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ALAMEDA COUNTY

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CLERK OF THE SUPERIOR COURT  
By P. Owen Deputy

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12 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
13 **IN AND FOR THE COUNTY OF ALAMEDA**

14 JOSE LEDEE,

15 Plaintiff,

16 vs.

17 GRANDIFLORA GENETICS, LLC,  
18 MARK MCCAFFERTY, and DOES 1  
19 through 100, inclusive,

20 Defendants.

Case No. **RG19013807**

**COMPLAINT FOR DAMAGES AND  
RESTITUTION**

21 Plaintiff alleges as follows:

22 **INTRODUCTION**

23 1. This is an individual action seeking unpaid regular and overtime wages, including  
24 unpaid compensation for meal and/or rest period violations, interest thereon, reimbursement of  
25 business expenses, liquidated damages and other penalties, injunctive and other equitable relief,  
26 and reasonable attorneys' fees and costs under, *inter alia*, California Labor Code §§200-204,  
27 inclusive, 226, 226.7, 226.8, 406, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1198, 2802,  
28 California Business and Professions Code §§17200, *et seq.* and California Code of Civil Procedure  
§1021.5. Plaintiff Jose Ledee ("Plaintiff") brings this action against defendants Glandiflora

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1 Genetics, LLC, Mark McCafferty, and/or Does 1 through 100, inclusive (collectively  
2 “Defendants”) as a Grow/Warehouse Manager within the State of California.

3 2. During Plaintiff’s employment, Defendants have had a consistent policy of (1)  
4 willfully misclassifying Plaintiff as an independent contractor, (2) permitting, encouraging and/or  
5 requiring Plaintiff to work in excess of eight hours per day and/or in excess of forty hours per week  
6 without paying him overtime compensation as required by California’s wage and hour laws, (3)  
7 unlawfully denying Plaintiff statutorily-mandated meal and rest periods, (4) willfully failing to  
8 provide Plaintiff with accurate semimonthly itemized wage statements, and (5) willfully failing to  
9 pay compensation in a prompt and timely manner to Plaintiff.

10 3. Defendants operate a marijuana cultivation and distribution company within  
11 California for which Plaintiff worked as a Grow/Warehouse Manager. The Plaintiff is informed  
12 and believes and, on that basis, alleges that, Defendants employed Plaintiff as a Grow/Warehouse  
13 Manager, an employment position which does not meet any known test for exemption from the  
14 payment of overtime wages and/or the entitlement to meal or rest periods.

15 4. Despite actual knowledge of these facts and legal mandates, Defendants have and  
16 continue to enjoy an advantage over their competition and a resultant disadvantage to their workers  
17 by electing not to pay all wages due (regular and overtime wages, missed meal and rest period  
18 compensation) and/or all penalties dues (including “waiting time” penalties) to its California based  
19 staff, including Plaintiff.

20 5. Plaintiff is informed and believes and, based thereon, alleges that Defendants’  
21 officers knew of these facts and legal mandates yet, nonetheless, repeatedly authorized and/or  
22 ratified the violation of the laws cited herein.

23 6. Despite Defendants’ knowledge of Plaintiff’s entitlement to expense  
24 reimbursement and meal and/or rest periods for all applicable work periods, Defendants failed to  
25 provide the same to Plaintiff, in violation of California state statutes, the applicable California  
26 Industrial Welfare Commission Wage Order, and Title 8 of the California Code of Regulations.  
27 This action is brought to redress and end this prolonged pattern of unlawful conduct once and for  
28 all.

1 **JURISDICTION AND VENUE**

2 7. This Court has jurisdiction over the Plaintiff's claims for unpaid wages, expenses  
3 and/or penalties under, *inter alia*, the applicable Industrial Welfare Commission Wage Order, Title  
4 8 of the California Code of Regulations, various sections of the California Labor Code, and/or the  
5 California Code of Civil Procedure §1021.5.

6 8. This Court also has jurisdiction over Plaintiff's claims for injunctive relief and  
7 restitution of ill-gotten benefits arising from Defendants' unfair and/or fraudulent business  
8 practices under California Business & Professions Code §17200, *et seq.*

9 9. Venue as to Defendants is proper in this judicial district pursuant to California Code  
10 of Civil Procedure §395(a). Defendants are a cannabis cultivation and distribution company (and  
11 owner) within the County of Alameda where Plaintiff worked, transacts business, has agents, and  
12 is otherwise within this Court's jurisdiction for purposes of service of process. The unlawful acts  
13 alleged herein have and have had a direct effect on Plaintiff within the State of California and  
14 within the County of Alameda.

15  
16 **PLAINTIFF**

17 10. Plaintiff Jose Ledee is a natural person who was employed by Defendants as a  
18 Grow/Warehouse Manager from January 2018 to March 2019.

19 11. In these capacities, Plaintiff is and was entitled to full, uninterrupted and statutorily-  
20 mandated meal and rest periods, as well as other benefits of employment as set forth herein.

21  
22 **DEFENDANTS**

23 12. Plaintiff is informed and believes and, based thereon, alleges that, at all times herein  
24 relevant, Defendants Grandiflora Genetics, LLC, Mark McCafferty, and Does 1 through 100, did  
25 business within the State of California as a cannabis cultivator/distributor. As detailed herein,  
26 Defendants' usual course of business was to distribute cannabis to clients, and that service was  
27 provided by Plaintiff.

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1 13. Defendant Mark McCafferty is the owner of Defendant Grandiflora Genetics, LLC  
2 and was responsible for the supervision of Plaintiff in his job duties and directed his employment.

3 14. Those defendants identified as Does 1 through 100, inclusive, are and were, at all  
4 relevant times herein-mentioned, officers, directors, partners, and/or managing agents of some or  
5 each of the remaining defendants. Plaintiff is informed and believes and, on that basis, alleges that  
6 at all relevant times herein mentioned, defendants Grandiflora Genetics, LLC, Mark McCafferty,  
7 and those identified as Does 1 through 100, inclusive, employed, and/or exercised control over the  
8 wages, hours, and/or working conditions of the Plaintiff within the State of California.

9 15. The Plaintiff is unaware of the true names and capacities of those defendants sued  
10 herein as Does 1 through 100, inclusive and, therefore, sues these defendants by such fictitious  
11 names. The Plaintiff will seek leave of court to amend this Complaint when such names are  
12 ascertained. The Plaintiff is informed and believes and, on that basis, alleges that each of the  
13 fictitiously-named defendants was responsible in some manner for, gave consent to, ratified, and/or  
14 authorized the conduct herein alleged and that the Plaintiff's damages, as herein alleged, were  
15 proximately caused thereby.

16 16. Plaintiff is informed and believes and, on that basis, alleges that, at all relevant  
17 times herein mentioned, each of the defendants sued herein as Does 1 through 100 were the agent  
18 and/or employee of each of the remaining defendants and, in doing the acts herein alleged, was  
19 acting within the course and scope of such agency and/or employment.

20  
21 **FACTUAL ALLEGATIONS**

22 17. As described herein, Defendants have knowingly failed to adequately compensate  
23 Plaintiff for all wages earned (including premium wages such as compensation for missed meal  
24 and/or rest periods) under the California Labor Code and the applicable IWC Wage Order, thereby  
25 enjoying a significant competitive edge over other service providers.

26 18. Defendants have declined to pay these wages, even upon a Plaintiff's termination  
27 or resignation from employment, in blatant violation of California Labor Code §201 and/or §202.

28

1 19. Plaintiff performed services for Defendants and their clients which were in the  
2 usual course of the Defendants' business. As a result, Plaintiff should have been classified as an  
3 employee of Defendants and not as an independent contractor.

4 20. California Labor Code §§201 and 202 require Defendants to pay severed employees  
5 all wages due and owed to the employee immediately upon discharge or within 72 hours of  
6 resignation of their positions, in most circumstances. California Labor Code §203 provides that an  
7 employer who willfully fails to timely pay such wages must, as a penalty, continue to pay the  
8 subject employees' wages until the back wages are paid in full or an action is commenced, and the  
9 payment of such penalty shall continue for a period of time up to 30 days.

10 21. Moreover, according to Defendants' policies, Plaintiff was required to incur  
11 business expenses related to the operations of Defendants. Despite this fact, Defendants have  
12 failed, and continue to fail, to fully reimburse Plaintiff for all such expenses.

13 22. Furthermore, despite its knowledge of Plaintiff's entitlement to compensation for  
14 all hours worked, Defendants violated California Labor Code §1174(d) by failing to provide or  
15 require the use, maintenance, or submission of time records by Plaintiff. Defendants also failed to  
16 provide the Plaintiff with accurate semimonthly itemized statements in violation of California  
17 Labor Code §226. In failing to provide the required documents, Defendants have not only failed  
18 to pay their workers the full amount of compensation due but the company has also, until now,  
19 effectively shielded itself from its employees' scrutiny by concealing the magnitude and financial  
20 impact of its wrongdoing that such documents might otherwise have led workers to discover.

21 23. Plaintiff is entitled to unpaid compensation which he has not received, despite  
22 having left Defendants' employ.

23 24. As a consequence of Defendants' willful conduct in not paying their former  
24 employee compensation for all hours worked in a prompt and timely manner, Plaintiff is entitled  
25 to up to 30 days wages as a penalty under California Labor Code §203, together with attorneys'  
26 fees and costs.

27 25. In addition, Defendants engaged in a pattern and/or practice of willfully  
28 misclassifying Plaintiff as an independent contractor, in violation of California Labor Code §226.8

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1 26. As a direct and proximate result of Defendants' unlawful conduct, as set forth  
2 herein, Plaintiff has sustained damages, as described above, including compensation for loss of  
3 earnings for hours worked on behalf of Defendants, in an amount to be established at trial. As a  
4 further direct and proximate result of Defendants' unlawful conduct, as set forth herein, Plaintiff  
5 is entitled to recover "waiting time" penalties (pursuant to California Labor Code §203) and  
6 penalties for failure to provide semimonthly statements of hours worked and all applicable hourly  
7 rates (pursuant to California Labor Code §226) in an amount to be established at trial. As a further  
8 direct and proximate result of Defendants' unlawful conduct, as set forth herein, Plaintiff is also  
9 entitled to recover costs and attorneys' fees pursuant to California Code of Civil Procedure  
10 §1021.5, among other authorities.

11 27. Plaintiff seeks injunctive relief prohibiting Defendants from engaging in the  
12 complained-of illegal labor acts and practices in the future. Plaintiff also seeks restitution of costs  
13 incurred by Plaintiff under California's Unfair Competition Law. Unless enjoined, Defendants'  
14 unlawful conduct will continue unchecked, while Plaintiff bears the financial brunt of Defendants'  
15 unlawful conduct. As a further direct and proximate result of Defendants' unlawful conduct, as set  
16 forth herein, Plaintiff is also entitled to recover costs and attorneys' fees, pursuant to statute.<sup>1</sup>

17  
18 **FIRST CAUSE OF ACTION**  
19 **INDEPENDENT CONTRACTOR MISCLASSIFICATION**  
20 **(California Labor Code §226.8)**  
21 **Against All Defendants**

22 28. Plaintiff incorporates in this cause of action each and every allegation of the  
23 preceding paragraphs, with the same force and effect as though fully set forth herein.

24 29. Plaintiff was employed by Defendants in a non-exempt position which did not, and  
25 currently do not, meet any known test for the exemption from the payment of overtime wages  
26 and/or the entitlement to meal and/or rest periods.

27 <sup>1</sup> Concurrent with the filing of this Complaint, Plaintiff has provided notice to the Labor and Workforce  
28 Development Agency pursuant to Labor Code §2699.3 of Plaintiff's intent to represent fellow aggrieved employees  
under California Private Attorneys General Act of 2004 (Cal. Lab. Code §§2698, *et seq.*) (PAGA). Once the time for  
the Labor and Workforce Development to determine whether to investigate has elapsed, and if the Agency decides  
not to investigate, Plaintiff intends to seek leave of Court to file an amended Complaint including a cause of action  
under PAGA.

1 30. Despite Defendants' actual knowledge of these facts and legal mandates,  
2 Defendants engaged in a pattern and/or practice of willfully misclassifying Plaintiff as an  
3 independent contractor.

4 31. California Labor Code §226.8(a)(1) provides that it is unlawful for any person or  
5 employer to engage in willful misclassification of an individual as an independent contractor.

6 32. California Labor Code §226.8(b) further provides that:

7 If the Labor and Workforce Development Agency or a court issues  
8 a determination that a person or employer has engaged in any of the  
9 enumerated violations of subdivision (a), the person or employer  
10 shall be subject to a civil penalty of not less than five thousand  
dollars (\$5,000) and not more than fifteen thousand dollars  
(\$15,000) for each violation, in addition to any other penalties or  
fines permitted by law.

11 33. California Labor Code §226.8(c) further provides that:

12 If the Labor and Workforce Development Agency or a court issues  
13 a determination that a person or employer has engaged in any of the  
14 enumerated violations of subdivision (a) and the person or employer  
15 has engaged in or is engaging in a pattern or practice of these  
violations, the person or employer shall be subject to a civil penalty  
of not less than ten thousand dollars (\$10,000) and not more than  
twenty-five thousand dollars (\$25,000) for each violation, in  
addition to any other penalties or fines permitted by law.

16 34. As a direct and proximate result of Defendants' unlawful conduct, as set forth  
17 herein, Plaintiff is entitled to recover penalties pursuant to California Labor Code §226.8, in an  
18 amount to be established at trial, as well as attorneys' fees and costs, pursuant to statute.

19  
20 **SECOND CAUSE OF ACTION**  
21 **UNLAWFUL FAILURE TO PAY WAGES**  
22 **(California Labor Code §§200-204, 510, 1194, and 1198; IWC Wage Order(s))**  
23 **Against All Defendants**

24 35. Plaintiff incorporates in this cause of action each and every allegation of the  
25 preceding paragraphs, with the same force and effect as though fully set forth herein.

26 36. During the limitations period, Plaintiff performed work for Defendants, oftentimes  
27 in excess of eight hours in a workday and/or forty hours in a workweek. The number of hours will  
28 be proven at trial.

1 37. During the limitations period, Defendants refused to compensate Plaintiff for all of  
2 the wages earned, in violation of the applicable IWC Wage Order(s) and provisions of the  
3 California Labor Code.

4 38. For the first eight (8) months of his employment, Plaintiff was not compensated at  
5 all for his work.

6 39. At all relevant times, Defendant was aware of, and was under a duty to comply  
7 with, the overtime provisions of the California Labor Code including, but not limited to, California  
8 Labor Code §§510, 1194, and 1198.

9 40. California Labor Code §510(a), in pertinent part, provides:

10 Any work in excess of eight hours in one workday and any work in  
11 excess of 40 hours in any one workweek and the first eight hours  
12 worked on the seventh day of work in any one workweek shall be  
13 compensated at the rate of no less than one and one-half times the  
14 regular rate of pay for an employee.

15 41. California Labor Code §1194(a), in pertinent part, provides:

16 Notwithstanding any agreement to work for a lesser wage, any  
17 employee receiving less than the legal minimum wage or the legal  
18 overtime compensation applicable to the employee is entitled to  
19 recover in a civil action the unpaid balance of the full amount of this  
20 minimum wage or overtime compensation, including interest  
21 thereon, reasonable attorneys' fees, and costs of suit.

22 42. California Labor Code §1198, in pertinent part, provides:

23 The maximum hours of work and the standard conditions of labor  
24 fixed by the commission shall be the maximum hours of work and  
25 the standard conditions of labor for employees. The employment of  
26 any employee for longer hours than those fixed by the order or under  
27 conditions of labor prohibited by the order is unlawful.

28 43. By refusing to compensate Plaintiff for overtime wages earned, Defendants  
violated those California Labor Code provisions cited herein as well as the applicable IWC Wage  
Order(s).

44. As a direct and proximate result of Defendants' unlawful conduct, as set forth  
herein, Plaintiff has sustained damages, including loss of earnings for hours of overtime worked  
on behalf of Defendants, in an amount to be established at trial. As a further direct and proximate



1 result of Defendants' unlawful conduct, as set forth herein, Plaintiff is entitled to recover penalties  
2 in amounts to be established at trial, as well as attorneys' fees and costs, and restitution, pursuant  
3 to statute.

4 **THIRD CAUSE OF ACTION**  
5 **FAILURE TO PROVIDE MEAL AND REST PERIODS**  
6 **(California Labor Code §§226.7 and 512)**  
7 **Against All Defendants**

8 45. Plaintiff incorporates in this cause of action each and every allegation of the  
9 preceding paragraphs, with the same force and effect as though fully set forth herein.

10 46. At all relevant times, Defendants were aware of and were under a duty to comply  
11 with California Labor Code §226.7 and §512.

12 47. California Labor Code §226.7 provides:

13 (a) No employer shall require any employee to work during any  
14 meal or rest period mandated by an applicable order of the Industrial  
15 Welfare Commission.

16 (b) If an employer fails to provide an employee a meal period or  
17 rest period in accordance with an applicable order of the Industrial  
18 Welfare Commission, the employer shall pay the employee one  
19 additional hour of pay at the employee's regular rate of  
20 compensation for each work day that the meal or rest period is not  
21 provided.

22 48. Moreover, California Labor Code §512(a) provides:

23 An employer may not employ an employee for a work period of  
24 more than five hours per day without providing the employee with  
25 a meal period of not less than 30 minutes, except that if the total  
26 work period per day of the employee is no more than six hours, the  
27 meal period may be waived by mutual consent of both the employer  
28 and employee. An employer may not employ an employee for a  
work period of more than 10 hours per day without providing the  
employee with a second meal period of not less than 30 minutes,  
except that if the total hours worked is no more than 12 hours, the  
second meal period may be waived by mutual consent of the  
employer and the employee only if the first meal period was not  
waived.

29 49. Sections 11 and 12, respectively, of the applicable IWC Wage Order mandate that  
30 employers provide all applicable meal and/or rest periods to non-exempt (including exempt-  
31 misclassified) employees.

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- 1 50. Section 11 of the applicable IWC Wage Order provides:
- 2 (A) No employer shall employ any person for a work period of more
- 3 than five (5) hours without a meal period of not less than 30
- 4 minutes...
- 5 (B) An employer may not employ an employee for a work period of
- 6 more than ten (10) hours per day without providing the
- 7 employee with a second meal period of not less than 30
- 8 minutes...
- 9 (C) If an employer fails to provide an employee a meal period in
- accordance with the applicable provisions of this order, the
- employer shall pay the employee one (1) hour of pay at the
- employee's regular rate of compensation for each workday that
- the meal period is not provided.
- 10 51. Moreover, Section 12 of the applicable IWC Wage Order provides:
- 11 (A) Every employer shall authorize and permit all employees to
- 12 take rest periods, which insofar as practicable shall be in the middle
- 13 of each work period. The authorized rest period time shall be based
- 14 on the total hours worked daily at the rate of ten (10) minutes net
- 15 rest time per four (4) hours or major fraction thereof ....
- 16 (B) If an employer fails to provide an employee a rest period in
- accordance with the applicable provisions of this order, the
- 17 employer shall pay the employee one (1) hour of pay at the
- 18 employee's regular rate of compensation for each workday that the
- 19 rest period is not provided.
- 20 52. By failing to consistently provide uninterrupted thirty-minute meal periods within
- 21 the first five hours of work each day and/or uninterrupted net ten-minute rest periods to Plaintiff,
- 22 Defendants violated the California Labor Code and applicable IWC Wage Order provisions.
- 23 53. Plaintiff is informed and believes and, on that basis, alleges that Defendants have
- 24 never paid the one hour of compensation due to its violations of the California Labor Code and
- 25 applicable IWC Wage Order provisions.
- 26 54. As a direct and proximate result of Defendants' unlawful conduct, as set forth
- 27 herein, Plaintiff has sustained damages, including lost compensation resulting from missed meal
- 28 and/or rest periods, in an amount to be established at trial.
55. As a further direct and proximate result of Defendants' unlawful conduct, as set forth herein, Plaintiff is entitled to recover other penalties, in amounts to be established at trial, as well as recovery of attorneys' fees and costs, pursuant to statute.

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**FOURTH CAUSE OF ACTION**  
**FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**  
**(California Labor Code §§226 and 1174)**  
**Against All Defendants**

1  
2  
3 56. Plaintiff incorporates in this cause of action each and every allegation of the  
4 preceding paragraphs, with the same force and effect as though fully set forth herein.

5 57. California Labor Code §226(a) provides:

6 Each employer shall semimonthly, or at the time of each payment of  
7 wages, furnish each of his or her employees either as a detachable  
8 part of the check, draft or voucher paying the employee's wages, or  
9 separately when wages are paid by personal check or cash, an  
10 itemized wage statement in writing showing: (1) gross wages  
11 earned; (2) total number of hours worked by each employee whose  
12 compensation is based on an hourly wage; (3) all deductions,  
13 provided that all deductions made on written orders of the employee  
14 may be aggregated and shown as one item; (4) net wages earned; (5)  
15 the inclusive date of the period for which the employee is paid; (6)  
16 the name of the employee and his or her social security number; and  
17 (7) the name and address of the legal entity which is the employer.

18  
19 58. Moreover, California Labor Code §226(e) provides:

20 An employee suffering injury as a result of a knowing and  
21 intentional failure by an employer to comply with subdivision (a) is  
22 entitled to recover the greater of all actual damages or fifty dollars  
23 (\$50) for the initial pay period in which a violation occurs and one  
24 hundred dollars (\$100) per employee for each violation in a  
25 subsequent pay period, not exceeding an aggregate penalty of four  
26 thousand dollars (\$4,000), and is entitled to an award of costs and  
27 reasonable attorney's fees.

28 59. Finally, California Labor Code §1174(d) provides:

Every person employing labor in this state shall . . . [k]eep, at a  
central location in the state...payroll records showing the hours  
worked daily by and the wages paid to...employees.... These records  
shall be kept in accordance with rules established for this purpose  
by the commission, but in any case shall be kept on file for not less  
than two years.

60. Plaintiff seeks to recover actual damages, costs, and attorneys' fees under these provisions.

61. Defendants have failed to provide timely, accurate itemized wage statements to the Plaintiff in accordance with California Labor Code §226. Plaintiff is informed and believes and, on that basis, alleges that he was never provided any kind of wage statement.

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1 62. As a direct and proximate result of Defendants’ unlawful conduct, as set forth  
2 herein, the Plaintiff has sustained damages in an amount to be established at trial, and are entitled  
3 to recover attorneys’ fees and costs of suit.

4  
5 **FIFTH CAUSE OF ACTION**  
**FAILURE TO PAY WAGES ON TERMINATION**  
**(California Labor Code §203)**  
6 **Against All Defendants**

7 63. Plaintiff incorporates in this cause of action each and every allegation of the  
8 preceding paragraphs, with the same force and effect as though fully set forth herein.

9 64. California Labor Code §203 provides that:

10 If an employer willfully fails to pay, without abatement or reduction, in  
11 accordance with Sections 201, 201.5, 202, and 205.5, any wages of an  
12 employee who is discharged or who quits, the wages of the employee shall  
13 continue as a penalty from the due date thereof at the same rate until paid or  
14 until an action therefor is commenced; but the wages shall not continue for  
15 more than 30 days.

16 65. Plaintiff was employed by Defendants and thereafter resigned from his position,  
17 yet he was not paid all premium (overtime) wages due upon said termination or within 72 hours  
18 of said resignation of employment therefrom. Said non-payment was the direct and proximate  
19 result of a willful refusal to do so by Defendants.

20 66. As a direct and proximate result of Defendants’ willful conduct in failing to pay  
21 Plaintiff for all hours worked, Plaintiff is entitled to recover “waiting time” penalties of up to thirty  
22 days’ wages pursuant to California Labor Code §203 in an amount to be established at trial,  
23 together with interest thereon, and attorneys’ fees and costs.

24  
25 **SIXTH CAUSE OF ACTION**  
**FAILURE TO REIMBURSE EXPENSES AND/OR PROHIBITED CASH BOND**  
26 **(California Labor Code §§406 and 2802)**  
27 **Against All Defendants**  
28

26 67. Plaintiff incorporates in this cause of action each and every allegation of the  
27 preceding paragraphs, with the same force and effect as though fully set forth herein.

1           68. Defendants required Plaintiff to incur expenses related to the business operations  
2 of Defendants. These expenditures were incurred in direct consequence of the discharge of the  
3 duties of Plaintiff, or of his obedience to the directions of the employer and have not yet been  
4 reimbursed by Defendants.

5           69. At all relevant times, Defendants were aware of and were under a duty to comply  
6 with various provisions of the California Labor Code, including, but not necessarily limited to  
7 §§406 and 2802(a).

8           70. California Labor Code §406 provides:  
9           Any property put up by an employee, or applicant as a part of the contract  
10 of employment, directly or indirectly, shall be deemed to be put up as a bond  
11 and is subject to the provisions of this article whether the property is put up  
12 on a note or as a loan or an investment and regardless of the wording of the  
13 agreement under which it is put up.

14           71. California Labor Code §2802(a) provides:  
15           An employer shall indemnify his or her employee for all necessary  
16 expenditures or losses incurred by the employee in direct consequence of  
17 the discharge of his or her duties, or of his or her obedience to the directions  
18 of the employer, even though unlawful, unless the employee, at the time of  
19 obeying the directions, believed them to be unlawful.

20           72. By requiring the Plaintiff to incur uncompensated expenses in direct consequence  
21 of the discharge of their duties, Plaintiff was forced and/or brought to contribute to the capital and  
22 expenses of Defendants' business which is legally a cash bond and which must be refunded by  
23 Defendants.

24           73. California Labor Code §2802 (b) and (c) provides for interest at the statutory post  
25 judgment rate of ten percent simple interest per annum from the date of the expenditure, plus  
26 attorneys' fees to collect reimbursement.

27           74. Therefore, Plaintiff demands reimbursement for expenditures or losses incurred by  
28 himself in direct consequence of the discharge of his duties, or of his obedience to the directions  
of the employer, plus return of all cash bonds or other coerced investments in the business of  
Defendants, with interest, at the statutory rate, plus attorneys' fees.

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**SEVENTH CAUSE OF ACTION**  
**UNFAIR BUSINESS PRACTICES UNDER THE UNFAIR COMPETITION ACT**  
**(California Business & Professions Code §§17200-17208)**  
**Against All Defendants**

1 75. Plaintiff incorporates in this cause of action each and every allegation of the  
2 preceding paragraphs, with the same force and effect as though fully set forth herein.

3 76. Plaintiff further brings this cause of action seeking equitable and statutory relief to  
4 stop Defendants' misconduct, as complained of herein, and to seek restitution of the amounts  
5 Defendants acquired through the unfair, unlawful, and fraudulent business practices described  
6 herein.

7 77. Defendants' knowing conduct, as alleged herein, constitutes an unlawful and/or  
8 fraudulent business practice, as set forth in California Business & Professions Code §§17200-  
9 17208. Specifically, Defendants conducted business activities while failing to comply with the  
10 legal mandates cited herein.

11 78. Defendants have clearly established a policy of accepting a certain amount of  
12 collateral damage, as represented by the damages to the Plaintiff herein alleged, as incidental to its  
13 business operations, rather than accept the alternative costs of full compliance with fair, lawful,  
14 and honest business practices, ordinarily borne by its responsible competitors and as set forth in  
15 legislation and the judicial record.

**RELIEF SOUGHT**

16 **WHEREFORE, the Plaintiff** prays for judgment and the following specific relief against  
17 Defendants, and each of them, jointly and separately, as follows:

18 1. That the Court declare, adjudge, and decree that Defendants willfully violated its  
19 legal duties to pay all wages due under the California Labor Code and the applicable California  
20 Industrial Welfare Commission Wage Orders;

21 2. That the Court make an award to the Plaintiff of one hour of pay at his regular rate  
22 of compensation for each workday that a meal period was not provided;

23 3. That the Court make an award to the Plaintiff of one hour of pay at his regular rate  
24 of compensation for each workday that a rest period was not provided;

1           4.       That the Court declare, adjudge and decree that Defendants violated California  
2 Labor Code §§406 and 2802(a) by, *inter alia*, willfully failing to reimburse the Plaintiff for  
3 expenses made on behalf of Defendants;

4           5.       That the Court declare, adjudge and decree that Defendants engaged in a pattern  
5 and/or practice of willfully misclassifying Plaintiff as an independent contractor, in violation of  
6 California Labor Code §226.8;

7           6.       For liquidated damages as permitted by law for applicable violations;

8           7.       That the Court Order Defendants to pay restitution to the Plaintiff due to  
9 Defendants' unlawful activities, pursuant to California Business and Professions Code §§17200-  
10 17208;

11          8.       That the Court further enjoin Defendants, ordering them to cease and desist from  
12 unlawful activities in violation of California Business and Professions Code §17200, *et seq.*

13          9.       For all other Orders, findings and determinations identified and sought in this  
14 Complaint;

15          10.      For punitive or exemplary damages as permitted by law;

16          11.      That the Court make an award to Plaintiff of penalties, pursuant to California Labor  
17 Code §§203, 226, 558 and 1174.5, in an amount to be proven at trial;

18          12.      For interest on the amount of any and all economic losses, at the prevailing legal  
19 rate;

20          13.      For reasonable attorneys' fees, pursuant to California Code of Civil Procedure  
21 §1021.5; and

22          14.      For costs of suit and any and all such other relief as the Court deems just and proper.  
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**JURY DEMAND**

Plaintiff hereby demands a trial by jury.

Dated: April 4, 2019

**SCOTT COLE & ASSOCIATES, APC**

By:   
Laura Van Note, Esq.  
Attorneys for Plaintiff