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Attorneys for Plaintiff CHAD HOOPER, as representative of the State of California and the Labor and Workforce Development Agency, and on behalf of himself and other current and former employees.

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE

CHAD HOOPER, on behalf of himself and all
others aggrieved employees,

Plaintiff,

v.

VIZIO, INC., and DOES 1- 50, Inclusive,
Defendant,

Case No. 30-2020-01144007-CU-OE-CXC

**SECOND AMENDED REPRESENTATIVE
ACTION COMPLAINT FOR CIVIL
FINES**

1. Civil Penalties under the Private Attorneys
General Act (PAGA)

DEMAND FOR JURY TRIAL

1 Plaintiff, CHAD HOOPER, as a representative of the State of California and the Labor
2 and Workforce Development Agency (LWDA), and on behalf of himself and other current and
3 formerly aggrieved employees working or who worked in California during the relevant time
4 period, including but not limited to those employees misclassified as independent contractors,
5 complains and alleges as follows:

6 7 **INTRODUCTION**

8 1. This is a representative action brought by Plaintiff, as a representative of the State
9 of California and the LWDA, and on behalf of Plaintiff and other aggrieved employees who
10 worked for Defendant VIZIO, INC including but not limited to those employees misclassified
11 as independent contractors in violation of *Dynamex Operations West, Inc. v. Superior Court,*
12 *Cal.*, No. S222732, to collect civil penalties for Defendant's Labor Code violations.

13 2. Defendant and employer, VIZIO, INC., violated numerous wage and hour laws
14 with respect to Plaintiff and other aggrieved employees, including but not limited to those
15 employees misclassified as independent contractors, by failing to provide, for example: accurate
16 and itemized wages statements, payment for all hours worked (including regular wages and
17 overtime), failure to provide a minimum wage lawful meal periods, lawful rest periods, timely
18 payment during employment, failure to reimburse for expenses incurred during the course and
19 scope of employment, and payment upon separation of employment.

20 **PARTIES**

21 **The Plaintiff**

22 3. Plaintiff is, and at all times herein mentioned was, a resident of the County of
23 Orange.

24 **The Defendant**

25 4. Defendant VIZIO INC. is a corporation which, at all-time relevant hereto, existing,
26 doing business and employing individuals in the County of Orange, State of California.

27 5. The true names and capacities, whether individual, corporate, associate, or
28 otherwise of Defendants named herein as DOES 1-50, inclusive, are unknown to Plaintiff at this

1 time and therefore said Defendants are sued by such fictitious names. Plaintiff will seek leave to
2 amend this Complaint to insert the true names and capacities of said Defendants when the same
3 become known to Plaintiff. Plaintiff is informed and believes and thereupon alleges that each of
4 the fictitiously-named Defendants are responsible for the wrongful acts alleged herein and is
5 therefore liable to Plaintiff as alleged hereinafter.

6 6. Plaintiff is informed and believes, and based thereupon alleges, that at all times
7 relevant hereto, Defendants, and each of them, were the agents, employees, managing agents,
8 supervisors, conspirators, parent corporation, joint employers, alter ego, and/or joint ventures of
9 the other Defendants, and each of them, and in doing the things alleged herein, were acting at
10 least in part within the course and scope of said agency, employment, conspiracy, joint
11 employment, alter ego status, and/or joint venture and with the permission and consent of each of
12 the other Defendants.

13 7. Plaintiff is informed and believes, and based thereupon alleges, that Defendants,
14 and each of them, including those Defendants named DOES 1-50, acted in concert with one
15 another to commit the wrongful acts alleged therein, and aided, abetted, incited, compelled,
16 and/or coerced one another in the wrongful acts alleged herein, and/or attempted to do so.
17 Plaintiff is further informed and believes, and based thereupon alleges, that the Defendants, and
18 each of them, including those Defendants named as DOES 1-50, formed and executed a
19 conspiracy or common plan pursuant to which they would commit the unlawful acts alleged
20 herein, with all such acts alleged herein done as part of and pursuant to said conspiracy, intended
21 to and actually causing Plaintiff harm.

22 8. Whenever and wherever reference is made in this Complaint to any act or failure
23 to act by a defendant or co-defendant, such allegations and references shall also be deemed to
24 mean the acts and/or failures to act by each defendant acting individually, jointly and severally.
25

26 **JURISDICTION AND VENUE**

27 9. Venue is proper in Orange County, because Defendants maintain its locations and
28 transacts business in this county, the obligations and liability primarily arise in this county, and

1 work was primarily performed by Plaintiff and other aggrieved employees in this county.

2 10. The California Superior Court has jurisdiction over this matter. The individual
3 claims are under the seventy-five thousand dollar (\$75,000.00) jurisdictional threshold for
4 federal court and PAGA penalties cannot be aggregated to meet the minimum jurisdictional
5 amount required for diversity removal. Further, there is no federal question at issue as the issues
6 herein are based solely on California statutes and law, including, but not limited to, the California
7 Labor Code, Industrial Welfare Commission Wage Orders, California Code of Civil Procedure,
8 and California Rules of Court.

9 **GENERAL ALLEGATIONS**

10 11. The similarly aggrieved employees working or who worked in California during
11 the relevant time period, were not reimbursed for all necessary expenses incurred in the
12 performance of their job duties. Defendant required Plaintiff and similarly aggrieved employees
13 to use, without reimbursement, their personal cell phone, home office space, and personal
14 computer to fulfill their job function, and thus for the benefit of employer and the business.
15 Plaintiff and similarly aggrieved employees regardless of whether they were independent
16 contractors, or exempt or non-exempt employees used their personal internet services to perform
17 their required work duties without reimbursement.
18

19 12. Defendant failed to authorize and permit all required meal and rest periods for the
20 aggrieved, non-exempt employees, including but not limited to, the aggrieved employees
21 misclassified as independent contractors such as Plaintiff, wherein Defendant maintained
22 unlawful meal and rest period policies/practices. In order to curtail labor costs, Defendant
23 deliberately failed to staff enough employees to both provide break sufficient coverage and
24 maintain its business operations despite reasonably foreseeable workload. Because Defendant
25 prioritized completion of daily work ahead of meal and rest period compliance, Plaintiff and
26 similarly aggrieved employees were not provided complete, timely and uninterrupted meal and
27 rest breaks. Defendant failed to provide Plaintiff and similarly aggrieved employees with an
28 additional hour of premium pay at their regular rate of pay for each rest period violation, as

1 required by Labor Code section 226.7.

2 13. Defendant intentionally classified some aggrieved employees (including
3 Plaintiff), were as as independent contractors in violation of *Dynamex Operations West, Inc. v.*
4 *Superior Court, Cal.*, No. S222732 (hereinafter “*Dynamex*,”) rather than non-exempt, full-time
5 employees, despite the fact Plaintiff and similarly aggrieved employees wholly performed duties
6 consistent with employer’s core business and business operations and otherwise failed to meet
7 the criteria for independent contractors as set forth in *Dynamex*, the Labor Code and applicable
8 IWC Wage Order. Relying upon the unlawful misclassification as independent contractors,
9 Defendant required Plaintiff and similarly aggrieved employees to work more than eight (8)
10 hours a day and/or forty (40) hours per week without lawful compensation.

11 14. Because Defendant unlawfully misclassified Plaintiff and certain aggrieved
12 employees as independent contractors, thereby making them ineligible for the wage and hour
13 protections set forth in the Labor Code, Plaintiff and similarly aggrieved employees were not
14 paid minimum wages and overtime for compensable work time spent under the control of
15 Defendant as a result of the unlawful independent contractor designation.

16 15. At all relevant times Plaintiff and certain similarly aggrieved employees were
17 unlawfully misclassified as independent contractors by Defendant. Plaintiff began working or
18 on about October 26, 2015 and his last day of employment was on March 25, 2020.

19 16. As a result of the above-described violations, Defendant failed to provide Plaintiff
20 and similarly aggrieved employees including but not limited to those misclassified as
21 independent contractors, with accurate, itemized wage statements in writing in compliance with
22 Labor Code section 226.

23 17. Additionally, as it is plainly evident that (1) Defendant’s designation of Plaintiff
24 and similarly aggrieved employees as independent contractors cannot satisfy the “ABC test” set
25 forth in the *Dynamex* decision and subsequently codified under Labor Code section 2775, and
26 (2) that the duties/positions of Plaintiff and similarly aggrieved employees do not fall under any
27 exemption from the requirements of Labor Code section 2275 stated in Labor Code section 2775
28

et seq., Defendant's misclassification of Plaintiff and similarly aggrieved employees as independent contractors can only be reasonably viewed as willful and subject to civil penalties under Labor Code section 226.8 and PAGA.

18. In a further derivative basis, Defendant likewise failed to pay all compensation owed to Plaintiff and similarly aggrieved employees, including but not limited to those misclassified as independent contractors, in the form of unpaid wages including but not limited to unpaid break premiums, at the time of separation from employment.

19. Pursuant to Labor Code section 2699, subdivision (a), any provision of the Labor Code that provides for a civil penalty to be assessed and collected by the LWDA or any of its departments, divisions, commissions, boards, agencies or employees for violation of the code may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees pursuant to the procedures specified in Labor Code section 2699.3.

20. For all provisions of the Labor Code except those for which a civil penalty is specifically provided, Labor Code section 2699, subdivision (f) imposes upon Defendant a penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent pay period in which Defendant violated these provisions of the Labor Code.

21. Defendant's conduct during the PAGA period with respect to Plaintiff and the aggrieved employees violates numerous Labor Code sections as detailed herein.

22. Plaintiff alleges that Defendant has engaged in a systematic pattern of wage and hour violations under the California Labor Code and IWC Wage Orders.

23. At all relevant times herein, Defendant employed and misclassified Plaintiff and a subgroup of similarly aggrieved, non-exempt employees as independent contractors.

24. Plaintiff is informed and believes, and based thereon alleges, that Defendant knew or should have known that Plaintiff and misclassified, aggrieved employees were entitled to receive wages for all hours worked, including the applicable minimum, regular, and overtime

1 wages, and that they were not receiving all wages earned for work that was required to be
2 performed. In violation of the Labor Code and IWC Wage Orders, Defendant failed to pay
3 Plaintiff and aggrieved employees for all hours worked, including overtime, because Defendant
4 unlawfully misclassified Plaintiff and similarly aggrieved employees as independent contractors
5 who were ineligible for wages as defined by, and set forth in, the Labor Code and Dynamex.
6 Accordingly, Defendant failed to pay Plaintiff and aggrieved employees all earned minimum,
7 regular, and/or overtime compensation.

8 25. Plaintiff is informed and believes, and based thereon alleges, that Defendant knew
9 or should have known that Plaintiff and aggrieved employees (whether misclassified or not) were
10 entitled to receive all required meal periods or payment of one (1) additional hour of pay at
11 Plaintiff and aggrieved employees' regular rate of pay when they did not receive a timely,
12 uninterrupted off-duty meal period. In violation of the Labor Code and IWC Wage Orders,
13 Defendant had a pattern, practice, and policy of not providing timely meal periods. Defendant
14 failed to pay an additional hour of pay to Plaintiff and aggrieved employees for late meal periods.
15 As a result of Defendant's unlawful policy and practice, Plaintiff and aggrieved employees did
16 not receive all meal periods or payment of one (1) additional hour of pay at Plaintiff's and
17 aggrieved employees' regular rate of pay when they did not receive a timely, uninterrupted 30
18 minute off-duty meal period.

19 26. Plaintiff is informed and believes, and based thereon alleges, that Defendant knew
20 or should have known that Plaintiff and aggrieved employees (whether misclassified or not) were
21 entitled to receive all required rest periods or payment of one (1) additional hour of pay at
22 Plaintiff and aggrieved employees' regular rate of pay when they did not receive a timely,
23 uninterrupted off-duty rest period. In violation of the Labor Code and IWC Wage Orders,
24 Defendant had a pattern, practice, and policy of not providing timely rest periods. Defendant
25 failed to pay an additional hour of pay to Plaintiff and aggrieved employees for each rest periods
26 was not provided or was interrupted. As a result of Defendant's unlawful policy and practice,
27 Plaintiff and aggrieved employees did not receive all required rest periods or payment of one (1)
28

1 additional hour of pay at Plaintiff's and aggrieved employees' regular rate of pay when they did
2 not receive a timely, uninterrupted 10 minute off-duty rest period.

3 27. Plaintiff is informed and believes, and based thereon alleges, that Defendant knew
4 or should have known that Plaintiff and certain aggrieved former employees (whether
5 misclassified or not) were entitled to timely payment of wages due upon separation of
6 employment. In violation of the Labor Code, Plaintiff and certain aggrieved employees did not
7 receive payment of all wages due, within permissible time periods, upon separation of
8 employment.

9 28. Plaintiff is informed and believes, and based thereon alleges, that Defendant knew
10 or should have known that Plaintiff and aggrieved employees (whether misclassified or not) were
11 entitled to receive itemized wage statements that accurately showed their actual hours worked,
12 total hours worked, number of hours worked at each hourly rate, gross and net wages earned,
13 and correct employer information in accordance with California law. In violation of the Labor
14 Code, Plaintiff and aggrieved employees were not provided with accurate itemized wage
15 statements that accurately reported their gross and net wages earned, total hours worked, each
16 applicable rate of pay in effect during the pay period with the corresponding number of hours
17 worked, and the address of the legal entity that is the employer, among other things.

18 29. Plaintiff is informed and believes, and thereon alleges, that Defendant knew or
19 should have known that Defendant was required to maintain accurate records of the hours
20 worked by Plaintiff and aggrieved employees. In violation of the Labor Code, Defendant failed
21 to maintain accurate records of hours worked by Plaintiff and aggrieved employees due to its
22 unfair rounding practices, among other things.
23
24

25 **FIRST CAUSE OF ACTION**

26 **(Civil Penalties Under the Private Attorneys General Act,**
27 **Labor Code § 2699 et seq., For Violations of the Labor Code)**

28 30. By this complaint, Plaintiff brings this case as a representative action seeking

1 penalties for himself, the aggrieved employees, and the State of California in a representative
2 capacity, as provided by the PAGA, Labor Code sections 2698 et seq. Plaintiff is an aggrieved
3 employee who was employed by Defendant and subject to at least one of the Labor Code
4 violations set forth in Labor Code section 2699.5. Plaintiff specifically alleged the following in
5 his notice to the LWDA and Defendants: violation of Labor Code sections 201, 202, 203, 204,
6 226, 226.3, 226.7, 510, 512, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, and 1198.

7 31. Under Labor Code section 2699.3, subdivision (a), a plaintiff may bring a cause
8 of action under PAGA only after giving the LWDA and the employer notice of the Labor Code
9 sections alleged to have been violated, and after receiving notice from the LWDA of its intention
10 not to investigate, or after 65 days have passed without notice from the LWDA.

11 32. Prior to filing this complaint, on March 11, 2021, Plaintiff gave amended written
12 notice of the specific provisions alleged to have been violated, including the facts and theories
13 to support the alleged violations, as required by Labor Code section 2699.3. The written notice
14 was given via certified mail to Defendants, and the LWDA by electronically filing the notice via
15 the Department of Industrial Relations website. Plaintiff provided amended written notice under
16 the previously assigned LWDA case number LWDA-CM-783267-20. A true and correct copy
17 of Plaintiff's amended notice to the LWDA and Defendant(s), dated March 11, 2021. is attached
18 hereto as Exhibit A.

19 33. The LWDA has not provided Plaintiff with any notice that it intends to investigate
20 the violations as alleged in Plaintiff's March 11, 2021 amended notice, and more than 65 calendar
21 days have elapsed since the postmark date on the notice.

22 34. California Labor Code §§2698-2699.5, in relevant part provides, "any provision
23 of this code that provides for a civil penalty to be assessed and collected by the Labor and
24 Workforce Development Agency...for a violation of this code, may, as an alternative, be
25 recovered through a civil action brought by an aggrieved employee on behalf of himself or
26 herself and other current or former employees pursuant to the procedures specified in Section
27 2699.3."
28

1 35. As an aggrieved employee, Plaintiff brings this civil action to recover civil
2 penalties for Defendant's Labor Code violations.

3 **FIRST VIOLATION**

4 **(Failure to Provide Meal Periods, in Violation of Labor Code Section 512)**

5 36. Under California Labor Code §512(a), "An employer may not employ an
6 employee for a work period of more than five hours per day without providing the employee
7 with a meal period of not less than 30 minutes, except that if the total work period per day of the
8 employee is no more than six hours, the meal period may be waived by mutual consent of both
9 the employer and employee."

10 37. Defendant violated Labor Code § 512 by failing to provide aggrieved non-exempt
11 employees, including but not limited to those misclassified as independent contractors, such as
12 Plaintiff, who worked shifts of greater than five hours, meal periods within the first five hours
13 of the shifts worked. Defendant failed to pay Plaintiff one hour's pay at Plaintiff's regular rate
14 of pay for each day Defendant failed to provide a meal period in compliance with section 512.

15 38. Plaintiff and similarly-aggrieved employees request recovery of reasonable
16 attorneys' fees, costs, and civil penalties pursuant to PAGA, for all violations which occurred
17 during the Relevant Time Period.
18

19 **SECOND VIOLATION**

20 **(Failure to Provide Rest Periods, in Violation of Labor Code Section 226.7)**

21 39. Under California Labor Code §226.7(b), "An employer shall not require an
22 employee to work during a meal or rest or recovery period mandated pursuant to an applicable
23 statute, or applicable regulation, standard, or order of the Industrial Welfare Commission"

24 40. Industrial Welfare Commission (IWC) provides, "Every employer shall authorize
25 and permit all employees to take rest periods, which insofar as practicable shall be in the middle
26 of each work period. The authorized rest period time shall be based on the total hours worked
27 daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof."
28

 41. Defendant failed to authorize and permit Plaintiff and aggrieved non-exempt

employees, including but not limited to those misclassified as independent contractors, to take rest periods and mandated by the Wage Order.

42. Under §226.7(c), an employer who violates §226.7(b), "...shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest or recovery period is not provided."

43. Defendant failed to pay Plaintiff and other employees who were not provided rest periods one hour of pay at their regular rate of pay.

44. Plaintiff and similarly-aggrieved employees request recovery of reasonable attorneys' fees, costs, and civil penalties pursuant to PAGA, for all violations which occurred during the Relevant Time Period.

THIRD VIOLATION

(Failure to Provide Complete and Accurate Wage Statements, in Violation of Labor Code Section 226)

45. Under California Labor Code §226(a), an employer is legally obligated to provide its employees, semi-monthly or at the time of payment of wages, "an accurate itemized statement in writing..."

46. Labor Code sections 226, 226.3, 1174, and 1174.5, and all applicable IWC Wage Orders, provide that employers must keep records and provide employees with itemized wage statements showing all hours worked and each applicable rate of pay in effect during the pay period with the corresponding number of hours worked at each hourly rate.

47. Labor Code section 1174, subdivision (d) requires employers to keep at a central location in California or at the plant or establishment at which the employees are employed, payroll records showing the hours worked daily, and the wages paid to, each employee. Labor Code section 226, subdivision (a) requires employers to provide employees - either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately when wages are paid by personal check or cash - an accurate itemized wage statement in writing including specified information, including but not limited to: (1) gross wages earned; (2) total

1 hours worked by the employee . . . ; (3) the number of piece-rate units earned . . . ; (4) all
2 deductions . . . ; (5) net wages; (6) the inclusive dates of the period for which the employee is
3 paid; (7) the name of the employee and only the last four digits of his or her social security
4 number or an employee identification number other than a social security number; (8) the name
5 and address of the legal entity that is the employer . . . ; and (9) all applicable hourly rates in
6 effect during the pay period and corresponding number of hours worked at each hourly rate by
7 the employee..." (Lab. Code § 226.) Labor Code section 226, subdivision (e) provides that if an
8 employer knowingly and intentionally fails to provide a statement itemizing, inter alia, the gross
9 and net wages earned, the total hours worked by the employee and the applicable hourly overtime
10 rates, causing the employee injury, then the employee is entitled to recover the greater of all
11 actual damages or fifty dollars (\$50) for the initial violation and one hundred dollars (\$100) for
12 each subsequent violation, up to four thousand dollars (\$4,000). Plaintiff is informed and
13 believes that Defendant willfully failed to make or keep accurate records for Plaintiff and
14 aggrieved employees.

15
16 48. The IWC Wage Orders require that every employer shall keep accurate
17 information with respect to each employee, including time records showing when each employee
18 begins and ends each work periods, the total daily hours worked by each employee and the total
19 hours worked in each payroll period, and applicable rates of pay. Plaintiff is informed and
20 believes that Defendants willfully and intentionally failed to make and/or keep records which
21 accurately reflect the hours worked by Plaintiff and other aggrieved employees. Specifically,
22 Plaintiff believes that Defendant did not maintain records for Plaintiff and other aggrieved
23 employees reflecting their time actually worked.

24 49. An employee is deemed to suffer injury if the employer fails to provide a wage
25 statement containing all of the required information set forth in Labor Code section 226,
26 subdivision (a). (Labor Code § 226(e)(2).) In addition, the omission of time worked, proper rates
27 of pay, records of missed meal and rest breaks and/or premium pay make it difficult for
28 employees to determine whether they were paid all wages due without complicated calculations

and/or reconstruction of records required to be maintained by the employer.

50. Plaintiff is informed and believe that Defendants' failure to keep accurate payroll records, as described above, violated Labor Code sections 1174(d) and 226(a), and the applicable Wage Order.

51. Plaintiff is informed and believes that Defendants' failure to keep and maintain accurate records and information and provide to Plaintiff and other aggrieved employees itemized wage statements containing all of the information mandated by the Labor Code, as described above, was knowing and intentional, and Plaintiff and other aggrieved employees s are entitled to civil penalties for each pay period in which a violation occurred.

52. Plaintiff and similarly-aggrieved employees request recovery of reasonable attorneys' fees, costs, and civil penalties pursuant to PAGA, for all violations which occurred during the Relevant Time Period.

FOURTH VIOLATION
(Failure to Pay All Wages)

53. Pursuant to California Labor Code §§ 510, 1194, and IWC Wage Orders, an employer is required to compensate employees for all overtime, which is calculated at one and one-half (1½) times the regular rate of pay for all hours worked in excess of eight (8) hours per day and/or forty (40) hours per week, and for the first eight (8) hours on the seventh consecutive workday, with double time for all hours worked in excess of twelve (12) hours in any workday and for all hours worked in excess of eight (8) hours on the seventh consecutive day of work in any workweek.

54. Plaintiff and other aggrieved employees regularly worked over eight (8) hours per day and forty (40) hours per week. Defendant failed to pay Plaintiff, and aggrieved employees minimum wages and overtime premium and/or double-time premium for hours worked in excess of over eight (8) hours per day and forty (40) hours per week for work performed for the Defendant. Defendant failed to schedule Plaintiff and other aggrieved employees in such a manner that allowed Plaintiff and other aggrieved employees to be relieved of their shift

1 immediately, thereby causing Plaintiff and other aggrieved employees to work in excess of eight
2 (8) hours per day and/or forty (40) hours per week.

3 55. Defendant willfully violated the Cal. Labor Code by failing to pay Plaintiff and
4 aggrieved employees all wages. Plaintiff and other aggrieved employees were denied wages as
5 a result of Defendant's policy of intentionally and unlawfully misclassifying certain aggrieved
6 employees as independent contractors in violation of the Labor Code and *Dynamex*. Thus,
7 Plaintiff and other aggrieved employees were forced to perform work for the benefit of
8 Defendants without compensation.

9 56. Plaintiff and similarly-aggrieved employees request recovery of reasonable
10 attorneys' fees, costs, and civil penalties pursuant to PAGA, for all violations which occurred
11 during the Relevant Time Period.

12 **FIFTH VIOLATION**

13 **(Failure to Timely Pay Wages During Employment)**

14 57. Pursuant to California Labor Code § 204, for all labor performed between the 1st
15 and 15th days of any calendar month, an employer is required to pay its employees between the
16 16th and 26th day of the month during which the labor was performed. California Labor Code §
17 204 also provides that for all labor performed between the 16th and 26th days of any calendar
18 month, Defendants are required to pay their employees between the 1st and 15th day of the
19 following calendar month. In addition, California Labor Code § 204 provides that all wages
20 earned for labor in excess of the normal work period shall be paid no later than the payday of the
21 next regular payroll period.

22 58. Plaintiff and similarly-aggrieved employees request recovery of reasonable
23 attorneys' fees, costs, and civil penalties pursuant to PAGA, for all violations which occurred
24 during the Relevant Time Period.

25 **SIXTH VIOLATION**

26 **(Failure to Pay All Wages Due to Discharged and Quitting Employees)**

27 59. Pursuant to California Labor Code § 201, 202, and 203, Defendant is required to
28

1 pay all earned and unpaid wages to an employee who is discharged. California Labor Code §
2 201 mandates that if an employer discharges an employee, the employee's wages accrued and
3 unpaid at the time of discharge are due and payable immediately.

4 60. Plaintiff is informed and believes, and based thereon alleges, that as part of
5 Defendants' ongoing unfair business practices, Defendants failed to pay all employees all wages
6 earned during their employment at the time of their separation in violation of Labor Code
7 sections 201, 202, and 203.

8 61. Labor Code section 201 provides that employers are required to pay an employee
9 whose employment is terminated by the employer all wages earned throughout their employment
10 and unpaid immediately upon termination.

11 62. Labor Code section 202 requires employers to pay an employee who quits his or
12 her employment all wages earned and unpaid no later than 72 hours thereafter.

13 63. Labor Code section 203 provides that when an employer who fails to pay all
14 wages earned and due to an employee who is discharged or quits within the appropriate
15 timeframes set forth in sections 201 and 202, the wages of the employee shall continue as a
16 penalty at the employee's regular rate of daily pay for each day the full amount of unpaid wages
17 is not paid, up to 30 days.

18 64. Plaintiff and similarly-aggrieved employees request recovery of reasonable
19 attorneys' fees, costs, and civil penalties pursuant to PAGA, for all violations which occurred
20 during the Relevant Time Period.
21

22 **SEVENTH VIOLATION**

23 **(Failure to Reimburse Work-Related Expenses)**

24 65. Under California Labor Code §2802(a), an employer is legally to reimburse its
25 employees for necessary business expenditures incurred as a result of performing their work.

26 66. California Labor Code section 2802 states, "An employer shall indemnify his or
27 her employee for all necessary expenditures or losses incurred by the employee in direct
28 consequence of the discharge of his or her duties..."

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years and am not a party to the within action. My business address is 22939 Hawthorne Blvd., Suite 202, Torrance, California 90505. On September 27, 2021, I served the foregoing document(s) described as **SECOND AMENDED REPRESENTATIVE ACTION COMPLAINT FOR CIVIL FINES** on the interested parties in this action as follows: by placing a true copy thereof enclosed in sealed envelopes, addressed as follows:

JOHN L. BARBER
john.barber@lewisbrisbois.com
VI N. APPLIN
vi.applen@lewisbrisbois.com
LEWIS BRISBOIS BISGAARD & SMITH LLP
633 W 5th Street, Suite 4000
Los Angeles, CA 90071

Attorneys for Defendant Vizio, Inc.

☐ BY MAIL: I deposited such envelope in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid. I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

☐ IN PERSON: I personally served the above-mentioned documents.

☒ BY E-MAIL: I sent the documents by e-mail to the e-mail addresses provided above.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on September 27, 2021, at Torrance, California.


Juliana Villalobos