
15 the relevant time period.

16 183. Plaintiffs consistently worked shifts over ten (10) hours. Defendant failed to  
17 provide Plaintiffs with second timely meal periods of not less than thirty (30) minutes.

18 184. Specifically, when Plaintiffs worked across two locations in one shift, Defendants  
19 failed to provide proper meal breaks as required by the Labor Code.

20 185. Pursuant to Labor Code § 226.7, Plaintiffs are entitled to damages in an amount  
21 equal to one (1) hour of wages at their regular rate of pay, per workday in which they suffered a  
22 deficient meal break, in a sum to be proven at trial.

23 **XVI.**

24 **THIRTEENTH CAUSE OF ACTION**

25 **FAILURE TO ALLOW REST PERIODS PURSUANT TO**

26 **LABOR CODE § 226.7**

27 **(ALL PLAINTIFFS AGAINST ALL DEFENDANTS)**

28 186. Plaintiffs reallege and incorporate by reference all previous paragraphs.

1 187. Labor Code § 226.7 requires an employer to pay an additional hour (1) of  
2 compensation for each rest period the employer fails to provide. Employees are entitled to a paid  
3 ten (10) minute rest break for every four (4) hours worked (or major fraction thereof). Defendants  
4 failed to maintain a policy informing Plaintiffs of this right.

5 188. Plaintiffs consistently worked shifts with no rest breaks, and Defendants failed to  
6 maintain an accurate policy advising Plaintiffs of these rest breaks and failed to provide Plaintiffs  
7 with rest breaks of not less than ten (10) minutes as required by the Labor Code during the relevant  
8 time period.

9 189. Specifically, Defendants failed to provide proper rest breaks when working more  
10 than four or eight hours in one shift across two locations.

11 190. Pursuant to Labor Code § 226.7, Plaintiff and the Proposed Class are entitled to  
12 damages in an amount equal to one (1) hour of wages at their regular rate of pay, per workday in  
13 which they suffered a deficient rest break, in a sum to be proven at trial.

14 **XVII.**

15 **FOURTEENTH CAUSE OF ACTION**

16 **ASSAULT**

17 **(PLAINTIFF ARSENEAU AGAINST ALL DEFENDANTS)**

18 191. Plaintiffs reallege and incorporate by reference all previous paragraphs.

19 192. At all relevant times herein, Charles, an engineer and director for Defendants, acted,  
20 intending to cause harmful or offensive contacts with Plaintiff Arseneau's body or an imminent  
21 apprehension of such a contact, constituting assault on his person.

22 193. Plaintiff Arseneau reasonably believed he was about to be touched in a harmful or  
23 offensive manner by Charles.

24  
25 194. Plaintiff Arseneau did not consent to Charles' conduct.

26 195. At all times herein, Charles was acting as the agents of Defendants within the course  
27 and scope of their employment. The remaining Defendants confirmed or ratified said conduct with  
28 the knowledge that Plaintiff Arseneau's emotional and physical distress would thereby increase,

1 and with wanton and reckless disregard of the deleterious consequences to Plaintiff.

2 196. Charles' and Defendants' conduct was a substantial factor in causing Plaintiff  
3 Arseneau's harm.

4 197. As a direct, foreseeable and legal result of Defendants' actions, Plaintiff has  
5 suffered and continues to suffer substantial embarrassment, extreme and severe humiliation,  
6 mental anguish, and emotional distress, pain and suffering, all to Plaintiff's damage in an amount  
7 according to proof.

8 198. Defendants committed the acts alleged herein maliciously, fraudulently, and  
9 oppressively with the wrongful intention of injuring Plaintiff Arseneau and in conscious disregard  
10 of Plaintiff's rights and for the deleterious consequences of the Defendants' actions. Defendants,  
11 through their officers, managing agents and/or supervisors, authorized, condoned and ratified the  
12 unlawful conduct of all of the other Defendants named in this action.

13 199. The foregoing conduct of Defendants individually, or by and through their  
14 managing agents, was intended by the Defendants to cause injury to the Plaintiffs or was despicable  
15 conduct carried on by the Defendants with a willful and conscious disregard of the rights of  
16 Plaintiffs or subjected Plaintiffs to cruel and unjust hardship in conscious disregard of Plaintiffs'  
17 rights such as to constitute malice, oppression, or fraud under Civil Code § 3294, thereby entitling  
18 Plaintiffs to punitive damages in an amount appropriate to punish or make an example of  
19 Defendants

20 **RELIEF REQUESTED**

21 **WHEREFORE**, Plaintiffs pray for the following relief against all Defendants:

- 22 1. For general, special, and compensatory damages;
- 23 2. For past and future medical expenses in an amount to be determined or according  
24 to proof at trial;
- 25 3. For general and compensatory damages for mental pain and suffering, according to  
26 proof;
- 27 4. For punitive and exemplary damages in an amount appropriate to punish  
28 Defendants and deter others from engaging in similar misconduct, according to proof;

1           5.       For compensatory damages in the amount of unpaid wages and/or overtime not paid  
2 to Plaintiffs from at least four (4) years prior to the filing of this action to the present as may be  
3 proven;

4           6.       For compensatory damages in the amount of Plaintiffs' regular rate of  
5 compensation for each missed or deficient meal period where no premium pay was paid from four  
6 (4) years prior to the filing of this action to the present, as may be proven;

7           7.       For compensatory damages in the amount of Plaintiffs' regular rate of  
8 compensation for each missed or deficient rest period where no premium pay was paid from four  
9 (4) years prior to the filing of this action to the present, as may be proven;

10          8.       For compensatory damages in the amount of Plaintiffs' hourly wage at their regular  
11 rate of pay for each rest period and/or meal period missed or taken late from at least four (4) years  
12 prior to the filing of this action to the present as may be proven;

13          9.       For compensatory damages in the amount of Plaintiffs unreimbursed out of pocket  
14 expenses as a requirement of employment;

15          10.      For penalties pursuant to Labor Code § 226(e) for violation of Labor Code § 226(a)  
16 in the amount of fifty dollars (\$50) for the initial pay period in which a violation occurs and one  
17 hundred dollars (\$100) per employee for each violation in a subsequent pay period, not exceeding  
18 an aggregate penalty of four thousand dollars (\$4,000) per employee;

19          11.      For penalties pursuant to Labor Code § 203 for Plaintiffs who were terminated or  
20 resigned equal to their daily wage times thirty (30) days;

21          12.      For a civil penalty not exceeding ten thousand dollars for each violation of Labor  
22 Code § 1102.5, pursuant to Labor Code § 1102.5(f);

23          13.      An award of prejudgment and post judgment interest;

24          14.      An order enjoining Defendant and its agents, servants, and employees, and all  
25 persons acting under, in concert with, or for it from providing Plaintiffs with proper wages and/or  
26 overtime, accurate itemized wage statements, and wages upon termination/resignation pursuant to  
27 Labor Code §§ 201, 202, 203, 226(a), 226.7, 510, 512, 1194, 1199, 2802, and IWC 4-2001;

28          15.      For restitution for unfair competition pursuant to Business & Professions Code

1 § 17200, *et seq.*, including disgorgement or profits, in an amount as may be proven;

2 16. An award providing for payment of costs of suit;

3 17. An award of attorneys' fees; and

4 18. Such other and further relief as this Court may deem proper and just.

5 **DEMAND FOR JURY TRIAL**

6 Plaintiffs hereby demand a trial of their claims by jury to the extent authorized by law.

7  
8 DATED: May 26, 2023

KINGSLEY & KINGSLEY, APC

9  
10 By: 

11 Eric B. Kingsley  
12 Jessica Adlouni  
13 Attorneys for Plaintiffs  
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