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6 Attorneys for Plaintiff, JAMES CARAMAZZA,
7 on behalf of himself and all others aggrieved

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF SAN FRANCISCO**

10
11 JAMES CARAMAZZA, on behalf of himself
and all others aggrieved,

12
13 Plaintiff,

14 v.

15 GREYSTAR MANAGEMENT SERVICES
LP, a Delaware limited partnership; SUNRISE
16 RIVERSIDE, LLC, a Delaware limited
liability company; BRADLEY JOHNSON, an
17 individual; and DOES 1 through 100,
inclusive,

18 Defendants.
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27 COMES NOW plaintiff James Caramazza ("Plaintiff"), on behalf of himself and all other
28 aggrieved employees, and alleges as follows:

ENDORSED
FILED
Superior Court of California
County of San Francisco

MAY - 6 2020

CLERK OF THE COURT
BY: ANNA L. TORRES
Deputy Clerk

CASE NO.:

CGC-20-584345

REPRESENTATIVE ACTION

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

DEMAND FOR JURY TRIAL

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

INTRODUCTION

1
2 1. This is a representative action, pursuant to the Labor Code Private Attorneys General
3 Act of 2004, codified at Labor Code section 2698, *et seq.* ("PAGA"), on behalf of Plaintiff and all
4 other aggrieved current and former employees of GREYSTAR MANAGEMENT SERVICES, LP,
5 a Delaware limited partnership and any of its respective subsidiaries or affiliated companies within
6 the State of California ("GREYSTAR"), and SUNRISE RIVERSIDE, LLC, a Delaware limited
7 liability company and any of its respective subsidiaries or affiliated companies within the State of
8 California ("SUNRISE RIVERSIDE"), and BRADLEY JOHNSON, their Senior Managing
9 Director with responsibility for overseeing the company's real estate operations for all of California
10 ("JOHNSON" and, collectively with GREYSTAR, SUNRISE RIVERSIDE and DOES 1 through
11 100 inclusive, as further defined below, "Defendants").

12 2. At all relevant times mentioned herein, Defendants had and have a policy or practice
13 of failing to pay overtime wages to Plaintiff and other non-exempt employees in the State of
14 California in violation of California state wage and hour laws as a result of, without limitation,
15 Plaintiff and other aggrieved employees working over eight (8) hours in a workday or forty (40)
16 hours in a workweek; over twelve (12) hours in a workday; and/or seven (7) consecutive workdays
17 in a workweek without being properly compensated for all hours worked in excess of eight (8) hours
18 in a workday or forty (40) hours in a workweek; all hours worked in excess of twelve (12) hours in
19 a workday; and/or for all hours worked on the seventh consecutive workday in a workweek, as a
20 result of, among other things, Defendants failing to track and pay for all hours worked; failing to
21 pay at the overtime rate for the first eight hours of work on the seventh straight workday; failing to
22 include nondiscretionary bonuses, and/or incentive pay in the regular rate of pay for the purpose of
23 calculating the overtime rate of pay; and requiring employees to remain on-call, to the detriment of
24 Plaintiff and other aggrieved employees.

25 3. At all relevant times mentioned herein, Defendants had and have a policy or practice
26 of failing to pay minimum wages to Plaintiff and other non-exempt employees in the State of
27 California in violation of California state wage and hour laws as a result of, including but not limited
28 to, Defendants routinely failing to pay Plaintiff or other aggrieved employees' wages for all hours

1 worked or otherwise under Defendants' control due to, without limitation, failing to accurately track
2 and/or pay for all hours actually worked and requiring employees remain on-call without
3 commensurate pay to the detriment of Plaintiff and other aggrieved employees.

4 4. At all relevant times mentioned herein, Defendants had and have a policy or practice
5 of failing to provide Plaintiff and other aggrieved employees a thirty (30) minute uninterrupted,
6 timely, and complete meal period for days on which the employee worked in excess of five (5) hours
7 in a workday; a second thirty (30) minute uninterrupted, timely, and complete meal period for days
8 on which the employee worked in excess of ten (10) hours in a workday; or compensation in lieu
9 thereof, as required by California wage and hour laws.

10 5. At all relevant times mentioned herein, Defendants had and have a policy or practice
11 of failing to provide Plaintiff and other aggrieved employees paid, uninterrupted, timely, and
12 complete rest periods of at least ten (10) minutes per four (4) hours worked or major fractions
13 thereof, or compensation in lieu thereof, as required by California wage and hour laws.

14 6. At all relevant times mentioned herein, Defendants had and have a policy or practice
15 of failing to comply with Labor Code section 226, subdivision (a) by intentionally failing to furnish
16 Plaintiff other aggrieved employees with itemized wage statements that accurately reflect gross
17 wages earned; total hours worked; net wages earned; the name and address of each employer with
18 whom they have been placed to work; all applicable hourly rates in effect during the pay period and
19 the corresponding number of hours worked at each hourly rate; and other such information as
20 required by Labor Code section 226, subdivision (a).

21 7. At all relevant times mentioned herein, Defendants had and have a policy or practice
22 of failing to timely pay Plaintiff and other aggrieved employees, among other wages, overtime
23 wages, minimum wages, and/or premium wages, as required by Labor Code sections 201 and 202.

24 8. At all relevant times mentioned herein, Defendants have had a policy or practice of
25 failing to provide Plaintiff and other aggrieved employees with, or permit them inspection of,
26 records pertaining to their employment, including wage statements and similar payroll documents
27 under Labor Code section 226, documents signed to obtain or hold employment under Labor Code
28

1 section 432, personnel records under Labor Code section 1198.5, and time records under Labor
2 Code section 1174, to the detriment of Plaintiff and all other aggrieved employees.

3 9. At all relevant times mentioned herein, Defendants had and have a policy or practice
4 of failing to reimburse Plaintiff and other aggrieved employees with the costs they incurred in paying
5 for, including without limitation, work gloves, gas and/or mileage in order to travel to various
6 jobsites, and the separate laundering of work uniforms necessitated by maintenance tasks known to
7 Defendants, in furtherance of their work duties, as required by Labor Code section 2802.

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

16 11. At all relevant times mentioned herein, Defendants have had a policy or practice of
17 failing to provide Plaintiff and other aggrieved employees with the amount of paid sick leave
18 required to be provided pursuant to California law (including, without limitation Labor Code section
19 246, *et seq.*), and also did not permit its use upon request as contemplated under California laws, to
20 the detriment of Plaintiff and all other aggrieved employees.

21 12. At all relevant times mentioned herein, Defendants have had a policy or practice of
22 failing to pay employees their wages in accordance with Labor Code Section 204, which requires
23 that: "[l]abor performed between the 1st and 15th days, inclusive, of any calendar month shall be
24 paid for between the 16th and 26th day of the month during which the labor was performed, and
25 labor performed between the 16th and the last day, inclusive of any calendar month, shall be paid
26 for between the 1st and 10th day of the following month."

27 13. Plaintiff, in his representative capacity, seeks civil penalties under Labor Code
28 sections 210, 226.3, 558, 1197.1, and 2699 for the herein-described acts, which violate the California

1 Labor Code as described above, including on behalf of himself and other aggrieved employees
2 pursuant to PAGA.

3 **PARTIES**

4 **A. Plaintiff**

5 14. Plaintiff is a resident of the State of California. At all relevant times herein,
6 Defendants employed Plaintiff as a non-exempt employee, with duties that included, without
7 limitation, picking up and taking out garbage, cleaning swimming pools, and making repairs in
8 apartment properties, within the State of California from approximately March of 2015 through
9 approximately November of 2019.

10 **B. Defendants**

11 15. Plaintiff is informed and believes, and based thereon alleges, that defendant
12 GREYSTAR is, and at all times relevant hereto was, a limited partnership organized and existing
13 under and by virtue of the laws of the State of Delaware, and doing business in the County of
14 Riverside, State of California.

15 16. Plaintiff is informed and believes, and based thereon alleges, that defendant
16 SUNRISE RIVERSIDE is, and at all times relevant hereto was, a limited liability company
17 organized and existing under and by virtue of the laws of the State of Delaware, and doing business
18 in the County of Riverside, State of California.

19 17. Plaintiff is informed and believes, and based thereon alleges, that defendant
20 JOHNSON is, and at all times relevant hereto was, an individual residing in San Francisco County,
21 California, as well as the Senior Managing Director of Real Estate Services for GREYSTAR, with
22 responsibility for overseeing the company's real estate operations for all of California.

23 18. The true names and capacities, whether individual, corporate, associate, or otherwise,
24 of defendants sued herein as DOES 1 through 100, inclusive, are currently unknown to Plaintiff,
25 who therefore sues defendants by such fictitious names under Code of Civil Procedure section 474,
26 and Plaintiff will amend this complaint to show their true names and capacities when the same have
27 been ascertained. Plaintiff is informed and believes, and based thereon alleges, that each of the
28 defendants designated herein as DOE is legally responsible in some manner for the unlawful acts

1 referred to herein, and that Plaintiff's damages were proximately caused by their conduct.

2 19. Plaintiff is informed and believes, and based thereon alleges, that Defendants
3 collectively acted, in all respects pertinent to this action, as joint employers, and that each defendant
4 acted in all respects pertinent to this action as the agent of the other defendant(s) and carried out a
5 joint scheme, business plan, or policy in all respects pertinent hereto. The acts of each defendant
6 are legally attributable to the other defendants, and each defendant is jointly and severally liable for
7 the acts and/or omissions of the other defendants, and each of them.

8 JURISDICTION

9 20. Jurisdiction exists in the Superior Court of the State of California pursuant to Code
10 of Civil Procedure section 410.10.

11 21. Venue is proper in San Francisco County, California pursuant to Code of Civil
12 Procedure sections 392, *et seq.* because, among other things, San Francisco County is the county in
13 which Defendants, or some of them, reside at the commencement of this Action.

14 22. Plaintiff is an "aggrieved employee" under PAGA, as he was employed by
15 Defendants during the applicable statutory period and suffered one or more of the Labor Code
16 violations set forth herein. Accordingly, Plaintiff seeks to recover, on behalf of himself and all other
17 aggrieved current and former employees of Defendants, the civil penalties provided by PAGA plus
18 reasonable attorneys' fees and costs, as the term "civil penalty" is defined under *ZB N.A. v. Superior*
19 *Court* (2019) 8 Cal.5th 175.

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

24 24. During the period beginning one (1) year preceding the provision of notice to the
25 LWDA regarding the herein-described Labor Code violations (the "Civil Penalty Period"),
26 Defendants violated, *inter alia*, Labor Code sections 200, 201, 202, 203, 204, 226, 226.3, 246, 432,
27 510, 512, 558, 1174, 1194, 1197, 1197.1, 1198.5, 2699, 2802 and 2810.5, among others.

28 25. Labor Code section 2699, subdivisions (a) and (g), authorizes aggrieved employees

1 such as Plaintiff, on behalf of himself and all other aggrieved current and former employees within
2 the statutory period, to bring a civil action to recover civil penalties pursuant to the procedures
3 specified in Labor Code section 2699.3.

4 26. On or around February 14, 2020, Plaintiff provided written notice under Labor Code
5 section 2699.3 online and by certified mail, with return receipt requested, of Defendants' violation
6 of various, including the herein-described, provisions of the Labor Code, to the Labor and
7 Workforce Development Agency ("LWDA"), as well as by certified mail, with return receipt
8 requested to Defendants, and each of them.

9 27. Pursuant to Labor Code section 2699.3, subdivision (a)(2)(A), the LWDA did not
10 provide notice of its intention to investigate Defendants' alleged violations within sixty-five (65)
11 calendar days of the February 14, 2020 postmarked date of the herein-described notice sent by
12 Plaintiff to the LWDA and Defendants.

13 **PAGA REPRESENTATIVE ALLEGATIONS**

14 28. Plaintiff is informed and believes, and based thereon alleges, that Plaintiff and other
15 aggrieved employees have not been paid, during the relevant time period, wages for all time worked,
16 including overtime wages, as a result of, without limitation, Defendants failing to pay overtime
17 wages to Plaintiff and other non-exempt employees in the State of California in violation of
18 California state wage and hour laws as a result of, without limitation, Plaintiff and other aggrieved
19 employees working over eight (8) hours in a workday or forty (40) hours in a workweek; over twelve
20 (12) hours in a workday; and/or seven (7) consecutive workdays in a workweek without being
21 properly compensated for all hours worked in excess of eight (8) hours in a workday or forty (40)
22 hours in a workweek; all hours worked in excess of twelve (12) hours in a workday; and/or for all
23 hours worked on the seventh consecutive workday in a workweek, as a result of, among other things,
24 Defendants failing to track and pay for all hours worked; failing to pay at the overtime rate for the
25 first eight hours of work on the seventh straight workday; failing to include nondiscretionary
26 bonuses, and/or incentive pay in the regular rate of pay for the purpose of calculating the overtime
27 rate of pay; and requiring employees to remain on-call, to the detriment of Plaintiff and other
28 aggrieved employees in the State of California. As such, Plaintiff is informed and believes, and

1 based thereon alleges, that Defendants violated Labor Code sections 510 and 1194, and applicable
2 Wage Orders based on their practice of providing total compensation that is less than the required
3 legal overtime compensation, entitling Plaintiff and other aggrieved employees to relief under,
4 without limitation, these sections. In addition, Defendants would also be liable for civil penalties
5 pursuant to Labor Code sections 558 and 2699.

6 29. Plaintiff is informed and believes, and based thereon alleges, that Plaintiff and other
7 aggrieved employees have not been paid, during the relevant time period, wages for all time worked,
8 including minimum wages, as a result of, without limitation, Defendants routinely failing to pay
9 Plaintiff or other aggrieved employees' wages for all hours worked or otherwise under Defendants'
10 control due to, without limitation, failing to accurately track and/or pay for all hours actually worked
11 and requiring employees remain on-call without commensurate pay. As such, Plaintiff is informed
12 and believes, and based thereon alleges, that Defendants violated, without limitation, Labor Code
13 section 1197 and applicable Wage Orders, based on their continued failure to pay minimum wages,
14 entitling Plaintiff and other aggrieved employees to relief under, without limitation, Labor Code
15 sections 1194 and 1194.2. Defendants would also be liable for civil penalties pursuant to Labor
16 Code sections 558, 1197.1, and 2699.

17 30. Plaintiff is informed and believes, and based thereon alleges, that Defendants had
18 and have policy or practice of failing to provide Plaintiff and other aggrieved employees a thirty
19 (30) minute uninterrupted, timely, and complete meal period for days on which the employee
20 worked in excess of five (5) hours in a workday; a second thirty (30) minute uninterrupted, timely,
21 and complete meal period for days on which the employee worked in excess of ten (10) hours in a
22 workday; or compensation in lieu thereof, including, without limitation, by interrupting meal
23 periods, not providing timely meal periods, failing to provide first and second meal periods all
24 together, providing short meal periods, and/or auto-deducting meal periods even when they were
25 not taken. As such, Plaintiff is informed and believes, and based thereon alleges, that Defendants
26 violated Labor Code section 512, entitling Plaintiff and other aggrieved employees to premium
27 payments under Labor Code section 226.7. Defendants would also be liable for civil penalties
28 pursuant to Labor Code sections 558 and 2699.

1 31. Plaintiff is informed and believes, and based thereon alleges, that Defendants had
2 and have a policy or practice of failing to provide Plaintiff and other aggrieved employees paid,
3 uninterrupted, timely, and complete rest periods of at least ten (10) minutes per four (4) hours
4 worked or major fractions thereof, or compensation in lieu thereof as required under (the) applicable
5 Wage Order(s). As such, Plaintiff is informed and believes, and based thereon alleges, that he and
6 other aggrieved employees are entitled to relief under, without limitation, Labor Code section 226.7.
7 Defendants would also be liable for civil penalties pursuant to Labor Code sections 558 and 2699.

8 32. Plaintiff is informed and believes, and based thereon alleges, that Defendants had
9 and have a policy or practice of failing to furnish Plaintiff other aggrieved employees with itemized
10 wage statements that accurately reflect gross wages earned; total hours worked; net wages earned;
11 the name and address of each employer with whom they have been placed to work; all applicable
12 hourly rates in effect during the pay period and the corresponding number of hours worked at each
13 hourly rate; and other such information as required by Labor Code section 226, subdivision (a).
14 Consequently, since Defendants would have failed to comply with Labor Code section 226,
15 subdivision (a), Plaintiff and other aggrieved employees would be entitled to recover penalties
16 under, without limitation, Labor Code section 226, subdivision (e). Defendants would also be liable
17 for civil penalties pursuant to Labor Code sections 226.3, 558 and 2699.

18 33. Plaintiff is informed and believes, and based thereon alleges, that Defendants had
19 and have a policy or practice of failing or refusing to timely pay compensation to Plaintiff and other
20 terminated or resigned employees within the State of California, among other wages, overtime
21 wages, minimum wages, and/or premium wages. As such, Defendants would be liable for waiting
22 time penalties for having violated California Labor Code sections 201, 202, and 203. Defendants
23 would also be liable for civil penalties pursuant to Labor Code sections 558 and 2699.

24 34. At all relevant times mentioned herein, Defendants have had a policy or practice of
25 failing to provide Plaintiff and other aggrieved employees with, or permit them inspection of,
26 records pertaining to their employment, including wage statements and similar payroll documents
27 under Labor Code section 226, documents signed to obtain or hold employment under Labor Code
28 section 432, personnel records under Labor Code section 1198.5, and time records under Labor

1 Code section 1174, to the detriment of Plaintiff and all other aggrieved employees. As a result of
2 these violations, Defendants are liable for civil penalties pursuant to Labor Code sections 558 and
3 2699.

4 35. Plaintiff is informed and believes, and based thereon alleges, that Defendants had
5 and have a policy or practice of failing to reimburse Plaintiff and other aggrieved employees for
6 their costs incurred paying for, including without limitation, work gloves, gas and/or mileage in
7 order to travel to various jobsites, and the separate laundering of uniforms necessitated maintenance
8 tasks known by Defendants, in furtherance of their work duties, as required by Labor Code section
9 2802. Defendants would also be liable for civil penalties pursuant to Labor Code sections 558 and
10 2699.

11 36. Plaintiff is informed and believes, and based thereon alleges that Defendants have,
12 and at all times relevant hereto had, a policy or practice of failing to comply with the notice
13 requirements of Labor Code section 2810.5 (*i.e.*, the Wage Theft Protection Act of 2011) by, among
14 other things, failing to provide Plaintiff and other aggrieved employees with the rates of pay and
15 overtime rates of pay applicable to their employment; allowances claimed as part of the minimum
16 wage; the regular payday designated by Defendants; the name, address, and telephone number of
17 the workers' compensation insurance carrier; information regarding paid sick leave; and other
18 pertinent information required to be disclosed by Defendants under Labor Code section 2810.5. As
19 such, Plaintiff is informed and believes, and based thereon alleges that the failure to provide such
20 information, including rates of pay that are in effect, has permitted Defendants to pay employees at
21 rates of pay that were not agreed upon, in violation of overtime wage and minimum wage laws in
22 California. As a result of these violations, Defendants are liable for civil penalties pursuant to Labor
23 Code sections 558 and 2699.

24 37. Plaintiff is informed and believes, and based thereon alleges, that Defendants had
25 and have a policy or practice of failing to provide Plaintiff and other aggrieved employees with the
26 amount of paid sick leave required to be provided pursuant to California law (including, without
27 limitation, Labor Code section 246, *et seq.*), and also did not permit its use upon request as
28 contemplated under California law. As such, Defendants would be liable for civil penalties for

1 violation of the paid sick leave regulations under Labor Code sections 558 and 2699.

2 38. Plaintiff is informed and believes, and based thereon alleges, that Defendants had
3 and have a policy or practice of failing to pay Plaintiff and other aggrieved employees their wages
4 in accordance with Labor Code section 204, which requires that “[l]abor performed between the 1st
5 and 15th days, inclusive, of any calendar month shall be paid for between the 16th and 26th day of
6 the month during which the labor was performed, and labor performed between the 16th and the last
7 day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following
8 month.” As such, Plaintiff is informed and believes, and based thereon alleges, that Defendants did
9 not and do not pay their employees in accordance with Labor Code section 204. Defendants would
10 be liable for civil penalties pursuant to Labor Code sections 210, 558 and 2699.

11 39. Plaintiff and other aggrieved employees at all times pertinent hereto were not exempt
12 from receiving overtime wages, minimum wages, meal breaks or compensation in lieu thereof, rest
13 breaks or compensation in lieu thereof, accurate wage statements, timely pay of wages during their
14 employment and after their employment separation, the opportunity to inspect employment records,
15 indemnification of work expenses, the proper accrual and use of paid sick leave, and other such
16 provisions of California law and the implementing rules and regulations of the IWC California Wage
17 Orders.

18 40. As a result of these violations, Defendants are liable for civil penalties under PAGA.

19 **FIRST CAUSE OF ACTION**

20 **(Civil Penalties Under Labor Code § 210 – Against All Defendants)**

21 41. Plaintiff re-alleges each and every allegation set forth in the preceding paragraphs
22 and incorporates each by reference as though fully set forth hereat.

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

28 43. At all relevant times herein, Labor Code section 210, subdivision (a) states and stated

1 that "[i]n addition to, and entirely independent and apart from, any other penalty provided in this
2 article, every person who fails to pay the wages of each employee as provided in Sections 201.3,
3 204, 204b, 204.1, 205, 205.5, and 1197.5, shall be subject to a civil penalty as follows: (1) For any
4 initial violation, one hundred dollars (\$100) for each failure to pay each employee" and "(2) For
5 each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for
6 each failure to pay each employee, plus 25 percent of the amount unlawfully withheld."

7 44. At all relevant times herein, Defendants have had a consistent policy or practice of
8 failing to pay Plaintiff and aggrieved employees during their employment on a timely basis as per
9 Labor Code section 204. Thus, pursuant to Labor Code section 210, Plaintiff and other aggrieved
10 employees or former employees he seeks to represent are entitled to recover civil penalties for
11 Defendants' violations of Labor Code section 204, in the amount of one hundred dollars (\$100) for
12 each aggrieved employee or former employee for each initial violation per employee, and two
13 hundred dollars (\$200) for each aggrieved employee or former employee for each subsequent
14 violation in connection with each payment that was made in violation of Labor Code section 204.

15 **SECOND CAUSE OF ACTION**

16 **(Civil Penalties Under Labor Code § 226.3 – Against All Defendants)**

17 45. Plaintiff re-alleges and incorporates by reference all of the allegations contained in
18 the preceding paragraphs of this Complaint as though fully set forth hereat.

19 46. Defendants had and have a policy or practice of failing to comply with Labor Code
20 section 226, subdivision (a) by intentionally failing to furnish Plaintiff with itemized wage
21 statements that accurately reflect gross wages earned; total hours worked; net wages earned; the
22 name and address of each employer with whom they have been placed to work; all applicable hourly
23 rates in effect during the pay period and the corresponding number of hours worked at each hourly
24 rate; and other such information as required by Labor Code section 226, subdivision (a).

25 47. Labor Code section 226.3 states that "[a]ny employer who violates subdivision (a)
26 of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250)
27 per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for
28 each violation in a subsequent citation, for which the employer fails to provide the employee a wage

1 deduction statement or fails to keep the records required in subdivision (a) of Section 226.”

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

4 49. Plaintiff is informed and believes, and based thereon alleges, that Defendants had
5 and have a policy or practice of failing to furnish non-exempt employees, including, without
6 limitation, Plaintiff, with itemized wage statements that accurately reflect gross wages earned; total
7 hours worked; net wages earned; the name and address of each employer with whom they have been
8 placed to work; all applicable hourly rates in effect during the pay period and the corresponding
9 number of hours worked at each hourly rate; and other such information as required by Labor Code
10 section 226, subdivision (a).

11 50. Pursuant to Labor Code section 226.3, Plaintiff and other aggrieved employees he
12 seeks to represent are entitled to recover civil penalties for Defendants’ violation of Labor Code
13 section 226, subdivision (a) in the amount of two hundred fifty dollars (\$250) for each aggrieved
14 current or former employee per pay period for the initial violation, and one thousand dollars (\$1,000)
15 for each aggrieved current or former employee per pay period for each subsequent violation.

16 **THIRD CAUSE OF ACTION**

17 **(Violation of Labor Code § 558 – Against All Defendants)**

18 51. Plaintiff re-alleges each and every allegation set forth in the preceding paragraphs
19 and incorporates each by reference as though fully set forth hereat.

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

- 24 a. For any initial violation, fifty dollars (\$50) for each underpaid employee and
25 for each pay period for which the employee was underpaid in addition to an
26 amount sufficient to recover underpaid wages;
- 27 b. For each subsequent violation, one hundred dollars (\$100) for each underpaid
28 employee for each pay period for which the employee was underpaid in

1 addition to an amount sufficient to recover underpaid wages;

2 c. Wages recovered pursuant to this section shall be paid to the affected
3 employee.”

4 53. Plaintiff is informed and believes, and based thereon alleges, that Defendants, and
5 each of them, violated, or caused to be violated, the Labor Code sections described herein, including
6 causing Plaintiff and other aggrieved employees not to: be paid overtime wages and minimum
7 wages; receive meal and rest periods or compensation in lieu thereof; receive accurate, itemized
8 wage statements; be paid timely wages during their employment and after their employment
9 separation; be provided with the opportunity to inspect employment records; be reimbursed for work
10 expenses; be provided with notice as required under Labor Code section 2810.5; and be provided
11 with the proper accrual and use of paid sick leave.

12 54. As a direct and proximate result of Defendants’ conduct, Plaintiff and other
13 aggrieved employees are entitled to recover directly from Defendants civil penalties pursuant to
14 Labor Code section 558 in amounts to be determined at trial.

15 **FOURTH CAUSE OF ACTION**

16 **(Violation of Labor Code § 1197.1 – Against All Defendants)**

17 55. Plaintiff re-alleges each and every allegation set forth in the preceding paragraphs
18 and incorporates each by reference as though fully set forth hereat.

19 56. Pursuant to Labor Code section 1197.1, subdivision (a): “Any employer or other
20 person acting either individually or as an officer, agent, or employee of another person, who pays
21 or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or
22 local law, or by an order of the commission shall be subject to a civil penalty, restitution of wages,
23 liquidated damages payable to the employee, and any applicable penalties imposed pursuant to
24 Section 203 as follows:

- 25 a. For any initial violation that is intentionally committed, one hundred dollars
26 (\$100) for each underpaid employee for each pay period for which the
27 employee is underpaid. This amount shall be in addition to an amount
28 sufficient to recover underpaid wages, liquidated damages pursuant to Section

1194.2, and any applicable penalties imposed pursuant to Section 203.

- b. For each subsequent violation for the same specific offense, two hundred fifty dollars (\$250) for each underpaid employee for each pay period for which the employee is underpaid regardless of whether the initial violation is intentionally committed. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed pursuant to Section 203.
- c. Wages, liquidated damages, and any applicable penalties imposed pursuant to Section 203, recovered pursuant to this section shall be paid to the affected employee.”

57. Plaintiff is informed and believes, and based thereon alleges, that Defendants caused Plaintiff and aggrieved employees not be paid minimum wages as a result of Defendants, without limitation, by routinely failing to pay Plaintiff or other aggrieved employees’ wages for all hours worked or otherwise under Defendants’ control due to, without limitation, failing to accurately track and/or pay for all hours actually worked and requiring employees remain on-call without commensurate pay.

58. As a direct and proximate result of Defendants’ conduct, Plaintiff and other aggrieved employees are entitled to recover directly from Defendants civil penalties pursuant to Labor Code section 1197.1.

FIFTH CAUSE OF ACTION

(Civil Penalties Under Labor Code § 2699 – Against All Defendants)

59. Plaintiff re-alleges and incorporates by reference all of the allegations contained in the preceding paragraphs of this Complaint as though fully set forth hereat.

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

employees pursuant to the procedures specified in Labor Code section 2699.3.

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

62. Plaintiff is informed and believes and based thereon alleges that Defendants, and each of them, violated the Labor Code sections described herein, including, without limitation, for the failure to: pay overtime wages and minimum wages; provide meal and rest periods or compensation in lieu thereof; provide accurate, provide itemized wage statements; provide timely pay of wages during employment and after employment separation; provide employees the opportunity to inspect employment records; reimburse work expenses; provide notice as required under Labor Code section 2810.5; and provide the proper accrual and use of paid sick leave, entitling Plaintiff and other aggrieved employees to civil penalties for each of these Labor Code violations in the amounts set forth in Labor Code section 2699, subdivision (f).

63. Moreover, Plaintiff and other aggrieved current and former employees within the State of California whom he seeks to represent are entitled to an award of reasonable attorneys' fees and costs in connection with their herein-described claims for civil penalties.

REQUEST FOR JURY TRIAL

64. Plaintiff hereby requests a trial by jury.

PRAYER

WHEREFORE, on behalf of himself and all others aggrieved, Plaintiff prays for judgment against Defendants as follows:

A. An award of civil penalties pursuant to Labor Code sections 210, 226.3, 558, 1197.1, and 2699;

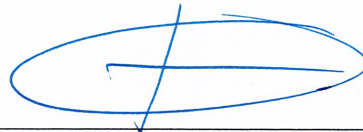
B. An award of reasonable attorneys' fees and costs pursuant to Labor Code sections 210, 226.3, 558, 1197.1, and 2699;

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- C. Pre-judgment and post-judgment interest;
- D. For costs of suit incurred herein; and
- E. Such other and further relief as the Court deems just and proper.

Dated: May 4, 2020

BIBIYAN LAW GROUP, P.C.



BY: _____

DAVID D. BIBIYAN

Attorneys for Plaintiff JAMES CARAMAZZA, on
behalf of himself and all other aggrieved employees