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6 Attorneys for JEREMIAH VILLARREAL and
RICARDO GASCA, on behalf of themselves, all
7 others similarly situated, and on behalf of the
general public.
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9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
IN AND FOR THE COUNTY OF FRESNO

10 JEREMIAH VILLARREAL and
11 RICARDO GASCA on behalf of
themselves, all others similarly situated,
12 and on behalf of the general public,
13 Plaintiffs,
14 v.
15 WILDWOOD EXPRESS and DOES 1-
16 100,
17 Defendants.

Case No. 18CECG00417

**PLAINTIFFS' SECOND AMENDED CLASS
ACTION COMPLAINT FOR DAMAGES,
INJUNCTIVE RELIEF, DECLARATORY
RELIEF, AND RESTITUTION**

- 1) **Failure to Pay All Straight Time Wages;**
- 2) **Failure to Pay Overtime;**
- 3) **Failure to Provide Meal Periods (Lab. Code §§ 226.7, 512);**
- 4) **Failure to Authorize and Permit Rest Periods (Lab. Code § 226.7; IWC Wage Order Nos. 9-1998, 9-2000, 9-2001(12); Cal. Code Regs. Title 8 § 11090);**
- 5) **Knowing and Intentional Failure to Comply with Itemized Employee Wage Statement Provisions (Lab. Code § 226);**
- 6) **Failure to Pay All Wages Due at the Time of Termination (Lab. Code §§201-203);**
- 7) **Violation of Unfair Competition Law (Bus. & Prof. Code § 17200, et seq.);**
- 8) **Violations of the Labor Code Private Attorneys General Act of 2004 ("PAGA").**

DEMAND FOR JURY TRIAL

1 Plaintiffs JEREMIAH VILLARREAL and RICARDO GASCA, on behalf of themselves, all
2 others similarly situated, and on behalf of the general public, complains of Defendants and/or DOES
3 and for causes of action and alleges:

4 1. This is a class action pursuant to California Code of Civil Procedure section 382 on behalf of
5 Plaintiffs, JEREMIAH VILLARREAL and RICARDO GASCA, and all non-exempt, truck
6 drivers (hereinafter “Non-Exempt Drivers”, who presently provide or have previously provided
7 truck driving services for WILDWOOD EXPRESS and/or DOES and/or its subsidiaries or
8 affiliated companies and/or predecessors and/or DOES, within the State of California.

9 2. At all times mentioned herein, WILDWOOD EXPRESS and/or DOES own and operate trucks,
10 industrial trucks, industrial vehicles, and/or industrial work sites. At all times during the
11 liability period, WILDWOOD EXPRESS and/or DOES have conducted business in Fresno
12 County and elsewhere within California.

13 3. At all times mentioned herin, WILDWOOD EXPRESS and/or DOES have been a leading
14 agricultural hauler in California, picking up and delivering agricultural products throughout
15 the state of California.

16 4. At all times mentioned herein, WILDWOOD EXPRESS and/or subsidiaries or affiliated
17 companies and/or DOES, within the State of California, have, among other things, utilized the
18 services of current and former non-exempt truck drivers s) to drive trucks for Defendant.

19 5. At all times mentioned herein, the common policies and practices of WILDWOOD EXPRESS
20 and/or DOES was a direct cause of Defendants’ failure to comply with California’s wage and
21 hours laws, Wage Orders, and/or the California Labor Code, as set forth more fully within.

22 6. For at least four years prior to the filing of this action and through to the present, Defendants
23 WILDWOOD EXPRESS and/or DOES have had a consistent policy and/or practice of not
24 paying Plaintiffs and its Non-Exempt Drivers for all of the hours they worked. Specifically,
25 Defendants WILDWOOD EXPRESS and/or DOES have had a continuous and widespread
26 policy of only paying for the task of driving and not paying Plaintiffs and the class of drivers
27 for all other non-driving duties, including, but not limited to, filling out paperwork, loading,
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1 unloading, securing, communicating with customers and dispatch. WILDWOOD EXPRESS
2 and/or DOES also have a policy of “clocking-out” Plaintiffs and those similarly situated for
3 thirty (30) minute meal periods (referred to as “auto-meal deduct” or “meal deduct”), even
4 though Plaintiffs and those similarly situated were suffered and/or permitted to work during
5 these deduction periods, thereby deducting thirty (30) minutes of paid time, including straight
6 time and overtime.

7 7. For at least four years prior to the filing of this action and through to the present, Defendants
8 WILDWOOD EXPRESS and/or DOES have had a consistent policy and/or practice of failing
9 to provide all straight time and overtime wages owed to Non-Exempt Drivers, as mandated
10 under the *California Labor Code* and the implementing rules and regulations of the Industrial
11 Welfare Commission’s (“IWC”) California Wage Orders.

12 8. For at least four years prior to the filing of this action and through to the present, Defendants
13 WILDWOOD EXPRESS and/or DOES have had a consistent policy of requiring Non-Exempt
14 Drivers within the State of California, including Plaintiff, to work through meal periods and
15 work at least five (5) hours without a meal period and failing to pay such workers one (1) hour
16 of pay at the drivers’ regular rate of compensation for each workday that the meal period is not
17 provided, or other compensation, as required by California’s state wage and hour laws, and
18 automatically deducting a half hours pay from their wages.

19 9. For at least four years prior to filing of this action and through the present, Defendants
20 WILDWOOD EXPRESS and/or DOES did not have a policy of allowing its Non-Exempt
21 drivers working shifts of ten (10) or more hours in a day to take a second meal period of not
22 less than thirty (30) minutes as required by the applicable Wage Order of the IWC.

23 10. For at least four years prior to the filing of this action and through to the present, Defendants
24 WILDWOOD EXPRESS and/or DOES have had a consistent policy of requiring Non-Exempt
25 Drivers within the State of California, including Plaintiffs, to work over ten (10) hours without
26 providing an additional, uninterrupted meal period of thirty (30) minutes and failing to pay
27 such drivers one (1) hour of pay at the ’ regular rate of compensation for each workday that the
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meal period is not provided, or other compensation, as required by California’s state wage and hour laws.

11. For at least four years prior to the filing of this action and through to the present, Defendants WILDWOOD EXPRESS and/or DOES have had a consistent policy and/or practice of requiring its Non-Exempt Drivers within the State of California, including Plaintiffs, to work for over four hours, or a major fraction thereof, without a 10 minute rest period, and failing to pay such drivers one (1) hour of pay at the drivers’ regular rate of compensation for each workday that the rest period is not provide, or other compensation, as required by California’s state wage and hour laws.

12. For at least four years prior to the filing of this action and through to the present, Defendants WILDWOOD EXPRESS and/or DOES and/or their officers and/or managing agents have had a consistent policy and/or practice of willfully failing to provide to Plaintiffs and its Non-Exempt Drivers, accurate itemized wage statements.

13. For at least four years prior to the filing of this action and through to the present, Defendants WILDWOOD EXPRESS and/or DOES and/or their officers and/or managing agents have had a consistent policy and/or practice of willfully failing to timely pay wages owed to Plaintiffs and those Non-Exempt Drivers who left Defendants WILDWOOD EXPRESS and/or DOES employ or who were terminated.

14. For at least four years prior to the filing of this action and through to the present, WILDWOOD EXPRESS and/or DOES, by failing to lawfully pay Plaintiffs and those similarly situated all the wages they are owed, engaged in false, unfair, fraudulent and deceptive business practices within the meaning of the Business and Professions Code section 17200, *et seq.*

15. Defendants and/or DOES have had a continuous policy of not paying Plaintiffs and those similarly situated for all hours worked. Specifically, Defendants have not paid for all time Non-Exempt Drivers worked throughout the day. Including, but not limited to rounding, before “shifts” start, after “shifts” end, and/or any other time in the day when the Non-Exempt Drivers were performing work tasks, subject to the control of Defendant and/or otherwise had work

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duties.

16. Throughout the statutory period, Plaintiffs and similarly situated Non-Exempt Drivers performed truck driving services for Defendants WILDWOOD EXPRESS and/or DOES as.
17. Throughout the statutory period, WILDWOOD EXPRESS and/or DOES drivers, including Plaintiffs and similarly situated Non-Exempt Drivers, were not provided all straight time and overtime wages owed, meal periods and rest periods, or compensation in lieu thereof, as mandated under the *California Labor Code*, and the implementing rules and regulations of the Industrial Welfare Commissions (“IWC”) California Wage Orders.
18. Throughout the statutory period, WILDWOOD EXPRESS and/or DOES drivers, including Plaintiffs and similarly situated Non-Exempt Drivers were not provided with accurate and itemized wage statements.
19. WILDWOOD EXPRESS and/or DOES failed to comply with Labor Code section 226, subdivision (a), by itemizing in wage statements all hourly compensation and accurately reporting total hours worked by Plaintiffs and the members of the proposed class. Plaintiffs and members of the proposed class are entitled to penalties not to exceed \$4,000 for each driver pursuant to Labor Code section 226(b).
20. WILDWOOD EXPRESS and/or DOES have failed to comply with IWC Wage Order 9-2001(7) by failing to maintain time records showing hourly compensation, when the Non-Exempt Driver begins and ends each work day and total daily hours worked by itemizing in wage statements and accurately reporting total hours worked by Plaintiffs and members of the proposed class.
21. Throughout the statutory period, WILDWOOD EXPRESS and/or DOES drivers, including Plaintiffs and similarly situated Non-Exempt Drivers, were not timely paid all wages owed to them at the time of termination.
22. Defendants WILDWOOD EXPRESS and/or DOES are and were aware that Plaintiffs and members of the proposed Plaintiff Class were not paid all straight time and overtime wages owed, nor provided meal and rest periods. Defendants’ and/or DOES denial of wages and other

1 compensation due to Plaintiffs and members of the proposed Plaintiff class was willful and
2 deliberate.

3 23. Plaintiffs JEREMIAH VILLARREAL and RICARDO GASCA, on behalf of themselves and
4 all of WILDWOOD EXPRESS and/or DOES Non-Exempt Drivers, brings this action pursuant
5 to *California Labor Code* sections 226, subd. (b), 226.7, 510, 512, 515, 558, 1194, and
6 *California Code of Regulations*, Title 8, section 11090, seeking unpaid wages, overtime, meal
7 and rest period compensation, penalties, injunctive and other equitable relief, relief under the
8 Labor Code Private Attorneys General Act of 2004 (“PAGA”), and reasonable attorneys’ fees
9 and costs.

10 24. Plaintiffs JEREMIAH VILLARREAL and RICARDO GASCA, on behalf of themselves and
11 all putative Class Members of WILDWOOD EXPRESS and/or DOES non-exempt drivers,
12 pursuant to *California Business and Professions Code* sections 17200-17208, also seeks
13 injunctive relief, restitution, and disgorgement of all benefits WILDWOOD EXPRESS and/or
14 DOES enjoyed from their failure to pay all straight time wages, overtime wages, and meal and
15 rest period compensation.

16 **I. VENUE**

17 25. Venue as to each Defendant, WILDWOOD EXPRESS and/or DOES, is proper in this judicial
18 district, pursuant to Code of Civil Procedure section 395. Defendants WILDWOOD EXPRESS
19 and/or DOES conduct business and commit Labor Code violations within Fresno County, and
20 each Defendant and/or DOE is within California for service of process purposes. The unlawful
21 acts alleged herein have a direct effect on Plaintiff and those similarly situated within the State
22 of California and within Fresno County. Defendants WILDWOOD EXPRESS and/or DOES
23 employ numerous Class Members who work in Fresno County, in California.

24 **II. PARTIES**

25 **A. Plaintiff.**

26 26. At all relevant times herein, Plaintiffs JEREMIAH VILLARREAL and RICARDO GASCA is
27 and was a resident of California. At all relevant times herein, they were employed by
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Defendants WILDWOOD EXPRESS and/or DOES within the last four years as non-exempt truck drivers, at WILDWOOD EXPRESS and/or DOES in California. Throughout their employment with WILDWOOD EXPRESS and/or DOES, JEREMIAH VILLARREAL and RICARDO GASCA were employed as a non-exempt truck drivers.

27. On information and belief, Plaintiffs and all other members of the proposed Class experienced Defendants' WILDWOOD EXPRESS and/or DOES common company policies of failing to pay all straight time and overtime wages owed.

28. On information and belief, Plaintiffs and all other members of the proposed Class experienced Defendants' WILDWOOD EXPRESS and/or DOES common company policies of illegally deducting wages from d non-exmpt drivers.

29. On information and belief, Plaintiffs and all other members of the proposed Class experienced Defendants' WILDWOOD EXPRESS and/or DOES common policies and/or practices of failing to pay all straight time and overtime wages owed, auto-meal deduct, and providing no meal periods to drivers working at least five (5) hours or any additional meal periods for working in excess of ten (10) hours, or compensation in lieu thereof.

30. On information and belief, Plaintiffs and all other members of the proposed Class experienced Defendants' WILDWOOD EXPRESS and/or DOES common company policies of failing to provide ten (10) minute paid rest breaks to drivers whom worked four (4) hours or major fraction thereof.

31. On information and belief, Plaintiffs and all other members of the proposed Class experienced Defendants' WILDWOOD EXPRESS and/or DOES common company policies of failing to provide Non-Exempt Drivers with accurate itemized wage statements. On information and belief, Defendants and/or DOES failure to provide to their Non-Exempt Drivers, including Plaintiffs, with accurate itemized wage statements was willful.

32. On information and belief, Plaintiffs and all other members of the proposed Class experienced Defendants' WILDWOOD EXPRESS and/or DOES common company policies of failing to timely compensate Non-Exempt Drivers all wages owed upon termination. On information and

1 belief, Defendants and/or DOES failure to pay Non-Exempt Drivers, including Plaintiffs, in a
2 timely manner, compensation owed to them upon termination of their services with
3 WILDWOOD EXPRESS and/or DOES was willful.

4 33. On information and belief, Plaintiffs and all other members of the proposed Class experienced
5 Defendants WILDWOOD EXPRESS and/or DOES fraudulent and deceptive business
6 practices within the meaning of the Business and Professions Code section 17200, *et seq.*

7 34. Plaintiffs and the proposed class they seek to represent are covered by, inter alia, California
8 IWC Occupational Wage Order Nos. 9-1998, 9-2000, and 9-2001, and Title 8, California Code
9 of Regulations, §11090.

10 **B. Defendants.**

11 35. WILDWOOD EXPRESS and/or DOES own and operate trucks, industrial trucks, industrial
12 vehicles, and/or industrial work sites, and, at all times during the liability period, have
13 conducted business in Fresno County and elsewhere within California. At these work sites and
14 throughout California, Defendants WILDWOOD EXPRESS and/or DOES have, among other
15 things, employed persons as truck workers, industrial truck workers, industrial truck drivers,
16 industrial vehicle drivers, industrial workers, and/or other similar job designations.
17 WILDWOOD EXPRESS hauls agricultural freight throughout the state of California.

18 36. Plaintiffs and members of the proposed Class throughout the statutory liability period within
19 California worked as truck drivers for WILDWOOD EXPRESS and/or DOES... On
20 information and belief, WILDWOOD EXPRESS and/or DOES exercised control over the
21 wages, hours, and/or working conditions of Plaintiffs and members of the proposed class.

22 37. WILDWOOD EXPRESS and/or DOES principal place of business is in the State of California.
23 WILDWOOD EXPRESS and/or DOES have numerous office and/or contacts in the State of
24 California. California is the nerve center of WILDWOOD EXPRESS and/or DOES operations.

25 38. The true names and capacities, whether individual, corporate, associate, or otherwise, of
26 Defendants DOES 1-100, inclusive, are presently unknown to Plaintiffs, who therefore sues
27 these Defendants by such fictitious names under Code of Civil Procedure section 474. Plaintiffs
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1 is informed and believes, and based thereon alleges, that each of the Defendants designated
2 herein as a DOE is legally responsible in some manner for the unlawful acts referred to herein.
3 Plaintiffs will seek leave of court to amend this Complaint to reflect the true names and
4 capacities of the Defendants designated hereinafter as DOES when such identities become
5 known.

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

10 **III. CLASS ACTION ALLEGATIONS**

11 40. Plaintiffs bring this action on behalf of themselves and all others similarly situated as a class
12 action pursuant to section 382 of the California Code of Civil Procedure. Plaintiff seeks to
13 represent a Class composed of and defined as follows:
14

15 All Non-Exempt truck drivers who presently perform or have
16 previously performed truck driving services for WILDWOOD
17 EXPRESS and/or DOES and/or its subsidiaries or affiliated companies
18 and/or predecessors and/or DOES, within the State of California during
19 the period of the relevant statute of limitations.

20
21 Plaintiff also seeks to represent a Subclass composed of and defined as follows:

22 All Non-Exempt truck drivers who presently perform or have
23 previously performed truck driving services for WILDWOOD
24 EXPRESS and/or DOES and/or its subsidiaries or affiliated companies
25 and/or predecessors and/or DOES, within the State of California during
26 the period of the relevant statute of limitations, who worked one or
27 more shifts in excess of 5 hours.
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All Non-Exempt truck drivers who presently perform or have previously performed truck driving services for WILDWOOD EXPRESS and/or DOES and/or its subsidiaries or affiliated companies and/or predecessors and/or DOES, within the State of California during the period of the relevant statute of limitations, who worked one or more shifts in excess of 6 hours.

All Non-Exempt truck drivers who presently perform or have previously performed truck driving services for WILDWOOD EXPRESS and/or DOES and/or its subsidiaries or affiliated companies and/or predecessors and/or DOES, within the State of California during the period of the relevant statute of limitations, who worked one or more shifts in excess of 10 hours.

All Non-Exempt truck drivers who presently perform or have previously performed truck driving services for WILDWOOD EXPRESS and/or DOES and/or its subsidiaries or affiliated companies and/or predecessors and/or DOES, within the State of California during the period of the relevant statute of limitations, who worked one or more shifts in excess of 12 hours.

All Non-Exempt truck drivers who presently perform or have previously performed truck driving services for WILDWOOD EXPRESS and/or DOES and/or its subsidiaries or affiliated companies and/or predecessors and/or DOES, within the State of California during the period of the relevant statute of limitations, who worked one or more shifts in excess of 3 hour and one-half hours, but less than or equal to 6 hours.

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All Non-Exempt truck drivers who presently perform or have previously performed truck driving services for WILDWOOD EXPRESS and/or DOES and/or its subsidiaries or affiliated companies and/or predecessors and/or DOES, within the State of California during the period of the relevant statute of limitations, who worked one or more shifts in excess of 6 hours, but less than or equal to 10 hours.

All Non-Exempt truck drivers who presently perform or have previously performed truck driving services for WILDWOOD EXPRESS and/or DOES and/or its subsidiaries or affiliated companies and/or predecessors and/or DOES, within the State of California during the period of the relevant statute of limitations, who worked one or more shifts in excess of 10 hours.

All Non-Exempt truck drivers who presently perform or have previously performed truck driving services for WILDWOOD EXPRESS and/or DOES and/or its subsidiaries or affiliated companies and/or predecessors and/or DOES, within the State of California during the period of the relevant statute of limitations, who separated their employment from Defendants.

All truck drivers who presently perform or have previously performed truck driving services for WILDWOOD EXPRESS and/or DOES and/or its subsidiaries or affiliated companies and/or predecessors and/or DOES, within the State of California during the period of the relevant statute of limitations, who worked one or more shifts in which they received a wage statement for the corresponding pay period.

1 All Non-Exempt truck drivers who presently perform or have
2 previously performed truck driving services for WILDWOOD
3 EXPRESS and/or DOES and/or its subsidiaries or affiliated companies
4 and/or predecessors and/or DOES, within the State of California during
5 the period of the relevant statute of limitations, who were subject to
6 auto-deduct, when they were not relieved of all duties.
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8 All Non-Exempt truck drivers who presently perform or have
9 previously performed truck driving services for WILDWOOD
10 EXPRESS and/or DOES and/or its subsidiaries or affiliated companies
11 and/or predecessors and/or DOES, within the State of California during
12 the period of the relevant statute of limitations, who were subject to
13 rounding, before “shifts” start, after “shifts” end, and/or any other time
14 in the day when the drivers were performing work tasks, subject to the
15 control of Defendant and/or otherwise had work duties.

16 41. Plaintiffs reserve the right under rule 1855, subdivision (b), California Rules of Court, to amend
17 or modify the Class description with greater specificity or further division into subclasses or
18 limitation to particular issues.

19 42. This action has been brought and may properly be maintained as a class action under the
20 provisions of section 382 of the California Code of Civil Procedure because there is a well-
21 defined community of interest in the litigation and the proposed Class is easily ascertainable.

22 **A. Numerosity.**

23 43. The potential members of the Class as defined are so numerous that joinder of all the members
24 of the Class is impracticable. While the precise number of Class Members has not been
25 determined at this time, Plaintiffs are informed and believe that WILDWOOD EXPRESS
26 and/or DOES currently have , and during the liability period, had over fifty Non-Exempt
27 Drivers working, all in the State of California, in Fresno County and dispersed throughout
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1 California during the liability period and who are or have been affected by WILDWOOD
2 EXPRESS and/or DOES policies of wage theft, failure to pay all straight and overtime wages
3 owed, failure to provide meal and/or rest periods without the appropriate legal compensation,
4 willful failure to pay all wages due at time of separation from employment, failure to timely
5 pay waiting time monies, and knowing and intentional failure to provide accurate and itemized
6 wage statements.

7 44. Accounting for turnover during the relevant periods increases this number substantially. Upon
8 information and belief, Plaintiff alleges WILDWOOD EXPRESS and/or DOES employment
9 records would provide information as to the number and location of all Class Members. Joinder
10 of all members of the proposed Class is not practicable.

11 **B. Commonality.**

12 45. There are questions of law and fact common to the Class that predominate over any questions
13 affecting only individual Class Members. These common questions of law and fact include,
14 without limitation:

15 (1) Whether WILDWOOD EXPRESS and/or DOES
16 violated the *Labor Code* and/or applicable IWC Wage Orders in failing
17 to pay drivers all earned wages at the regular rate for all hours worked.

18 (2) Whether WILDWOOD EXPRESS and/or DOES
19 uniform policies of establishing and scheduling routes to be completed
20 in overly demanding time frames resulted in WILDWOOD EXPRESS
21 and/or DOES not providing meal and rest breaks, in that said policies
22 pressured its Non-Exempt Drivers to complete their routes and/or
23 assigned tasks within rigorous time frames and not take meal and rest
24 breaks and/or not legally provide meal periods.

25 (3) Whether WILDWOOD EXPRESS and/or DOES
26 uniform policies of establishing and scheduling routes and/or assigning
27 tasks to be completed in overly demanding time frames resulted in
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WILDWOOD EXPRESS and/or DOES pressuring its Non-Exempt Drivers to complete their routes and/or tasks within the rigorous time frames and not take meal breaks.

(4) Whether WILDWOOD EXPRESS and/or DOES uniform policies of establishing and scheduling routes and/or assigning tasks to be completed in overly demanding time frames resulted in WILDWOOD EXPRESS and/or DOES discouraging its Non-Exempt Drivers from taking meal periods.

(5) Whether WILDWOOD EXPRESS and/or DOES uniform policies of establishing and scheduling routes and/or assigning tasks to be completed in overly demanding time frames resulted in WILDWOOD EXPRESS and/or DOES impeding its Non-Exempt Drivers from taking meal periods.

(6) Whether WILDWOOD EXPRESS and/or DOES uniform policies of establishing and scheduling routes and/or assigning tasks to be completed in overly demanding time frames resulted in WILDWOOD EXPRESS and/or DOES pressuring its Non-Exempt Drivers to forego taking meal periods.

(7) Whether WILDWOOD EXPRESS and/or DOES had a pattern and practice of failing to pay for all wages owed when it only paid for the task of driving and did not pay for non-driving duties, such as, but not limited to, filling out paperwork, loading, unloading, inspecting, securing, communicating with dispatch, and communicating with customers.

(8) Whether WILDWOOD EXPRESS and/or DOES had a pattern and practice of pressuring its Non-Exempt Drivers to complete routes and/or assigned tasks within time frames that made it impractical

1 for Non-Exempt Drivers to be relieved of all duties for thirty (30)
2 minute meal periods and/or ten (10) minute rest breaks.

3 (9) Whether WILDWOOD EXPRESS and/or DOES
4 violated the *Labor Code* and/or applicable IWC Wage Orders in
5 automatically deducting thirty (30) minutes from its Non-Exempt
6 Drivers for each day worked – regardless of whether the Non-Exempt
7 Drivers were relieved of all duties for thirty (30) minutes.

8 (10) Whether WILDWOOD EXPRESS and/or DOES
9 violated *Labor Code* section 226.7, IWC Wage Order No. 9-2001 or
10 other applicable IWC Wage Orders, and California Code of
11 Regulations, Title 8, section 11090, by failing to authorize, permit,
12 and/or provide rest periods to drivers for every four (4) hours or major
13 fraction thereof worked and/or failing to pay said drivers one (1) hour
14 of pay at the drivers’s regular rate of compensation for each work day
15 that the rest period was not authorized, permitted and/or provided.

16 (11) Whether WILDWOOD EXPRESS and/or DOES
17 violated *Labor Code* sections 226 and IWC Wage Order No. 9-2001
18 subsections (7)(a), (7)(b), (7)(c) by knowingly, intentionally, and
19 willfully failing to, among other things, accurately report compensation
20 owed for rest period violations.

21 (12) Whether WILDWOOD EXPRESS and/or DOES
22 willfully failed to pay, in a timely manner, wages owed to members of
23 the proposed Class who left WILDWOOD EXPRESS and/or DOES
24 employ or who were terminated.

25 (13) Whether WILDWOOD EXPRESS and/or DOES
26 violated *Labor Code* section 203, which provides for the assessment of
27 a penalty against t for willfully failing to timely pay all wages owed to
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1 Non-Exempt Drivers who left WILDWOOD EXPRESS and/or DOES

2 (14) Whether WILDWOOD EXPRESS and/or DOES
3 violated section 17200, et seq. of the *California Business and*
4 *Professions Code* by failing to pay all straight and overtime wages
5 owed, failing to provide rest periods without compensating proposed
6 Class Members one (1) hour's pay for every day such periods were not
7 provided, failing to pay all wages due upon termination of employment,
8 and failing to keep accurate records of Class Members' compensation
9 owed.

10 (15) Whether WILDWOOD EXPRESS and/or DOES had
11 uniform policies and/or practices of failing to pay drivers all earned
12 wages at the regular rate for all hours worked.

13 (16) Whether WILDWOOD EXPRESS and/or DOES had
14 uniform policies and/or practices of automatically deducting thirty (30)
15 minutes from its Non-Exempt Drivers for each day worked – regardless
16 of whether the Non-Exempt Drivers were relieved of all duties for
17 thirty (30) minutes.

18 (17) Whether WILDWOOD EXPRESS and/or DOES
19 uniform policy of automatically deduction thirty (30) minutes from its
20 Non-Exempt Drivers for each day worked – regardless of whether the
21 Non-Exempt Drivers were relieved of all duties for thirty (30) minutes
22 – violated the *Labor Code* and Wage Orders.

23 (18) Whether WILDWOOD EXPRESS and/or DOES had
24 uniform policies and/or practices of failing to authorize, permit, and/or
25 provide rest periods to drivers for every four (4) hours or major fraction
26 thereof worked and/or failing to pay said drivers one (1) hour of pay at
27 the driver's regular rate of compensation for each work day that the rest
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1 period was not authorized, permitted and/or provided.

2 (19) Whether WILDWOOD EXPRESS and/or DOES had
3 uniform policies and/or practices of failing to provide drivers accurate
4 and itemized wage statements.

5 (20) Whether WILDWOOD EXPRESS and/or DOES had
6 uniform policies and/or practices of failing to timely pay all wages
7 owed to drivers who left WILDWOOD EXPRESS and/or DOES
8 employ or who were terminated.

9 (21) Whether WILDWOOD EXPRESS and/or DOES
10 uniform policies violate Wage Order No. 9-2001 and *Labor Code*
11 section 226.7.

12 (22) Whether WILDWOOD EXPRESS and/or DOES
13 wrongly converted Plaintiffs' and proposed Class members' wages
14 and/or monies to their own use.

15 (23) Whether WILDWOOD EXPRESS and/or DOES
16 fraudulently represented to Plaintiffs and members of the proposed
17 Class that all wages would be paid in order to induce Plaintiffs and the
18 Class he seeks to represent into believing all wages would be paid and
19 to induce Plaintiffs and the Class he seeks to represent to work for
20 longer hours.

21 (24) Whether WILDWOOD EXPRESS and/or DOES have
22 been unjustly enriched by wrongfully and unlawfully failing to pay
23 Plaintiffs and members of the proposed Class wages they are owed.

24 (25) Whether WILDWOOD EXPRESS and/or DOES
25 violated *Labor Code* sections 226.7 and 512 by not relieving Non-
26 Exempt Drivers from all duties during a 30-minute meal period and not
27 counting the time as time worked.
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(26) Whether WILDWOOD EXPRESS and/or DOES violated *Labor Code* sections 226.7 and 512 or the applicable IWC Wage Orders by failing to provide meal periods to Non-Exempt Drivers before the end of their fifth hour of work when they worked shifts over six hours and/or failing to pay said drivers one hour of pay at the driver’s regular rate of compensation for each work day that the meal period was not provided.

(27) Whether WILDWOOD EXPRESS and/or DOES violated *Labor Code* sections 226.7 and 512 by not providing second meal periods to Plaintiffs and members of the proposed Class.

(28) Whether the inexistence of a policy allowing a second meal period in shifts of over five (5) hours resulted in WILDWOOD EXPRESS and/or DOES Non-Exempt Drivers not being provided a second meal period in accordance with the *Labor Code* and Wage Orders.

(29) Whether the inexistence of a policy allowing a third rest period in shifts of over ten (10) hours resulted in WILDWOOD EXPRESS and/or DOES Non-Exempt Drivers not being authorized and permitted to take a rest period in shifts of over ten (10) hours in accordance with the *Labor Code* and Wage Orders.

(30) Whether WILDWOOD EXPRESS and/or DOES had a uniform policy of failing to pay Non-Exempt Drivers for all straight and overtime wages owed.

(31) Whether WILDWOOD EXPRESS and/or DOES violated *Labor Code* sections 510, 1194, and other provisions by shaving time and failing to pay all straight time and overtime wages owed.

1 (32) Whether WILDWOOD EXPRESS and/or DOES have had
2 a continuous policy of not paying Plaintiffs and those similarly situated
3 for all hours worked due to rounding, before “shifts” start, after “shifts”
4 end, and/or any other time in the day when the drivers were performing
5 work tasks, subject to the control of Defendant and/or otherwise had
6 work duties.

7 46. The answer to each of these respective questions will generate common answers capable of
8 resolving class-wide liability in one stroke.

9 47. Each of said respective work practices and/or policies were uniform throughout all of
10 WILDWOOD EXPRESS and/or DOES California locations during the class period.

11 48. Said common questions predominate over any individualized issues and/or questions affecting
12 only individual members.

13 **C. Typicality.**

14 49. The claims of the named Plaintiffs are typical of the claims of the proposed Class. Plaintiffs
15 and all members of the proposed Class sustained injuries and damages arising out of and caused
16 by WILDWOOD EXPRESS and/or DOES common course of conduct in violation of laws and
17 regulations that have the force and effect of law and statutes as alleged.

18 50. Plaintiffs JEREMIAH VILLARREAL and RICARDO GASCA were subjected to the same
19 uniform policies and/or practices that affected all such drivers.

20 51. Throughout the statutory period, WILDWOOD EXPRESS and/or DOES uniform policies
21 and/or practices resulted in said drivers not being compensated for all straight time and
22 overtime wages.

23 52. Throughout the statutory period, WILDWOOD EXPRESS and/or DOES did not pay drivers
24 for all hours worked. WILDWOOD EXPRESS and/or DOES only paid for the task of driving,
25 and did not pay for non-driving tasks, such as, but not limited to, filling out paperwork,
26 inspecting, loading, unloading, waiting, and communicating with dispatch and customers.

27 53. Throughout the statutory period, WILDWOOD EXPRESS and/or DOES had uniform policies
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1 and/or practices of automatically deducting thirty (30) minutes from its drivers for each day
2 worked, regardless of whether the drivers were relieved of all duties for thirty (30) minutes,
3 resulted in said drivers not being compensated for all earned wages

4 54. As a result of WILDWOOD EXPRESS and/or DOES uniform policies and/or practices of
5 automatic deductions and not paying all wages, Plaintiffs and said truck workers, industrial
6 truck workers, industrial truck drivers, industrial vehicle drivers, industrial workers, and/or
7 other similar job designations and titles were not paid the wages owed to them. Thus, Plaintiffs
8 and truck workers, industrial truck workers, industrial truck drivers, industrial vehicle drivers,
9 industrial workers, and/or other similar job designations and titles are owed their earned wages.

10 55. Throughout the statutory periods, WILDWOOD EXPRESS and/or DOES had uniform policies
11 of pressuring Plaintiffs and truck workers, industrial truck workers, industrial truck drivers,
12 industrial vehicle drivers, industrial workers, and/or other similar job designations and titles to
13 not take meal and/or rest breaks.

14 56. As a result of said uniform policies and/or practices of pressure, Plaintiffs and said truck
15 workers, industrial truck workers, industrial truck drivers, industrial vehicle drivers, industrial
16 workers, and/or other similar job designations and titles regularly did not take meal and/or rest
17 periods and/or worked during meal and/or rest periods.

18 57. Throughout the statutory period, WILDWOOD EXPRESS and/or DOES had uniform policies
19 and/or practices of discouraging Plaintiffs and truck workers, industrial truck workers,
20 industrial truck drivers, industrial vehicle drivers, industrial workers, and/or other similar job
21 designations and titles from taking meal and/or rest periods.

22 58. As a result of said uniform policies and/or practices of discouragement, Plaintiffs and truck
23 workers, industrial truck workers, industrial truck drivers, industrial vehicle drivers, industrial
24 workers, and/or other similar job designations and titles regularly did not take meal and/or rest
25 periods and/or worked during meal and/or rest periods.

26 59. Throughout the statutory period, WILDWOOD EXPRESS and/or DOES had uniform policies
27 and/or practices encouraging Plaintiffs and truck workers, industrial truck workers, industrial
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truck drivers, industrial vehicle drivers, industrial workers, and/or other similar job designations and titles of working during meal and/or rest periods.

60. As a result of said uniform policies and/or practices of encouraging Plaintiffs and said truck workers, industrial truck workers, industrial truck drivers, industrial vehicle drivers, industrial workers, and/or other similar job designations and titles to work during rest periods, Plaintiffs and truck workers, industrial truck workers, industrial truck drivers, industrial vehicle drivers, industrial workers, and/or other similar job designations and titles did not take meal and/or rest periods and/or worked during meal and/or rest periods.

61. Throughout the statutory period, WILDWOOD EXPRESS and/or DOES had uniform policies and/or practices of impeding Plaintiffs and truck workers, industrial truck workers, industrial truck drivers, industrial vehicle drivers, industrial workers, and/or other similar job designations and titles from taking meal and/or rest periods.

62. As a result of said uniform policies and/or practices of impeding Plaintiffs and said truck workers, industrial truck workers, industrial truck drivers, industrial vehicle drivers, industrial workers, and/or other similar job designations and titles from taking rest periods, Plaintiffs and truck workers, industrial truck workers, industrial truck drivers, industrial vehicle drivers, industrial workers, and/or other similar job designations and titles did not take meal and/or rest periods and/or worked during meal and/or rest periods.

63. Throughout the statutory period, WILDWOOD EXPRESS and/or DOES had uniform policies and/or practices of not satisfying its obligation to authorize and permit rest periods and/or provide meal periods to its drivers, including truck workers, industrial truck workers, industrial truck drivers, industrial vehicle drivers, industrial workers, and/or other similar job designations and titles.

64. As a result of said uniform policies and/or practices Defendants and/or DOES had of not satisfying its obligations to authorize and/or permit rest periods, Plaintiffs and said truck workers, industrial truck workers, industrial truck drivers, industrial vehicle drivers, industrial workers, and/or other similar job designations and titles regularly either did not receive meal

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and/or rest periods and/or worked during meal and/or rest periods.

65. Throughout the statutory period, WILDWOOD EXPRESS and/or DOES had uniform policies and/or practices resulted in said drivers not being provided with accurate and itemized wage statements.

66. As a result of WILDWOOD EXPRESS and/or DOES uniform policies and/or practices of not providing drivers with accurate and itemized wage statements, Plaintiffs and said truck workers, industrial truck workers, industrial truck drivers, industrial vehicle drivers, industrial workers, and/or other similar job designations and titles were not provided with accurate and itemized wage statements. Thus, Plaintiffs and truck workers, industrial truck workers, industrial truck drivers, industrial vehicle drivers, industrial workers, and/or other similar job designations and titles are owed appropriate penalties.

67. Throughout the statutory period, WILDWOOD EXPRESS and/or DOES had uniform policies and/or practices that resulted in drivers not being timely paid all wages owed to them at the time they left WILDWOOD EXPRESS and/or were terminated.

68. As a result of WILDWOOD EXPRESS and/or DOES uniform policies and/or practices of not paying all wages owed at the time of termination, Plaintiffs and said truck workers, industrial truck workers, industrial truck drivers, industrial vehicle drivers, industrial workers, and/or other similar job designations and titles were not paid the wages owed to them in a timely manner when they left WILDWOOD EXPRESS and/or DOES employ or were terminated. Thus, Plaintiffs and truck workers, industrial truck workers, industrial truck drivers, industrial vehicle drivers, industrial workers, and/or other similar job designations and titles who left WILDWOOD EXPRESS and/or DOES employ or were terminated during the statutory period are owed waiting time penalties.

D. Adequacy of Representation.

69. Plaintiffs will fairly and adequately represent and protect the interests of the members of the Class.

70. Plaintiffs are ready and willing to take the time necessary to help prosecute this case.

- 1 71. Plaintiffs have no conflicts that will disallow them to fairly and adequately represent and
2 protect the interests of the members of the class.
- 3 72. Counsel who represent Plaintiffs are competent and experienced in litigating large employment
4 class actions.
- 5 73. Specifically, David Mara, Esq., Jill Vecchi, Esq., and Matthew Crawford, Esq. are California
6 lawyers in good standing.
- 7 74. Mr. Mara, Ms. Vecchi, and Mr. Crawford extensively handle employment cases which involve
8 violations of the California Labor Code and Industrial Welfare Commission Wage Orders, such
9 as wage and hour class actions and cases alleging violations of the Private Attorneys General
10 Act of 2004 (“PAGA”).
- 11 75. Mr. Mara wrote an Amicus brief on behalf of Consumer Attorneys of California (“CAOC”) in
12 the recent decision by the California Supreme Court in *Augustus v. ABM Security Services, Inc.*
13 (2016) 2 Cal.5th 257 (rest breaks must be duty-free and time spent being on call during rest
14 breaks is not considered duty-free).
- 15 76. Mara Law Firm, PC wrote an Amicus brief on behalf of CAOC in the recent decision by the
16 California Supreme Court in *Williams v. Superior Court* (2017) 3 Cal. 5th 531 (PAGA and
17 wage and hour class action).
- 18 77. Mr. Mara was appointed class counsel in the landmark California Supreme Court case, *Brinker*
19 *v. Superior Court* and have been appointed as class counsel in many California wage and hour
20 cases, in both State Court and Federal Court.
- 21 78. Mara Law Firm, PC have been granted class certification in both state and federal courts.
- 22 79. Mara Law Firm, PC has the resources to take this case to trial and judgment, if necessary.
- 23 80. Mr. Mara has the experience, ability, and ways and means to vigorously prosecute this case.
- 24 **E. Superiority of Class Action.**
- 25 81. A class action is superior to other available means for the fair and efficient adjudication of this
26 controversy. Individual joinder of all Class Members is not practicable, and questions of law
27 and fact common to the Class predominate over any questions affecting only individual
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1 members of the Class. Each member of the Class has been damaged and is entitled to recovery
2 by reason of WILDWOOD EXPRESS and/or DOES illegal policies and/or practices of failing
3 to pay all straight time and overtime wages owed, failing to permit or authorize rest periods,
4 failing to provide meal periods, knowingly and intentionally failing to comply with wage
5 statement requirements, and failing to pay all wages due at termination.

6 82. Class action treatment will allow those similarly situated persons to litigate their claims in the
7 manner that is most efficient and economical for the parties and the judicial system. Plaintiffs
8 are unaware of any difficulties that are likely to be encountered in the management of this
9 action that would preclude its maintenance as a class action.

10 83. Because such common questions predominate over any individualized issues and/or questions
11 affecting only individual members, class resolution is superior to other methods for fair and
12 efficient adjudication.

13 **IV. CAUSES OF ACTION**

14 **First Cause of Action Against WILDWOOD EXPRESS and/or DOES: Failure to Pay All**
15 **Straight Time Wages**

16 84. Plaintiffs and those similarly situated Class members hereby incorporate by reference each and
17 every other paragraph in this Complaint herein as if fully plead.

18 85. Defendants and/or DOES have had a continuous policy of not paying Plaintiffs and those
19 similarly situated for all hours worked.

20 86. Defendants and/or DOES have had a continuous policy of not paying Plaintiffs and those
21 similarly situated for all hours worked. Specifically, Defendants have not paid for all time
22 drivers worked throughout the day. Including, but not limited to rounding, before “shifts” start,
23 after “shifts” end, and/or any other time in the day when the drivers were performing work
24 tasks, subject to the control of Defendant and/or otherwise had work duties.

25 87. Throughout the statutory period, WILDWOOD EXPRESS and/or DOES did not pay drivers
26 for all hours worked. WILDWOOD EXPRESS and/or DOES only paid for the task of driving,
27 and did not pay for non-driving tasks, such as, but not limited to, filling out paperwork,
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1 inspecting, loading, unloading, waiting, and communicating with dispatch and customers.

2 88. Defendants and/or DOES have had a continuous policy of not paying Plaintiffs and those
3 similarly situated for all hours worked. Specifically, Defendants and/or DOES have a
4 continuous and consistent policy of clocking-out Plaintiffs and those similarly situated for a
5 thirty (30) minute meal period, even though Plaintiffs and all members of the Class work
6 through their meal periods.

7 89. Thus, WILDWOOD EXPRESS and/or DOES shave/steal earned wages from Plaintiffs and
8 each and every member of the Class each and every day they work without a meal period and
9 have time automatically deducted.

10 90. Plaintiffs and those similarly situated Class members are informed and believe and thereon
11 allege that WILDWOOD EXPRESS and/or DOES breached the legal duty to pay full wages
12 to Plaintiffs by automatically deducting a portion of the wages earned when Plaintiffs and the
13 Class members' actual time records indicated that a meal period was not taken. WILDWOOD
14 EXPRESS and/or DOES devised an auto-meal deduct practice, manual method, electronic
15 system, payroll system and/or a computer program to edit the actual hours reported by Plaintiffs
16 and the Class members, deducting a portion of the hours shown as worked hours when a meal
17 period and/or rest period was not taken during the work day and/or Plaintiffs and the Class
18 members were not relieved of all duties. WILDWOOD EXPRESS and/or DOES did not make
19 reasonable efforts to determine whether the time deducted was actually worked as reported by
20 Plaintiffs and Class members. WILDWOOD EXPRESS and/or DOES, without a reasonable
21 basis, presumed that actual reported hours had not been accurately reported. The conduct
22 complained of is a form of what is sometimes called "dinging," "shaving," or "scrubbing" and
23 is prohibited by law. WILDWOOD EXPRESS and/or DOES also failed to pay for the overtime
24 that was due pursuant to *Labor Code* 510, 515 and 1194 and Industrial Welfare Commission
25 Order No. 9-2001, item 3(A).

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27 91. Plaintiffs and the Class members are informed and believe and thereon allege that as a direct
28 result of the systematic deductions in pay, resulting from application of an automatic computer

1 program and overtime, Plaintiffs and the Class members have suffered, and continue to suffer,
2 substantial unpaid wages, and lost interest on such wages, and expenses and attorneys' fees in
3 seeking to compel WILDWOOD EXPRESS and/or DOES to fully perform their obligations
4 under state law, all to their respective damage in amounts, according to proof at trial.

5 92. WILDWOOD EXPRESS and/or DOES committed the acts alleged herein knowingly and
6 willfully, with the wrongful and deliberate intention on injuring Plaintiffs and the Class
7 members. WILDWOOD EXPRESS and/or DOES acted with malice or in conscious disregard
8 of Plaintiffs' and the Class members' rights. Plaintiffs and the Class members are thus entitled
9 to recover nominal, actual, and compensatory damages in amounts according to proof at time
10 of trial. Plaintiffs are also entitled to any penalties allowed by law.

11 93. As a direct result of WILDWOOD EXPRESS and/or DOES policy of illegal wage theft,
12 Plaintiffs and those similarly situated have been damaged in an amount to be proven at trial.

13 94. WHEREFORE, Plaintiffs and the Class they seek to represent request relief as described
14 below.

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16 **Second Cause of Action Against WILDWOOD EXPRESS and/or DOES: Failure to Pay Overtime**

17 95. Plaintiffs and those similarly situated Class members hereby incorporate by reference each and
18 every other paragraph in this Complaint herein as if fully plead.

19 96. Defendants and/or DOES have had a continuous policy of not paying Plaintiffs and those
20 similarly situated for all hours worked. Specifically, Defendants have not paid for all time
21 drivers worked throughout the day. Including, but not limited to rounding, before "shifts" start,
22 after "shifts" end, and/or any other time in the day when the drivers were performing work
23 tasks, subject to the control of Defendant and/or otherwise had work duties.

24 97. WILDWOOD EXPRESS and/or DOES failed to pay overtime when drivers worked over 8
25 hours per day and when drivers worked over 40 hours per week.

26 98. Plaintiffs and those similarly situated Class members performed truck driving services for
27 WILDWOOD EXPRESS and/or DOES at all relevant times. WILDWOOD EXPRESS and/or
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1 DOES were required to compensate Plaintiffs for all hours worked and were prohibited from
2 making deductions that had the effect of reducing the agreed upon wage.

3 99. Plaintiffs and those similarly situated Class members are informed and believe and thereon
4 allege that WILDWOOD EXPRESS and/or DOES breached the legal duty to pay full wages
5 to Plaintiffs by automatically deducting a portion of the wages earned when Plaintiffs' and the
6 Class Members' actual time records indicated that a meal period was not taken. WILDWOOD
7 EXPRESS and/or DOES devised a computer program to edit the actual hours reported by
8 Plaintiffs and the Class Members, deducting a portion of the hours shown as worked hours
9 when a meal period and/or rest period was not taken during the work day. WILDWOOD
10 EXPRESS and/or DOES did not make reasonable efforts to determine whether the time
11 deducted was actually worked as reported by Plaintiffs and the Class Members. WILDWOOD
12 EXPRESS and/or DOES, without a reasonable basis, presumed that actual reported hours had
13 not been accurately reported. The conduct complained of is a form of what is sometimes called
14 "dinging" and is prohibited by law. WILDWOOD EXPRESS and/or DOES also failed to pay
15 for the overtime that was due, pursuant to IWC Wage Order No. 9-2001, item 3(A).

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17 100. Plaintiffs and the Class Members are informed and believe and thereon allege that as a direct
18 result of the systematic deductions in pay, resulting from application of an automatic computer
19 program and overtime, Plaintiffs and the Class Members have suffered, and continue to suffer,
20 substantial unpaid wages, and lost interest on such wages, and expenses and attorneys' fees in
21 seeking to compel WILDWOOD EXPRESS and/or DOES to fully perform their obligations
22 under state law, all to their respective damage in amounts according to proof at time of trial.
23 WILDWOOD EXPRESS and/or DOES committed the acts alleged herein knowingly and
24 willfully, with the wrongful and deliberate intention on injuring Plaintiffs and the Class
25 Members. WILDWOOD EXPRESS and/or DOES acted with malice or in conscious disregard
26 of Plaintiffs' and the Class Member's rights. In addition to compensation, Plaintiffs are also
27 entitled to any penalties allowed by law.

28 101. WHEREFORE, Plaintiffs and the Class they seek to represent request relief as described

1 below.

2 **Third Cause of Action Against WILDWOOD EXPRESS and/or DOES: Failure to**
3 **Provide Meal Periods, or Compensation in Lieu Thereof (Lab. Code §§ 226.7, 512)**

4 102. Plaintiffs and those similarly situated Class members hereby incorporate by reference each and
5 every other paragraph in this Complaint herein as if fully plead.

6 103. WILDWOOD EXPRESS and/or DOES failed to provide thirty (30) minute, uninterrupted meal
7 periods to its Non-Exempt Drivers who worked for work periods of more than five (5)
8 consecutive hours. As such, WILDWOOD EXPRESS and/or DOES non-exempt drivers were
9 required to work well over five (5) consecutive hours at a time without being provided a thirty
10 (30) minute uninterrupted meal period within that time.

11 104. WILDWOOD EXPRESS and/or DOES failed to provide thirty (30) minute, uninterrupted meal
12 periods to its Non-Exempt Drivers for every five (5) continuous hours worked.

13 105. WILDWOOD EXPRESS and/or DOES business model was such that Non-Exempt Drivers
14 were assigned too much work that could not reasonably be completed in their assigned shift,
15 work, and/or route, resulting in Non-Exempt Drivers routinely and regularly being forced to
16 eat their meals while driving and/or while working their routes.

17 106. Throughout the statutory period, WILDWOOD EXPRESS and/or DOES had a pattern and
18 practice of assigning too much work to be completed in too short of time frames, resulting in
19 Plaintiffs and those similarly situated not breaking route to take meal periods.

20 107. Throughout the statutory period, WILDWOOD EXPRESS and/or DOES had a pattern and
21 practice of scheduling routes and assigning too much work to be completed in too short of time
22 frames, resulting in WILDWOOD EXPRESS and/or DOES pressuring Non-Exempt Drivers
23 to complete their routes and/or tasks within the rigorous time frames and not take meal breaks.

24 108. Throughout the statutory period, WILDWOOD EXPRESS and/or DOES had a pattern and
25 practice of scheduling routes and assigning too much work to be completed in too short of time
26 frames, resulting in WILDWOOD EXPRESS and/or DOES discouraging Non-Exempt Drivers
27 from taking meal periods.
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- 1 109. Throughout the statutory period, WILDWOOD EXPRESS and/or DOES had a pattern and
2 practice of scheduling routes and assigning too much work to be completed in too short of time
3 frames, resulting in WILDWOOD EXPRESS and/or DOES impeding Non-Exempt Drivers
4 from taking meal periods.
- 5 110. Throughout the statutory period, WILDWOOD EXPRESS and/or DOES valued productivity
6 over providing meal periods and, because of this, meal breaks were not priorities to
7 WILDWOOD EXPRESS and/or DOES.
- 8 111. Because of WILDWOOD EXPRESS and/or DOES demanding policies on route and/or
9 completion times, Plaintiffs and those similarly situated felt that breaking to exercise their
10 rights to take meal periods would sacrifice their jobs with WILDWOOD EXPRESS and/or
11 DOES.
- 12 112. Based on WILDWOOD EXPRESS and/or DOES demanding route and/or task completion
13 time policies, Plaintiffs and those similarly situated routinely worked through their meal
14 periods, which compromised the health and welfare of, not only Plaintiffs and those similarly
15 situated, but all members of the general public.
- 16 113. Throughout the statutory period, WILDWOOD EXPRESS and/or DOES had no policy that
17 advised Plaintiffs and those similarly situated of their right to take a second meal period.
- 18 114. WILDWOOD EXPRESS and/or DOES thereby failed to provide an additional thirty (30)
19 minute uninterrupted meal period for Non-Exempt Drivers on days where they worked in
20 excess of ten (10) hours.
- 21 115. Failing to provide compensation for such unprovided or improperly provided meal periods, as
22 alleged above, WILDWOOD EXPRESS and/or DOES willfully violated the provisions of
23 *Labor Code* sections 226.7, 512, and IWC Wage Order No. 9.
- 24 116. As a result of the unlawful acts of WILDWOOD EXPRESS and/or DOES, Plaintiffs and the
25 Class they seek to represent have been deprived of premium wages, in amounts to be
26 determined at trial, and are entitled to recovery of such amounts, plus interest and penalties
27 thereon, pursuant to *Labor Code* section 226.7. Plaintiffs and the Class they seek to represent
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1 did not willfully waive their right to take meal periods through mutual consent with
2 WILDWOOD EXPRESS and/or DOES.

3 117. WHEREFORE, Plaintiffs and the Class they seek to represent request relief as described
4 below.

5 **Fourth Cause of Action Against WILDWOOD EXPRESS and/or DOES: Failure to**
6 **Authorize and Permit Rest Periods (Lab. Code § 226.7; IWC Wage Order Nos. 9-1998,**
7 **9-2000, 9-2001(12); Cal. Code Regs. Title 8 § 11090)**

8 118. Plaintiffs and those similarly situated Class members hereby incorporate by reference each and
9 every other paragraph in this Complaint herein, as if fully plead.

10 119. WILDWOOD EXPRESS and/or DOES failed to authorize and permit Non-Exempt Drivers
11 to take ten (10) minute rest periods every four (4) hours worked, or major fraction thereof.

12 120. WILDWOOD EXPRESS and/or DOES failed to provide ten (10) minute paid rest breaks to
13 Non-Exempt Drivers for each four (4) hours worked, or major fraction thereof.

14 121. In the alternative, WILDWOOD EXPRESS and/or DOES business model was such that Non-
15 Exempt Drivers were assigned too much work that could not be reasonably completed within
16 their assigned shift, work, and/or route, resulting in Non-Exempt Drivers routinely and
17 regularly being forced to work through their rest periods.

18 122. Throughout the statutory period, WILDWOOD EXPRESS and/or DOES had a pattern and
19 practice of assigning too much work to be completed in too short of time frames, resulting in
20 Plaintiffs and those similarly situated not breaking route to take rest periods.

21 123. Because of WILDWOOD EXPRESS and/or DOES demanding policies en route and/or task
22 completion times, Plaintiffs and those similarly situated felt that breaking to exercise their
23 rights to take rest breaks would sacrifice their jobs with WILDWOOD EXPRESS and/or
24 DOES.

25 124. Throughout the statutory period, WILDWOOD EXPRESS and/or DOES uniform policies and
26 practices resulted in Non-Exempt Drivers not receiving rest breaks.

27 125. Throughout the statutory period, WILDWOOD EXPRESS and/or DOES valued productivity
28 over providing rest periods and, because of this, rest periods were not priorities to

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WILDWOOD EXPRESS and/or DOES.

126. Throughout the statutory period, WILDWOOD EXPRESS and/or DOES policies promoting productivity subjugated Plaintiffs' and those similarly situated's rights to rest periods.

127. Based on WILDWOOD EXPRESS and/or DOES demanding route policies, Plaintiffs and those similarly situated routinely worked through their rest periods, which compromised the health and welfare of, not only Plaintiffs and those similarly situated, but all members of the general public.

128. Throughout the statutory period, WILDWOOD EXPRESS and/or DOES had no policy that advised Plaintiffs and those similarly situated of their rights to take an additional rest periods in shifts exceeding ten (10) hours in a day.

129. Thus, Plaintiffs and those similarly situated had no way of knowing they were to be authorized and permitted a ten (10) minute rest period when working in excess of ten (10) hours a day.

130. By its failure to authorize and permit Class Members to take rest periods for every four (4) hours or major fraction thereof worked per day, WILDWOOD EXPRESS and/or DOES willfully violated provisions of *Labor Code* section 226.7 and IWC Wage Order Nos. 9-1998, 9-2000, and 9-2001. Plaintiffs and the Class Members they seek to represent did not willfully waive their right to take rest periods through mutual consent with WILDWOOD EXPRESS and/or DOES.

131. As a result of the unlawful acts of WILDWOOD EXPRESS and/or DOES, Plaintiffs and the Class they seek to represent have been deprived of premium wages in amounts to be determined at trial, and are entitled to recovery of such amounts, plus interest and penalties thereon, attorneys' fees and costs, under *Labor Code* section 226.7, and IWC Wage Orders 9-1998, 9-2000, 9-2001.

132. WHEREFORE, Plaintiffs and the Class they seek to represent request relief as described below.

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1 **Fifth Cause of Action Against WILDWOOD EXPRESS and/or DOES: Knowing and**
2 **Intentional Failure to Comply with Itemized Wage Statement Provisions (Lab. Code §**
3 **226; IWC Wage Order No. 4; Cal. Code Regs., Title 8, § 11040)**

3 133. Plaintiffs and those similarly situated Class members hereby incorporate by reference each and
4 every other paragraph in this Complaint herein as if fully plead.

5 134. WILDWOOD EXPRESS and/or DOES have knowingly and intentionally failed to comply
6 with *Labor Code* section 226, subdivision (a), on each and every wage statement provided to
7 Plaintiffs JEREMIAH VILLARREAL and RICARDO GASCA, and members of the proposed
8 Class.

9 135. In every pay period during the period of the relevant statute of limitations, WILDWOOD
10 EXPRESS and/or DOES knowingly and intentionally did not itemize the gross wages earned
11 on wage statements as Labor Code section 226, subsection (a), requires. In every pay period
12 during the period of the relevant statute of limitations, WILDWOOD EXPRESS and/or DOES
13 knowingly and intentionally did not include the gross wages earned on wage statements.
14 WILDWOOD EXPRESS and/or DOES therefore knowingly and intentionally failed to itemize
15 the gross wages earned on Plaintiffs' and the class' wage statements.

16 136. WILDWOOD EXPRESS and/or DOES' violation of Labor Code section 226, subdivision (a)
17 for knowingly and intentionally failing to itemize all gross wages earned on wage statements
18 is not derivative of Plaintiffs' cause of action pled herein for failure to pay all straight time
19 wages. It is a stand-alone, wholly independent claim, for failing to itemize gross wages earned
20 on wage statements.

21 137. As a result, in every pay period during the period of the relevant statute of limitation, Plaintiffs
22 and the class members were unable to reasonably ascertain the gross wages earned from wage
23 statements furnished by WILDWOOD EXPRESS and/or DOES.

24 138. In every pay period during the period of the relevant statute of limitations, WILDWOOD
25 EXPRESS and/or DOES knowingly and intentionally did not itemize the total hours worked
26 on wage statements as Labor Code section 226, subsection (a), requires. In every pay period
27 during the period of the relevant statute of limitations, WILDWOOD EXPRESS and/or DOES
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1 knowingly and intentionally did not include the total hours worked on wage statements.
2 WILDWOOD EXPRESS and/or DOES therefore knowingly and intentionally failed to itemize
3 the total hours worked on Plaintiffs' and the class' wage statements.

4 139. WILDWOOD EXPRESS and/or DOES' violation of Labor Code section 226, subdivision (a)
5 for knowingly and intentionally failing to itemize total hours worked on wage statements is
6 not derivative of Plaintiffs' cause of action pled herein for failure to pay all straight time wages.
7 It is a stand-alone, wholly independent claim, for failing to itemize total hours worked on wage
8 statements.

9 140. As a result, in every pay period during the period of the relevant statute of limitation, Plaintiffs
10 and the class members were unable to reasonably ascertain the total hours worked from wage
11 statements furnished by WILDWOOD EXPRESS and/or DOES.

12 141. In every pay period during the period of the relevant statute of limitations, WILDWOOD
13 EXPRESS and/or DOES knowingly and intentionally did not itemize all deductions from
14 earned wages on wage statements as required by Labor Code section 226, subdivision (a).
15 WILDWOOD EXPRESS and/or DOES had a uniform policy of deducting 30-minutes each
16 workday from Plaintiffs and the class' wages for meal periods, despite the fact that Plaintiffs
17 and the class were working during and throughout the time period of the deduction.
18 WILDWOOD EXPRESS and/or DOES violated the Labor Code section 226, subdivision (a)
19 requirement of itemizing all deductions from wages. As WILDWOOD EXPRESS and/or
20 DOES knew or had reason to know Plaintiffs and the class were working during meal periods,
21 WILDWOOD EXPRESS and/or DOES knowingly and intentionally failed to comply with
22 Labor Code Section 226, subdivision (a).

23 142. WILDWOOD EXPRESS and/or DOES' violation of Labor Code section 226, subdivision (a)
24 for knowingly and intentionally failing to itemize all deductions is not derivative of Plaintiffs'
25 cause of action pled herein for failure to provide meal periods. It is a stand-alone, wholly
26 independent claim, for failing to itemize all deductions from earned wages on wage statements.

27 143. As a result, in every pay period during the period of the relevant statute of limitation, Plaintiffs
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1 and the class members were unable to reasonably ascertain all deductions from taken from
2 wages paid from wage statements furnished by WILDWOOD EXPRESS and/or DOES.

3 144. In every pay period during the period of the relevant statute of limitations, WILDWOOD
4 EXPRESS and/or DOES knowingly and intentionally did not itemize net wages earned on
5 wage statements as Labor Code section 226, subsection (a), requires. In every pay period
6 during the period of the relevant statute of limitations, WILDWOOD EXPRESS and/or DOES
7 knowingly and intentionally did not include the net wages earned on wage statements.
8 WILDWOOD EXPRESS and/or DOES therefore knowingly and intentionally failed to itemize
9 the net wages earned on Plaintiffs' and the class' wage statements.

10 145. WILDWOOD EXPRESS and/or DOES' violation of Labor Code section 226, subdivision (a)
11 for knowingly and intentionally failing to itemize net wages earned on wage statements is not
12 derivative of Plaintiffs' cause of action pled herein for failure to pay all straight time wages. It
13 is a stand-alone, wholly independent claim, for failing to itemize net wages earned on wage
14 statements.

15 146. As a result, in every pay period during the period of the relevant statute of limitation, Plaintiffs
16 and the class members were unable to reasonably ascertain net wages earned from wage
17 statements furnished by WILDWOOD EXPRESS and/or DOES.

18 147. In every pay period during the period of the relevant statute of limitations, WILDWOOD
19 EXPRESS and/or DOES knowingly and intentionally did not itemize the beginning and ending
20 date of the pay period on wage statements as Labor Code section 226, subsection (a), requires.
21 WILDWOOD EXPRESS and/or DOES knew of – but violated - their obligation to include this
22 information on wage statements and knew Plaintiffs and the class needed that information to
23 determine if they have been paid correctly during the pay period. WILDWOOD EXPRESS
24 and/or DOES therefore knowingly and intentionally failed to itemize the beginning and ending
25 of the pay periods on Plaintiffs' and the class' wage statements.

26 148. WILDWOOD EXPRESS and/or DOES' violation of Labor Code section 226, subdivision (a)
27 for knowingly and intentionally failing to itemize the beginning and ending dates of the
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1 applicable pay periods on wage statements is not derivative of any of Plaintiffs' other causes
2 of action pled herein or anywhere else. It is a stand-alone, wholly independent claim, for failing
3 to itemize the beginning and ending dates of applicable pay periods on wage statements.

4 149. As a result, in every pay period during the period of the relevant statute of limitation, Plaintiffs
5 and the class members were unable to reasonably ascertain the beginning and ending dates of
6 the applicable pay periods on wage statements furnished by WILDWOOD EXPRESS and/or
7 DOES.

8 150. In every pay period during the period of the relevant statute of limitations, WILDWOOD
9 EXPRESS and/or DOES knowingly and intentionally did not itemize Plaintiffs' and the class
10 member's name and/or the last four digits of the Plaintiffs' and the class member's social
11 security number on wage statements as Labor Code section 226, subsection (a), requires. In
12 every pay period during the period of the relevant statute of limitations, WILDWOOD
13 EXPRESS and/or DOES knowingly and intentionally did not include the Plaintiffs' and the
14 class member's name and/or the last four digits of the Plaintiffs' and the class member's social
15 security number on wage statements. WILDWOOD EXPRESS and/or DOES therefore
16 knowingly and intentionally failed to itemize the Plaintiffs' and the class member's name
17 and/or the last four digits of the Plaintiffs' and the class member's social security number on
18 Plaintiffs' and the class' wage statements.

19 20 151. WILDWOOD EXPRESS and/or DOES' violation of Labor Code section 226, subdivision (a)
21 for knowingly and intentionally failed to itemize Plaintiffs' and the class member's name
22 and/or the last four digits of the Plaintiffs' and the class member's social security number on
23 wage statements is not derivative of Plaintiffs' cause of action pled herein for failure to pay all
24 straight time wages. It is a stand-alone, wholly independent claim, for failing to itemize
25 Plaintiffs' and the class member's name and/or the last four digits of the Plaintiffs' and the
26 class member's social security number on wage statements.

27 152. As a result, in every pay period during the period of the relevant statute of limitation, Plaintiffs
28 and the class members were unable to reasonably ascertain whether wage statements furnished

- 1 by WILDWOOD EXPRESS and/or DOES were the correct wage statements.
- 2 153. In every pay period during the period of the relevant statute of limitations, WILDWOOD
3 EXPRESS and/or DOES knowingly and intentionally did not itemize the name and address of
4 the Defendant legal entity on wage statements as Labor Code section 226, subsection (a),
5 requires. In every pay period during the period of the relevant statute of limitations,
6 WILDWOOD EXPRESS and/or DOES knowingly and intentionally did not include the name
7 and address of the Defendant legal entity on wage statements. WILDWOOD EXPRESS
8 and/or DOES therefore knowingly and intentionally failed to itemize the Plaintiffs' and the
9 class member's name and/or the last four digits of the Plaintiffs' and the class member's social
10 security number on Plaintiffs' and the class' wage statements.
- 11 154. WILDWOOD EXPRESS is the legal name of the named Defendant and is the name registered
12 with the California Secretary of State. However, on each of the wage statements provided to
13 Class Members during the statutory period, Defendant's name is identified as WILDWOOD
14 EXPRESS INC. an entity that does not exist.
- 15 155. WILDWOOD EXPRESS and/or DOES' violation of Labor Code section 226, subdivision (a)
16 for knowingly and intentionally failed to itemize name and address of Defendant legal entity
17 on wage statements is not derivative of Plaintiffs' cause of action pled herein for failure to pay
18 all straight time wages. It is a stand-alone, wholly independent claim, for failing to itemize
19 name and address of Defendant legal entity on wage statements.
- 20 156. As a result, in every pay period during the period of the relevant statute of limitation, Plaintiffs
21 and the class members were unable to reasonably ascertain the name and address of the legal
22 entity that employed Plaintiffs and other class members from the wage statements furnished
23 by WILDWOOD EXPRESS and/or DOES, and did not have the ability to contact the correct
24 legal entity if paid incorrectly or for questions about Plaintiffs and class members
25 compensation.
- 26 157. In every pay period during the period of the relevant statute of limitations, WILDWOOD
27 EXPRESS and/or DOES knowingly and intentionally did not itemize the applicable rates of
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1 pay on wage statements as Labor Code section 226, subsection (a), requires. WILDWOOD
2 EXPRESS and/or DOES knew of – but violated - their obligation to include this information
3 on wage statements and knew Plaintiffs and the class needed that information to determine if
4 they have been paid correctly during the pay period. WILDWOOD EXPRESS and/or DOES
5 therefore knowingly and intentionally failed to itemize the applicable rates of pay on Plaintiffs’
6 and the class’ wage statements.

7 158. WILDWOOD EXPRESS and/or DOES’ violation of Labor Code section 226, subdivision (a)
8 for knowingly and intentionally failing to itemize the applicable rates of pay on wage
9 statements is not derivative of any of Plaintiffs’ other causes of action pled herein or anywhere
10 else. It is a stand-alone, wholly independent claim, for failing to itemize the applicable rates of
11 pay on wage statements.

12 159. As a result, in every pay period during the period of the relevant statute of limitation, Plaintiffs
13 and the class members were unable to reasonably ascertain the applicable rates of pay on the
14 wage statements furnished by WILDWOOD EXPRESS and/or DOES.

15 160. In every pay period during the period of the relevant statute of limitations, WILDWOOD
16 EXPRESS and/or DOES knowingly and intentionally did not itemize the rates and basis for
17 how bonuses and other incentive pay were calculated on wage statements as Labor Code
18 section 226, subsection (a), requires. WILDWOOD EXPRESS and/or DOES knew of – but
19 violated - their obligation to include this information on wage statements and knew Plaintiffs
20 and the class needed that information to determine if they have been paid correctly during the
21 pay period. WILDWOOD EXPRESS and/or DOES therefore knowingly and intentionally
22 failed to itemize the rates and basis for how bonuses and other incentive pay were calculated
23 on class’ wage statements.

24 161. WILDWOOD EXPRESS and/or DOES’ violation of Labor Code section 226, subdivision (a)
25 for knowingly and intentionally failing to itemize the rates and basis for how bonuses and other
26 incentive pay were calculated on wage statements is not derivative of any of Plaintiffs’ other
27 causes of action pled herein or anywhere else. It is a stand-alone, wholly independent claim,
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1 for failing to itemize the rates and basis for how bonuses and other incentive pay were
2 calculated on wage statements.

3 162. As a result, in every pay period during the period of the relevant statute of limitation, Plaintiffs
4 and the class members were unable to reasonably ascertain rates and basis for how bonuses
5 and other incentive pay were calculated from the wage statements furnished by WILDWOOD
6 EXPRESS and/or DOES.

7 163. In every pay period during the period of the relevant statute of limitations, WILDWOOD
8 EXPRESS and/or DOES knowingly and intentionally did not keep records of deductions from
9 wages in ink or other indelible form for at least three years as Labor Code section 226,
10 subsection (a), requires. WILDWOOD EXPRESS and/or DOES knew of – but violated - their
11 obligation to so keep these records. WILDWOOD EXPRESS and/or DOES therefore
12 knowingly and intentionally failed to keep accurate records of deductions from Plaintiffs’ and
13 the class’ wages.

14 164. WILDWOOD EXPRESS and/or DOES’ violation of Labor Code section 226, subdivision (a)
15 for knowingly and intentionally failing to keep records of deductions from wages in ink or
16 other indelible form for at least three years is not derivative of any of Plaintiffs’ other causes
17 of action pled herein or anywhere else. It is a stand-alone, wholly independent claim, for failing
18 to keep records of deductions from wages in ink or other indelible form for at least three years.

19 165. As a direct result of WILDWOOD EXPRESS and/or DOES’ unlawful acts, Plaintiffs and the
20 class they intend to represent have been damaged and are entitled to recovery of such amounts,
21 plus interest thereon, attorneys’ fees, and costs, pursuant to *Labor Code* section 226.

22 166. WHEREFORE, Plaintiffs and the Class they seek to represent request relief as described
23 below.
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25 **Sixth Cause of Action Against WILDWOOD EXPRESS and/or DOES: Failure to Pay All**
26 **Wages Due at the Time of Termination (Lab. Code §§ 201-203)**

27 167. Plaintiffs and those similarly situated Class members hereby incorporate by reference each and
28 every other paragraph in this Complaint herein as if fully plead.

- 1 168. Plaintiffs JEREMIAH VILLARREAL and RICARDO GASCA terminated their employment
2 with WILDWOOD EXPRESS and/or DOES.
- 3 169. Whether Plaintiffs JEREMIAH VILLARREAL and RICARDO GASCA voluntarily or
4 involuntarily terminated their employment with WILDWOOD EXPRESS and/or DOES,
5 Defendants and/or DOES did not timely pay them straight time wages and/or overtime wages
6 owed at the time of their termination.
- 7 170. Numerous members of the Class are no longer employed by WILDWOOD EXPRESS and/or
8 DOES. They were either fired or quit WILDWOOD EXPRESS and/or DOES employ.
9 WILDWOOD EXPRESS and/or DOES did not pay all timely wages owed at the time of their
10 termination.
- 11 171. *Labor Code* section 203 provides that, if an employer willfully fails to pay, without abatement
12 or reduction, in accordance with *Labor Code* sections 201, 201.5, 202 and 205.5, any wages of
13 an employee who is discharged or who quits, the wages of the employee shall continue at the
14 same rate, for up to thirty (30) days from the due date thereof, until paid or until an action
15 therefore is commenced.
- 16 172. WILDWOOD EXPRESS and/or DOES failed to pay Plaintiffs JEREMIAH VILLARREAL
17 and RICARDO GASCA a sum certain at the time of their termination or within seventy-two
18 (72) hours of their resignation, and have failed to pay those sums for thirty (30) days thereafter.
19 Pursuant to the provisions of *Labor Code* section 203, Plaintiffs JEREMIAH VILLARREAL
20 and RICARDO GASCA are entitled to a penalty in the amount of his daily wage, multiplied
21 by thirty (30) days.
- 22 173. When Plaintiffs and those members of the Class who are former drivers of WILDWOOD
23 EXPRESS and/or DOES separated from WILDWOOD EXPRESS and/or DOES employ,
24 Defendants and/or DOES willfully failed to pay all straight time wages, overtime wages, meal
25 period premiums, and/or rest period premiums owed at the time of termination.
- 26 174. WILDWOOD EXPRESS and/or DOES failure to pay said wages to Plaintiffs JEREMIAH
27 VILLARREAL and RICARDO GASCA and members of the Class they seek to represent, was
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1 willful in that WILDWOOD EXPRESS and/or DOES and each of them knew the wages to be
2 due, but failed to pay them.

3 175. As a consequence of WILDWOOD EXPRESS and/or DOES willful conduct in not paying
4 wages owed at the time of separation from employment, Plaintiffs JEREMIAH VILLARREAL
5 and RICARDO GASCA and members of the proposed Class are entitled to thirty (30) days
6 worth of wages as a penalty under *Labor Code* section 203, together with interest thereon and
7 attorneys' fees and costs.

8 176. WHEREFORE, Plaintiffs and the Class they seek to represent request relief as described
9 below.

10
11 **Seventh Cause of Action Against WILDWOOD EXPRESS and/or DOES: Violation of
Unfair Competition Law (California Bus. & Prof. Code, § 17200, et seq.)**

12 177. Plaintiffs and those similarly situated Class members hereby incorporate by reference each and
13 every other paragraph in this Complaint herein as if fully plead.

14 178. WILDWOOD EXPRESS and/or DOES failure to pay all straight time and overtime wages
15 earned, as alleged herein, constitutes unlawful activity prohibited by *California Business and*
16 *Professions Code* section 17200, et seq.

17 179. WILDWOOD EXPRESS and/or DOES failure to provide compliant meal and/or rest breaks
18 and/or compensation in lieu thereof, as alleged herein, constitutes unlawful activity prohibited
19 by *California Business and Professions Code* section 17200, et seq.

20 180. WILDWOOD EXPRESS and/or DOES failure to itemize and keep accurate records, as alleged
21 herein, constitutes unlawful activity prohibited by *California Business and Professions Code*
22 section 17200, et seq.

23 181. WILDWOOD EXPRESS and/or DOES failure to pay all wages due at time of termination, as
24 alleged herein, constitutes unlawful activity prohibited by *California Business and Professions*
25 *Code* section 17200, et seq.

26 182. The actions of WILDWOOD EXPRESS and/or DOES in failing to pay Plaintiffs and members
27 of the proposed Class in a lawful manner, as alleged herein, constitutes false, unfair, fraudulent
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1 and deceptive business practices, within the meaning of *California Business and Professions*
2 *Code* section 17200, et seq.

3 183. Plaintiffs are entitled to an injunction and other equitable relief against such unlawful practices
4 in order to prevent future damage, for which there is no adequate remedy at law, and to avoid
5 a multiplicity of lawsuits. Plaintiffs bring this cause as individuals and as members of the
6 general public actually harmed and as a representative of all others subject to WILDWOOD
7 EXPRESS and/or DOES unlawful acts and practices.

8 184. As a result of their unlawful acts, WILDWOOD EXPRESS and/or DOES have reaped and
9 continue to reap unfair benefits at the expense of Plaintiffs and the proposed Class they seek
10 to represent. WILDWOOD EXPRESS and/or DOES should be enjoined from this activity and
11 made to disgorge these ill-gotten gains and restore Plaintiffs and the members of the proposed
12 Class pursuant to *Business and Professions Code* section 17203. Plaintiffs are informed and
13 believes, and thereon alleges, that Defendants and/or DOES are unjustly enriched through their
14 policy of not all wages owed to Plaintiffs and members of the proposed class.

15 185. Plaintiffs are informed and believes, and thereon alleges, that Plaintiffs and members of the
16 proposed class are prejudiced WILDWOOD EXPRESS and/or DOES unfair trade practices.

17 186. As a direct and proximate result of the unfair business practices of WILDWOOD EXPRESS
18 and/or DOES, and each of them, Plaintiffs, individually and on behalf of all s Non-Exempt -
19 drivers similarly situated, are entitled to equitable and injunctive relief, including full
20 restitution and/or disgorgement of all wages and premium pay which have been unlawfully
21 withheld from Plaintiffs and members of the proposed Class as a result of the business acts and
22 practices described herein and enjoining WILDWOOD EXPRESS and/or DOES from
23 engaging in the practices described herein.

24 187. The illegal conduct alleged herein is continuing, and there is no indication that WILDWOOD
25 EXPRESS and/or DOES will cease and desist from such activity in the future. Plaintiffs allege
26 that if WILDWOOD EXPRESS and/or DOES are not enjoined from the conduct set forth in
27 this Complaint, they will continue the unlawful activity discussed herein.
28

1 188. Plaintiffs further request that the Court issue a preliminary and permanent injunction
2 prohibiting WILDWOOD EXPRESS and/or DOES from continuing to not pay Plaintiffs and
3 the members of the proposed Class overtime wages as discussed herein.

4 189. WHEREFORE, Plaintiffs and the Class they seek to represent request relief as described
5 below.

6
7 **Eighth Cause of Action Against WILDWOOD EXPRESS and/or DOES: Violations of
the Private Attorneys General Act of 2004 (“PAGA”) (Labor Code §2698 et seq.)**

8 190. Plaintiffs and those similarly situated Class members hereby incorporate by reference each and
9 every other paragraph in this Complaint herein as if fully plead.

10 191. A notice correspondence showing compliance with *Labor Code* Section 2699.3 was sent to the
11 LWDA and Defendant on May 14, 2019. This notice demonstrates that Plaintiff RICARDO
12 GASCA is an aggrieved employee and has standing to bring a representative action on behalf
13 of the LWDA and as a private attorney general. No notice of cure by Defendant and/or DOES
14 was provided and no notice of investigation was received from the LWDA in the statutorily
15 proscribed sixty-five (65) day period since the mailing of the notice of the action.

16 192. On May 15, 2019, a check for the seventy-five dollar (\$75) filing fee associated with the above
17 notice correspondence was sent to the LWDA via UPS Next Day Air.

18 193. Plaintiffs, by virtue of their employment with Defendants, and Defendants’ failure to provide
19 meal and rest periods, overtime compensation, all wages for all work performed at the statutory
20 minimum agreed upon rate, and all wages due at termination, are aggrieved employees with
21 standing to bring an action under the Private Attorney General Act (“PAGA”). Plaintiffs, as
22 representatives of the people of the State of California, will seek any and all penalties otherwise
23 capable of being collected by the Labor Commission and/or the Department of Labor Standards
24 Enforcement (DLSE). This includes each of the following, as set forth in Labor Code Section
25 2699.5, which provides that Section 2699.3(a) applies to any alleged violation of the following
26 provisions: Sections 201 through 203, 204, 205.5, 221, 222, 223, 226, 226.7, 510, 512, 558,
27 1174, 1194, 1197, 1197.1, and 1199.
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1 194. Plaintiffs are informed and believe that Defendants have violated provisions of the California
2 Labor Code and applicable Wage Orders related to meal and rest periods, overtime
3 compensation, wages for all work performed, failure to provide itemized wage statements, and
4 all wages due at termination.

5 195. Plaintiffs, as personal representatives of the general public, will and do seek to recover any and
6 all penalties for each and every violation shown to exist or to have occurred during the one-
7 year period of filing this action, in an amount according to proof, as to those penalties that are
8 otherwise only available to public agency enforcement actions. Funds recovered will be
9 distributed in accordance with PAGA, with at least 75% of the penalties recovered being
10 reimbursed to the State of California and the Labor and Workforce Development Agency
11 (LWDA).

12 **V. PRAYER FOR RELIEF**

13 WHEREFORE, Plaintiffs pray for judgment as follows:

- 14 1. That the Court determine that this action may be maintained as a class action;
- 15 2. For compensatory damages, in an amount according to proof at trial, with interest
16 thereon;
- 17 3. For economic and/or special damages in an amount according to proof with interest
18 thereon;
- 19 4. For unpaid straight time and overtime wages, in an amount according to proof at trial,
20 with interest thereon;
- 21 5. For compensation for all time worked;
- 22 6. For compensation for not being provided paid rest breaks;
- 23 7. For compensation for not being provided paid meal periods;
- 24 8. For damages and/or monies owed for failure to comply with itemized employee wage
25 statement provisions;
- 26 9. For all waiting time penalties owed;
- 27 10. That Defendants be found to have engaged in unfair competition in violation of sections
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- 17200 et seq. of the *California Business and Professions Code*;
- 11. That Defendants be ordered and enjoined to make restitution to the Class due to their unfair competition, including disgorgement of their wrongfully withheld wages pursuant to *California Business and Professions Code* sections 17203 and 17204;
 - 12. That an order of specific performance of all penalties owed be issued under *Business and Professions Code* sections 17202;
 - 13. That Defendants be enjoined from continuing the illegal course of conduct, alleged herein;
 - 14. That Defendants further be enjoined to cease and desist from unfair competition in violation of section 17200 et seq. of the *California Business and Professions Code*;
 - 15. That Defendants be enjoined from further acts of restraint of trade or unfair competition;
 - 16. For penalties for each violation of the Labor Code Private Attorneys General Act of 2004 (“PAGA”);
 - 17. For attorneys’ fees;
 - 18. For interest accrued to date;
 - 19. For costs of suit and expenses incurred herein; and
 - 20. For any such other and further relief as the Court deems just and proper.

Dated: February 13, 2020

MARA LAW FIRM, PC



Dave Mara, Esq.
Jill Vecchi, Esq.
Matthew Crawford, Esq.
Representing Plaintiffs JEREMIAH VILLARREAL
and RICARDO GASCA on behalf of himself, all others
similarly situated, and on behalf of the general public.