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Case #20CV365254
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Robert Drexler (SBN 119119)
Robert.Drexler@CapstoneLawyers.com
Molly DeSario (SBN 230763)
Molly.DeSario@CapstoneLawyers.com
Jonathan Lee (SBN 267146)
Jonathan.Lee@CapstoneLawyers.com
Capstone Law APC
1875 Century Park East, Suite 1000
Los Angeles, California 90067
Telephone: (310) 556-4811
Facsimile: (310) 943-0396

Attorneys for Plaintiff Ellis Trotter

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA

ELLIS TROTTER, individually, and on
behalf of other members of the general
public similarly situated,

Plaintiff,

vs.

PROPARK AMERICA WEST, LLC, a
Connecticut limited liability company;
PROPARK LA, LLC, a Connecticut limited
liability company; PRO PARK, INC., a
Connecticut corporation; and DOES 1
through 10, inclusive,

Defendants.

Case No.: 20CV365254

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

- (1) Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime);
- (2) Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 (Unpaid Minimum Wages);
- (3) Violation of California Labor Code §§ 226(a), 1174(d), and 1198 (Non-Compliant Wage Statements and Failure to Maintain Payroll Records);
- (4) Violation of California Labor Code § 204 (Failure to Timely Pay Wages During Employment);
- (5) Violation of California Labor Code § 2802 (Unreimbursed Business Expenses); and
- (6) Civil Penalties for Violations of California Labor Code, Pursuant to PAGA, §§ 2698, *et seq.*;
- (7) Violation of California Business & Professions Code §§ 17200, *et seq.* (Unlawful Business Practices)

Jury Trial Demanded

1 Plaintiff Ellis Trotter, individually and on behalf of all other members of the public
2 similarly situated, and as an aggrieved employee and on behalf of all other aggrieved
3 employees, alleges as follows:

4 JURISDICTION AND VENUE

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

18 2. This Court has jurisdiction over Defendants because Defendants are either
19 citizens of California, have sufficient minimum contacts in California, or otherwise
20 intentionally avail themselves of the California market so as to render the exercise of
21 jurisdiction over them by the California courts consistent with traditional notions of fair play
22 and substantial justice.

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

26 THE PARTIES

27 4. Plaintiff Ellis Trotter is a resident of Union City, in Alameda County,
28 California. Defendants have employed Plaintiff as an hourly paid, non-exempt Valet

1 Assistant since approximately March 2019. Plaintiff works for Defendants at their location in
2 Foster City, California. Defendants previously employed Plaintiff as a “GRide” or Shuttle
3 Driver in Mountain View, California, from 2018 to 2019. Plaintiff typically works eight (8)
4 hours or more per day, four (4) to five (5) days per week, from 8:00 a.m. to 4:30 p.m.
5 Plaintiff’s primary job duties include, without limitation, checking customers into the system,
6 moving cars from main parking lot to valet parking lot, photographing damage to vehicles,
7 and providing customer service.

8 5. PROPARK AMERICA WEST, LLC was and is, upon information and belief, a
9 Connecticut limited liability company, and at all times hereinafter mentioned, an employer
10 whose employees are engaged throughout this county, the State of California, or the various
11 states of the United States of America.

12 6. PROPARK LA, LLC was and is, upon information and belief, a Connecticut
13 limited liability company, and at all times hereinafter mentioned, an employer whose
14 employees are engaged throughout this county, the State of California, or the various states of
15 the United States of America.

16 7. PRO PARK, INC. was and is, upon information and belief, a Connecticut
17 corporation, and at all times hereinafter mentioned, an employer whose employees are
18 engaged throughout this county, the State of California, or the various states of the United
19 States of America.

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

24 9. Plaintiff is informed and believes, and thereon alleges, that DOES 1 through 10
25 were the partners, agents, owners, or managers of PROPARK AMERICA WEST, LLC;
26 PROPARK LA, LLC; and/or PRO PARK, INC., at all relevant times.

27 10. Plaintiff is informed and believes, and thereon alleges, that each and all of the
28 acts and omissions alleged herein was performed by, or is attributable to, PROPARK

1 AMERICA WEST, LLC; PROPARK LA, LLC; PRO PARK, INC.; and/or DOES 1 through
2 10 (collectively, “Defendants” or “PROPARK”), each acting as the agent, employee, alter
3 ego, and/or joint venturer of, or working in concert with, each of the other co-Defendants and
4 was acting within the course and scope of such agency, employment, joint venture, or
5 concerted activity with legal authority to act on the others’ behalf. The acts of any and all
6 Defendants were in accordance with, and represent, the official policy of Defendants.

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

11 12. Plaintiff is informed and believes, and thereon alleges, that each of said
12 Defendants is in some manner intentionally, negligently, or otherwise responsible for the acts,
13 omissions, occurrences, and transactions alleged herein.

14 13. Under California law, Defendants are jointly and severally liable as employers
15 for the violations alleged herein because they have each exercised sufficient control over the
16 wages, hours, working conditions, and employment status of Plaintiff and class members.
17 Each Defendant had the power to hire and fire Plaintiff and class members, supervised and
18 controlled their work schedule and/or conditions of employment, determined their rate of pay,
19 and maintained their employment records. Defendants suffered or permitted Plaintiff and
20 class members to work and/or “engaged” Plaintiff and class members so as to create a
21 common-law employment relationship. As joint employers of Plaintiff and class members,
22 Defendants are jointly and severally liable for the civil penalties and all other relief available
23 to Plaintiff and class members under the law.

24 14. Plaintiff is informed and believes, and thereon alleges, that at all relevant times,
25 Defendants, and each of them, have acted as joint employers with respect to Plaintiff and class
26 members because Defendants have:

- 27 (a) jointly exercised meaningful control over the work performed by
28 Plaintiff and class members;

- 1 (b) jointly exercised meaningful control over Plaintiff's and class members'
2 wages, hours, and working conditions, including the quantity, quality
3 standards, speed, scheduling, and operative details of the tasks
4 performed by Plaintiff and class members;
- 5 (c) jointly required that Plaintiff and class members perform work which is
6 an integral part of Defendants' businesses; and
- 7 (d) jointly exercised control over Plaintiff and class members as a matter of
8 economic reality in that Plaintiff and class members were dependent on
9 Defendants, who shared the power to set the wages of Plaintiff and class
10 members and determined their working conditions, and who jointly
11 reaped the benefits from the underpayment of their wages and
12 noncompliance with other statutory provisions governing their
13 employment.

14 15. Plaintiff is informed and believes, and thereon alleges, that at all relevant times
15 there has existed a unity of interest and ownership between Defendants such that any
16 individuality and separateness between the entities has ceased.

17 16. PROPARK AMERICA WEST, LLC; PROPARK LA, LLC; PRO PARK, INC.;
18 and DOES 1 through 10 are therefore alter egos of each other.

19 17. Adherence to the fiction of the separate existence of Defendants would permit
20 an abuse of the corporate privilege, and would promote injustice by protecting Defendants
21 from liability for the wrongful acts committed by them under the name PROPARK.

22 18. Plaintiff further alleges, upon information and belief, that Defendants
23 PROPARK AMERICA WEST, LLC; PROPARK LA, LLC; and PRO PARK, INC. are alter
24 egos of each other for the following reasons:

- 25 (a) On the California Secretary of State's website
26 (<https://businesssearch.sos.ca.gov/>), PROPARK AMERICA WEST,
27 LLC; PROPARK LA, LLC; and PRO PARK, INC. share the same
28 entity and entity mailing address, "ONE UNION PL, HARTFORD, CT

06103”;

- (b) According to their most recent “Statement of Information” forms filed with the California Secretary of State, PROPARK AMERICA WEST, LLC and PROPARK LA, LLC share the same officers and/or directors, including, but not limited to, John Schmid, who serves as Chief Executive Officer of both PROPARK AMERICA WEST, LLC and PROPARK LA, LLC;
- (c) According to the most recent “Statement of Information” forms filed with the California Secretary of State, PRO PARK, INC. is listed as a manager or member of PROPARK LA, LLC; and
- (d) On information and belief, PROPARK AMERICA WEST, LLC; PROPARK LA, LLC; and PRO PARK, INC. utilize the same standardized employment forms and issue the same employment policies.

GENERAL ALLEGATIONS

19. Defendants are a parking management company providing services for more than 500 locations in markets across the United States and at least 39 locations in California. Upon information and belief, Defendants maintain a single, centralized Human Resources (“HR”) department at their company headquarters in Hartford, Connecticut, which is responsible for the recruiting and hiring of new employees, and communicating and implementing Defendants’ company-wide policies, including timekeeping policies, to employees throughout California.

20. In particular, Plaintiff and class members, on information and belief, received the same standardized documents and/or written policies. Upon information and belief, the usage of standardized documents and/or written policies, including new-hire documents, indicate that Defendants dictated policies at the corporate level and implemented them company-wide, regardless of their employees’ assigned locations or positions. Upon information and belief, Defendants set forth uniform policies and procedures in several

documents provided at an employee's time of hire, including, but not limited to, an Employment Offer Letter and Employee Handbook Acknowledgement Form.

21. Upon information and belief, Defendants maintain a centralized Payroll department at their company headquarters in Hartford, Connecticut, which processes payroll for all non-exempt, hourly paid employees working for Defendants at their various locations and jobsites in California, including Plaintiff and class members. Based upon information and belief, Defendants issue the same formatted wage statements to all non-exempt, hourly paid employees in California, irrespective of their work locations. Upon information and belief, Defendants process payroll for departing employees in the same manner throughout the State of California, regardless of the manner in which each employee's employment ends.

22. Defendants continue to employ non-exempt or hourly paid employees in California.

23. Plaintiff is informed and believes, and thereon alleges, that at all times herein mentioned, Defendants were advised by skilled lawyers and other professionals, employees and advisors knowledgeable about California labor and wage law, employment and personnel practices, and about the requirements of California law.

24. Plaintiff is informed and believes, and thereon alleges, that Plaintiff and class members were not paid for all hours worked because all hours worked were not recorded.

25. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should have known that Plaintiff and class members were entitled to receive certain wages for overtime compensation and that they were not receiving certain wages for overtime compensation.

26. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should have known that Plaintiff and class members were entitled to be paid at a regular rate of pay, and corresponding overtime rate of pay, that included as eligible income all income derived from shift differential pay, incentive pay, nondiscretionary bonuses, and/or other forms of compensation.

27. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or

1 should have known that Plaintiff and class members were entitled to receive at least minimum
2 wages for compensation and that they were not receiving at least minimum wages for work
3 that was required to be done off-the-clock. In violation of the California Labor Code, Plaintiff
4 and class members were not paid at least minimum wages for work done off-the-clock.

5 28. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
6 should have known that Plaintiff and class members were entitled to receive complete and
7 accurate wage statements in accordance with California law. In violation of the California
8 Labor Code, Plaintiff and class members were not provided complete and accurate wage
9 statements.

10 29. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
11 should have known that they had a duty to maintain accurate and complete payroll records in
12 accordance with the Labor Code and applicable IWC Wage Order, but willfully, knowingly,
13 and intentionally failed to do so.

14 30. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
15 should have known that class members were entitled to timely payment of all wages earned
16 upon termination of employment. In violation of the California Labor Code, class members
17 did not receive payment of all wages due, including, but not limited to, overtime wages and
18 minimum wages, within permissible time periods.

19 31. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
20 should have known that Plaintiff and class members were entitled to timely payment of wages
21 during their employment. In violation of the California Labor Code, Plaintiff and class
22 members did not receive payment of all wages, including, but not limited to, overtime wages
23 and minimum wages, within permissible time periods.

24 32. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
25 should have known that Plaintiff and class members were entitled to receive itemized wage
26 statements or separate written statements showing the amount of paid sick leave available, or
27 paid time off provided in lieu of sick leave. In violation of the California Labor Code,
28 Defendants failed to provide Plaintiff and class members with written itemized wage

1 statements or separate written statements showing this information.

2 33. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
3 should have known that Plaintiff and class members were entitled to suitable seating and/or
4 were entitled to sit when it did not interfere with the performance of their duties and also have
5 seats nearby to use during a lull in tasks that do require moving about or standing.

6 34. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
7 should have known that Plaintiff and class members were entitled to be paid a split-shift
8 premium when they returned to work for an additional shift in the same day, after having been
9 clocked out for more than an hour.

10 35. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
11 should have known that Plaintiff and class members were entitled to receive full
12 reimbursement for all business-related expenses and costs they incurred during the course and
13 scope of their employment and that they did not receive full reimbursement of applicable
14 business-related expenses and costs incurred.

15 36. Plaintiff is informed and believes, and thereon alleges, that at all times herein
16 mentioned, Defendants knew or should have known that they had a duty to compensate
17 Plaintiff and class members for all hours worked, and that Defendants had the financial ability
18 to pay such compensation, but willfully, knowingly, and intentionally failed to do so, and
19 falsely represented to Plaintiff and class members that they were properly denied wages, all in
20 order to increase Defendants' profits.

21 **PAGA REPRESENTATIVE ALLEGATIONS**

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

28 38. PAGA defines an "aggrieved employee" in Labor Code section 2699(c) as "any

1 person who was employed by the alleged violator and against whom one or more of the
2 alleged violations was committed.”

3 39. Plaintiff and other current and former employees of Defendants are “aggrieved
4 employees” as defined by Labor Code section 2699(c) in that they are all Defendants’ current
5 or former employees and one or more of the alleged violations were committed against them.

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

9 (a) The aggrieved employee or representative shall give written notice by
10 online filing with the LWDA and by certified mail to the employer of
11 the specific provisions of the California Labor Code alleged to have
12 been violated, including the facts and theories to support the alleged
13 violation.

14 (b) An aggrieved employee’s notice filed with the LWDA pursuant to
15 2699.3(a) and any employer response to that notice shall be
16 accompanied by a filing fee of seventy-five dollars (\$75).

17 (c) The LWDA shall notify the employer and the aggrieved employee or
18 representative by certified mail that it does not intend to investigate the
19 alleged violation (“LWDA’s Notice”) within sixty (60) calendar days of
20 the postmark date of the aggrieved employee’s notice. Upon receipt of
21 the LWDA Notice, or if no LWDA Notice is provided within sixty-five
22 (65) calendar days of the postmark date of the aggrieved employee’s
23 notice, the aggrieved employee may commence a civil action pursuant
24 to California Labor Code section 2699 to recover civil penalties.

25 41. Pursuant to California Labor Code sections 2699.3(c), aggrieved employees,
26 through Plaintiff, may pursue a civil action arising under PAGA for violations of any
27 provision other than those listed in Section 2699.5 after the following requirements have been
28 met:

- 1 (a) The aggrieved employee or representative shall give written notice by
2 online filing with the LWDA and by certified mail to the employer of
3 the specific provisions of the California Labor Code alleged to have
4 been violated (other than those listed in Section 2699.5), including the
5 facts and theories to support the alleged violation.
- 6 (b) An aggrieved employee's notice filed with the LWDA pursuant to
7 2699.3(c) and any employer response to that notice shall be
8 accompanied by a filing fee of seventy-five dollars (\$75).
- 9 (c) The employer may cure the alleged violation within thirty-three (33)
10 calendar days of the postmark date of the notice sent by the aggrieved
11 employee or representative. The employer shall give written notice
12 within that period of time by certified mail to the aggrieved employee or
13 representative and by online filing with the LWDA if the alleged
14 violation is cured, including a description of actions taken, and no civil
15 action pursuant to Section 2699 may commence. If the alleged violation
16 is not cured within the 33-day period, the aggrieved employee may
17 commence a civil action pursuant to Section 2699.

18 42. On March 26, 2020, Plaintiff provided written notice by online filing to the
19 LWDA and by Certified Mail to Defendants of the specific provisions of the California Labor
20 Code alleged to have been violated, including facts and theories to support the alleged
21 violations, in accordance with California Labor Code section 2699.3. Plaintiff's written
22 notice was accompanied with the applicable filing fee of seventy-five dollars (\$75). The
23 LWDA PAGA Administrator confirmed receipt of Plaintiff's written notice and assigned
24 Plaintiff PAGA Case Number LWDA-CM-780396-20. A true and correct copy of Plaintiff's
25 written notice to the LWDA and Defendants is attached hereto as "Exhibit 1."

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

1 44. Thus, Plaintiff has satisfied the administrative prerequisites under California
2 Labor Code section 2699.3(a) and 2699.3(c) to recover civil penalties against Defendants for
3 violations of California Labor Code sections 201, 202, 203, 204, 226(a), 246, 510, 1174(d),
4 1182.12, 1194, 1197, 1197.1, 1198, and 2802.

5 45. Labor Code section 558(a) provides “[a]ny employer or other person acting on
6 behalf of an employer who violates, or causes to be violated, a section of this chapter or any
7 provision regulating hours and days of work in any order of the Industrial Welfare
8 Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty
9 dollars (\$50) for each underpaid employee for each pay period for which the employee was
10 underpaid (2) For each subsequent violation, one hundred dollars (\$100) for each
11 underpaid employee for each pay period for which the employee was underpaid” Labor
12 Code section 558(c) provides “[t]he civil penalties provided for in this section are in addition
13 to any other civil or criminal penalty provided by law.”

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

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

20 48. Pursuant to PAGA, and in particular, California Labor Code sections 2699(a),
21 2699.3(a), 2699.3(c), and 2699.5, and section 558, Plaintiff, acting in the public interest as a
22 private attorney general, seeks assessment and collection of civil penalties for himself, all
23 other aggrieved employees, and the State of California against Defendants for violations of
24 California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 246, 510, 1174(d), 1182.12,
25 1194, 1197, 1197.1, 1198, and 2802.

26 **CLASS ACTION ALLEGATIONS**

27 49. Plaintiff brings this action on his own behalf, as well as on behalf of each and
28 all other persons similarly situated, and thus seeks class certification under California Code of

1 Civil Procedure section 382.

2 50. All claims alleged herein arise under California law for which Plaintiff seeks
3 relief authorized by California law.

4 51. Plaintiff's proposed class consists of and is defined as follows:

5 All persons who worked for Defendants as non-exempt, hourly
6 paid employees in California, within four years prior to the filing
of the initial complaint until the date of trial ("Class").

7 52. Plaintiff's proposed subclass consists of and is defined as follows:

8 All persons who worked for Defendants as non-exempt, hourly
9 paid employees in California and who received at least one wage
10 statement within one (1) year prior to the filing of the initial
complaint until the date of trial ("Subclass").

11 53. Members of the Class and Subclass are referred to herein as "class members."

12 54. Plaintiff reserves the right to redefine the Class and Subclass and to add
13 additional subclasses as appropriate based on further investigation, discovery, and specific
14 theories of liability.

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

- 17 (a) Whether Defendants required Plaintiff and class members to work over
18 eight (8) hours per day, over twelve (12) hours per day, or over forty
19 (40) hours per week and failed to pay all legally required overtime
20 compensation to Plaintiff and class members;
- 21 (b) Whether Defendants failed to properly calculate the "regular rate" of
22 pay on which Plaintiff's and class members' overtime rate of pay was
23 based;
- 24 (c) Whether Defendants failed to pay Plaintiff and class members at least
25 minimum wages for all hours worked;
- 26 (d) Whether Defendants provided Plaintiff and class members with
27 complete and accurate wage statements as required by California Labor
28 Code section 226(a);

- 1 (e) Whether Defendants maintained accurate payroll records as required by
2 California Labor Code section 1174(d);
- 3 (f) Whether Defendants failed to pay earned overtime wages and minimum
4 wages due to class members upon their discharge;
- 5 (g) Whether Defendants failed timely to pay overtime wages and minimum
6 wages to Plaintiff and class members during their employment;
- 7 (h) Whether Defendants failed to provide Plaintiff and class members with
8 written notice on wage statements listing requisite sick pay information
9 set forth in Labor Code section 246(i);
- 10 (i) Whether Defendants failed to provide Plaintiff and class members with
11 suitable seating;
- 12 (j) Whether Defendants required Plaintiff and class members to return to
13 work for an additional shift in the same day, after having been clocked
14 out for more than an hour, without paying Plaintiff and class members
15 an addition hour of pay at the minimum wage as required by California
16 Code of Regulations, Title 8, section 11090(4)(C);
- 17 (k) Whether Defendants failed to reimburse Plaintiff and class members for
18 necessary and required business-related expenditures and/or losses
19 incurred by them in the scope of their employment;
- 20 (l) Whether Defendants engaged in unlawful and unfair business practices
21 in violation of California Business & Professions Code sections 17200,
22 *et seq.*; and
- 23 (m) The appropriate amount of damages, restitution, or monetary penalties
24 resulting from Defendants' violations of California law.

25 56. There is a well-defined community of interest in the litigation and the class
26 members are readily ascertainable:

- 27 (a) Numerosity: The class members are so numerous that joinder of all
28 members would be unfeasible and impractical. The membership of the

1 entire class is unknown to Plaintiff at this time; however, the class is
2 estimated to be greater than one hundred (100) individuals and the
3 identity of such membership is readily ascertainable by inspection of
4 Defendants' employment records.

5 (b) Typicality: Plaintiff is qualified to, and will, fairly and adequately
6 protect the interests of each class member with whom he has a well-
7 defined community of interest, and Plaintiff's claims (or defenses, if
8 any) are typical of all class members as demonstrated herein.

9 (c) Adequacy: Plaintiff is qualified to, and will, fairly and adequately
10 protect the interests of each class member with whom he has a well-
11 defined community of interest and typicality of claims, as demonstrated
12 herein. Plaintiff acknowledges that he has an obligation to make known
13 to the Court any relationship, conflicts or differences with any class
14 member. Plaintiff's attorneys, the proposed class counsel, are versed in
15 the rules governing class action discovery, certification, and settlement.
16 Plaintiff has incurred, and throughout the duration of this action, will
17 continue to incur costs and attorneys' fees that have been, are, and will
18 be necessarily expended for the prosecution of this action for the
19 substantial benefit of each class member.

20 (d) Superiority: The nature of this action makes the use of class action
21 adjudication superior to other methods. A class action will achieve
22 economies of time, effort, and expense as compared with separate
23 lawsuits, and will avoid inconsistent outcomes because the same issues
24 can be adjudicated in the same manner and at the same time for the
25 entire class.

26 (e) Public Policy Considerations: Employers in the State of California
27 violate employment and labor laws every day. Current employees are
28 often afraid to assert their rights out of fear of direct or indirect

1 retaliation. Former employees are fearful of bringing actions because
2 they believe their former employers might damage their future
3 endeavors through negative references and/or other means. Class
4 actions provide the class members who are not named in the complaint
5 with a type of anonymity that allows for the vindication of their rights
6 while simultaneously protecting their privacy.

7 **FIRST CAUSE OF ACTION**

8 **Violation of California Labor Code §§ 510 and 1198—Unpaid Overtime**
9 **(Against all Defendants)**

10 57. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
11 and every allegation set forth above.

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

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

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

26 61. The applicable IWC Wage Order further provides that Defendants are and were
27 required to pay Plaintiff and class members working more than twelve (12) hours in a day,
28 overtime compensation at a rate of two (2) times their regular rate of pay. An employee’s

1 regular rate of pay includes all remuneration for employment paid to, or on behalf of, the
2 employee, including nondiscretionary bonuses and incentive pay.

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

9 63. During the relevant time period, Defendants willfully failed to pay all overtime
10 wages owed to Plaintiff and class members. During the relevant time period, Plaintiff and
11 class members were not paid overtime premiums for all of the hours they worked in excess of
12 eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty (40)
13 hours in a week, because all hours worked were not recorded.

14 64. First, during the relevant period, Defendants have had a company-wide policy
15 and/or practice of improperly rounding employee clock-in and clock-out duration times to the
16 nearest quarter-hour in their timekeeping system. Defendants' rounding policy has resulted in
17 the failure to compensate Plaintiff and class members fully for all hours worked, causing
18 Plaintiff and class members to not be paid overtime wages for all of the overtime hours they
19 actually worked. Upon information and belief, Defendants' rounding policy is, and continues
20 to be, unfair and has, over time, resulted in the underpayment of wages to Plaintiff and class
21 members. To the extent Defendants' rounding policy has taken away time worked that was
22 eligible for overtime, Plaintiff and class members have been denied overtime pay for all hours
23 worked.

24 65. Second, during the relevant period, Defendants had, and continue to have, a
25 company-wide policy and/or practice of strictly staffing their sites/locations based on the labor
26 hours allocated by corporate for each location. Defendants' uniform use of labor budgets has
27 resulted in chronic understaffing, because there are too few employees on duty to handle the
28 heavy workload and attend to customers.

1 66. Third, Defendants have a policy and/or practice of discouraging and impeding
2 Plaintiff and class members from recording hours worked that are outside of their scheduled
3 shifts in order to limit the amount of overtime employees can accrue. On information and
4 belief, this policy of limiting overtime, coupled with Defendants' understaffing and assigning
5 heavy workloads, has led Plaintiff and class members to work off-the-clock before or after
6 their scheduled shift times in order to complete their assigned tasks. For example, Plaintiff
7 arrives to work up to 10-15 minutes early and is asked to start performing work immediately,
8 such as moving cars between lots, locating missing cars, and uploading new cars into the
9 system, but he does not clock in until his designated shift start-time. After clocking out from
10 his scheduled shift, Plaintiff also hands out keys to customers for 10-20 minutes per instance.
11 Thus, Defendants has failed to track this time spent working before and after scheduled shifts,
12 and Plaintiff and class members receive no compensation for this time.

13 67. Defendants knew or should have known that as a result of these company-wide
14 practices and/or policies, Plaintiff and class members have been performing work off-the-
15 clock before or after their shifts, and were suffered or permitted to perform work for which
16 they were not paid. Because Plaintiff and class members work shifts of eight (8) hours a day
17 or more or forty (40) hours a week or more, some of this off-the-clock work qualifies for
18 overtime premium pay. Therefore, Plaintiff and class members have not been paid overtime
19 wages for all of the overtime hours they have actually worked.

20 68. Furthermore, Defendants have not paid Plaintiff and class members the correct
21 overtime rate for the recorded overtime hours that they have generated. In addition to an
22 hourly wage, Defendants pay Plaintiff and class members incentive pay, nondiscretionary
23 bonuses, and/or other forms of remuneration. For example, Defendants pay Plaintiff and class
24 members referral bonuses and shift differential pay. However, in violation of the California
25 Labor Code, Defendants have failed to incorporate all compensation, including shift
26 differential pay, incentive pay, nondiscretionary bonuses, and/or other forms of remuneration,
27 into the calculation of the regular rate of pay for purposes of calculating the overtime wage
28 rate. Therefore, during times when Plaintiff and class members have worked overtime and

1 received these other forms of pay, Defendants have failed to pay all overtime wages by paying
2 a lower overtime rate than required.

3 69. Defendants' failure to pay Plaintiff and class members the balance of overtime
4 compensation as required by California law, violates the provisions of California Labor Code
5 sections 510 and 1198. Pursuant to California Labor Code section 1194, Plaintiff and class
6 members are entitled to recover their unpaid overtime compensation, as well as interest, costs,
7 and attorneys' fees.

8 **SECOND CAUSE OF ACTION**

9 **Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198—Unpaid** 10 **Minimum Wages** 11 **(Against all Defendants)**

12 70. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
13 and every allegation set forth above.

14 71. At all relevant times, California Labor Code sections 1182.12, 1194, 1197,
15 1197.1, and 1198 provide that the minimum wage for employees fixed by the IWC is the
16 minimum wage to be paid to employees, and the payment of a wage less than the minimum so
17 fixed is unlawful. Compensable work time is defined in Wage Order No. 9 as "the time
18 during which an employee is subject to the control of an employer, and includes all the time
19 the employee is suffered or permitted to work, whether or not required to do so." Cal. Code.
20 Regs. tit. 8, § 11090(2)(H) (defining "Hours Worked").

21 72. As stated, during the relevant time period, Defendants have had a policy of
22 rounding Plaintiff's and class members' hourly clock-in and clock-out duration times to the
23 quarter-hour in their timekeeping system, resulting in the failure to compensate Plaintiff and
24 class members fully for all hours worked. Also, as stated above, as a result of Defendants'
25 policy of limiting the amount of overtime employees can accrue by discouraging and
26 impeding Plaintiff and class members from recording hours worked that are outside of their
27 scheduled shifts, and policy of understaffing while assigning heavy workloads, Plaintiff and
28 class members are required to work off-the-clock before and/or after their scheduled shift start

1 and end times to complete assigned job duties.

2 73. Defendants do not pay minimum wages for off-the-clock hours that Plaintiff
3 and class members work through that qualifies for overtime premium payment. To the extent
4 that these off-the-clock hours do not qualify for overtime premium payment, Defendants have
5 not paid at least minimum wages for those hours worked off-the-clock in violation of
6 California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198.

7 74. Defendants' failure to pay Plaintiff and class members minimum wages violates
8 California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198. Pursuant to
9 California Labor Code section 1194.2, Plaintiff and class members are entitled to recover
10 liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

11 **THIRD CAUSE OF ACTION**

12 **Violation of California Labor Code §§ 226(a), 1174(d), and 1198—Non-Compliant Wage**

13 **Statements and Failure to Maintain Accurate Payroll Records**

14 **(Against all Defendants)**

15 75. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
16 and every allegation set forth above.

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

22 77. At all relevant times, Defendants have knowingly and intentionally provided
23 Plaintiff and Subclass members with uniform, incomplete, and inaccurate wage statements.
24 For example, Defendants have issued uniform wage statements to Plaintiff and Subclass
25 members that fail to correctly list: gross wages earned; total hours worked; net wages earned;
26 and all applicable hourly rates in effect during the pay period, including overtime rates of pay,
27 and the corresponding number of hours worked at each hourly rate. Specifically, Defendants
28 violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

1 78. Because Defendants do not record the time Plaintiff and Subclass members
2 spend working off the clock and improperly round Plaintiff's and Subclass members' clock-in
3 and clock-out duration times, Defendants do not list the correct amount of gross wages and net
4 wages earned by Plaintiff and Subclass members in compliance with section 226(a)(1) and
5 226(a)(5). For the same reason, Defendants fail to accurately list the total number of hours
6 worked by Plaintiff and Subclass members in violation of section 226(a)(2), and fail to list the
7 applicable hourly rates of pay in effect during the pay period and corresponding accurate
8 number of work hours worked at each hourly rate in violation of section 226(a)(9).

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

17 80. California Labor Code section 1198 provides that the maximum hours of work
18 and the standard conditions of labor shall be those fixed by the Labor Commissioner and as
19 set forth in the applicable IWC Wage Orders. Section 1198 further provides that "[t]he
20 employment of any employees for longer hours than those fixed by the order or under
21 conditions of labor prohibited by the order is unlawful." Pursuant to the applicable IWC
22 Wage Order, employers are required to keep accurate time records showing when the
23 employee begins and ends each work period and meal period. During the relevant time
24 period, Defendants have failed, on a company-wide basis, to keep accurate records of work
25 period start and stop times for Plaintiff and Subclass members, in violation of section 1198.

26 81. California Labor Code section 1174(d) provides that "[e]very person employing
27 labor in this state shall ... [k]eep a record showing the names and addresses of all employees
28 employed and the ages of all minors" and "[k]eep, at a central location in the state or at the

1 plants or establishments at which employees are employed, payroll records showing the hours
2 worked daily by and the wages paid to, and the number of piece-rate units earned by and any
3 applicable piece rate paid to, employees employed at the respective plants or establishments . .
4 . .” At all relevant times, and in violation of Labor Code section 1174(d), Defendants have
5 willfully failed to maintain accurate payroll records for Plaintiff and Subclass members
6 showing the daily hours they worked and the wages paid thereto as a result of failing to record
7 the off-the-clock hours that they worked and improperly rounding Plaintiff’s and Subclass
8 members’ clock-in and clock-out duration times.

9 82. Plaintiff and Subclass members are entitled to recover from Defendants the
10 greater of their actual damages caused by Defendants’ failure to comply with California Labor
11 Code section 226(a), or an aggregate penalty not exceeding four thousand dollars (\$4,000) per
12 employee.

13 **FOURTH CAUSE OF ACTION**
14 **Violation of California Labor Code § 204—Failure to Timely Pay Wages During**
15 **Employment**
16 **(Against all Defendants)**

17 83. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
18 and every allegation set forth above.

19 84. This cause of action is dependent upon, and wholly derivative of, the overtime
20 wages and/or minimum wages that were not timely paid to Plaintiff and those class members
21 by Defendants during their employment.

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

27 86. At all times relevant herein, Labor Code section 204 provides that all wages
28 earned by any person in any employment between the sixteenth (16th) and the last day,

1 inclusive, of any calendar month, other than those wages due upon termination of an
2 employee, are due and payable between the first (1st) and the tenth (10th) day of the following
3 month.

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

10 88. During the relevant time period, Defendants have willfully failed to pay
11 Plaintiff and class members all wages due including, but not limited to, overtime wages and
12 minimum wages, within the time periods specified by California Labor Code section 204.

13 89. Defendants' failure to pay Plaintiff and class members all wages due violates
14 Labor Code section 204. Plaintiff and class members are therefore entitled to recover from
15 Defendants the statutory penalty wages pursuant to California Labor Code section 210.

16 **FIFTH CAUSE OF ACTION**

17 **Violation of California Labor Code § 2802—Unpaid Business-Related Expenses** 18 **(Against all Defendants)**

19 90. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
20 and every allegation set forth above.

21 91. At all times herein set forth, California Labor Code section 2802 provides that
22 an employer must reimburse employees for all necessary expenditures and losses incurred by
23 the employee in the performance of his or her job. The purpose of Labor Code section 2802 is
24 to prevent employers from passing off their cost of doing business and operating expenses on
25 to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144
26 (2014). The applicable wage order, IWC Wage Order 9-2001, provides that: "[w]hen tools or
27 equipment are required by the employer or are necessary to the performance of a job, such
28 tools and equipment shall be provided and maintained by the employer, except that an

1 employee whose wages are at least two (2) times the minimum wage provided herein may be
2 required to provide and maintain hand tools and equipment customarily required by the trade
3 or craft.”

4 92. During the relevant time period, Defendants have had a company-wide policy
5 of requiring Plaintiff and class members to utilize their own personal cellular phones and
6 cellular data to carry out their job duties, but Defendants have failed to reimburse them for the
7 costs of their work-related cellular phone expenses. Plaintiff and class members are required
8 to use their personal cellular phones to complete their work-related tasks, such as discussing
9 work assignments throughout their shifts with Defendants’ management. Although
10 Defendants have required Plaintiff and class members to utilize their personal cellular phones
11 to carry out their work-related responsibilities, Defendants have failed to fully reimburse them
12 for this cost.

13 93. Additionally, Defendants, on a company-wide basis, have expected Plaintiff
14 and class members to report to work in clean and presentable uniforms, including a uniform
15 green polo shirt and jacket emblazoned with Defendants’ logo, which has forced Plaintiff and
16 class members to wash their uniforms more frequently than they would otherwise do laundry,
17 and incur expenses for doing so. For example, Plaintiff has only been provided two (2)
18 uniform shirts, but is scheduled to work five (5) or more days in a week, and thus incurs
19 laundry expenses for the upkeep of his uniforms.

20 94. Defendants could have provided Plaintiff and class members with the actual
21 tools for use on the job, such as company phones to be used for fulfilling work-related tasks,
22 and with an adequate number of uniform shirts or access to a cleaning service. Or,
23 Defendants could have reimbursed employees for the costs of their cellular phone and laundry
24 expenses. Instead, Defendants have passed these operating costs off onto Plaintiff and class
25 members.

26 95. Defendants’ company-wide policy and/or practice of passing on their operating
27 costs to Plaintiff and class members violates California Labor Code section 2802. Defendants
28 have intentionally and willfully failed to reimburse Plaintiff and other class members for

1 necessary business-related expenses and costs.

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

5 **SIXTH CAUSE OF ACTION**

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

7 **(Against all Defendants)**

8 97. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
9 and every allegation set forth above.

10 98. California Labor Code §§ 2698, *et seq.* (“PAGA”) permits Plaintiff to recover
11 civil penalties for the violation(s) of the Labor Code sections enumerated in Labor Code
12 section 2699.5. Section 2699.5 enumerates Labor Code sections 201, 202, 203, 204, 226(a),
13 510, 1174(d), 1194, 1197, 1197.1, 1198, and 2802. Labor Code section 2699.3(c) permits
14 aggrieved employees, including Plaintiff, to recover civil penalties for violations of those
15 Labor Code sections not found in section 2699.5, including sections 246 and 1182.12.

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

- 18 (a) Violation of Labor Code sections 510, 1198, and the applicable IWC
19 wage order for Defendants’ failure to compensate Plaintiff and other
20 aggrieved employees with all required overtime pay and failure to
21 properly calculate the overtime rates paid to other aggrieved employees,
22 as alleged herein;
- 23 (b) Violation of Labor Code sections 1182.12, 1194, 1197, 1197.1, 1198,
24 and the applicable IWC wage order for Defendants’ failure to
25 compensate Plaintiff and other aggrieved employees with at least
26 minimum wages for all hours worked, as alleged herein;
- 27 (c) Violation of Labor Code sections 226(a), 1198, and the applicable IWC
28 wage order for failure to provide accurate and complete wage statements

1 to Plaintiff and other aggrieved employees, as alleged herein;

2 (d) Violation of Labor Code sections 1174(d), 1198, and the applicable
3 IWC wage order for failure to maintain payroll records as alleged
4 herein;

5 (e) Violation of Labor Code sections 201, 202, and 203 for failure to pay all
6 earned wages upon termination, as set forth below;

7 (f) Violation of Labor Code section 204 for failure to pay all earned wages
8 during employment, as alleged herein;

9 (g) Violation of Labor Code section 246 for failure to provide written notice
10 of paid sick leave available, or paid time off, as set forth below;

11 (h) Violation of Labor Code section 1198 for failing to provide suitable
12 seating to Plaintiff and other aggrieved employees, as set forth below;

13 (i) Failing to pay Plaintiff and other aggrieved employees a split-shift
14 premium wage of an additional hour of pay at the minimum wage, when
15 they returned to work for an additional shift in the same day, after
16 having been clocked out for more than an hour, in violation of
17 California Labor Code section 1198 and the application IWC Order, as
18 set forth below; and

19 (j) Violation of Labor Code section 2802 for failure to reimburse Plaintiff
20 and other aggrieved employees for all business expenses necessarily
21 incurred, as alleged herein.

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

1 101. Defendants willfully failed to pay other aggrieved employees who are no longer
2 employed by Defendants the earned and unpaid wages set forth above, including but not
3 limited to, overtime wages and minimum wages, either at the time of discharge, or within
4 seventy-two (72) hours of their leaving Defendants' employ.

5 102. Defendants' failure to pay those aggrieved employees who are no longer
6 employed by Defendants their wages earned and unpaid at the time of discharge, or within
7 seventy-two (72) hours of their leaving Defendant's employ, violates Labor Code sections 201
8 and 202. Other aggrieved employees are therefore entitled to recover civil penalties pursuant
9 to Labor Code sections 256 and/or 2699(a), (f), and (g).

10 103. California's Healthy Workplaces, Healthy Families Act of 2014 was enacted to
11 provide employees who have worked in California for 30 or more days from the
12 commencement of employment with paid sick days, to be accrued at least one hour for every
13 30 hours worked. Employers must provide no less than 24 hours or three (3) days of paid sick
14 leave (or equivalent paid leave or paid time off) in each year of the employee's employment.
15 Codified at California Labor Code sections 245.5, 246, 246.5, 247, 247.5, 248.5, and 249,
16 section 246(i) provides that an employer must provide an employee with written notice that
17 sets forth the amount of paid sick leave available, or paid time off that an employer provides
18 in lieu of sick leave, for use on either the employee's itemized wage statement or in a separate
19 written statement provided on the designated pay date with the employee's wages. The
20 penalties described in this article for a violation of this subdivision shall be in lieu of the
21 penalties for a violation of Section 226.

22 104. During the relevant time period, Defendants have failed, on a company-wide
23 basis, to provide Plaintiff and other aggrieved employees written notice on wage statements
24 and/or other separate written statements that listed the requisite information set forth in Labor
25 Code section 246(i). Defendants' ongoing and systematic failure to provide written notice of
26 sick leave benefits to Plaintiff and other aggrieved employees violates California Labor Code
27 section 246(i). Plaintiff and other aggrieved employees are therefore entitled to recover civil
28 penalties pursuant to Labor Code sections 248.5 and/or 2699(a), (f), and (g).

1 105. At all relevant times herein, California Labor Code section 1198 makes it
2 illegal to employ an employee under conditions of labor that are prohibited by the applicable
3 wage order. California Labor Code section 1198 requires that “. . . the standard conditions of
4 labor fixed by the commission shall be the . . . standard conditions of labor for employees.
5 The employment of any employee . . . under conditions of labor prohibited by the order is
6 unlawful.”

7 106. California Code of Regulations, Title 8, section 11090(14)(A) provides that
8 “[a]ll working employees shall be provided with suitable seats when the nature of the work
9 reasonably permits the use of seats.”

10 107. Plaintiff alleges that Defendants’ California locations are generally similar in
11 their layout and design in that there is space behind valet podiums and kiosks to allow for the
12 presence and use of a seat or stool by Plaintiff and other aggrieved employees during the
13 performance of their work duties. Defendants could have provided Plaintiff and other
14 aggrieved employees with a seat or stool at their valet podiums and kiosks, with reasonable or
15 no modification to these work areas, but instead denies them seating and forces Plaintiff and
16 other aggrieved employees to stand throughout the day.

17 108. Plaintiff and other aggrieved employees have spent a substantial portion of their
18 day behind or at these valet podiums and kiosks. The nature of the work of an employee
19 performing certain valet duties, such as checking parking customers in and out, can reasonably
20 be accomplished from a seated position. However, Defendants systematically, and on a
21 company-wide basis, does not provide seats or stools at or near their valet podiums and
22 kiosks, forcing employees, including Plaintiff and other aggrieved employees, to stand
23 throughout their work shifts.

24 109. During the relevant time period, Defendants violated California Labor Code
25 section 1198 and California Code of Regulations, Title 8, section 11090(14)(A), because
26 Plaintiff and other aggrieved employees were not allowed to sit, even when the nature of their
27 work would reasonably permit the use of seats, nor were they provided with suitable seats.

28 110. A portion of Plaintiff’s and other aggrieved employees’ duties are performed

1 from and connected to the valet podiums and kiosks and could have been performed from a
2 seated position. For example, Plaintiff and other aggrieved employees could have handled
3 transactions at the valet podiums and kiosks, such as checking parking customers in and out,
4 while seated without interference to their ability to complete these duties.

5 111. Defendants could have placed seats or stools at or near valet podiums and
6 kiosks, for use by Plaintiff and other aggrieved employees with little to no modification to
7 these work areas. However, on a company-wide basis, Defendants did not provide seats or
8 stools at or near the valet podiums and kiosks. Defendants' management did not inform
9 Plaintiff and other aggrieved employees that they are allowed to sit down, provide any means
10 for them to sit down, or mention any policy regarding sitting.

11 112. As a result of Defendants' company-wide policy and/or practice prohibiting
12 employees performing certain valet duties from sitting during their shifts and failure to
13 provide suitable seating to these employees, Plaintiff and other aggrieved employees are
14 forced to stand during shifts and denied seats. Defendants' failure to provide suitable seating
15 to Plaintiff and other aggrieved employees violates and continues to violate California Labor
16 Code section 1198 and IWC Wage Order 9-2001, Section 14(A). Plaintiff and other aggrieved
17 employees are therefore entitled to recover civil penalties pursuant to Labor Code sections
18 2699(a), (f), and (g).

19 113. At all relevant times herein, California Labor Code section 1198 makes it
20 illegal to employ an employee under conditions of labor that are prohibited by the applicable
21 wage order. California Labor Code section 1198 requires that "... the standard conditions of
22 labor fixed by the commission shall be the ... standard conditions of labor for employees.
23 The employment of any employee ... under conditions of labor prohibited by the order is
24 unlawful."

25 114. California Code of Regulations, Title 8, section 11090(14)(B) provides that
26 "[w]hen employees are not engaged in the active duties of their employment and the nature of
27 the work requires standing, an adequate number of suitable seats shall be placed in reasonable
28 proximity to the work area and employees shall be permitted to use such seats when it does

1 not interfere with the performance of their duties.”

2 115. During the relevant time period, Defendants violated California Labor Code
3 section 1198 and California Code of Regulations, Title 8, section 11090(14)(B), because
4 Plaintiff and other aggrieved employees are not allowed to sit, even during lulls in their work
5 duties, nor are they provided with suitable seats in reasonable proximity to their work areas.

6 116. Defendants do not provide Plaintiff and other aggrieved employees with seats
7 or stools in reasonable proximity to their work areas to allow them to use seats when it would
8 not interfere with the performance of their duties for times when they were not engaged in
9 active duties that require standing. In other words, to the extent Plaintiff and other aggrieved
10 employees have engaged in duties in which the nature of the work required standing,
11 Defendants denies them the use of seats nearby when they were not engaged in those duties.
12 Even though the layout of Defendants’ workplaces could accommodate seats or stools with
13 reasonable or no modification to Defendants’ workplaces, Defendants, on a company-wide
14 basis, denies Plaintiff and other aggrieved employees suitable seating altogether.

15 117. As a result of Defendants’ company-wide policy and/or practice prohibiting
16 employees from sitting at any time, even when they are not engaged in active duties requiring
17 standing, and company-wide failure to provide seats in reasonable proximity to their work
18 areas, Plaintiff and other aggrieved employees are forced to stand during shifts and denied
19 seats. Defendants’ failure to provide suitable seating to Plaintiff and other aggrieved
20 employees violates and continues to violate California Labor Code section 1198 and IWC
21 Wage Order 9-2001, Section 14(B). Plaintiff and other aggrieved employees are therefore
22 entitled to recover civil penalties pursuant to Labor Code sections 2699(a), (f), and (g).

23 118. At all times relevant herein, Labor Code section 1198 provides that no
24 employer may employ an employee under conditions of labor that are prohibited by the
25 applicable IWC wage order. California Code of Regulations, Title 8, section 11090(4)(C)
26 provides that, “When an employee works a split shift, one (1) hour’s pay at the minimum
27 wage shall be paid in addition to the minimum wage for that workday, except when the
28 employee resides at the place of employment.” Plaintiff and other aggrieved employees did

1 not reside at Defendants' retail locations. California Code of Regulations, Title 8, defines a
2 split shift as "a work schedule, which is interrupted by non-paid non-working periods
3 established by the employer, other than bona fide rest or meal periods."

4 119. Defendants have violated California Labor Code section 1198 and California
5 Code of Regulations, Title 8, section 11090(4)(C), because Defendants have failed to pay
6 Plaintiff and other aggrieved employees a split-shift premium when they returned to work for
7 an additional shift in the same day, after having been clocked out for more than an hour.

8 120. For instance, Plaintiff has been required to work a 4-hour shift in the morning
9 and then required to return two (2) hours later for his scheduled afternoon shift. Other
10 aggrieved employees have been similarly required to report to work for their scheduled
11 morning shifts, and then return two (2) hours later to complete their scheduled afternoon
12 shifts. When this occurred, Defendants did not always pay Plaintiff and other aggrieved
13 employees an additional hour at minimum wage.

14 121. Accordingly, Defendants have required Plaintiff and other aggrieved employees
15 to work split shifts but failed to pay them the split-shift premium wage in violation of
16 California Labor Code section 1198. Defendants' failure to compensate Plaintiff and other
17 aggrieved employees with split-shift pay when they returned to work for an additional shift in
18 the same day, after having been clocked out for more than an hour, violates California Labor
19 Code section 1198. Plaintiff and other aggrieved employees are therefore entitled to recover
20 civil penalties pursuant to Labor Code sections 2699(a), (f), and (g).

21 **SEVENTH CAUSE OF ACTION**

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

23 **Unlawful Business Practices**

24 **(Against all Defendants)**

25 122. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
26 and every allegation set forth above.

27 123. Defendants are "persons" as defined by California Business & Professions
28 Code sections 17201, as they are corporations, firms, partnerships, joint stock companies,

1 and/or associations.

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

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

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

- 13 (a) Requiring non-exempt, hourly paid employees, including Plaintiff and
14 class members, to work overtime without paying them proper
15 compensation in violation of California Labor Code sections 510 and
16 1198 and the applicable IWC Order, and paying Plaintiff and class
17 members overtime at a lower rate than required by law by failing to
18 properly calculate the regular rate of pay for purposes of overtime, as
19 alleged herein;
- 20 (b) Failing to pay at least minimum wage to Plaintiff and class members in
21 violation of California Labor Code sections 1182.12, 1194, 1197,
22 1197.1, and 1198 and the applicable IWC Order, as alleged herein;
- 23 (c) Failing to provide Plaintiff and class members with accurate wage
24 statements and failing to maintain accurate payroll records in violation
25 of California Labor Code sections 226(a), 1174(d), 1198, and the
26 applicable IWC Order, as alleged herein;
- 27 (d) Failing timely to pay all earned wages to Plaintiff and class members in
28 violation of California Labor Code section 204 and the applicable IWC

Order, as alleged herein;

- (e) Failing to provide written notice of paid sick leave or paid time off available to Plaintiff and class members in violation of California Labor Code section 246(i), as set forth below;
- (f) Failing to pay Plaintiff and class members a split-shift premium wage of an additional hour of pay at the minimum wage, when they returned to work for an additional shift in the same day, after having been clocked out for more than an hour, in violation of California Labor Code section 1198 and the application IWC Order, as set forth below; and
- (g) Failing to reimburse Plaintiff and class members for all business expenses necessarily incurred in violation of California Labor Code sections 2802, as alleged herein.

127. California's Healthy Workplaces, Healthy Families Act of 2014 was enacted to provide employees who have worked in California for 30 or more days from the commencement of employment with paid sick days, to be accrued at least one hour for every 30 hours worked. Employers must provide no less than 24 hours or three (3) days of paid sick leave (or equivalent paid leave or paid time off) in each year of the employee's employment. Codified at California Labor Code sections 245.5, 246, 246.5, 247, 247.5, 248.5, and 249, section 246(i) provides that an employer must provide an employee with written notice that sets forth the amount of paid sick leave available, or paid time off that an employer provides in lieu of sick leave, for use on either the employee's itemized wage statement or in a separate written statement provided on the designated pay date with the employee's wages. The penalties described in this article for a violation of this subdivision shall be in lieu of the penalties for a violation of Section 226.

128. During the relevant time period, Defendants have failed, on a company-wide basis, to provide Plaintiff and class members written notice on wage statements and/or other separate written statements that listed the requisite information set forth in Labor Code section 246(i). Defendants' ongoing and systematic failure to provide written notice of sick leave

benefits to Plaintiff and class members violates California Labor Code section 246(i).

129. At all times relevant herein, Labor Code section 1198 provides that no employer may employ an employee under conditions of labor that are prohibited by the applicable IWC wage order. California Code of Regulations, Title 8, section 11090(4)(C) provides that, “When an employee works a split shift, one (1) hour’s pay at the minimum wage shall be paid in addition to the minimum wage for that workday, except when the employee resides at the place of employment.” Plaintiff and class members did not reside at Defendants’ locations. California Code of Regulations, Title 8, defines a split shift as “a work schedule, which is interrupted by non-paid non-working periods established by the employer, other than bona fide rest or meal periods.”

130. Defendants violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11090(4)(C), because Defendants have failed to pay Plaintiff and class members a split-shift premium when they returned to work for an additional shift in the same day, after having been clocked out for more than an hour. For instance, Plaintiff has been required to work a 4-hour shift in the morning and then required to return two (2) hours later for his scheduled afternoon shift. Other employees have been similarly required to report to work for their scheduled morning shifts, and then return two (2) hours later to complete their scheduled afternoon shifts. When this occurs, Defendants have not always paid Plaintiff and class members an additional hour at minimum wage.

131. Accordingly, Defendants have required Plaintiff and class members to work split shifts but have failed to pay them the split-shift premium wage in violation of California Labor Code section 1198. Defendants’ failure to compensate Plaintiff and class members with split-shift pay when they returned to work for an additional shift in the same day, after having been clocked out for more than an hour, violates California Labor Code section 1198.

132. As a result of the violations of California law herein described, Defendants unlawfully gained an unfair advantage over other businesses. Plaintiff and class members have suffered pecuniary loss by Defendants’ unlawful business acts and practices alleged herein.

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

REQUEST FOR JURY TRIAL

Plaintiff requests a trial by jury.

PRAYER FOR RELIEF

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

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

Class Certification

2. That this case be certified as a class action;
3. That Plaintiff be appointed as the representative of the Class and Subclass;
4. That counsel for Plaintiff be appointed as class counsel.

As to the First Cause of Action

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

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

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

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

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

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

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

7 11. For general unpaid wages and such general and special damages as may be
8 appropriate;

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

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

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

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

16 **As to the Third Cause of Action**

17 16. That the Court declare, adjudge and decree that Defendants violated the
18 recordkeeping provisions of California Labor Code section 226(a) and applicable IWC Wage
19 Orders as to Plaintiff and Subclass members, and willfully failed to provide accurate itemized
20 wage statements thereto;

21 17. For all actual, consequential, and incidental losses and damages, according to
22 proof;

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

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

25 20. For attorneys' fees and costs pursuant to California Labor Code section
26 226(e)(1); and

27 21. For such other and further relief as the Court may deem equitable and
28 appropriate.

As to the Fourth Cause of Action

22. That the Court declare, adjudge and decree that Defendants violated California Labor Code section 204 by willfully failing to timely pay Plaintiff and class members overtime wages and minimum wages during their employment;

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

24. For statutory penalties according to proof pursuant to California Labor Code section 210;

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

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

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

As to the Fifth Cause of Action

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

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

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

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

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

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

1 **As to the Sixth Cause of Action**

2 34. That the Court declare, adjudge and decree that Defendants violated the
3 following California Labor Code provisions as to Plaintiff and/or other aggrieved employees:
4 510 and 1198 (by failing to pay all overtime compensation); 1182.12, 1194, 1197, 1197.1, and
5 1198 (by failing to pay at least minimum wages for all hours worked); 226(a), 1174(d), and
6 1198 (by failing to provide accurate wage statements and maintain accurate payroll records);
7 201, 202, and 203 (by failing timely to pay all earned wages upon termination); 204 (by
8 failing timely to pay all earned wages during employment); 246 (by failing to provide written
9 notice of paid sick leave or paid time off available); 1198 (by failing to provide suitable
10 seating); 1198 (by failing to pay split-shift premiums); and 2802 (by failing to reimburse
11 business expenses).

12 35. For civil penalties pursuant to California Labor Code sections 210, 226.3,
13 248.5, 256, 558, 1174.5, 1197.1, and/or 2699(a), (f) and (g), for violations of California Labor
14 Code sections 201, 202, 203, 204, 226(a), 246, 510, 1174(d), 1182.12, 1194, 1197, 1197.1,
15 1198, and 2802;

16 36. For attorneys' fees and costs pursuant to California Labor Code section
17 2699(g)(1), and any and all other relevant statutes, for Defendant's violations of California
18 Labor Code sections 201, 202, 203, 204, 226(a), 246, 510, 1174(d), 1182.12, 1194, 1197,
19 1197.1, 1198, and 2802;

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

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

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

24 39. That the Court declare, adjudge and decree that Defendants' conduct of failing
25 to provide Plaintiff and class members all overtime wages due to them, failing to provide
26 Plaintiff and class members all minimum wages due to them, failing to provide Plaintiff and
27 class members accurate and complete wage statements, failing to maintain accurate payroll
28 records for Plaintiff and class members, failing timely to pay Plaintiff and class members all

1 earned wages during employment, failing to provide written notice of paid sick leave or paid
2 time off available, failing to properly compensate Plaintiff and class members for split shifts,
3 and failing to reimburse Plaintiff and class members for business-related expenses, constitutes
4 an unlawful business practice in violation of California Business and Professions Code
5 sections 17200, *et seq.*;

6 40. For restitution of unpaid wages to Plaintiff and all class members and
7 prejudgment interest from the day such amounts were due and payable;

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

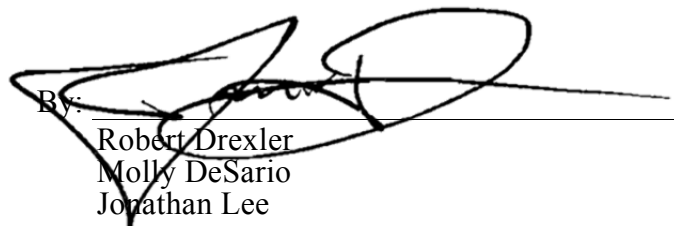
12 42. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
13 California Code of Civil Procedure section 1021.5; and

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

16
17 Dated: June 25, 2020

Respectfully submitted,

Capstone Law APC

19
20  By: Robert Drexler
Molly DeSario
Jonathan Lee

23 Attorneys for Plaintiff Ellis Trotter

Exhibit 1

MAO SHIOKURA
310.712.8030 Direct
Mao.Shiokura@capstonelawyers.com

March 26, 2020

VIA ONLINE SUBMISSION

California Labor & Workforce Development Agency
ATTN: PAGA Administrator
(<https://dir.tfaforms.net/266>)

Subject: *Ellis Trotter v. ProPark America West, LLC, et al.*

Dear PAGA Administrator:

This office represents Ellis Trotter in connection with his claims under the California Labor Code. Mr. Trotter is an employee of PROPARK AMERICA WEST, LLC; PROPARK LA, LLC; and/or PRO PARK, INC. For the purpose of this letter, Mr. Trotter collectively refers to these entities as “PROPARK.”

The employers may be contacted directly at the addresses below:

PROPARK AMERICA WEST, LLC
1 UNION PL
HARTFORD CT 06103

PROPARK LA, LLC
1 UNION PLACE
HARTFORD CT 06103

PRO PARK, INC.
ONE UNION PL
HARTFORD CT 06103

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

PROPARK has employed Mr. Trotter as a non-exempt, hourly paid Valet Assistant since approximately March 2019. Mr. Trotter works for PROPARK at its location in Foster City, California. PROPARK previously employed Mr. Trotter as a “GRide” or Shuttle Driver in Mountain View, California, from 2018 to 2019. He typically works eight (8) hours or more per day, four (4) to five (5) days per week, from 8:00 a.m. to 4:30 p.m. His job duties include checking customers into

the system, moving cars from main parking lot to valet parking lot, photographing damage to vehicles, and providing customer service.

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

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

PROPARK AMERICA WEST, LLC and PROPARK LA, LLC are Connecticut limited liability companies, while PRO PARK, INC. is a Connecticut corporation. PROPARK is a parking management company providing services for more than 500 locations in markets across the United States and at least 39 locations in California. Upon information and belief, PROPARK maintains a single, centralized Human Resources (HR) department at its corporate headquarters in Hartford, Connecticut, for all non-exempt, hourly paid employees working for PROPARK in California, including Mr. Trotter and other aggrieved employees. At all relevant times, PROPARK issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in California, including Mr. Trotter and other aggrieved employees, regardless of their location or position.

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

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

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

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

PROPARK willfully failed to pay all overtime wages owed to Mr. Trotter and other aggrieved employees. During the relevant time period, Mr. Trotter and other aggrieved employees were not paid overtime premiums for all of the hours they worked in excess of eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty (40) hours in a week, because all hours that they worked were not recorded.

First, during the relevant time period, PROPARK has had a company-wide policy and/or practice of improperly rounding employee clock-in and clock-out duration times to the nearest quarter-hour in its timekeeping system. PROPARK's rounding policy has resulted in the failure to compensate Mr. Trotter and other aggrieved employees fully for all hours worked, causing Mr. Trotter and other aggrieved employees to not be paid overtime wages for all of the overtime hours they actually worked. Upon information and belief, PROPARK's rounding policy is, and continues to be, unfair and has, over time, resulted in the underpayment of wages to Mr. Trotter and other aggrieved employees. To the extent PROPARK's rounding policy has taken away time worked that was eligible for overtime, Mr. Trotter and other aggrieved employees have been denied overtime pay for all hours worked.

Second, during the relevant period, PROPARK had, and continues to have, a company-wide policy and/or practice of strictly staffing its sites/locations based on the labor hours allocated by corporate for each location. PROPARK's uniform use of labor budgets has resulted in chronic understaffing, because there are too few employees on duty to handle the heavy workload and attend to customers.

Third, PROPARK has a policy and/or practice of discouraging and impeding Mr. Trotter and other aggrieved employees from recording hours worked that are outside of their scheduled shifts in order to limit the amount of overtime employees can accrue. On information and belief, this policy of limiting overtime, coupled with PROPARK's understaffing and assigning heavy workloads, has led Mr. Trotter and other aggrieved employees to work off-the-clock before or after their scheduled shift times in order to complete their assigned tasks. For example, Mr. Trotter arrives to work up to 10-15 minutes early and is asked to start performing work immediately, such as moving cars between lots, locating missing cars, and uploading new cars into the system, but he does not clock in until his designated shift start-time. After clocking out from his scheduled shift, Mr. Trotter also hands out keys to customers for 10-20 minutes per instance. Thus, PROPARK has failed to track this time spent working before and after scheduled shifts, and Mr. Trotter and other aggrieved employees receive no compensation for this time.

PROPARK knew or should have known that, as a result of these company-wide practices and/or policies, Mr. Trotter and other aggrieved employees have been performing their assigned duties off-the-clock, and were suffered or permitted to perform work for which they were not paid. PROPARK also knew, or should have known, that it does not compensate Mr. Trotter and other aggrieved employees applicable overtime rates of pay for overtime hours that they worked.

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

Furthermore, PROPARK has not paid other aggrieved employees the correct overtime rates for the recorded overtime hours that they generated. In addition to an hourly wage, PROPARK pays other aggrieved employees incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, such as referral bonuses and shift differential pay. However, in violation of the California Labor Code, PROPARK has failed to incorporate all remunerations, including shift differential pay, incentive pay, and/or nondiscretionary bonuses, into the calculation of the regular rate of pay for purposes of calculating the overtime wage rates. Therefore, during times when other aggrieved employees have worked overtime and received these other forms of pay, PROPARK has failed to pay all overtime wages by paying a lower overtime rate than required.

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

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

California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 require employers to pay employees the minimum wage fixed by the IWC. The payment of a lesser wage than the minimum so fixed is unlawful. Compensable work time is defined in Wage Order No. 9 as “the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.” Cal. Code. Regs. tit. 8, § 11090(2)(H) (defining “Hours Worked”).

As set forth above, PROPARK has had a policy of rounding Mr. Trotter's and other aggrieved employees' hourly clock-in and clock-out duration times to the quarter-hour in its timekeeping system, resulting in the failure to compensate Mr. Trotter and other aggrieved employees fully for all hours worked. Also, as stated, as a result of PROPARK's policy of limiting the amount of overtime employees can accrue by discouraging and impeding Mr. Trotter and other aggrieved employees from recording hours worked that are outside of their scheduled shifts, and policy of understaffing while assigning heavy workloads, Mr. Trotter and other aggrieved employees are required to work off-the-clock before and/or after their scheduled shift start and end times to complete their assigned job duties.

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

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

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

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

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

Because PROPARK does not record the time Mr. Trotter and other aggrieved employees spent working off-the-clock and improperly rounds Mr. Trotter's and other aggrieved employees' clock-in and clock-out duration times, PROPARK does not list the correct amount of gross wages and net wages earned by Mr. Trotter and other aggrieved employees, in compliance with section 226(a)(1) and 226(a)(5), respectively. For the same reason, PROPARK fails to accurately list the total number of the hours worked by Mr. Trotter and other aggrieved employees, in violation of section 226(a)(2), and fails to list the applicable hourly rates of pay in effect during the pay period and the corresponding accurate number of hours worked at each hourly rate, in violation of section 226(a)(9).

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

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

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

California Labor Code section 1198 provides that the maximum hours of work and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the applicable IWC Wage Orders. Section 1198 further provides that “[t]he employment of any employees for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.” Pursuant to the applicable IWC Wage Order, employers are required to keep accurate time records showing when the employee begins and ends each work period and meal period. At all relevant times, PROPARK has failed to keep accurate records of work period start and end times for Mr. Trotter and other aggrieved employees in violation of section 1198.

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

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

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

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

During the relevant time period, PROPARK has failed to pay Mr. Trotter and other aggrieved employees all wages due to them, including, but not limited to, overtime wages and/or minimum wages, within any time period specified by California Labor Code section 204.

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

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

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

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

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

Violation of California Labor Code § 246 – Failure to Provide Sick Leave Benefits and Written Notice of Paid Sick Leave Benefits

California's Healthy Workplaces, Healthy Families Act of 2014 was enacted to provide employees who have worked in California for 30 or more days from the commencement of employment with paid sick days, to be accrued at least one hour for every 30 hours worked. Employers must provide no less than 24 hours or three (3) days of paid sick leave (or equivalent paid leave or paid time off) in each year of the employee's employment. Codified at California Labor Code sections 245.5, 246, 246.5, 247, 247.5, 248.5, and 249, section 246(i) provides that an employer must provide an employee with written notice that sets forth the amount of paid sick leave available, or paid time off that an employer provides in lieu of sick leave, for use on either the employee's itemized wage statement or in a separate written statement provided on the designated pay date with the employee's wages. The penalties described in this article for a violation of this subdivision shall be in lieu of the penalties for a violation of Section 226.

During the relevant time period, PROPARK has failed to provide Mr. Trotter and other aggrieved employees written notice on wage statements and/or other separate written statements that list the requisite information set forth in Labor Code section 246(i). PROPARK's ongoing and systematic failure to provide written notice of sick leave benefits to Mr. Trotter and other aggrieved employees violates California Labor Code section 246(i).

Mr. Trotter and other aggrieved employees are therefore entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 248.5 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 1198 and California Code of Regulations Title 8, Section 11090 Subdivision 14(A) – Failure to Provide Suitable Seating

California Labor Code section 1198 makes it illegal to employ an employee under conditions of labor that are prohibited by the applicable wage order. California Labor Code section 1198 requires that “. . . the standard conditions of labor fixed by the commission shall be the . . . standard conditions of labor for employees. The employment of any employee . . . under conditions of labor prohibited by the order is unlawful.” California Code of Regulations, Title 8, section 11090(14)(A) provides that “[a]ll working employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats.”

“The ‘nature of the work’ refers to an employee’s tasks performed at a given location for which a right to a suitable seat is claimed, rather than a ‘holistic’ consideration of the entire range of an employee’s duties anywhere on the jobsite during a complete shift. If the tasks being performed at a given location reasonably permit sitting, and provision of a seat would not interfere with performance of any other tasks that may require standing, a seat is called for.” *Kilby v. CVS Pharmacy, Inc.*, 368 P.3d 554, 558 (Cal. 2016). “Whether the nature of the work reasonably permits sitting is a question to be determined objectively based on the totality of the circumstances. An employer’s business judgment and the physical layout of the workplace are relevant but not dispositive factors. The inquiry focuses on the nature of the work, not an individual employee’s characteristics.” *Id.* The burden of proof to show suitable seating is not available is on the employer. *Id.* at 568. In other words, the employer must show that compliance is “infeasible because no suitable seating exists.” *See id.*

PROPARK’s California locations are generally similar in their layout and design in that there is space behind valet podiums and kiosks to allow for the presence and use of a seat or stool by Mr. Trotter and other aggrieved employees during the performance of their work duties. PROPARK could provide Mr. Trotter and other aggrieved employees with a seat or stool at its valet podiums and kiosks, with reasonable or no modification to these work areas, but instead denies employees seating and forces Mr. Trotter and other aggrieved employees to stand throughout the day.

Mr. Trotter and other aggrieved employees have spent a substantial portion of their day behind or at these valet podiums and kiosks. The nature of the work of an employee performing certain valet duties, such as checking parking customers in and out, can reasonably be accomplished from a seated position. However, as set forth herein, PROPARK systematically, and on a company-wide basis, does not provide seats or stools at or near their valet podiums and kiosks, forcing Mr. Trotter and other aggrieved employees to stand throughout their work shifts.

PROPARK has violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11040(14)(A) because Mr. Trotter and other aggrieved employees are not allowed to sit, even when it would not have interfered with the performance of their duties, nor are they provided with suitable seats. PROPARK’s management has not informed Mr. Trotter and other aggrieved employees that they were allowed to sit down, provide any means for them to sit down, or mention any policy regarding sitting.

As a result of PROPARK’s company-wide policy and/or practice of prohibiting employees from sitting during their shifts and company-wide failure to provide suitable seating, Mr. Trotter and other aggrieved employees are forced to stand during shifts and denied seats. PROPARK’s failure to

provide suitable seating to Mr. Trotter and other aggrieved employees violates California Labor Code section 1198 and IWC Wage Order 9-2001, Section 14(A).

Mr. Trotter and other aggrieved employees are therefore entitled to recover civil penalties, attorney's fees, costs, and interest thereon, and seek injunctive relief to bring PROPARK into compliance with California's seating requirements, pursuant to Labor Code sections 1194.5 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 1198 and California Code of Regulations Title 8, Section 11090 Subdivision 14(B) – Failure to Provide Suitable Seating

California Labor Code section 1198 makes it illegal to employ an employee under conditions of labor that are prohibited by the applicable wage order. California Labor Code section 1198 requires that “. . . the standard conditions of labor fixed by the commission shall be the . . . standard conditions of labor for employees. The employment of any employee . . . under conditions of labor prohibited by the order is unlawful.” California Code of Regulations, Title 8, section 11090(14)(B) provides that “[w]hen employees are not engaged in the active duties of their employment and the nature of the work requires standing, an adequate number of suitable seats shall be placed in reasonable proximity to the work area and employees shall be permitted to use such seats when it does not interfere with the performance of their duties.”

The IWC states that section 14(B) applies during “lulls in operation” when an employee, while still on the job, is not then actively engaged in any duties. *Kilby v. CVS Pharmacy, Inc.*, 368 P.3d 554, 565 (Cal. 2016), citing IWC, 1976 Wage Orders, Summary of Basic Provisions, Seats. When taken together, an employee is entitled to a seat under section 14(A) if his or her actual tasks at a discrete location make seated work feasible, while working there. *Id.* However, if other job duties take the employee to a different location where he or she must perform tasks requiring standing, the employee would be entitled to a seat under section 14(B) during “lulls in operation.” *Id.*

As stated, PROPARK's California locations are generally similar in their layout and design in that there is space near their work areas to allow for the presence and use of a seat or stool by Mr. Trotter and other aggrieved employees during lulls in operation. PROPARK could provide Mr. Trotter and other aggrieved employees with a seat or stool in its work areas, with reasonable or no modification to these work areas, but instead denies employees seating and forces Mr. Trotter and other aggrieved employees to stand throughout the day.

PROPARK does not provide Mr. Trotter and other aggrieved employees with seats or stools in reasonable proximity to their work areas to allow them to use seats when it would not interfere with the performance of their duties for times when they are not engaged in active duties that require standing. In other words, to the extent Mr. Trotter and other aggrieved employees engage in duties in which the nature of the work required standing, PROPARK denies them the use of seats nearby during lulls in their work duties. Moreover, PROPARK has not informed Mr. Trotter and other aggrieved employees of their rights to a seat or stool under California law.

As a result of PROPARK's company-wide policy and/or practice of prohibiting employees from sitting at any time, even when they are not engaged in active duties requiring standing, and company-wide failure to provide seats in reasonable proximity to their work areas, Mr. Trotter and other aggrieved employees are forced to stand during shifts and denied seats. PROPARK's failure to provide suitable seating to Mr. Trotter and other aggrieved employees violates California Labor Code section 1198 and IWC Wage Order 9-2001, Section 14(B).

Mr. Trotter and other aggrieved employees are therefore entitled to recover civil penalties, attorney's fees, costs, and interest thereon, and seek injunctive relief to bring PROPARK into compliance with California's seating requirements, pursuant to Labor Code sections 1194.5 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 1198 and California Code of Regulations Title 8, Section 11090 Subdivision 4(C) – Failure to Pay Split-Shift Premiums

California Labor Code section 1198 provides that no employer may employ an employee under conditions of labor that are prohibited by the applicable IWC wage order. California Labor Code section 1198 further requires that “. . . the standard conditions of labor fixed by the commission shall be the . . . standard conditions of labor for employees. The employment of any employee . . . under conditions of labor prohibited by the order is unlawful.”

California Code of Regulations, Title 8, section 11090(4)(C) provides that, “When an employee works a split shift, one (1) hour's pay at the minimum wage shall be paid in addition to the minimum wage for that workday, except when the employee resides at the place of employment.” California Code of Regulations, Title 8, defines a split shift as “a work schedule, which is interrupted by non-paid non-working periods established by the employer, other than bona fide rest or meal periods.”

PROPARK has willfully violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11090(4)(C), because PROPARK has failed to pay Mr. Trotter and other aggrieved employees a split-shift premium when they return to work for an additional shift in the same day, after having been clocked out for more than an hour. For example, Mr. Trotter has been required to work a 4-hour shift in the morning and then required to return two (2) hours later for his scheduled afternoon shift. Other aggrieved employees have been similarly required to report to work for their scheduled morning shifts, and then return two (2) hours later to complete their scheduled afternoon shifts. Accordingly, PROPARK has required Mr. Trotter and other aggrieved employees to work split shifts but failed to pay them an additional hour at minimum wage in violation of California Labor Code section 1198.

PROPARK's failure to provide Mr. Trotter and other aggrieved employees with split-shift pay when they returned to work for an additional shift in the same day, after having been clocked out for more than an hour, violates California Labor Code section 1198 and California Code of Regulations Title 8, Section 11090(4)(C). Mr. Trotter and other aggrieved employees are therefore entitled to recover civil penalties pursuant to sections 1194 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 2802 – Unreimbursed Business Expenses

California Labor Code section 2802 requires employers to pay for all necessary expenditures and losses incurred by the employee in the performance of his or her job. The purpose of Labor Code section 2802 is to prevent employers from passing off their cost of doing business and operating expenses on to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144 (2014). The applicable wage order, IWC Wage Order 9-2001, provides that: “[w]hen tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft.”

During the relevant time period, PROPARK, on a company-wide basis, has required that Mr. Trotter and other aggrieved employees use their own personal cellular phones and/or cellular data to carry out their job duties, but has failed to reimburse them for the costs of their work-related cellular phone expenses. Mr. Trotter and other aggrieved employees are required to use their personal cellular phones to complete their work-related tasks, such as discussing work assignments throughout their shifts with PROPARK management. Although PROPARK requires Mr. Trotter and other aggrieved employees to utilize their personal cellular phones to carry out their work-related responsibilities, PROPARK has failed to fully reimburse them for this cost.

Additionally, PROPARK, on a company-wide basis, has expected Mr. Trotter and other aggrieved employees to report to work in clean and presentable uniforms, including a uniform green polo shirt and jacket emblazoned with PROPARK's logo, which forces Mr. Trotter and other aggrieved employees to wash their uniforms more frequently than they would otherwise do laundry, and incur expenses for doing so. For example, Mr. Trotter has only been provided two (2) uniform shirts, but is scheduled to work five (5) days in a week, and thus incurs laundry expenses for the upkeep of his uniforms.

PROPARK could have provided Mr. Trotter and other aggrieved employees with the actual tools for use on the job, such as company phones to be used for fulfilling work-related tasks, and with an adequate number of uniform shirts or access to a cleaning service. Or, PROPARK could have reimbursed employees for the costs of their cellular phone usage and laundry expenses. Instead, PROPARK has passed these operating costs off onto Mr. Trotter and other aggrieved employees.

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

California Labor Code § 558(a)

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

Accordingly, Mr. Trotter seeks the remedies set forth in Labor Code section 558 for himself, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 1194.5, 2699(a), 2699.3(a) and 2699.3(c), 2699.5, and 558, Mr. Trotter, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties and injunctive relief for himself, all other aggrieved employees, and the State of California against PROPARK for violations of California Labor Code sections 201, 202, 203, 204, 226(a), 246, 510, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, and 2802.

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

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

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

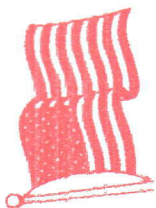
Best Regards,

A handwritten signature in black ink, appearing to read "Mao Shiokura", with a stylized flourish at the end.

Mao Shiokura

Copy: PROPARK AMERICA WEST, LLC (via U.S. Certified Mail); PROPARK LA, LLC (via U.S. Certified Mail); PRO PARK, INC. (via U.S. Certified Mail)

UNITED STATES POSTAGE
PITNEY BOWES
\$007.93
02 1P
0006944025 MAR 17 2020
MAILED FROM ZIP CODE 90067



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Postage

\$ 1.63

Total Postage and Fees

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PROPARK AMERICA WEST, LLC

Street and Apt. No. or PO Box No.
1 UNION PL

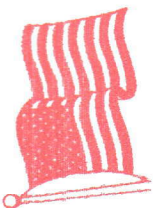
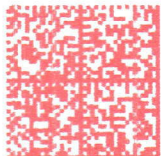
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Trotter v. Propark
America West, LLC

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 0006944025 MAR 17 2020
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PROPARK LA, LLC
 1 UNION PLACE
 HARTFORD CT 06103



9590 9402 4882 9032 7449 91

2. Article Number (Transfer from service label)

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- ☐ Registered Mail Restricted Delivery (\$500)
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- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
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- ☐ Signature Confirmation
- ☐ Signature Confirmation Restricted Delivery

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 HARTFORD CT 06103

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Postage
 \$ 1.63

Total Postage and Fees
 \$ 7.93

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 PROPARK LA, LLC

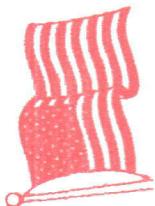
Street and Apt. No., *at Propark LA*
 1 UNION PLACE

City, State, ZIP+4®
 HARTFORD CT 06103

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Trotter v. Propark
 LA, LLC

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ONE UNION PL
HARTFORD CT 06103



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2. Article Number (Transfer from service label)

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Extra Services & Fees (check box, add fee as appropriate)

☒ Return Receipt (hardcopy) \$ 2.80☐ Return Receipt (electronic) \$☐ Certified Mail Restricted Delivery \$☐ Adult Signature Required \$☐ Adult Signature Restricted Delivery \$

Postage

\$ 1.68

Total Postage and Fees

\$ 7.93

Sent To

PRO PARK, INC.

Street and Apt. No., or PO Box No.

ONE UNION PL

City, State, ZIP+4®

HARTFORD CT 06103

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions

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HereTrotter v. Pro Park,
Inc.PRO PARK, INC.
ONE UNION PL
HARTFORD CT 06103

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1. Article Addressed to:

PRO PARK, INC.
ONE UNION PL
HARTFORD CT 06103



9590 9402 4882 9032 7449 84

2. Article Number (Transfer from service label)

7015 0640 0006 1449 0382

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A. Signature

X☐ Agent☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

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D. Is delivery address different from item 1?

☐ Yes

If YES, enter delivery address below:

☐ No

3. Service Type

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1. Article Addressed to:

PROPARK AMERICA WEST, LLC
1 UNION PL
HARTFORD CT 06103



9590 9402 4882 9032 7450 04

2. Article Number (Transfer from service label)

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PS Form 3811, July 2015 PSN 7530-02-000-9053

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A. Signature

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☐ Agent

☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

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☐ No

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PROPAPK LA
1 UNIT PLAC
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9590 9402 4882 9032 7449 91

2. Article Number (Transfer from service label)

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☐ Address

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? If YES, enter delivery address below:

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☐ No

3. Service Type

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☐ Collect on Delivery Restricted Delivery

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I am employed in the County of Los Angeles. I declare that I am over the age of eighteen (18) and not a party to this action. My business address is: Capstone Law APC, 1875 Century Park East, Suite 1000, Los Angeles, California 90067.

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

Mel M.C. Cole
 Littler Mendelson, P.C.
 333 Bush Street, 34th Floor
 San Francisco, CA 94104
mmcole@littler.com

- EXECUTED** this document on June 25, 2020, at Los Angeles, California.

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