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13 **UNITED STATES DISTRICT COURT**  
 14 **SOUTHERN DISTRICT OF CALIFORNIA**

15 **'17CV0250 GPC JMA**

16 **WILLIAM STEVE VALENCIA, an**  
 17 **individual, and LUIS FERNANDEZ**  
 18 **SOTO, an individual, on behalf of**  
 19 **themselves and on behalf of others**  
 20 **similarly situated,**

21 Plaintiffs,

22 vs.

23 **NORTH STAR GAS LTD. CO., a**  
 24 **California corporation; PEOPLEASE**  
 25 **LLC, a South Carolina Corporation,**

26 Defendants.

27 **COLLECTIVE AND CLASS ACTION**  
 28 **COMPLAINT FOR:**

- (1) **FAILURE TO PAY WAGES DUE UNDER THE FAIR LABOR STANDARDS ACT;**
- (2) **FAILURE TO PAY OVERTIME DUE UNDER STATE LAW;**
- (3) **FAILURE TO PAY REGULAR WAGES UNDER STATE LAW;**
- (4) **FAILURE TO PAY MEAL PERIOD PREMIUM PAY UNDER STATE LAW;**
- (5) **FAILURE TO PAY REST BREAK PREMIUM PAY UNDER STATE LAW;**
- (6) **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS UNDER STATE LAW;**
- (7) **FAILURE TO TIMELY PAY WAGES UNDER STATE LAW; and**
- (8) **VIOLATION OF CALIFORNIA'S UCL.**

1 Plaintiffs WILLIAM STEVE VALENCIA (“Valencia”) and LUIS  
2 FERNANDEZ SOTO (“Soto”) (collectively “Plaintiffs”), bring this action against  
3 Defendants NORTH STAR GAS LTD. CO. (“North Star”), PEOPLEASE LLC  
4 (“Peoplease”) (collectively “Defendants”), on behalf of themselves and all others  
5 similarly situated, and allege on information and belief as follows:

6 **INTRODUCTION**

7 1. This is a hybrid collective action, under the Fair Labor Standards Act,  
8 29 U.S.C. § 201, et seq. (the “FLSA”) for violation of federal law, and class action,  
9 under Federal Rule of Civil Procedure (“FRCP”) Rule 23, for violations of  
10 California state law.

11 2. Defendants own, operate, or otherwise manage a natural gas company  
12 responsible for the distribution and supply of propane. Defendants employ  
13 Plaintiffs and others to transport propane by driving various routes to and from  
14 Defendants’ propane supply. These routes run throughout California, among other  
15 States.

16 3. Plaintiffs, the COLLECTIVE ACTION GROUP, and the  
17 CALIFORNIA CLASS, defined *infra*, are current and former non-exempt  
18 employees who transported propane along certain routes for Defendants. It takes  
19 many hours to transport propane along these routes. As a result, these employees  
20 often work well in excess of 8 hours per day and 40 hours per week. Despite this,  
21 Defendants do not pay any overtime compensation, among other shortcomings.

22 4. Defendants’ employment practices are in violation of the FLSA, the  
23 Code of Federal Regulations, the California Labor Code, the California Code of  
24 Regulations, California Industrial Wage Commission (“IWC”) Wage Orders, and  
25 California’s Unfair Competition Law (“UCL”), Cal. Bus. & Prof. Code § 17200, *et*  
26 *seq.* Their employment practices are unfair to their employees and competitors.

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1 employed by Defendants as a non-exempt driver from approximately February  
2 2016 to August 2016.

3 12. Plaintiff Luis Fernandez Soto is, and at all times herein mentioned  
4 was, an individual residing in the County of San Diego, California. Soto was  
5 employed by Defendants as a non-exempt driver from approximately February  
6 2016 to August 2016.

7 13. Plaintiffs are informed and believe defendant North Star Gas Ltd. Co.  
8 is, and at all times mentioned was, a corporation organized and existing under and  
9 by virtue of the laws of the State of California, and doing business in the County of  
10 San Diego, State of California. North Star owns, operates, or otherwise manages a  
11 natural gas company responsible for distribution and supply of propane. On  
12 information and belief, North Star employs over forty drivers who transport  
13 propane along certain routes. These routes run throughout California, among other  
14 States.

15 14. Plaintiffs are informed and believe defendant Peoplease LLC is, and at  
16 all times mentioned was, a corporation organized and existing under and by virtue  
17 of the laws of the State of South Carolina. Peoplease does business in the County  
18 of San Diego, State of California. Peoplease is Plaintiffs' co-employer responsible  
19 for paying wages, payroll, and employment law compliance. Peoplease works with  
20 North Star to administer human resource services.

21 15. At all times mentioned, Defendants were the agents, employees, alter  
22 egos, servants, joint venturers, or joint employers for and of each other. Defendants  
23 acted with the consent of the other Co-Defendants and acted within the course,  
24 purpose, and scope of their agency, service, or employment. All conduct was  
25 ratified by Defendants, and each of them.

26 **GENERAL ALLEGATIONS**

27 16. Defendants own, operate, or otherwise manage a natural gas company  
28 responsible for distribution and supply of propane. Defendants employ Plaintiffs

1 and others to transport propane by driving various routes to and from Defendants’  
2 propane supply. These routes run throughout California, among other States.

3 17. Plaintiffs, the COLLECTIVE ACTION GROUP, and the  
4 CALIFORNIA CLASS are compensated piece rate, for each route driven. It takes  
5 many hours to transport propane along a given route. As a result, Defendants’  
6 drivers often work well in excess of 8 hours per day and 40 hours per week.  
7 Despite this, Defendants do not pay any overtime compensation.

8 18. In addition to piece rate compensation, Plaintiffs and the  
9 CALIFORNIA CLASS receive compensation for “non-productive time” and rest  
10 breaks. They are paid minimum wage for two hours of “non-productive time.” This  
11 accounts for time spent at work but not directly engaged in driving their respective  
12 routes (loading, paperwork, etc.). For each full day of work, these individuals also  
13 receive compensation for a set amount of break time at a rate of \$25/hour.

14 19. Compensation for non-productive time is inadequate in several  
15 respects. First, the amount paid does not adequately cover all non-productive time.  
16 Well over two hours of non-productive time take place each shift. Additionally,  
17 Defendants do not pay non-productive time at an overtime rate. This is so despite  
18 Defendants’ awareness that much of the non-productive time occurs beyond 8  
19 hours in a day and 40 hours in a week.

20 20. While Defendants compensate for some rest break time each shift,  
21 they fail to actually permit off-duty rest breaks. Likewise, 30 minute meal periods  
22 in which drivers are relieved of all duties are not provided and/or are not timely  
23 provided. Defendants’ drivers are encouraged not to stop on their lengthy routes  
24 and to complete their work as quickly as possible. They must carry a cell phone and  
25 be available to respond to Defendants’ calls and take requested action at any  
26 moment.

27 21. Defendants do not compensate for one hour of time at the regular rate  
28 of pay (which Defendants admit is \$25.00/hour) for the missed meal and rest

1 periods. Their payment for rest breaks, which are not in fact taken, is insufficient to  
2 meet their obligation in this respect.

3 22. Additionally, Defendants failed to provide Plaintiffs and  
4 CALIFORNIA CLASS with adequate wage statements reflecting total hours  
5 worked and accurate gross and net wages, among other shortcomings.

6 **COLLECTIVE ACTION ALLEGATIONS**

7 23. By their actions described in this complaint, Defendants violated the  
8 FLSA and Plaintiffs now bring a collective action for violations of the FLSA on  
9 behalf of the COLLECTIVE ACTION GROUP which is defined as:

10 All persons nationwide who were, are, or will be employed by Defendants as  
11 non-exempt, piece rate drivers or other substantially similar positions during  
12 the period commencing three years prior to the filing of this Complaint and  
ending on the date as the Court shall determine.

13 24. To the extent equitable tolling operates to toll claims by the  
14 COLLECTIVE ACTION GROUP against the Defendants, the applicable statute of  
15 limitations and period for calculating damages should be adjusted accordingly.

16 25. Plaintiffs bring this lawsuit on behalf of themselves individually and  
17 the COLLECTIVE ACTION GROUP as a collective action. Defendants are  
18 engaged in communication, business, and transmission throughout the United  
19 States and are, therefore, engaged in commerce within the meaning of 29 U.S.C. §  
20 203(b).

21 26. Federal labor law mandates that an employee must be compensated for  
22 all hours worked, including straight time compensation and overtime  
23 compensation. For all hours worked over 40 in a week, overtime compensation is  
24 due at a rate not less than one and one half times the regular rate of pay. This is  
25 equally true for employees receiving piece rate compensation.

26 27. Defendants willfully engaged in a widespread pattern and practice of  
27 violating these provisions by failing to pay required overtime wages.  
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1           28. This action meets all prerequisites for the maintenance of a collective  
2 action under the FLSA. Specifically:

3           (a) The persons who comprise the COLLECTIVE ACTION GROUP  
4 exceed 40 persons and are therefore so numerous that the joinder of all such  
5 persons is impracticable and the disposition of their claims as a class will  
6 benefit the parties and the Court;

7           (b) Nearly all factual, legal, statutory, declaratory, and injunctive relief  
8 issues raised in this Complaint are common to the COLLECTIVE ACTION  
9 GROUP and will apply uniformly to every member of the COLLECTIVE  
10 ACTION GROUP;

11           (c) The claims of the representative Plaintiffs are typical of the claims of  
12 each member of the COLLECTIVE ACTION GROUP. Plaintiffs, like all  
13 other members of the COLLECTIVE ACTION GROUP, were subjected to  
14 Defendants' illegal practices of failing to pay all required wages, namely  
15 overtime. Plaintiffs sustained economic injury as a result of Defendants'  
16 employment practices. Plaintiffs and the members of the COLLECTIVE  
17 ACTION GROUP were and are similarly or identically harmed by the same  
18 unlawful, deceptive, unfair, and pervasive pattern of misconduct engaged in  
19 by Defendants; and

20           (d) The representative Plaintiffs will fairly and adequately represent and  
21 protect the interest of the COLLECTIVE ACTION GROUP, and have  
22 retained attorneys who are competent and experienced in similar litigation.  
23 There are no material conflicts between the claims of the representative  
24 Plaintiffs and the members of the COLLECTIVE ACTION GROUP that  
25 would make collective treatment inappropriate. Counsel for the  
26 COLLECTIVE ACTION GROUP will vigorously assert the claims of the  
27 entire COLLECTIVE ACTION GROUP.  
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**CALIFORNIA CLASS ALLEGATIONS**

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2 29. Plaintiffs also bring claims under California law as a class action  
3 pursuant to FRCP Rule 23 on behalf of a CALIFORNIA CLASS which consists of:

4 All Defendants’ California employees who were, are, or will be employed as  
5 non-exempt, piece rate drivers or other substantially similar positions during  
6 the period commencing four years prior to the filing of this Complaint and  
7 ending on the date as determined by the Court.

8 30. To the extent equitable tolling operates to toll claims by the  
9 CALIFORNIA CLASS against Defendants, the applicable statute of limitations or  
10 recovery period should be adjusted accordingly.

11 31. Plaintiffs are informed and believe that at least one member of the  
12 CALIFORNIA CLASS is a citizen of a state other than California. Plaintiffs are  
13 informed and believes that the amount in controversy in the Complaint exceeds the  
14 sum or value of \$5,000,000.

15 32. Defendants’ corporate policies, practices, and procedures are in  
16 violation of the applicable California Labor Code, IWC Wage Order Requirements,  
17 and other applicable provisions of California law in several respects. They  
18 intentionally, knowingly, and willfully refused to pay all compensation owed to the  
19 Plaintiffs and the CALIFORNIA CLASS for their hours worked, including  
20 overtime compensation. They also failed to provide accurate itemized wage  
21 statements, failed to provide meal and rest breaks or compensation in lieu, and  
22 failed to pay all wages when due.

23 33. This Class Action meets the statutory prerequisites for the  
24 maintenance of a Class Action as set forth in FRCP Rule 23, in that:

25 (a) The persons who comprise the CALIFORNIA CLASS are so  
26 numerous that the joinder of all such persons is impracticable and the  
27 disposition of their claims as a class will benefit the parties and the Court;

28 (b) Nearly all factual, legal, statutory, declaratory, and injunctive relief  
issues that are raised in this Complaint are common to the CALIFORNIA



1 CLASS and will apply uniformly to every member of the CALIFORNIA  
2 CLASS;

3 (c) The claims of the representative Plaintiffs are typical of the claims of  
4 each member of the CALIFORNIA CLASS. Plaintiffs, like all other  
5 members of the CALIFORNIA CLASS, were subjected to Defendants’  
6 illegal practice of refusing to pay adequate wages, refusing to provide meal  
7 and rest breaks, refusing to pay wages when due, and refusing to provide  
8 accurate wage statements. Plaintiffs sustained economic injury as a result of  
9 Defendants’ employment practices. Plaintiffs and the members of the  
10 CALIFORNIA CLASS were and are similarly or identically harmed by the  
11 same unlawful, deceptive, unfair, and pervasive pattern of misconduct  
12 engaged in by Defendants; and

13 (d) The representative Plaintiffs will fairly and adequately represent and  
14 protect the interest of the CALIFORNIA CLASS, and have retained  
15 attorneys who are competent and experienced in Class Action litigation.  
16 There are no material conflicts between the claims of the representative  
17 Plaintiffs and the members of the CALIFORNIA CLASS that would make  
18 class certification inappropriate. Counsel for the CALIFORNIA CLASS will  
19 vigorously assert the claims of all CALIFORNIA CLASS members.

20 34. In addition to meeting the statutory prerequisites to a Class Action,  
21 this action is properly maintained as a Class Action pursuant to FRCP Rule 23, in  
22 that:

23 (a) Without class certification and determination of declaratory,  
24 injunctive, statutory, and other legal questions within a class format,  
25 prosecution of separate actions by individual members of the CALIFORNIA  
26 CLASS will create the risk of: inconsistent or varying adjudications with  
27 respect to individual members and/or establishing incompatible standards of  
28 conduct for the parties opposing the CALIFORNIA CLASS which would, as

1 a practical matter, be dispositive of interests of other members not party to  
2 the adjudication. This would substantially impair or impede their ability to  
3 protect their interests.

4 (b) The parties opposing the CALIFORNIA CLASS have acted or refused  
5 to act on grounds generally applicable to the CALIFORNIA CLASS, making  
6 class-wide relief appropriate with respect to the CALIFORNIA CLASS as a  
7 whole.

8 (c) Common questions of law and fact exist as to the members of the  
9 CALIFORNIA CLASS, with respect to the practices and violations of  
10 California law as listed above. These common questions predominate over  
11 any question affecting only individual members. A Class Action is superior  
12 to other available methods for the fair and efficient adjudication of the  
13 controversy, including consideration of:

- 14 1) The interests of the members of the CALIFORNIA CLASS in  
15 individually controlling the prosecution or defense of separate actions;
- 16 2) The extent and nature of any litigation concerning the  
17 controversy already commenced by or against members of the  
18 CALIFORNIA CLASS;
- 19 3) The desirability or undesirability of concentrating the litigation  
20 of the claims in the particular forum;
- 21 4) The difficulties likely to be encountered in the management of a  
22 Class Action; and,
- 23 5) The basis of Defendants' conduct towards Plaintiffs and the  
24 CALIFORNIA CLASS.

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**FIRST CAUSE OF ACTION**  
**BY PLAINTIFFS ON BEHALF OF THEMSELVES AND COLLECTIVELY**  
**ON BEHALF OF THOSE SIMILARLY SITUATED FOR FAILURE TO PAY**  
**WAGES DUE UNDER THE FLSA**  
**(Collective Action under the FLSA)**

35. Plaintiffs incorporate by reference each and every allegation contained above.

36. Plaintiffs bring this claim individually and on behalf of the COLLECTIVE ACTION GROUP.

37. Defendants knowingly, willfully, and intentionally, failed to compensate Plaintiffs and the COLLECTIVE ACTION GROUP all wages due and owed under the FLSA, including agreed-upon wages and the applicable minimum hourly wage, as mandated by 29 U.S.C. § 206(a), and for overtime hours, as mandated by 29 U.S.C. § 207(a), 29 C.F.R. §778.0 et seq., 29 C.F.R. §778.223, and 29 C.F.R. §778.315.

38. Defendants' willful violation of the FLSA entitles Plaintiffs to recover unpaid wages and an equal amount in the form of liquidated damages, as well as reasonable attorneys' fees and costs of the action, including pre-judgment interest. This amount will be determined at trial. *See* 29 U.S.C. § 216(b).

**SECOND CAUSE OF ACTION**  
**BY PLAINTIFFS ON BEHALF OF THEMSELVES AND**  
**THE CALIFORNIA CLASS FOR FAILURE TO PAY OVERTIME DUE**  
**UNDER STATE LAW**  
**(Class Action under FRCP Rule 23)**

39. Plaintiffs incorporate by reference each and every allegation contained above.

40. Plaintiffs bring this claim individually and on behalf of the CALIFORNIA CLASS.

41. Defendants failed to compensate Plaintiffs and the CALIFORNIA CLASS for overtime.

42. Plaintiffs are entitled to recover the full amount of their overtime pay, interest, applicable penalties, attorneys' fees, and costs.

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**THIRD CAUSE OF ACTION**  
**BY PLAINTIFFS ON BEHALF OF THEMSELVES AND**  
**THE CALIFORNIA CLASS FOR FAILURE TO PAY REGULAR WAGES**  
**UNDER STATE LAW**  
**(Class Action under FRCP Rule 23)**

43. Plaintiffs incorporate by reference each and every allegation contained above.

44. Plaintiffs bring this claim individually and on behalf of the CALIFORNIA CLASS.

45. In California, piece rate employees must be separately compensated for non-productive time – the time an employee spends at work not directly engaged in a piece rate activity. While Defendants compensated Plaintiffs and the CALIFORNIA CLASS for 2 hours of non-productive time per shift, this was not sufficient to account for the amount of non-productive time actually incurred during a shift. As a result, regular wages were not adequately paid.

46. Plaintiffs are entitled to recover the full amount of their regular pay, interest, applicable penalties, attorneys’ fees, and costs.

**FOURTH CAUSE OF ACTION**  
**BY PLAINTIFFS ON BEHALF OF THEMSELVES AND THE**  
**CALIFORNIA CLASS FOR FAILURE TO PAY MEAL PERIOD PREMIUM**  
**PAY UNDER STATE LAW**  
**(Class Action under FRCP Rule 23)**

47. Plaintiffs incorporate by reference each and every allegation contained above.

48. Plaintiffs bring this claim individually and on behalf of the CALIFORNIA CLASS.

49. Under California law, during qualifying shifts, employees are entitled to an uninterrupted meal period during which they are relieved of all duties. Employees must not be on call or otherwise subject to their employer’s control over this period.

1           50. For each qualifying shift during which meal periods are not provided,  
2 the employer shall pay the employee one hour of pay at the employee's regular rate  
3 of compensation.

4           51. Plaintiffs and the CALIFORNIA CLASS consistently worked  
5 qualifying shifts without adequate meal periods. Defendants failed to compensate  
6 for this.

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8           52. Plaintiffs are entitled to recover an amount equal to one hour of wages  
9 per missed meal period, interest, applicable penalties, attorneys' fees, and costs.

10                                   **FIFTH CAUSE OF ACTION**  
11                   **BY PLAINTIFFS ON BEHALF OF THEMSELVES AND**  
12                   **THE CALIFORNIA CLASS FOR FAILURE TO PAY**  
                  **REST BREAK PREMIUM PAY UNDER STATE LAW**  
                  **(Class Action under FRCP Rule 23)**

13           53. Plaintiffs incorporate by reference each and every allegation contained  
14 above.

15           54. Plaintiffs bring this claim individually and on behalf of the  
16 CALIFORNIA CLASS.

17           55. Under California law, employees are entitled to a paid ten minute rest  
18 break during qualifying shifts. Employers must relieve employees of all duties and  
19 relinquish control over how they spend their rest breaks. For each day adequate rest  
20 periods are not provided, the employer shall pay the employee one hour of pay at  
21 the employee's regular rate of compensation.

22           56. Plaintiffs and the CALIFORNIA CLASS consistently worked  
23 qualifying shifts without adequate rest breaks. Defendants failed to adequately  
24 compensate for these missed breaks.

25           57. Plaintiffs are entitled to recover an amount equal to one hour of wages  
26 per missed rest break, interest, applicable penalties, attorneys' fees, and costs.

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1 **SIXTH CAUSE OF ACTION**  
2 **BY PLAINTIFFS ON BEHALF OF THEMSELVES AND**  
3 **THE CALIFORNIA CLASS FOR FAILURE TO PROVIDE**  
4 **ACCURATE ITEMIZED WAGE STATEMENTS**  
5 **(Class Action under FRCP Rule 23)**

6 58. Plaintiffs incorporate each and every allegation contained above and  
7 below.

8 59. Plaintiffs bring this claim individually and on behalf of the  
9 CALIFORNIA CLASS.

10 60. The purpose for California's wage statement requirement, Labor Code  
11 section 226 et seq., is to ensure the employees are able to determine whether or not  
12 they are being paid their wages in accordance with California law. Under Labor  
13 Code section 226(h), "[a]n employee may also bring an action for injunctive relief  
14 to ensure compliance with this section, and is entitled to an award of costs and  
15 reasonable attorney's fees."

16 61. Defendants violated the above statute by failing to provide accurate  
17 and complete paystubs/wage statements. Defendants' wage statements fail to  
18 accurately reflect hours worked, overtime pay, gross wages, net wages, and  
19 premium wages for failure to provide lawful meal and rest periods, among other  
20 shortcomings. Because Plaintiffs were not aware of what their true wages should  
21 be and how they were calculated, they suffered economic loss in the form of lower  
22 wages for their labor.

23 62. Defendants' violations in this respect are ongoing and will continue  
24 until and unless this Court enters an injunction barring such violations. Plaintiffs  
25 therefore seek damages and injunctive relief pursuant to Labor Code section 226,  
26 including attorneys' fees and costs incurred therein.

27 63. Plaintiffs are entitled to recover applicable penalties, attorneys' fees,  
28 and costs.

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**SEVENTH CAUSE OF ACTION**  
**BY PLAINTIFFS ON BEHALF OF THEMSELVES AND**  
**THE CALIFORNIA CLASS FOR FAILURE TO TIMELY PAY WAGES**  
**UNDER STATE LAW**  
**(Class Action under FRCP Rule 23)**

64. Plaintiffs incorporate by reference each and every allegation contained above.

65. Plaintiffs bring this claim individually and on behalf of the CALIFORNIA CLASS.

66. Pursuant to California Labor Code section 201, unpaid wages are due upon termination.

67. Defendant failed to pay the earned and unpaid wages of Plaintiffs and the CALIFORNIA CLASS in the required amount of time.

68. Pursuant to California Labor Code section 203, “[i]f an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.5, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefore is commenced; but the wages shall not continue for more than 30 days.”

69. Accordingly, Plaintiffs and the CALIFORNIA CLASS are entitled to recover waiting-time penalties under California Labor Code section 203 in an amount equal to 30 times their daily wage.

**EIGHTH CAUSE OF ACTION**  
**BY PLAINTIFFS ON BEHALF OF THEMSELVES AND**  
**THE CALIFORNIA CLASS FOR VIOLATION OF CALIFORNIA’S UCL**  
**(Class Action under FRCP Rule 23)**

70. Plaintiffs incorporate each and every allegation contained above and below.

71. Plaintiffs bring this claim individually and on behalf of the CALIFORNIA CLASS.



1           72. California Business & Professions Code section 17200 et seq.  
2 ("UCL") prohibits any unlawful, unfair, deceptive, or fraudulent business practice.

3           73. Defendants committed and continue to commit business practices  
4 within the meaning of California's UCL, including, but not limited to: (i)  
5 Compelling Plaintiffs to work for periods of five or more consecutive hours  
6 without having at least a one half hour break for meals; (ii) Compelling Plaintiffs to  
7 work for periods of four or more consecutive hours without having at least a one  
8 ten minute rest period; (iii) Failing to pay premium wages earned while working  
9 without the legally mandated meal and rest breaks; (iv) Failing to pay the full  
10 amount of regular and overtime wages earned during workdays; (v) Failing to pay  
11 the full amount of their earned and unpaid wages at the time of discharge; and (vi)  
12 Failing to provide accurate and itemized wage statements.

13           74. The unlawful business practices described above have proximately  
14 caused monetary damages to Plaintiffs and to the general public.

15           75. Pursuant to the UCL, Plaintiffs and the CALIFORNIA CLASS are  
16 entitled to restitution of money or property acquired by Defendants by means of  
17 such business practices, in amounts not yet known, but to be ascertained at trial.

18           76. Pursuant to the UCL, Plaintiffs and the general public are entitled to  
19 injunctive relief against Defendants' ongoing continuation of such business  
20 practices.

21           77. If Defendants are not enjoined from engaging in the unlawful business  
22 practices described above, Plaintiffs and the general public will be irreparably  
23 injured, the exact extent, nature, and amount of such injury being impossible to  
24 ascertain.

25           78. Plaintiffs have no plain, speedy, and adequate remedy at law.

26           79. Defendants, if not enjoined by this Court, will continue to engage in  
27 the unlawful business practices described above in violation of the UCL, in  
28 derogation of the rights of Plaintiffs and of the general public.

1 80. Plaintiffs' success in this action will result in the enforcement of  
2 important rights affecting the public interest by conferring a significant benefit  
3 upon the general public.

4 81. Private enforcement of these rights is necessary as no public agency  
5 has pursued enforcement. There is a financial burden incurred in pursuing this  
6 action, and it would be against the interests of justice to require the payment of  
7 attorneys' fees from any recovery in this action. Plaintiffs are therefore entitled to  
8 an award of attorneys' fees and costs of suit pursuant to the UCL and California  
9 Code of Civil Procedure section 1021.5.

10 **PRAYER FOR RELIEF**

11 WHEREFORE, Plaintiffs on their own behalf and on the behalf of those  
12 similarly situated, pray for judgment as follows:

- 13 1. For an order certifying the federal claims as a collective action;
- 14 2. For an order certifying the state law claims as a class action under  
15 FRCP Rule 23;
- 16 3. For consequential damages according to proof;
- 17 4. For statutory damages and penalties according to proof;
- 18 5. For a declaration that Defendants violated the rights of Plaintiffs and  
19 those similarly situated under California and federal law;
- 20 6. For liquidated damages according to proof pursuant to California  
21 Labor Code section 1194.2 and the FLSA;
- 22 7. For waiting time penalties according to proof pursuant to California  
23 Labor Code sections 201, 202, and 203;
- 24 8. That Defendants be ordered to show cause why they should not be  
25 enjoined and ordered to comply with the applicable Labor Code and FLSA  
26 provisions related to minimum wage compensation, overtime compensation, meal  
27 and rest breaks, and record keeping for Defendants' employees; and for an order  
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1 enjoining and restraining Defendants and their agents, servants, and employees  
2 related thereto;

3 9. For restitution to Plaintiffs and those similarly situated of all funds  
4 unlawfully acquired by Defendants by means of any acts or practices declared by  
5 this Court to violate the mandates established by California's UCL;

6 10. For an injunction to prohibit Defendants from engaging in the unfair  
7 business practices complained of here;

8 11. For an injunction requiring Defendants to give notice to persons to  
9 whom restitution is owing of the means by which to file for restitution;

10 12. For actual damages or statutory penalties according to proof as set  
11 forth in California Labor Code section 226;

12 13. For pre-judgment interest as allowed by California Labor Code  
13 sections 218.5 or 1194 and California Civil Code section 3287;

14 14. For reasonable attorneys' fees, expenses, and costs as provided by the  
15 California Labor Code, the California Code of Civil Procedure, namely section  
16 1021.5, and the FLSA; and

17 15. For such other relief that the court may deem just and proper.

18 **REQUEST FOR JURY TRIAL**

19 Plaintiffs hereby request a Trial by Jury.

20 DATED: February 8, 2017

**NICHOLAS & TOMASEVIC, LLP**

21  
22 By: /s/ Shaun Markley  
23 Shaun Markley  
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Attorneys for Plaintiffs

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

WILLIAM STEVE VALENCIA, an individual, and LUIS FERNANDEZ SOTO, an individual, on behalf of themselves and on behalf of others similarly situated.

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

(c) Attorneys (Firm Name, Address, and Telephone Number) Craig M. Nicholas | Alex Tomasevic | Shaun Markley (619) 325-0492 NICHOLAS & TOMASEVIC, LLP 225 Broadway, Floor 19, San Diego, CA 92101

DEFENDANTS

NORTH STAR GAS LTD. CO., a California corporation; PEOPLEASE LLC, a South Carolina corporation.

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)

'17CV0250 GPC JMA

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

- 1 U.S. Government Plaintiff
3 Federal Question (U.S. Government Not a Party)
2 U.S. Government Defendant
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 (specify)
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 - Fair Labor Standards Act

Brief description of cause: Wage Violations under Federal and State Law; Violation of California UCL

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ 5,000,000.00 CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE 02/08/2017 SIGNATURE OF ATTORNEY OF RECORD

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: [Collective Action Says North Star Gas, Peoplease Owe Unpaid Wages](#)

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