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10 Attorneys for Plaintiffs Belinda Payton
11 and Charmaine Walker

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA
13 FOR THE COUNTY OF SAN JOAQUIN

14 BELINDA PAYTON and CHARMAINE
15 WALKER, individually, and on behalf of other
16 members of the general public similarly situated
17 and as aggrieved employees pursuant to the
18 Private Attorneys General Act ("PAGA"), and
19 on behalf of the State of California and other
20 aggrieved employees,

21 Plaintiff,

22 vs.

23 PRIDE INDUSTRIES, a California corporation;
24 and DOES 1 through 10, inclusive,

25 Defendants.

Case No.: STK-UOE-2017-7110

**FIRST AMENDED CLASS ACTION
COMPLAINT & ENFORCEMENT ACTION
UNDER THE PRIVATE ATTORNEYS
GENERAL ACT, CALIFORNIA LABOR
CODE §§ 2698, *ET SEQ.***

- (1) Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime);
- (2) Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 (Unpaid Minimum Wages);
- (3) Violation of California Labor Code §§ 226.7, 512(a), and 1198 (Failure to Provide Meal Periods);
- (4) Violation of California Labor Code §§ 226.7 and 1198 (Failure to Provide Rest Periods);
- (5) Violation of California Labor Code §§ 226(a), 1174(d), and 1198 (Non-Compliant Wage Statements and Failure to Maintain Payroll Records);
- (6) Violation of California Labor Code §§ 201, 202, and 203 (Wages Not Timely Paid Upon Termination);
- (7) Violation of California Labor Code § 2802 (Unreimbursed Business Expenses);
- (8) Civil Penalties for Violations of California Labor Code, Pursuant to PAGA, §§ 2698, *et seq.*;
- (9) Violation of California Business & Professions Code §§ 17200, *et seq.* (Unlawful Business Practices); and
- (10) Violation of California Business & Professions Code §§ 17200, *et seq.* (Unfair

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Business Practices)
Jury Trial Demanded

1 Plaintiffs Belinda Payton and Charmaine Walker, individually and on behalf of all other
2 members of the public similarly situated, and as aggrieved employees, and on behalf of the State of
3 California and all other aggrieved employees, alleges as follows:

4 JURISDICTION AND VENUE

5 1. This class action is brought pursuant to California Code of Civil Procedure section 382
6 and California Labor Code sections 2698, *et seq.* (“PAGA”) to recover civil penalties and any other
7 available relief on behalf of Plaintiff, the State of California, and other current and former employees
8 who worked for Defendants in California as non-exempt, hourly-paid and who received at least one
9 wage statement and against whom one or more violations of any provision in Division 2 Part 2 Chapter 1
10 of the Labor Code or any provision regulating hours and days of work in the applicable Industrial
11 Welfare Commission (“IWC”) Wage Order were committed, as set forth in this complaint. The
12 monetary damages, penalties, and restitution sought by Plaintiffs exceed the minimal jurisdiction limits
13 of the Superior Court and will be established according to proof at trial. This Court has jurisdiction over
14 this action pursuant to the California Constitution, Article VI, section 10. The statutes under which this
15 action is brought do not specify any other basis for jurisdiction. Plaintiffs’ share of civil penalties sought
16 in this action does not exceed \$75,000.

17 2. This Court has jurisdiction over all Defendants because Defendants are either citizens of
18 California, have sufficient minimum contacts in California, or otherwise intentionally avail themselves of
19 the California market so as to render the exercise of jurisdiction over them by the California courts
20 consistent with traditional notions of fair play and substantial justice. There is no basis for federal
21 diversity jurisdiction in this action because there is no complete diversity, and this case falls within the
22 statutory exceptions to “minimal diversity” jurisdiction under the Class Action Fairness Act, 28 U.S.C. §
23 1332(d)(4). Upon information and belief, two-thirds or more of the class members and Defendants are
24 citizens of California and/or (a) two-thirds of the class members and Defendants are citizens of
25 California; (b) the alleged wage and hour violations occurred in California; (c) significant relief is being
26 sought against Defendants whose violations of California wage and hour laws form a significant basis
27 for Plaintiffs’ claims; and (d) no other class action has been filed within the past three (3) years on behalf
28 of the same proposed class against Defendants asserting the same or similar factual allegations.

3. Venue is proper in this Court, because Defendants employ persons in this county and employed Plaintiffs in this county, and thus a substantial portion of the transactions and occurrences related to this action occurred in this county.

THE PARTIES

4. Plaintiff Belinda Payton is a resident of Lodi, in San Joaquin County, California. Defendants employed Plaintiff as an hourly, non-exempt Environmental Services Technician and Environmental Services Floor Foreperson from approximately January 2016 to July 2016. During her employment, Plaintiff Payton worked for Defendants at the California Department of Corrections and Rehabilitation healthcare facility in Stockton, California. Plaintiff Payton worked approximately eight (8) hours or more per day, five (5) days per week, and forty (40) hours or more per week. Her typical shift started at 6:30 a.m. and ended at 3:00 p.m. At the time Plaintiff Payton's employment with Defendants ended, she earned approximately \$17.50 per hour. Her job duties included, without limitation, cleaning furniture, rooms and hallways, emptying trash receptacles, maintaining storage closets, and supervising custodial staff.

5. Plaintiff Charmaine Walker was employed by Defendants as a non-exempt, hourly paid Environmental Technician from approximately July 2015 to June 2019. Plaintiff Walker worked for Defendants at the California Department of Corrections and Rehabilitation Prison in Stockton, California. During her employment, Plaintiff Walker typically worked nine (9) hours or more per day, five (5) days per week, from 5:00 a.m. to 2:30 p.m. Her primary job duties included, without limitation, cleaning, sanitizing, spraying, sweeping, mopping, and disinfecting the premises, as well as organizing cleaning supplies.

6. Defendant PRIDE INDUSTRIES was and is, upon information and belief, a California corporation doing business in California, and at all times hereinafter mentioned, an employer whose employees are engaged throughout this county, the State of California, or the various states of the United States of America.

7. Plaintiffs are unaware of the true names or capacities of the Defendants sued herein under the fictitious names DOES 1 through 10, but will seek leave of this Court to amend the complaint and serve such fictitiously named Defendants once their names and capacities become known.

8. Plaintiffs are informed and believe, and thereon allege, that DOES 1 through 10 are the partners, agents, owners, shareholders, managers, or employees of PRIDE INDUSTRIES at all relevant times.

9. Plaintiffs are informed and believe, and thereon allege, that each and all of the acts and omissions alleged herein was performed by, or is attributable to, PRIDE INDUSTRIES and/or DOES 1 through 10 (collectively “Defendants” or “PRIDE”), each acting as the agent, employee, alter ego, and/or joint venturer of, or working in concert with, each of the other co-Defendants and was acting within the course and scope of such agency, employment, joint venture, or concerted activity with legal authority to act on the others’ behalf. The acts of any and all Defendants were in accordance with, and represent, the official policy of Defendants.

10. At all relevant times, Defendants, and each of them, ratified each and every act or omission complained of herein. At all relevant times, Defendants, and each of them, aided and abetted the acts and omissions of each and all the other Defendants in proximately causing the damages herein alleged.

11. Plaintiffs are informed and believe, and thereon allege, that each of said Defendants is in some manner intentionally, negligently, or otherwise responsible for the acts, omissions, occurrences, and transactions alleged herein.

GENERAL ALLEGATIONS

12. Defendants are a company providing manufacturing, logistics, and integrated facilities services to business and government agencies nationwide. Upon information and belief, Defendants currently employ approximately 5,600 employees, including approximately 2,000 employees in the state of California.

13. Upon information and belief, Defendants maintain a single, centralized Human Resources (HR) department at their corporate headquarters in Roseville, California, which is responsible for conducting Defendants' recruiting and hiring of new employees, as well as communicating and implementing Defendants' company-wide policies to employees throughout California.

14. In particular, Plaintiffs and class members, on information and belief, received the same standardized documents and/or written policies. Upon information and belief, the usage of standardized

documents and/or written policies, including new hire documents, indicate that Defendants dictated policies at the corporate level and implemented them company-wide, regardless of their employees' assigned locations or positions. Upon information and belief, Defendants set forth uniform policies and procedures in several documents provided at an employee's time of hire. At the time Plaintiffs were hired, they received documents including, but not limited to, a Confidential Information and Trade Secret Agreement, a New Employee Orientation checklist, and Employee Handbook Acknowledgement and Receipt, informing her that they would be subject to the policies and rules listed in the Employee Handbook and other documents.

15. On information and belief, all transactions regarding hiring, terminations, promotions, pay increases, and employee transfers, etc., were submitted to and processed by Defendants' HR department in Roseville, California. Additionally, on information and belief, Defendants' corporate records, business records, data, and other information related to Defendants, including, in particular, HR records pertaining to Defendants' California employees, are also maintained at Defendants' corporate headquarters in Roseville, California.

16. Upon information and belief, Defendants require that all new hires undergo mandatory drug testing as a condition of employment. Defendants provide their newly-hired employees and/or prospective employees with the location of the testing facility, select the time and date of the drug test, and determine the scope of the testing. Defendants require that these newly-hired employees and/or prospective employees travel using their own vehicles to the site to undergo the drug test. Upon information and belief, Defendants do not compensate newly-hired employees and/or prospective employees for the time it takes to travel to and from the testing facility or for the time it takes to undergo the drug testing. Upon information and belief, Defendants do not reimburse employees for the travel expenses they incur getting to and from the testing facility.

17. Upon information and belief, Defendants maintain a centralized Payroll department at their corporate headquarters in Roseville, California, which processes payroll for all non-exempt, hourly-paid employees working for Defendants at their various locations in California, including Plaintiffs and class members. Based upon information and belief, Defendants issue the same formatted wage statements to all non-exempt, hourly-paid employees in California, irrespective of their work location.

1 Upon information and belief, Defendants process payroll for departing employees in the same manner
2 throughout the State of California, regardless of the manner in which each employee's employment ends.

3 18. Defendants continue to employ non-exempt or hourly-paid employees throughout
4 California.

5 19. Plaintiffs are informed and believe, and thereon allege, that at all times herein
6 mentioned, Defendants were advised by skilled lawyers and other professionals, employees and advisors
7 knowledgeable about California labor and wage law, employment and personnel practices, and about the
8 requirements of California law.

9 20. Plaintiffs are informed and believe, and thereon allege, that Plaintiffs and class members
10 were not paid for all hours worked because all hours worked were not recorded.

11 21. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or should
12 have known that Plaintiffs and class members were entitled to receive certain wages for overtime
13 compensation and that they were not receiving certain wages for overtime compensation.

14 22. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or should
15 have known that Plaintiffs and class members were entitled to receive at least minimum wages for
16 compensation and that they were not receiving at least minimum wages for work that was required to be
17 done off-the-clock. In violation of the California Labor Code, Plaintiffs and class members were not
18 paid at least minimum wages for work done off-the-clock.

19 23. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or should
20 have known that Plaintiffs and class members were entitled to meal periods in accordance with the Labor
21 Code or payment of one (1) additional hour of pay at their regular rates of pay when they were not
22 provided with timely, uninterrupted, thirty (30) minute meal periods and that Plaintiffs and class
23 members were not provided with all meal periods or payment of one (1) additional hour of pay at their
24 regular rates of pay when they did not receive a timely, uninterrupted, thirty (30) minute meal period.

25 24. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or should
26 have known that Plaintiffs and class members were entitled to rest periods in accordance with the Labor
27 Code and applicable IWC Wage Order or payment of one (1) additional hour of pay at their regular rates
28 of pay when they were not provided with a compliant rest period and that Plaintiffs and class members

1 were not provided compliant rest periods or payment of one (1) additional hour of pay at their regular
2 rates of pay when they were not provided a compliant rest period.

3 25. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or should
4 have known that Plaintiffs and class members were entitled to receive complete and accurate wage
5 statements in accordance with California law. In violation of the California Labor Code, Plaintiffs and
6 class members were not provided complete and accurate wage statements.

7 26. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or should
8 have known that they had a duty to maintain accurate and complete payroll records in accordance with
9 the Labor Code and applicable IWC Wage Order, but willfully, knowingly, and intentionally failed to do
10 so.

11 27. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or should
12 have known that Plaintiffs and class members were entitled to timely payment of all wages earned upon
13 termination of employment. In violation of the California Labor Code, Plaintiffs and class members did
14 not receive payment of all wages due, including, but not limited to, overtime wages, minimum wages,
15 and meal and rest period premiums, within permissible time periods.

16 28. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or should
17 have known that Plaintiffs and class members were entitled to timely payment of wages during their
18 employment. In violation of the California Labor Code, Plaintiffs and class members did not receive
19 payment of all wages, including, but not limited to, overtime wages, minimum wages, and meal and rest
20 period premiums, within permissible time periods.

21 29. Plaintiffs are informed and believe, and thereon allege, that at all times herein
22 mentioned, that Defendants knew or should have known that they had a duty to cover the costs and
23 expenses Plaintiffs and class members incurred obtaining mandatory pre-employment physical
24 examinations and drug tests, but willfully, knowingly, and intentionally failed to do so.

25 30. Plaintiffs are informed and believe, and thereon allege that Defendants knew or should
26 have known that Plaintiffs and class members were entitled to receive reimbursement for all business-
27 related expenses and costs they incurred during the course and scope of their employment, and that they
28 did not receive reimbursement of applicable business-related expenses and costs they incurred.

1 31. Plaintiffs are informed and believe, and thereon allege, that at all times herein
2 mentioned, Defendants knew or should have known that they had a duty to provide Plaintiffs and class
3 members with written notice of the material terms of their employment with Defendants as required by
4 the California Wage Theft Prevention Act, but willfully, knowingly, and intentionally failed to do so.

5 32. Plaintiffs are informed and believe, and thereon allege, that at all times herein
6 mentioned, Defendants knew or should have known that they had a duty to compensate Plaintiffs and
7 class members for all hours worked, and that Defendants had the financial ability to pay such
8 compensation, but willfully, knowingly, and intentionally failed to do so, and falsely represented to
9 Plaintiffs and class members that they were properly denied wages, all in order to increase Defendants'
10 profits

11 33.

12 34. At all times herein set forth, PAGA provides that any provision of law under the Labor
13 Code and applicable IWC Wage Order that provides for a civil penalty to be assessed and collected by
14 the LWDA for violations of the California Labor Code and applicable IWC Wage Order may, as an
15 alternative, be recovered by aggrieved employees in a civil action brought on behalf of themselves and
16 other current or former employees pursuant to procedures outlined in California Labor Code section
17 2699.3.

18 35. Plaintiffs and other current and former employees of Defendants are "aggrieved
19 employees" as defined by Labor Code section 2699(c) in that they are all Defendants' current or former
20 employees and one or more of the alleged violations were committed against them.

21 36. Pursuant to California Labor Code sections 2699.3 and 2699.5, an aggrieved employee,
22 including Plaintiff, may pursue a civil action arising under PAGA after the following requirements have
23 been met:

- 24 (a) The aggrieved employee or representative shall give written notice by online
25 filing with the LWDA and by certified mail to the employer of the specific
26 provisions of the California Labor Code alleged to have been violated (other
27 than those listed in Section 2699.5), including the facts and theories to support
28 the alleged violation

1 (b) An aggrieved employee's notice filed with the LWDA pursuant to 2699.3(c)
2 and any employer response to that notice shall be accompanied by a filing fee of
3 seventy-five dollars (\$75).

4 (c) The employer may cure the alleged violation within thirty-three (33) calendar
5 days of the postmark date of the notice sent by the aggrieved employee or
6 representative. The employer shall give written notice within that period of time
7 by certified mail to the aggrieved employee or representative and by online
8 filing with the LWDA if the alleged violation is cured, including a description of
9 actions taken, and no civil action pursuant to Section 2699 may commence. If
10 the alleged violation is not cured within the 33-day period, the aggrieved
11 employee may commence a civil action pursuant to Section 269.

12 37. On January 24, 2020 Plaintiff Walker provided written notice by online filing to the
13 LWDA and by Certified Mail to Defendants of the specific provisions of the California Labor Code
14 alleged to have been violated, including facts and theories to support the alleged violations, in accordance
15 with California Labor Code section 2699.3. Plaintiff Walker's written notice was accompanied with the
16 applicable filing fee of seventy-five dollars (\$75). The LWDA PAGA Administrator confirmed receipt
17 of Plaintiff Walker's written notice and assigned Plaintiff Walker PAGA Case Number LWDA-CM-
18 768730-20. A true and correct copy of Plaintiff Walker's written notice to the LWDA and Defendants is
19 attached hereto as "Exhibit 1."

20 38. As of the filing date of this complaint, over 65 days have passed since Plaintiff Walker
21 sent the notice described above to the LWDA, and the LWDA has not responded that it intends to
22 investigate Plaintiff Walker's claims and Defendants have not cured the violations.

23 39. Thus, Plaintiff Walker has satisfied the administrative prerequisites under California
24 Labor Code section 2699.3(a) and 2699.3(c) to recover civil penalties against Defendants for violations
25 of California Labor Code sections 201, 202, 203, 204, 222.5, 226(a), 226.7, 510, 512(a), 1174(d),
26 1182.12, 1194, 1197, 1197.1, 1198, 2802 and 2810.5.

27 40. Labor Code section 558 (a) provides "[a]ny employer or other person acting on behalf of
28 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 Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages.” Labor Code section 558(c) provides “[t]he civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law.”

41. Defendants, at all times relevant to this complaint, were employers or persons acting on behalf of an employer(s) who violated Plaintiff Walker’s and other aggrieved employees’ rights by violating various sections of the California Labor Code as set forth above.

42. As set forth below, Defendants have violated numerous provisions of both the Labor Code sections regulating hours and days of work as well as the applicable IWC Wage Order.

43. Pursuant to PAGA, and in particular, California Labor Code sections 2699(a), 2699.3(a), 2699.3(c), and 2699.5, Plaintiff Walker, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for herself, all other aggrieved employees, and the State of California against Defendants for violations of California Labor Code sections 201, 202, 203, 204, 222.5, 226(a), 226.7, 510, 512(a), 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5.

CLASS ACTION ALLEGATIONS

44. Plaintiffs bring this action on their own behalf, as well as on behalf of each and all other persons similarly situated, and thus seeks class certification under California Code of Civil Procedure section 382.

45. All claims alleged herein arise under California law for which Plaintiffs seek relief authorized by California law.

46. Plaintiffs’ proposed class consists of and is defined as follows:

All persons who worked for Defendants as nonexempt, hourly-paid employees in California, within four years prior to the filing of this complaint until the date of trial (“Class”).

47. Plaintiffs’ proposed subclass consists of and is defined as follows:

1 All persons who worked for Defendants as nonexempt, hourly-paid
2 employees in California, within one year prior to the filing of this
complaint until the date of trial ("Subclass").

3 48. Members of the Class and Subclass are referred to herein as "class members."

4 49. Plaintiffs reserve the right to redefine the Class and to add additional subclasses as
5 appropriate based on further investigation, discovery, and specific theories of liability.

6 50. There are common questions of law and fact as to class members that predominate over
7 questions affecting only individual members, including, but not limited to:

- 8 (a) Whether Defendants required Plaintiffs and class members to work over eight
9 (8) hours per day, over twelve (12) hours per day, or over forty (40) hours per
10 week and failed to pay all legally required overtime compensation to Plaintiffs
11 and class members;
- 12 (b) Whether Defendants failed to pay Plaintiffs and class members at least
13 minimum wages for all hours worked;
- 14 (c) Whether Defendants failed to provide Plaintiffs and class members with meal
15 periods;
- 16 (d) Whether Defendants failed to provide Plaintiffs and class members with rest
17 periods;
- 18 (e) Whether Defendants provided Plaintiffs and class members with complete and
19 accurate wage statements as required by California Labor Code section 226(a);
- 20 (f) Whether Defendants failed to pay earned overtime wages, minimum wages, and
21 meal and rest period premiums due to Plaintiffs and class members upon their
22 discharge;
- 23 (g) Whether Defendants failed timely to pay overtime wages, minimum wages, and
24 meal and rest period premiums to Plaintiffs and class members during their
25 employment;
- 26 (h) Whether Defendants failed to pay Plaintiffs and class members for the costs of
27 mandatory physical examinations and drug testing;
- 28 (i) Whether Defendants reimbursed Plaintiffs and class members for business-
related expenses they incurred as a result of their employment;

- 1 (j) Whether Defendants engaged in unlawful and unfair business practices in
2 violation of California Business & Professions Code sections 17200, *et seq.*; and
3 (k) The appropriate amount of damages, restitution, or monetary penalties resulting
4 from Defendants' violations of California law.

5 51. There is a well-defined community of interest in the litigation and the class members are
6 readily ascertainable:

- 7 (a) Numerosity: The class members are so numerous that joinder of all members
8 would be unfeasible and impractical. The membership of the entire class is
9 unknown to Plaintiffs at this time; however, the class is estimated to be greater
10 than one hundred (100) individuals and the identity of such membership is
11 readily ascertainable by inspection of Defendants' employment records.
- 12 (b) Typicality: Plaintiffs are qualified to, and will, fairly and adequately protect the
13 interests of each class member with whom they have a well-defined community
14 of interest, and Plaintiffs' claims (or defenses, if any) are typical of all class
15 members as demonstrated herein.
- 16 (c) Adequacy: Plaintiffs are qualified to, and will, fairly and adequately protect the
17 interests of each class member with whom they have a well-defined community
18 of interest and typicality of claims, as demonstrated herein. Plaintiffs
19 acknowledge that they have an obligation to make known to the Court any
20 relationship, conflicts or differences with any class member. Plaintiffs'
21 attorneys, the proposed class counsel, are versed in the rules governing class
22 action discovery, certification, and settlement. Plaintiffs have incurred, and
23 throughout the duration of this action, will continue to incur costs and attorneys'
24 fees that have been, are, and will be necessarily expended for the prosecution of
25 this action for the substantial benefit of each class member.
- 26 (d) Superiority: The nature of this action makes the use of class action adjudication
27 superior to other methods. A class action will achieve economies of time, effort,
28 and expense as compared with separate lawsuits, and will avoid inconsistent

1 outcomes because the same issues can be adjudicated in the same manner and at
2 the same time for the entire class.

3 (e) Public Policy Considerations: Employers in the State of California violate
4 employment and labor laws every day. Current employees are often afraid to
5 assert their rights out of fear of direct or indirect retaliation. Former employees
6 are fearful of bringing actions because they believe their former employers
7 might damage their future endeavors through negative references and/or other
8 means. Class actions provide the class members who are not named in the
9 complaint with a type of anonymity that allows for the vindication of their rights
10 while simultaneously protecting their privacy.

11 **FIRST CAUSE OF ACTION**

12 **Violation of California Labor Code §§ 510 and 1198—Unpaid Overtime**

13 **(Against all Defendants)**

14 52. Plaintiffs incorporate by reference and re-allege as if fully stated herein each allegation
15 set forth above.

16 53. Labor Code section 1198 makes it illegal to employ an employee under conditions of
17 labor that are prohibited by the applicable wage order. California Labor Code section 1198 requires that
18 “. . . the standard conditions of labor fixed by the commission shall be the . . . standard conditions of
19 labor for employees. The employment of any employee . . . under conditions of labor prohibited by the
20 order is unlawful.”

21 54. California Labor Code section 1198 and the applicable IWC Wage Order provide that it
22 is unlawful to employ persons without compensating them at a rate of pay either time-and-one-half or
23 two-times that person’s regular rate of pay, depending on the number of hours worked by the person on a
24 daily or weekly basis.

25 55. Specifically, the applicable IWC Wage Order provides that Defendants are and were
26 required to pay Plaintiffs and class members working more than eight (8) hours in a day or more than
27 forty (40) hours in a workweek, at the rate of time and one-half (1½) for all hours worked in excess of
28 eight (8) hours in a day or more than forty (40) hours in a workweek.

1 56. The applicable IWC Wage Order further provides that Defendants are and were required
2 to pay Plaintiffs and class members working more than twelve (12) hours in a day, overtime
3 compensation at a rate of two (2) times their regular rate of pay, and required to pay Plaintiffs and other
4 class members at a rate of two (2) times their regular rate of pay for hours worked in excess of eight (8)
5 hours on the seventh (7th) consecutive day of a work in a workweek. An employee's regular rate of pay
6 includes all remuneration for employment paid to, or on behalf of, the employee, including commissions,
7 non-discretionary bonuses and incentive pay.

8 57. California Labor Code section 510 codifies the right to overtime compensation at one-
9 and-one-half times the regular rate of pay for hours worked in excess of eight (8) hours in a day or forty
10 (40) hours in a week or for the first eight (8) hours worked on the seventh day of work, and to overtime
11 compensation at twice the regular rate of pay for hours worked in excess of twelve (12) hours in a day or
12 in excess of eight (8) hours in a day on the seventh day of work.

13 58. At all relevant times, Defendants willfully failed to pay all overtime wages owed to
14 Plaintiffs and class members. At all relevant times, Plaintiffs and class members were not paid overtime
15 premiums for all of the hours they worked in excess of eight (8) hours in a day, in excess of twelve (12)
16 hours in a day, and/or in excess of forty (40) hours in a week, because all hours worked were not
17 recorded.

18 59. Defendants have a company-wide policy and/or practice of staffing their clients'
19 facilities strictly based on the labor hours allotted by each facility's labor or payroll budget, which has
20 resulted in and continues to result in chronic understaffing and a lack of break and shift coverage,
21 because there are too few employees on duty to handle the workload. Upon information and belief,
22 Defendants' labor budgets do not account for the provision of adequate meal period coverage for
23 employees and instead result in chronic understaffing of the facilities and non-compliant meal periods.

24 60. Defendants' failure to provide adequate meal break coverage for Plaintiffs and class
25 members such that they could be relieved of their duties to take all timely, uninterrupted thirty (30)
26 minute meal periods, led to them working off-the-clock during meal periods to complete their assigned
27 tasks. Thus, Plaintiffs and class members were not able to take compliant meal period(s).

28 61. For example, Plaintiffs were often the only custodial employee assigned to a building

1 during all or part of their typical shifts, and was required to respond to urgent matters at all times.
2 Because Defendants failed to schedule additional staff to relieve Plaintiff, they were prevented from
3 taking uninterrupted 30-minute meal periods. Defendants' systemic understaffing forced Plaintiffs and
4 class members to work during all or part of their meal periods to complete their job duties such as
5 cleaning furniture, rooms and hallways, emptying trash receptacles, and maintaining storage closets.
6 Further, Defendants' failure to provide adequate meal break coverage to Plaintiffs and class members at
7 its clients' facilities also prevented Plaintiffs and other class members from taking uninterrupted meal
8 breaks. For example, if a prisoner was in a common area, Plaintiffs could not leave for a meal break.

9 62. Defendants also had a company-wide policy and/or practice of requiring Plaintiffs and
10 class members to carry radios and/or pagers at all times during their shifts and respond to any calls and
11 pages at all times during their shifts. Defendants' requirement that Plaintiffs and class members be
12 available via radio and/or pager at all times prevented Plaintiffs and class members from being relieved
13 of their duties for meal periods. For example, Plaintiff Payton would receive calls on her radio for
14 various reasons while attempting to take a meal period and had to respond.

15 63. Moreover, Defendants had a company-wide practice and/or policy of failing to schedule
16 second meal periods. As a result, on days that Plaintiffs and class members worked in excess of 10
17 hours, they were not provided with second 30-minute meal periods. Plaintiffs and class members did not
18 sign valid meal break waivers on days that they were entitled to meal periods but were not relieved of all
19 duties.

20 64. Defendants knew or should have known that as a result of its policies, that Plaintiffs and
21 class members were performing some of their assigned duties off-the-clock and/or during meal periods
22 and were suffered or permitted to perform work for which they were not paid. Defendants also knew, or
23 should have known, that it did not compensate Plaintiffs and other class members for this off-the-clock
24 work. Because Plaintiffs and class members sometimes worked shifts of eight (8) hours a day or more or
25 forty (40) hours a week or more, some of this off-the-clock work qualified for overtime premium pay.
26 Therefore, Plaintiffs and class members were not paid overtime wages for all of the overtime hours they
27 worked.

28 65. Defendants' failure to pay Plaintiffs and class members the balance of overtime

1 compensation and failure to correctly calculate the regular rate of pay for overtime pay, as required by
2 California law, violates the provisions of California Labor Code sections 510 and 1198. Pursuant to
3 California Labor Code section 1194, Plaintiffs and class members are entitled to recover their unpaid
4 overtime compensation, as well as interest, costs, and attorneys' fees.

5 **SECOND CAUSE OF ACTION**

6 **Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198—Unpaid Minimum** 7 **Wages**

8 **(Against All Defendants)**

9 66. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and every
10 allegation set forth above.

11 67. At all relevant times, California Labor Code sections 1182.12, 1194, 1197, 1197.1, and
12 1198 provide that the minimum wage for employees fixed by the IWC is the minimum wage to be paid
13 to employees, and the payment of a wage less than the minimum so fixed is unlawful. Compensable
14 work time is defined in Wage Order No. 5 as "the time during which an employee is subject to the
15 control of an employer, and includes all the time the employee is suffered or permitted to work, whether
16 or not required to do so." Cal. Code. Regs. tit. 8, § 11050(2)(K) (defining "Hours Worked").

17 68. As described above, due to Defendants' company-wide staffing and scheduling practices
18 and policies, and resultant lack of meal break coverage, Plaintiffs and class members were forced to
19 forego meal periods and/or have their meal periods interrupted by work, and were not relieved of all
20 duties for unpaid meal periods, in order to assist staff with urgent sanitation needs. Defendants'
21 company-wide policy requiring Plaintiffs and class members to carry radios and/or pagers at all times
22 and to respond to calls to their radios and/or pagers at all times also prevented Plaintiffs and class
23 members from taking uninterrupted meal periods.

24 69. During the relevant time period, Defendants also maintained and implemented a
25 company-wide policy of requiring all new employees to undergo a mandatory drug test and TB test as a
26 condition of employment. At all times, upon information and belief, Defendants were in control of
27 scheduling the date and time for the tests, selecting the provider or facility where the tests were to take
28 place, and determining the scope of the tests. Defendants gave Plaintiffs and class members strict

1 instructions to obtain drug tests and TB tests as a condition of their employment, and Plaintiffs and class
2 members underwent the testing for the sole benefit of Defendants. However, Defendants did not
3 compensate Plaintiffs and class members for the time they spent traveling to and from the testing facility
4 or for the time they spent undergoing drug testing and TB testing. Plaintiff Payton spent two (2) hours
5 traveling to the designated drug testing facility and undergoing a drug test. Plaintiff Payton spent an
6 additional two (2) hours traveling to the same designated testing facility and retrieving TB test results.
7 Defendants did not compensate Plaintiff Payton for this time.

8 70. Defendants did not pay at least minimum wages for all hours worked by Plaintiffs and
9 class members. To the extent that these off-the-clock hours did not qualify for overtime premium
10 payment, Defendants did not pay at least minimum wages for those hours worked off-the-clock in
11 violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198. Accordingly,
12 Defendants regularly failed to pay at least minimum wages to Plaintiffs and class members for all of the
13 hours they worked.

14 71. Defendants' failure to pay Plaintiffs and class members minimum wages violates
15 California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198. Pursuant to California Labor
16 Code section 1194.2, Plaintiffs and class members are entitled to recover liquidated damages in an
17 amount equal to the wages unlawfully unpaid and interest thereon.

18 **THIRD CAUSE OF ACTION**

19 **Violations of California Labor Code, §§ 226.7, 512(a), and 1198—Meal Period Violations** 20 **(Against all Defendants)**

21 72. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and every
22 allegation set forth above.

23 73. At all relevant times herein set forth, California Labor Code section 512(a) provides that
24 an employer may not require, cause, or permit an employee to work for a period of more than five (5)
25 hours per day without providing the employee with a meal period of not less than thirty (30) minutes,
26 except that if the total work period per day of the employee is not more than six (6) hours, the meal
27 period may be waived by mutual consent of both the employer and the employee. Under California law,
28 first meal periods must start after no more than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal.

1 4th 1004, 1041-1042 (Cal. 2012).

2 74. At all relevant times herein set forth, California Labor Code sections 226.7, 512(a), and
3 1198 provide that no employer shall require an employee to work during any meal period mandated by
4 an applicable order of the IWC.

5 75. At all relevant times herein set forth, Labor Code sections 226.7, 512(a), 1198 and the
6 applicable IWC Wage Order also require employers to provide a second meal break of not less than
7 thirty (30) minutes if an employee works over ten (10) hours per day or to pay an employee one (1)
8 additional hour of pay at the employee's regular rate, except that if the total hours worked is no more
9 than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and
10 the employee only if the first meal period was not waived.

11 76. During the relevant time period, on information and belief, Defendants implemented a
12 company-wide policy and practice of automatically deducting meal periods from Plaintiffs' and class
13 members' time records. As a result of this policy, Defendants clocked Plaintiffs and class members out
14 for full 30 minutes meal periods even when meal periods were missed, short, and/or interrupted.

15 77. In the alternative, on information and belief, Defendants manually adjusted employee
16 wage records in order to make it appear that Plaintiffs and class members routinely received compliant
17 30-minute meal breaks when in fact, they did not.

18 78. Additionally, as mentioned above, Defendants' company-wide failure to provide
19 adequate meal break coverage and requirement that employees carry radios and/or pagers at all times
20 prevented Plaintiffs and class members from being relieved of all duties and taking compliant meal
21 periods. As a result of these practices and/or policies, Plaintiffs and class members were frequently
22 required to continue to perform their duties, such as cleaning furniture, rooms and hallways, emptying
23 trash receptacles, maintaining storage closets and responding to radio and/or pager calls, without being
24 able to take timely, compliant meal periods. Further, on information and belief, Plaintiffs and class
25 members did not sign valid meal break waivers on days that they were entitled to meal periods and were
26 not relieved of all duties.

27 79. At all times herein mentioned, Defendants knew or should have known that, as a result
28 of these policies, Plaintiffs and class members have been required to perform some of their assigned

1 duties during meal periods and that Defendants did not pay Plaintiffs and class members meal period
2 premium wages when meal periods were late, interrupted, and/or missed. As a result, Plaintiffs and class
3 members had to work through some or all of their meal periods, have their meal periods interrupted to
4 return to work, and/or wait extended periods of time before taking meal periods.

5 80. For example, Plaintiffs missed meal periods entirely 3-4 times per week because the
6 facility's security protocols did not permit her to leave her building. Plaintiff Payton was made to work
7 over five (5) hours straight before Defendants permitted and authorized her to take their meal periods
8 approximately 1-2 times per week. Plaintiff Payton's meal periods were interrupted two (2) times per
9 week with urgent cleaning requests.

10 81. Furthermore, Plaintiffs and class members were not permitted to take a second thirty
11 (30) minute uninterrupted meal period on days that they worked over ten (10) hours because second
12 meal periods were not scheduled. Plaintiffs and class members did not sign valid meal break waivers on
13 days that they were entitled to meal periods and were not relieved of all duties.

14 82. Moreover, upon information and belief, Defendants engaged in a systematic, company-
15 wide practice and/or policy of not paying meal period premiums for Plaintiffs and class members,
16 regardless of whether they were able to take a compliant meal break, in violation of the applicable IWC
17 Wage Order and Labor Code sections 226.7 and 512(a). As a result, Defendants failed to provide
18 Plaintiffs and class members compliant meal periods in violation of California Labor Code sections
19 226.7 and 512 and failed to pay the full meal period premiums due.

20 83. Defendants' conduct violates the applicable IWC Wage Order, and California Labor
21 Code sections 226.7, 512(a), and 1198. Plaintiffs and class members are therefore entitled to recover
22 from Defendants one (1) additional hour of pay at the employee's regular rate of compensation for each
23 work day that the meal period was not provided.

24 **FOURTH CAUSE OF ACTION**

25 **Violation of California Labor Code §§ 226.7 and 1198—Rest Break Violations**

26 **(Against all Defendants)**

27 84. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and every
28 allegation set forth above.

1 85. At all relevant times, the applicable IWC Wage Order and California Labor Code
2 sections 226.7 and 1198 were applicable to Plaintiffs and class members employed by Defendants.

3 86. At all relevant times, the applicable IWC Wage Order provides that “[e]very employer
4 shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the
5 middle of each work period” and that the “rest period time shall be based on the total hours worked daily
6 at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof” unless the total
7 daily work time is less than three and one-half (3½) hours.

8 87. At all relevant times, California Labor Code section 226.7 provides that no employer
9 shall require an employee to work during any rest period mandated by an applicable order of the
10 California IWC. To comply with its obligation to provide rest periods under California Labor Code
11 section 226.7 and the applicable IWC Wage Order, an employer must “relinquish any control over how
12 employees spend their break time, and relieve their employees of all duties — including the obligation
13 that an employee remain on call. A rest period, in short, must be a period of rest.” *Augustus v. ABM*
14 *Security Services, Inc.*, 2 Cal. 5th 257, 269-270 (2016). Pursuant to the applicable IWC Wage Order and
15 California Labor Code section 226.7(b), Plaintiffs and class members are entitled to recover from
16 Defendants one (1) additional hour of pay at their regular rates of pay for each work day that a required
17 rest period was not provided.

18 88. At all relevant times, Defendants’ scheduling policies and practices, or lack thereof,
19 prevented Plaintiffs and class members from being relieved of all duty in order to take compliant rest
20 periods. Defendants failed to schedule rest periods for Plaintiffs and class members on a company-wide
21 basis. As a result, Plaintiffs would work shifts in excess of 3.5 hours and in excess of 6 hours without
22 receiving all uninterrupted ten (10) minute rest periods to which they were entitled. Plaintiffs and class
23 members also worked shifts in excess of 3.5 hours or 6 hours without receiving all uninterrupted ten (10)
24 minute rest periods to which they were entitled. For example, throughout her employment, Plaintiff
25 Payton would work through most of her shifts without taking a ten (10) minute rest period, because she
26 was under pressure to finish cleaning her assigned building by the end of her shift. In addition, because
27 Defendant required Plaintiffs and class members to carry radios and/or pagers at all times and respond at
28 all times, Plaintiffs and class members were not relieved of all duties during rest periods.

89. Defendants have also engaged in a systematic, company-wide practice and/or policy of not paying rest period premiums owed when rest periods are not provided. Because of this practice and/or policy, Plaintiffs and class members have not received premium pay for missed rest periods. Thus, Defendants denied Plaintiffs and class members rest periods and failed to pay them rest period premium wages due, in violation of Labor Code section 226.7 and the applicable IWC Wage Order.

90. Defendants' conduct violates the applicable IWC Wage Order and California Labor Code sections 226.7 and 1198. Plaintiffs and class members are therefore entitled to recover from Defendants one (1) additional hour of pay at the employee's regular rate of compensation for each work day that the rest period was not provided.

FIFTH CAUSE OF ACTION

Violation of California Labor Code §§ 226(a), 1174(d), and 1198 – Non-Compliant Wage Statements and Failure to Maintain Accurate Payroll Records (Against all Defendants)

91. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and every allegation set forth above.

92. At all relevant times herein set forth, California Labor Code section 226(a) provides that every employer shall furnish each of his or her employees an accurate and complete itemized wage statement in writing, including, but not limited to, the name and address of the legal entity that is the employer, the inclusive dates of the pay period, total hours worked, and all applicable rates of pay.

93. During the relevant time period, Defendants have knowingly and intentionally provided Plaintiffs and class members with uniform, incomplete, and inaccurate wage statements. Specifically, Defendants violated sections 226(a)(1) and 226(a)(5).

94. Because Defendants deducted time from Plaintiffs' and class members' records for meal periods that were interrupted or missed (and therefore time for which they should have been paid), Defendants did not list the correct amount of gross wages earned by Plaintiffs and class members in compliance with section 226(a)(1). For the same reason, Defendants failed to list the correct amount of net wages earned by Plaintiffs and class members in violation of section 226(a)(5).

95. The wage statement deficiencies also include, without limitation, failing to list total

1 hours worked by employees; failing to list the number of piece-rate units earned and any applicable piece
2 rate if the employee is paid on a piece-rate basis; failing to list all deductions; failing to list the name of
3 the employee and only the last four digits of his or her social security number or an employee
4 identification number other than a social security number; failing to list the name and address of the legal
5 entity that is the employer; failing to list the inclusive dates of the period for which employees were paid;
6 and/or failing to state all hours worked as a result of not recording or stating the hours they worked off-
7 the-clock.

8 96. California Labor Code section 1198 provides that the maximum hours of work and the
9 standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the
10 applicable IWC Wage Orders. Section 1198 further provides that “[t]he employment of any employees
11 for longer hours than those fixed by the order or under conditions of labor prohibited by the order is
12 unlawful.” Pursuant to the applicable IWC Wage Order, employers are required to keep accurate time
13 records showing when the employee begins and ends each work period and meal period. During the
14 relevant time period, Defendants failed, on a company-wide basis, to keep accurate records of meal
15 period start and stop times for Plaintiffs and class members in violation of section 1198. Defendants
16 engaged in a practice of recording a 30-minute period for employees for first meal periods regardless of
17 whether employees actually took a timely, compliant break.

18 97. California Labor Code section 1174(d) provides that “[e]very person employing labor in
19 this state shall ... [k]eep a record showing the names and addresses of all employees employed and the
20 ages of all minors” and “[k]eep, at a central location in the state or at the plants or establishments at
21 which employees are employed, payroll records showing the hours worked daily by and the wages paid
22 to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees
23 employed at the respective plants or establishments...” During the relevant time period, and in violation
24 of Labor Code section 1174(d), Defendants willfully failed to maintain accurate payroll records for
25 Plaintiffs and class members showing the daily hours they worked and the wages paid thereto as a result
26 of failing to record the off-the-clock hours that they worked.

27 98. Because Defendants failed to provide the accurate number of total hours worked on
28 wage statements, Plaintiffs and class members have been prevented from verifying, solely from

1 information on the wage statements themselves, that they were paid correctly and in full. Instead,
2 Plaintiffs and class members have had to look to sources outside of the wage statements themselves and
3 reconstruct time records to determine whether in fact they were paid correctly and the extent of
4 underpayment, thereby causing them injury.

5 99. Plaintiffs and class members are entitled to recover from Defendants the greater of their
6 actual damages caused by Defendants' failure to comply with California Labor Code section 226(a), or
7 an aggregate penalty not exceeding four thousand dollars (\$4,000) per employee.

8 **SIXTH CAUSE OF ACTION**

9 **Violation of California Labor Code §§ 201, 202, and 203 – Wages Not Timely Paid Upon**

10 **Termination**

11 **(Against all Defendants)**

12 100. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and every
13 allegation set forth above.

14 101. This cause of action is dependent upon, and wholly derivative of, the overtime wages,
15 minimum wages, and meal and rest period premium wages that were not timely paid to Plaintiffs and
16 those class members no longer employed by Defendants upon their termination.

17 102. At all times relevant herein set forth, Labor Code sections 201 and 202 provide that if an
18 employer discharges an employee, the wages earned and unpaid at the time of discharge are due and
19 payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages
20 shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has
21 given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee
22 is entitled to his or her wages at the time of quitting.

23 103. During the relevant time period, Defendants willfully failed to pay Plaintiffs and class
24 members who are no longer employed by Defendants the earned and unpaid wages set forth above,
25 including but not limited to, overtime wages, minimum wages, and meal and rest period premium
26 wages, either at the time of discharge, or within seventy-two (72) hours of their leaving Defendants'
27 employ.

28 104. Defendants' failure to pay Plaintiffs and those class members who are no longer

1 employed by Defendants their wages earned and unpaid at the time of discharge, or within seventy-two
2 (72) hours of their leaving Defendants' employ, violates Labor Code sections 201 and 202. Plaintiffs
3 and class members are therefore entitled to recover from Defendants the statutory penalty wages for each
4 day they were not paid, at their regular rate of pay, up to a thirty (30) day maximum pursuant to
5 California Labor Code section 203.

6 SEVENTH CAUSE OF ACTION

7 Violation of California Labor Code § 2802 – Unpaid Business-Related Expenses

8 (Against all Defendants)

9 105. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and every
10 allegation set forth above.

11 106. At all times herein set forth, California Labor Code section 2802 provides that an
12 employer must reimburse employees for all necessary expenditures and losses incurred by the employee
13 in the performance of his or her job. The purpose of Labor Code section 2802 is to prevent employers
14 from passing off their cost of doing business and operating expenses on to their employees. *Cochran v.*
15 *Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144 (2014).

16 107. At all relevant times, Defendants, on a company-wide basis, required that Plaintiffs and
17 class members to utilize their own personal vehicles to carry out company business, but Defendants
18 failed to reimburse them for all costs of travel, including mileage. For example, Plaintiff Payton was
19 required to drive roundtrip on several occasions to an off-site location for mandatory training using her
20 own vehicle. Although Defendants required that Plaintiff Payton use her own vehicle and complete this
21 task as part of her job duties, Defendants never reimbursed her for all her travel expenses.

22 108. Defendants engaged in a systematic, company-wide policy to not reimburse its
23 employees for necessary business expenses. Defendants could have provided Plaintiffs and class
24 members reimbursements for gas expenses, but instead, Defendants passed these operating costs off onto
25 Plaintiffs and class members.

26 109. Defendants' policy and/or practice of passing its operating costs on to Plaintiffs and class
27 members is in violation of California Labor Code section 2802. Defendants have intentionally and
28 willfully failed to fully reimburse Plaintiffs and class members for necessary business-related expenses

1 and costs.

2 110. Plaintiffs and class members are entitled to recover from Defendants their business-
3 related expenses incurred during the course and scope of their employment, plus interest.

4 **EIGHTH CAUSE OF ACTION**

5 **For Civil Penalties, Pursuant to California Labor Code §§ 2698, *et seq.***

6 **(Against all Defendants)**

7 111. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and every
8 allegation set forth above.

9 112. California Labor Code §§ 2698, *et seq.* (“PAGA”) permits Plaintiffs to recover civil
10 penalties for the violation(s) of the Labor Code sections enumerated in Labor Code section 2699.5.
11 Section 2699.5 enumerates Labor Code sections 201, 202, 203, 204, 222.5, 226(a), 226.7, 510, 512(a),
12 1174(d), 1194, 1197, 1197.1, 1198, and 2802. Labor Code section 2699.3(c) permits aggrieved
13 employees, including Plaintiff, to recover civil penalties for violations of those Labor Code sections not
14 found in section 2699.5, including sections 1182.12 and 2810.5.

15 113. Defendants’ conduct, as alleged herein, violates numerous sections of the California
16 Labor Code, including, but not limited to, the following:

- 17 (a) Violation of Labor Code sections 510, 1198, and the applicable IWC wage
18 order for Defendants’ failure to compensate Plaintiff Walker and other
19 aggrieved employees with all required overtime pay and failure to properly
20 calculate the overtime rates paid to Plaintiff Walker and other aggrieved
21 employees, as alleged herein;
- 22 (b) Violation of Labor Code sections 1182.12, 1194, 1197, 1197.1, 1198, and the
23 applicable IWC wage order for Defendants’ failure to compensate Plaintiff
24 Walker and other aggrieved employees with at least minimum wages for all
25 hours worked as alleged herein;
- 26 (c) Violation of Labor Code sections 226.7, 512, 1198, and the applicable IWC
27 wage order for Defendants’ failure to provide Plaintiff Walker and other
28 aggrieved employees with meal periods, as alleged herein;

- (d) Violation of Labor Code sections 226.7, 1198, and the applicable IWC wage order for Defendants' failure to authorize and permit Plaintiff Walker and other aggrieved employees to take rest periods, as alleged herein;
- (e) Violation of Labor Code sections 226(a), 1198, and the applicable IWC wage order for failure to provide accurate and complete wage statements to Plaintiff Walker and other aggrieved employees, as alleged herein;
- (f) Violations of Labor Code sections 1174(d), 1198, and the applicable IWC wage order for failure to maintain payroll records as alleged herein;
- (g) Violation of Labor Code section 204 for failure to pay all earned wages during employment as set forth below;
- (h) Violation of Labor Code sections 201, 202, and 203 for failure to pay all earned wages upon termination as alleged herein;
- (i) Violation of Labor Code section 222.5 for failing to pay the costs of mandatory drug tests and/or physical examinations as set forth below; and
- (j) Violation of Labor Code section 2802 for failure to reimburse Plaintiff Walker and other aggrieved employees for all business expenses necessarily incurred, as alleged herein; and
- (a) Violation of Labor Code section 2810.5(a)(1)(A)-(C) for failure to provide written notice of information material to Plaintiff Walker's and other aggrieved employees' employment with Defendants, as set forth below.

114. At all times relevant herein, Labor Code section 204 provides that all wages earned by any person in any employment between the first (1st) and the fifteenth (15th) days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the sixteenth (16th) and the twenty-sixth (26th) day of the month during which the labor was performed.

115. At all times relevant herein, Labor Code section 204 provides that all wages earned by any person in any employment between the first (1st) and the fifteenth (15th) days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable

1 between the sixteenth (16th) and the twenty-sixth (26th) day of the month during which the labor was
2 performed.

3 116. At all times relevant herein, Labor Code section 204 provides that all wages earned for
4 labor in excess of the normal work period shall be paid no later than the payday for the next regular
5 payroll period. Alternatively, at all times relevant herein, Labor Code section 204 provides that the
6 requirements of this section are deemed satisfied by the payment of wages for weekly, biweekly, or
7 semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of
8 the payroll period.

9 117. At all relevant times herein, Defendants willfully failed to pay Plaintiff Walker and other
10 aggrieved employees all wages due including, but not limited to, overtime wages, minimum wages, rest
11 period premium wages, and reporting time pay, within the time periods specified by California Labor
12 Code section 204. Plaintiff Walker and other aggrieved employees are therefore entitled to recover civil
13 penalties pursuant to Labor Code sections 210 and/or 2699(a), (f), and (g)

14 118. At all times herein set forth, California Labor Code section 222.5 requires employers to
15 pay for the costs an employee incurs for obtaining any required medical or physical examination.

16 119. During the relevant time period, Defendants implemented, on a company-wide basis, an
17 employer-imposed requirement that Plaintiff Walker and other aggrieved employees undergo mandatory
18 drug tests, physical examinations, and/or TB testing, but required them to do so at their own expense. As
19 stated, Defendants had a company-wide policy requiring that Plaintiff Walker and other aggrieved
20 employees travel to a specified medical clinic on their own time and use their own means of
21 transportation to undergo drug testing, physical examinations, and/or TB testing. At all times,
22 Defendants was in control of scheduling the date and time for the drug, physical examinations, and/or
23 TB testing, selecting the provider/facility where the drug testing, physical examinations, and/or TB
24 testing were to take place, and determining the scope of the drug test, physical examinations, and/or TB
25 testing.

26 120. For example, Plaintiff Walker was instructed by Defendants to travel to a medical clinic
27 in Roseville, California, and obtain a drug test, physical examination, and/or TB test. Plaintiff Walker
28 followed Defendants' instructions, traveled to the clinic Defendants selected, and underwent the testing

1 and/or physical examination. Plaintiff Walker was required to travel to and from a medical clinic
2 selected by Defendants using her own vehicle. Plaintiff Walker followed Defendants' instructions and
3 drove several miles roundtrip to and from the medical clinic designated by Defendants, and then spent
4 approximately two (2) hours waiting at the medical clinic and undergoing the requisite testing and/or
5 examinations.

6 121. Defendants did not compensate Plaintiff Walker and other aggrieved employees for the
7 time they spent traveling to and from their drug testing, physical examinations, and/or TB testing, or for
8 the time they spent undergoing the testing and/or examinations, or reimburse them for the travel
9 expenses they incurred getting to and from the medical clinics. Defendants' policy and/or practice of not
10 paying for all costs Plaintiff Walker and other aggrieved employees incurred obtaining mandatory drug
11 testing, physical examinations, and/or TB testing violates California Labor Code section 222.5. Plaintiff
12 Walker and other aggrieved employees are therefore entitled to recover civil penalties pursuant to Labor
13 Code section 2699(a), (f)-(g).

14 122. California's Wage Theft Prevention Act was enacted to ensure that employers provide
15 employees with basic information material to their employment relationship at the time of hiring, and to
16 ensure that employees are given written and timely notice of any changes to basic information material
17 to their employment. Codified at California Labor Code section 2810.5, the Wage Theft Prevention Act
18 provides that at the time of hiring, an employer must provide written notice to employees containing
19 basic and material payroll information, including, among other things, the rate(s) of pay and basis
20 thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including
21 any rates for overtime, the regular payday designated by the employer, and any allowances claims as part
22 of the minimum wage, including meal or lodging allowances. Labor Code section 2810.5(a)(1)(A)-(C).

23 123. Defendants failed to provide Plaintiff Walker and other aggrieved employees written
24 notice that lists all the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C).
25 Specifically, Defendants failed to provide Plaintiff Walker and other aggrieved employees with the rate
26 or rates of pay, including any rates for overtime, as applicable, in violation of section 2810.5(a)(1)(A).

27 124. Defendants' failure to provide Plaintiff Walker and other aggrieved employees with
28 written notice of basic information regarding their employment with Defendants is in violation of Labor

Code section 2810.5. Plaintiff Walker and other aggrieved employees are therefore entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code section 2699(a), (f), and (g)

NINTH CAUSE OF ACTION

Violation of California Business & Professions Code §§ 17200, *et seq.* –

Unlawful Business Practices

(Against all Defendants)

125. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and every allegation set forth above.

126. Defendants are a "person" as defined by California Business & Professions Code sections 17201, as they are corporations, firms, partnerships, joint stock companies and/or associations.

127. Defendants' conduct, as alleged herein, has been, and continues to be, unfair, unlawful and harmful to Plaintiff, class members, and to the general public. Plaintiffs have suffered injury in fact and have lost money as a result of Defendants' unlawful business practices. Plaintiffs seek to enforce important rights affecting the public interest within the meaning of Code of Civil Procedure section 1021.5.

128. Defendants' activities, as alleged herein, are violations of California law, and constitute unlawful business acts and practices in violation of California Business & Professions Code sections 17200, *et seq.*

129. A violation of California Business & Professions Code sections 17200, *et seq.* may be predicated on the violation of any state or federal law. In the instant case, Defendants' policies and practices have violated state law in at least the following respects:

- (a) Requiring non-exempt employees, including Plaintiffs and class members, to work overtime without paying them proper compensation in violation of California Labor Code sections 510 and 1198 and the applicable IWC Order, as alleged herein;
- (b) Failing to pay at least minimum wage to Plaintiffs and class members in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and

1 1198 and the applicable IWC Order, as alleged herein;

2 (c) Failing to provide uninterrupted meal and rest periods to Plaintiffs and class
3 members in violation of California Labor Code sections 226.7, 512(a), 1198,
4 and the applicable IWC Order, as alleged herein;

5 (d) Failing to provide Plaintiffs and class members with accurate wage statements
6 and failing to maintain accurate payroll records in violation of California Labor
7 Code sections 226(a), 1174(d), 1198, and the applicable IWC Order, as alleged
8 herein;

9 (e) Failing timely to pay all earned wages to Plaintiffs and class members in
10 violation of California Labor Code section 204 and the applicable IWC Order,
11 as set forth below;

12 (f) Failing to pay the costs of mandatory pre-employment physical examinations
13 and drug testing in violation of California Labor Code section 222.5, as set forth
14 below;

15 (g) Failing to reimburse Plaintiffs and class members for all business expenses
16 necessarily incurred in violation of California Labor Code section 2802, as
17 alleged herein; and

18 (h) Failing to provide written notice of information material to Plaintiffs and class
19 members' employment with Defendants in violation of Labor Code section
20 2810.5(a)(1)(A)-(C), as set forth below.

21 130. At all times relevant herein, Labor Code section 204 provides that all wages earned by
22 any person in any employment between the first (1st) and the fifteenth (15th) days, inclusive, of any
23 calendar month, other than those wages due upon termination of an employee, are due and payable
24 between the sixteenth (16th) and the twenty-sixth (26th) day of the month during which the labor was
25 performed.

26 131. At all times relevant herein, Labor Code section 204 provides that all wages earned by
27 any person in any employment between the sixteenth (16th) and the last day, inclusive, of any calendar
28 month, other than those wages due upon termination of an employee, are due and payable between the

1 first (1st) and the tenth (10th) day of the following month.

2 132. At all times relevant herein, Labor Code section 204 provides that all wages earned for
3 labor in excess of the normal work period shall be paid no later than the payday for the next regular
4 payroll period. Alternatively, at all times relevant herein, Labor Code section 204 provides that the
5 requirements of this section are deemed satisfied by the payment of wages for weekly, biweekly, or
6 semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of
7 the payroll period.

8 133. At all relevant times herein, Defendants willfully failed to pay Plaintiffs and class
9 members all wages due including, but not limited to, overtime wages, minimum wages, and meal and
10 rest period premium wages, within the time periods specified by California Labor Code section 204.

11 134. At all relevant times herein, California Labor Code section 222.5 requires employers to
12 pay for the costs a prospective employee incurs for obtaining any pre-employment medical or physical
13 examination taken as a condition of employment.

14 135. During the relevant time period, Defendants implemented, on a company-wide basis, an
15 employer-imposed requirement that Plaintiffs and class members undergo a mandatory drug test and TB
16 test as a condition of employment, but required them to do so at their own expense. As stated, upon
17 information and belief, Defendants had a company-wide policy requiring that all new employees,
18 including Plaintiffs and class members, travel to a medical clinic on their own time and using their own
19 means of transportation to undergo drug testing and/or physical examinations. At all times, upon
20 information and belief, Defendants were in control of scheduling the date and time for the drug testing,
21 selecting the provider/facility where the drug testing was to take place, and determining the scope of the
22 physical examination and drug test. However, Defendants did not compensate Plaintiffs and class
23 members for the time they spent traveling to and from drug testing, for the time they spent undergoing
24 drug testing or for the travel expenses they incurred getting to and from the medical clinic.

25 136. As stated, Plaintiff Payton spent four (4) hours traveling to and undergoing the required
26 drug test and retrieving her TB test results. However, Defendants did not compensate Plaintiff Payton
27 for this time or reimburse her for her travel expenses to and from the clinic.

28 137. At all relevant times herein, California's Wage Theft Prevention Act was enacted to

1 ensure that employers provide employees with basic information material to their employment
2 relationship at the time of hiring, and to ensure that employees are given written and timely notice of any
3 changes to basic information material to their employment. Codified at California Labor Code section
4 2810.5, the Wage Theft Prevention Act provides that at the time of hiring, an employer must provide
5 written notice to employees containing basic and material payroll information, including, among other
6 things, the rate(s) of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece,
7 commission, or otherwise, including any rates for overtime, the regular payday designated by the
8 employer, and any allowances claims as part of the minimum wage, including meal or lodging
9 allowances. Labor Code § 2810.5(a)(1)(A)-(C).

10 138. At all relevant times, Defendants failed to provide written notice to Plaintiffs and class
11 members that lists the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C) on a
12 company-wide basis.

13 139. Defendants' failure to provide Plaintiffs and class members with written notice of basic
14 information regarding their employment with Defendants is in violation of Labor Code section 2810.5.

15 140. As a result of the violations of California law herein described, Defendants unlawfully
16 gained an unfair advantage over other businesses. Plaintiffs and class members have suffered pecuniary
17 loss by Defendants' unlawful business acts and practices alleged herein.

18 141. Pursuant to California Business & Professions Code sections 17200 *et seq.*, Plaintiffs
19 and class members are entitled to restitution of the wages withheld and retained by Defendants during a
20 period that commences four years prior to the filing of this complaint; a permanent injunction requiring
21 Defendants to pay all outstanding wages due to Plaintiffs and class members; and an award of attorneys'
22 fees pursuant to California Code of Civil Procedure section 1021.5 and other applicable laws; and an
23 award of costs.

24 TENTH CAUSE OF ACTION

25 Violation of California Business & Professions Code §§ 17200, *et seq.* –

26 Unfair Business Practices

27 (Against all Defendants)

28 142. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and every

1 allegation set forth above.

2 143. Defendants are a “person” as defined by California Business & Professions Code
3 sections 17201, as they are corporations, firms, partnerships, joint stock companies, and/or associations.

4 144. Defendants’ conduct, as alleged herein, has been, and continues to be, unfair, and
5 harmful to Plaintiff, class members, and to the general public. Plaintiffs have suffered injury in fact and
6 have lost money as a result of Defendants’ unfair business practices. Plaintiffs seek to enforce important
7 rights affecting the public interest within the meaning of Code of Civil Procedure section 1021.5.

8 145. Defendants’ activities, namely Defendants’ company-wide practice and/or policy of not
9 paying Plaintiffs and class members all meal and rest period premium wages due to them under Labor
10 Code section 226.7, deprived Plaintiffs and class members of the compensation guarantee and enhanced
11 enforcement implemented by section 226.7. The statutory remedy provided by section 226.7 is a “‘dual-
12 purpose’ remedy intended primarily to compensate employees, and secondarily to shape employer
13 conduct. *Safeway, Inc. v. Superior Court*, 238 Cal. App. 4th 1138, 1149 (2015). The statutory benefits
14 of section 226.7 were guaranteed to Plaintiffs and class members as part of their employment with
15 Defendants, and thus Defendants’ practice and/or policy of denying these statutory benefits constitutes
16 an unfair business practice in violation of California Business & Professions Code sections 17200, *et seq.*
17 (Id.)

18 146. A violation of California Business & Professions Code sections 17200, *et seq.* may be
19 predicated on any unfair business practice. In the instant case, Defendants’ policies and practices have
20 violated the spirit of California’s meal and rest break laws and constitute acts against the public policy
21 behind these laws.

22 147. Pursuant to California Business & Professions Code sections 17200 *et seq.*, Plaintiffs
23 and class members are entitled to restitution for the class-wide loss of the statutory benefits implemented
24 by section 226.7 withheld and retained by Defendants during a period that commences four years prior to
25 the filing of this complaint; a permanent injunction requiring Defendants to pay all statutory benefits
26 implemented by section 226.7 due to Plaintiffs and class members; an award of attorneys’ fees pursuant
27 to California Code of Civil Procedure section 1021.5 and other applicable laws; and an award of costs.

28 **REQUEST FOR JURY TRIAL**

1 Plaintiffs request a trial by jury.

2 **PRAYER FOR RELIEF**

3 Plaintiff, on behalf of all others similarly situated, prays for relief and judgment against
4 Defendants, jointly and severally, as follows:

5 1. For damages, unpaid wages, penalties, injunctive relief, and attorneys' fees in excess of
6 twenty-five thousand dollars (\$25,000), exclusive of interest and costs. Plaintiffs reserve the right to
7 amend their prayer for relief to seek a different amount.

8 **Class Certification**

9 2. That this case be certified as a class action;

10 3. That Plaintiffs be appointed as the representatives of the Class and subclass;

11 4. That counsel for Plaintiffs be appointed as class counsel.

12 **As to the First Cause of Action**

13 5. That the Court declare, adjudge, and decree that Defendants violated California Labor
14 Code sections 510 and 1198 and applicable IWC Wage Orders by willfully failing to pay all overtime
15 wages due to Plaintiffs and class members;

16 6. For general unpaid wages at overtime wage rates and such general and special damages
17 as may be appropriate;

18 7. For pre-judgment interest on any unpaid overtime compensation commencing from the
19 date such amounts were due, or as otherwise provided by law;

20 8. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to California
21 Labor Code section 1194(a); and

22 9. For such other and further relief as the Court may deem equitable and appropriate.

23 **As to the Second Cause of Action**

24 10. That the Court declare, adjudge and decree that Defendants violated California Labor
25 Code sections 1182.12, 1194, 1197, 1197.1, and 1198 by willfully failing to pay minimum wages to
26 Plaintiffs and class members;

27 11. For general unpaid wages and such general and special damages as may be appropriate;
28

12. For pre-judgment interest on any unpaid compensation from the date such amounts were due, or as otherwise provided by law;

13. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to California Labor Code section 1194(a);

14. For liquidated damages pursuant to California Labor Code section 1194.2; and

15. For such other and further relief as the Court may deem equitable and appropriate.

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As to the Third Cause of Action

16. That the Court declare, adjudge, and decree that Defendants violated California Labor Code sections 226.7, 512(a), and 1198 and applicable IWC Wage Order(s) by willfully failing to provide all meal periods to Plaintiffs and class members;

17. That the Court make an award to the Plaintiffs and class members of one (1) hour of pay at each employee's regular rate of pay for each workday that a meal period was not provided;

18. For all actual, consequential, and incidental losses and damages, according to proof;

19. For premiums pursuant to California Labor Code section 226.7(b);

20. For pre-judgment interest on any unpaid meal period premiums from the date such amounts were due, or as otherwise provided by law;

21. For attorneys' fees pursuant to California Code of Civil Procedure section 1021.5, or as otherwise provided by law; and

22. For such other and further relief as the Court may deem equitable and appropriate.

As to the Fourth Cause of Action

23. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 226.7 and 1198 and applicable IWC Wage Orders by willfully failing to provide all rest periods to Plaintiffs and class members;

24. That the Court make an award to the Plaintiffs and class members of one (1) hour of pay at each employee's regular rate of pay for each workday that a rest period was not provided;

25. For all actual, consequential, and incidental losses and damages, according to proof;

26. For premiums pursuant to California Labor Code section 226.7(b);

27. For pre-judgment interest on any unpaid rest period premiums from the date such amounts were due, or as otherwise provided by law;

28. For attorneys' fees pursuant to California Code of Civil Procedure section 1021.5, or as otherwise provided by law; and

29. For such other and further relief as the Court may deem equitable and appropriate.

As to the Fifth Cause of Action

30. That the Court declare, adjudge and decree that Defendants violated the recordkeeping provisions of California Labor Code section 226(a) and applicable IWC Wage Orders as to Plaintiffs and class members, and willfully failed to provide accurate itemized wage statements thereto;

31. For all actual, consequential and incidental losses and damages, according to proof;

32. For injunctive relief pursuant to California Labor Code section 226(h);

33. For statutory penalties pursuant to California Labor Code section 226(e);

34. For attorneys' fees and costs pursuant to California Labor Code section 226(e)(1); and

35. For such other and further relief as the Court may deem equitable and appropriate.

As to the Sixth Cause of Action

36. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 201, 202, and 203 by willfully failing to pay overtime wages, minimum wages, and meal and rest period premiums owed at the time of termination of the employment of Plaintiffs and other terminated class members;

37. For all actual, consequential and incidental losses and damages, according to proof;

38. For waiting time penalties according to proof pursuant to California Labor Code section 203 for all employees who have left Defendants' employ;

39. For pre-judgment interest on any unpaid wages from the date such amounts were due, or as otherwise provided by law;

40. For attorneys' fees pursuant to California Code of Civil Procedure section 1021.5, or as otherwise provided by law; and

41. For such other and further relief as the Court may deem equitable and appropriate.

As to the Seventh Cause of Action

1 42. That the Court declare, adjudge and decree that Defendants violated California Labor
2 Code section 2802 by willfully failing to reimburse and/or indemnify all business-related expenses and
3 costs incurred by Plaintiffs and class members;

4 43. For unpaid business-related expenses and such general and special damages as may be
5 appropriate;

6 44. For pre-judgment interest on any unpaid business-related expenses from the date such
7 amounts were due, or as otherwise provided by law;

8 45. For all actual, consequential, and incidental losses and damages, according to proof;

9 46. For attorneys' fees and costs pursuant to California Labor Code section 2802(c), or as
10 otherwise provided by law; and

11 47. For such other and further relief as the Court may deem equitable and appropriate.

12 **As to the Eighth Cause of Action**

13 48. That the Court declare, adjudge and decree that Defendants violated the following
14 California Labor Code provisions as to Plaintiffs and/or other aggrieved employees: 510 and 1198 (by
15 failing to pay all overtime compensation); 1182.12, 1194, 1197, 1197.1, and 1198 (by failing to pay at
16 least minimum wages for all hours worked); 226.7, 512 and 1198 (by failing to provide all meal
17 periods); 226.7 and 1198 (by failing to authorize and permit all rest periods); 226(a), 1174(d) and 1198
18 (by failing to provide accurate wage statements and maintain accurate payroll records); 201, 202, 203 (by
19 failing timely to pay all earned wages upon termination); 204 (by failing timely to pay all earned wages
20 during employment); 222.5 (by failing to pay the costs of mandatory drug testing and/or physical
21 examinations); 2802 (by failing to reimburse business expenses); and 2810.5 (by failing to provide
22 written notice of material terms of employment);

23 49. For civil penalties pursuant to California Labor Code sections 210, 226.3, 256, 558,
24 1174.5, 1197.1, and/or 2699(a), (f) and (g), for violations of California Labor Code sections 201, 202,
25 203, 204, 222.5, 226(a), 226.7, 510, 512(a), 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and
26 2810.5;

27 50. For attorneys' fees and costs pursuant to California Labor Code section 2699(g)(1), and
28 any and all other relevant statutes, for Defendant's violations of California Labor Code sections 201,

202, 203, 204, 222.5, 226(a), 226.7, 510, 512(a), 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5;

51. For pre-judgment and post-judgment interest as provided by law; and

52. For such other and further relief as the Court may deem equitable and appropriate

As to the Ninth Cause of Action

53. That the Court declare, adjudge and decree that Defendants conduct of failing to provide Plaintiffs and class members all overtime wages due to them, failing to provide Plaintiffs and class members all minimum wages due to them, failing to provide Plaintiffs and class members all meal and rest periods, failing to provide Plaintiffs and class members accurate and complete wage statements, failing to maintain accurate payroll records for Plaintiffs and class members, failing timely to pay Plaintiffs and class members all earned wages during employment, failing to reimburse Plaintiffs and class members for the costs of mandatory pre-employment physicals and drug testing, failing to reimburse Plaintiffs and class members for business-related expenses, and failing to provide written notice of information material to employment, constitutes an unlawful business practice in violation of California Business and Professions Code sections 17200, *et seq.*;

54. For restitution of unpaid wages to Plaintiffs and all class members and prejudgment interest from the day such amounts were due and payable;

55. For the appointment of a receiver to receive, manage and distribute any and all funds disgorged from Defendants and determined to have been wrongfully acquired by Defendants as a result of violations of California Business & Professions Code sections 17200 *et seq.*;

56. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California Code of Civil Procedure section 1021.5; and

57. For such other and further relief as the Court may deem equitable and appropriate.

As to the Tenth Cause of Action

58. That the Court declare, adjudge and decree that Defendants' conduct of denying Plaintiffs and class members the statutory benefits guaranteed under section 226.7 constitutes an unfair business practice in violation of California Business and Professions Code sections 17200, *et seq.*;

1 59. For restitution of the statutory benefits under section 226.7 unfairly withheld from
2 Plaintiffs and class members and prejudgment interest from the day such amounts were due and payable;

3 60. For the appointment of a receiver to receive, manage and distribute any and all funds
4 disgorged from Defendants and determined to have been wrongfully acquired by Defendants as a result
5 of violations of California Business & Professions Code sections 17200 *et seq.*;

6 61. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California
7 Code of Civil Procedure section 1021.5;

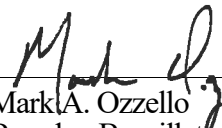
8 62. For pre-judgment and post-judgment interest as provided by law; and

9 63. For such other and further relief as the Court may deem equitable and appropriate.

10
11 Dated: October 19, 2020

Respectfully submitted,

Capstone Law APC

12
13
14 By: 
15 Mark A. Ozzello
Brandon Brouillette

16 Attorneys for Plaintiffs Belinda Payton and
17 Charmaine Walker
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EXHIBIT 1

BROOKE WALDROP
310.712.8033 Direct
Brooke.Waldrop@capstonelawyers.com

January 24, 2020

VIA ONLINE SUBMISSION

California Labor & Workforce Development Agency
ATTN: PAGA Administrator
(<https://dir.tfaforms.net/260>)

Subject: *Charmaine Walker v. Pride Industries*

Dear PAGA Administrator:

This office represents Charmaine Walker in connection with her claims under the California Labor Code. Ms. Walker was an employee of PRIDE INDUSTRIES ("PRIDE").

The employer may be contacted directly at the addresses below:

PRIDE INDUSTRIES
10030 FOOTHILLS BLVD
ROSEVILLE CA 95747

PRIDE INDUSTRIES
PO BOX 1200
ROCKLIN CA 95677

Ms. Walker intends to seek civil penalties, attorney's fees, costs, and other available relief for violations of the California Labor Code, which are recoverable under sections 2698, *et seq.*, the Labor Code Private Attorneys General Act of 2004 ("PAGA"). Ms. Walker seeks relief on behalf of herself, the State of California, and other persons who are or were employed by PRIDE in California as a non-exempt, hourly paid employee and who received at least one wage statement ("aggrieved employees"). This letter is sent in compliance with the notice and reporting requirements of California Labor Code section 2699.3.

PRIDE employed Ms. Walker as a non-exempt, hourly paid Environmental Technician from approximately July 2015 to June 2019. Ms. Walker worked for PRIDE at the California Department of Corrections and Rehabilitation Prison in Stockton, California. During her employment, Ms. Walker typically worked nine (9) hours or more per day, five (5) days per week, from 5:00 a.m. to 2:30 p.m. Ms. Walker's primary job duties included, without limitation, cleaning, sanitizing, spraying, sweeping, mopping, and disinfecting the premises, as well as organizing cleaning supplies.

PRIDE has committed one or more of the following Labor Code violations against Ms. Walker, the facts and theories of which follow, making her an “aggrieved employee” pursuant to California Labor Code section 2699(c):¹

PRIDE’s Company-Wide and Uniform Payroll and HR Practices

PRIDE INDUSTRIES is a California corporation, providing manufacturing, logistics, custodial, and integrated facilities services to business and government agencies nationwide. Upon information and belief, PRIDE maintains a single, centralized Human Resources (HR) department at its corporate headquarters in Roseville, California, for all non-exempt, hourly paid employees working for PRIDE in California, including Ms. Walker and other aggrieved employees. At all relevant times, PRIDE issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in California, including Ms. Walker and other aggrieved employees, regardless of their location or position.

Upon information and belief, PRIDE maintains a centralized Payroll department at its corporate headquarters in Roseville, California, which processes payroll for all non-exempt, hourly paid employees working for PRIDE in California, including Ms. Walker and other aggrieved employees. Further, PRIDE issues the same formatted wage statements in the same manner for all non-exempt, hourly paid employees working in California, including Ms. Walker and other aggrieved employees, irrespective of their location, position, or manner in which each employee’s employment ended. In other words, PRIDE utilized the same methods and formulas when calculating wages due to Ms. Walker and other aggrieved employees in California.

Violation of California Labor Code §§ 510 and 1198 – Unpaid Overtime

California Labor Code sections 510 and 1198 and the applicable Industrial Welfare Commission (“IWC”) Wage Order require employers to pay employees working more than eight (8) hours in a day or more than forty (40) hours in a workweek at the rate of time-and-one-half (1½) times the regular rate of pay for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek. The applicable IWC Wage Order further provides that employers are required to pay employees working more than twelve (12) hours in a day overtime compensation at a rate of two (2) times their regular rate of pay. An employee’s regular rate of pay includes all remuneration for employment paid to, or on behalf of, the employee, including nondiscretionary bonuses and incentive pay.

PRIDE willfully failed to pay all overtime wages owed to Ms. Walker and other aggrieved employees. During the relevant time period, Ms. Walker and other aggrieved employees were not paid overtime premiums for all of the hours they worked in excess of eight (8) hours in a day, in

¹ These facts, theories, and claims are based on Ms. Walker’s experience and counsel’s review of those records currently available relating to Ms. Walker’s employment. Discovery conducted in litigation of wage and hour claims such as these often reveals additional claims that the aggrieved employee was not initially aware of (because the aggrieved employee was not aware of the law’s requirements, the employer misinformed its employee of the law’s requirements, or because the employer effectively hid the violations). Thus, Ms. Walker reserves the right to supplement this letter with additional facts, theories, and claims if she becomes aware of them subsequent to the submission of this letter.

excess of twelve (12) hours in a day, and/or in excess of forty (40) hours in a week, because all hours that they worked were not recorded.

First, during the relevant time period, PRIDE had a company-wide policy and/or practice of staffing its clients' facilities strictly based on the labor hours allotted by each facility's labor or payroll budget, which has resulted in and continues to result in chronic understaffing and a lack of break and shift coverage. With too few employees on-duty to handle the workload, Ms. Walker and other aggrieved employees were not relieved of their duties to take all timely, uninterrupted thirty (30) minute meal periods. Upon information and belief, PRIDE's labor budgets did and do not account for the necessity of adequate meal period coverage for employees and instead result in chronic understaffing of the facilities, leading to non-compliant meal periods. PRIDE's systemic understaffing forced Ms. Walker and other aggrieved employees to work during all or part of their unpaid meal periods to complete their job duties, such as cleaning furniture, rooms, and hallways; emptying trash receptacles; and organizing supplies. For example, Ms. Walker would miss her meal period entirely five (5) times a month in order to complete her assigned tasks. In addition, Ms. Walker and other aggrieved employees were often required to respond to urgent matters regardless of if she was currently taking her unpaid meal period. For example, Ms. Walker would spend 15 minutes or more responding to urgent cleaning requests from prison guards during her unpaid meal period. Thus, Ms. Walker and other aggrieved employees missed or had their meal periods interrupted in order to complete their assigned workloads. PRIDE did not pay Ms. Walker and other aggrieved employees for the time they continued to perform tasks during unpaid meal periods.

Second, during the relevant period, on information and belief, PRIDE imposed quotas on Ms. Walker and other aggrieved employees to meet metrics for cleaning facilities. PRIDE's imposition of quotas and assignment of heavy workloads, combined with its company-wide policy and/or practice of understaffing, also resulted in a lack of meal period coverage. Thus, Ms. Walker and other aggrieved employees were not always provided uninterrupted 30-minute meal periods during shifts when they were entitled to receive a meal period. For example, Ms. Walker and other aggrieved employees were required to perform their duties, such as cleaning and sanitizing assigned areas, organizing supplies, or responding to urgent cleaning requests from guards, during unpaid meal periods, or would have their meal periods interrupted to complete such work-related tasks. Thus, Ms. Walker and other aggrieved employees missed or had meal periods interrupted in order to complete their assigned workloads, time for which they were not paid.

Third, PRIDE, on a company-wide basis, had a practice of failing to adhere to a schedule of meal periods, which further caused Ms. Walker and other aggrieved employees to not be relieved of their duties for compliant meal periods. As a result of these policies and/or practices, Ms. Walker and other aggrieved employees were required to work through and/or to return early from meal periods, in order to complete their assigned tasks. Thus, Ms. Walker and other aggrieved employees performed work during meal periods for which they were not paid.

Fourth, during the relevant period, PRIDE had a policy and/or practice of discouraging and impeding Ms. Walker and other aggrieved employees from recording hours worked that were outside of their scheduled shifts in order to limit the amount of overtime employees could accrue. This policy of limiting overtime, coupled with PRIDE's understaffing and assigning heavy workloads, led Ms. Walker and other aggrieved employees to work off-the-clock before and after their scheduled shift times in order to complete their assigned tasks. For example, Ms. Walker started performing work, such as preparing supplies for use during the day, approximately 20 minutes before her scheduled shift time, but she did not clock in until her designated shift start-time. Similarly, Ms. Walker would clock out at her designated shift end-time and would continue working for 10 to 20 minutes off-the-

clock to finish her assignments, such as breaking down carts, putting supplies away, bagging up dirty towels, pouring out buckets of mop water, and preparing materials for the next shift. As a result, Ms. Walker and other aggrieved employees would be required to arrive to work early for their shifts and stay later after their shifts to complete assigned tasks off-the-clock, time for which they were not paid. Thus, PRIDE failed to track this time spent working before and after scheduled shifts, and Ms. Walker and other aggrieved employees received no compensation for this time.

Fifth, during the relevant time period, PRIDE required employees to undergo off-the-clock security inspections upon entering or exiting the facility. For example, before clocking in or after clocking out for their shifts, Ms. Walker and other aggrieved employees were required to pass through a security checkpoint, where they would undergo searches of any purses, backpacks, lunch bags, or other items holding their personal belongings. Each day, Ms. Walker and other aggrieved employees were forced to wait a total of 20-30 minutes or more off-the-clock. As a result, Ms. Walker and other aggrieved employees were not compensated for the time spent undergoing security screenings while off-the-clock.

PRIDE knew or should have known that, as a result of these company-wide practices and/or policies, Ms. Walker and other aggrieved employees were performing their assigned duties during their meal periods and performing work off-the-clock before or after their shifts, and were suffered or permitted to perform work for which they were not paid. PRIDE also knew, or should have known, that it did not compensate Ms. Walker and other aggrieved employees applicable overtime rates of pay for overtime hours that they worked.

Because Ms. Walker and other aggrieved employees regularly worked shifts of eight (8) hours a day or more or forty (40) hours a week or more, some of this off-the-clock work qualified for overtime premium pay. Therefore, Ms. Walker and other aggrieved employees were not paid overtime wages for all of the overtime hours they actually worked. PRIDE's failure to pay Ms. Walker and other aggrieved employees the balance of overtime compensation, as required by California law, violates the provisions of California Labor Code sections 510 and 1198.

Furthermore, PRIDE did not pay Ms. Walker and other aggrieved employees the correct overtime rates for the recorded overtime hours that they generated. In addition to an hourly wage, PRIDE paid Ms. Walker and/or other aggrieved employees shift differential pay, incentive pay, nondiscretionary bonuses, and/or other forms of remuneration. For example, PRIDE paid Ms. Walker and/or other aggrieved employees shift differentials for working graveyard shifts. However, in violation of the California Labor Code, PRIDE failed to incorporate all remunerations, including shift differential pay, incentive pay, and/or nondiscretionary bonuses, into the calculation of the regular rate of pay for purposes of calculating the overtime wage rate. Therefore, during times when Ms. Walker and/or other aggrieved employees worked overtime and received these other forms of pay, PRIDE failed to pay all overtime wages by paying a lower overtime rate than required.

Ms. Walker and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 – Unpaid Minimum Wages

California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 require employers to pay employees the minimum wage fixed by the IWC. The payment of a lesser wage than the minimum so fixed is unlawful. Compensable work time is defined in Wage Order No. 5 as “the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.” Cal. Code. Regs. tit. 8, § 11040(2)(K) (defining “Hours Worked”).

As set forth above, during the relevant time period, due to PRIDE’s policy and/or practice of understaffing while assigning heavy workloads and failure to adhere to a schedule of meal periods, Ms. Walker and other aggrieved employees were forced to forego meal periods, have their meal periods interrupted, and/or were otherwise not relieved of all duties during meal periods. And, as stated above, as a result of PRIDE’s policy of limiting the amount of overtime employees could accrue, Ms. Walker and other aggrieved employees were required to work off-the-clock before and/or after their scheduled shift start and end times to complete assigned job duties.

PRIDE also had a company-wide practice and/or policy of requiring Ms. Walker and other aggrieved employees to travel to and attend mandatory trainings. Ms. Walker and other aggrieved employees were required to report to PRIDE’s office and then travel to and attend these mandatory trainings, but did not record their travel time as hours worked. For example, Ms. Walker and other aggrieved employees would drive six (6) to ten (10) minutes roundtrip from PRIDE’s office to trainings at the prison. However, PRIDE did not compensate Ms. Walker and other aggrieved employees for the time they spent traveling to and from these mandatory trainings.

Furthermore, PRIDE maintained and implemented a company-wide policy of requiring employees to travel to a medical facility on their own time and using their own personal vehicles to undergo mandatory drug testing, physical examinations, and/or TB testing. At all times, PRIDE was in control of scheduling the date and time for the testing and/or physical examinations, selecting the provider or facility where the testing and/or physical examinations were to take place, and determining the scope of the testing and/or physical examinations. For example, PRIDE gave Ms. Walker strict instructions to obtain drug testing, physical examinations, and/or TB testing, and Ms. Walker underwent the testing and examinations for the sole benefit of PRIDE. Ms. Walker followed PRIDE’s instructions and traveled several miles to and from the medical clinic designated by PRIDE, and spent two (2) hours waiting at the medical clinic and undergoing the requisite testing. However, PRIDE did not compensate Ms. Walker and other aggrieved employees for the time they spent traveling to and undergoing the mandatory drug testing, physical examinations, and/or TB testing.

Thus, PRIDE did not pay minimum wages for all hours worked by Ms. Walker and other aggrieved employees. To the extent that these off-the-clock hours did not qualify for overtime premium payment, PRIDE did not pay at least minimum wages for those hours worked off-the-clock in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198. Accordingly, PRIDE regularly failed to pay at least minimum wages to Ms. Walker and other aggrieved employees for all of the hours they worked in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198.

Ms. Walker and other aggrieved employees are therefore entitled to recover civil penalties, attorney’s fees, costs, and interest thereon, pursuant to Labor Code sections 1197.1 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 – Failure to Provide Meal Periods

California Labor Code sections 226.7, 512(a), 516, and 1198 and the applicable IWC Wage Order require employers to provide meal and rest periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. Pursuant to Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order, an employer may not require, cause or permit an employee to work for a period of more than five (5) hours per day without providing the employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee. Under California law, first meal periods must start after no more than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (Cal. 2012). Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order also require employers to provide a second meal break of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an employee one (1) additional hour of pay at the employee's regular rate, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

First, as stated, PRIDE had, and continues to have, a company-wide policy and/or practice of understaffing while assigning employees heavy workloads and/or quotas for fulfilling assignments. Additionally, as stated, PRIDE had a company-wide practice of failing to adhere to a schedule of meal periods, which further caused Ms. Walker and other aggrieved employees to not be relieved of their duties for compliant meal periods. As a result, Ms. Walker and other aggrieved employees would be forced to work in excess of five (5) hours before taking a meal period and, at times, had their meal periods interrupted and/or had to forgo their meal periods altogether. For example, during her employment, Ms. Walker would start her meal periods late, miss her meal periods entirely or would have her meal periods interrupted by urgent cleaning requests from prison guards, such as cleaning up an inmate's feces or cleaning up after a fire in an inmate's cell.

Second, PRIDE's company-wide practice and/or policy of utilizing security searches restricted Ms. Walker and/or other aggrieved employees from using their meal periods freely for their own purposes. Because employees were required to undergo lengthy security searches off-the-clock, they were restricted from using their meal periods freely and restricted to PRIDE's premises during their meal periods. Thus, PRIDE effectively maintained control over Ms. Walker and other aggrieved employees during meal periods, and did not relinquish control over Ms. Walker and other aggrieved employees during their meal periods.

Third, PRIDE did not provide Ms. Walker and other aggrieved employees with second 30-minute meal periods on days that they worked in excess of ten (10) hours in one day. For example, Ms. Walker was not provided her second meal period when she worked shifts in excess of ten (10) hours. Ms. Walker and other aggrieved employees did not sign valid meal period waivers on days that they were entitled to meal periods and were not relieved of all duties.

As a result of PRIDE's practices and/or policies, Ms. Walker and other aggrieved employees were forced to work in excess of five (5) hours before taking a meal period and, at times, had their meal periods interrupted, and/or had to forgo their meal periods altogether. PRIDE knew or should have known that as a result of its policies, Ms. Walker and other aggrieved employees were not actually

relieved of all duties to take timely, uninterrupted meal periods. PRIDE further knew or should have known that it did not pay Ms. Walker and other aggrieved employees meal period premium wages when meal periods were missed, late, short, and/or interrupted.

PRIDE also has engaged in a company-wide practice and/or policy of not paying meal period premiums owed when compliant meal periods are not provided. Because of this practice and/or policy, Ms. Walker and other aggrieved employees have not received premium pay for missed, late, and interrupted meal periods. Alternatively, to the extent that PRIDE did pay meal period premium wages to Ms. Walker and/or other aggrieved employees, it did so at the incorrect rates. Because PRIDE did not properly calculate Ms. Walker's and/or other aggrieved employees' regular rates of pay by including all remunerations, such as shift differential pay, incentive pay, and/or nondiscretionary bonuses, any premiums paid for meal period violations were also paid at an incorrect rate and resulted in an underpayment of meal period premium wages.

Accordingly, PRIDE failed to provide all meal periods in violation of California Labor Code sections 226.7, 512, 516, and 1198. Ms. Walker and other aggrieved employees are therefore entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 516, and 1198 – Failure to Authorize and Permit Rest Periods

California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC. The applicable IWC Wage Order provides that “[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period” and that the “rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof” unless the total daily work time is less than three and one-half (3½) hours.

To comply with its obligation to authorize and permit rest periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer must “relinquish any control over how employees spend their break time, and relieve their employees of all duties—including the obligation that an employee remain on call. A rest period, in short, must be a period of rest.” *Augustus, et al. v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 269-270 (2016).

First, during the relevant time period, PRIDE regularly failed to authorize and permit Ms. Walker and other aggrieved employees to take a ten (10) minute rest period per each four (4) hour period worked or major fraction thereof. PRIDE's scheduling policies and practices, or lack thereof, prevented Ms. Walker and other aggrieved employees from being relieved of all duty in order to take compliant rest periods. PRIDE failed to schedule or failed to adhere to a schedule of rest periods for Ms. Walker and other aggrieved employees on a company-wide basis. As a result, Ms. Walker would work shifts in excess of 3.5 hours and in excess of 6 hours without receiving all uninterrupted ten (10) minute rest periods to which she was entitled. For example, throughout her employment, Ms. Walker would work through most of her shifts without taking a ten (10) minute rest period, because she was under pressure to finish cleaning her assigned building by the end of her shift.

Second, as with meal periods, PRIDE's company-wide practices, including assigning heavy workloads, prevented Ms. Walker and other aggrieved employees from being relieved of all duty to take compliant rest periods. PRIDE also failed to provide adequate rest period coverage, further led to Ms. Walker and other aggrieved employees not being authorized and permitted to take compliant rest periods.

Third, PRIDE maintained and implemented a company-wide practice and/or policy requiring that Ms. Walker and other aggrieved employees remain on PRIDE's premises during their rest periods. Because Ms. Walker and other aggrieved employees were restricted from leaving PRIDE's premises during rest periods, they were denied the ability to use their rest periods freely for their own purposes. Thus, PRIDE effectively maintained control over Ms. Walker and other aggrieved employees during rest periods, and, as a result of this rest period policy, PRIDE did not relinquish control over Ms. Walker and other aggrieved employees during rest periods.

As a result of PRIDE's practices and policies, Ms. Walker and other aggrieved employees worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without receiving all uninterrupted 10-minute rest periods to which they were entitled. For example, throughout her employment, Ms. Walker missed her rest periods or had them cut short or interrupted, due to PRIDE's policy of failing to schedule of rest periods and assigning heavy workloads.

PRIDE also has engaged in a company-wide practice and/or policy of not paying all rest period premiums owed when compliant rest periods are not authorized and permitted. Because of this practice and/or policy, Ms. Walker and/or other aggrieved employees have not received premium pay for all missed rest periods. Alternatively, to the extent that PRIDE did pay rest period premium wages to Ms. Walker and/or other aggrieved employees, it did so at the incorrect rates. Because PRIDE did not properly calculate Ms. Walker's and/or other aggrieved employees' regular rates of pay by including all forms of compensation, such as shift differential pay, incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, any premiums paid for rest period violations were also paid at an incorrect rate and resulted in an underpayment of rest period premium wages.

Accordingly, PRIDE failed to authorize and permit all rest periods in violation of California Labor Code sections 226.7, 516, and 1198. Ms. Walker and other aggrieved employees are therefore entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226(a), 1174(d), and 1198 – Non-Compliant Wage Statements and Failure to Maintain Accurate Payroll Records

California Labor Code section 226(a) requires employers to make, keep and provide true, accurate, and complete employment records. PRIDE has not provided Ms. Walker and other aggrieved employees with properly itemized wage statements. Labor Code section 226(e) provides that if an employer fails to comply with providing an employee with properly itemized wages statements as set forth in 226(a), then the employee is entitled to recover the greater of all actual damages or \$50.00 for the initial pay period in which a violation occurs and \$100 per employee for each violation in a subsequent pay period, not to exceed \$4,000. Further, Labor Code section 226.3 provides that any employer who violates section 226(a) shall be subject to a civil penalty in the amount of \$250 per employee per violation in an initial citation and \$1,000 per employee for each violation in a

subsequent citation, for which the employer fails to provide the employee a wage statement or fails to keep the required records pursuant to Section 226(a).

During the relevant time period, PRIDE has knowingly and intentionally provided Ms. Walker and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. For example, PRIDE issued uniform wage statements to Ms. Walker and other aggrieved employees that fail to correctly list: gross wages earned; total hours worked; net wages earned; and all applicable hourly rates in effect during the pay period, including overtime rates of pay, and the corresponding number of hours worked at each hourly rate. Specifically, PRIDE violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

Because PRIDE did not record the time Ms. Walker and other aggrieved employees spent working off-the-clock and deducted time from Ms. Walker's and other aggrieved employees' records for meal periods that were interrupted or missed (and therefore time for which they should have been paid), PRIDE did not list the correct amount of gross wages and net wages earned by Ms. Walker and other aggrieved employees, in compliance with section 226(a)(1) and 226(a)(5), respectively. For the same reason, PRIDE failed to accurately list the total number of the hours worked by Ms. Walker and other aggrieved employees, in violation of section 226(a)(2), and failed to list the applicable hourly rates of pay in effect during the pay period and the corresponding accurate number of hours worked at each hourly rate, in violation of section 226(a)(9).

Further, because PRIDE did not calculate Ms. Walker's and/or other aggrieved employees' regular rate of pay correctly for purposes of paying overtime wages, PRIDE did not list the correct amount of gross wages earned by Ms. Walker and/or other aggrieved employees in compliance with section 226(a)(1) and did not list the correct amount of net wages earned by Ms. Walker and/or other aggrieved employees in violation of section 226(a)(5). PRIDE also failed to correctly list all applicable hourly rates in effect during the pay period, namely, correct overtime rates of pay and correct rates of pay for premium wages, in violation of section 226(a)(9).

The wage statement deficiencies also include, without limitation, failing to list the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; failing to list all deductions; failing to list the name of the employee and only the last four digits of her or her social security number or an employee identification number other than a social security number; failing to list the name and address of the legal entity that is the employer; failing to list the inclusive dates of the period for which aggrieved employees were paid; and/or failing to state all hours worked as a result of not recording or stating hours worked off-the-clock.

California Labor Code section 1174(d) provides that “[e]very person employing labor in this state shall ... [k]eep a record showing the names and addresses of all employees employed and the ages of all minors” and “[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments...” Labor Code section 1174.5 provides that employers are subject to a \$500 civil penalty if they fail to maintain accurate and complete records as required by section 1174(d). During the relevant time period, and in violation of Labor Code section 1174(d), PRIDE willfully failed to maintain accurate payroll records for Ms. Walker and other aggrieved employees showing the daily hours they worked and the wages paid thereto as a result of failing to record the off-the-clock hours that they worked.

California Labor Code section 1198 provides that the maximum hours of work and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the applicable IWC Wage Orders. Section 1198 further provides that “[t]he employment of any employees for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.” Pursuant to the applicable IWC Wage Order, employers are required to keep accurate time records showing when the employee begins and ends each work period and meal period. At all relevant times, as stated, PRIDE engaged in company-wide practices and/or policies of failing to record actual hours worked, and thereby failed to keep accurate records of shift start and end times for Ms. Walker and other aggrieved employees. Furthermore, in light of PRIDE’s failure to provide Ms. Walker and other aggrieved employees with first and second 30-minute meal periods to which they were entitled, due to their aforementioned automatic meal deduction policy, PRIDE kept no records of meal start and end times for meal periods.

Because PRIDE failed to provide the correct net and gross wages earned, applicable rates of pay, and number of total hours worked on wage statements, Ms. Walker and other aggrieved employees have been prevented from verifying, solely from information on the wage statements themselves, that they were paid correctly and in full. Instead, Ms. Walker and other aggrieved employees have had to look to sources outside of the wage statements themselves and reconstruct time records to determine whether in fact they were paid correctly and the extent of underpayment, thereby causing them injury.

Ms. Walker and other aggrieved employees are entitled to recover civil penalties, attorney’s fees, costs, and interest thereon pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f)-(g).

Violation of California Labor Code § 204 – Failure to Timely Pay Wages During Employment

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. Alternatively, California Labor Code section 204 provides that the requirements of this section are deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of the payroll period.

During the relevant time period, PRIDE failed to pay Ms. Walker and other aggrieved employees all wages due to them, including, but not limited to, overtime wages, minimum wages, and/or meal and rest period premium wages, within any time period specified by California Labor Code section 204.

Ms. Walker and other aggrieved employees are entitled to recover civil penalties, attorney’s fees, costs, and interest thereon, pursuant to Labor Code sections 210 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 201, 202, and 203 – Failure to Timely Pay Final Wages Upon Termination

California Labor Code sections 201, 202, and 203 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves her or her employment, her or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of her or her intention to quit, in which case the employee is entitled to her or her wages at the time of quitting.

PRIDE willfully failed to pay Ms. Walker and other aggrieved employees who are no longer employed by PRIDE all their earned wages, including, but not limited to, overtime wages, minimum wages, and/or meal and rest period premium wages, either at the time of discharge, or within seventy-two (72) hours of their leaving PRIDE's employ in violation of California Labor Code sections 201, 202, and 203.

Ms. Walker and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 256 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 222.5 – Failure to Pay for Costs of Mandatory Physical Exams and/or Drug Testing

At all times herein set forth, California Labor Code section 222.5 requires employers to pay for the costs an employee incurs for obtaining any required medical or physical examination.

During the relevant time period, PRIDE implemented, on a company-wide basis, an employer-imposed requirement that Ms. Walker and other aggrieved employees undergo mandatory drug tests, physical examinations, and/or TB testing, but required them to do so at their own expense. As stated, PRIDE had a company-wide policy requiring that Ms. Walker and other aggrieved employees travel to a specified medical clinic on their own time and use their own means of transportation to undergo drug testing, physical examinations, and/or TB testing. At all times, PRIDE was in control of scheduling the date and time for the drug, physical examinations, and/or TB testing, selecting the provider/facility where the drug testing, physical examinations, and/or TB testing were to take place, and determining the scope of the drug test, physical examinations, and/or TB testing.

During the relevant time period, Ms. Walker was instructed by PRIDE to travel to a medical clinic in Roseville, California, and obtain a drug test, physical examination, and/or TB test. Ms. Walker followed PRIDE's instructions, traveled to the clinic PRIDE selected, and underwent the testing and/or physical examination. Ms. Walker was required to travel to and from a medical clinic selected by PRIDE using her own vehicle. Ms. Walker followed PRIDE's instructions and drove several miles roundtrip to and from the medical clinic designated by PRIDE, and then spent approximately two (2) hours waiting at the medical clinic and undergoing the requisite testing and/or examinations.

However, PRIDE did not compensate Ms. Walker and other aggrieved employees for the time they spent traveling to and from their drug testing, physical examinations, and/or TB testing, or for the time they spent undergoing the testing and/or examinations, or reimburse them for the travel expenses they incurred getting to and from the medical clinics. PRIDE's policy and/or practice of

not paying for all costs Ms. Walker and other aggrieved employees incurred obtaining mandatory drug testing, physical examinations, and/or TB testing violates California Labor Code section 222.5.

Ms. Walker and other aggrieved employees are therefore entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

Violation of California Labor Code § 2802 – Unreimbursed Business Expenses

California Labor Code section 2802 requires employers to pay for all necessary expenditures and losses incurred by the employee in the performance of her or her job. The purpose of Labor Code section 2802 is to prevent employers from passing off their cost of doing business and operating expenses on to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144 (2014). The applicable wage order provides that: "[w]hen tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft."

During the relevant time period, PRIDE had a company-wide policy of requiring Ms. Walker and other aggrieved employees to utilize their own personal vehicles to carry out company business, but PRIDE failed to reimburse them for all costs of travel, including mileage. For example, Ms. Walker was required to drive roundtrip on several occasions to mandatory training using her own vehicle. Additionally, Ms. Walker and other aggrieved employees were required to travel in their own personal vehicles to medical facilities to obtain mandatory drug testing, physical examinations, and/or TB testing, but did not reimburse them for their travel expenses, including mileage. For example, as described above, Ms. Walker followed PRIDE's instructions, traveled several miles roundtrip in her personal vehicle, and underwent the drug testing, physical examinations, and/or TB testing, but was not reimbursed for her mileage to and from the medical clinic. Although PRIDE required Ms. Walker and other aggrieved employees to undergo drug testing, physical examinations, and/or TB testing, PRIDE failed to reimburse them for these expenses.

PRIDE could have provided Ms. Walker and other aggrieved employees with the actual tools for use on the job, such as company vehicles, to be used for fulfilling work-related tasks. Or, PRIDE could have reimbursed employees for their travel and mileage. Instead, PRIDE passed these operating costs off onto Ms. Walker and other aggrieved employees.

Thus, PRIDE had, and continues to have, a company-wide policy and/or practice of not reimbursing employees for expenses necessarily incurred in violation of California Labor Code section 2802. Ms. Walker and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

Violation of California Labor Code § 2810.5(a)(1)(A)-(C) – Failure to Provide Notice of Material Terms of Employment

California's Wage Theft Prevention Act was enacted to ensure that employers provide employees with basic information material to their employment relationship at the time of hiring, and to ensure that employees are given written and timely notice of any changes to basic information material to their employment. Codified at California Labor Code section 2810.5, the Wage Theft Prevention Act provides that at the time of hiring, an employer must provide written notice to employees of the rate(s)

of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, the regular payday designated by the employer, and any allowances claims as part of the minimum wage, including meal or lodging allowances. Effective January 1, 2015, an employer's written notice pursuant to section 2810.5 must also include a statement that the employee may accrue and use sick leave; has a right to request and use accrued paid sick leave; may not be terminated or retaliated against for using or requesting the use of accrued paid sick leave; and has the right to file a complaint against an employer who retaliates.

PRIDE failed to provide Ms. Walker and other aggrieved employees written notice that lists all the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C). PRIDE's failure to provide Ms. Walker and other aggrieved employees with written notice of basic information regarding their employment with PRIDE is in violation of Labor Code section 2810.5.

Ms. Walker and other aggrieved employees are therefore entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code section 2699(a), (f)-(g).

California Labor Code § 558(a)

California Labor Code section 558(a) provides "[a]ny 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 Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid . . . (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid . . ." Labor Code section 558(c) provides that "[t]he civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law." PRIDE, at all relevant times, was an employer or person acting on behalf of an employer(s) who violated Ms. Walker's and other aggrieved employees' rights by violating various sections of the California Labor Code.

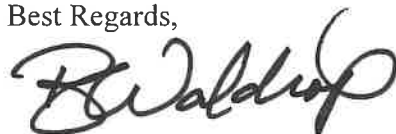
Accordingly, Ms. Walker seeks the remedies set forth in Labor Code section 558 for herself, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 2699(a), 2699.3(a) and 2699.3(c), 2699.5, and 558, Ms. Walker, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for herself, all other aggrieved employees, and the State of California against PRIDE for violations of California Labor Code sections 201, 202, 203, 204, 222.5, 226(a), 226.7, 510, 512, 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5.

Therefore, on behalf of all aggrieved employees, Ms. Walker seeks all applicable penalties related to these violations of the California Labor Code pursuant to PAGA.

Thank you for your attention to this matter. If you have any questions, please contact me at the phone number or address below:

Brooke Waldrop
Capstone Law APC
1875 Century Park East, Suite 1000
Los Angeles, CA 90067
(310) 556-4811

Best Regards,

A handwritten signature in black ink, appearing to read "B. Waldrop", with a stylized, cursive script.

Brooke Waldrop

Copy: PRIDE INDUSTRIES (via U.S. Certified Mail); Emma L. Forrest, Forrest & Becker Law Group, 641 Fulton Avenue, Suite 200, Sacramento, California 95825 (via U.S. Certified Mail)

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I am employed in the State of California, County of Los Angeles. I am over the age of 18 and not a party to the within suit; my business address is 1875 Century Park East, Suite 1000, Los Angeles, California 90067. My electronic address is matthew.krout@capstonelawyers.com.

FIRST AMENDED CLASS ACTION COMPLAINT

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Matthew Krout
Type or Print Name

Signature