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Superior Court of California,
County of San Diego
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Clerk of the Superior Court
By Regina Chanez, Deputy Clerk

Attorneys for Plaintiff JOSHUA LARA

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

JOSHUA LARA, Individually and on behalf
of all similarly-situated employees of
Defendants in the State of California,

Plaintiffs,

v.

THE PEP BOYS MANNY MOE & JACK OF
CALIFORNIA., a Corporation, and DOES 1
through 50, inclusive,

Defendants.

Case No.: 37-2020-00016784-CU-OE-CTL

Unlimited Civil - Amount Demanded
Exceeds \$25,000.00

FIRST AMENDED COMPLAINT

1. PAGA Claim for Civil Penalties

Date Complaint Filed: May 26, 2020
Judge: Hon. Randa Trapp
Dept.: C-70

Plaintiff JOSHUA LARA on behalf of himself and all other current and former aggrieved
employees alleges as follows:

I.

NATURE OF ACTION AND INTRODUCTORY STATEMENT

1. Plaintiff JOSHUA LARA (hereinafter "LARA"), brings this PAGA representative action
suit against Defendant THE PEP BOYS MANNY MOE & JACK OF CALIFORNIA ("THE PEP BOYS"
or "Defendant") and DOES 1 through 50, inclusive (collectively referred to herein as "Defendants"), on
behalf of himself and all other current and former aggrieved employees for engaging in a systemic pattern

1 of wage and hour violations under California Labor Code and Industrial Welfare Commission (“IWC”)
2 Wage Orders.

3 2. THE PEP BOYS MANNY MOE & JACK OF CALIFORNIA is an automotive aftermarket
4 retail and service chain operating more than 8,300 service bays in over 930 locations in 35 states, including
5 San Diego County, California.

6 3. JOSHUA LARA, at times relevant, was employed by Defendants as non-exempt customer
7 service advisor and then an assistant service manager in San Diego, California.

8 4. Plaintiff is informed and believes, and thereon alleges, that Defendants decreased their
9 employment-related costs in order to increase their level of productivity and profits by systematically
10 violating both state wage and hour laws and the applicable IWC Wage Order, including, but not limited
11 to:

- 12 a. Failing to pay for minimum, regular and overtime wages for all hours worked;
- 13 b. Failing to provide compliant meal and rest breaks;
- 14 c. Failing to indemnify Plaintiff and other similarly-situated employees for their
15 necessary expenses and losses in discharging their duties;
- 16 d. Failing to pay vested vacation wages due;
- 17 e. Failing to provide and maintain accurate records and itemized wage statements;
- 18 f. Failing to timely pay wages due during and upon termination of employment;
- 19 g. Failing to provide a written commission plan;
- 20 h. Failing to provide written notice at the time of hiring, and
- 21 i. Failing to provide suitable and compliant rest break rooms

22 5. Plaintiff brings this lawsuit seeking only PAGA remedies which are not subject to any
23 arbitration agreement pursuant to California law, including civil penalties, injunctive, restitution and
24 monetary relief against Defendants, and each of them, on behalf of Plaintiff and all current and former
25 aggrieved employees to recover, among other things, unpaid wages and benefits, interest, penalties,
26 attorney’s fees and costs pursuant to California Labor Code §§ 201, 202, 203, 204, 210, 218, 218.5, 218.6,
27 226, 226.7, 227.3, 510, 512, 558, 558.1, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2802, 2751, 2810.5,
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1 and 2698 et seq, and California Code of Civil Procedure 1021.5, and provisions of the applicable IWC
2 Wage Order.

3 6. Plaintiff seeks to represent all current and former aggrieved employees who suffered one
4 or more violations of the California Labor Code as set forth herein. Plaintiff reserves the right to name
5 additional representatives throughout the State of California.

6 **II.**

7 **PARTIES, JURISDICTION AND VENUE**

8 7. Plaintiff LARA is and at all relevant times was a resident of the State of California, and at
9 all relevant times was employed by Defendants in San Diego, California.

10 8. Defendant THE PEP BOYS MANNY MOE & JACK OF CALIFORNIA (“THE PEP
11 BOYS”), is a corporation with its principal place of business in Philadelphia, Pennsylvania doing business
12 in San Diego County, California.

13 9. Plaintiff is informed and believes, and thereon alleges, that at times relevant THE PEP
14 BOYS, and Does 1 through 50 are the alter egos of each other and directly or indirectly, or through agents
15 or other persons, employed Plaintiff and other current and former aggrieved employees, and exercised
16 control over their wages, hours, and/or working conditions. Plaintiff is informed and believes, and thereon
17 alleges, that each Defendant directly or indirectly, or through agents or other persons, acted and/or ratified
18 in all respects pertinent to this action as the agent of the other Defendants, carried out a joint scheme,
19 business plan or policy in all respects pertinent hereto, and the acts of each Defendant is legally attributable
20 to the other Defendants.

21 10. Plaintiff was, at times relevant, employed by Defendants in San Diego, California as a non-
22 exempt customer service advisor and then an assistant service manager and was subject to the employment
23 policies, procedures and practices implemented by Defendants which applied to all of their employees
24 throughout the State of California, including in San Diego.

25 11. Defendants, at all relevant times, conducted business in the State of California and were
26 employers who violated, or caused to be violated, a section of Part 2, Chapter 1, of the California Labor
27 Code or any provision regulating hours and days of work in any order of the Industrial Welfare
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Commission and, as such, are subject to penalties for each underpaid employee as set forth in Labor Code § 558 and or 558.1.

12. The true names and capacities of the Defendants named as DOES 1 through 50, inclusive, are presently unknown to Plaintiff. Plaintiff will amend this Complaint setting forth the true names and capacities of these fictitious defendants when they are ascertained. Plaintiff is informed and believes, and on that basis, alleges that each of the fictitious Defendants have participated in the acts alleged in this Complaint.

13. Jurisdiction and venue are proper for the San Diego Superior Court because Defendants maintain offices, transact business, and/or have an agent in San Diego Superior Court and some of the acts and events complained of herein occurred in the judicial district of San Diego County Superior Court and the State of California.

III.

GENERAL ALLEGATIONS

14. Plaintiff LARA was employed with Defendants as a non-exempt customer service advisor and then an assistant service manager from 2011 until June 28, 2019 when he was forced to resign.

15. Defendant THE PEP BOYS is an employer doing business in the State of California and, according to its website, it is a retailer and a service provider of automotive products. The company offers tires, auto parts, tools, and accessories, as well as provides car care, maintenance, and repair services throughout the United States, including San Diego, California.

16. At all relevant times, Plaintiff LARA and other current and former aggrieved employees of Defendants were responsible for providing advice and repair and maintenance estimates of automotive products to the PEP BOYS' clients.

17. Plaintiff and other current and former aggrieved employees worked under numerous Defendants' policies, practices, and procedures relating to meal and rest periods, wage statements, reimbursement policies, recordkeeping, and payment of wages applicable to Plaintiff and other current and former aggrieved employees of Defendants in the State of California. Defendants failed to pay all wages to Plaintiff and as a result of Defendants' unlawful policies and practices.

18. During their tenure with Defendants, Plaintiff and other current and former aggrieved employees were non-exempt hourly employees eligible for overtime wages for work in excess of eight (8) hours a day and 40 hours within a workweek but they were not paid at least minimum wage for each hour worked, nor were they provided overtime wages for all overtime hours worked.

19. At all relevant times, Plaintiff was regularly required to work after his scheduled shifts and during his days off-work to provide an update to the customers regarding the status of their work orders. Moreover, while off-the-clock, Plaintiff would receive multiple phone calls and emails from his direct supervisors to discuss work related matters. Despite working in excess of eight hours a day and forty hours within a workweek, Plaintiff was deprived of minimum and regular wages for all hours worked and, consequently, was not compensated for the overtime hours he worked as required under California Labor Code and the applicable Wage Order provisions. On information and belief, other aggrieved employees were subject to this unlawful practice and policy.

20. At all times relevant, Plaintiff and other aggrieved employees were subject to The Pep Boys non-discretionary bonus plan. Under this plan, Plaintiff and other current and former aggrieved employees were paid bonuses based on sales goals set by THE PEP BOYS' management for their stores.

21. At all relevant times, Plaintiff and current and former aggrieved employees worked more than eight (8) hours in a workday and/or more than forty (40) hours in a workweek. Plaintiff and other current and former aggrieved employees also routinely earned non-discretionary store bonuses during the same pay periods in which they worked overtime.

22. Plaintiff alleges that Defendants failed to incorporate the non-discretionary bonuses into his regular hourly rate of pay for the purpose of calculating his overtime rate, as required by California law. As a result, the overtime rate that Defendants paid Plaintiff was miscalculated and incorrect. On information and belief, Defendants had a common practice and policy of failing to properly calculate the correct regular hourly rate of pay for purposes of calculating overtime rates of pay and payment of wage premiums for all current and former employees throughout the State of California.

23. Throughout the relevant time period, Defendants did not maintain compliant meal period policies for Plaintiff and other current and former aggrieved employees as required by the California Labor

Code, nor did they provide off-duty meal periods compliant under California law, to Plaintiff and other employees. Defendants failed to adequately inform Plaintiff and other similarly situated employees of their rights to take complaint 30-minute off-duty meal periods within the first five work hours in a workday or a second 30-minute duty free meal break after ten hours worked during a single shift. In addition, due to the high volume of their work assignments and a constant understaffing of Defendants' stores, Plaintiff and other current and former aggrieved employees were regularly required to forgo their lunches and/or remain on the job site in order to take their meal periods while being available to assist any customers in the store or making phone call inquiries at the same time. On multiple occasions when Plaintiff attempted to exercise his statutory right to take a lunch break, he was informed by his direct supervisor there were no alternate employees who could relieve him in the store to assist customers and, therefore he had to continue to work through his lunches.

24. Because Defendants denied Plaintiff and other current and former aggrieved employees complaint meal periods, it was a common practice of Defendants to edit Plaintiff's and current and former aggrieved employees' timecards. At the end of each pay period, The Pep Boys' managers would edit Plaintiff and other similarly situated and current and former aggrieved employees' timecards so they would optically reflect the employees took thirty-minute (30), duty-free meal breaks within the first five (5) work hours and a second thirty (30) - minute duty free meal break after ten(10) hours worked in a workday, even though Plaintiff and other current and former employees were unable to take their lunches.

25. Defendants failed to pay Plaintiff and other current and former aggrieved employees meal period premium wages for each day in which they did not provide Plaintiff and other current and former aggrieved employees an opportunity to take a compliant meal period.

26. Moreover, Defendants failed to provide Plaintiff and other current and former aggrieved employees with suitable lunchroom despite requiring on-site meal periods. The lunchroom at the San Diego location where Plaintiff worked before his termination, had one table and two chairs for a store manned with about twenty (20) employees working at the facility during a single shift. Therefore, on the rare occasions when Plaintiff and, on information and belief, other current and former aggrieved employees were able to take their lunch breaks, they had no choice but to consume their meals at their

1 office desks where they would be constantly interrupted by their supervisors and/or customers present in
2 the store.

3 27. At all times relevant, Defendants did not maintain compliant rest period policies for
4 Plaintiff as required by the California Labor Code, nor did they provide rest periods compliant under
5 California law, to Plaintiff and other current and former aggrieved employees. During Plaintiff's
6 employment, Defendants had a common pattern and practice of failing to properly authorize and permit
7 compliant off-duty rest periods to Plaintiff and other current and former aggrieved employees when they
8 worked greater than 3.5 hours in a workday. Because of the lack of any replacement employees who could
9 cover while employees were on break, Plaintiff and other current and former aggrieved employees were
10 unable to take a rest break as they were required to remain on the premises to assist customers.

11 28. Defendants failed to pay Plaintiff and other current and former aggrieved employees rest
12 period premium wages for each day in which they did not authorize or permit them to take compliant rest
13 periods.

14 29. At all times relevant, and pursuant to Defendants' policy and/or practice and/or direction,
15 Defendants required Plaintiff and other current and former aggrieved employees to have cell phones to
16 communicate with Defendants and customers. However, Plaintiff and other current and former aggrieved
17 employees were not compensated for the costs associated with their work they performed for Defendants.

18 30. Defendants failed to provide Plaintiff and other current and former aggrieved employees
19 with wage statements accurately itemizing information required by Labor Code § 226(a) and Section 7 of
20 the applicable Wage Order including. The wages statements that were provided did not include all the
21 items required by law and some of information they did contain was inaccurate. For example, the wage
22 statements did not include accurate overtime hours worked and the proper overtime rate used to calculate
23 the overtime wages earned. On information and belief, other current and former employees were subject
24 to the same policy and practice concerning wage statements and receive similarly deficient wage
25 statements.

1 31. As a result of these deficiencies and inaccuracies, Plaintiff and other current and former
2 aggrieved employees were not able to promptly and easily determine from this wage statements alone
3 their total overtime and/or all wages earned.

4 32. At all relevant times, Plaintiff and other current and former aggrieved employees were
5 eligible to receive vacation benefits and wages and a payout of accrued, vested vacation wages upon
6 separation of employment. Defendants failed to pay Plaintiff and other current and former aggrieved
7 employees all vested vacation wages due and owing as required by Labor Code § 227.3.

8 33. Defendants failed to maintain accurate records reflecting the beginning and ending time of
9 each shift, including meal periods, and all hours worked and all wages earned as required by law.

10 34. Defendants also failed to provide Plaintiff and other current and former aggrieved
11 employees with the terms of their commission plans in writing and failed to provide them with a copy of
12 the commission plan.

13 35. Defendants maintained a practice and policy of failing to provide, and did indeed fail to
14 provide, written notice at the time of hiring pursuant to Cal. Labor Code section 2810.5 setting forth the
15 rates of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or
16 otherwise, including any rates for overtime, as applicable, regular payday designated by the employer,
17 the name of the employer, the physical address of the employer's main office or principal place of
18 business, and/or mailing address, the telephone number of the employer, worker's compensation
19 information.

20 36. Defendants also failed to provide suitable lockers and/or closets for their employees,
21 including Plaintiffs and other current and former aggrieved employees where they could change in a
22 reasonable privacy and comfort and/or keep safely their private things.

23 37. Defendants failed to pay Plaintiff and other current and former aggrieved employees for
24 all wages due and owing and by the times required by law in the time periods set forth by Labor Code §
25 204 and Section 4 of the applicable Wage Order in that Defendants failed to properly compensate said
26 employees for all hours worked.

38. Defendants failed to pay Plaintiff LARA and other current and former aggrieved employees all wages due and owing at the time of termination of employment as required by Labor Code §§ 201(a) and 202(a), as applicable, because Plaintiff LARA and other current and former aggrieved employees were not properly compensated for all hours worked. On information and belief, Defendants willingly withheld wages including, but not limited to, minimum wages, regular wages, and overtime wages.

39. Defendants have engaged in unfair business practices in California and willingly and knowingly have practiced, employed, and utilized the employment patterns and practices alleged in this complaint.

IV.

PRIVATE ATTORNEYS GENERAL ACT OF 2004 DESIGNATION

40. The Causes of Action alleged herein are appropriately suited for a Labor Code Private Attorneys General Act of 2004 (hereinafter referred to as "PAGA") representative action because:

- a. This action involves allegations of violations of provisions of the California Labor Code that either do not provide for a civil penalty or provide for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency (hereinafter referred to as "LWDA") or any departments, divisions, commissions, boards, agencies or employees;
- b. Plaintiff LARA is an "aggrieved employee" because he was employed by the alleged violators and had one or more of the alleged violations committed against him and, therefore, is properly suited to represent the interests of all other current and former employees of Defendant;
- c. Plaintiff LARA seeks to recover all applicable penalties under PAGA on behalf of himself and all other aggrieved employees including, but not limited to, an amount sufficient to recover underpaid wages including all unpaid and/or underpaid wages pursuant to Labor Code § 558.

1 d. Pursuant to Labor Code § 2698, et seq., Plaintiff LARA has complied with his notice
2 requirements by serving via certified mail The Pep Boys Manny Moe & Jack of
3 California. and via online services the LWDA, a notice with his claims for wage and hour
4 violations and penalties. The PAGA claims have been tolled during the pendency of the
5 notice period to the LWDA. The statutory period expired, and the LWDA did not serve
6 Plaintiff LARA with a notice of intent to assume jurisdiction over the applicable penalty
7 claims. Therefore, Plaintiff LARA has satisfied and exhausted the procedural notice
8 requirement to pursue penalties against Defendant pursuant to Labor Code § 2698, et seq.

9 V.

10 **CAUSES OF ACTION**

11 **FIRST CAUSE OF ACTION**

12 **PRIVATE ATTORNEY GENERAL ACT (PAGA)**

13 (Violation of Labor Code § 2699, et seq.)

14 (Alleged by Plaintiff Individually and On Behalf of all current and former Aggrieved Employees
15 Against All Defendants)

16 41. Plaintiff LARA realleges and incorporates by reference the foregoing allegations, as
17 though set forth herein.

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

23 43. Plaintiff LARA is an “aggrieved employee” because he was employed by the alleged
24 violator and had one or more of the alleged violations committed against him and therefore is properly
25 suited to represent the interests of other current and former aggrieved employees of Defendant.

26 44. On or about April 8, 2020, pursuant to Labor Code § 2698, et seq., Plaintiff LARA served
27 via certified mail, return receipt requested DEFENDANT, The Pep Boys Manny Moe & Jack of
28 California, and, on April 8, 2020, via on-line services the LWDA with his claims for wage and hour
violations and penalties. The statutory period expired, and the LWDA did not serve Plaintiff with a notice
of intent to assume jurisdiction over the applicable penalty claims. Therefore, Plaintiff has satisfied and

1 exhausted the procedural notice requirement to pursue penalties against Defendant pursuant to Labor Code
2 §2698, *et seq.*

3 45. Labor Code § 1198 states “The maximum hours of work and the standard conditions of
4 labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor
5 for employees. The employment of any employee for longer hours than those fixed by the order or under
6 conditions of labor prohibited by the order is unlawful.”

7 46. Defendants violated Labor Code §§ 226.7, 512, and 1198 by failing to provide Plaintiff
8 and current and former aggrieved employees lawfully complaint meal periods and by failing to pay them
9 wages for each day a meal period was not provided. Under Labor Code § 2699(f)(2) Defendants are subject
10 to a civil penalty of \$100 for each aggrieved employee per pay period for an initial violation and \$200 for
11 each aggrieved employee per pay period for each subsequent violation.

12 47. Defendants violated Labor Code §§ 226.7 and 1198 by failing to provide Plaintiff and
13 current and former aggrieved employees duty-free rest periods and by failing to pay them premium wages
14 for each day a rest period was not provided. Under Labor Code § 2699 (f)(2) Defendants are subject to a
15 civil penalty of \$100 for each aggrieved employee per pay period for an initial violation and \$200 for each
16 aggrieved employee per pay period for each subsequent violation.

17 48. Defendants violated Labor Code §§ 1194, 1197, and 1198 by failing to pay Plaintiff and
18 current and former aggrieved employees at least minimum and regular wages for the time permitted to
19 work, engaged in work, and/or under Defendants’ control as alleged herein. Under Labor Code § 2699
20 (f)(2) Defendants are subject to a civil penalty of \$100 for each aggrieved employee per pay period for an
21 initial violation and \$200 for each aggrieved employee per pay period for each subsequent violation.

22 49. Defendants violated Labor Code §§ 510 and 1198 by failing to pay Plaintiff and current
23 and former aggrieved employees overtime wages for the time permitted to work, engaged in work, and/or
24 under Defendants’ control as alleged herein. On information and belief, at all relevant times, Plaintiff and
25 other current and former aggrieved employees were not paid overtime wages when they worked in excess
26 of eight (8) hours a day or forty (40) hours within a workweek. In addition, Defendants failed to
27 incorporate the non-discretionary bonuses into Plaintiff’s, and, on information and belief, other current
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1 and former aggrieved employees' regular hourly rate of pay for the purpose of calculating his overtime
2 rate, as required by California law. As a result, the overtime rate that Defendants paid Plaintiff was
3 miscalculated and incorrect. Therefore, under Labor Code § 2699(f)(2) Defendants are subject to a civil
4 penalty of \$100 for each aggrieved employee per pay period for an initial violation and \$200 for each
5 aggrieved employee per pay period for each subsequent violation.

6 50. Under Labor Code § 2751, "[w]henver an employer enters into a contract of employment
7 with an employee for services to be rendered within this state and the contemplated method of payment
8 of the employee involves commissions, the contract shall be in writing and shall set forth the method by
9 which the commissions shall be computed and paid." The employer "shall give a signed copy of the
10 contract to every employee who is a party thereto and shall obtain a signed receipt for the contract from
11 each employee." Defendants violated Labor Code § 2751 by not providing Plaintiff and other current and
12 former employees with the terms of the commission plan in writing and a copy of the commission plan.
13 Thus, under Labor Code § 2699(f)(2) Defendants are subject to a civil penalty of \$100 for each aggrieved
14 employee per pay period for an initial violation and \$200 for each aggrieved employee per pay period for
15 each subsequent violation.

16 51. Defendants violated Labor Code §§ 226(a), 1174(d), and 1198 and Section 6 of the
17 applicable IWC Wage Order by failing to maintain records detailing the start and end times of work shifts
18 and meal periods, and knowingly and intentionally failing to maintain and provide Plaintiff and other
19 current and former aggrieved employees of Defendants with accurate wage statements itemizing all
20 information required by Labor Code § 226(a), as alleged herein, including the correct total hours worked,
21 all regular hours worked, overtime hours worked, the correct applicable hourly rate per hour worked, the
22 and the correct total wages earned. Thus, under Labor Code § 2699(f)(2), Defendants are subject to a civil
23 penalty of \$100 for each aggrieved employee per pay period for the initial violation of Labor Code §§
24 226(a) and 1198, and \$200 for each aggrieved employee per pay period for each subsequent violation.

25 52. Alternatively, Labor Code § 226.3 provides for a civil penalty in the amount of \$250 per
26 violation in an initial citation and \$1,000 for each violation in a subsequent citation for failure to provide
27 accurate itemized wage statements.

53. Under Labor Code § 1174.5 an employer who willfully fails to maintain the records by Labor Code § 1174 is a subject to a civil penalty of \$500.

54. Defendants violated Labor Code §§ 201, 202, 203, and 1198 by failing to pay Plaintiff and other current and former aggrieved employees all minimum, regular, and overtime wages owed, and all meal and rest premiums wages owed by the time set forth by law upon their separation of employment as alleged herein. Thus, under Labor Code § 2699(f)(2), Defendants are subject to a civil penalty of \$100 for each aggrieved employee per pay period for the initial violation of Labor Code §§ 201, 202, 203, and 1198, and \$200 for each aggrieved employee per pay period for each subsequent violation.

55. Defendants violated Labor Code §§ 204 and 1198 by failing to pay Plaintiff and other current and former aggrieved employees all minimum, regular, and overtime wages owed, and all meal and rest premiums wages owed by the time set forth by law upon during their employment as alleged herein. Thus, under Labor Code § 2699(f)(2), Defendants are subject to a civil penalty of \$100 for each aggrieved employee per pay period for the initial violation of Labor Code §§ 204 and 1198, and \$200 for each aggrieved employee per pay period for each subsequent violation.

56. Defendants violated Labor Code § 227.3 and 1198 by failing to pay Plaintiff and, on information and belief, other current and former aggrieved employees their vested vacation at their final rate at the time of their separation from employment with Defendants. Thus, under Labor Code § 2699(f)(2), Defendants are subject to a civil penalty of \$100 for each aggrieved employee per pay period for the initial violation of Labor Code §§ 227.3 and 1198, and \$200 for each aggrieved employee per pay period for each subsequent violation.

57. In violation of the relevant provisions of the applicable Wage Order and Labor Code § 1198, Defendants failed to provide Plaintiff and other current and former aggrieved employees with suitable lockers and closets, or their equivalent for the safekeeping of Plaintiff and other current and former aggrieved employees' other clothing during working hours. Thus, under Labor Code § 2699(f)(2), Defendants are subject to a civil penalty of \$100 for each aggrieved employee per pay period for the initial violation of Labor Code § 1198 and the relevant provisions of the applicable Wage Order, and \$200 for each aggrieved employee per pay period for each subsequent violation.

58. Defendants violated section 11(C) of the applicable Wage Order and Labor Code § 1198 by failing to provide suitable break room areas to Plaintiff and other current and former aggrieved employees. Under Labor Code § 2699(f)(2), Defendants are subject to a civil penalty of \$100 for each aggrieved employee per pay period for the initial violation of the relevant provisions of the applicable Wage Order and Labor Code §1198, and \$200 for each aggrieved employee per pay period for each subsequent violation.

59. As set forth herein, Defendant violated Labor Code sections 201, 202, 203, 204, 223, 226, 226.7, 256, 510, 512, 1174, 1197, 1198, 2751, 2810.5 and Labor Code § 2699, *et seq.*, imposes upon Defendants, and each of them, penalties for violating the Labor Code, including those penalties set forth in 210, 226.3, 256, 558, 1174.5, 1197.1, 1194.2 and 2698, *et seq.*

60. Pursuant to Labor Code § 2699, Plaintiff LARA seeks to recover civil penalties on behalf of himself and other current and former aggrieved employees of Defendant who suffered one or more the labor code violations described herein. The exact amount of the applicable penalty is all in an amount to be shown according to proof at trial.

61. For bringing this action, Plaintiff LARA is entitled to attorney's fees and costs incurred herein.

WHEREFORE, Plaintiff LARA prays for relief as hereinafter requested.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for damages for judgment against Defendants, jointly and severally, as applicable, as follows:

- a. For penalties to the extent permitted pursuant to the Labor Code, Orders of the Industrial Welfare Commission including, but not limited to, waiting time penalties under Labor Code § 203, penalties under Labor Code §§ 226(e), 226.3, 210, , 558, and 1174.5 , and PAGA penalties pursuant to Labor Code §2698 et seq
- b. For reasonable attorney's fees and cost of suit and, to the extent permitted by law, including pursuant to Labor Code §§ 218.5, 226, 1194, and Code of Civil Procedure § 1021.5; and

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1 c. An award of such other and further relief as this Court deems proper and just.

2
3 Dated: June 12, 2020

ShortLegal, APC

4
5 By:

Dorota James

BRIAN R. SHORT

DOROTA A. JAMES

Attorneys for Plaintiff JOSHUA LARA

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10 **DEMAND FOR JURY TRIAL**

11 Plaintiff hereby demands trial by jury to the extent authorized by law.

12
13 Dated: June 12, 2020

ShortLegal, APC

14
15 By:

Dorota James

BRIAN R. SHORT

DOROTA A. JAMES

Attorneys for Plaintiff JOSHUA LARA