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SAN LUIS OBISPO SUPERIOR COURT
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11 ex rel. JOSE L. RODRIGUEZ-RAMIREZ

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA

13 FOR THE COUNTY OF SAN LUIS OBISPO – PASO ROBLES BRANCH

14 STATE OF CALIFORNIA
15 ex rel. JOSE L. RODRIGUEZ-RAMIREZ,

16 Plaintiff,

17 vs.

18 CANTEEN OF COASTAL CALIFORNIA,
19 INC.; and DOES 1 through 25, inclusive,

20 Defendants.

CASE NO: 20CVP-0121

Assigned for All Purposes to:

**COMPLAINT FOR CIVIL PENALTIES
UNDER THE PRIVATE ATTORNEYS
GENERAL ACT (PAGA)**

Trial Date: None

Complaint filed:

22 COMES NOW Plaintiff STATE OF CALIFORNIA ex rel. JOSE L. RODRIGUEZ-
23 RAMIREZ (“Plaintiff”), who asserts claims against CANTEEN OF COASTAL CALIFORNIA,
24 INC., and DOES 1 through 25, inclusive, (collectively “Defendants”) as follows:

25 **JURISDICTION AND VENUE**

26 1. This Court has jurisdiction over this action pursuant to the California Constitution,
27 Article VI, §10.
28

2. Venue is proper in this Court because Plaintiff was employed in Paso Robles among other locations within the County of San Luis Obispo, and many of the acts, omissions, and violations alleged herein occurred in and around Northern San Luis Obispo County.

PARTIES

3. For all times relevant herein, Plaintiff was an adult individual residing in Santa Barbara County, California.

4. For all times relevant herein, Plaintiff is informed and believes, and on that basis alleges, that Defendants were and are corporations, companies, and individuals with their principal place of business in Ventura County with operations in San Luis Obispo County, California.

5. Whenever in this Complaint reference is made to any act, deed, or conduct of Defendants, the allegation means that Defendants engaged in the act, deed, or conduct by or through one or more of its agents, employees, or representatives, who was actively engaged in the management, direction, control, or transaction of the business and affairs of Defendants.

6. Plaintiff is ignorant of the true names and capacities, whether individual, corporate, associate, or otherwise, of the defendants sued herein as Does 1 through 25, inclusive, and therefore sue said defendants (the "Doe Defendants") by such fictitious names. Plaintiff will amend this Complaint to insert the true names and capacities of the Doe Defendants at such time as the identities of the Doe Defendants are ascertained.

7. Plaintiff is informed and believes, and based thereon allege, that the Doe Defendants are the partners, agents, or principals and co-conspirators of Defendants, and of each other; that Defendants and the Doe Defendants performed the acts and conduct herein alleged directly, aided and abetted the performance thereof, or knowingly acquiesced in, ratified, and accepted the benefits of such acts and conduct, and therefore each of the Doe Defendants is liable to the extent of the liability of Defendants as alleged herein.

8. Plaintiff is further informed and believe, and thereon allege, that at all times herein material, each Defendant was completely dominated and controlled by its co-Defendant(s) and each was the alter ego of the other. Whenever and wherever reference is made in this complaint to any conduct by one defendant or all Defendants, such allegations and

1 references shall also be deemed to mean the conduct of each of the Defendants, acting
2 individually, jointly, and severally. Whenever and wherever reference is made to individuals
3 who are not named as Defendants in this complaint, but were employees and/or agents of
4 Defendants, such individuals at all relevant times acted on behalf of Defendants named in this
5 complaint within the scope of their respective employments.

6 9. Whenever and wherever reference is made in this Complaint to any conduct by
7 Defendants, such allegations and references shall also be deemed to mean the conduct of each of
8 the Defendants, acting individually, jointly, and severally. Whenever and wherever reference is
9 made to individuals who are not named as defendants in this Complaint, but were employees
10 and/or agents of Defendants, such individuals at all relevant times acted on behalf of Defendants
11 named in this Complaint within the scope of their respective employment or agency with
12 Defendants.

13 10. Plaintiff is proceeding on behalf of the State of California for himself and all other
14 similarly situated employees who have been employed by Defendants between January 17, 2019
15 through the conclusion of this action (“Statutory Period”).

16 11. Plaintiff also filed an exhaustion letter with the California Labor and Workforce
17 Development Agency (“LWDA”) providing notice of the intent to bring a private attorneys
18 general action for recovery of civil penalties under the California Labor Code Private Attorneys
19 General Action of 2004, California Labor Code §§ 2698, *et seq.* (“PAGA”). PAGA permits an
20 “aggrieved employee” to bring a lawsuit for civil penalties to address an employer’s violations of
21 the California Labor Code committed against them and other current and former employees. The
22 LWDA did not investigate and Defendants did not cure any of the curable violations specified by
23 Plaintiff. Upon the conclusion of the PAGA exhaustion period, Plaintiff now files this Complaint,
24 as permitted by law, and seeks civil penalties as a private attorney general for the California Labor
25 Code violations committed against them and Defendants’ other current and other former
26 California employees of Defendants.

27 12. Plaintiff brings this action under the PAGA for approximately more than 100
28 current and former similarly situated aggrieved employees employed by Defendants during the

1 Statutory Period in their business operations throughout the State of California (hereinafter
2 collectively “Employees”).

3 **GENERAL ALLEGATIONS**

4 13. Defendants employed Plaintiff throughout the Statutory Period. Defendants also
5 employed several other employees who were similarly situated to Plaintiff, and/or suffered from
6 the same violations achieved through the same illegal policies and practices that caused the
7 following violations to be suffered by Plaintiff, as set forth below.

8 14. Plaintiff was a delivery driver who primarily drove two vending machine service
9 routes in Santa Maria and Paso Robles, California throughout the Statutory Period. Plaintiff
10 worked approximately 53-55 hours per week. Plaintiff would generally drive to work at
11 Defendants’ yard in Grover Beach to pick up his truck. He clocked in at a machine immediately
12 when he entered the job site, and clocked out at the end of the day. Trucks are pre-loaded with dry
13 goods, and Plaintiff filled his truck with cold and frozen goods. He then started his service routes.
14 Plaintiff often worked more than 10 hours in a day, and was regularly paid insufficient overtime.

15 15. Although the time clocks recorded precise start-and-end times, Defendants rounded
16 to a quarter of an hour in tracking and paying Plaintiff’s hours worked. This was confusing to
17 Plaintiff, and he is informed and believes he was underpaid. For example, on one day during the
18 Statutory Period, he logged 13.03 hours, and the pay system rounded his hours down to 12.75.

19 16. Plaintiff spent approximately 50% of his time driving, and 50% loading, unloading,
20 and stocking his truck and vending machines. Plaintiff would stop at each location, carry the
21 cargo to the machine, and fill the machine. Several service sites are outdoors, with excessive
22 Summer and Fall heat, especially in Paso Robles. What is more, Plaintiff’s delivery vehicle
23 lacked adequate air conditioning. Plaintiff complained to his supervisor, Branch Manager Mark
24 Garfield, about this, and he said it was “not a priority.”

25 17. Defendants more recently began implementing messages to workers to drink more
26 water during times of high heat, but there were no meetings or training on heat illness or any
27 encouragement for workers to take additional breaks during excessive heat. Plaintiff sometimes
28 felt dizzy due to long hours, heat, and inadequate breaks.

18. Plaintiff was informed by Defendants that he could take only two breaks each workday that did not exceed 10 hours: one ten-minute rest period after 3 hours of work, and a 30-minute meal period before 5 hours of work. However, Defendants placed service expectations on Employees that precluded them from taking rest breaks and Defendants pressured Employees to complete their routes and work at a rate that was incompatible with legally mandated timely breaks. Employees could not meet Defendants' service expectations and take legally mandated timely breaks. Defendants also has never paid Employees an extra hour of pay for not providing a timely and compliant rest break.

19. Furthermore, Employees' wage statements stated only "Canteen," but the legal name of the employer was and is "Canteen of Coastal California, Inc."

20. Among other Labor Code violations, Defendants failed to properly pay Plaintiff for all hours worked, failed to provide Plaintiff with timely and compliant rest and heat-recovery breaks, failed to keep accurate records of hours worked, failed to provide accurate wage statements, failed to pay Employees all wages owed at the time of termination (for those Employees who were terminated during the Statutory Period), and failed to comply with various health and safety orders, all in violation of Defendants' statutory obligations.

FIRST CAUSE OF ACTION

(By Plaintiff against All Defendants for Failure to Pay Minimum Wages Owed)

21. Plaintiff incorporates by reference and realleges each and every allegation contained above, as though fully set forth herein.

22. Labor Code Section 1197 provides that “[t]he minimum wage for employees fixed by the commission or by any applicable state or local law, is the minimum wage to be paid to employees, and the payment of a lower wage than the minimum so fixed is unlawful.” “[O]n and after January 1, 2016, the minimum wage for all industries shall be not less than ten dollars (\$10) per hour.” Cal. Lab. Code, § 1182.12, subd. (a). “[T]he minimum wage for all industries shall not be less than the amounts set forth in this subdivision (1) For any employer who employs 26 or more employees, the minimum wage shall be as follows: (A) From January 1, 2017, to December 31, 2017, inclusive,—ten dollars and fifty cents (\$10.50) per hour. (B) From January 1, 2018, to

1 December 31, 2018, inclusive,—eleven dollars (\$11) per hour. (C) From January 1, 2019, to
2 December 31, 2019, inclusive,—twelve dollars (\$12) per hour. (D) From January 1, 2020, to
3 December 31, 2020, inclusive,—thirteen dollars (\$13) per hour.” Cal. Lab. Code, § 1182.12,
4 subd. (b).

5 23. Pursuant to Section 1197.1, “(a) Any employer or other person acting either
6 individually or as an officer, agent, or employee of another person, who pays or causes to be paid
7 to any employee a wage less than the minimum fixed by an applicable state or local law, or by an
8 order of the commission shall be subject to a civil penalty, restitution of wages, liquidated
9 damages payable to the employee, and any applicable penalties imposed pursuant to Section 203
10 as follows: (1) For any initial violation that is intentionally committed, one hundred dollars (\$100)
11 for each underpaid employee for each pay period for which the employee is underpaid. This
12 amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated
13 damages pursuant to Section 1194.2, and any applicable penalties imposed pursuant to Section
14 203. (2) For each subsequent violation for the same specific offense, two hundred fifty dollars
15 (\$250) for each underpaid employee for each pay period for which the employee is underpaid
16 regardless of whether the initial violation is intentionally committed. This amount shall be in
17 addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to
18 Section 1194.2, and any applicable penalties imposed pursuant to Section 203.”

19 24. Although Employees’ time cards record precise time of start and end times of work
20 periods, Defendants round (e.g., to a quarter of an hour) in tracking and paying Employees’ hourly
21 wages. Throughout the Statutory Period, Defendants’ rounding practices and policy were not fair
22 or neutral, and were used in such a manner that they will result, over a period of time, in failure to
23 compensate the Employees properly for all the time they have actually worked. For example, on
24 one day, Mr. Rodriguez logged 13.03 hours, and the pay system rounded his hours down to 12.75.
25 Throughout the Statutory Period, Defendants failed to pay Employees at least minimum wage for
26 all time worked, which must be paid at a rate of not less than minimum wage pursuant to
27 California law. Defendants paid zero dollars for minutes worked by Employees at the margins
28

1 near the start and/or end times of work periods as a result of Defendants' rounding policy and
2 practices. Consequently, Defendants violated the foregoing minimum wage laws.

3 25. Plaintiff is entitled to recover all civil penalties and other relief as provided under
4 the PAGA in an amount to be proven at trial.

5 **SECOND CAUSE OF ACTION**

6 **(By Plaintiff against All Defendants for Failure to Pay Overtime Wages Owed)**

7 26. Plaintiff incorporates by reference and realleges each and every allegation
8 contained above, as though fully set forth herein.

9 27. "The maximum hours of work and the standard conditions of labor fixed by the
10 commission shall be the maximum hours of work and the standard conditions of labor for
11 employees. The employment of any employee for longer hours than those fixed by the order or
12 under conditions of labor prohibited by the order is unlawful." Cal. Lab. Code, § 1198.

13 28. Pursuant to Industrial Welfare Commission Wage Order 7, employees "shall not be
14 employed more than eight (8) hours in any workday or more than 40 hours in any workweek
15 unless the employee receives one and one-half (1 1/2) times such employee's regular rate of pay
16 for all hours worked over 40 hours in the workweek. Eight (8) hours of labor constitutes a day's
17 work. Employment beyond eight (8) hours in any workday or more than six (6) days in any
18 workweek is permissible provided the employee is compensated for such overtime at not less than:
19 (a) One and one-half (1 1/2) times the employee's regular rate of pay for all hours worked in
20 excess of eight (8) hours up to and including 12 hours in any workday, and for the first eight (8)
21 hours worked on the seventh (7th) consecutive day of work in a workweek; and (b) Double the
22 employee's regular rate of pay for all hours worked in excess of 12 hours in any workday and for
23 all hours worked in excess of eight (8) hours on the seventh (7th) consecutive day of work in a
24 workweek. (c) The overtime rate of compensation required to be paid to a nonexempt full-time
25 salaried employee shall be computed by using the employee's regular hourly salary as one-fortieth
26 (1/40) of the employee's weekly salary."

27 29. "Any employer or other person acting on behalf of an employer who violates, or
28 causes to be violated, a section of this chapter or any provision regulating hours and days of work

1 in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows:
2 (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period
3 for which the employee was underpaid in addition to an amount sufficient to recover underpaid
4 wages. (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid
5 employee for each pay period for which the employee was underpaid in addition to an amount
6 sufficient to recover underpaid wages.” Cal. Lab. Code, § 558, subd. (a).

7 30. Throughout the Statutory Period, Defendants failed to pay Employees all overtime
8 wages for hours worked in excessive of overtime and double overtime thresholds. Employees
9 regularly worked 8 or more hours per day and more than 40 hours each workweek, and
10 Defendants failed to pay Employees overtime and/or double overtime for said hours as required by
11 law.

12 31. Plaintiff is entitled to recover all civil penalties and other relief as provided under
13 the PAGA in an amount to be proven at trial.

14 **THIRD CAUSE OF ACTION**

15 **(By Plaintiff against All Defendants for Failure to Provide or Pay for Recovery Periods)**

16 32. Plaintiff incorporates by reference and realleges each and every allegation
17 contained above, as though fully set forth herein.

18 33. “An employer shall not require an employee to work during a ... recovery period
19 mandated pursuant to an applicable statute, or applicable regulation, standard, or order of ... the
20 Occupational Safety and Health Standards Board, or the Division of Occupational Safety and
21 Health.” Cal. Lab. Code, § 226.7, subd. (b). “As used in this section, ‘recovery period’ means a
22 cooldown period afforded an employee to prevent heat illness.” Cal. Lab. Code, § 226.7, subd. (a).
23 “A rest or recovery period mandated pursuant to a state law ... shall be counted as hours worked,
24 for which there shall be no deduction from wages.” Cal. Lab. Code, § 226.7, subd. (d). “If an
25 employer fails to provide an employee a ... recovery period in accordance with a state law ... the
26 employer shall pay the employee one additional hour of pay at the employee’s regular rate of
27 compensation for each workday that the meal or rest or recovery period is not provided.” Cal. Lab.
28 Code, § 226.7, subd. (c).

1 34. Pursuant to the applicable regulation, “[w]hen the outdoor temperature in the work
2 area exceeds 80 degrees Fahrenheit, the employer shall have and maintain one or more areas with
3 shade at all times while employees are present that are either open to the air or provided with
4 ventilation or cooling. The amount of shade present shall be at least enough to accommodate the
5 number of employees on recovery or rest periods, so that they can sit in a normal posture fully in
6 the shade without having to be in physical contact with each other. The shade shall be located as
7 close as practicable to the areas where employees are working. Subject to the same specifications,
8 the amount of shade present during meal periods shall be at least enough to accommodate the
9 number of employees on the meal period who remain onsite.” Cal. Code Regs., tit. 8, § 3395,
10 subd. (d)(1).

11 35. “Employees shall be allowed and encouraged to take a preventative cool-down rest
12 in the shade when they feel the need to do so to protect themselves from overheating. Such access
13 to shade shall be permitted at all times. An individual employee who takes a preventative cool-
14 down rest (A) shall be monitored and asked if he or she is experiencing symptoms of heat illness;
15 (B) shall be encouraged to remain in the shade; and (C) shall not be ordered back to work until any
16 signs or symptoms of heat illness have abated, but in no event less than 5 minutes in addition to
17 the time needed to access the shade.” Cal. Code Regs., tit. 8, § 3395, subd. (d)(3). “For purposes
18 of this section, preventative cool-down rest period has the same meaning as ‘recovery period’ in
19 Labor Code Section 226.7(a).” Cal. Code Regs., tit. 8, § 3395, subd. (e)(6).

20 36. Throughout the Statutory Period, Defendants failed to allow or encourage shaded
21 recovery periods as required by law when temperatures exceeded eighty degrees and when
22 temperatures were eighty degrees and lower. Defendants also failed to ensure effective employee
23 observation/monitoring as required by law. Employees work outdoors, driving in non-air
24 conditioned trucks, loading and unloading goods outdoors, servicing outdoor vending machines,
25 and performing other outdoor work where heat recovery periods are needed, especially in light of
26 Defendants’ failure to maintain air conditioning in Employees’ deliver trucks. Employees
27 complained to one supervisor, Branch Manager Mark Garfield, about the lack of air conditioning
28 in trucks, and it was the Defendants’ position that repairing air conditioning in trucks was “not a

1 priority.” Defendants also failed to conduct meetings on heat illness and failed to encourage or
2 ensure Employees to take heat recovery periods at the required intervals as required by law.
3 Employees sometimes feel dizzy due to heat, long hours, and inadequate breaks.

4 37. Plaintiff is entitled to recover all civil penalties and other relief as provided under
5 the PAGA in an amount to be proven at trial.

6 **FOURTH CAUSE OF ACTION**

7 **(By Plaintiff against All Defendants for Failure to Provide Timely Rest Periods)**

8 38. Plaintiff incorporates by reference and realleges each and every allegation
9 contained above, as though fully set forth herein.

10 39. Pursuant to Industrial Welfare Commission Wage Order 7, employers must provide
11 non-exempt employees a ten (10) minute duty-free rest period for every four (4) hours worked or
12 major fraction thereof. Duty-free rest periods must be paid. An employer who fails to provide a
13 duty-free rest period must pay the employee an additional one (1) hour of regular pay for each day
14 in which a duty-free rest period is not provided. Cal. Lab. Code, § 226.7, subd. (c).

15 40. “Any employer or other person acting on behalf of an employer who violates, or
16 causes to be violated, a section of this chapter or any provision regulating hours and days of work
17 in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows:
18 (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period
19 for which the employee was underpaid in addition to an amount sufficient to recover underpaid
20 wages. (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid
21 employee for each pay period for which the employee was underpaid in addition to an amount
22 sufficient to recover underpaid wages.” Cal. Lab. Code, § 558, subd. (a).

23 41. Employees incorporate the preceding sections herein. Throughout the Statutory
24 Period, Defendants maintained an illegal practice of not providing Employees with timely and
25 compliant first and second sanctioned rest periods. For a portion of the past year, Defendants
26 advised Employees could take only two breaks all day: one rest period at 3 hours of work, and a
27 30-minute meal period before 5 hours of work. However, Employees cannot take their first rest
28 period because of Defendants’ excessive service expectations placed on drivers, coupled with

1 Defendants' complaints about overtime, which do not in practice allow for Employees to take a
2 first rest period. In or around the fall of 2019, Defendants announced that Employees could take
3 another 10-minute break at 10 hours of work, but Employees continue to be unable to take this
4 break because service demands and the Defendants' other expectations do not allow for it.
5 Defendants provide no second 10-minute break to Employees as required by law between 6-10
6 hours of work. Defendants' written policies concerning breaks do not reflect the true policy and
7 practice of Defendants. Defendants have failed to pay Employees an extra hour of pay for not
8 providing their meal and rest breaks. Thus, Employees were not provided compliant first, second,
9 and third rest periods as required by law throughout the Statutory Period.

10 42. Plaintiff is entitled to recover all civil penalties and other relief as provided under
11 the PAGA in an amount to be proven at trial.

12 **FIFTH CAUSE OF ACTION**

13 **(By Plaintiff against All Defendants for Untimely Payment of Wages)**

14 43. Plaintiff incorporates by reference and realleges each and every allegation
15 contained above, as though fully set forth herein.

16 44. Generally, "[a]ll wages, other than those mentioned in Section 201, 201.3, 202,
17 204.1, or 204.2, earned by any person in any employment are due and payable twice during each
18 calendar month, on days designated in advance by the employer as the regular paydays. Labor
19 performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for
20 between the 16th and the 26th day of the month during which the labor was performed, and labor
21 performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for
22 between the 1st and 10th day of the following month." Cal. Lab. Code, § 204, subd. (a).

23 45. "In addition to, and entirely independent and apart from, any other penalty
24 provided in this article, every person who fails to pay the wages of each employee as provided in
25 Sections 201.3, 204, 204b, 204.1, 204.2, 204.11, 205, 205.5, and 1197.5, shall be subject to a
26 penalty as follows: (1) For any initial violation, one hundred dollars (\$100) for each failure to pay
27 each employee. (2) For each subsequent violation, or any willful or intentional violation, two
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1 hundred dollars (\$200) for each failure to pay each employee, plus 25 percent of the amount
2 unlawfully withheld. Cal. Lab. Code, § 210, subd. (a).

3 46. Employees incorporate the preceding sections herein. Rather than timely paying
4 Employees all minimum, overtime, and premium wages due within the periods set forth above,
5 throughout the Statutory Period, Defendants failed to timely pay Employees for all minimum,
6 overtime, and premium wages earned as required by law.

7 47. Plaintiff is entitled to recover all civil penalties and other relief as provided under
8 the PAGA in an amount to be proven at trial.

9 **SIXTH CAUSE OF ACTION**

10 **(By Plaintiff against All Defendants for**

11 **Failure to Keep Accurate Records of Hours Worked)**

12 48. Plaintiff incorporates by reference and realleges each and every allegation
13 contained above, as though fully set forth herein.

14 49. Pursuant to Labor Code section 1174, employers are mandated to “[k]eep, at a
15 central location in the state or at the plants or establishments at which employees are employed,
16 payroll records showing the hours worked daily by and the wages paid to, and the number of
17 piece-rate units earned by and any applicable piece rate paid to, employees employed at the
18 respective plants or establishments.” “Any person employing labor who willfully fails to maintain
19 the records required by subdivision (c) of Section 1174 or accurate and complete records required
20 by subdivision (d) of Section 1174, or to allow any member of the commission or employees of
21 the division to inspect records pursuant to subdivision (b) of Section 1174, shall be subject to a
22 civil penalty of five hundred dollars (\$500).” Cal. Lab. Code, § 1174.5.

23 50. Employees incorporate the preceding sections herein. Throughout the Statutory
24 Period, Defendants failed to keep accurate records showing the hours worked daily by Employees.

25 51. Plaintiff is entitled to recover all civil penalties and other relief as provided under
26 the PAGA in an amount to be proven at trial.

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1 **SEVENTH CAUSE OF ACTION**

2 **(By Plaintiff against All Defendants for Failure to Issue and Keep Records of Wage**
3 **Statements)**

4 52. Plaintiff incorporates by reference and realleges each and every allegation
5 contained above, as though fully set forth herein.

6 53. California Labor Code section 226, subdivision (a) mandates that employers issue
7 accurate itemized statements semimonthly or at the time of each payment of wages, and that “a
8 copy of the statement and the record of the deductions shall be kept on file by the employer for at
9 least three years at the place of employment or at a central location within the State of California.
10 For purposes of this subdivision, ‘copy’ includes a duplicate of the itemized statement provided to
11 an employee or a computer-generated record that accurately shows all of the information required
12 by this subdivision.”

13 54. “An employer, semimonthly or at the time of each payment of wages, shall
14 furnish to his or her employee, either as a detachable part of the check, draft, or voucher paying
15 the employee’s wages, or separately if wages are paid by personal check or cash, an accurate
16 itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the
17 employee, except as provided in subdivision (j), (3) the number of piece-rate units earned and any
18 applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that
19 all deductions made on written orders of the employee may be aggregated and shown as one item,
20 (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the
21 name of the employee and only the last four digits of his or her social security number or an
22 employee identification number other than a social security number, (8) the name and address of
23 the legal entity that is the employer and, if the employer is a farm labor contractor, as defined in
24 subdivision (b) of Section 1682, the name and address of the legal entity that secured the services
25 of the employer, and (9) all applicable hourly rates in effect during the pay period and the
26 corresponding number of hours worked at each hourly rate by the employee....” Cal. Lab. Code, §
27 226, subd. (a).

55. “An employer that is required by this code or any regulation adopted pursuant to this code to keep the information required by subdivision (a) shall afford current and former employees the right to inspect or copy records pertaining to their employment, upon reasonable request to the employer.” Cal. Lab. Code, § 226, subd. (b). “An employer who receives a written or oral request to inspect or copy records pursuant to subdivision (b) pertaining to a current or former employee shall comply with the request as soon as practicable, but no later than 21 calendar days from the date of the request.” Cal. Lab. Code, § 226, subd. (c).

56. “Any employer who violates subdivision (a) of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage deduction statement or fails to keep the records required in subdivision (a) of Section 226. The civil penalties provided for in this section are in addition to any other penalty provided by law.” Cal. Lab. Code, § 226.3. An employer who violates subdivisions (b) or (c) of Section 226 is also subject to additional civil penalties under Section 2699(f).

57. Employees incorporate the preceding sections herein. Throughout the Statutory Period, Defendants violated subdivisions (a), (b), and (c) of Section 226 by failing to issue, maintain, or produce upon Employees' request either a duplicate of the itemized statements provided to Employees or a computer-generated record that accurately shows all of the required information.

58. Plaintiff is entitled to recover all civil penalties and other relief as provided under the PAGA in an amount to be proven at trial.

EIGHTH CAUSE OF ACTION

(By Plaintiff against All Defendants for Failure to Pay Wages at Termination)

59. Plaintiff incorporates by reference and realleges each and every allegation contained above, as though fully set forth herein.

60. “If an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately.” Cal. Lab. Code, § 201, subd. (a). “If an employer

willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.3, 201.5, 201.9, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days. An employee who secretes or absents himself or herself to avoid payment to him or her, or who refuses to receive the payment when fully tendered to him or her, including any penalty then accrued under this section, is not entitled to any benefit under this section for the time during which he or she so avoids payment.” Cal. Lab. Code, § 203, subd. (a).

61. Employees incorporate the preceding sections herein. Throughout the Statutory Period, Defendants failed to pay Employees minimum, overtime, and premium wages earned. These wages were owed and due to Employees at the time of their termination. Defendants did not provide full payment of these wages to Employees at the time of termination. Defendants's failure to timely pay these wages at the time of termination, and failure to pay Employees' continued wages for the 30-day period thereafter, constitutes a violation of Sections 201 and 203.

62. Plaintiff is entitled to recover all civil penalties and other relief as provided under the PAGA in an amount to be proven at trial.

NINTH CAUSE OF ACTION

(By Plaintiff against All Defendants for Violation of Heat Illness Prevention Health-and-Safety Standards)

63. Plaintiff incorporates by reference and realleges each and every allegation contained above, as though fully set forth herein.

64. “Every employer and every employee shall comply with occupational safety and health standards, with Section 25910 of the Health and Safety Code, and with all rules, regulations, and orders pursuant to this division which are applicable to his own actions and conduct.” Lab. Code 6407.

65. Among these rules, regulations, and orders is Title 8, Section 3395 of the California Code of Regulations, which was applicable to Defendants and the Employees. Throughout the Statutory Period, Defendants violated the following provisions of § 3395.

1 66. **“(d) Access to shade.** (1) Shade shall be present when the temperature exceeds
2 80 degrees Fahrenheit. When the outdoor temperature in the work area exceeds 80 degrees
3 Fahrenheit, the employer shall have and maintain one or more areas with shade at all times while
4 employees are present that are either open to the air or provided with ventilation or cooling. The
5 amount of shade present shall be at least enough to accommodate the number of employees on
6 recovery or rest periods, so that they can sit in a normal posture fully in the shade without having
7 to be in physical contact with each other. The shade shall be located as close as practicable to the
8 areas where employees are working. Subject to the same specifications, the amount of shade
9 present during meal periods shall be at least enough to accommodate the number of employees on
10 the meal period who remain onsite. (2) Shade shall be available when the temperature does not
11 exceed 80 degrees Fahrenheit. When the outdoor temperature in the work area does not exceed 80
12 degrees Fahrenheit employers shall either provide shade as per subsection (d)(1) or provide timely
13 access to shade upon an employee's request. (3) Employees shall be allowed and encouraged to
14 take a preventative cool-down rest in the shade when they feel the need to do so to protect
15 themselves from overheating. Such access to shade shall be permitted at all times. An individual
16 employee who takes a preventative cool-down rest (A) shall be monitored and asked if he or she is
17 experiencing symptoms of heat illness; (B) shall be encouraged to remain in the shade; and (C)
18 shall not be ordered back to work until any signs or symptoms of heat illness have abated, but in
19 no event less than 5 minutes in addition to the time needed to access the shade. (4) If an employee
20 exhibits signs or reports symptoms of heat illness while taking a preventative cool-down rest or
21 during a preventative cool-down rest period, the employer shall provide appropriate first aid or
22 emergency response according to subsection (f) of this section. ...”

23 67. Throughout the Statutory Period, Defendants failed to provide or encourage
24 shade or recovery periods as required by law when temperatures exceeded eighty degrees or when
25 they were eighty degrees or lower.

26 68. **“(e) High-heat procedures.** The employer shall implement high-heat procedures
27 when the temperature equals or exceeds 95 degrees Fahrenheit. These procedures shall include the
28 following to the extent practicable: (1) Ensuring that effective communication by voice,

1 observation, or electronic means is maintained so that employees at the work site can contact a
2 supervisor when necessary. An electronic device, such as a cell phone or text messaging device,
3 may be used for this purpose only if reception in the area is reliable. (2) Observing employees for
4 alertness and signs or symptoms of heat illness. The employer shall ensure effective employee
5 observation/monitoring by implementing one or more of the following: (A) Supervisor or designee
6 observation of 20 or fewer employees, or (B) Mandatory buddy system, or (C) Regular
7 communication with sole employee such as by radio or cellular phone, or (D) Other effective
8 means of observation. (3) Designating one or more employees on each worksite as authorized to
9 call for emergency medical services, and allowing other employees to call for emergency services
10 when no designated employee is available. (4) Reminding employees throughout the work shift to
11 drink plenty of water. (5) Pre-shift meetings before the commencement of work to review the high
12 heat procedures, encourage employees to drink plenty of water, and remind employees of their
13 right to take a cool-down rest when necessary.”

14 69. Defendants failed to implement any and all of the foregoing required procedures.
15 Defendants were subject to these requirements because Employees transport and deliver heavy
16 materials (e.g., cargo), and their employment includes loading and unloading these heavy
17 materials outdoors.

18 70. **“(f) Emergency Response Procedures.** The Employer shall implement effective
19 emergency response procedures including: (1) Ensuring that effective communication by voice,
20 observation, or electronic means is maintained so that employees at the work site can contact a
21 supervisor or emergency medical services when necessary. An electronic device, such as a cell
22 phone or text messaging device, may be used for this purpose only if reception in the area is
23 reliable. If an electronic device will not furnish reliable communication in the work area, the
24 employer will ensure a means of summoning emergency medical services. (2) Responding to signs
25 and symptoms of possible heat illness, including but not limited to first aid measures and how
26 emergency medical services will be provided. (A) If a supervisor observes, or any employee
27 reports, any signs or symptoms of heat illness in any employee, the supervisor shall take
28 immediate action commensurate with the severity of the illness. (B) If the signs or symptoms are

1 indicators of severe heat illness (such as, but not limited to, decreased level of consciousness,
2 staggering, vomiting, disorientation, irrational behavior or convulsions), the employer must
3 implement emergency response procedures. (C) An employee exhibiting signs or symptoms of
4 heat illness shall be monitored and shall not be left alone or sent home without being offered
5 onsite first aid and/or being provided with emergency medical services in accordance with the
6 employer's procedures. (3) Contacting emergency medical services and, if necessary, transporting
7 employees to a place where they can be reached by an emergency medical provider. (4) Ensuring
8 that, in the event of an emergency, clear and precise directions to the work site can and will be
9 provided as needed to emergency responders.”

10 71. Defendants failed to implement any and all of the foregoing required procedures.

11 72. **“(g) Acclimatization.** (1) All employees shall be closely observed by a
12 supervisor or designee during a heat wave. For purposes of this section only, ‘heat wave’ means
13 any day in which the predicted high temperature for the day will be at least 80 degrees Fahrenheit
14 and at least ten degrees Fahrenheit higher than the average high daily temperature in the preceding
15 five days. (2) An employee who has been newly assigned to a high heat area shall be closely
16 observed by a supervisor or designee for the first 14 days of the employee's employment.”

17 73. Defendants failed to provide the required monitoring throughout the Statutory
18 Period.

19 74. **“(h) Training.** (1) Employee training. Effective training in the following topics
20 shall be provided to each supervisory and non-supervisory employee before the employee begins
21 work that should reasonably be anticipated to result in exposure to the risk of heat illness: (A) The
22 environmental and personal risk factors for heat illness, as well as the added burden of heat load
23 on the body caused by exertion, clothing, and personal protective equipment. (B) The employer's
24 procedures for complying with the requirements of this standard, including, but not limited to, the
25 employer's responsibility to provide water, shade, cool-down rests, and access to first aid as well
26 as the employees' right to exercise their rights under this standard without retaliation. (C) The
27 importance of frequent consumption of small quantities of water, up to 4 cups per hour, when the
28 work environment is hot and employees are likely to be sweating more than usual in the

1 performance of their duties. (D) The concept, importance, and methods of acclimatization
2 pursuant to the employer's procedures under subsection (i)(4). (E) The different types of heat
3 illness, the common signs and symptoms of heat illness, and appropriate first aid and/or
4 emergency responses to the different types of heat illness, and in addition, that heat illness may
5 progress quickly from mild symptoms and signs to serious and life threatening illness. (F) The
6 importance to employees of immediately reporting to the employer, directly or through the
7 employee's supervisor, symptoms or signs of heat illness in themselves, or in co-workers. (G) The
8 employer's procedures for responding to signs or symptoms of possible heat illness, including how
9 emergency medical services will be provided should they become necessary. (H) The employer's
10 procedures for contacting emergency medical services, and if necessary, for transporting
11 employees to a point where they can be reached by an emergency medical service provider. (I)
12 The employer's procedures for ensuring that, in the event of an emergency, clear and precise
13 directions to the work site can and will be provided as needed to emergency responders. These
14 procedures shall include designating a person to be available to ensure that emergency procedures
15 are invoked when appropriate. (2) Supervisor training. Prior to supervising employees performing
16 work that should reasonably be anticipated to result in exposure to the risk of heat illness effective
17 training on the following topics shall be provided to the supervisor: (A) The information required
18 to be provided by section (h)(1) above. (B) The procedures the supervisor is to follow to
19 implement the applicable provisions in this section. (C) The procedures the supervisor is to follow
20 when an employee exhibits signs or reports symptoms consistent with possible heat illness,
21 including emergency response procedures. (D) How to monitor weather reports and how to
22 respond to hot weather advisories.”

23 75. Defendants failed to provide the foregoing training to Employees.

24 76. “(i) **Heat Illness Prevention Plan.** The employer shall establish, implement, and
25 maintain, an effective heat illness prevention plan. The plan shall be in writing in both English and
26 the language understood by the majority of the employees and shall be made available at the
27 worksite to employees and to representatives of the Division upon request. The Heat Illness
28 Prevention Plan may be included as part of the employer's Illness and Injury Prevention Program

1 required by section 3203, and shall, at a minimum, contain: (1) Procedures for the provision of
2 water and access to shade. (2) The high heat procedures referred to in subsection (e). (3)
3 Emergency Response Procedures in accordance with subsection (f). (4) Acclimatization methods
4 and procedures in accordance with subsection (g).”

5 77. Defendants failed to establish, implement, and maintain an effective heat illness
6 prevention plan in accordance with law.

7 78. Plaintiff is entitled to recover all civil penalties and other relief as provided under
8 the PAGA in an amount to be proven at trial.

9 **TENTH CAUSE OF ACTION**

10 **(By Plaintiff against All Defendants for Failure to Maintain and Repair Vehicles)**

11 79. Plaintiff incorporates by reference and realleges each and every allegation
12 contained above, as though fully set forth herein.

13 80. “Every employer and every employee shall comply with occupational safety and
14 health standards, with Section 25910 of the Health and Safety Code, and with all rules,
15 regulations, and orders pursuant to this division which are applicable to his own actions and
16 conduct.” Lab. Code 6407.

17 81. “Trucks and buses used primarily or regularly for the transportation of employees
18 shall meet the following requirements: (1) be constructed or accommodated for that purpose....”
19 Cal. Code Regs., tit. 8, §3702(a). “On every motor vehicle used for the transportation of
20 employees the lamps, brakes, horn, mirrors, windshields, turn signals, and other equipment
21 affecting the safety of passengers shall be kept in good repair.” Cal. Code Regs., tit. 8, §3702(b).
22 “Every motor vehicle used primarily for the transportation of employees shall be equipped with
23 handholds, adequate steps, stirrups, or other similar devices so placed and arranged that the
24 employees can safely mount or dismount the vehicle.” Cal. Code Regs., tit. 8, §3702(c).

25 82. Defendants violated the foregoing provisions with respect to their delivery trucks,
26 which were primarily and regularly utilized by Defendants to transport Employees. Defendants
27 failed to keep their delivery trucks in good repair, including by not limited to failure to repair air
28 conditioning which affected driver safety and failure to maintain and repair steps needed to access

1 the trucks. Broken components and other equipment existed on Defendants' delivery trucks,
2 creating illegal health and safety risks for Employees.

3 83. Plaintiff is entitled to recover all civil penalties and other relief as provided under
4 the PAGA in an amount to be proven at trial.

5 **ELEVENTH CAUSE OF ACTION**

6 **(By Plaintiff against All Defendants for Requiring Unsafe Work and Failure to Provide Safe**
7 **Workplace, Practices, and Processes)**

8 84. Plaintiff incorporates by reference and realleges each and every allegation
9 contained above, as though fully set forth herein.

10 85. Employees incorporate the preceding sections herein. By committing the acts
11 and omissions described in the preceding sections throughout the statutory Period, Defendants also
12 violated Labor Code, §§ 6400, 6401, 6302, 6403, 6404 by requiring and permitting unsafe work,
13 and failing to provide safe workplaces, practices, and processes to their Employees.

14 86. Plaintiff is entitled to recover all civil penalties and other relief as provided under
15 the PAGA in an amount to be proven at trial.

16 **TWELFTH CAUSE OF ACTION**

17 **(By Plaintiff against All Defendants for Failure to Include Name of Legal Entity Employer**
18 **on Wage Statements)**

19 87. Plaintiff incorporates by reference and realleges each and every allegation
20 contained above, as though fully set forth herein.

21 88. "An employer, semimonthly or at the time of each payment of wages, shall
22 furnish to his or her employee, either as a detachable part of the check, draft, or voucher paying
23 the employee's wages, or separately if wages are paid by personal check or cash, an accurate
24 itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the
25 employee, except as provided in subdivision (j), (3) the number of piece-rate units earned and any
26 applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that
27 all deductions made on written orders of the employee may be aggregated and shown as one item,
28 (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the

1 name of the employee and only the last four digits of his or her social security number or an
2 employee identification number other than a social security number, (8) the name and address of
3 the legal entity that is the employer and, if the employer is a farm labor contractor, as defined in
4 subdivision (b) of Section 1682, the name and address of the legal entity that secured the services
5 of the employer, and (9) all applicable hourly rates in effect during the pay period and the
6 corresponding number of hours worked at each hourly rate by the employee....” Cal. Lab. Code, §
7 226, subd. (a).

8 89. “An employer that is required by this code or any regulation adopted pursuant to
9 this code to keep the information required by subdivision (a) shall afford current and former
10 employees the right to inspect or copy records pertaining to their employment, upon reasonable
11 request to the employer.” Cal. Lab. Code, § 226, subd. (b). “An employer who receives a written
12 or oral request to inspect or copy records pursuant to subdivision (b) pertaining to a current or
13 former employee shall comply with the request as soon as practicable, but no later than 21
14 calendar days from the date of the request.” Cal. Lab. Code, § 226, subd. (c).

15 90. “An employee suffering injury as a result of a knowing and intentional failure by
16 an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages
17 or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars
18 (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate
19 penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable
20 attorney’s fees.” Cal. Lab. Code, § 226, subd. (e)(1).

21 91. “Any employer who violates subdivision (a) of Section 226 shall be subject to a
22 civil penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an
23 initial citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent
24 citation, for which the employer fails to provide the employee a wage deduction statement or fails
25 to keep the records required in subdivision (a) of Section 226. The civil penalties provided for in
26 this section are in addition to any other penalty provided by law.” Cal. Lab. Code, § 226.3. An
27 employer who violates subdivisions (b) or (c) of Section 226 is also subject to additional civil
28 penalties under Section 2699(f).

1 92. Throughout the Statutory Period, Defendants violated subdivisions (a), (b), and
2 (c) of Section 226 by: (1) knowingly and intentionally issuing wage statements that failed to
3 indicate the name of the legal entity that employed Employees (improperly indicating “Canteen”
4 rather than the true name, Canteen of Coastal California, Inc.); and (2) failing to maintain or
5 produce upon Employees’ request either a duplicate of the itemized statements provided to
6 Employees or a computer-generated record that accurately shows all of the required information.
7 As indicated by Canteen of Coastal California, Inc.’s Statement of Information and other filings
8 submitted to the California Secretary of State, the name of the “legal entity that is the employer” is
9 “Canteen of Coastal California, Inc.” The Employees were injured [Lab. Code §
10 226(e)(2)(B)(iii)], and Defendants owe the Employees civil penalties as permitted by law.

11 93. Plaintiff is entitled to recover all civil penalties and other relief as provided under
12 the PAGA in an amount to be proven at trial.

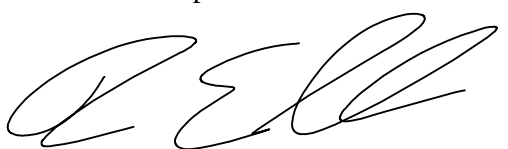
13 WHEREFORE, Plaintiff prays for judgment against Defendants, as follows:

- 14 1. For civil penalties under Labor Code section 2698, et seq. (PAGA) in an amount
15 according to proof and in an amount not less than \$1,000,000;
16 2. For reasonable costs and attorneys’ fees; and
17 3. For such other and further relief as the Court deems proper.

18 DATED: March 27, 2020

WORKWORLD LAW CORP.
A Professional Corporation

19
20
21 By: _____


RUBEN ESCOBEDO
Attorneys for Plaintiff, STATE OF
CALIFORNIA ex rel. JOSE L. RODRIGUEZ-
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