

MAR 23 2015

Darrel E. Parker, Executive Officer

BY Penny Woolf
Penny Woolf, Deputy Clerk

1 Michael A. Strauss, SBN 246718
2 Andrew C. Ellison, SBN 283884
3 **PALAY LAW FIRM**
4 121 North Fir Street, Suite F
5 Ventura, CA 93001
6 Telephone: (805) 641-6600
7 Facsimile: (805) 641-6607
8 E-mail: mike@palaylaw.com

9 Attorneys for Plaintiff and the Putative Class

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA BARBARA

BRIAN NEWTON, an individual,

Plaintiff,

v.

PARKER DRILLING MANAGEMENT
SERVICES, INC., a Nevada Corporation;
and DOES 1 through 100, inclusive,

Defendants.

Case No. 1487051

CLASS ACTION

**FIRST AMENDED COMPLAINT
FOR:**

- 1) MINIMUM WAGE VIOLATIONS;
 - 2) PAY STUB VIOLATIONS;
 - 3) UNFAIR COMPETITION;
 - 4) FAILURE TO TIMELY PAY FINAL WAGES;
 - 5) FAILURE TO PROVIDE LAWFUL MEAL PERIODS;
 - 6) FAILURE TO PAY OVERTIME AND DOUBLETIME PREMIUM WAGES; and
 - 7) CIVIL PENALTIES UNDER THE PRIVATE ATTORNEYS GENERAL ACT OF 2004
- VIA FAX

**TO ALL INTERESTED PARTIES HEREIN AND TO THEIR ATTORNEYS OF
RECORD:**

COME NOW, PLAINTIFF Brian Newton ("Plaintiff") and the putative class, and submit the following Complaint against PARKER DRILLING MANAGEMENT SERVICES,

1 INC. and DOES 1 through 100, inclusive (collectively “Defendants”), and each of them as
2 follows:

3 1. At all times herein mentioned, Plaintiff Brian Newton was an employee of
4 Defendants, working in the state of California, within the last four (4) years.

5 2. Unless otherwise stated, at all times herein mentioned Plaintiff was an individual
6 residing in the County of Ventura, State of California. Plaintiff became a resident of Harris
7 County, Texas in or about November 2014.

8 3. At all times herein mentioned, Plaintiff is informed and believes and, based on
9 such information and belief, thereon alleges that Parker Drilling Management Services, Inc., is
10 a Nevada corporation that does business in the County of Santa Barbara, California.

11 4. The true names and capacities, whether individual, corporate, associate,
12 representative or otherwise, of the defendants identified herein as Does 1 through 100,
13 inclusive, are unknown to Plaintiff, who therefore sue these defendants by said fictitious
14 names. Plaintiff will amend this Complaint to allege the true names and capacities of Does 1
15 through 100 when they have been ascertained. Does 1 through 100 are in some manner legally
16 responsible for the wrongs and injuries alleged herein.

17 5. Each of the Defendants acted as the agent or employee of the others and each
18 acted within the scope of that agency or employment.

19 6. Venue is appropriate in Santa Barbara County Superior Court because the
20 unlawful employment practices complained of herein occurred in the City of Goleta,
21 California, County of Santa Barbara, and in the offshore waters in the Santa Barbara Channel.

22 **CLASS ACTION ALLEGATIONS**

23 7. Plaintiff brings the first three causes of action stated herein on his own behalf
24 and on behalf of all persons similarly situated. The class consists of all hourly employees of
25 Parker Drilling Management Services, Inc., who, at any time within four years from the date of
26 filing of this lawsuit, worked on oil platforms off of the California coast for periods of 24
27 hours or more (hereinafter the “Putative Class”). The Putative Class represents over 25
28 persons and is so numerous that the joinder of each member of the putative class is

1 impracticable.

2 8. There is a well-defined community of interest in the questions of law and fact
3 affecting the classes Plaintiff represents. The Putative Class members' claims against
4 Defendants involve questions of common or general interest, in that each was employed by
5 Defendants, and each was not paid wages owed based on the same failure to compensate for
6 all hours during which they were subject to the control of Defendants, including hours in
7 excess of their scheduled shifts and during meal periods. These questions are such that proof
8 of a state of facts common to the members of the Putative Class will entitle each member to
9 the relief requested in this complaint.

10 9. The members of the Putative Class that Plaintiff represents have no plain, speedy
11 or adequate remedy at law against Defendants, other than by maintenance of this class action,
12 because Plaintiff is informed and believes, and on such information and belief alleges, that the
13 damage to each member of the Putative Class is relatively small and that it would be
14 economically infeasible to seek recovery against Defendants other than by a class action.

15 10. Plaintiff will fairly and adequately represent the interest of the Putative Class,
16 because Plaintiff is a member of the Putative Class, and Plaintiff's claims are typical of those
17 in the Putative Class.

18 11. Plaintiff was employed by Defendants from approximately January 25, 2013 to
19 approximately January 15, 2015.

20 12. Plaintiff worked on an oil platform off of the California coastal waters. His shift
21 typically lasted 14 days. He received pay for only 12 hours each day while on the oil platform.
22 He did not receive any compensation for 12 hours while on the platform each day. He could
23 not reasonably leave the platform during his 14-day shift.

24 **FIRST CAUSE OF ACTION**

25 ***Minimum Wage Violations***

26 **(Action Brought By Plaintiff On Behalf Of Himself**

27 **And The Putative Class Against All Defendants)**

28 13. Plaintiff incorporates by reference and re-alleges each and every one of the

1 allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully
2 set forth herein.

3 14. California law requires payment of at least the state-mandated minimum wage
4 for all hours worked by non-exempt employees. (See Lab. Code, §§ 1194, 1197.) Hourly
5 wages cannot be averaged out to cover hours worked during which no compensation was paid.
6 (See *Armenta v. Osmose* (2005) 135 Cal.App.4th 314, 322-24.) Time during which a worker
7 cannot leave his or her worksite, even sleeping time, is considered hours worked under
8 California law. (*Mendiola v. CPS Security Solutions, Inc.* (Cal., Jan. 8, 2015) 15 Cal. Daily
9 Op. Serv. 203.)

10 15. Plaintiff and the Putative Class regularly worked hours for which they were not
11 paid the minimum wage. Defendants' minimum wage violations include, but are not limited
12 to, the failure to pay any wages whatsoever to Plaintiff and the Putative Class for 12 hours
13 each workday.

14 16. Plaintiff seeks such minimum wages owed to them for the three-year period
15 measured backward from the date of the filing of the initial Complaint in this matter.

16 17. The exact amount of minimum wages owed will not be fully ascertained until
17 discovery is completed. Until Defendants produce the necessary documents for an accounting,
18 Plaintiff is unable to determine the exact amount of minimum wages owed.

19 18. Labor Code section 218.6 states, "[I]n any action brought for the nonpayment of
20 wages, the court shall award interest on all due and unpaid wages at the rate of interest
21 specified in subdivision (b) of Section 3289 of the Civil Code, which shall accrue from the
22 date that the wages were due and payable as provided in Part 1 (commencing with Section
23 200) of Division 2." Plaintiff seeks such interest on all minimum wages owed to them for the
24 three-year period measured backward from the date of the filing of the initial Complaint in this
25 matter.

26 19. Plaintiff seeks liquidated damages in an amount equal to the minimum wages
27 due to him and the Putative Class under Labor Code section 1194.2.

28 20. Pursuant to Labor Code section 1194, Plaintiff requests the Court to award

1 Plaintiff's reasonable attorney's fees and costs incurred in this action.

2 WHEREFORE, Plaintiff and the Putative Class demand judgment against Defendants,
3 and each of them, as follows:

- 4 1. For minimum wages owed according to proof;
- 5 2. For prejudgment interest pursuant to Labor Code section 218.6 and Civil Code
6 sections 3288 and 3291 on all amounts claimed;
- 7 3. For liquidated damages in an amount equal to the unpaid minimum wages owed
8 under Labor Code section 1194.2;
- 9 4. For attorney's fees and costs pursuant to Labor Code section 1194;
- 10 5. For costs of suit; and
- 11 6. For any other and further relief that the Court considers just and proper.

12 **SECOND CAUSE OF ACTION**

13 ***Pay Stub Violations***

14 **(Action Brought By Plaintiff On Behalf Of Himself**

15 **And The Putative Class Against All Defendants)**

16 27. Plaintiff incorporates by reference and re-alleges each and every one of the
17 allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully
18 set forth herein.

19 28. California Labor Code section 226 provides:

20 Every employer shall, semimonthly or at the time of each payment
21 of wages, furnish each of his or her employees, either as a detachable part
22 of the check, draft, or voucher paying the employee's wages, or separately
23 when wages are paid by personal check or cash, an itemized statement in
24 writing showing (1) gross wages earned, (2) total hours worked by the
25 employee, except for any employee whose compensation is solely based
26 on a salary and who is exempt from payment of overtime under
27 subdivision (a) of Section 515 or any applicable order of the Industrial
28 Welfare Commission, (3) the number of piece-rate units earned and any
applicable piece rate if the employee is paid on a piece-rate basis, (4) all
deductions, provided, that all deductions made on written orders of the
employee may be aggregated and shown as one item, (5) net wages
earned, (6) the inclusive dates of the period for which the employee is

1 paid, (7) the name of the employee and his or her social security number,
2 (8) the name and address of the legal entity that is the employer, and (9)
3 all applicable hourly rates in effect during the pay period and the
4 corresponding number of hours worked at each hourly rate by the
5 employee.

6 29. In this case, Defendants have failed to provide such wage deduction statements
7 to Plaintiff and the Putative Class in that their wage deduction statements do not include,
8 without limitation, their gross wages earned, all hours worked, net wages earned, or all
9 applicable hourly rates in effect during the pay period, the corresponding number of hours
10 worked at each hourly rate by the employee, and the name and address of the legal entity that
11 is the employer. Pursuant to Labor Code section 226(e), damages are appropriate. At this
12 time, Plaintiff believes and alleges that he and the Putative Class are owed the maximum
13 allowable penalty under section 226(e) because Defendants failed to provide adequate
14 paycheck stubs. However, the exact amount of damages under Labor Code section 226(e) will
15 not be fully ascertained until discovery is completed. Until Defendants produce the necessary
16 documents for an accounting, Plaintiff is unable to determine the exact amount of damages
17 under Labor Code section 226(e).

18 30. Pursuant to Labor Code section 226(e), Plaintiff requests the court to award
19 Plaintiff's reasonable attorney's fees and costs incurred by Plaintiff in this action.

20 WHEREFORE, Plaintiff and the Putative Class demand judgment against Defendants,
21 and each of them, as follows:

- 22 1. For statutory penalties, pursuant to law;
- 23 2. For reasonable attorneys' fees pursuant Labor Code section 226;
- 24 3. For costs of suit; and
- 25 4. For any other and further relief that the Court considers just and proper.

26 /////

27 /////

28 /////

29 /////

1 **THIRD CAUSE OF ACTION**

2 ***Unfair Competition***

3 **(Action Brought By Plaintiff On Behalf Of Himself**

4 **And The Putative Class Against All Defendants)**

5 31. Plaintiff incorporates by reference and re-alleges each and every one of the
6 allegations contained in the preceding and foregoing paragraphs of this Complaint as though
7 fully set forth herein.

8 32. This cause of action is being brought pursuant to California Business and
9 Professions Code section 17200 et seq. and California case law including *Cortez v. Purolator*
10 *Air Filtration Products Co.* (2000) 23 Cal.App.4th 163.

11 33. It is alleged that Defendants have willfully failed to pay Plaintiff and the Putative
12 Class, the state-mandated minimum, overtime, doubletime, and meal period premium wages
13 for all hours worked. The failure to pay such wages constitutes an unfair business practice
14 under California Business and Professions Code section 17200.

15 34. As a result of the conduct of Defendants, Defendants profited from breaking the
16 law. Plaintiff and the Putative Class seek disgorgement of this unlawfully obtained benefit
17 (plus interest thereon) for the four-year period measured backward from the date of filing of
18 the initial Complaint in this matter.

19 35. California Business and Professions Code section 17203, under the authority of
20 which a restitutionary order may be made, provides:

21
22 Any person who engages, has engaged, or proposes to engage in
23 unfair competition may be enjoined in any court of competent
24 jurisdiction. The court may make such orders or judgments,
25 including the appointment of a receiver, as may be necessary to
26 prevent the use of employment by any person of any practice
27 which constitutes unfair competition, as defined in this chapter, or
28 as may be necessary to restore to any person in interest any money
or property, real or personal, which may have been acquired by
means of such unfair competition. Any person may pursue
representative claims or relief on behalf of others only if the
claimant meets the standing requirements of Section 17204 and

1 complies with Section 282 of the Code of Civil Procedure, but
2 these limitations do not apply to claims brought under his chapter
3 by the Attorney General, or any district attorney, county counsel,
4 city attorney, or city prosecutor in this state.

5 36. As a result of the alleged aforesaid actions, Plaintiff and the Putative Class have
6 suffered injury in fact and have lost money as a result of such unfair competition.

7 37. In this case, it is requested that this Court order such restitution.

8 WHEREFORE, Plaintiff and the Putative Class demand judgment against Defendants,
9 and each of them, as follows:

10 1. For an equitable order, ordering Defendants to pay all Putative Class members
11 all wages, interest, and penalties they are owed;

12 2. For an appointment of a receiver to perform an accounting of all monies owed to
13 these employees;

14 3. For any and all injunctive relief this Court deems necessary pursuant to Business
15 and Professions Code section 17203;

16 4. For attorneys' fees and costs;

17 5. For prejudgment interest on all amounts owed pursuant to Civil Code sections
18 3288 and 3291; and

19 6. For any other and further relief that the Court considers proper.

20 **FOURTH CAUSE OF ACTION**

21 ***Failure To Timely Pay Wages At Termination***

22 **(Action Brought By Plaintiff On Behalf Of Himself**

23 **And The Putative Class Against All Defendants)**

24 38. Plaintiff incorporates by reference and re-alleges each and every one of the
25 allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully
26 set forth herein.

27 39. Labor Code section 201 provides, "If an employer discharges an employee, the
28 wages earned and unpaid at the time of discharge are due and payable immediately."
Defendants did not pay immediately all wages earned and unpaid to Plaintiff and the Putative

1 Class upon discharge. Defendants have refused and continue to refuse to pay said wages.

2 40. Pursuant to Labor Code section 203, Defendants have willfully failed to pay
3 without abatement or reduction, in accordance with Labor Code sections 201 and 202 all of the
4 minimum, overtime, meal period, and doubletime wages of the Plaintiff and the Putative Class,
5 as herein alleged. Defendants are aware that they owe the wages claimed by Plaintiff and the
6 Putative Class, yet Defendants willfully failed to make payment. As a result, Plaintiff seeks
7 wages and waiting-time penalties pursuant to Labor Code section 203 on behalf of himself and
8 the Putative Class. These penalties consist of up to 30 days of pay for Plaintiff Putative Class
9 at their regular rates of pay.

10 41. Plaintiff and the Putative Class have been available and ready to receive wages
11 owed to them.

12 42. Plaintiff and the Putative Class have never refused to receive any payment, nor
13 have they been absent from their regular places of residence.

14 43. Defendants' failure to pay wages due and owing Plaintiff and the Putative Class,
15 as indicated in prior paragraphs, was willful; Defendants have knowingly refused to pay any
16 portion of the amount due and owing Plaintiff and the Putative Class.

17 WHEREFORE, Plaintiff and the Putative Class demand judgment against Defendants,
18 and each of them, as follows:

- 19 1. For waiting-time penalties under Labor Code section 203;
- 20 2. For costs of suit; and
- 21 3. For any other and further relief that the Court considers just and proper.

22 **FIFTH CAUSE OF ACTION**

23 ***Failure To Provide Lawful Meal Periods***

24 **(Action Brought By Plaintiff On Behalf Of Himself**

25 **And The Putative Class Against All Defendants)**

26 46. Plaintiff incorporates by reference and re-alleges each and every one of the
27 allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully
28 set forth herein.

1 47. California law provides that no employer shall employ any person for a work
2 period of more than five hours without a meal period of not less than 30 minutes. (Lab. Code
3 §§ 226.7, 512.)

4 48. If an employer fails to provide an employee a legally mandated meal period, the
5 employer shall pay the employee one hour of pay at the employee's regular rate of
6 compensation for each five hours of work that the meal period is not provided.

7 49. Defendants have intentionally and improperly denied meal periods to Plaintiff
8 and the Putative Class in violation of Labor Code sections 226.7 and 512.

9 50. At all times relevant hereto, Plaintiff and the other members of the Putative
10 Class have worked more than five hours in a workday (and often more than ten, fifteen hours,
11 and twenty hours). At all relevant times hereto, Defendants have failed to provide meal
12 periods for every five-hour work period as required by California law.

13 51. Plaintiff and the other members of the Putative Class are informed and believe,
14 and based upon that information and belief allege, that Defendants know or should have
15 known that Plaintiff and the Putative Class were entitled to meal periods but purposely elected
16 not to provide these mandated periods.

17 52. Plaintiff seeks meal period premium wages owed to them for the three-year
18 period measured backward from the date of the filing of the initial Complaint in this matter.

19 53. The exact amount of meal period premium wages owed will not be fully
20 ascertained until discovery is completed. Until Defendants produce the necessary documents
21 for an accounting, Plaintiff is unable to determine the exact amount of meal period premium
22 wages owed.

23 21. Labor Code section 218.6 states, "[I]n any action brought for the nonpayment of
24 wages, the court shall award interest on all due and unpaid wages at the rate of interest
25 specified in subdivision (b) of Section 3289 of the Civil Code, which shall accrue from the
26 date that the wages were due and payable as provided in Part 1 (commencing with Section
27 200) of Division 2." Plaintiff seeks such interest on all meal period premium wages owed to
28 them for the three-year period measured backward from the date of the filing of the initial

1 Complaint in this matter.

2 WHEREFORE, Plaintiff and the Putative Class demand judgment against Defendants,
3 and each of them, as follows:

- 4 1. For meal period premiums in an amount according to proof;
- 5 2. For costs of suit; and
- 6 3. For any other and further relief that the Court considers just and proper.

7 **SIXTH CAUSE OF ACTION**

8 ***Failure To Pay Overtime And Doubletime Premium Wages***

9 **(Action Brought By Plaintiff On Behalf Of Himself**

10 **And The Putative Class Against All Defendants)**

11 58. Plaintiff incorporates by reference and re-alleges each and every one of the
12 allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully
13 set forth herein.

14 59. California law requires payment of overtime premium pay for all hours worked
15 by non-exempt employees in excess of eight in one day or 40 hours in one week and for the
16 first eight hours on the seventh-straight day of work in one workweek. (Lab. Code, § 510.) It
17 further requires payment of doubletime premium pay for all hours worked by non-exempt
18 employees in excess of twelve hours in one day or in excess of eight hours on the seventh-
19 straight day of work in a single workweek. (*Ibid.*)

20 60. Time during which a worker cannot leave his or her worksite, even sleeping
21 time, is considered hours worked under California law. (*Mendiola v. CPS Security Solutions,*
22 *Inc.* (Cal., Jan. 8, 2015) 15 Cal. Daily Op. Serv. 203.)

23 61. Plaintiff and the Putative Class regularly worked hours for which they were not
24 paid the overtime or doubletime premium wages. Defendants' overtime and doubletime wage
25 violations include, but are not limited to, the failure to pay any wages whatsoever to Plaintiff
26 and the Putative Class for 12 hours each workday, which time lawfully was considered
27 overtime and/or doubletime hours worked.

28 62. Plaintiff and the Putative Class seek such overtime and doubletime premium

1 wages owed to them for the three-year period measured backward from the date of the filing of
2 the initial Complaint in this matter.

3 63. The exact amount of overtime and doubletime premium wages owed will not be
4 fully ascertained until discovery is completed. Until Defendants produce the necessary
5 documents for an accounting, Plaintiff is unable to determine the exact amount of overtime
6 and doubletime premium wages owed.

7 64. Labor Code section 218.6 states, “[I]n any action brought for the nonpayment of
8 wages, the court shall award interest on all due and unpaid wages at the rate of interest
9 specified in subdivision (b) of Section 3289 of the Civil Code, which shall accrue from the
10 date that the wages were due and payable as provided in Part 1 (commencing with Section
11 200) of Division 2.” Plaintiff seeks such interest on all overtime and doubletime premium
12 wages owed to them for the three-year period measured backward from the date of the filing of
13 the initial Complaint in this matter.

14 65. Pursuant to Labor Code section 1194, Plaintiff requests the Court to award
15 Plaintiff’s reasonable attorney’s fees and costs incurred in this action.

16 WHEREFORE, Plaintiff and the Putative Class demand judgment against Defendants,
17 and each of them, as follows:

- 18 1. For overtime and doubletime premium wages owed according to proof;
- 19 2. For prejudgment interest pursuant to Labor Code section 218.6 and Civil Code
20 sections 3288 and 3291 on all amounts claimed;
- 21 3. For attorney’s fees and costs pursuant to Labor Code section 1194;
- 22 4. For costs of suit; and
- 23 5. For any other and further relief that the Court considers just and proper.

24 **SEVENTH CAUSE OF ACTION**

25 ***Civil Penalties Under The Private Attorneys General Act Of 2004***

26 **(Action Brought By Plaintiff On Behalf Of Himself**

27 **And The Putative Class Against All Defendants)**

28 58. Plaintiff refers to paragraphs 1 through 57, and incorporates same by reference

1 as though fully set forth at length.

2 59. It is alleged that Defendants intentionally denied Plaintiff and his similarly
3 situated co-workers wages that should have been paid and have violated Labor Code
4 provisions.

5 60. Pursuant to Labor Code sections 2698 et seq., Plaintiff is entitled to recover civil
6 penalties on behalf of himself and other persons who are or were employed by the alleged
7 violator and against whom one or more of the alleged violations was committed. Plaintiff is
8 therefore pursuing civil penalties for violations of the Labor Code sections set forth herein.

9 61. One or more of the alleged violations set forth herein was committed against
10 Plaintiff, and Plaintiff is therefore an “aggrieved employee” under Labor Code Section
11 2699(c), which provides in relevant part, “(c) For purposes of this part, “aggrieved employee”
12 means any person who was employed by the alleged violator and against whom one or more of
13 the alleged violations was committed.”

14 62. Labor Code section 200 defines “wages” as including all amounts for labor
15 performed by employers of every description, whether the amount is fixed or ascertained by
16 the standard of time, task, piece, commission basis, or other method of calculation.

17 63. Labor Code section 201 requires immediate payment of all wages owed at the
18 termination of employment. It is alleged that within the last year, Defendants’ employees in
19 California have been terminated and have not received all wages owed at their termination.
20 There is no civil penalty associated with violation of section 201, but Plaintiff seeks civil
21 penalties on behalf of himself and all others similarly situated under Labor Code section 2699,
22 subd. (f).

23 64. Labor Code section 202 requires payment of all wages owed within 72 hours of
24 the resignation of an employee, unless the employee gives more than 72-hours notice, in which
25 case wages are owed at the employee’s resignation. It is alleged that within the last year,
26 Defendants’ employees in California have resigned and have not received all overtime
27 premium pay owed in a timely fashion after their resignation. There is no civil penalty
28 associated with violation of section 202, but Plaintiff seeks civil penalties on behalf of himself

1 and all others similarly situated under Labor Code section 2699, subd. (f).

2 65. Labor Code section 204 makes wages due no less frequently than twice a month
3 for non-exempt employees for work performed each pay period. Defendants have violated
4 section 204 with respect to Plaintiff and his similarly situated coworkers by not paying them
5 all wages due for work performed each pay period. Plaintiff seeks civil penalties on behalf of
6 himself and all other similarly situated under Labor Code section 210.

7 66. Labor Code section 219 provides that an employer may not circumvent by way
8 of private agreement the requirements of the wage-and-hour laws of the Labor Code. To the
9 extent that Defendants will argue that these employees agreed to forfeit their travel time and/or
10 other wages, Defendants will have violated Labor Code section 219. There is no civil penalty
11 associated with violation of section 219, but Plaintiff seeks civil penalties on behalf of himself
12 and all others similarly situated under Labor Code section 2699, subd. (f).

13 67. Labor Code section 226, subdivision (a), requires a California employer to
14 include very specific information on an employee's paycheck stub. The required information
15 includes the total number of overtime hours worked and the correct rates of pay. Lab. Code §
16 226(a). Subdivision (e) sets forth statutory penalties for the violation of section 226(a).
17 Plaintiff seeks to recover said penalties on behalf of himself and all others similarly situated.

18 68. Labor Code section 226.3 sets forth civil penalties for violation of section 226,
19 subdivision (a). Plaintiff seeks said penalties against Defendants on behalf of himself and all
20 other similarly situated employees for violation of section 226, subdivision (a).

21 69. Labor Code section 226.7 provides that an employer must compensate a non-
22 exempt employee with one hour of pay for each required meal period that it does not provide.
23 Defendants violated this statute by not paying this meal period premium pay to Plaintiff and
24 his co-workers when they were not provided with 30-minute, off-duty meal periods.

25 70. Labor Code section 510 provides that an employer shall pay overtime premium
26 wages to non-exempt employees who work over eight hours in a workday or over 40 hours in
27 a workweek. Defendants violated Labor Code section 510 by not paying overtime premium
28 wages to non-exempt employees who worked over eight hours in a day and Labor Code

1 section 510.

2 71. Labor Code section 512 provides that an employer shall provide its non-exempt
3 employees with one off-duty meal period for each five-hour work period. Defendants violated
4 Labor Code section 512 by not providing off-duty meal periods to its non-exempt employees
5 for every five-hour work period.

6 72. Labor Code section 558 provides for civil penalties against an employer who
7 violates sections 510 and 512. Plaintiff seeks said penalties against Defendants on behalf of
8 himself and all other similarly situated employees for violation of sections 510 and 512.

9 73. Labor Code section 1197 requires that employers may not pay less than the
10 mandated minimum wage. Defendants violated section 1197 by not paying Plaintiff and his
11 similarly situated coworkers at least the minimum wage for all hours worked. The civil
12 penalty for violations of section 1197 is enumerated in Labor Code section 1197.1. Plaintiff
13 seeks said penalties against Defendants on behalf of himself and all other similarly situated
14 employees for violations of section 1197.

15 74. Plaintiff also seeks any civil penalties allowable under the Labor Code that arise
16 out of the same set of operative facts as the claims made in this complaint.

17 75. Plaintiff has fully complied with the statutory requirements of Labor Code
18 section 2699.3. Plaintiff gave notice by a letter dated January 28, 2015 and delivered by
19 certified mail to the California Labor and Workforce Development Agency and the employer
20 of the specific provisions of the Labor Code alleged to have been violated, including the facts
21 and theories to support the alleged violations. On March 6, 2015, Plaintiff received notice
22 dated March 2, 2015 from the Labor and Workforce Development Agency indicating its intent
23 not to pursue an investigation or action for penalties against Defendants.

24 76. Defendants' failure to pay wages due and owing to Plaintiff and those similarly
25 situated, as indicated in prior paragraphs, was willful. Defendants have knowingly refused to
26 pay any portion of the amount due and owing Plaintiff and his similarly situated employees.
27 Further, Defendants have not taken any actions to "cure" the Labor Code violations pursuant
28 to California Labor Code section 2699 et seq.

1 77. By failing to pay Plaintiff and the current and past aggrieved employees,
2 Defendants have violated numerous California Labor Code provisions, all as set forth
3 hereinabove. Civil penalties are therefore appropriate.

4 WHEREFORE, Plaintiff demands judgment against Defendants, and each of them, as
5 follows:

- 6 1. For civil penalties for each aggrieved employee, for each violation alleged
7 aforesaid, to be distributed in accordance with Labor Code section 2699;
- 8 2. For attorneys' fees and costs pursuant to Labor Code section 2699(g);
- 9 3. For any other and further relief that the Court considers just and proper.

10 DATED: March 6, 2015

PALAY LAW FIRM, APC

11 By: 

12
13 Michael A. Strauss
14 Andrew C. Ellison
15 Attorneys for Plaintiff
16
17
18
19
20
21
22
23
24
25
26
27
28