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as an aggrieved employee, and on behalf of all other
aggrieved employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SOLANO

TYRONE MOLSON, as an aggrieved
employee, and on behalf of all other aggrieved
employees under the Labor Code Private
Attorneys' General Act of 2004,

Plaintiff,

v.

SECURITY PROPERTIES RESIDENTIAL,
LLC., a Washington limited liability company;
KEVONNA SMITH, an individual; and
DOES 1 through 100, inclusive,

Defendants.

CASE NO.: CU24-04131

REPRESENTATIVE ACTION

**COMPLAINT UNDER THE LABOR
CODE PRIVATE ATTORNEYS'
GENERAL ACT OF 2004 FOR CIVIL
PENALTIES UNDER LABOR CODE
SECTIONS 210, 226.3, 558, 1174.5, 1197.1
AND 2699**

DEMAND FOR JURY TRIAL

[Amount in Controversy Greater Than
\$25,000.00]

1 Plaintiff TYRONE MOLSON, as an aggrieved employee, brings this Action under the Labor
2 Code Private Attorneys' General Act of 2004 ("PAGA") to collect civil penalties under PAGA for
3 all other aggrieved employees, and, in doing so, alleges as follows:

4 **JURISDICTION AND VENUE**

5 1. This is a representative action, pursuant to the Labor Code Private Attorneys General
6 Act of 2004, codified at Labor Code section 2698, *et seq.* ("PAGA"), against Security Properties
7 Residential, LLC., a Washington limited liability company, and any of its respective subsidiaries or
8 affiliated companies within the State of California ("Security Properties"), and Kevonna Smith, an
9 individual ("Smith") (collectively, and with DOES 1 through 100, as further defined below,
10 "Defendants"), as a proxy of the Labor and Workforce Development Agency of the State of
11 California ("LWDA"), on behalf of all other current and former non-exempt employees of
12 Defendants working within the Civil Penalty Period, as further defined herein, and, as it pertains to
13 the alleged claims for failure to comply with Labor Code sections 96, 98.6, 200, 201, 202, 203, 204,
14 210, 226, 226.3, 227.3, 232, 232.5, 245, 246, 432, 432.3, 432.5, 432.7, 432.8, 1102.5, 1197.5,
15 1198.5, 1527, 3366, 3457, and 8397.4, on behalf of all employees of Defendants working within the
16 Civil Penalty Period (collectively, "Aggrieved Employees").

17 2. Jurisdiction exists in the Superior Court of the State of California pursuant to Code
18 of Civil Procedure section 410.10.

19 3. Venue is proper in SOLANO County, California pursuant to Code of Civil Procedure
20 sections 392, *et seq.* because, among other things, SOLANO County is where the causes of action
21 complained of herein arose; the county in which the employment relationship began; the county in
22 which performance of the employment contract, or part of it, between Plaintiff and Defendants was
23 due to be performed; the county in which the employment contract, or part of it, between Plaintiff
24 and Defendants was actually performed; and the county in which Defendants, or some of them,

1 reside. Moreover, the unlawful acts alleged herein have a direct effect on Plaintiff and Aggrieved
2 Employees in SOLANO County, and because Defendants employ numerous Aggrieved Employees
3 in SOLANO County.

4 4. Plaintiff is an “aggrieved employee” under PAGA, as Plaintiff was employed by
5 Defendants during the applicable statutory period and suffered one or more of the Labor Code
6 violations set forth herein. Accordingly, Plaintiff seeks to recover civil penalties, as the term “civil
7 penalty” is defined under *ZB N.A. v. Superior Court* (2019) 8 Cal.5th 175, under the Labor Code
8 Private Attorneys General Act of 2004, codified at Labor Code section 2698, *et seq.* (“PAGA”) plus
9 reasonable attorneys’ fees and costs, for all other aggrieved current and former employees of
10 Defendants during the Civil Penalty Period. Plaintiff does not seek to assert his own claim for civil
11 penalties under PAGA as part of this Action.

12 5. Specifically, Plaintiff seeks to recover PAGA civil penalties through a representative
13 action permitted by PAGA and the California Supreme Court in, among other authorities, *Arias v.*
14 *Superior Court* (2009) 46 Cal.4th 969. According to the same authorities, class certification of the
15 PAGA allegations described herein is not required.

16 6. During the period beginning one (1) year preceding the provision of notice to the
17 LWDA regarding the herein-described Labor Code violations (the “Civil Penalty Period”),
18 Defendants violated, *inter alia*, Labor Code sections 96, 98.6, 200, 201, 201.3, 202, 203, 204, 210,
19 212, 213, 221, 223, 226, 226.3, 226.7, 227.3, 232, 232.5, 245, 246, 404, 432, 432.3, 432.5, 432.7,
20 432.8, 510, 512, 558, 1102.5, 1174, 1174.5, 11821.12, 1194, 1197, 1197.1, 1197.5, 1198.5, 1527,
21 2699, 2802, 2810.5, 3366, 3457, and 8397.4, among others, California Code of Regulations, Title
22 8, Section 3395, Business and Professions Code sections 16600, 16700, and 17200, Government
23 Code section 12952, as well as applicable Wage Orders.

24 7. Labor Code section 2699, subdivisions (a) and (g), authorizes aggrieved employees
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1 on behalf of all other aggrieved current and former employees within the statutory period, to bring
2 a civil action to recover civil penalties pursuant to the procedures specified in Labor Code section
3 2699.3 without asserting a claim to bring Plaintiff's own claim for civil penalties under PAGA.
4 (*See, e.g., Balderas v. Fresh Start Harvesting, Inc.*) Specifically, Plaintiff does not seek to recover
5 Plaintiff's 25% share of civil penalties for the particular Labor Code violations Plaintiff experienced.
6 Rather, this is a purely representative PAGA action wherein Plaintiff seeks to recover all civil
7 penalties for the Labor Code violations experienced by third-party aggrieved employees (Aggrieved
8 Employees) and the State of California's 75% of the civil penalties for the Labor Code violations
9 Plaintiff experienced.

10 8. On or around March 26, 2024, Plaintiff provided written notice pursuant to Labor
11 Code section 2699.3 online and by certified mail, with return receipt requested, of Defendants'
12 violation of various, including the herein-described, provisions of the Labor Code, to the LWDA,
13 as well as by certified mail, with return receipt requested to Defendants, and each of them.

14 9. Pursuant to Labor Code section 2699.3, subdivision (a)(2)(A), the LWDA did not
15 provide notice of its intention to investigate Defendants' alleged violations within sixty-five (65)
16 calendar days of the March 26, 2024 postmarked date of the herein-described notice sent by Plaintiff
17 to the LWDA and Defendants.

18 **PAGA REPRESENTATIVE ALLEGATIONS**

19 10. At all relevant times mentioned herein, Defendants had and have a policy or practice
20 of failing to pay overtime wages to Aggrieved Employees in the State of California in violation of
21 California state wage and hour laws as a result of, without limitation, Aggrieved Employees working
22 over eight (8) hours per day, forty (40) hours per week, and/or seven (7) straight workdays in a
23 workweek without paying them proper overtime wages, as a result of, without limitation, failing to
24 accurately track and/or pay for all minutes actually worked; engaging, suffering, or permitting
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1 employees to work off the clock, including, without limitation, by requiring employees: to come
2 early to work and leave late work without being able to clock in for all that time, to suffer under
3 Defendant's control due to long lines for clocking in, to complete pre-shift tasks before clocking in
4 and post-shift tasks after clocking out, to clock out for meal periods and continue working, to clock
5 out for rest periods, to don and doff uniforms and/or safety equipment off the clock, to attend
6 company meetings off the clock, to make phone calls or drive off the clock, and/or go through
7 security screenings and/or temperature checks off the clock; failing to include all forms of
8 remuneration, including non-discretionary bonuses, incentive pay, meal allowances, mask
9 allowances, gift cards and other forms of remuneration into the regular rate of pay for the pay periods
10 where overtime was worked and the additional compensation was earned for the purpose of
11 calculating the overtime rate of pay; detrimental rounding of employee time entries, editing and/or
12 manipulation of time entries to show less hours than actually worked, for paying straight pay instead
13 of overtime pay, and by attempting but failing to properly implement an alternative workweek
14 schedule ("AWS") (including, without limitation, by failing to implement a written agreement
15 designating the regularly scheduled alternative workweek in which the specified number of work
16 days and work hours are regularly recurring; failing to adopt the AWS in a secret ballot election,
17 before the performance of work, by at least a two-thirds (2/3) vote of the affected employees in the
18 work unit; failing to follow the notice/disclosures procedures prior to any AWS election; and/or
19 failing to register an AWS election with the State of California, as required by Labor Code section
20 511 and applicable Wage Orders) all to the detriment of Employee and other aggrieved employees.

21 11. At all relevant times mentioned herein, Defendants had and have a practice or policy
22 of failing to compensate Aggrieved Employees with minimum wages for all hours worked or
23 otherwise under Defendants' control as a result of, without limitation, failing to accurately track
24 and/or pay for all minutes actually worked; by requiring Aggrieved Employees: to come early to
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1 work and leave late work without being able to clock in for all that time, to suffer under Defendant's
2 control due to long lines for clocking in, to complete pre-shift tasks before clocking in and post-shift
3 tasks after clocking out, to clock out for meal periods and continue working, to clock out for rest
4 periods, to don and doff uniforms and/or safety equipment off the clock, to attend company meetings
5 off the clock, to make phone calls or drive off the clock; detrimental rounding of employee time
6 entries; editing and/or manipulation of time entries to show less hours than actually worked; and
7 failing to pay split shift premiums, to the detriment of Aggrieved Employees.

8 12. At all relevant times mentioned herein, Defendants had and have a policy or practice
9 of failing to provide Aggrieved Employees a thirty (30) minute uninterrupted, timely, and complete
10 meal period for days on which the employee worked in excess of five (5) and ten (10) hours per day
11 without being afforded uninterrupted, timely, and complete 30-minute meal periods or
12 compensation in lieu thereof including, without limitation, by interrupting meal periods; not
13 providing timely meal periods; failing to provide first and second meal periods; providing short
14 meal periods; requiring that employees carry cellular telephones or walkie-talkies during meal
15 periods; not permitting employees to leave the premises; otherwise requiring on-duty/on-call meal
16 periods; and auto-deducting meal periods that could not be auto-deducted by law or during which
17 employees worked, as required by California wage and hour laws.

18 13. At all relevant times mentioned herein, Defendants had and have a policy or practice
19 of failing to provide Aggrieved Employees paid, uninterrupted, timely, and complete rest periods of
20 at least ten (10) minutes per four (4) hours worked or major fractions thereof, or compensation in
21 lieu thereof, including, without limitation, by failing to provide rest periods all together; requiring
22 that they be bundled together and/or with meal periods; interrupting them; requiring that employees
23 carry cellular telephones or walkie-talkies during rest periods not providing them in a timely fashion;

1 and not permitting employees to leave the premises; and otherwise requiring on-duty/on-call rest
2 periods, as required by California wage and hour laws.

3 14. At all times relevant hereto, Defendants had and have a policy or practice of failing
4 to permit Aggrieved Employees from taking cooldown rest periods as required under California
5 Code of Regulations, Title 8, Section 3395, and have failed to pay premium pay in lieu thereof under
6 Labor Code section 226.7.

7 15. At all times relevant hereto, Defendants had and have a policy or practice of failing
8 to pay premium payments under Labor Code section 226.7 to Aggrieved Employees for non-
9 compliant meal periods and rest periods, as well as the failure to provide cooldown periods, at the
10 proper regular rate of pay in violation of Labor Code sections 512, 226.7, and applicable wage
11 orders.

12 16. At all times mentioned herein, Defendants had and have a policy or practice of
13 unlawfully deducting wages due, or to become due, or as an advance on wages to be earned; an
14 order, check, draft, note, memorandum, gift card, or other acknowledgment of indebtedness, (unless
15 it was negotiable and payable in cash, on demand, without discount, at some established place of
16 business in the state), the name and address of which must but did not appear on the instrument, and
17 at the time of its issuance and for a reasonable time thereafter, which must be but was not at least
18 30 days, the maker or drawer did not have sufficient funds in, or credit arrangement, or
19 understanding with the drawee for its payment of any scrip, coupon, or other thing redeemable, in
20 merchandise, or purporting to be payable or redeemable otherwise than in money. Plaintiff is further
21 informed and believes, and based thereon alleges that such wages were not compensated at the
22 "regular rate" of compensation as provided under Labor Code sections 226.7 and 510, subsection
23 (a).

1 17. At all relevant times mentioned herein, Defendants had and have a policy or practice
2 of failing to comply with Labor Code section 226, subdivision (a) by intentionally failing to furnish
3 Aggrieved Employees with itemized wage statements that accurately reflect gross wages earned;
4 total hours worked by the employee; net wages earned; all deductions; all applicable hourly rates in
5 effect during the pay period and the corresponding number of hours worked at each hourly rate by
6 the employee; the legal name of the employer and/or the name and address of the legal entity
7 securing the employer's services if the employer is a farm labor contractor; and other such
8 information as required by Labor Code section 226, subdivision (a).

9 18. At all relevant times mentioned herein, Defendants had and have a policy or practice
10 of failing to comply with Labor Code section 226, subdivision (a) by intentionally failing to furnish
11 Aggrieved Employees with documents signed to obtain or hold employment under Labor Code
12 section 432, personnel records under Labor Code section 1198.5, and time records under Labor
13 Code section 1174, making it difficult for Aggrieved Employees to calculate their unpaid wages
14 and/or premium payments, to the detriment of Aggrieved Employees.

15 19. At all relevant times mentioned herein, Defendants had and have a policy or practice
16 of failing to timely pay Aggrieved Employees, among other wages, all wages owed as a result of
17 Defendants' practice or policy of failing to pay, among other wages, overtime wages at the regular
18 rate of pay, minimum wages, premium wages at the regular rate of pay, paid time off, paid sick
19 leave, and vacation time owed as required by Labor Code sections 201, 202, and 203.

20 20. At all relevant times herein, Defendants had and have a policy or practice of failing
21 to pay Aggrieved Employees their paid time off and vacation time owed upon separation of
22 employment as wages at their final rate of pay in violation of Labor Code section 227.3 and
23 applicable Wage Orders.
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1 21. At all relevant times mentioned herein, Defendants have had a policy or practice of
2 failing and refusing, and continue to fail and refuse, to reimburse employees, including, without
3 limitation, Employee and other aggrieved employees, with their costs incurred for driving personal
4 vehicles (i.e., mileage and gas), purchasing uniforms, providing uniform and other deposits,
5 separately laundering mandatory uniforms, for the purchase of tools and safety equipment, and for
6 the purchase and maintenance of cellular phones and cellular phone plans, in direct consequence of
7 the discharge of their duties, or of their obedience to the directions of Defendant, as required by
8 Labor Code section 2802.

9 22. At all relevant times mentioned herein, Defendants have had a policy or practice of
10 failing to comply with the notice requirements of Labor Code section 2810.5 (*i.e.*, the Wage Theft
11 Protection Act of 2011) by, among other things, failing to provide Aggrieved Employees with the
12 rates of pay and overtime rates of pay applicable to their employment; allowances claimed as part
13 of the minimum wage; the regular payday designated by Defendants; the name, address, and
14 telephone number of the workers' compensation insurance carrier; information regarding paid sick
15 leave; and other pertinent information required to be disclosed by Defendants under Labor Code
16 section 2810.5.

17 23. At all relevant times mentioned herein, Defendants failed to provide Aggrieved
18 Employees with the amount of paid sick leave required to be provided pursuant to California law
19 (including, without limitation Labor Code section 245, *et seq.*), and also did not permit its use upon
20 request as contemplated under California laws, to the detriment of Aggrieved Employees.

21 24. At all relevant times mentioned herein, Defendants had or have a policy or practice
22 of failing to reimburse deposits made, including uniform deposits, together with all interest owed at
23 the separation of employment in violation of Labor Code section 404.

1 25. At all relevant times mentioned herein, Defendants have had a policy or practice of
2 failing to pay Aggrieved Employees their wages in accordance with Labor Code Section 204, which
3 requires that: “[l]abor performed between the 1st and 15th days, inclusive, of any calendar month
4 shall be paid for between the 16th and 26th day of the month during which the labor was performed,
5 and labor performed between the 16th and the last day, inclusive of any calendar month, shall be
6 paid for between the 1st and 10th day of the following month.”

7 26. At all times mentioned herein, Defendants have had, and continue to have, a policy
8 of failing to provide all working employees with suitable seats when the nature of the work
9 reasonably permits the use of seats. Defendants have also failed to place an adequate number of
10 seats in reasonable proximity to the work area and/or permitted employees to use such seats when
11 it does not interfere with the performance of their duties and employees are not engaged in the active
12 duties of their employment, and the nature of their work requires standing.

13 27. At all times mentioned herein, Defendants have had, and continue to have, a policy
14 of failing to provide all temporary workers with owed wages weekly by not later than the regular
15 payday of the following week.

16 28. At all times mentioned herein, Defendants have had, and continue to have, a policy
17 of failing to provide adequate and readily accessible sanitation facilities; a regular schedule for
18 servicing, cleaning, and supplying each facility to ensure it is maintained in a clean, sanitary and
19 serviceable condition; an adequate supply of suitable cleansing agents, water, single-use towels or
20 blowers; and a sufficient number of toilets to be used by each sex of employee.

21 29. At all times mentioned herein, Defendants have had, and continue to have, a policy
22 of failing to conducting unlawful background checks on prospective and current employees prior to
23 making a conditional offer. Plaintiff is informed and believes, and based thereon alleges, that
24 Defendants violated applicable laws by, without limitation: requiring job applicants and employees
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1 to disclose their conviction history before Defendants made a conditional offer of employment;
2 inquiring into or considering the conviction history of applicants before Defendants made any
3 conditional offers of employment; considering, distributing, or disseminating information about
4 arrests not followed by conviction, referrals to or participation in a pretrial or posttrial diversion
5 program, convictions that have been sealed, dismissed, expunged, or statutorily eradicated pursuant
6 to law, or any conviction for which the convicted person has received a full pardon or has been
7 issued a certificate of rehabilitation, while conducting conviction history background checks in
8 connection with any applications for employment; intending to deny an applicant a position of
9 employment solely or in part because of the applicant's conviction history; and asking applicants
10 for employment to disclose, through any written form or verbally, information concerning or related
11 to an arrest, detention, processing, diversion, supervision, adjudication, or court disposition that
12 occurred while the person was subject to the process and jurisdiction of the juvenile court, to the
13 detriment of Aggrieved Employees

14 30. At all times mentioned herein, Defendants have had, and continue to have, a practice
15 or policy of relying on the salary history information of an applicant for employment as a factor in
16 determining whether to offer employment to an applicant or what salary to offer the applicant in
17 violation of Labor Code section 432.3 by including, on Defendants' application for employment, an
18 inquiry regarding current and/or former salary history information, including, without limitation,
19 compensation and benefits of the applicant for employment.

20 31. At all times mentioned herein, Defendants have had, and continue to have, a practice
21 or policy of requiring Aggrieved Employees to agree in writing to confidentiality policies that
22 unlawfully restrain trade by prohibiting Aggrieved Employees from speaking with prospective
23 employers about their work with Defendants, including but not limited to their wages and working
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1 conditions. Defendants also required Aggrieved Employees to inform prospective employers of
2 Defendants' restrictions of Aggrieved Employees' freedom to work.

3 32. At all relevant times mentioned herein, Defendants had and have a policy or practice
4 of preventing Aggrieved Employees from using or disclosing the skills, knowledge and experience
5 they obtained at Defendants for purposes of competing with Defendants, including, without
6 limitation, preventing Aggrieved Employees from disclosing their wages in negotiating a new job
7 with a prospective employer, and from disclosing who else works at Defendants and under what
8 circumstances that they might be receptive to an offer from a rival employer. Plaintiff is informed
9 and believes that this policy and/or practice violates Business and Professions Code sections 17200,
10 16600 and 16700, and, by virtue thereof, various provisions of the Labor Code, including Labor
11 Code sections 232, 232.5, and 1197.5, subdivision (k).

12 33. Defendants had and have a policy or practice of preventing Aggrieved Employees
13 from disclosing violations of state and federal law, either within Defendants to their managers or
14 outside to private attorneys or government officials, among others, in violation of Business and
15 Professions Code section 17200, and, thus, in violation of Labor Code section 1102.5. In addition,
16 Plaintiff is informed and believes that Defendants' herein-described policies and/or practices
17 prevent Aggrieved Employees from disclosing information about unsafe or discriminatory working
18 conditions, or about wage and hour violations in violation of Labor Code section 232 and 232.5.

19 34. Defendants had and have a policy or practice of preventing Aggrieved Employees
20 from engaging in lawful conduct during non-work hours, thus violating state statutes entitling
21 employees to disclose wages, working conditions, and illegal conduct, including, without limitation,
22 Labor Code sections 96, subdivision (k), 98.6, 232, 232.5, and 1197.5, subdivision (k). Plaintiff is
23 informed and believes that this lawful conduct includes the exercise of Aggrieved Employee's
24 constitutional rights of freedom of speech and economic liberty.

35. Plaintiff, in Plaintiff's representative capacity *only*, seeks civil penalties under Labor Code sections 210, 226.3, 558, 1174.5, 1197.1, and 2699 for the herein-described acts on behalf of only and all other Aggrieved Employees, which violate the California Labor Code as described above.

PARTIES

A. Plaintiff

36. Plaintiff is a resident of the State of California. At all relevant times herein, Plaintiff is informed and believes, and based thereon alleges, that Defendants employed Plaintiff as a non-exempt employee, with duties that included, but were not limited to, taking care of properties, repairing appliances, cleaning, and ordering supplies. Plaintiff is informed and believes that Plaintiff worked for Defendants from approximately June of 2021 through approximately of 2023.

B. Defendants

37. Plaintiff is informed and believes and based thereon alleges that defendant Security Properties is, and at all times relevant hereto was, a limited liability company organized and existing under and by virtue of the laws of the State of Washington and doing business in the County of SOLANO, State of California.

38. Plaintiff is informed and believes and based thereon alleges that defendant Smith is, and at all times relevant hereto was, an individual residing in California, as well as the Property Manager of SPR, and DOES 1 through 100, as further defined below.

39. The true names and capacities, whether individual, corporate, associate, or otherwise, of defendants sued herein as DOES 1 through 100, inclusive, are currently unknown to Plaintiff, who therefore sues defendants by such fictitious names under Code of Civil Procedure section 474. Plaintiff is informed and believes and based thereon alleges that each of the defendants designated herein as DOE is legally responsible in some manner for the unlawful acts referred to herein.

1 Plaintiff will seek leave of court to amend this Complaint to reflect the true names and capacities of
2 the defendants designated hereinafter as DOES when such identities become known. Plaintiff is
3 informed and believes, and based thereon alleges, that each defendant acted in all respects pertinent
4 to this action, as the agent of the other defendant(s), carried out a joint scheme, business plan or
5 policy in all respects pertinent hereto, and the acts of each defendant are legally attributable to the
6 other defendants. Whenever, heretofore or hereinafter, reference is made to “Defendants,” it shall
7 include Security Properties, Smith, and any of their parent, subsidiary, or affiliated companies within
8 the State of California, as well as DOES 1 through 100 identified herein.

9 **JOINT LIABILITY ALLEGATIONS**

10 40. Plaintiff is informed and believes, and based thereon alleges, that at all times
11 mentioned herein, each of the defendants was the agent, principal, employee, employer,
12 representative, joint venture or co-conspirator of each of the other defendants, either actually or
13 ostensibly, and in doing the things alleged herein acted within the course and scope of such agency,
14 employment, joint venture, and conspiracy.

15 41. All of the acts and conduct described herein of each and every corporate defendant
16 was duly authorized, ordered, and directed by the respective and collective defendant corporate
17 employers, and the officers and management-level employees of said corporate employers. In
18 addition thereto, said corporate employers participated in the aforementioned acts and conduct of
19 their said employees, agents, and representatives, and each of them; and upon completion of the
20 aforesaid acts and conduct of said corporate employees, agents, and representatives, the defendant
21 corporation respectively and collectively ratified, accepted the benefits of, condoned, lauded,
22 acquiesced, authorized, and otherwise approved of each and all of the said acts and conduct of the
23 aforementioned corporate employees, agents and representatives.

24 42. Plaintiff is informed and believes, and based thereon alleges, that despite the
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1 formation of the purported corporate existence of Security Properties, Smith, and DOES 1 through
2 50, inclusive (the “Alter Ego Defendants”), they, and each of them, are one and the same with DOES
3 51 through 100 (“Individual Defendants”), and each of them, due to, but not limited to, the following
4 reasons:

5 a. The Alter Ego Defendants are completely dominated and controlled by the
6 Individual Defendants who personally committed the wrongful and illegal acts and violated the laws
7 as set forth in this Complaint, and who have hidden and currently hide behind the Alter Ego
8 Defendants to perpetrate frauds, circumvent statutes, or accomplish some other wrongful or
9 inequitable purpose;

10 b. The Individual Defendants derive actual and significant monetary benefits by
11 and through the Alter Ego Defendants’ unlawful conduct, and by using the Alter Ego Defendants as
12 the funding source for the Individual Defendants’ own personal expenditures;

13 c. Plaintiff is informed and believes, and thereon alleges, that the Individual
14 Defendants and the Alter Ego Defendants, while really one and the same, were segregated to appear
15 as though separate and distinct for purposes of perpetrating a fraud, circumventing a statute, or
16 accomplishing some other wrongful or inequitable purpose;

17 d. Plaintiff is informed and believes, and thereon alleges, that the business affairs
18 of the Individual Defendants and the Alter Ego Defendants are, and at all relevant times mentioned
19 herein were, so mixed and intermingled that the same cannot reasonably be segregated, and the same
20 are inextricable confusion. The Alter Ego Defendants are, and at all relevant times mentioned herein
21 were, used by the Individual Defendants as mere shells and conduits for the conduct of certain of
22 their, and each of their affairs. The Alter Ego Defendants are, and at all relevant times mentioned
23 herein were, the alter egos of the Individual Defendants;

24 e. The recognition of the separate existence of the Individual Defendants from
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1 the Alter Ego Defendants would promote injustice insofar that it would permit these defendants to
2 insulate themselves from liability to Plaintiff for violations to the Civil Code, Government Code,
3 and other statutory violations. The corporate existence of these defendants should thus be
4 disregarded in equity and for the ends of justice because such disregard is necessary to avoid fraud
5 and injustice to Plaintiff herein;

6 f. Accordingly, the Alter Ego Defendants constitute the alter ego of the
7 Individual Defendants (and vice versa), and the fiction of their separate corporate existence must be
8 disregarded.

9 43. As a result of the aforementioned facts, Plaintiff is informed and believes, and based
10 thereon alleges that Defendants, and each of them, are joint employers.

11 **FIRST CAUSE OF ACTION**

12 **(Civil Penalties Under the Private Attorneys' General Act (2004) – Against All Defendants)**

13 44. Plaintiff re-alleges and incorporates by reference all of the allegations set forth in the
14 preceding paragraphs as though fully set forth hereat.

15 **Civil Penalties Under Labor Code § 210**

16 45. At all relevant times herein, Labor Code section 204, requires and required that:
17 “[l]abor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for
18 between the 16th and 26th day of the month during which the labor was performed, and labor
19 performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for
20 between the 1st and 10th day of the following month.”

21 46. At all relevant times herein, Labor Code section 210, subdivision (a) states and stated
22 that “[i]n addition to, and entirely independent and apart from, any other penalty provided in this
23 article, every person who fails to pay the wages of each employee as provided in Sections 201.3,
24 204, 204b, 204.1, 205, 205.5, and 1197.5, shall be subject to a civil penalty as follows: (1) For any
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1 initial violation, one hundred dollars (\$100) for each failure to pay each employee” and “(2) For
2 each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for
3 each failure to pay each employee, plus 25 percent of the amount unlawfully withheld.”

4 47. At all relevant times herein, Defendants have had a consistent policy or practice of
5 failing to pay Aggrieved Employees during their employment on a timely basis as per Labor Code
6 section 204. Thus, pursuant to Labor Code section 210, Aggrieved Employees are entitled to
7 recover civil penalties for Defendants’ violations of Labor Code section 204, in the amount of one
8 hundred dollars (\$100) for each Aggrieved Employee for each initial violation per employee, and
9 two hundred dollars (\$200) for each Aggrieved Employee for each subsequent violation in
10 connection with each payment that was made in violation of Labor Code section 204.

11 48. Plaintiff does not seek to recover Plaintiff’s 25% share of civil penalties for the
12 particular Labor Code violation(s) that Plaintiff experienced.

13 Civil Penalties Under Labor Code § 226.3

14 49. Defendants had and have a policy or practice of failing to comply with Labor Code
15 section 226, subdivision (a) by intentionally failing to furnish Plaintiff and Aggrieved Employees
16 with itemized wage statements that accurately reflect gross wages earned; total hours worked; net
17 wages earned; the name and address of each employer with whom they have been placed to work;
18 all applicable hourly rates in effect during the pay period and the corresponding number of hours
19 worked at each hourly rate; the legal name of the employer and/or the name and address of the legal
20 entity securing the employer’s services if the employer is a farm labor contractor; and other such
21 information as required by Labor Code section 226, subdivision (a).

22 50. Labor Code section 226.3 states that “[a]ny employer who violates subdivision (a)
23 of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250)
24 per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for
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1 each violation in a subsequent citation, for which the employer fails to provide the employee a wage
2 deduction statement or fails to keep the records required in subdivision (a) of Section 226.”

3 51. Labor Code section 226.3 further provides that “[t]he civil penalties provided for in
4 this section are in addition to any other penalty provided by law.”

5 52. Plaintiff is informed and believes, and based thereon alleges, that Defendants had
6 and have a policy or practice of failing to furnish Aggrieved Employees with itemized wage
7 statements that accurately reflect gross wages earned; total hours worked; net wages earned; all
8 deductions; all applicable hourly rates in effect and the corresponding number of hours worked at
9 each hourly rate in effect during the pay period; the legal name of the employer and/or the name and
10 address of the legal entity securing the employer’s services if the employer is a farm labor contractor;
11 and other such information as required by Labor Code section 226, subdivision (a).

12 53. Pursuant to Labor Code section 226.3, Aggrieved Employees are entitled to recover
13 civil penalties for Defendants’ violation of Labor Code section 226, subdivision (a) in the amount
14 of two hundred fifty dollars (\$250) for each Aggrieved Employee per pay period for the initial
15 violation, and one thousand dollars (\$1,000) for each Aggrieved Employee per pay period for each
16 subsequent violation.

17 54. Plaintiff does not seek to recover Plaintiff’s 25% share of civil penalties for the
18 particular Labor Code violation(s) that Plaintiff experienced.

19 Violation of Labor Code § 558

20 55. Pursuant to Labor Code section 558, subdivision (a): “Any employer or other person
21 acting on behalf of an employer who violates, or causes to be violated . . . any provision regulating
22 hours and days of work in any of the Industrial Welfare Commission” shall be subject to a civil
23 penalty as follows:

24 (1) For any initial violation, fifty dollars (\$50) for each underpaid employee and for each
25

1 pay period for which the employee was underpaid in addition to an amount sufficient
2 to recover underpaid wages;

3 (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid
4 employee for each pay period for which the employee was underpaid in addition to
5 an amount sufficient to recover underpaid wages;

6 (3) Wages recovered pursuant to this section shall be paid to the affected employee.”

7 56. Plaintiff is informed and believes, and based thereon alleges, that Defendants, and
8 each of them, violated, or caused to be violated, the Labor Code sections described herein, including
9 causing Aggrieved Employees not to: be paid with the rates of pay and overtime rates of pay
10 applicable to their employment, allowances claimed as part of the minimum wage, the regular
11 payday designated by employer, the name of the employer, including any “doing business as” names
12 used, the name, address, and telephone number of the workers’ compensation insurance carrier,
13 information regarding paid sick leave, and other pertinent information.

14 57. As a direct and proximate result of the herein-described Labor Code violations,
15 pursuant to Labor Code section 558, Aggrieved Employees are entitled to recover civil penalties for
16 Defendants’ herein-described Labor Code violations in the amount fifty dollars (\$50) for each
17 Aggrieved Employee per pay period for the initial violation, and one hundred dollars (\$100) for
18 each Aggrieved Employee per pay period for each subsequent violation.

19 58. Plaintiff does not seek to recover Plaintiff’s 25% share of civil penalties for the
20 particular Labor Code violation(s) that Plaintiff experienced.

21 Violation of Labor Code § 1174.5

22 59. At all times mentioned herein, Labor Code section 1174, subdivision (b) has required
23 every person employing labor in California to “[a]llow any member of the commission or the
24 employees of the Division of Labor Standards Enforcement free access to the place of business or
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1 employment of the person to secure any information or make any investigation that they are
2 authorized by this chapter to ascertain or make. The commission may inspect or make excerpts,
3 relating to the employment of employees, from the books, reports, contracts, payrolls, documents,
4 or papers of the person.”

5 60. At all times mentioned herein, Labor Code section 1174, subdivision (c) has required
6 every person employing labor in California to “[k]eep a record showing the names and addresses of
7 all employees employed and the ages of all minors.”

8 61. At all times mentioned herein, Labor Code section 1174, subdivision (d) has required
9 every person employing labor in California to “[k]eep, at a central location in the state or at the
10 plants or establishments at which employees are employed, payroll records showing the hours
11 worked daily by and the wages paid to, and the number of piece-rate units earned by and applicable
12 piece rate paid to, employees employed at the respective plants or establishments. These records
13 shall be kept in accordance with rules established for this purpose by the commission, but in any
14 case, shall be kept on file for not less than three years. An employer shall not prohibit an employee
15 from maintaining a personal record of hours worked, or, if paid on a piece-rate basis, piece-rate units
16 earned.”

17 62. Pursuant to Labor Code section 1174.5, “[a]ny person employing labor who willfully
18 fails to maintain the records required by subdivision (c) of [Labor Code] Section 1174 or accurate
19 and complete records required by subdivision (d) of [Labor Code] Section 1174, or to allow any
20 member of the commission or employees of the division to inspect records pursuant to subdivision
21 (b) of [Labor Code] Section 1174, shall be subject to a civil penalty of five hundred dollars (\$500).

22 63. Plaintiff is informed and believes, and based thereon alleges, that Defendants have
23 willfully failed to keep adequate or accurate time records including wage statements and similar
24 payroll documents under Labor Code section 226, documents signed to obtain or hold employment
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1 under Labor Code section 432, personnel records under Labor Code section 1198.5, and time records
2 under Labor Code section 1174.

3 64. As a direct and proximate result of the herein-described Labor Code violations,
4 pursuant to Labor Code section 1174.5, Aggrieved Employees are entitled to recover civil penalties
5 for Defendants' herein-described Labor Code violations in the amount of five hundred dollars
6 (\$500) per violation per Aggrieved Employee.

7 65. Plaintiff does not seek to recover Plaintiff's 25% share of civil penalties for the
8 particular Labor Code violation(s) that Plaintiff experienced.

9 Violation of Labor Code § 1197.1

10 66. Pursuant to Labor Code section 1197.1, subdivision (a): "Any employer or other
11 person acting either individually or as an officer, agent, or employee of another person, who pays
12 or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or
13 local law, or by an order of the commission shall be subject to a civil penalty, restitution of wages,
14 liquidated damages payable to the employee, and any applicable penalties imposed pursuant to
15 Section 203 as follows:

16 (1) For any initial violation that is intentionally committed, one hundred dollars
17 (\$100) for each underpaid employee for each pay period for which the
18 employee is underpaid. This amount shall be in addition to an amount
19 sufficient to recover underpaid wages, liquidated damages pursuant to Section
20 1194.2, and any applicable penalties imposed pursuant to Section 203.

21 (2) For each subsequent violation for the same specific offense, two hundred fifty
22 dollars (\$250) for each underpaid employee for each pay period for which the
23 employee is underpaid regardless of whether the initial violation is
24 intentionally committed. This amount shall be in addition to an amount
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1 sufficient to recover underpaid wages, liquidated damages pursuant to Section
2 1194.2, and any applicable penalties imposed pursuant to Section 203.

3 (3) Wages, liquidated damages, and any applicable penalties imposed pursuant to
4 Section 203, recovered pursuant to this section shall be paid to the affected
5 employee.”

6 67. Plaintiff is informed and believes, and based thereon alleges, that Defendants caused
7 Aggrieved Employees not to be paid minimum wages as a result of Defendants, without limitation,
8 routinely failing to pay Aggrieved Employees’ minimum wages for all hours worked or otherwise
9 under Defendants’ control due to, without limitation, routinely failing to accurately track and/or pay
10 for all hours actually worked; detrimental rounding or manipulation of time entries; paying straight
11 pay instead of overtime or otherwise failing to pay overtime hours at the proper overtime rate of
12 pay; engaging, suffering, or permitting employees to work off the clock, entitling Plaintiff and other
13 Aggrieved Employees to actual and liquidated damages.

14 68. As a direct and proximate result of the herein-described Labor Code violations,
15 pursuant to Labor Code section 1197.1, Aggrieved Employees are entitled to recover civil penalties
16 for Defendants’ herein-described Labor Code violations in the amount one hundred dollars (\$100)
17 for each Aggrieved Employee per pay period for the initial violation, and two hundred and fifty
18 dollars (\$250) for each Aggrieved Employee per pay period for each subsequent violation.

19 69. Plaintiff does not seek to recover Plaintiff’s 25% share of civil penalties for the
20 particular Labor Code violation(s) that Plaintiff experienced.

21 Civil Penalties Under Labor Code § 2699

22 70. Pursuant to Labor Code section 2699, subdivision (a), notwithstanding any other
23 provision of law, any provision of the Labor Code that provides for a civil penalty to be assessed
24 and collected by the LWDA or any of its departments, divisions, commissions, boards, agencies or
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1 employees for a violation of the Labor Code may, as an alternative, be recovered through a civil
2 action brought by an aggrieved employee on behalf of himself or herself and other current or former
3 employees pursuant to the procedures specified in Labor Code section 2699.3.

4 71. Pursuant to Labor Code section 2699, subdivision (f), for all provisions of the Labor
5 Code except those for which a civil penalty is specifically provided, the established civil penalty for
6 a violation of those provisions is as follows: if, at the time of the alleged violation, the person
7 employs one or more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved
8 employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved
9 employee per pay period for each subsequent violation.

10 72. Plaintiff is informed and believes, and based thereon alleges that Defendants, and
11 each of them, violated the Labor Code sections described herein, including, without limitation, for
12 the failure to: pay the rates of pay and overtime rates of pay applicable to their employment,
13 allowances claimed as part of the minimum wage, the regular payday designated by Defendants, the
14 name of the employer, including “doing business as” names used, the name, address, and telephone
15 number of the workers’ compensation insurance carrier, information regarding paid sick leave, and
16 other pertinent information required to be disclosed by Defendants under Labor Code section
17 2810.5, failing to provide Aggrieved Employees with the amount of paid sick leave required to be
18 provided pursuant to California and local laws.

19 73. Moreover, Aggrieved Employees within the State of California are entitled to an
20 award of reasonable attorneys’ fees and costs in connection with their herein-described claims for
21 civil penalties.

22 74. Plaintiff does not seek to recover Plaintiff’s 25% share of civil penalties for the
23 particular Labor Code violation(s) that Plaintiff experienced.

24 **PRAYER**

1 **WHEREFORE**, on behalf of Aggrieved Employees, Plaintiff prays for judgment against
2 Defendants as follows:

- 3 A. An award of civil penalties pursuant to Labor Code sections 210, 226.3, 558,
4 1174.5, 1197.1, and 2699 for all Aggrieved Employees aside from Plaintiff;
5 B. An award of reasonable attorneys’ fees and costs pursuant to Labor Code sections
6 210, 226.3, 558, 1174.5, 1197.1, and 2699;
7 C. Pre-judgment and post-judgment interest;
8 D. For costs of suit incurred herein; and
9 E. Such other and further relief as the Court deems just and proper.

10
11
12 Dated: May 30, 2024

BIBIYAN LAW GROUP, P.C.

13
14 BY: /s/ Paal Bakstad
15 DAVID D. BIBIYAN
16 JEFFREY D. KLEIN
17 PAAL BAKSTAD
18 Attorneys for Plaintiff TYRONE MOLSON,
19 as an aggrieved employee on behalf of all
20 other aggrieved employees under the Labor
21 Code Private Attorneys’ General Act of 2004
22
23
24
25