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10 SUPERIOR COURT OF THE STATE OF
11 CALIFORNIA FOR THE COUNTY OF MONTEREY
12

13 DINORA GONZALES and ANITA
RAMOS, as aggrieved employees pursuant
14 to the Private Attorneys General Act
("PAGA"), on behalf of the State of
15 California and other aggrieved employees,

16 Plaintiffs,

17 vs.

18 GROWERS EXPRESS (DE), LLC, a
Delaware limited liability company; and
19 DOES 1 through 10, inclusive,

20 Defendants.
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Superior Court of California,
County of Monterey
On 3/18/2020 12:01 PM
By: Jacqueline Gilbert, Deputy

Case No.: 20CV001103

**COMPLAINT – PAGA ENFORCEMENT
ACTION**

(1) Claim for Civil Penalties for Violations
of California Labor Code, Pursuant to
PAGA, §§ 2698, *et seq.*

Jury Trial Demanded

1 PlaintiffsDinora Gonzales and Anita Ramos, as aggrieved employees and on behalf of
2 the State of California and all other aggrieved employees, allege as follows:

3 **JURISDICTION AND VENUE**

4 1. This is an enforcement action under the Labor Code Private Attorneys General
5 Act of 2004, California Labor Code sections 2698 *et seq.* (“PAGA”) to recover civil penalties
6 and any other available relief on behalf of Plaintiffs, the State of California, and other current
7 and former employees who worked for Defendants in California as a non-exempt, hourly paid
8 employee and received at least one wage statement and against whom one or more violations
9 of any provision in Division 2 Part 2 Chapter 1 of the Labor Code or any provision regulating
10 hours and days of work in the applicable Industrial Welfare Commission (“IWC”) Wage
11 Order were committed, as set forth in this complaint, at any time between one year prior to the
12 filing of the pre-filing written notices to the Labor and Workforce Development Agency
13 (“LWDA”) in this case on January 10, 2020, until judgment (“non-party Aggrieved
14 Employees”). Plaintiffs’ share of civil penalties sought in this action does not exceed
15 \$75,000.

16 2. This Court has jurisdiction over this action pursuant to the California
17 Constitution, Article VI, section 10. The statute under which this action is brought does not
18 specify any other basis for jurisdiction.

19 3. This Court has jurisdiction over all Defendants because, on information and
20 belief, Defendants are either citizens of California, have sufficient minimum contacts in
21 California, or otherwise intentionally avail themselves of the California market so as to render
22 the exercise of jurisdiction over them by the California courts consistent with traditional
23 notions of fair play and substantial justice. There is no basis for federal diversity jurisdiction
24 in this action given that the State of California, as the real party in interest in this action, is not
25 a “citizen” for purposes of satisfying diversity jurisdiction. *Urbino v. Orkin Servs. of Cal.*,
26 726 F.3d 1118, 1123 (9th Cir. Cal. 2013). *Urbino* also holds that civil penalties cannot be
27 aggregated to satisfy the amount in controversy requirement for federal diversity jurisdiction
28 in this action, and that diversity jurisdiction cannot be established when Plaintiffs’ share of the

1 civil penalties attributable to violations personally suffered are less than \$75,000. *Id.* at 1122.

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

5 5. California Labor Code sections 2698, *et seq.*, the “Labor Code Private
6 Attorneys General Act of 2004” (“PAGA”), authorize aggrieved employees to sue as private
7 attorneys general their current or former employers for various civil penalties for violations of
8 various provisions in the California Labor Code.

9 THE PARTIES

10 6. Plaintiff DINORA GONZALES is a resident of Soledad, in Monterey County,
11 California. Defendants employed Plaintiff Gonzales as an hourly paid, non-exempt General
12 Laborer from approximately July 2015 to January 2019. Plaintiff Gonzales worked for
13 Defendants at their location in Gonzales, California. During her employment, Plaintiff
14 Gonzales typically worked eight (8) to twelve (12) hours or more per day, and five (5) to six
15 (6) days per week. Her job duties included, without limitation, sorting and trimming produce,
16 cutting produce by hand and by machine, weighing produce, and sealing produce into bags.

17 7. Plaintiff ANITA RAMOS is a resident of Salinas, in Monterey County,
18 California. Defendants employed Plaintiff Ramos as an hourly paid, non-exempt Packer from
19 approximately September 2015 to February 2019. Plaintiff Ramos worked for Defendants at
20 their locations in Salinas and Gonzales, California. During her employment, Plaintiff
21 Ramos typically worked approximately four (4) to ten (10) hours per day, and five (5) days per
22 week. At the time Plaintiff Ramos’s employment with Defendants ended, she earned
23 approximately \$13.00 per hour. Her job duties included, without limitation, sorting and
24 trimming produce, cutting produce by hand and by machine, weighing produce, and sealing
25 produce into bags.

26 8. On information and belief, Defendants required some employees, including
27 Plaintiffs, to execute a dispute resolution policy and/or arbitration agreement at the time of
28 their hire or during their employment. On further information and belief, Defendants’ dispute

1 resolution policy and/or arbitration agreement was and is both procedurally and substantively
2 unconscionable. Specifically, Defendants presented new hires with an “Acuerdo de Arbitraje”
3 (“Arbitration Agreement”) during the onboarding process, which had to be reviewed and
4 signed immediately. In fact, upon information and belief, the Arbitration Agreement was one
5 of several documents presented to new employees for signature during the orientation process,
6 including an Employee Handbook and Acknowledgement, Sick Pay Policy, and Meal and Rest
7 Break Policies, among other documents. Also, employees did not have a meaningful
8 opportunity to negotiate the terms of the Arbitration Agreement. Rather, it was provided to
9 Defendants’ employees for them to sign on a take-it or leave-it basis at the time they were
10 hired, along with all of the other on-boarding documents. Further, Defendants did not set
11 forth in the agreement or otherwise provide employees with the rules which will govern the
12 arbitration, instead forcing employees to seek this information out on their
13 own (“Estas reglas están disponibles en inglés y en Español en www.ADR.org o mediante hacer una
14 solicitud a la Compañía”, roughly translating to, “These [American Arbitration Association’s]
15 rules are available in English and Spanish at www.ADR.org or by making a request to the
16 Company.”)

17 9. GROWERS EXPRESS (DE), LLC was and is, upon information and belief, a
18 Delaware limited liability company, and at all times hereinafter mentioned, an employer whose
19 employees are engaged throughout this county, the State of California, or the various states of
20 the United States of America.

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

25 11. Plaintiffs are informed and believe, and thereon allege, that DOES 1 through 10
26 were the partners, agents, owners, or managers of GROWERS EXPRESS (DE), LLC at all
27 relevant times.

28 12. Plaintiffs are informed and believe, and thereon allege, that each and all of the

1 acts and omissions alleged herein was performed by, or is attributable to, GROWERS
2 EXPRESS (DE), LLC and/or DOES 1 through 10 (collectively, “Defendants” or “GROWERS
3 EXPRESS (DE), LLC”), each acting as the agent, employee, alter ego, and/or joint venturer
4 of, or working in concert with, each of the other co-Defendants and was acting within the
5 course and scope of such agency, employment, joint venture, or concerted activity with legal
6 authority to act on the others’ behalf. The acts of any and all Defendants were in accordance
7 with, and represent, the official policy of Defendants.

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

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

15 **PAGA REPRESENTATIVE ALLEGATIONS**

16 15. Defendants are the primary licensed partner of Green Giant Fresh and the
17 exclusive fresh produce arm of the Green Giant brand. Defendants have at least two (2)
18 facilities in California. Upon information and belief, Defendants maintain a single,
19 centralized Human Resources (“HR”) department at their corporate headquarters in Salinas,
20 California, which is responsible for recruiting and hiring of new employees, and
21 communicating and implementing Defendants’ company-wide policies, including timekeeping
22 policies and meal and rest period policies, to employees throughout California.

23 16. In particular, Plaintiffs and other non-party Aggrieved Employees, on
24 information and belief, received the same standardized documents and/or written policies.
25 Upon information and belief, the usage of standardized documents and/or written policies,
26 including new-hire documents, indicate that Defendants dictated policies at the corporate level
27 and implemented them company-wide, regardless of their employees’ assigned locations or
28 positions. Upon information and belief, Defendants set forth uniform policies and procedures

1 in several documents provided at an employee's time of hire.

2 17. Upon information and belief, Defendants maintain a centralized Payroll
3 department at their corporate headquarters in Salinas, California, which processes payroll for
4 all non-exempt, hourly paid employees working for Defendants at their various locations and
5 jobsites in California, including Plaintiffs and other non-party Aggrieved Employees. Based
6 upon information and belief, Defendants issue the same formatted wage statements to all non-
7 exempt, hourly paid employees in California, irrespective of their work locations. Upon
8 information and belief, Defendants process payroll for departing employees in the same
9 manner throughout the State of California, regardless of the manner in which each employee's
10 employment ends.

11 18. Defendants continue to employ non-exempt or
12 hourly paid employees in California.

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

17 20. Plaintiffs are informed and believe, and thereon allege, that Plaintiffs and other
18 non-party Aggrieved Employees were not paid for all hours worked because all hours worked
19 were not recorded.

20 21. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
21 should have known that Plaintiffs and other non-party Aggrieved Employees were entitled to
22 receive certain wages for overtime compensation and that they were not receiving certain
23 wages for overtime compensation.

24 22. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
25 should have known that Plaintiffs and other non-party Aggrieved Employees were entitled to
26 receive at least minimum wages for compensation and that they were not receiving at least
27 minimum wages for work that was required to be done off-the-clock. In violation of the
28 California Labor Code, Plaintiffs and other non-party Aggrieved Employees were not paid at

1 least minimum wages for work done off-the-clock.

2 23. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
3 should have known that Plaintiffs and other non-party Aggrieved Employees were entitled to
4 meal periods in accordance with the Labor Code or payment of one (1) additional hour of pay
5 at their regular rates of pay when they were not provided with timely, uninterrupted, thirty
6 (30) minute meal periods and that Plaintiffs and other non-party Aggrieved Employees were
7 not provided with all meal periods or payment of one (1) additional hour of pay at their
8 regular rates of pay when they did not receive a timely, uninterrupted, thirty (30) minute meal
9 period.

10 24. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
11 should have known that Plaintiffs and other non-party Aggrieved Employees were entitled to
12 rest periods in accordance with the Labor Code and applicable IWC Wage Order or payment
13 of one (1) additional hour of pay at their regular rates of pay when they were not authorized
14 and permitted to take a compliant rest period. In violation of the California Labor Code,
15 Plaintiffs and other non-party Aggrieved Employees were not authorized and permitted to take
16 compliant rest periods, nor did Defendants provide Plaintiffs and other non-party Aggrieved
17 Employees with payment of one (1) additional hour of pay at their regular rates of pay when
18 they were not authorized and permitted to take a compliant rest period.

19 25. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
20 should have known that Plaintiffs and other non-party Aggrieved Employees were entitled to
21 receive complete and accurate wage statements in accordance with California law. In
22 violation of the California Labor Code, Plaintiffs and other non-party Aggrieved Employees
23 were not provided complete and accurate wage statements.

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

28 27. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or

1 should have known that Plaintiffs and other non-party Aggrieved Employees were entitled to
2 timely payment of all wages earned upon termination of employment. In violation of the
3 California Labor Code, Plaintiffs and other non-party Aggrieved Employees did not receive
4 payment of all wages due, including, but not limited to, overtime wages, minimum wages, and
5 meal and rest period premiums, within permissible time periods.

6 28. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
7 should have known that Plaintiffs and other non-party Aggrieved Employees were entitled to
8 timely payment of wages during their employment. In violation of the California Labor Code,
9 Plaintiffs and other non-party Aggrieved Employees did not receive payment of all wages,
10 including, but not limited to, overtime wages, minimum wages, and meal and rest period
11 premiums, within permissible time periods.

12 29. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
13 should have known that other non-party Aggrieved Employees were entitled to one day's rest in
14 seven. In violation of the California Labor Code, Defendants required other non-party
15 Aggrieved Employees to work more than six consecutive days without a day of rest, where the
16 total hours worked exceeded 30 hours in any week or six hours in any one day thereof.

17 30. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
18 should have known that Plaintiffs and other non-party Aggrieved Employees were entitled to
19 receive reimbursement for all business-related expenses and costs they incurred during the
20 course and scope of their employment and that they did not receive reimbursement of applicable
21 business-related expenses and costs incurred.

22 31. Plaintiffs are informed and believe, and thereon allege, that at all times herein
23 mentioned, Defendants knew or should have known that they had a duty to provide Plaintiffs
24 and other non-party Aggrieved Employees with personal protective equipment to protect their
25 life, safety, and health in the workplace, but willfully, knowingly, and intentionally failed to do
26 so.

27 32. Plaintiffs are informed and believe, and thereon allege, that at all times herein
28 mentioned, Defendants knew or should have known that they had a duty to compensate

1 Plaintiffs and other non-party Aggrieved Employees for all hours worked, and that Defendants
2 had the financial ability to pay such compensation, but willfully, knowingly, and intentionally
3 failed to do so, and falsely represented to Plaintiffs and other non-party Aggrieved Employees
4 that they were properly denied wages, all in order to increase Defendants' profits.

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

11 34. PAGA defines an "aggrieved employee" in Labor Code section 2699(c) as "any
12 person who was employed by the alleged violator and against whom one or more of the
13 alleged violations was committed."

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

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

- 20 (a) The aggrieved employee shall give written notice by online filing
21 (hereinafter "Employee's Notice") to the LWDA and by certified mail
22 to the employer of the specific provisions of the California Labor Code
23 alleged to have been violated, including the facts and theories to support
24 the alleged violations.
- 25 (b) An aggrieved employee's notice filed with the LWDA pursuant to
26 2699.3(a) and any employer response to that notice shall be
27 accompanied by a filing fee of seventy-five dollars (\$75).
- 28 (c) The LWDA shall provide notice (hereinafter "LWDA Notice") to the

1 employer and the aggrieved employee by certified mail that it does not
2 intend to investigate the alleged violation within sixty (60) calendar
3 days of the postmark date of the Employee's Notice. Upon receipt of
4 the LWDA Notice, or if the LWDA Notice is not provided within sixty-
5 five (65) calendar days of the postmark date of the Employee's Notice,
6 the aggrieved employee may commence a civil action pursuant to
7 California Labor Code section 2699 to recover civil penalties in addition
8 to any other penalties to which the employee may be entitled.

9 37. Pursuant to California Labor Code sections 2699.3(c), aggrieved employees,
10 through Plaintiffs, may pursue a civil action arising under PAGA for violations of any
11 provision other than those listed in Section 2699.5 after the following requirements have been
12 met:

- 13 (a) The aggrieved employee or representative shall give written notice by
14 online filing to the LWDA and by certified mail to the employer of the
15 specific provisions of the California Labor Code alleged to have been
16 violated (other than those listed in Section 2699.5), including the facts
17 and theories to support the alleged violation.
- 18 (b) An aggrieved employee's notice filed with the LWDA pursuant to
19 2699.3(c) and any employer response to that notice shall be
20 accompanied by a filing fee of seventy-five dollars (\$75).
- 21 (c) The employer may cure the alleged violation within thirty-three (33)
22 calendar days of the postmark date of the notice. The employer shall
23 give written notice by certified mail within that period of time to the
24 aggrieved employee or representative and the agency if the alleged
25 violation is cured, including a description of actions taken, and no civil
26 action pursuant to Section 2699 may commence. If the alleged violation
27 is not cured within the 33-day period, the employee may commence a
28 civil action pursuant to Section 2699.

1 38. On January 10, 2020, Plaintiff Gonzales provided written notice by online filing
2 to the LWDA and by certified mail to Defendants of the specific provisions of the California
3 Labor Code alleged to have been violated, including facts and theories to support the alleged
4 violations, in accordance with California Labor Code section 2699.3.
5 Plaintiff Gonzales's written notice was accompanied with the applicable filing fee of seventy-
6 five dollars (\$75). The LWDA PAGA Administrator has confirmed receipt of
7 Plaintiff Gonzales's written notice and assigned Plaintiff Gonzales PAGA Case Number
8 LWDA-CM-766040-20. A true and correct copy of Plaintiff Gonzales's written notice to the
9 LWDA and Defendants dated January 10, 2020, is attached hereto as "Exhibit 1."

10 39. On January 10, 2020, Plaintiff Ramos provided written notice by online filing to
11 the LWDA and by certified mail to Defendants of the specific provisions of the California
12 Labor Code alleged to have been violated, including facts and theories to support the alleged
13 violations, in accordance with California Labor Code section 2699.3. Plaintiff Ramos's
14 written notice was accompanied with the applicable filing fee of seventy-five dollars (\$75).
15 The LWDA PAGA Administrator has confirmed receipt of Plaintiff Ramos's written notice
16 and assigned Plaintiff Ramos PAGA Case Number LWDA-CM-766038-20. A true and correct
17 copy of Plaintiff Ramos's written notice to the LWDA and Defendants dated January 10,
18 2020, is attached hereto as "Exhibit 2."

19 40. As of the filing date of this complaint, over 65 days have passed since Plaintiffs
20 sent the initial LWDA Notices described above, and the LWDA has not responded that it
21 intends to investigate Plaintiffs' claims, and Defendants have not cured the violations.

22 41. Thus, Plaintiffs have satisfied the administrative prerequisites under California
23 Labor Code sections 2699.3(a) and 2699.3(c) to recover civil penalties against Defendants for
24 violations of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a),
25 516, 551, 552, 1174(d), 1182.12, 1194, 1197, 1198, 2802, 6401, and 6403.

26 42. Labor Code section 558(a) provides "[a]ny employer or other person acting on
27 behalf of an employer who violates, or causes to be violated, a section of this chapter or any
28 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 “[t]he civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law.” Plaintiffs, acting in the public interest as private attorneys general, seek assessment and collection of civil penalties under Labor Code section 558 for themselves, all other non-party Aggrieved Employees, and the State of California against Defendants for violations of Labor Code sections 510, 512(a), 516, 1198, and the applicable IWC wage order. Plaintiffs, acting in the public interest as private attorneys general, do not seek the recovery of unpaid wages under Labor Code section 558 from Defendants for violations of Labor Code sections 510, 512(a), 516, 1198, and the applicable IWC wage order.

43. Defendants, at all times relevant to this complaint, were employers or persons acting on behalf of an employer(s) who violated Plaintiffs’ and other non-party Aggrieved Employees’ rights by violating various sections of the California Labor Code as set forth above.

44. 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.

45. Pursuant to PAGA, and in particular, California Labor Code sections 2699(a), 2699.3(a), 2699.3(c), 2699.5, and section 558, Plaintiffs, acting in the public interest as private attorneys general, seek assessment and collection of civil penalties for themselves, all other non-party Aggrieved Employees, and the State of California against Defendants for violations of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 516, 551, 552, 1174(d), 1182.12, 1194, 1197, 1198, 2802, 6401, and 6403.

FIRST CAUSE OF ACTION

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

(Against all Defendants)

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

47. California Labor Code §§ 2698, *et seq.* (“PAGA”) permits Plaintiffs to recover civil penalties for the violation(s) of the Labor Code sections enumerated in Labor Code section 2699.5. Section 2699.5 enumerates Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 551, 552, 1174(d), 1194, 1197, 1198, and 2802. Labor Code section 2699.3(c) permits aggrieved employees, including Plaintiffs, to recover civil penalties for violations of those Labor Code sections not found in section 2699.5, including sections 516, 1182.12, 6401, and 6403.

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

- (a) Violation of Labor Code sections 510, 1198, and the applicable IWC wage order for Defendants’ failure to compensate Plaintiffs and other non-party Aggrieved Employees with all required overtime pay, as set forth below;
- (b) Violation of Labor Code sections 1182.12, 1194, 1197, 1198, and the applicable IWC wage order for Defendants’ failure to compensate Plaintiffs and other non-party Aggrieved Employees with at least minimum wages for all hours worked as set forth below;
- (c) Violation of Labor Code sections 226.7, 512, 516, 1198, and the applicable IWC wage order for Defendants’ failure to provide Plaintiffs and other non-party Aggrieved Employees with meal periods, as set forth below;
- (d) Violation of Labor Code sections 226.7, 516, 1198, and the applicable IWC wage order for Defendants’ failure to authorize and permit Plaintiffs and other non-party Aggrieved Employees to take rest periods, as set forth below;

- 1 (e) Violation of Labor Code sections 226(a), 1198, and the applicable IWC
2 wage order for failure to provide accurate and complete wage statements
3 to Plaintiffs and other non-party Aggrieved Employees, as set forth
4 below;
- 5 (f) Violation of Labor Code sections 1174(d), 1198, and the applicable IWC
6 wage order for failure to maintain payroll records as set forth below;
- 7 (g) Violation of Labor Code section 204 for failure to pay all earned wages
8 during employment as set forth below;
- 9 (h) Violation of Labor Code sections 201, 202, and 203 for failure to pay all
10 earned wages upon termination as set forth below;
- 11 (i) Violation of Labor Code sections 551 and 552 for failure to provide one
12 day's rest in seven to other non-party Aggrieved Employees, as set forth
13 below;
- 14 (j) Violation of Labor Code section 2802 for failure to reimburse Plaintiffs
15 and other non-party Aggrieved Employees for all business expenses
16 necessarily incurred, as set forth below; and
- 17 (k) Violation of Labor Code sections 6401 and 6403 for failure to provide
18 personal protective equipment, as set forth below.

19 **FAILURE TO PAY OVERTIME**

20 **VIOLATION OF LABOR CODE SECTIONS 510 AND 1198**

21 49. Labor Code section 1198 makes it illegal to employ an employee under
22 conditions of labor that are prohibited by the applicable wage order. California Labor Code
23 section 1198 requires that “. . . the standard conditions of labor fixed by the commission shall
24 be the . . . standard conditions of labor for employees. The employment of any employee . . .
25 under conditions of labor prohibited by the order is unlawful.”

26 50. California Labor Code section 1198 and the applicable IWC Wage Order
27 provide that it is unlawful to employ persons without compensating them at a rate of pay
28 either time-and-one-half or two-times that person's regular rate of pay, depending on the

1 number of hours worked by the person on a daily or weekly basis.

2 51. Specifically, the applicable IWC Wage Order provides that Defendants are and
3 were required to pay Plaintiffs and other non-party Aggrieved Employees working more than
4 eight (8) hours in a day or more than forty (40) hours in a workweek, at the rate of time and
5 one-half (1½) for all hours worked in excess of eight (8) hours in a day or more than forty (40)
6 hours in a workweek.

7 52. The applicable IWC Wage Order further provides that Defendants are and were
8 required to pay Plaintiffs and other non-party Aggrieved Employees working more than
9 twelve (12) hours in a day, overtime compensation at a rate of two (2) times their regular rate
10 of pay. An employee's regular rate of pay includes all remuneration for employment paid to,
11 or on behalf of, the employee, including nondiscretionary bonuses and incentive pay.

12 53. California Labor Code section 510 codifies the right to overtime compensation
13 at one and one-half (1½) times the regular rate of pay for hours worked in excess of eight (8)
14 hours in a day or forty (40) hours in a week or for the first eight (8) hours worked on the
15 seventh (7th) day of work, and to overtime compensation at twice the employee's regular rate
16 of pay for hours worked in excess of twelve (12) hours in a day or in excess of eight (8) hours
17 in a day on the seventh (7th) day of work.

18 54. During the relevant time period, Defendants willfully failed to pay all overtime
19 wages owed to Plaintiffs and other non-party Aggrieved Employees. During the relevant time
20 period, Plaintiffs and other non-party Aggrieved Employees were not paid overtime premiums
21 for all of the hours they worked in excess of eight (8) hours in a day, in excess of twelve (12)
22 hours in a day, and/or in excess of forty (40) hours in a week, because all hours worked were
23 not recorded.

24 55. Defendants had, and continue to have, a company-wide policy and/or practice
25 of discouraging and impeding Plaintiffs and other non-party Aggrieved Employees from
26 taking compliant meal periods by assigning them a heavy workload, understaffing their
27 facilities, and failing to schedule meal periods. As a result, Plaintiffs and other non-party
28 Aggrieved Employees were not always afforded uninterrupted 30-minute meal periods during

1 shifts when they were entitled to receive a meal period. Plaintiffs and other non-party
2 Aggrieved Employees worked through meal periods or had their meal periods cut short or
3 interrupted because there were not enough employees on duty to handle the workload.
4 Defendants did not pay Plaintiffs and other non-party Aggrieved Employees for the time they
5 continued to perform tasks during meal periods.

6 56. Defendants knew or should have known that as a result of these company-wide
7 practices and/or policies, Plaintiffs and other non-party Aggrieved Employees were performing
8 their assigned duties during meal periods, and were suffered or permitted to perform work for
9 which they were not paid. Defendants also knew, or should have known, that it did not
10 compensate Plaintiffs and other non-party Aggrieved Employees for this off-the-clock work.

11 57. Because Plaintiffs and other non-party Aggrieved Employees regularly worked
12 shifts of eight (8) hours a day or more or forty (40) hours a week or more, some of this off-
13 the-clock work qualified for overtime premium pay. Therefore, Plaintiffs and other non-party
14 Aggrieved Employees were not paid overtime wages for all of the overtime hours they
15 actually worked.

16 58. Defendants' failure to pay Plaintiffs and other non-party Aggrieved Employees
17 the balance of overtime compensation as required by California law, violates the provisions of
18 California Labor Code sections 510 and 1198. Plaintiffs and other non-party Aggrieved
19 Employees are entitled to recover civil penalties pursuant to Labor Code sections 558 and/or
20 2699(a), (f), and (g).

21 **FAILURE TO PAY MINIMUM WAGES**

22 **VIOLATION OF LABOR CODE SECTIONS 1182.12, 1194, 1197, AND 1198**

23 59. At all relevant times, California Labor Code sections 1182.12, 1194, 1197, and
24 1198 provide that the minimum wage for employees fixed by the IWC is the minimum wage
25 to be paid to employees, and the payment of a wage less than the minimum so fixed is
26 unlawful. Compensable work time is defined by the applicable wage order as "the time during
27 which an employee is subject to the control of an employer, and includes all the time the
28 employee is suffered or permitted to work, whether or not required to do so." Cal. Code.

1 Regs. tit. 8, § 11080(2)(G) (defining “Hours Worked”).

2 60. As set forth above, due to Defendants’ company-wide policy and/or practice of
3 assigning heavy workloads while understaffing their facilities, and failing to schedule meal
4 periods, Plaintiffs and other non-party Aggrieved Employees from taking full, uninterrupted
5 meal periods to which they were entitled and resulted in them working off-the-clock.

6 61. Thus, Defendants did not pay minimum wages for all hours worked by
7 Plaintiffs and other non-party Aggrieved Employees. To the extent that these off-the-clock
8 hours did not qualify for overtime premium payment, Defendants did not pay at least
9 minimum wages for those hours worked off-the-clock in violation of California Labor Code
10 sections 1182.12, 1194, 1197, and 1198.

11 62. Defendants’ failure to pay Plaintiffs and other non-party Aggrieved Employees
12 minimum wages violates California Labor Code sections 1182.12, 1194, 1197, and 1198.
13 Plaintiffs and other non-party Aggrieved Employees are therefore entitled to recover civil
14 penalties pursuant to Labor Code sections 2699(a), (f), and (g).

15 **FAILURE TO PROVIDE AND RECORD MEAL PERIODS**
16 **VIOLATION OF LABOR CODE SECTIONS 226.7, 512(a), 516, AND 1198**

17 63. At all relevant times herein set forth, the applicable IWC Wage Order(s) and
18 California Labor Code sections 226.7, 512(a), 516, and 1198 were applicable to Plaintiffs’ and
19 non-party Aggrieved Employees’ employment by Defendants.

20 64. At all relevant times herein set forth, California Labor Code section 512(a)
21 provides that an employer may not require, cause, or permit an employee to work for a period
22 of more than five (5) hours per day without providing the employee with a meal period of not
23 less than thirty (30) minutes, except that if the total work period per day of the employee is
24 not more than six (6) hours, the meal period may be waived by mutual consent of both the
25 employer and the employee. Under California law, first meal periods must start after no more
26 than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (Cal.
27 2012).

28 65. At all relevant times herein set forth, California Labor Code section 226.7,

1 512(a), 516, and 1198 provide that no employer shall require an employee to work during any
2 meal period mandated by an applicable order of the IWC.

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

10 67. As described above, Defendants had, and continue to have, a company-wide
11 policy and/or practice of understaffing their facilities while assigning a heavy workload,
12 which resulted in a lack of meal period coverage. This lack of meal period coverage, coupled
13 with Defendants' failure to schedule meal periods, prevented Plaintiffs and other non-party
14 Aggrieved Employees from taking all timely, uninterrupted meal periods to which they were
15 entitled. As a result, Plaintiffs and other non-party Aggrieved Employees were forced to
16 forego meal periods and/or have their meal periods interrupted by work or delayed by work,
17 and were not relieved of all duties for unpaid meal periods, in order to attend to their assigned
18 tasks. For example, Plaintiff Gonzales received late meal periods and had meal periods
19 interrupted due to the heavy workload and lack of meal period coverage, while Plaintiff
20 Ramos had meal periods interrupted for the same reasons. Plaintiffs' meal periods were also
21 cut short by 15 minutes on at least (1) occasion due to a company meeting.

22 68. Furthermore, Defendants did not provide Plaintiffs and other non-party
23 Aggrieved Employees with second 30-minute meal periods on days that they worked in excess
24 of ten (10) hours in one day. Plaintiffs and other non-party Aggrieved Employees did not
25 receive second 30-minute meal periods on days that they worked in excess of ten (10) hours in
26 one day. Plaintiffs and other non-party Aggrieved Employees did not sign valid meal period
27 waivers on days that they were entitled to meal periods and were not relieved of all duties.

28 69. Defendants knew or should have known that as a result of their policies, that

1 Plaintiffs and other non-party Aggrieved Employees were not actually relieved of all duties to
2 take timely, uninterrupted meal periods. Defendants further knew or should have known that
3 they did not pay Plaintiffs and other non-party Aggrieved Employees meal period premium
4 wages when they were missed, late, short, and/or interrupted.

5 70. Defendants also have engaged in a company-wide practice and/or policy of not
6 paying meal period premiums owed when compliant meal periods are not provided. Because
7 of this practice and/or policy, Plaintiffs and other non-party Aggrieved Employees have not
8 received premium pay for missed, late, short, and/or interrupted meal periods.

9 71. Thus, Defendants failed to provide Plaintiffs and other non-party Aggrieved
10 Employees compliant meal periods and failed to pay the full meal period premiums
11 due. Defendants' conduct violates the applicable IWC Wage Order, and California Labor Code
12 sections 226.7, 512(a), 516, and 1198. Plaintiffs and other non-party Aggrieved Employees
13 are entitled to recover civil penalties pursuant to Labor Code sections 558 and/or 2699(a), (f),
14 and (g).

15 **FAILURE TO AUTHORIZE AND PERMIT REST PERIODS**

16 **VIOLATION OF LABOR CODE SECTIONS 226.7, 516, AND 1198**

17 72. At all relevant times herein set forth, the applicable IWC Wage Order and
18 California Labor Code sections 226.7, 516, and 1198 were applicable to Plaintiffs' and other
19 non-party Aggrieved Employees' employment by Defendants.

20 73. At all relevant times, the applicable IWC Wage Order provides that "[e]very
21 employer shall authorize and permit all employees to take rest periods, which insofar as
22 practicable shall be in the middle of each work period" and that the "rest period time shall be
23 based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4)
24 hours or major fraction thereof" unless the total daily work time is less than three and one-half
25 (3½) hours.

26 74. At all relevant times, California Labor Code section 226.7 provides that no
27 employer shall require an employee to work during any rest period mandated by an applicable
28 order of the California IWC. To comply with its obligation to authorize and permit rest

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

6 75. Pursuant to the applicable IWC Wage Order and California Labor Code section
7 226.7(b), Plaintiffs and other non-party Aggrieved Employees are entitled to recover from
8 Defendants one (1) additional hour of pay at their regular rates of pay for each work day that a
9 required rest period was not authorized and permitted.

10 76. As with meal periods, Defendants’ company-wide practices, including chronic
11 understaffing, prevented Plaintiffs and other non-party Aggrieved Employees from being
12 relieved of all duty to take compliant rest periods. Defendants also failed to schedule rest
13 periods, which, coupled with Defendants’ failure to provide adequate rest period coverage,
14 further led to Plaintiffs and other non-party Aggrieved Employees not being authorized and
15 permitted to take rest periods.

16 77. In addition, during the relevant time period, on information and belief,
17 Defendants maintained and implemented a company-wide on-premises rest period policy,
18 which mandated that Plaintiffs and other non-party Aggrieved Employees remain on premises
19 during their rest periods. For example, Plaintiff Ramos was only permitted to take her rest
20 periods in the designated break room(s). Defendants’ company-wide on-premises rest period
21 policy prevented Plaintiffs and other non-party Aggrieved Employees from being relieved of
22 all duties for rest periods and caused them to perform work during rest periods.

23 78. As a result, Plaintiffs and other non-party Aggrieved Employees worked shifts
24 in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without receiving all
25 uninterrupted 10-minute rest periods to which they were entitled. For example, throughout
26 her employment, Plaintiff Gonzales missed at least three (3) rest periods per month.

27 79. Defendants also have engaged in a company-wide practice and/or policy of not
28 paying all rest period premiums owed when compliant rest periods are not authorized or

1 permitted. Because of this practice and/or policy, Plaintiffs and other non-party Aggrieved
2 Employees have not received premium pay for all missed rest periods.

3 80. Defendants' conduct violates the applicable IWC Wage Order and California
4 Labor Code sections 226.7, 516, and 1198. Plaintiffs and other non-party Aggrieved Employees
5 are therefore entitled to recover civil penalties pursuant to Labor Code sections 558 and/or
6 2699(a), (f), and (g).

7 **FAILURE TO PROVIDE AND MAINTAIN COMPLIANT WAGE STATEMENTS**
8 **VIOLATION OF LABOR CODE SECTIONS 226(a), 1174(d), AND 1198**

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

14 82. During the relevant time period, Defendants have knowingly and intentionally
15 provided Plaintiffs and other non-party Aggrieved Employees with uniform, incomplete, and
16 inaccurate wage statements. For example, Defendants issued uniform wage statements to
17 Plaintiffs and other non-party Aggrieved Employees that fail to correctly list: gross wages
18 earned; total hours worked; net wages earned; the name and address of the legal entity that is the
19 employer; and all applicable hourly rates in effect during the pay period, including overtime
20 rates of pay, and the corresponding number of hours worked at each hourly rate. Specifically,
21 Defendants violated sections 226(a)(1), 226(a)(2), 226(a)(5), 226(a)(8), and 226(a)(9).

22 83. Because Defendants did not record the time Plaintiffs and other non-party
23 Aggrieved Employees spent working off-the-clock, Defendants did not list the correct amount
24 of gross wages and net wages earned by Plaintiffs and other non-party Aggrieved Employees in
25 compliance with section 226(a)(1) and 226(a)(5). For the same reason, Defendants failed to
26 accurately list the total number of hours worked by Plaintiffs and other non-party Aggrieved
27 Employees in violation of section 226(a)(2), and failed to list the applicable hourly rates of pay
28 in effect during the pay period and corresponding accurate number of work hours worked at

1 each hourly rate in violation of section 226(a)(9).

2 84. Additionally, separate from these violations, Defendants issued uniform wage
3 statements to Plaintiffs and other non-party Aggrieved Employees that fail to list the correct
4 name of the legal entity of the actual employer in violation of Labor Code section 226(a)(8).
5 The purpose of section 226(a)(8) is to provide California employees with transparency as to
6 the true identity of their employer, to allow the employee to contact their employer during
7 employment in the future for various reasons, including filing an administrative claim, judicial
8 claim, or other action to seek relief against their employer, obtain unemployment benefits, etc.
9 Plaintiffs' wage statements list the entity "GROWERS EXPRESS LLC," but, according to the
10 California Secretary of State's website, there is no active entity by that name. However, a
11 similarly named entity, "GROWERS EXPRESS (DE), LLC," is listed on the California
12 Secretary of State's website with the same address of 150 Main St., Ste 210, Salinas, CA
13 93901.

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

22 86. California Labor Code section 1198 provides that the maximum hours of work
23 and the standard conditions of labor shall be those fixed by the Labor Commissioner and as
24 set forth in the applicable IWC Wage Orders. Section 1198 further provides that "[t]he
25 employment of any employees for longer hours than those fixed by the order or under
26 conditions of labor prohibited by the order is unlawful." Pursuant to the applicable IWC
27 Wage Order, employers are required to keep accurate time records showing when the
28 employee begins and ends each work period and meal period. During the relevant time

1 period, Defendants failed, on a company-wide basis, to keep accurate records of work period
2 and meal period start and stop times for Plaintiffs and other non-party Aggrieved Employees,
3 in violation of section 1198. Furthermore, in light of Defendants' failure to provide
4 Plaintiffs and other non-party Aggrieved Employees with second 30-minute meal periods to
5 which they were entitled, Defendants kept no records of meal start and end times for second
6 meal periods.

7 87. California Labor Code section 1174(d) provides that "[e]very person employing
8 labor in this state shall ... [k]eep a record showing the names and addresses of all employees
9 employed and the ages of all minors" and "[k]eep, at a central location in the state or at the
10 plants or establishments at which employees are employed, payroll records showing the hours
11 worked daily by and the wages paid to, and the number of piece-rate units earned by and any
12 applicable piece rate paid to, employees employed at the respective plants or
13 establishments..." At all relevant times, and in violation of Labor Code section 1174(d),
14 Defendants willfully failed to maintain accurate payroll records for Plaintiffs and other non-
15 party Aggrieved Employees showing the daily hours they worked and the wages paid thereto
16 as a result of failing to record the off-the-clock hours that they worked.

17 88. Because Defendants' violations of 226(a) and 1174(d) were committed against
18 Plaintiffs and other non-party Aggrieved Employees, Plaintiffs and other non-party Aggrieved
19 Employees are entitled to recover civil penalties pursuant to Labor Code sections 226.3, 1174.5,
20 and/or 2699(a), (f), and (g).

21 **FAILURE TO PAY WAGES DURING EMPLOYMENT**

22 **VIOLATION OF LABOR CODE SECTION 204**

23 89. At all relevant times herein set forth, California Labor Code section 204
24 requires that all wages earned by any person in any employment between the 1st and the 15th
25 days, inclusive, of any calendar month, other than those wages due upon termination of an
26 employee, are due and payable between the 16th and the 26th day of the month during which
27 the labor was performed. Labor Code section 204 further provides that all wages earned by
28 any person in any employment between the 16th and the last day, inclusive, of any calendar

1 month, other than those wages due upon termination of an employee, are due and payable
2 between the 1st and the 10th day of the following month.

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

9 91. During the relevant time period, Defendants willfully failed to pay Plaintiffs and
10 other non-party Aggrieved Employees all wages due to them within any time period specified
11 by California Labor Code section 204 including, but not limited to, overtime wages, minimum
12 wages, and meal and rest period premium wages.

13 92. Plaintiffs and other non-party Aggrieved Employees are therefore entitled to
14 recover civil penalties pursuant to Labor Code sections 210 and/or 2699(a), (f), and (g).

15 **FAILURE TO PAY WAGES UPON TERMINATION**

16 **VIOLATION OF LABOR CODE SECTIONS 201 AND 202**

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

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

1 95. Defendants' failure to pay Plaintiffs and those non-party Aggrieved Employees
2 who are no longer employed by Defendants their wages earned and unpaid at the time of
3 discharge, or within seventy-two (72) hours of their leaving Defendant's employ, violates Labor
4 Code sections 201 and 202. Plaintiffs and other non-party Aggrieved Employees are therefore
5 entitled to recover civil penalties pursuant to Labor Code sections 256 and/or 2699(a), (f), and
6 (g).

7 **FAILURE TO PROVIDE ONE DAY'S REST IN SEVEN**

8 **VIOLATION OF LABOR CODE SECTIONS 551 AND 552**

9 96. At all relevant times herein, California Labor Code section 551 provides that
10 every person employed in any occupation of labor is entitled to one day's rest in seven.
11 Additionally, California Labor Code section 552 prohibits employers from requiring
12 employees to work more than six consecutive days without a day of rest.

13 97. At all times relevant herein set forth, California Labor Code section 556
14 exempts an employer from the day-of-rest requirement when the total hours worked by an
15 employee do not exceed 30 hours in any week or six hours in any one day thereof.

16 98. During the relevant time period, Defendants required other non-party
17 Aggrieved Employees to work eight (8) or more hours per day and seven (7) consecutive days
18 in a workweek. Because other non-party Aggrieved Employees worked over 30 hours per
19 week and over six (6) hours per day in a workweek, they were not exempt from the day-of-rest
20 requirement. To the extent that other non-party Aggrieved Employees signed purported
21 waivers of their right to a day's rest in seven, such waivers are invalid.

22 99. Other non-party Aggrieved Employees are therefore entitled to recover civil
23 penalties pursuant to Labor Code sections 558 and/or 2699(a), (f), and (g).

24 **FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENSES**

25 **VIOLATION OF LABOR CODE SECTION 2802**

26 100. At all times herein set forth, California Labor Code section 2802 provides that
27 an employer must reimburse employees for all necessary expenditures and losses incurred by
28 the employee in the performance of his or her job. The purpose of Labor Code section 2802 is

1 to prevent employers from passing off their cost of doing business and operating expenses on
2 to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144
3 (2014). The applicable wage order, IWC Wage Order 8-2001, provides that: "[w]hen the
4 employer requires the use of tools or equipment or they are necessary to the performance of a
5 job, such tools and equipment shall be provided and maintained by the employer, except that
6 an employee whose wages are at least two (2) times the minimum wage may provide and
7 maintain hand tools and equipment customarily required by the particular trade or craft."

8 101. During the relevant time period, Defendants, on a company-wide basis, failed
9 to provide Plaintiffs and other non-party Aggrieved Employees with adequate uniforms for the
10 tasks they were required to perform, instead forcing Plaintiffs and other non-party Aggrieved
11 Employees to pay out-of-pocket for some of their uniform components. For example,
12 Plaintiffs were required to enter the refrigeration areas of Defendants' facilities, sometimes for
13 extended periods of time. Due to the low temperatures in these areas, it was necessary for
14 employees working in these areas to wear long-sleeved shirts, sweaters, jackets, and/or
15 insulated pants. However, Defendants did not provide these uniform components to
16 employees working in refrigerated areas. Instead, Plaintiffs and other non-party Aggrieved
17 Employees were required to purchase long-sleeved shirts, sweaters, jackets, and/or insulated
18 pants and were not reimbursed for these costs. As a result, Plaintiff Gonzales spent
19 approximately \$270 per year and Plaintiff Ramos spent approximately \$320-\$480 per year on
20 necessary uniform components. Furthermore, Defendants failed to provide laundry/cleaning
21 services for such items or reimburse employees for laundry/cleaning expenses incurred. Due
22 to the nature of their work, Plaintiffs' and other non-party Aggrieved Employees' uniform
23 components would become stained and/or acquire an unpleasant odor, which made them
24 disinclined to mix their work clothing in with their other clothing in the wash. As a result,
25 Plaintiffs and other non-party Aggrieved Employees had to wash their work clothing
26 separately from their other clothes, thus increasing their overall laundry costs even more.

27 102. Defendants could have provided Plaintiffs and other non-party Aggrieved
28 Employees with the actual tools for use on the job, such as long-sleeved shirts, sweaters,

1 jackets, and/or insulated pants, or could have reimbursed employees for such items and their
2 laundry expenses. Instead, Defendants passed these operating costs off onto Plaintiffs and
3 other non-party Aggrieved Employees. At all relevant times, Plaintiffs did not earn at least
4 two (2) times the minimum wage. Thus, Defendants had, and continue to have, a company-
5 wide policy and/or practice of not reimbursing employees for expenses necessarily incurred in
6 violation of California Labor Code section 2802.

7 103. Plaintiffs and other non-party Aggrieved Employees are therefore entitled to
8 recover civil penalties pursuant to Labor Code sections 2699(a), (f), and (g).

9 **FAILURE TO PROVIDE PERSONAL PROTECTIVE EQUIPMENT**

10 **VIOLATION OF LABOR CODE SECTIONS 6401 AND 6403**

11 104. At all times herein set forth, California Labor Code section 6401 provides that
12 employers must furnish and use safety devices and safeguards, and adopt and use practices,
13 means, methods, operations, and processes which are reasonably adequate to render the
14 employment and place of employment safe and healthy. California Labor Code Section 6401
15 further provides that an employer must do everything reasonably necessary to protect the life,
16 safety and health of its employees. California Labor Code section 6403(a) requires that
17 employers provide and use safety devices and safeguards reasonably adequate to render the
18 employment and place of employment safe.

19 105. Defendants, on a company-wide basis, failed to provide Plaintiffs and other
20 non-party Aggrieved Employees with personal protective equipment, such as long-sleeved
21 shirts, sweaters, jackets, and/or insulated pants, to keep them safe in the workplace, including
22 refrigeration areas. Despite the fact that Defendants required employees to wear certain
23 personal protective equipment, Defendants failed to provide such reasonably necessary
24 equipment to Plaintiffs and other non-party Aggrieved Employees to keep them safe.

25 106. Defendants' failure to provide Plaintiffs and other non-party Aggrieved
26 Employees with basic personal protective equipment for the workplace violates Labor Code
27 sections 6401 and 6403. Plaintiffs and other non-party Aggrieved Employees are therefore
28 entitled to recover civil penalties pursuant to Labor Code sections 2699(a), (f), and (g).

1 **REQUEST FOR JURY TRIAL**

2 Plaintiffs request a trial by jury.

3 **PRAYER FOR RELIEF**

4 Plaintiffs, on behalf of all other non-party Aggrieved Employees, pray for relief and
5 judgment against Defendants, jointly and severally, as follows:

6 1. For civil penalties and attorneys' fees in excess of twenty-five thousand dollars
7 (\$25,000). Plaintiffs reserve the right to amend their prayer for relief to seek a different
8 amount.

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

10 1. That the Court declare, adjudge and decree that Defendants violated the
11 following California Labor Code provisions as to Plaintiffs and/or other non-party Aggrieved
12 Employees: 510 and 1198 (by failing to pay all overtime compensation); 1182.12, 1194, 1197,
13 and 1198 (by failing to pay at least minimum wages for all hours worked); 226.7, 512, 516,
14 and 1198 (by failing to provide all meal periods); 226.7, 516, and 1198 (by failing to authorize
15 and permit all rest periods); 226(a), 1174(d), and 1198 (by failing to provide accurate wage
16 statements and maintain accurate payroll records); 201, 202, 203 (by failing timely to pay all
17 earned wages upon termination); 204 (by failing timely to pay all earned wages during
18 employment); 551 and 552 (by failing to provide one day's rest in seven); 2802 (by failing to
19 reimburse business expenses); and 6401 and 6403 (by failing to provide personal protective
20 equipment);

21 2. For civil penalties, pursuant to California Labor Code sections 210, 226.3, 256,
22 558, 1174.5, 2699(a), (f), and (g), for violations of California Labor Code sections 201, 202,
23 203, 204, 226(a), 226.7, 510, 512(a), 516, 551, 552, 1174(d), 1182.12, 1194, 1197, 1198, 2802,
24 6401, and 6403;

25 3. For attorneys' fees and costs pursuant to California Labor Code section
26 2699(g)(1), and any and all other relevant statutes, for Defendants' violations of California
27 Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 516, 551, 552, 1174(d),
28 1182.12, 1194, 1197, 1198, 2802, 6401, and 6403;

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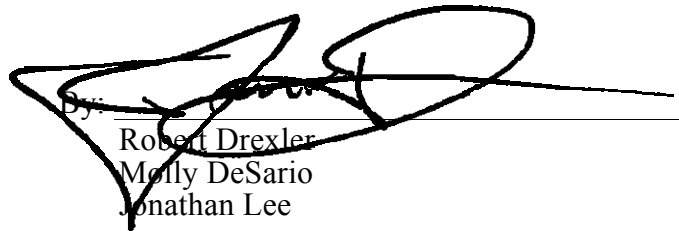
4. For pre-judgment and post-judgment interest as provided by law; and

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

Dated: March 18, 2020

Respectfully submitted,

Capstone Law APC


By: _____
Robert Drexler
Molly DeSario
Jonathan Lee

Attorneys for Plaintiffs Dinora Gonzales and
Anita Ramos