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Attorneys for Plaintiff EVARISTO AYARD
individually, and on behalf of all other
aggrieved employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SANTA CLARA

EVARISTO AYARD, an individual, on behalf
of himself and all other aggrieved employees,

Plaintiff,

vs.

KUNI REDWOOD MOTORS, LLC, a
Delaware limited liability company; KUNI
ENTERPRISES, LLC; an Oregon limited
liability company; KUNI SDA, LLC, a
Delaware limited liability company; HOLMAN
NATIONAL RETAIL HOLDINGS, LLC, a
Delaware limited liability company; and DOES
1 through 50, inclusive,

Defendants

CASE NO.: 20CV367003

COMPLAINT FOR:

1. Penalties under the Labor Code Private
Attorneys General Act, as
Representative Action (California Labor
Code § 2698, *et seq.*)

DEMAND FOR JURY TRIAL

1 PLAINTIFF EVARISTO AYARD (“PLAINTIFF”) individually and on behalf of all
2 current and former non-exempt employees of DEFENDANTS (as defined in Paragraph 1 below)
3 who worked for DEFENDANTS in the State of California at any time during the relevant
4 statutory period (“AGGRIEVED EMPLOYEES”), hereby alleges as follows:

5 **INTRODUCTION**

6 1. PLAINTIFF brings this action on behalf of himself, the State of California, and all
7 other AGGRIEVED EMPLOYEES of Defendants KUNI REDWOOD MOTORS, LLC, a
8 Delaware limited liability company; KUNI ENTERPRISES, LLC; an Oregon limited liability
9 company; KUNI SDA, LLC, a Delaware limited liability company; HOLMAN NATIONAL
10 RETAIL HOLDINGS, LLC, a Delaware limited liability company; and DOES 1 through 50
11 (collectively “DEFENDANTS”), to recover penalties arising from unpaid wages earned and due,
12 including but not limited to unpaid and illegally calculated overtime and minimum wage
13 compensation, illegal meal and rest period policies, failure to pay all wages due to discharged or
14 quitting employees, failure to maintain required records, failure to provide accurate itemized
15 wage statements, failure to timely pay wages during employment, and failure to indemnify
16 employees for necessary expenditures and/or losses incurred in discharging their duties.

17 **JURISDICTION AND VENUE**

18 2. The Superior Court of the State of California has jurisdiction in this matter because
19 PLAINTIFF is a citizen and resident of the State of California and DEFENDANTS are citizens
20 and residents of, and/or regularly conduct business in, California. Further, no federal question is
21 at issue because the claims are based solely on California law.

22 3. Venue is proper in this judicial district and the County of Santa Clara, California
23 because PLAINTIFF and other AGGRIEVED EMPLOYEES performed work for
24 DEFENDANTS in the County of Santa Clara and many of DEFENDANTS’ unlawful actions and
25 omissions, as set forth herein, occurred in the County of Santa Clara.

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PARTIES

4. PLAINTIFF is a citizen and resident of the State of California. At times material to this complaint, PLAINTIFF was employed by DEFENDANTS in the State of California as a non-exempt employee.

5. PLAINTIFF is informed and believes, and thereon alleges, that DEFENDANT KUNI REDWOOD MOTORS, LLC is, and at all times relevant hereto was, a limited liability company organized and existing under the laws of the State of California. PLAINTIFF is further informed and believes, and thereon alleges, that DEFENDANT KUNI REDWOOD MOTORS, LLC is authorized to conduct business in the State of California, and does conduct business in the State of California. Specifically, upon information and belief, DEFENDANT KUNI REDWOOD MOTORS, LLC maintains offices and conducts business in the County of Santa Clara, State of California.

6. PLAINTIFF is informed and believes, and thereon alleges, that DEFENDANT KUNI ENTERPRISES, LLC is, and at all times relevant hereto was, a limited liability company organized and existing under the laws of the State of California. PLAINTIFF is further informed and believes, and thereon alleges, that DEFENDANT KUNI ENTERPRISES, LLC is authorized to conduct business in the State of California, and does conduct business in the State of California. Specifically, upon information and belief, DEFENDANT KUNI ENTERPRISES, LLC maintains offices and conducts business in the County of Santa Clara, State of California.

7. PLAINTIFF is informed and believes, and thereon alleges, that DEFENDANT KUNI SDA, LLC is, and at all times relevant hereto was, a limited liability company organized and existing under the laws of the State of California. PLAINTIFF is further informed and believes, and thereon alleges, that DEFENDANT KUNI SDA, LLC is authorized to conduct business in the State of California, and does conduct business in the State of California. Specifically, upon information and belief, DEFENDANT KUNI SDA, LLC maintains offices and conducts business in the County of Santa Clara, State of California.

8. PLAINTIFF is informed and believes, and thereon alleges, that DEFENDANT HOLMAN NATIONAL RETAIL HOLDINGS, LLC is, and at all times relevant hereto was, a

1 limited liability company organized and existing under the laws of the State of California.
2 PLAINTIFF is further informed and believes, and thereon alleges, that DEFENDANT HOLMAN
3 NATIONAL RETAIL HOLDINGS, LLC is authorized to conduct business in the State of
4 California, and does conduct business in the State of California. Specifically, upon information
5 and belief, DEFENDANT HOLMAN NATIONAL RETAIL HOLDINGS, LLC maintains offices
6 and conducts business in the County of Santa Clara, State of California.

7 9. The true names and capacities of DOES 1 through 50, inclusive, are unknown to
8 PLAINTIFF at this time, and PLAINTIFF therefore sues such defendants under fictitious names.
9 PLAINTIFF is informed and believes, and thereon alleges, that each defendant designated as a
10 DOE is in some manner highly responsible for the occurrences alleged herein, and that
11 PLAINTIFF and other aggrieved employees' injuries and damages, as alleged herein, were
12 proximately caused by the conduct of such DOE defendants. PLAINTIFF will seek leave of the
13 court to amend this complaint to allege the true names and capacities of such DOE defendants
14 when ascertained.

15 10. At all relevant times herein, DEFENDANTS were the joint employers of
16 PLAINTIFF and other AGGRIEVED EMPLOYEES. PLAINTIFF is informed and believes, and
17 thereon alleges, that at all times material to this complaint DEFENDANTS were the alter egos,
18 divisions, affiliates, integrated enterprises, joint employers, subsidiaries, parents, principals,
19 related entities, co-conspirators, authorized agents, partners, joint venturers, and/or guarantors,
20 actual or ostensible, of each other. Each defendant was completely dominated by his, her, or its
21 co-defendant, and each was the alter ego of the other.

22 11. At all relevant times herein, on information and belief, PLAINTIFF and other
23 AGGRIEVED EMPLOYEES were employed by DEFENDANTS under employment agreements
24 that were partly written, partly oral, and partly implied. In perpetrating the acts and omissions
25 alleged herein, DEFENDANTS, and each of them, acted pursuant to, and in furtherance of, their
26 policies and practices of not paying PLAINTIFF and other AGGRIEVED EMPLOYEES all
27 wages earned and due, through methods and schemes which include, but are not limited to, failing
28 to pay overtime premiums; failing to pay minimum wages; failing to provide rest periods and

1 meal periods; failing to pay meal and rest period premium payments; failing to properly maintain
2 records; failing to provide accurate itemized statements for each pay period; failing to timely pay
3 wages during employment; failing to properly compensate PLAINTIFF and other AGGRIEVED
4 EMPLOYEES for necessary expenditures; and requiring, permitting or suffering the employees
5 to work off the clock, in violation of the California Labor Code and the applicable Industrial
6 Welfare Commission (“IWC”) Wage Order.

7 12. PLAINTIFF is informed and believes, and thereon allege, that each and every one
8 of the acts and omissions alleged herein were performed by, and/or attributable to, all
9 DEFENDANTS, each acting as agents and/or employees, and/or under the direction and control
10 of, each of the other DEFENDANTS, and that said acts and failures to act were within the course
11 and scope of said agency, employment and/or direction and control.

12 13. Pursuant to California Labor Code § 558.1, DEFENDANTS and any person acting
13 on behalf of any of the DEFENDANTS, are liable for violating, or causing to violate, any
14 provision regulating minimum wages or hours and days of work in any order of the Industrial
15 Welfare Commission, or Labor Code §§ 203, 226, 226.7, 1193.6, 1194, or 2802.

16 **PAGA REPRESENTATIVE ACTION ALLEGATIONS**

17 14. Pursuant to the California Labor Code Private Attorneys General Act of 2004
18 (“PAGA”), Labor Code §§ 2698-2699.5, PLAINTIFF brings this action on behalf of himself and
19 all AGGRIEVED EMPLOYEES of DEFENDANTS in the State of California.

20 15. Pursuant to Labor Code § 2699.3, PLAINTIFF gave written notice by online filing
21 on March 24, 2020 to the California Labor and Workforce Development Agency (“LWDA”) and
22 by certified mail to DEFENDANTS of the specific provisions of the Labor Code and IWC Wage
23 Orders alleged to have been violated, including the facts and theories to support the alleged
24 violations. PLAINTIFF submitted the required \$75.00 filing fee to the LWDA on March 24,
25 2020. Within sixty-five (65) calendar days of the March 24, 2020 postmark date of
26 PLAINTIFF’s notice letters, the LWDA did not provide notice to PLAINTIFF that it intends to
27 investigate the alleged violations. Pursuant to California Labor Code § 2699.3(d), the sixty-five
28 (65) day notice period set forth in California Labor Code § 2699.3(a) is not counted as part of the

1 time limited for the commencement of this civil action. Therefore, PLAINTIFF has complied
2 with all of the requirements set forth in California Labor Code § 2699.3 to commence a
3 representative action under PAGA.

4 **FACTUAL ALLEGATIONS**

5 **Failure to Provide Required Meal Periods**

6 **[Cal. Labor Code §§ 226.7, 512; IWC Wage Order No. 4-2001, § 11]**

7 16. At times relevant herein, as part of DEFENDANTS' illegal policies and practices
8 to deprive AGGRIEVED EMPLOYEES of all wages earned and due, DEFENDANTS required,
9 suffered or permitted PLAINTIFF and other AGGRIEVED EMPLOYEES to take less than the
10 30-minute meal period, or to work through them, and have failed to otherwise provide the
11 required meal periods to PLAINTIFF and other AGGRIEVED EMPLOYEES pursuant to Labor
12 Code §§ 226.7 and 512 and IWC Wage Order No. 4-2001, § 11.

13 17. DEFENDANTS further violated Labor Code §§ 226.7 and 512 and IWC Wage
14 Order No. 4-2001, § 11 by failing to compensate PLAINTIFF and other AGGRIEVED
15 EMPLOYEES who were not provided with a meal period, in accordance with the applicable IWC
16 Wage Order, one additional hour of compensation at each employee's regular rate of pay for each
17 workday that a meal period was not provided.

18 **Failure to Provide Required Rest Periods**

19 **[Cal. Labor Code § 226.7; IWC Wage Order No. 4-2001, § 12]**

20 18. At all times relevant herein, as part of DEFENDANTS' illegal policies and
21 practices to deprive AGGRIEVED EMPLOYEES of all wages earned and due, DEFENDANTS
22 failed to provide rest periods to PLAINTIFF and other AGGRIEVED EMPLOYEES as required
23 under Labor Code § 226.7 and IWC Wage Order No. 4-2001, § 12.

24 19. DEFENDANTS further violated Labor Code § 226.7 and IWC Wage Order No. 4-
25 2001, § 12 by failing to pay PLAINTIFF and other AGGRIEVED EMPLOYEES who were not
26 provided with a rest period, in accordance with the applicable IWC Wage Order, one additional
27 hour of compensation at each employee's regular rate of pay for each workday that a rest period
28 was not provided.

1 20. DEFENDANTS further violated California Labor Code § 226.1, 1198 and IWC
2 Wage Order No. 4-2001, § 12 by failing to pay PLAINTIFF and AGGRIEVED EMPLOYEES
3 for rest period time separately from commissions, piece-rate pay, and other activity-based forms
4 of compensation, in violation of Labor Code § 226.1(d), 1198 and IWC Wage Order No. 4-2001,
5 § 12(A).

6 **Failure to Pay Overtime Wages**

7 **[Cal. Labor Code §§ 510, 1194, 1198; IWC Wage Order No. 4-2001, § 3]**

8 21. Pursuant to Labor Code §§ 510 and 1194 and IWC Wage Order No. 4-2001, § 3,
9 DEFENDANTS are required to compensate PLAINTIFF and other AGGRIEVED EMPLOYEES
10 for all overtime, which is calculated at one and one-half (1 ½) times the regular rate of pay for all
11 hours worked in excess of eight (8) hours per day and/or forty (40) hours per week, and for the
12 first eight (8) hours on the seventh consecutive workday, with double time for all hours worked in
13 excess of twelve (12) hours in any workday and for all hours worked in excess of eight (8) hours
14 on the seventh consecutive day of work in any workweek.

15 22. PLAINTIFF and other AGGRIEVED EMPLOYEES are current and former non-
16 exempt employees of DEFENDANTS entitled to the protections of Labor Code §§ 510 and 1194
17 and IWC Wage Order No. 4-2001. At times relevant herein, DEFENDANTS failed to
18 compensate PLAINTIFF and other AGGRIEVED EMPLOYEES for all overtime hours worked
19 as required under the foregoing provisions of the Labor Code and IWC Wage Order by, among
20 other things: failing to pay overtime at one and one-half (1 ½) or double the regular rate of pay as
21 provided by Labor Code §§ 510, 1194, and IWC Wage Order No. 4-2001, § 3; requiring,
22 suffering or permitting PLAINTIFF and other AGGRIEVED EMPLOYEES to work off the
23 clock; requiring, permitting or suffering PLAINTIFF and other AGGRIEVED EMPLOYEES to
24 work through meal breaks; illegally and inaccurately recording time in which PLAINTIFF and
25 other AGGRIEVED EMPLOYEES worked; failing to provide compensation to PLAINTIFF and
26 AGGRIEVED EMPLOYEES for rest periods separate from commission wages; failing to factor
27 in commission payments and other non-discretionary remuneration into the regular rate of pay for
28 overtime purposes; enforcing an unlawful rounding policy resulting, in practice over time, in the

1 systematic underpayment of overtime wages to PLAINTIFF and other AGGRIEVED
2 EMPLOYEES; failing to properly maintain PLAINTIFF's and other AGGRIEVED
3 EMPLOYEES' records; failing to provide accurate itemized wage statements to PLAINTIFF and
4 other AGGRIEVED EMPLOYEES for each pay period; and other methods to be discovered.

5 23. DEFENDANTS have knowingly and willfully refused to perform their obligations
6 to compensate PLAINTIFF and other AGGRIEVED EMPLOYEES for all wages earned and all
7 hours worked in violation of Labor Code §§ 510, 1194 and 1198 and IWC Wage Order No. 4-
8 2001, § 3.

9 **Failure to Pay Minimum Wages**

10 **[Cal. Labor Code §§ 1194, 1197; IWC Wage Order No. 4-2001, § 4]**

11 24. Pursuant to Labor Code §§ 1194 and 1197 and IWC Wage Order No. 4-2001, § 4,
12 payment to an employee of less than the applicable minimum wage for all hours worked in a
13 payroll period is unlawful.

14 25. At times relevant herein, in violation of Labor Code §§ 1194 and 1197 and IWC
15 Wage Order No. 4-2001, § 4, DEFENDANTS failed to pay PLAINTIFF and other AGGRIEVED
16 EMPLOYEES the applicable minimum wages for all hours worked in a payroll period by, among
17 other things: requiring, suffering or permitting PLAINTIFF and other AGGRIEVED
18 EMPLOYEES to work off the clock; requiring, suffering or permitting PLAINTIFF and other
19 aggrieved employees to work through meal breaks; illegally and inaccurately recording time in
20 which PLAINTIFF and other AGGRIEVED EMPLOYEES worked; failing to provide
21 compensation to PLAINTIFF and aggrieved employees for rest periods separate from
22 commission wages; failing to pay commissioned employees at a minimum rate exceeding 1 ½
23 times the minimum wage; enforcing an unlawful rounding policy resulting, in practice over time,
24 in the systematic underpayment of overtime wages to PLAINTIFF and other AGGRIEVED
25 EMPLOYEES; failing to properly maintain PLAINTIFF's and other AGGRIEVED
26 EMPLOYEES' records; failing to provide accurate itemized wage statements to PLAINTIFF and
27 other AGGRIEVED EMPLOYEES for each pay period; and other methods to be discovered.

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1 **Failure to Timely Pay Wages During Employment**

2 **[Cal. Labor Code § 204]**

3 26. Pursuant to Labor Code § 204, for all labor performed between the 1st and 15th
4 days of any calendar month, DEFENDANTS are required to pay their nonexempt employees
5 between the 16th and 26th day of the month during which the labor was performed. California
6 Labor Code § 204 also provides that for all labor performed between the 16th and 26th days of any
7 calendar month, DEFENDANTS are required to pay their nonexempt employees between the 1st
8 and 10th day of the following calendar month. In addition, Labor Code § 204 provides that all
9 wages earned for labor in excess of the normal work period shall be paid no later than the payday
10 of the next regular payroll period.

11 27. At times relevant herein, DEFENDANTS knowingly and willfully failed to timely
12 pay PLAINTIFF and other AGGRIEVED EMPLOYEES all wages for labor performed by the
13 next regular payroll period as required by Labor Code § 204.

14 **Failure to Pay All Wages Due to Discharged and Quitting Employees**

15 **[Cal. Labor Code §§ 201, 202, 203]**

16 28. Pursuant to Labor Code §§ 201, 202 and 203, DEFENDANTS are required to pay
17 all earned and unpaid wages to an employee who is discharged or who quits. Labor Code § 201
18 mandates that if an employer discharges an employee, the employee's wages accrued and unpaid
19 at the time of discharge are due and payable immediately.

20 29. Furthermore, pursuant to Labor Code § 202, DEFENDANTS are required to pay
21 all accrued wages due to an employee no later than 72 hours after the employee quits his or her
22 employment, unless the employee provided 72 hours previous notice of his or her intention to
23 quit, in which case the employee is entitled to his or wages at the time of quitting.

24 30. Labor Code § 203 provides that if an employer willfully fails to pay, in accordance
25 with Labor Code §§ 201 and 202, any wages of an employee who is discharged or who quits, the
26 employer is liable for waiting time penalties in the form of continued compensation to the
27 employee at the same rate for up to 30 workdays.

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1 31. At times relevant herein, in violation of Labor Code §§ 201, 202, and 203,
2 DEFENDANTS willfully failed to timely pay accrued wages and other compensation to
3 PLAINTIFF and other AGGRIEVED EMPLOYEES who were discharged or quit his or her
4 employment.

5 **Failure to Furnish Accurate Itemized Wage Statements**

6 **[Cal. Labor Code § 226(a); IWC Wage Order No. 4-2001, § 7]**

7 32. At times relevant herein, DEFENDANTS routinely failed and continue to fail to
8 provide PLAINTIFF and other AGGRIEVED EMPLOYEES with timely and accurate itemized
9 wage statements in writing showing each employee's gross wages earned, total hours worked, the
10 number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-
11 rate basis, all deductions made, net wages earned, the inclusive dates of the period for which the
12 employee is paid, commissions, separate compensation for pay periods for employees receiving
13 activity-based compensation, the name of the employee and only the last four digits of his or her
14 social security number or employee identification number, the name and address of the legal
15 entity or entities employing PLAINTIFF and other AGGRIEVED EMPLOYEES, and all
16 applicable hourly rates in effect during each pay period and the corresponding number of hours
17 worked at each hourly rate, in violation of Labor Code § 226 and IWC Wage Order No. 4-2001, §
18 7.

19 33. At times relevant herein, DEFENDANTS knowingly and intentionally failed to
20 provide PLAINTIFF and other AGGRIEVED EMPLOYEES with timely and accurate itemized
21 wage statements in accordance with Labor Code § 226(a).

22 34. At times relevant herein, PLAINTIFF and other AGGRIEVED EMPLOYEES
23 suffered injury as a result of DEFENDANTS' failure to provide timely and accurate itemized
24 wage statements as PLAINTIFF and other AGGRIEVED EMPLOYEES could not promptly and
25 easily determine from the wage statement alone one or more of the following: the gross wages
26 earned, the total hours worked, all deductions made, the net wages earned, the inclusive dates of
27 the period for which the employee is paid, the name and address of the legal entity or entities
28 employing PLAINTIFF and other AGGRIEVED EMPLOYEES, and/or all applicable hourly

1 rates in effect during each pay period and the corresponding number of hours worked at each
2 hourly rate.

3 **Failure to Maintain Required Records**

4 **[Cal. Labor Code §§ 226(a), 1174(d); IWC Wage Order No. 4-2001, § 7]**

5 35. At times relevant herein, as part of DEFENDANTS' illegal payroll policies and
6 practices to deprive PLAINTIFF and other AGGRIEVED EMPLOYEES of all wages earned and
7 due, DEFENDANTS knowingly and intentionally failed to maintain records as required under
8 Labor Code §§ 226(a) and 1174(d) and IWC Wage Order No. 4-2001, § 7, including but not
9 limited to the following records: total daily hours worked by each employee; applicable rates of
10 pay; commission earned and due; bonuses earned and due; all deductions; meal periods; time
11 records showing when each employee begins and ends each work period; and accurate itemized
12 statements.

13 **Failure to Indemnify Employees for Necessary Expenditures Incurred in Discharge of**
14 **Duties**

15 **[Cal. Labor Code § 2802]**

16 36. Labor Code § 2802(a) requires an employer to indemnify an employee for all
17 necessary expenditures or losses incurred by the employee in direct consequence of the discharge
18 of his or her duties, or of his or her obedience to the directions of the employer.

19 37. At times relevant herein, DEFENDANTS failed to indemnify PLAINTIFF and
20 other AGGRIEVED EMPLOYEES for all business expenses and/or losses incurred in direct
21 consequence of the discharge of their duties while working under the direction of
22 DEFENDANTS, including but not limited to expenses for cell phones, tools, boots, uniforms, and
23 other employment-related expenses, in violation of Labor Code § 2802.

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1 **FIRST CAUSE OF ACTION**

2 **Representative Action for Penalties Under the Labor Code Private Attorneys General Act**
3 **of 2004**

4 **[Cal. Labor Code § 2698, *et seq.*]**

5 **(Against All DEFENDANTS)**

6 38. PLAINTIFF incorporate herein by specific reference, as though fully set forth, the
7 allegations in paragraphs 1 through 37.

8 39. PLAINTIFF is an “aggrieved employee” within the meaning of Labor Code §
9 2699(c) and a proper representative to bring a civil action on behalf of himself and other current
10 and former non-exempt aggrieved employees of DEFENDANTS pursuant to the procedures
11 specified in Labor Code § 2699.3, because PLAINTIFF was employed by DEFENDANTS and
12 one or more of the alleged Labor Code violations was committed against PLAINTIFF during the
13 relevant period.

14 40. PLAINTIFF seeks to recover civil penalties through a representative action
15 permitted by the PAGA and the California Supreme Court in *Arias v. Superior Court* (2009) 46
16 Cal.4th 969. Thus, class certification is not required.

17 41. Pursuant to Labor Code §§ 2698-2699.5, PLAINTIFF seeks to recover civil
18 penalties from DEFENDANTS in a representative action for the violations set forth above,
19 including but not limited to violations of Labor Code §§ 201, 202, 203, 204, 226(a), 226.7, 510,
20 512, 1174(d), 1194, 1197, 1198, and 2802.

21 42. Pursuant to Labor Code § 2699(a), PLAINTIFF seeks civil penalties for
22 DEFENDANTS’ violations of Labor Code provisions for which a civil penalty is specifically
23 provided, including but not limited to the following:

- 24 a. Pursuant to Labor Code § 210, for violations of Labor Code § 204,
25 DEFENDANTS are subject to a civil penalty in the amount of one hundred
26 dollars (\$100) for the initial violation and two hundred dollars (\$200) per
27 employee for each subsequent violation.

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- 1 b. Pursuant to Labor Code § 226.3, for violations of Labor Code § 226(a),
2 DEFENDANTS are subject to a civil penalty in the amount of two hundred
3 and fifty dollars (\$250) per aggrieved employee for the initial pay period in
4 which a violation occurs and one thousand dollars (\$1,000) per aggrieved
5 employee for each subsequent violation.
- 6 c. Pursuant to Labor Code § 1174.5, for violations of Labor Code § 1174(d),
7 DEFENDANTS are subject to a civil penalty of five hundred dollars
8 (\$500).
- 9 d. Pursuant to Labor Code § 558(a), “[a]ny employer or other person acting
10 on behalf of an employer who violates, or causes to be violated, a section
11 of this chapter or any provision regulating hours and days of work in any
12 order of the Industrial Welfare Commission,” including Labor Code §§ 510
13 and 512, shall be subject to a civil penalty, in addition to any other penalty
14 provided by law, of fifty dollars (\$50) for initial violations for each
15 underpaid employee for each pay period for which the employee was
16 underpaid and one hundred dollars (\$100) for each subsequent violation for
17 each underpaid employee for each pay period for which the employee was
18 underpaid.
- 19 e. Pursuant to Labor Code § 1197.1, an employer who pays or causes to be
20 paid to any employee a wage less than the minimum fixed by an order of
21 the commission shall be subject to a civil penalty as follows: for any initial
22 violation that is intentionally committed, one hundred dollars (\$100) for
23 each underpaid employee for each pay period for which the employee is
24 underpaid; and for each subsequent violation of the same offense, two
25 hundred fifty dollars (\$250) for each underpaid employee for each pay
26 period for which the employee is underpaid regardless of whether the
27 initial violation was intentionally committed.

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43. Labor Code § 2699(f) provides that for all Labor Code violations for which a civil penalty is not specifically provided, the following civil penalties are established: one hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation. PLAINTIFF seeks such civil penalties under Labor Code § 2699(f) for DEFENDANTS' violations of Labor Code provisions for which a civil penalty is not specifically provided, including but not limited to Labor Code §§ 201, 202, 203, 226.7, 510, 512, 1194, 1197, 1198, and 2802.

44. PLAINTIFF additionally seeks reasonable attorney's fees and costs pursuant to Labor Code § 2699(g)(1).

PRAYER FOR RELIEF

WHEREFORE, PLAINTIFF, individually and on behalf of all other AGGRIEVED EMPLOYEES, prays for relief against DEFENDANTS as follows:

1. For civil penalties according to proof, including but not limited to all penalties authorized by Labor Code §§ 210, 226.3, 558, 1174.5, 1197.1, and 2699(a) and (f);

2. For interest at the legal rate pursuant to Labor Code §§ 218.6, 1194, 2802, California Civil Code §§ 3287, 3288, and/or any other applicable provision providing for pre-judgment interest;

3. For reasonable attorney's fees and costs pursuant to Labor Code § 2699(g)(1) and/or any other applicable provisions providing for attorney's fees and costs; and

4. For such further relief that the Court may deem just and proper.

DATED: June 5, 2020

MATERN LAW GROUP, PC

By:

MATTHEW J. MATERN
MATTHEW W. GORDON
VANESSA M. RODRIGUEZ
Attorneys for Plaintiff
EVARISTO AYARD, individually, and
on behalf of all other AGGRIEVED EMPLOYEES

1 **DEMAND FOR JURY TRIAL**

2 PLAINTIFF, individually and behalf of all other AGGRIEVED EMPLOYEES, hereby
3 demands a jury trial with respect to all issues triable of right by jury.

4
5 DATED: June 5, 2020

MATERN LAW GROUP, PC

6 
7 By: _____
8 MATTHEW J. MATERN
9 MATTHEW W. GORDON
10 VANESSA M. RODRIGUEZ
11 Attorneys for Plaintiff
12 EVARISTO AYARD, individually, and
13 on behalf of all other AGGRIEVED EMPLOYEES
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