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and on behalf of other members of the general public similarly situated  
8

9 **UNITED STATES DISTRICT COURT**  
10 **CENTRAL DISTRICT OF CALIFORNIA**

11 SILVERIO NEVAREZ,  
12 individually, EFREN CORREA  
and on behalf of other members  
13 of the general public similarly  
14 situated,

15  
16 Plaintiff,

17 v.

18 COSTCO WHOLESALE  
CORPORATION, and DOES 1  
19 through 25,

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21 Defendants.  
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**CASE NO.: 2:19-cv-03454-SVW-SKx**

**FIRST AMENDED CLASS ACTION  
COMPLAINT FOR DAMAGES  
FOR:**

- 1. **FAILURE TO PAY OVERTIME WAGES DUE (Violation of *Cal. Labor Code* §§ 510(a), 1194);**
- 2. **FAILURE TO PROVIDE ITEMIZED STATEMENT TO EMPLOYEE (Violation of *Cal. Labor Code* § 226);**
- 3. **FAILURE TO PAY UPON TERMINATION OR QUITTING EMPLOYEE (Violation of *Cal. Labor Code* §§ 201, 202, 203);**
- 4. **FAILURE TO PAY MINIMUM WAGES (*Cal. Labor Code* §§ 1197 AND 204);**
- 5. **FAILURE TO PROVIDE MEAL PERIODS (*Cal. Labor Code* §§ 226.7 and 512);**

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- 6. **UNFAIR BUSINESS PRACTICES (Violation of *Cal. Business and Professions Code* § 17200 *et seq.*); and**
  - 7. **CLAIM FOR A CIVIL PENALTY(*Cal. Labor Code* §§ 2699 *et seq.*).**
- DEMAND FOR A JURY TRIAL**

**GENERAL ALLEGATIONS**

Plaintiffs Silverio Nevarez and Efren Correa (hereinafter referred to collectively as “Plaintiffs”), individually and on behalf of all other persons similarly situated allege as follows:

1. Plaintiffs are residents of the State of California. Plaintiff Nevarez performed the work that is the subject of this Complaint in the County of Los Angeles, State of California.

2. At all times mentioned in this Complaint Plaintiffs are informed and believe, and thereon allege, that Defendant Costco Wholesale Corporation (herein after referred to as “Defendant”) is a corporation doing business in the County of Los Angeles, State of California.

3. Plaintiffs are unaware of the true names and capacities of those Defendants sued as Does 1 through 25. Plaintiffs will amend this Complaint when those names and capacities become known. On information and beliefs, each of the Defendants, including Doe Defendants, are the agents, employees, representatives, or co-conspirators of each of the other Defendants, and in engaging in the conduct alleged herein, did so in furtherance of such relationship.

4. Venue is proper in this judicial district because the conduct alleged in this Complaint occurred in this judicial district.

**ALLEGATIONS**

1  
2 5. Plaintiffs and other similarly situated class members re-allege and  
3 incorporate by reference each and every allegation contained in paragraphs 1  
4 through 4, inclusive, as though fully set forth herein.

5 6. Defendant Costco Wholesale Corporation owns and operates  
6 members-only warehouses throughout California selling a variety of items  
7 including bulk groceries, electronics & more.

8 7. Plaintiff Nevarez currently works for Defendant as a membership  
9 person at the store located in Modesto, California. Nevarez commenced working  
10 for Defendant in or about July 2017. Plaintiff Nevarez also previously worked at  
11 the Costco in Turlock, California. Plaintiff Nevarez has held the following job  
12 titles while employed with Defendant: membership person, front end cashier  
13 assistant, deli clerk, and cashier. Plaintiff Nevarez has worked various shifts  
14 performing his job duties at Costco, however, Nevarez' current shifts are typically  
15 2:30 p.m. to 11:00 p.m. and/or 10:00 a.m. to 7:00 p.m. At all times while  
16 employed by Defendant, Plaintiff Nevarez was paid on an hourly basis. Plaintiff  
17 Nevarez' current rate of pay is \$13.00 per hour.

18 8. Plaintiff Correa worked for Defendant from approximately November  
19 6, 2012 to April 25, 2018 as a stocker, store clerk, and a forklift operator.  
20 Plaintiff Correa's hours of work often varied but typically were 6:00 p.m. to 12:00  
21 a.m. At all times while employed by Defendant, Plaintiff Correa was paid on an  
22 hourly basis. Plaintiff Correa's final rate of pay was \$19.82 per hour. Plaintiff  
23 Correa worked for Defendant in both Burbank, California and Pacoima,  
24 California.

25 9. Defendant had a policy and practice of denying hourly employees pay  
26 for all regularly occurring worktime. Defendant deliberately and systemically  
27 failed to compensation its hourly workers for all hours worked including minimum  
28 wage, overtime hours, and meal periods. When hourly workers' shifts ended after  
the warehouse closed to customers, hourly workers were required to clock out and

1 then exit the warehouse at only one exit location. In order to exit the warehouse,  
2 hourly workers were required to first locate a manager holding a key. Once a  
3 manager was located, hourly workers waited for the manager to arrive at the exit  
4 location. The manager then radioed to outside security personnel and confirmed  
5 that the exit location could be unlocked. Once confirmation was received from the  
6 manager, the manager unlocked the exit location. Hourly paid workers were then  
7 required to wait in line in order for the manager to check hourly workers'  
8 belongings, including purses, bags, and lunch bags. Hourly workers were then  
9 only permitted to exit the warehouse after they waited in the security check line  
10 and the manager checked their belongings. Hourly workers were not paid after  
11 they clocked out and therefore were not paid for the time they spent locating a  
12 manager with a key, waiting for the manager to arrive at the exit location, waiting  
13 while the manager communicates with outside security personnel and receives  
14 confirmation, or while waiting in the security check line.

15 10. Moreover, when the warehouse is open to customers, Defendant  
16 employs workers that are stationed at the store exit location whose sole job is to  
17 check customers' receipts and ensure that it coincides with the merchandise  
18 being taken out of the store by the customers. Often times, this causes a line to  
19 form at the exit location because customers are required to wait in order to exit the  
20 store in order to have their merchandise and receipt checked by Defendant. When  
21 hourly workers' shifts ended while the warehouse remained open to customers,  
22 hourly workers were required to clock out and then exit the warehouse at the same  
23 exit location as customers. In order to exit the warehouse, hourly workers were  
24 required to wait in line behind customers who were waiting for Defendant to  
25 inspect their merchandise/receipt. Hourly paid workers were required to wait in  
26 line with customers in order for Defendant to check hourly workers' belongings,  
27 including purses, bags, and lunch bags. Hourly workers were then only permitted  
28 to exit the warehouse after they waited in the line and Defendant checked their  
belongings. Hourly workers were not paid after they clocked out and therefore

1 were not paid for the time they spent waiting in line with customers and waiting  
2 for their belongings to be checked by Defendant.

3 11. Moreover, Defendant policies and practices as discussed above  
4 likewise applied during meal periods for hourly paid workers. Thus, when the  
5 warehouse is open for customers, Defendant employs workers that were stationed  
6 at the store exit location whose sole job is to check customers' receipts and  
7 ensure that it coincides with the merchandise being taken out of the store by the  
8 customers. Often times, this causes a line to form at the exit location because  
9 customers are required to wait in order to exit the store in order to have their  
10 merchandise and receipt checked by Defendant. When hourly workers' left to exit  
11 the warehouse for their meal periods, hourly workers were required to clock out  
12 and then exit the warehouse at the same exit location as customers. In order to  
13 exit the warehouse, hourly workers were required to wait in line behind customers  
14 who were waiting for Defendant to inspect their merchandise/receipt. Hourly paid  
15 workers were required to wait in line with customers in order for Defendant to  
16 check hourly workers' belongings, including purses, bags, and lunch bags. Hourly  
17 workers were then only permitted to exit the warehouse for meal periods after they  
18 waited in the line and Defendant checked their belongings. Hourly workers' meal  
19 periods commenced at the time they clocked out from their shifts and therefore  
20 hourly workers did not receive full uninterrupted meal periods because they were  
21 not paid for the time spent waiting in line with customers and waiting for their  
22 belongings to be checked by Defendant. Moreover, Defendant's illegal policy  
23 fails to provide meal periods, impedes, discourages, and dissuades employees  
24 from taking meal periods in accordance with the law.

25 12. Defendant's policies and practices of denying hourly employees pay,  
26 as described above, occurred on a daily basis. As a result of Defendant's illegal  
27 policies and practices as discussed above, Plaintiffs and class members were not  
28 paid for all hours worked, including minimum wages, overtime wages, and failed  
to receive code compliant meal periods. As a result of Defendant's illegal policies

1 and practices as discussed above, Plaintiff Nevarez believes he was denied pay  
2 for approximately 5 -15 minutes for each shift worked. As a result of Defendant's  
3 illegal policies and practices as discussed above, Plaintiff Correa believes he was  
4 denied pay for approximately 10 -15 minutes for each shift worked.

5 **CLASS ALLEGATIONS**

6 13. This action is brought pursuant to Federal Rules of Civil Procedure,  
7 Rule 23.

8 14. Plaintiffs seek to represent all current and former hourly paid workers  
9 employed by Defendant in California from March 25, 2015 to the present.

10 15. This action has been brought and may properly be maintained as a  
11 class action as follows:

12 a. Numerosity: The Plaintiff Class is so numerous that the  
13 individual joinder of all members is impractical under the  
14 circumstances of this case. While the exact number of class members  
15 is unknown to Plaintiffs at this time, Plaintiffs are informed and  
16 believe, and thereon allege, that there are over 2000 current and  
17 former hourly paid workers employed by Defendants that failed to  
18 receive proper overtime, received improper and false paycheck stubs,  
19 failed to receive all wages at discharge, failed to receive all minimum  
20 wages for all hours worked, and failed to receive meal periods in  
21 accordance with the law.

22 b. Common Questions Predominate: Common questions of law  
23 and fact exist as to all members of the Plaintiff Class and predominate  
24 over any questions that affect only individual members of the class.  
25 The common questions of law and fact include, but are not limited  
26 to:

27 i. Whether Defendants are subject to *California Labor*  
28 *Code* § 1197;

- 1                   ii.       Whether Defendants violated *California Labor Code* §
- 2   1197;
- 3                   iii.       Whether Defendants are subject to *California Labor*
- 4   *Code* §§ 510 and 1194;
- 5                   iv.       Whether Defendants violated *California Labor Code*
- 6   §§ 510 and 1194;
- 7                   v.       Whether Defendants are subject to *California Labor*
- 8   *Code* § 226;
- 9                   vi.       Whether Defendants violated *California Labor Code* §
- 10    226;
- 11                   vii.       Whether Defendants are subject to *California Labor*
- 12    *Code* §§ 201, 202, and 203;
- 13                   viii.       Whether Defendants violated *California Labor Code*
- 14    §§ 201, 202, and 203;
- 15                   ix.       Whether Defendants are subject to *IWC Wage Orders*
- 16    and *California Labor Code* §§ 226.7 and 512;
- 17                   x.       Whether Defendants violated *IWC Wage Orders* and
- 18    *California Labor Code* §§ 226.7 and 512;
- 19                   xi.       Whether Defendants are subject to *California Business*
- 20    and *Professions Code* § 17200 et. seq.;
- 21                   xii.       Whether Defendants violated *California Business &*
- 22    *Professions Code* § 17200 et. seq.;
- 23                   xiii.       Whether class members and Plaintiff s previously
- 24    worked or currently work for Defendants within the
- 25    applicable statute of limitation;

26                   Plaintiffs and hourly paid workers were similarly subjected to

27                   Defendant’s illegal policies and practices as discussed above.

28                   c.       Typicality: Plaintiffs’ claims are typical of the claims of the

                 class members. Plaintiffs and the members of the class sustained

1 damages arising out of Defendants' common practice of failing to pay  
2 overtime wages, failing to provide meal and rest periods, failing to  
3 pay all wages due at termination, failing to provide proper paycheck  
4 stubs, and failing to pay all minimum wages for all hours worked.  
5 Plaintiff and the class members' claims are based on the same legal  
6 theories, particularly *IWC Wage Orders*, *California Labor Code* §§  
7 1197, 510, 1194, 201, 202, 203, 226, 226.7, 512, *Cal. Code of*  
8 *Regulations* § 11040 and *California Business and Professions Code* §  
9 17200 et seq.

10 d. Adequacy: Plaintiffs will fairly and adequately protect the  
11 interests of the members of the class. Plaintiffs have no interest that  
12 is adverse to the interests of the other class members.

13 e. Superiority: A class action is superior to other available means  
14 for the fair and efficient adjudication of this controversy since  
15 individual joinder of all members of the class is impractical; class  
16 action treatment will permit a large number of similarly situated  
17 persons to prosecute their common claims in a single forum  
18 simultaneously, efficiently, and without the unnecessary duplication  
19 of effort and expense that numerous individual actions would  
20 engender. Furthermore, as the damages suffered by each individual  
21 member of the class may be relatively small, the expenses and burden  
22 of individual litigation would make it difficult or impossible for  
23 individual members of the class to redress the wrongs done to them,  
24 while an important public interest will be served by addressing the  
25 matter as a class action. The cost to the court system of the  
26 adjudication of such individual litigation would be substantial.  
27 Individualized litigation would also present the potential for  
28 inconsistent or contradictory judgments.



1 f. Public Policy Consideration: Employers throughout the state  
2 violate wage and hour laws. Current employees are often afraid to  
3 assert their rights out of fear of direct or indirect retaliation. Former  
4 employees are fearful of bringing actions because they perceive their  
5 former employers can blacklist them in their future endeavors through  
6 negative references. Class actions provide the class members who are  
7 not named on the Complaint with a type of anonymity that allows  
8 for vindication of their rights.

9  
10 **FIRST CAUSE OF ACTION**  
11 **Failure to Pay Overtime Wages**  
12 **(Violation of *Cal. Labor Code* §§ 1194 and 510(a), *Cal. Code of***  
13 ***Regulations* § 11040)**

14 16. Plaintiffs re-allege and incorporate by reference each and every  
15 allegation contained in paragraphs 1 through 15, inclusive, as though fully set  
16 forth herein.

17 17. Plaintiffs are informed and believe, and thereon allege that at all  
18 times relevant to their employment by Defendants, *California Labor Code* §§  
19 510(a), 1194, and the *IWC Wage Orders (Code of Regulations* § 11040) were in  
20 full force and effect and binding upon Defendants. These statutes and wage  
21 orders required Defendants to pay to Plaintiffs and class members one-and-one-  
22 half times their regular rate of pay for each hour of work performed in excess of  
23 eight (8) hours in one workday and/or forty (40) hours in one workweek.

24 18. Plaintiffs are informed and believe, and thereon allege, that Plaintiffs  
25 and other similarly situated class members often worked in excess of eight (8)  
26 hours in one workday and/or forty (40) hours in one workweek and were not paid  
27 at a rate of one and one-half times their regular rate of pay, as alleged herein.

28 19. Plaintiffs are informed and believe, and thereon allege, that Plaintiffs  
and other similarly situated class members failed to receive the required overtime  
wage premiums for overtime worked while employed by Defendants in violation  
of *California Labor Code* §§ 510(a), 1194 and the *IWC Wage Orders*.



1           26. As a direct an approximate result of Defendant’s unlawful conduct  
2 as set forth herein, Plaintiffs and Class members have been injured yb not  
3 receiving he information required by California Labor Code § 226(a) not being  
4 paid their straight time and overtime hours, not having records showing their total  
5 hours worked, not being able to ascertain from their wage statements whether or  
6 how they have been lawfully compensation for all hours worked, amount other  
7 things, in an amount to be determined at trial. Plaintiffs are informed and believe,  
8 and thereon allege, that Plaintiffs and other similarly situated class members are  
9 entitled to penalties for failure to maintain and provide itemized statements of  
10 employees pay, a violation of *Labor Code* § 226, in an amount according to proof  
11 at trial.

**THIRD CAUSE OF ACTION**  
**Failure to Pay Terminated or Quitting Employee**  
**(Violation of *Cal. Labor Code* §§ 201, 202, and 203)**

12           27. Plaintiffs re-allege and incorporate by reference each and every  
13 allegation contained in paragraphs 1 through 26, inclusive, as though fully set  
14 forth herein.  
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16           28. At all times mentioned in this Complaint *California Labor Code* §§  
17 201, 202, and 203 were in full force and effect and binding on Defendants. Said  
18 sections require an employer to pay all unpaid and earned wages to an employee  
19 immediately upon discharge or within 72 hours upon quitting. Said sections also  
20 state that if an employer willfully fails to pay compensation prompt upon  
21 discharge, as required, then the employer is liable for waiting time penalties  
22 equivalent to the employee’s daily wage, for a maximum of 30 days.

23           29. Plaintiff Correa is no longer employed by Defendant. Correa believes  
24 his last day of work for Defendant was approximately April 25, 2018. Plaintiffs  
25 are informed and believe and thereon allege that numerous class members have  
26 been separated from employment with Defendant. Upon separation, however,  
27 Plaintiff Correa and class members were not paid all wages due within the  
28 statutory period. Defendant willfully failed and refused to pay timely

1 compensation and wages including overtime paid, minimum wages, and unpaid  
2 meal periods as alleged herein. These wages are still due and owing to Plaintiff  
3 Correa and class members.

4 30. As a direct and proximate result of Defendant's willful conduct in  
5 failing to pay to Plaintiff and former hourly paid workers for all hours worked, as  
6 alleged herein, Plaintiffs and similarly situated class members are entitled to  
7 penalties under *California Labor Code* § 203, which provides that upon violation  
8 of *California Labor Code* § 201, "the wages of the employee shall continue as a  
9 penalty from the due date thereof at the same rate until paid or until an action is  
10 commenced; but such wages shall not continue for more than 30 days."

11  
12 **FOURTH CAUSE OF ACTION**  
13 **For Failure to Pay Minimum Wages**  
14 **(Violation of *California Labor Code* §§ 204 and 1197)**

15 31. Plaintiffs re-allege and incorporate by reference each and every  
16 allegation contained in paragraphs 1 through 30, inclusive, as though set forth  
17 fully herein.

18 32. Plaintiffs are informed and believe, and thereon allege, that  
19 *California Labor Code* § 204 was in full force and effect and binding on  
20 Defendants at all times mentioned herein. Said section requires that employers  
21 refrain from wrongfully and willfully withholding wages. Plaintiff is informed  
22 and believes, and thereon alleges, that *California Labor Code* § 1197 and the  
23 *Industrial Welfare Commission Wage Orders* were in full force and effect and  
24 binding on Defendants at all times mentioned herein. Set sections make it  
25 unlawful for an employer to pay an employee less than the minimum wage.

26 33. Plaintiffs were required to work without being compensated for all  
27 hours worked. Moreover, since Defendants failed to pay Plaintiffs and similarly  
28 situated class members minimum wages, Defendants are in violation of *California*  
*Labor Code* § 1197 and the *IWC Wage Orders*. Defendant repeatedly failed to

1 pay Plaintiffs and Class Members all compensation for all hours worked, as  
2 alleged herein. Plaintiffs and class members are entitled under California law to  
3 be paid for all hours worked.

4 34. As a direct and proximate result of Defendant's unlawful conduct,  
5 Plaintiff and the class have sustained damages, including compensatory damages  
6 pursuant to *California Labor Code* § 1194. Plaintiffs and similarly situated class  
7 members are therefore entitled to recover the unpaid amount of the wages, interest  
8 thereon, and reasonable attorney's fees and costs as provided for by law. Plaintiffs  
9 are therefore entitled to recover the unpaid amount of the minimum wage,  
10 liquidated damages, interest thereon, and reasonable attorneys' fees and costs as  
11 provided for by *California Labor Code* §§ 1194 and 1194.2.

12  
13 **FIFTH CAUSE OF ACTION**  
14 **Failure to Provide Rest Breaks and Meal Periods**  
**(Violation of *Cal. Wage Orders*; *Cal. Labor Code* §§ 218.5, 226.7 and 512)**

15 35. Plaintiffs re-allege and incorporates by reference each and every  
16 allegation contained in paragraphs 1 through 34, inclusive, as though fully set  
17 forth herein.

18 36. At all times mentioned in this Complaint *IWC Wage Orders* and  
19 *California Labor Code* §§ 226.7 and 512, were in full force and effect and binding  
20 on Defendants. Said statutes and wage orders required Defendants to provide  
21 Plaintiffs and class members with a meal period of no less than thirty minutes for  
22 every five hours of work. As alleged herein, Defendant's illegal policy fails to  
23 provide meal periods in accordance with the law, impedes, discourages, and  
24 dissuades Plaintiffs and class members from taking meal periods. By failing to  
25 consistently provide Plaintiffs and class members an uninterrupted thirty minute  
26 meal periods, Defendant violated California Labor Code.

1 37. As a direct and proximate result of Defendant's unlawful conduct as  
2 set forth herein, Plaintiffs and similarly situated class members are entitled to  
3 wages of one hour of pay at the employee's regular rate of compensation for each  
4 workday that a meal period was not provided and that a rest period was not  
5 provided pursuant to *California Labor Code* §226.7 and *IWC Wage Orders*.

6  
7 **SIXTH CAUSE OF ACTION**  
8 **Unfair Business Practices**  
9 **(Violation of *Business and Professions Code* § 17200 et. seq.)**

10 38. Plaintiffs re-allege and incorporate by reference each and every  
11 allegation contained in paragraphs 1 through 37, inclusive, as though fully set  
12 forth herein.

13 39. At all times herein mentioned, *California Business and Professions*  
14 *Code* § 17200 et. seq. were in full force and effect and binding upon Defendants.  
15 Said sections prohibit Defendants from engaging in unfair practices including, but  
16 not limited to, failing to pay overtime premium wages, failing to provide meal and  
17 rest periods, and failing to pay all minimum wages owed for work performed for  
18 Defendants.

19 40. Plaintiffs are informed and believe, and thereon allege, that  
20 Defendants engaged in unlawful business practices in violation of *California*  
21 *Business and Professions Code* § 17200 et. seq. by failing to pay premium  
22 overtime wages, and failing to pay all wages earned for work performed for  
23 Defendants, including minimum wages, and failing to pay one hour of pay for all  
24 meal periods not provided to Plaintiffs and similarly situated class members, as  
25 alleged herein. (See *California Labor Code* §§ 1194, 1197, 510, 226.7, and 512).

26 41. As a direct and proximate result of the actions of Defendants as  
27 alleged above, Plaintiffs and similarly situated class members are entitled to  
28 restitution pursuant to *California Business and Professions Code* §§ 17203 and  
17208 in an amount according to proof at trial.

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**SEVENTH CAUSE OF ACTION**  
**Claim for Recovery of Civil Penalty**  
**(California Labor Code § 2699 et. seq.)**

42. Plaintiff re-alleges and incorporates by reference each and every allegation contained in paragraphs 1 through 30, inclusive, as though set forth fully herein.

43. Plaintiffs, aggrieved employees, bring a claim under California Labor Code §§ 2698-2699.5 in a representative capacity on behalf of current and former hourly paid workers subjected to the unlawful wage-and-hour practices alleged herein.

44. The California Labor Code Private Attorneys General Act of 2004 (“PAGA”), Labor Code §§ 2698, *et seq.*, grants California employees the right to bring a civil action for the violation of any provision of the labor code on behalf of themselves and other current or former employees in order to recover civil penalties. PAGA is intended to assist in the achievement of maximum compliance with state labor laws by empowering aggrieved employees to act as private attorneys general in order to recover civil penalties for Labor Code violations that would otherwise be prosecuted by the state. *See Arias v. Super. Ct.*, 46 Cal. 4th 969, 980 (2009).

45. PAGA permits an aggrieved employee to collect the civil penalty authorized by law and normally collectible by the California Labor and Workforce Development Agency. To address violations for which no penalty has been established, § 2699(f) permits aggrieved employees to recover a default penalty in the amount of \$100 for each aggrieved employee per pay period for the initial violation, and \$200 for each aggrieved employee pay period for each subsequent violation. *See Cal. Lab. Code § 2699(f).*

46. Plaintiffs seek to collect these civil penalties for the Labor Code violations described below in the year prior to the date the original complaint in this case was filed and up to the present:

- a) Under California Labor Code § 2699(f)(2), a civil penalty of one

1 hundred dollars (\$100) for Plaintiffs and each aggrieved employee per  
2 pay period for the initial violation of Labor Code §§ 226.2, and 226.7,  
3 and a civil penalty of two hundred dollars (\$200) for Plaintiffs and each  
4 aggrieved employee per pay period for each subsequent violation, for  
5 failing to provide meal periods to hourly workers employed in  
6 California; under California Labor Code § 558, for violating Labor Code  
7 § 512, a civil penalty of fifty dollars (\$50) plus the amount sufficient to  
8 recover underpaid wages for each employee for every initial failure to  
9 provide meal and rest breaks to agents employed in California, and a  
10 civil penalty of one hundred dollars (\$100) plus the amount sufficient to  
11 recover unpaid wages for each aggrieved employee for every subsequent  
12 violation, as alleged herein.

- 13 b) Under California Labor Code § 226.3, which provides civil penalties  
14 for violations of California Labor Code § 226(a), a civil penalty of two  
15 hundred fifty dollars (\$250) for Plaintiffs and each aggrieved employee  
16 for the first violation, and one thousand dollars (\$1,000) for Plaintiffs  
17 and each aggrieved employee for each subsequent violation of Labor  
18 Code § 226(a), for Defendant's failure to provide timely, accurate,  
19 itemized wage statements to agents employed in California, as alleged  
20 herein.
- 21 c) Under California Labor Code § 203, which provides civil penalties for  
22 violations of California Labor Code §§ 201 and 202, a penalty of the  
23 wages of each aggrieved employee for each day Defendant did not pay  
24 the aggrieved employees following their discharge or termination, up to  
25 thirty days of pay, as alleged herein.
- 26 d) Under California Labor Code § 558(a), which provides civil penalties  
27 for violations of California Labor Code § 510, a penalty of fifty dollars  
28 (\$50) for each initial violation for which an employee was underpaid, as  
well as a penalty of one hundred dollars (\$100) for each subsequent  
violation for which an employee was underpaid, and an amount



1 sufficient to recover unpaid wages, for Defendant's failure to pay  
2 overtime, as alleged herein.

3 e) Under California Labor Code § 1197.1, which provides civil penalties  
4 for failure to pay an employee minimum wage, a penalty of one hundred  
5 dollars (\$100) for each initial violation, as well as a penalty of two  
6 hundred fifty dollars (\$250) for each underpaid employee for each pay  
7 period during which Defendant failed to pay minimum wage, as alleged  
8 herein.

9 f) Plaintiffs allege that *California Labor Code* §§ 203 and 204 requires  
10 that employers refrain from wrongfully and willfully withholding wages  
11 after termination of employment. Plaintiff alleges, that *California Labor*  
12 *Code* § 210 allows for civil penalties for violations of *California Labor*  
13 *Code* § 204.

14 g) Plaintiffs allege that *California Labor Code* § 1174 requires employers  
15 to keep accurate payroll records of all hours worked and all proper  
16 wages earned by its employees. Plaintiff alleges, that *California Labor*  
17 *Code* § 1174.5 allows for civil penalties for violations of *California*  
18 *Labor Code* § 1174.

19 47. California Labor Code § 2699(g) further provides that any employee  
20 who prevails in an action for civil penalties is entitled to an award of reasonable  
21 attorneys' fees and costs. Plaintiffs seek to recover his attorneys' fees and costs  
22 under this fee and cost provision.

23 48. On May 4, 2018 pursuant to California Labor Code § 2699.3,  
24 Plaintiff Nevarez submitted notice to the Labor and Workforce Development  
25 Agency (LWDA) of the specific provisions of the Labor Code that have been  
26 violated, including the facts and theories to support the violations. Plaintiff  
27 Nevarez sent this notice to Defendant by certified mail. The sixty-five-day time  
28 limit for the agency to respond has expired, such that Plaintiff Nevarez has  
exhausted his administrative remedies. In addition, Plaintiff Nevarez has not  
received any written notice from Defendant that the violations alleged above have

1 been cured. Plaintiff therefore has exhausted administrative remedies under  
2 *California Labor Code* § 2699.3.

3 49. Therefore, Plaintiff brings this claim on behalf of himself and all  
4 other current and former hourly workers for the recovery of civil penalties, as  
5 provided by *California Labor Code* § 2699, for Defendant's violation, in an  
6 amount according to proof.

7 **PRAYER FOR RELIEF**

8 WHEREFORE, Plaintiffs, on their own behalf, and on behalf of other  
9 members of the general public similarly situated, pray for judgment against  
10 Defendants as follows:

11 **ON THE FIRST CAUSE OF ACTION**

- 12 1. Judgment against Defendants for all unpaid overtime wage damages  
13 owed to Plaintiff and class members according to proof;  
14 2. Judgment against Defendants for pre-judgment interest, according to  
15 proof;  
16 3. Judgment against Defendants for reasonable attorney's fees and costs  
17 under *California Labor Code* § 1194 according to proof;  
18 4. Judgment against Defendants for all waiting time penalties under  
19 *California Labor Code* §§ 201, 202, and 203 owed to Plaintiff and  
20 class members according to proof;

21 **ON THE SECOND CAUSE OF ACTION**

- 22 5. Judgment against Defendants for penalties pursuant to *California*  
23 *Labor Code* § 226;  
24 6. Judgment against Defendants for reasonable attorney's fees and costs  
25 under *California Labor Code* § 226 according to proof;

26 **ON THE THIRD CAUSE OF ACTION**

- 27 7. For waiting time penalties under *California Labor Code* §§ 201, 202  
28 and 203;

**ON THE FOURTH CAUSE OF ACTION**

- 1
- 2 8. Judgment against Defendants for all unpaid wage damages owed to
- 3 Plaintiff and class members according to proof;
- 4 9. Judgment against Defendants for all unpaid minimum wages,
- 5 according to proof
- 6 10. Judgment against Defendants for pre-judgment interest, according to
- 7 proof;
- 8 11. Judgment against Defendants for all waiting time penalties under
- 9 *California Labor Code* §§ 201, 202, and 203 owed to Plaintiff and
- 10 class members according to proof;
- 11 12. Judgment against Defendants for penalties required under *California*
- 12 *Labor Code* § 1194.2 in a sum according to proof;
- 13 13. Judgment against Defendants for reasonable attorney’s fees and costs
- 14 as provided for by law;

**ON THE FIFTH CAUSE OF ACTION**

- 15
- 16 14. Judgment against Defendants for all damages pursuant to *California*
- 17 *Labor Code* § 226.7;
- 18 15. For waiting time penalties under *California Labor Code* §§ 201, 202
- 19 and 203;
- 20 16. For interest on all wages owed;

**ON THE SIXTH CAUSE OF ACTION**

- 21
- 22 17. For restitution of all unlawfully withheld wages for a period
- 23 commencing four years prior to the filing of this action through final
- 24 judgment;

**ON THE SEVENTH CAUSE OF ACTION**

- 25
- 26 18. For all penalties as provided for under *California Labor Code* §
- 27 2699;
- 28 19. Judgment against Defendants for reasonable attorney’s fees under
- California Labor Code § 2699;

**ALL CAUSES OF ACTION**

- 20. Judgment against Defendants for reasonable attorney’s fees as provided by law;
- 21. Judgment against Defendants for pre-judgment interest;
- 22. Judgment against Defendants for costs of suit incurred herein; an
- 23. Judgment against Defendants for such further relief as the court deems just and proper.

**REQUEST FOR A JURY TRIAL**

Plaintiffs hereby demand a jury trial in this action.

Dated: June 10, 2019

/s/ Michael A. Gould

Michael A. Gould  
Aarin A. Zeif  
Gould & Associates  
Attorney for Plaintiff  
Efren Correa, individually, Silverio  
Nevarez, individually, and on  
behalf of other members of the  
general public similarly situated