

HAINES LAW GROUP, APC
 Paul K. Haines (SBN 248226)
 phaines@haineslawgroup.com
 Tuvia Korobkin (SBN 268066)
 tkorobkin@haineslawgroup.com
 Fletcher W. Schmidt (SBN 286462)
 fschmidt@haineslawgroup.com
 Andrew J. Rowbotham (SBN 301367)
 arowbotham@haineslawgroup.com
 2274 East Maple Ave.
 El Segundo, California 90245
 Tel: (424) 292-2350
 Fax: (424) 292-2355

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

MIGUEL RODRIGUEZ as an individual and on behalf of all others similarly situated,

Plaintiff,

vs.

JEROME'S FURNITURE WAREHOUSE, a California Corporation; and DOES 1 through 10, Defendants.

CASE NO. '17CV0460 L NLS

CLASS AND COLLECTIVE ACTION COMPLAINT:

- (1) **FAILURE TO PAY ALL OVERTIME WAGES (LABOR CODE §§ 204, 510, 558, 1194, 1198);**
- (2) **FAIR LABOR STANDARDS ACT, (29 U.S.C. § 201 et seq.);**
- (3) **MEAL PERIOD VIOLATIONS (LABOR CODE §§ 226.7, 512, 558);**
- (4) **WAGE STATEMENT VIOLATIONS (LABOR CODE § 226 et seq.);**
- (5) **WAITING TIME PENALTIES (LABOR CODE §§ 201-203); and**
- (6) **UNFAIR COMPETITION (BUS & PROF CODE § 17200 et seq.)**

**DEMAND FOR JURY TRIAL
UNLIMITED CIVIL CASE**

Plaintiff Miguel Rodriguez (hereinafter “Plaintiff”) on behalf of himself and all others similarly situated, hereby brings this Class and Collective Action Complaint against Jerome’s Furniture Warehouse, a California Corporation; and DOES 1 to 100, inclusive (collectively “Defendants”), and on information and belief alleges as follows:

JURISDICTION

1. Plaintiff, on behalf of himself and all others similarly situated, hereby brings this class and collective action for recovery of unpaid wages and penalties under the Fair Labor Standards Act (“FLSA”), California Business and Professions Code § 17200, *et. seq.*, Labor Code §§ 201-204, 226 *et seq.*, 510, 512, 558, 1194, 1198, and Industrial Welfare Commission Wage Order 7 (“Wage Order 7”), in addition to seeking injunctive relief, declaratory relief and restitution.

2. This Court has jurisdiction over Defendants’ violations of the FLSA pursuant to 29 U.S.C. § 216 and 28 U.S.C. § 1331 because the action asserts rights arising under federal law. This Court has jurisdiction over Defendants’ violation of the Labor Code sections set forth in the immediately preceding paragraph, California Business and Professions Code and Wage Order 7, because these claims derive from the same common nucleus of operative facts.

VENUE

3. Venue is proper under 28 U.S.C. 1391 because Defendants do business in within the Southern District of California and the acts alleged herein took place within the Southern District of California. Defendants are also subject to the personal jurisdiction of this Court pursuant to 28 U.S.C. 1391(c), because at

1 least some of them operate businesses where they employed Plaintiff within the
2 Southern District of California.

3 **PARTIES**

4 4. Plaintiff is an individual over the age of eighteen (18). At all relevant
5 times herein, Plaintiff was and currently is, a California resident. During the four
6 years immediately preceding the filing of the Complaint in this action and within
7 the statute of limitations periods applicable to each cause of action pled herein,
8 Plaintiff was employed by Defendants as a non-exempt employee. Plaintiff was,
9 and is, a victim of Defendants' policies and/or practices complained of herein, lost
10 money and/or property, and has been deprived of the rights guaranteed to him by
11 the FLSA, California Labor Code §§ 201-204, 226 *et seq.*, 510, 512, 558, 1194,
12 1198, California Business and Professions Code § 17200 *et seq.* ("Unfair
13 Competition Law"), and Wage Order 7, which sets employment standards for the
14 mercantile industry.

15 5. Plaintiff is informed and believes, and based thereon alleges, that
16 during the four years preceding the filing of the Complaint and continuing to the
17 present, Defendants did (and continue to do) business by providing furniture for
18 retail and wholesale purchase, and employed Plaintiff and other, similarly-situated
19 non-exempt employees within San Diego County and the state of California and,
20 therefore, were (and are) doing business in San Diego County and the State of
21 California.

22 6. Plaintiff does not know the true names or capacities, whether
23 individual, partner, or corporate, of the Defendants sued herein as DOES 1 to 10,
24 inclusive, and for that reason, said Defendants are sued under such fictitious names,
25 and Plaintiff will seek leave from this tribunal to amend this Complaint when such
26 true names and capacities are discovered. Plaintiff is informed, and believes, and
27 based thereon alleges, that each of said fictitious Defendants, whether individual,
28 partners, or corporate, were responsible in some manner for the acts and omissions

1 alleged herein, and proximately caused Plaintiff and the Classes (as defined in
2 Paragraph 14) to be subject to the unlawful employment practices, wrongs, injuries
3 and damages complained of herein.

4 7. Plaintiff is informed, and believes, and thereon alleges, that at all times
5 mentioned herein, Defendants were and are the employers of Plaintiff and all
6 members of the Classes.

7 8. At all times herein mentioned, each of said Defendants participated in
8 the doing of the acts hereinafter alleged to have been done by the named
9 Defendants; and furthermore, the Defendants, and each of them, were the agents,
10 servants, and employees of each and every one of the other Defendants, as well as
11 the agents of all Defendants, and at all times herein mentioned were acting within
12 the course and scope of said agency and employment. Defendants, and each of
13 them, approved of, condoned, and/or otherwise ratified each and every one of the
14 acts or omissions complained of herein.

15 9. At all times mentioned herein, Defendants, and each of them, were
16 members of and engaged in a joint venture, partnership, and common enterprise,
17 and acting within the course and scope of and in pursuance of said joint venture,
18 partnership, and common enterprise. Further, Plaintiff alleges that all Defendants
19 were joint employers for all purposes of Plaintiff and all members of the Classes.

20 **CLASS AND COLLECTIVE ALLEGATIONS**

21 10. Plaintiff was employed by Defendants as a non-exempt employee at
22 the Rancho Bernardo facility from approximately July 25, 2005 to approximately
23 June 2016.

24 11. During Plaintiff's employment with Defendants, Plaintiff routinely
25 worked in excess of eight hours per workday and/or forty hours per workweek, but
26 did not receive overtime compensation equal to one and one half times his regular
27 rate of pay for all overtime hours worked. Specifically, Defendants paid Plaintiff
28 bonuses based on productivity, and/or other forms of non-discretionary incentive

1 pay (hereinafter the aforementioned forms of pay are collectively referred to as
2 “Incentive Pay”), not excludable under California Law and the FLSA when
3 calculating an employee’s regular rate. However during a portion of the class
4 period, Defendants failed to properly include all forms of Incentive Pay when
5 calculating Plaintiff’s regular rate of pay for overtime purposes. Instead, Plaintiff
6 was paid less than one and one half times (or two times in the case of double-time
7 hours) the legal regular rate of pay for overtime hours worked. Defendants’ failure
8 to properly calculate Plaintiff’s regular rate of pay to include the various forms of
9 Incentive Pay earned during corresponding time periods, led to a systematic
10 underpayment of Plaintiff’s overtime wages during time periods in which he both
11 received Incentive Pay and worked overtime hours.

12 12. Plaintiff was also not provided all required meal periods due to
13 Defendants’ meal period policies/practices which fail to provide a timely first meal
14 period (before the end of the fifth hour of work) as well as a second meal period for
15 shifts over 10.0 hours. In practice, Plaintiff was typically provided his first meal
16 period after the end of his fifth hour of work. Additionally, Plaintiff worked shifts
17 over 10.0 hours and was not provided a second 30-minute meal period due to
18 Defendants’ meal period policies/practices which fail to provide for any second
19 meal periods. On those occasions when Plaintiff was not provided with all legally-
20 compliant meal periods to which he was entitled, Defendants failed to compensate
21 Plaintiff with the required meal period premium for each workday in which he
22 experienced a meal period violation as mandated by Labor Code § 226.7. Upon
23 information and belief, Defendants did not pay any putative class members any
24 meal period premiums during the putative class period.

25 13. As a result of Defendants’ failure to pay all overtime and meal period
26 premium wages, Defendants maintained inaccurate payroll records and issued
27 inaccurate wage statements to Plaintiff. Further, Defendants’ wage statements
28 during a portion of the class period were facially deficient as they failed to

1 accurately list all applicable hourly rates in effect during the pay period in violation
2 of Labor Code § 226(a)(9). Additionally, as a result of Defendants' failure to pay
3 all overtime wages and meal period premiums, Defendants failed to pay all final
4 wages owed to Plaintiff upon his separation of employment from Defendants.

5 14. Class Definitions: Plaintiff brings this action on behalf of himself and
6 the following Classes pursuant to Rule 23 of the Rules of Federal Procedure and the
7 FLSA:

8 a. The Overtime Class consists of all Defendants' current and former
9 non-exempt employees in California who worked more than eight hours per day
10 and/or forty hours per week and received Incentive Pay during a corresponding
11 time period, from September 23, 2012 to the present.

12 b. The FLSA Overtime Class consists of all Defendants' current and
13 former hourly non-exempt employees throughout the United States, who worked
14 more than forty hours per week and received Incentive Pay during a corresponding
15 time period, from September 23, 2013 to the present.

16 c. The Meal Period Class consists of all Defendants' current and former
17 non-exempt employees in California who: (i) worked at least one shift in excess of
18 5.0 hours, and whose time records do not reflect a meal period of at least 30 minutes
19 in duration commencing prior to the conclusion of the fifth hour of work, and who
20 do not have a corresponding meal period premium payment made for such shifts;
21 and/or (ii) worked at least one shift in excess of 10.0 hours and whose time records
22 do not reflect a second meal period of at least 30 minutes in duration commencing
23 prior to the conclusion of the tenth hour of work, and who do not have a
24 corresponding meal period premium payment made for such shifts, from September
25 23, 2012 to the present.

26 d. The Wage Statement Class consists of all members of the Overtime
27 Class, Meal Period Class, and/or any employee who received a wage statement that
28

1 failed to accurately list all applicable hourly rates in effect during the pay period,
2 from September 23, 2015 to the present.

3 e. The Waiting Time Class consists of all formerly employed members
4 of the Overtime Class and Meal Period Class, who separated their employment from
5 Defendants at any point after September 23, 2013.

6 15. **Numerosity/Ascertainability:** The members of the Classes are so
7 numerous that joinder of all members would be unfeasible and not practicable. The
8 membership of the Classes and Subclasses are unknown to Plaintiff at this time;
9 however, it is estimated that the members of the Classes number greater than one
10 thousand (1,000) individuals. The identity of such membership is readily
11 ascertainable via inspection of Defendants' employment records.

12 16. **Common Questions of Law and Fact Predominate/Well Defined**
13 **Community of Interest:** There are common questions of law and fact as to Plaintiff
14 and all other similarly situated employees, which predominate over questions
15 affecting only individual members including, without limitation to:

- 16 i. Whether Defendants violated the applicable Labor Code provisions
17 including, but not limited to §§ 510 and 1194 by requiring overtime
18 work and not paying for said work according to the overtime laws of
19 the State of California;
- 20 ii. Whether Defendants failed to properly include all forms of
21 compensation when computing the respective regular rates for
22 members of the California and FLSA Overtime Classes;
- 23 iii. Whether Defendants' policies and/or practices for determining the
24 regular rate of pay for purposes of overtime compensation to the
25 Overtime Class violated California law and/or the FLSA;
- 26 iv. Whether Defendants maintained legally compliant meal period policy
27 during the relevant time period; and
- 28 v. Whether Defendants policies and/or practices for the timing and

1 amount of payment of final wages at the time of separation from
2 employment were unlawful.

3 17. **Predominance of Common Questions:** Common questions of law
4 and fact predominate over questions that affect only individual members of the
5 Classes. The common questions of law set forth above are numerous and substantial
6 and stem from Defendants' policies and/or practices applicable to each individual
7 class member, such as Defendants' uniform method of calculating the regular rate
8 of pay, and uniform meal period policies/practices. As such, the common questions
9 predominate over individual questions concerning each individual class member's
10 showing as to their eligibility for recovery or as to the amount of their damages.

11 18. **Typicality:** The claims of Plaintiff are typical of the claims of the
12 Classes because Plaintiff was employed by Defendants as an hourly non-exempt
13 employee in California and the United States during the statutes of limitations
14 applicable to each cause of claim pled in the Complaint. As alleged herein, Plaintiff,
15 like the members of the Classes, was deprived of all earned overtime, was not
16 provided with all legally compliant meal periods, did not receive meal period
17 premium wages in lieu of missed or non-compliant meal periods, received
18 inaccurate and facially deficient wage statements, and did not receive all final wages
19 owed to him upon his separation of employment from Defendants.

20 19. **Adequacy of Representation:** Plaintiff is fully prepared to take all
21 necessary steps to represent fairly and adequately the interests of the members of
22 the Classes. Moreover, Plaintiff's attorneys are ready, willing and able to fully and
23 adequately represent the members of the Classes and Plaintiff. Plaintiff's attorneys
24 have prosecuted and defended numerous wage-and-hour class actions in state and
25 federal courts in the past and are committed to vigorously prosecuting this action
26 on behalf of the members of the Classes.

27 20. **Superiority:** The California Labor Code is broadly remedial in nature
28 and serves an important public interest in establishing minimum working conditions

1 and standards in California. Similarly, the FLSA is remedial in nature and serves an
2 important public interest in establishing minimum working conditions and
3 standards through the United States. These laws and labor standards protect the
4 average working employee from exploitation by employers who have the
5 responsibility to follow the laws and who may seek to take advantage of superior
6 economic and bargaining power in setting onerous terms and conditions of
7 employment. The nature of this action and the format of laws available to Plaintiff
8 and members of the Classes make the class action format a particularly efficient and
9 appropriate procedure to redress the violations alleged herein. If each employee
10 were required to file an individual lawsuit, Defendants would necessarily gain an
11 unconscionable advantage since they would be able to exploit and overwhelm the
12 limited resources of each individual Plaintiff with their vastly superior financial and
13 legal resources. Moreover, requiring each member of the Class to pursue an
14 individual remedy would also discourage the assertion of lawful claims by
15 employees who would be disinclined to file an action against their former and/or
16 current employer for real and justifiable fear of retaliation and permanent damages
17 to their careers at subsequent employment. Further, the prosecution of separate
18 actions by the individual Class members, even if possible, would create a substantial
19 risk of inconsistent or varying verdicts or adjudications with respect to the
20 individual Class members against Defendants herein; and which would establish
21 potentially incompatible standards of conduct for Defendants; and/or legal
22 determinations with respect to individual Class members which would, as a
23 practical matter, be dispositive of the interest of the other Class members not parties
24 to adjudications or which would substantially impair or impede the ability of the
25 Class members to protect their interests. Further, the claims of the individual
26 members of the Class are not sufficiently large to warrant vigorous individual
27 prosecution considering all of the concomitant costs and expenses attending thereto.

28 21. As such, the Classes identified in Paragraph 14 are maintainable as

1 Classes under Rule 23(b)(1) and/or Rule 23(b)(3) and/or the FLSA.

2 **FIRST CLAIM**

3 **FAILURE TO PAY ALL OVERTIME WAGES**

4 **(AGAINST ALL DEFENDANTS)**

5 22. Plaintiff re-alleges and incorporates by reference all previous
6 paragraphs as though fully set forth herein.

7 23. This cause of action is brought on behalf of the California Overtime
8 Class pursuant to Labor Code §§ 204, 510, 558, 1194, and 1198, which provide that
9 hourly non-exempt employees are entitled to all overtime wages and compensation
10 for hours worked, and provide a private right of action for the failure to pay all
11 overtime compensation for overtime work performed.

12 24. Plaintiff and members of the California Overtime Class, worked
13 overtime hours and were paid various forms of Incentive Pay, which are not
14 statutory exclusions when calculating an employee's regular rate. At all times
15 relevant herein, Defendants were required to properly compensate hourly non-
16 exempt employees, including Plaintiff and members of the California Overtime
17 Class, for all overtime hours worked pursuant to California Labor Code § 1194 and
18 Wage Order 7. Wage Order 7, § 3 requires an employer to pay an employee "one
19 and one-half (1½) times the employee's regular rate of pay" for work in excess of
20 eight hours per workday and/or in excess of forty hours of work in the workweek.
21 Wage Order 7, § 3 also requires an employer to pay an employee double the
22 employee's regular rate of pay for work in excess of twelve hours each work day
23 and/or for work in excess of eight hours on the seventh consecutive day of work in
24 the workweek.

25 25. Plaintiff is informed and believes, and based thereon alleges that,
26 Defendants regularly and systematically, as a policy and practice, miscalculated the
27 overtime rate of pay by failing to properly include the various forms of Incentive
28 Pay paid to Plaintiff and members of the California Overtime Class, which are not

1 statutory exclusions when calculating an employee's regular rate of pay. Rather,
2 Plaintiff and members of the California Overtime Class were only paid one and a
3 half times their base rate, which was not equal to the regular rate, as Defendants
4 failed to include the various forms of Incentive Pay earned during corresponding
5 periods that were required to be included in the regular rate, but were not.
6 Accordingly, Plaintiff and members of the California Overtime Class were not
7 compensated at the appropriate rates of overtime pay for all overtime hours worked.
8 Furthermore, Defendants maintained a policy or practice of requiring work on seven
9 consecutive days, without paying overtime and double-time compensation for hours
10 worked on the seventh consecutive workday.

11 26. Defendants' policy/practice of requiring overtime work and not paying
12 at the proper overtime rates for said work violates California Labor Code §§ 204,
13 210, 216, 510, 558, 1194, and 1198; and Wage Order 7.

14 27. The foregoing policies/practices alleged herein are unlawful and create
15 entitlement to recovery by Plaintiff and the members of the California Overtime
16 Class in a civil action for the unpaid amount of overtime wages, including interest
17 thereon, statutory penalties, civil penalties, attorneys' fees, and costs of suit
18 according to California Labor Code §§ 204, 210, 216, 510, 558, 1194, and 1198;
19 and Code of Civil Procedure § 1021.5

20 **SECOND CLAIM**
21 **FLSA VIOLATIONS**
22 **(AGAINST ALL DEFENDANTS)**

23 28. Plaintiff re-alleges and incorporates by reference all previous
24 paragraphs.

25 29. This claim is brought pursuant to 29 U.S.C. § 207, which requires
26 employers to pay all non-exempt employees one and one-half times the regular rate
27 of pay for all hours worked in excess of 40 per workweek.
28

1 30. Plaintiff and members of the FLSA Overtime Class worked in excess
2 of 40 hours per workweek, earned overtime compensation, and received various
3 forms of Incentive Pay, which are not exclusions when calculating the regular rate
4 of pay. Plaintiff is informed and believes, and based thereon alleges that,
5 Defendants regularly and systematically, as a policy and practice, miscalculated
6 the overtime rate of pay by failing to properly include the various forms of
7 Incentive Pay paid to Plaintiff and members of the FLSA Overtime Class, which
8 are not statutory exclusions when calculating an employee's regular rate of pay.
9 Rather, Plaintiff and members of the FLSA Overtime Class were only paid one and
10 a half times their base rate, which was not equal to the regular rate, as Defendants
11 failed to include the various forms of Incentive Pay earned during corresponding
12 periods that were required to be included in the regular rate, but were not.
13 Accordingly, Plaintiff and members of the FLSA Overtime Class were not
14 compensated at the appropriate rates of overtime pay for all hours worked.

15 31. Defendants' policy and practice of requiring overtime work and not
16 paying at the proper overtime rate for said work violates the FLSA's overtime
17 requirements including, but not limited to 29 U.S.C. § 207.

18 32. Defendants' policies and practices, as alleged, constitute a willful
19 violation of the FLSA, within the meaning of 29 U.S.C. § 255.

20 33. Defendants' policy and practice of failing to include all forms of
21 Incentive Pay in the overtime rate calculations for Plaintiff and members of the
22 FLSA Overtime Class creates an entitlement to recovery by Plaintiff and members
23 of the FLSA Overtime Class in a civil action for the unpaid amount of overtime
24 premiums owing, including liquidated damages, attorneys' fees and costs, per 29
25 U.S.C. § 216 and interest thereon.

26 ///

27 ///

28 ///

THIRD CLAIM

MEAL PERIOD VIOLATIONS

(AGAINST ALL DEFENDANTS)

34. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

35. Plaintiff is informed and believes, and based thereon alleges, that Defendants failed in their affirmative obligation to provide all of their non-exempt employees in California, including Plaintiff and members of the Meal Period Class, with all legally-compliant meal periods in accordance with the mandates of the California Labor Code and Wage Order 7, § 11. Despite Defendants’ violations, Defendants did not pay an additional hour of pay to Plaintiff and members of the Meal Period Class at their respective regular rates of pay, in accordance with California Labor Code §§ 204, 210, 226.7, and 512.

36. As a result, Defendants are responsible for paying premium compensation for meal period violations pursuant to Labor Code §§ 226.7, 512, and 558, and Wage Order 7, including interest thereon, statutory penalties, civil penalties, and costs of suit.

FOURTH CLAIM

WAGE STATEMENT VIOLATIONS

(AGAINST ALL DEFENDANTS)

37. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

38. Plaintiff is informed and believes, and based thereon alleges that, Defendants knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Plaintiff and members of the Wage Statement Class with accurate and complete wage statements as described herein, in violation of Labor Code § 226.

39. Defendants’ failure to furnish Plaintiff and members of the Wage

1 Statement Class with complete and accurate itemized wage statements resulted in
2 actual injury, as said failures led to, among other things, the non-payment of all
3 their overtime and meal period premium wages, as well as deprived them of the
4 information necessary to identify the discrepancies in Defendants' reported data.

5 40. Defendants' failure creates an entitlement to recovery by Plaintiff and
6 members of the Wage Statement Class in a civil action for all damages and/or
7 penalties pursuant to Labor Code § 226, including statutory penalties, civil
8 penalties, reasonable attorney's fees, and costs of suit according to California Labor
9 Code §§ 226 and 226.3 and 2698 *et seq.*

10 **FIFTH CLAIM**

11 **WAITING TIME PENALTIES**

12 **(AGAINST ALL DEFENDANTS)**

13 41. Plaintiff re-alleges and incorporates by reference all previous
14 paragraphs.

15 42. This cause of action is brought pursuant to Labor Code §§ 201-203,
16 which require an employer to pay all wages immediately at the time of separation
17 of employment in the event the employer discharges the employee or the employee
18 provides at least 72 hours of notice of their intent to quit. In the event the employee
19 provides less than 72 hours of notice of their intent to quit, said employee's wages
20 become due and payable not later than 72 hours upon said employee's last date of
21 employment.

22 43. Plaintiff is informed and believes, and based thereon alleges, that
23 Defendants failed to timely pay Plaintiff and members of the Waiting Time Class
24 all final wages due to them at their separation from employment, including unpaid
25 overtime wages.

26 44. Further, Plaintiff is informed and believes, and based thereon alleges,
27 that as a matter of uniform policy and practice, Defendants continue to fail to pay
28 Plaintiff and members of the Waiting Time Class all earned wages at the end of

1 employment in a timely manner pursuant to the requirements of Labor Code §§
2 201-203.

3 45. Defendants' failure to pay all final wages was willful within the
4 meaning of Labor Code § 203. Defendants' willful failure to timely pay Plaintiff
5 and the members of the Waiting Time Class their earned wages upon separation
6 from employment results in a continued payment of wages up to thirty days from
7 the time the wages were due.

8 46. Therefore, Plaintiff and members of the Waiting Time Class are
9 entitled to compensation pursuant to Labor Code § 203, plus reasonable attorneys'
10 fees and costs of suit.

11 **SIXTH CLAIM**
12 **UNFAIR COMPETITION**
13 **(AGAINST ALL DEFENDANTS)**

14 47. Plaintiff re-alleges and incorporates by reference all previous
15 paragraphs.

16 48. Defendants have engaged and continue to engage in unfair and/or
17 unlawful business practices in California in violation of California Business and
18 Professions Code § 17200 *et seq.*, by failing to properly pay all overtime wages,
19 provide all required meal periods, or pay meal period premium payments in lieu
20 thereof, failing to provide accurate wage statements, and failing to pay all final
21 wages owed to employees upon their separation from employment with Defendants.

22 49. Defendants' utilization of these unfair and/or unlawful business
23 practices deprived Plaintiff and continues to deprive members of the Classes of
24 compensation to which they are legally entitled, constitutes unfair and/or unlawful
25 competition, and provides an unfair advantage over Defendants' competitors who
26 have been and/or are currently employing workers and attempting to do so in honest
27 compliance with applicable wage and hour laws.

28 50. Because Plaintiff is a victim of Defendants' unfair and/or unlawful

1 conduct alleged herein, Plaintiff for himself and on behalf of the members of the
2 Classes, seeks full restitution of monies, as necessary and according to proof, to
3 restore any and all monies withheld, acquired and/or converted by Defendants
4 pursuant to Business and Professions Code §§ 17203 and 17208.

5 51. The acts complained of herein occurred within the last four years
6 immediately preceding the filing of the Complaint in this action.

7 52. Plaintiff was compelled to retain the services of counsel to file this
8 Complaint to protect his interests and those of the Classes, to obtain restitution and
9 injunctive relief on behalf of Defendants' current non-exempt employees, and to
10 enforce important rights affecting the public interest. Plaintiff has thereby incurred
11 the financial burden of attorneys' fees and costs, which he is entitled to recover
12 under Code of Civil Procedure § 1021.5.

13 **PRAYER**

14 WHEREFORE, Plaintiff prays for judgment for himself and for all others on
15 whose behalf this suit is brought against Defendants, as follows:

- 16 1. For an order certifying the proposed Classes;
- 17 2. For an order appointing Plaintiff as representative of the Classes;
- 18 3. For an order appointing Counsel for Plaintiff as Counsel for the
19 Classes;
- 20 4. Upon the First Claim, for compensatory, consequential, general and
21 special damages according to proof pursuant to Labor Code §§ 204,
22 510, 558, 1194, and 1198;
- 23 5. Upon the Second Claim, for compensatory, consequential, liquidated,
24 general and special damages pursuant to 29 U.S.C. §§ 207 and 216.
- 25 6. Upon the Third Claim, for compensatory, consequential, general and
26 special damages according to proof pursuant to Labor Code §§ 226.7,
27 512, and 558;
- 28 7. Upon the Fourth Cause of Action, for statutory penalties pursuant to
Labor Code § 226;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- 8. Upon the Fifth Claim, for statutory waiting time penalties pursuant to Labor Code § 203;
- 9. Upon the Sixth Cause of Action, for restitution to Plaintiff and members of the Class of all money and/or property unlawfully acquired by Defendants by means of any acts or practices declared by this tribunal to be in violation of Business and Professions Code § 17200 *et seq.*;
- 10. Prejudgment interest on all due and unpaid wages pursuant to California Labor Code § 218.6 and Civil Code §§ 3287 and 3289;
- 11. On all claims, for attorneys’ fees and costs as provided by Labor Code §§ 226, 1194 *et seq.*, and Code of Civil Procedure § 1021.5; and
- 12. For such other and further relief the tribunal may deem just and proper.

Dated: March 7, 2017

Respectfully submitted,
HAINES LAW GROUP, APC

By: /s/Paul K. Haines
Paul K. Haines
Attorneys for Plaintiff

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial with respect to all issues triable by jury.

Dated: March 7, 2017

Respectfully submitted,
HAINES LAW GROUP, APC

By: /s/Paul K. Haines
Paul K. Haines

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

MIGUEL RODRIGUEZ as an individual and on behalf of all others similarly situated,

(b) County of Residence of First Listed Plaintiff San Diego (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Paul K. Haines, Tuvia Korobkin, Fletcher W. Schmidt Andrew J. Rowbotham; Haines Law Group, APC, 2274 E. Maple Ave., El Segundo CA 90245; (424) 292-2350

DEFENDANTS

JEROME'S FURNITURE WAREHOUSE, a California Corporation; and DOES 1 through 10

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

'17CV0460 L NLS

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation.

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Large table with categories: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District, 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 29 U.S.C. § 201 et seq., Fair Labor Standards Act. Brief description of cause: Violation of the Fair Labor Standards Act

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE 03/07/2017 SIGNATURE OF ATTORNEY OF RECORD s/ Paul K. Haines

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Jerome's Furniture Warehouse Sued Over Multiple FLSA Issues](#)
