

SUMMONS
(CITACION JUDICIAL)

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NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):

ANNING-JOHNSON COMPANY, a Delaware corporation; and DOES 1-50, Inclusive,

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):

ARTHUR GUTIERREZ, an individual, in his representative capacity on behalf of the State of California and fellow Aggrieved Employees,

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelp/espanol/), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/selfhelp/espanol/) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is:
(El nombre y dirección de la corte es):
Los Angeles Superior Court, Pomona Courthouse South
400 Civic Center Plaza
Pomona, CA 91766

CASE NUMBER:
(Número del Caso): 21PSCV00785

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Jean-CLaude Lapuyade, Esq. SBN:248676 Tel: (619) 599-8292 Fax: (619) 599-829
JCL Law Firm, APC - 5440 Morehouse Drive, Suite 3600, San Diego CA 92121

DATE: Sherri R. Carter Executive Officer / Clerk of Court Clerk, by J. Gonzalez, Deputy
(Fecha) 09/28/2021 *(Secretario)* *(Adjunto)*

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).



NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of *(specify)*:
3. ☐ on behalf of *(specify)*:
under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other *(specify)*:
4. ☐ by personal delivery on *(date)*:

ZAKAY LAW GROUP, APLC

Shani O. Zakay (State Bar #277924)
 Jackland K. Hom (State Bar #327243)
 5440 Morehouse Drive, Suite 3600
 San Diego, CA 92121
 Telephone: (619)255-9047
 Facsimile: (858) 404-9203
shani@zakaylaw.com
jackland@zakaylaw.com

JCL LAW FIRM, APC

Jean-Claude Lapuyade (State Bar #248676)
 Eduardo Garcia (State Bar #290572)
 5440 Morehouse Drive, Suite 3600
 San Diego, CA 92121
 Telephone: (619) 599-8292
 Facsimile: (619) 599-8291
jlapuyade@jcl-lawfirm.com
egarcia@jcl-lawfirm.com

Attorneys for Plaintiff ARTHUR GUTIERREZ

SUPERIOR COURT OF THE STATE OF CALIFORNIA**IN AND FOR THE COUNTY OF LOS ANGELES**

ARTHUR GUTIERREZ, an individual, in his
 representative capacity on behalf of the State of
 California and fellow Aggrieved Employees,

Plaintiff,

v.

ANNING-JOHNSON COMPANY, a Delaware
 corporation; and DOES 1-50, Inclusive,

Defendants.

Case No. 21PSCV00785

**REPRESENTATIVE ACTION
COMPLAINT FOR:**

1. VIOLATIONS OF THE PRIVATE
ATTORNEY GENERAL ACT AT
LABOR CODE SECTIONS 2698 *ET*
SEQ.

DEMAND FOR JURY TRIAL

1 Plaintiff ARTHUR GUTIERREZ (“PLAINTIFF”), an individual, in his representative
2 capacity on behalf of the State of California and fellow current and former Aggrieved Employees,
3 defined *supra*, against ANNING-JOHNSON COMPANY (“DEFENDANT”), alleges on information
4 and belief, except for his own acts and knowledge, which are based on personal knowledge, the
5 following:

6 **INTRODUCTION**

7 1. PLAINTIFF brings this representative action pursuant to the Private Attorneys General
8 Act of 2004, California Labor Code § 2698, *et seq.* (“PAGA”) on behalf of other current and former
9 aggrieved employees of DEFENDANT for engaging in a pattern and practice of wage and hour
10 violations under the California Labor Code.

11 2. PLAINTIFF is informed and believes, and thereon alleges, that DEFENDANT decreased
12 their employment-related costs by systematically violating California wage and hour laws.

13 3. DEFENDANT’s systematic pattern of wage and hour and IWC Wage Order violations
14 toward PLAINTIFF and other aggrieved employees in California include, *inter alia*:

- 15 a. Failure to provide compliant rest periods;
- 16 b. Failure to allow employees to take duty-free, off-the-premises rest periods;
- 17 c. Failure to pay all minimum and regular wages;
- 18 d. Failure to maintain true and accurate records;
- 19 e. Failure to provide accurate itemized wage statements;
- 20 f. Failure to reimburse employees for required business expenses; and
- 21 g. Failure to timely pay wages due during, and upon termination of employment.

22 4. PLAINTIFF brings this representative action against DEFENDANT on behalf of himself
23 and all other aggrieved employees of DEFENDANT in California seeking all civil penalties and unpaid
24 wages permitted pursuant to California Labor Code § 2699, *et seq.*

25 5. PLAINTIFF reserves the right to name additional representatives throughout the State of
26 California.

27 ///

THE PARTIES

6. Defendant ANNING-JOHNSON COMPANY (“DEFENDANT”) is a Delaware corporation and at all relevant times mentioned herein conducted and continues to conduct substantial and regular business throughout California.

7. DEFENDANT operates a construction business which provides services such as metal decking, wall and ceiling systems, fireproofing, and roofing services to their clients throughout California, including the Los Angeles, California location where PLAINTIFF worked.

8. PLAINTIFF was employed by DEFENDANT in California as a non-exempt employee entitled to minimum wages, and rest periods from 2011 to January 2021. PLAINTIFF was at all times relevant mentioned herein classified by DEFENDANT as a non-exempt employee paid on an hourly basis and entitled to minimum wage and to compliant rest breaks.

9. PLAINTIFF brings this action in his representative capacity on behalf of the State of California and on behalf of all of DEFENDANT’s current and former non-exempt employees employed in California who suffered one or more Labor Code violations enumerated in Labor Code §§ 2698 *et seq.* (hereinafter “AGGRIEVED EMPLOYEES”) and who worked for DEFENDANT between April 7, 2020 and the present (“PAGA PERIOD”).

10. PLAINTIFF is an “AGGRIEVED EMPLOYEE” within the meaning of Labor Code § 2699(c) because he was employed by DEFENDANT and suffered one or more of the alleged Labor Code violations committed by DEFENDANT.

11. PLAINTIFF and all other AGRIEVED EMPLOYEES are, and at all relevant times were, employees of DEFENDANT, within the meanings set forth in the California Labor Code and the applicable Industrial Welfare Commission Wage Order.

12. Each of the fictitiously named defendants participated in the acts alleged in this Complaint. The true names and capacities of the defendants named as DOES 1 THROUGH 50, inclusive, are presently unknown to PLAINTIFF. PLAINTIFF will amend this Complaint, setting forth the true names and capacities of these fictitiously named defendants when their true names are ascertained. PLAINTIFF is informed and believes, and on that basis alleges, that each of the fictitious defendants have participated in the acts alleged in this Complaint.

13. DEFENDANT, including DOES 1 THROUGH 50 (hereinafter collectively “DEFENDANTS”), were PLAINTIFF’s employers or persons acting on behalf of PLAINTIFF’s employer, within the meaning of California Labor Code § 558, who violated or caused to be violated, a section of Part 2, Chapter 1 of the California Labor Code or any provision regulating hours and days of work in any order of the Industrial Welfare Commission and, as such, are subject to civil penalties for each underpaid employee, as set forth in Labor Code § 558, at all relevant times.

14. DEFENDANT was PLAINTIFF's employer or persons acting on behalf of PLAINTIFF's employer either individually or as an officer, agent, or employee of another person, within the meaning of California Labor Code § 1197.1, who paid or caused to be paid to any employee a wage less than the minimum fixed by California state law, and as such, are subject to civil penalties for each underpaid employee.

JOINT EMPLOYER

15. The Private Attorney General Act (“PAGA”), permits an aggrieved employee to enforce any provision of the California Labor Code that provides for a civil penalty. (*Lab. Code* § 2699(a).)

16. Section 558 of the California Labor Code provides that “any employer *or other person* acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commissions shall be subject to a civil penalty...” (*Lab. Code* § 558(a).);

17. Section 1197.1 of the Labor Code provides that “[a]ny employer *or other person* acting either individually or as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or local law, or by an order of the commission shall be subject to a civil penalty...” (*Lab. Code* § 1197.1(a).)

18. Interpreting Sections 558 and 1197.1 of the Labor Code, California courts have held that a corporate employer's owners, officers and directors, are subject to civil penalties for the employer's failure to pay appropriate wages to its employees, and, since liability under either 558 or 1197.1 does not depend on a finding of an alter ego, no alter ego allegations or findings are necessary. *Atempa v. Pedrazzani*, (2018) 27 Cal.App.5th 809; see generally *Ochoa-Hernandez v. Cjaders Food, Inc.* (2009 WL 1404694); *Thurman v. Bayshore Management, Inc.* (2017) 203 Cal.App.4th 1112, 1145-1146.

1 19. PLAINTIFF is informed and believes, and thereon alleges, that DEFENDANT, and each
2 of them, are subject to civil penalties for their failure to pay PLAINTIFF and the aggrieved employees
3 the appropriate wages as complained of herein and proximately caused the complaints, injuries, and
4 damages alleged herein.

5 20. At all relevant times, each Defendant, whether named or fictitious, was the agent,
6 employee or other person acting on behalf of each other Defendant, and, in participating in the acts
7 alleged in this Complaint, acted within the scope of such agency or employment and ratified the acts
8 of the other.

9 21. Each Defendant, whether named or fictitious, exercised control over PLAINTIFF's
10 wages, working hours, and/or working conditions.

11 22. Each Defendant, whether named or fictitious, acted in all respects pertinent to this action
12 as the agent of the other DEFENDANT, carried out a joint scheme, business plan or policy, and the
13 acts of each Defendant are legally attributable to the other DEFENDANT.

14 **JURISDICTION AND VENUE**

15 23. This Court has jurisdiction over this Action pursuant to California Code of Civil
16 Procedure, Section 410.10 and California Business & Professions Code, Section 17203. This Court
17 has jurisdiction over PLAINTIFF's claims for civil penalties under the Private Attorney General
18 Act of 2004, California Labor Code §2698, *et seq.*

19 24. Venue is proper in this Court pursuant to California Code of Civil Procedure, Sections
20 395 and 395.5, because PLAINTIFF worked in this County for DEFENDANT, resides in this County,
21 and DEFENDANT (i) currently maintains and at all relevant times maintained offices and facilities in
22 this County and/or conducts substantial business in this County, and (ii) committed the wrongful
23 conduct herein alleged in this County against PLAINTIFF and the AGGRIEVED EMPLOYEES.

24 **THE CONDUCT**

25 25. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANTS were
26 required to pay PLAINTIFF and the AGGRIEVED EMPLOYEES for all their time worked, meaning
27 the time during which an employee is subject to the control of an employer, including all the time the
28 employee is suffered or permitted to work. From time to time, DEFENDANTS required PLAINTIFF

1 and AGGRIEVED EMPLOYEES to work without paying them for all the time they were under
2 DEFENDANTS' control. Specifically, PLAINTIFF performed work before and after the beginning of
3 his shift, spending time under DEFENDANTS' control for which he was not compensated. For
4 example, DEFENDANTS from time to time required PLAINTIFF and other AGGRIEVED
5 EMPLOYEES to submit to Covid-19 screenings before they clocked in for their scheduled shifts. In
6 order to ensure they clocked in at their scheduled times, PLAINTIFF and other AGGRIEVED
7 EMPLOYEES were from time to time required by DEFENDANTS to show up for work between five
8 to thirty minutes early in order to submit to Covid-19 screenings. As a result, the PLAINTIFF and
9 other AGGRIEVED EMPLOYEES forfeited minimum wage and overtime compensation by regularly
10 working without their time being accurately recorded and without compensation at the applicable
11 minimum wage and overtime rates. DEFENDANTS' uniform policy and practice not to pay
12 PLAINTIFF and other AGGRIEVED EMPLOYEES for all time worked is evidenced by
13 DEFENDANTS' business records.

14 26. During the PAGA PERIOD, from time to time, PLAINTIFF and other AGGRIEVED
15 EMPLOYEES were also required to work in excess of four (4) hours without being provided ten (10)
16 minute rest periods. Further, these employees were denied their first rest periods of at least ten (10)
17 minutes for some shifts worked of at least two (2) to four (4) hours, a first and second rest period of at
18 least ten (10) minutes for some shifts worked of between six (6) and eight (8) hours, and a first, second
19 and third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours or more. When
20 they did have an opportunity to take their rest breaks, PLAINTIFF and the AGGRIEVED
21 EMPLOYEES were often interrupted and required by DEFENDANTS to work during their rest breaks.
22 When they did have an opportunity to take their rest breaks, PLAINTIFF and the AGGRIEVED
23 EMPLOYEES were required to remain on the premises, on-duty and on-call, and subject to
24 DEFENDANTS' control in accordance with DEFENDANTS' policy. PLAINTIFF and other
25 AGGRIEVED EMPLOYEES were also not provided with one hour wages in lieu thereof.
26 DEFENDANTS' policy caused PLAINTIFF and other AGGRIEVED EMPLOYEES to remain on-call
27 and on-duty during what was supposed to be their off-duty rest periods. As a result of their rigorous
28

1 work schedules, PLAINTIFF and other AGGRIEVED EMPLOYEES were periodically denied their
2 proper rest periods by DEFENDANTS and DEFENDANTS' managers.

3 27. Under California law, every employer shall pay to each employee, on the established
4 payday for the period involved, not less than the applicable minimum wage for all hours worked in the
5 payroll period, whether the remuneration is measured by time, piece, commission, or otherwise. Hours
6 worked is defined in the applicable Wage Order as "the time during which an employee is subject to
7 the control of an employer and includes all the time the employee is suffered or permitted to work,
8 whether or not required to do so." PLAINTIFF and other AGGRIEVED EMPLOYEES were from
9 time to time required to perform work for DEFENDANTS before and after their scheduled shifts.
10 DEFENDANTS failed to compensate PLAINTIFF and other AGGRIEVED EMPLOYEES for any of
11 the time spent under DEFENDANTS' control while working off-the-clock. As such, DEFENDANTS
12 failed to pay PLAINTIFF and other AGGRIEVED EMPLOYEES the applicable minimum wage for
13 all hours worked in a payroll period.

14 28. In violation of the applicable sections of the California Labor Code and the requirements
15 of the Industrial Welfare Commission ("IWC") Wage Order, DEFENDANTS as a matter of company
16 policy, practice and procedure, intentionally and knowingly failed to compensate PLAINTIFF and the
17 other AGGRIEVED EMPLOYEES for all time worked. This uniform policy and practice of
18 DEFENDANTS is intended to purposefully avoid the payment of the correct compensation as required
19 by California law which allowed DEFENDANTS to illegally profit and gain an unfair advantage over
20 competitors who complied with the law. To the extent equitable tolling operates to toll claims by the
21 AGGRIEVED EMPLOYEES against DEFENDANT, the PAGA PERIOD should be adjusted
22 accordingly.

23 29. From time to time, when PLAINTIFF and other AGGRIEVED EMPLOYEES worked off
24 the clock, DEFENDANTS also failed to provide PLAINTIFF and the other AGGRIEVED
25 EMPLOYEES with complete and accurate wage statements which failed to show, among other things,
26 the correct time worked, including, and the gross wages paid for those periods during the pay period,
27 and the correct penalty payments or missed rest periods in violation of California Labor Code Sections
28 226 and 226.2.

1 30. California Labor Code Section 226 requires an employer to furnish its employees an
2 accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked, (3) the
3 number of piece-rate units earned and any applicable piece-rate, (4) all deductions, (5) net wages
4 earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the
5 employee and only the last four digits of the employee's social security number or an employee
6 identification number other than a social security number, (8) the name and address of the legal entity
7 that is the employer and, (9) all applicable hourly rates in effect during the pay period and the
8 corresponding number of hours worked at each hourly rate by the employee.

9 31. Aside from the violations listed herein, DEFENDANTS failed to issue to PLAINTIFF an
10 itemized wage statement that lists all the requirements under California Labor Code 226 et seq. From
11 time to time DEFENDANTS violated California Labor Code Section 226(a)(2) by failing to provide
12 an accurate amount of total hours worked by PLAINTIFF and other AGGRIEVED EMPLOYEES.
13 Further, DEFENDANTS from time to time failed to issue an itemized wage statement to PLAINTIFF
14 and other AGGRIEVED EMPLOYEES that included the number hours worked and the applicable
15 hourly rate. As a result, from time to time DEFENDANTS provided PLAINTIFF and the other
16 AGGRIEVED EMPLOYEES with wage statements which violated Cal. Lab. Code § 226.

17 32. DEFENDANTS as a matter of corporate policy, practice and procedure, intentionally,
18 knowingly and systematically failed to reimburse and indemnify the PLAINTIFF and the other
19 AGGRIEVED EMPLOYEES for required business expenses incurred by the PLAINTIFF and other
20 AGGRIEVED EMPLOYEES in direct consequence of discharging their duties on behalf of
21 DEFENDANTS. Under California Labor Code Section 2802, employers are required to indemnify
22 employees for all expenses incurred in the course and scope of their employment. Cal. Lab. Code §
23 2802 expressly states that "an employer shall indemnify his or her employee for all necessary
24 expenditures or losses incurred by the employee in direct consequence of the discharge of his or her
25 duties, or of his or her obedience to the directions of the employer, even though unlawful, unless the
26 employee, at the time of obeying the directions, believed them to be unlawful."

27 33. In the course of their employment, PLAINTIFF and other AGGRIEVED EMPLOYEES
28 as a business expense, were required by DEFENDANTS to use their own personal cellular phones and

1 personal vehicles as a result of and in furtherance of their job duties as employees for DEFENDANTS
2 but were not reimbursed or indemnified by DEFENDANTS for the cost associated with the use of their
3 personal cellular phones and personal vehicles for DEFENDANTS' benefit. Specifically, PLAINTIFFS
4 and other AGGRIEVED EMPLOYEES were required by DEFENDANTS to use their personal cell
5 phones and personal vehicles for work related issues. As a result, in the course of their employment
6 with DEFENDANTS the PLAINTIFFS and other AGGRIEVED EMPLOYEES incurred unreimbursed
7 business expenses which included, but were not limited to, costs related to the use of their personal
8 cellular phones and personal vehicles all on behalf of and for the benefit of DEFENDANTS.

9 34. Specifically, as to PLAINTIFF, PLAINTIFF was from time to time unable to take off duty
10 rest breaks and was not fully relieved of duty for his rest periods. When DEFENDANTS provided
11 PLAINTIFF with a rest break, they required PLAINTIFF to remain on the premises, on-duty and on-
12 call, for the rest break. PLAINTIFF therefore forfeited rest breaks without additional compensation and
13 in accordance with DEFENDANTS' strict corporate policy and practice. Moreover, DEFENDANTS
14 also provided PLAINTIFF with a paystub that failed to accurately display PLAINTIFF's correct time
15 worked and wages, as well as payments for missed rest periods for certain pay periods in violation of
16 Cal. Lab. Code § 226(a). To date, DEFENDANTS have not fully paid PLAINTIFF the compensation
17 still owed to him or any penalty wages owed to him under Cal. Lab. Code § 203. The amount in
18 controversy for PLAINTIFF individually does not exceed the sum or value of \$75,000.

19 **FIRST CAUSE OF ACTION**

20 **For Civil Penalties Pursuant to Private Attorneys General Act ("PAGA")**

21 **[Cal. Lab. Code §§ 2698, et seq.]**

22 **(By PLAINTIFF and AGGRIEVED EMPLOYEES and Against All DEFENDANTS)**

23 35. PLAINTIFF and the AGGRIEVED EMPLOYEES reallege and incorporate by this
24 reference, as though fully set forth herein, the prior paragraphs of this Complaint.

25 36. PAGA is a mechanism by which the State of California itself can enforce state labor laws
26 through the employee suing under the PAGA who do so as the proxy or agent of the state's labor law
27 enforcement agencies. An action to recover civil penalties under PAGA is fundamentally a law
28 enforcement action designed to protect the public and not to benefit private parties. The purpose of the

1 PAGA is not to recover damages or restitution, but to create a means of "deputizing" citizens as private
2 attorneys general to enforce the Labor Code. In enacting PAGA, the California Legislature specified
3 that "it was ... in the public interest to allow aggrieved employees, acting as private attorneys general
4 to recover civil penalties for Labor Code violations ..." Stats. 2003, ch. 906, § 1. Accordingly, PAGA
5 claims cannot be subject to arbitration.

6 37. PLAINTIFF brings this Representative Action on behalf of the State of California with
7 respect to himself and all other current and former AGGRIEVED EMPLOYEES employed by
8 DEFENDANT during the PAGA PERIOD.

9 38. At all relevant times, for the reasons described herein, and others, PLAINTIFF and the
10 AGGRIEVED EMPLOYEES were aggrieved employees of DEFENDANT within the meaning of
11 Labor Code Section 2699(c).

12 39. Labor Code Sections 2699(a) and (g) authorize an AGGRIEVED EMPLOYEE, like
13 PLAINTIFF, on behalf of himself and other current or former employees, to bring a civil action to
14 recover civil penalties pursuant to the procedures specified in Labor Code Section 2699.3

15 40. PLAINTIFF complied with the procedures for bringing suit specified in Labor Code
16 Section 2699.3. By certified letter, return receipt requested, dated April 7, 2021, PLAINTIFF gave
17 written notice to the Labor and Workforce Development Agency ("LWDA") and to DEENDANT of
18 the specific provisions of the Labor Code alleged to have been violated, including the facts and theories
19 to support the alleged violations.

20 41. As of the date of this complaint, more than sixty-five (65) days after serving the LWDA
21 with notice of DEFENDANT'S violations, the LWDA has not provided any notice by certified mail of
22 its intent to investigate the DEFENDANT'S alleged violations as mandated by Labor Code Section
23 2699.3(a)(2)(A). Accordingly, pursuant to Labor Code Section 2699.3(a)(2)A, PLAINTIFF may
24 commence and is authorized to pursue this cause of action.

25 42. Pursuant to Labor Code Sections 2699(a) and (f), PLAINTIFF and the AGGRIEVED
26 EMPLOYEES are entitled to civil penalties for DEFENDANTS' violations of Labor Code Section 201,
27 202, 203, 204, 210, 218.5, 226, 226.7, 510, 512, 558, 1174(d), 1194, 1197, 1197.1, 1198, and 2802 in
28 the following amounts:

1 a. For violation of Labor Code Sections 201, 202, 203, and 204, one
2 hundred dollars (\$100) for each AGGRIEVED EMPLOYEE per pay period
3 for the initial violation and two hundred dollars (\$200) for AGGIEVED
4 EMPLOYEE per pay period for each subsequent violation [penalty per
5 Labor Code Section 2699(f)(2)];

6 b. For violations of Labor Code Section 226(a), a civil penalty in the
7 amount of two hundred fifty dollars (\$250) for each AGGRIEVED
8 EMPLOYEE for any initial violation and one thousand dollars for each
9 subsequent violation [penalty per Labor Code Section 226.3];

10 c. For violations of Labor Code Sections 204, a civil penalty in the
11 amount of one hundred dollars (\$100) for each AGGRIEVED EMPLOYEE
12 for any initial violation and two hundred dollars (\$200) for AGGIEVED
13 EMPLOYEE for each subsequent violation [penalty per Labor Code
14 Section 210];

15 d. For violations of Labor Code Sections 226.7, 510 and 512, a civil
16 penalty in the amount of fifty dollars (\$50) for each underpaid
17 AGGRIEVED EMPLOYEE for the initial violation and hundred dollars
18 (\$100) for each underpaid AGGIEVED EMPLOYEE for each subsequent
19 violation [penalty per Labor Code Section 558];

20 e. For violations of Labor Code Section 2269(a), a civil penalty in the
21 amount of two hundred fifty dollars (\$250) per AGGRIEVED EMPLOYEE
22 per violation in an initial citation and one thousand dollars (\$1,000) per
23 AGGRIEVED EMPLOYEE for each subsequent violation [penalty per
24 Labor Code Section 226.3];

25 f. For violations of Labor Code Sections 1194, 1197, 1198 and 1199,
26 a civil penalty in the amount of one hundred dollars (\$100) per
27 AGGRIEVED EMPLOYEE per pay period for the initial violation and two
28 hundred dollars fifty (\$250) per AGGIEVED EMPLOYEE per pay period

1 for each subsequent violation [penalty per Labor Code Section].

2 43. For all provisions of the Labor Code for which civil penalty is not specifically provided,
3 Labor Code § 2699(f) imposes upon Defendant a penalty of one hundred dollars (\$100) for each
4 AGGRIEVED EMPLOYEE per pay period for the initial violation and two hundred dollars (\$200) for
5 each AGGRIEVED EMPLOYEE per pay period for each subsequent violation. PLAINTIFF and the
6 AGGRIEVED EMPLOYEES are entitled to an award of reasonable attorney's fees and costs in
7 connection with their claims for civil penalties pursuant to Labor Code Section 2699(g)(1).

8 44. To the extent that any of the conduct and violations alleged herein did not affect
9 PLAINTIFF during the PAGA PERIOD, PLAINTIFF seeks penalties for those violations that affected
10 other AGGRIEVED EMPLOYEES. (*Carrington v. Starbucks Corp.* (2018) 30 Cal.App.5th 504, 519;
11 See also *Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal. App. 5th 745, 751 ["PAGA allows
12 an "aggrieved employee"—a person affected by at least one Labor Code violation committed by an
13 employer—to pursue penalties for all the Labor Code violations committed by that employer."],
14 Emphasis added, reh'g denied (June 13, 2018).)

15 **PRAYER FOR RELIEF**

16 WHEREFORE, PLAINTIFF prays for judgment against DEFENDANT as follows:

17 (a) For reasonable attorney's fees and costs of suit to the extent permitted by law, including
18 pursuant to Labor Code § 2699, *et seq.*;

19 (b) For civil penalties to the extent permitted by law pursuant to the Labor Code under the
20 Private Attorneys General Act; and

21 (c) For such other relief as the Court deems just and proper.

22
23 Dated: September 27, 2021

Respectfully Submitted,
JCL LAW FIRM, APC

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25 By: 
26 Jean-Claude Lapuyade, Esq.
27 Attorneys for PLAINTIFF
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By: Jean-Claude Lapuyade, Esq.
Attorneys for PLAINTIFF