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ELECTRONICALLY FILED
Superior Court of California
County of Santa Barbara
Darrel E. Parker, Executive Officer
9/30/2020 2:19 PM
By: Isabel Navarro, Deputy

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **COUNTY OF SANTA BARBARA – COOK DIVISION**

14 STATE OF CALIFORNIA ex rel.
15 MARIANO JARQUIN JUAREZ, as
Private Attorney General,

16 Plaintiff,

17 v.

18 FAITH FARMING, LLC, a limited
19 liability company; INNOVATIVE
PRODUCE, INC., a corporation; and
20 DOES 1-25, inclusive,

21 Defendants.
22

Case No. 20CV03260

Assigned for All Purposes to:

**COMPLAINT FOR CIVIL PENALTIES
UNDER THE PRIVATE ATTORNEYS
GENERAL ACT OF 2004**

Trial Date: None

Complaint filed:

23
24 COMES NOW Plaintiff STATE OF CALIFORNIA *ex rel.* MARIANO JARQUIN JUAREZ
25 as Private Attorney General (“Plaintiff”), who asserts claims against FAITH FARMING, LLC, a
26 limited liability company, and INNOVATIVE PRODUCE, INC., a corporation, and DOES 1
27 through 25, inclusive (collectively “Defendants” or “Employers”) as follows:
28

1 **INTRODUCTION**

2 1. Plaintiff brings this action under the Labor Code Private Attorneys General Act of
3 2004 (“PAGA”), Labor Code sections 2698, *et seq.*, on behalf of the State of California for
4 approximately 2,000 similarly situated non-exempt current and former aggrieved employees, and
5 the People of the State of California (“Employees”) employed by Defendants at any time from April
6 1, 2019, through the resolution of this action (“Statutory Period”).

7 2. PAGA, specifically Section 2699, subdivision (a) of the California Labor Code,
8 permits an aggrieved employee to recover civil penalties set forth within the California Labor Code
9 for violations of the California Labor Code. In addition, Section 2699(f) establishes civil penalties
10 for violations of California Labor Code provisions that do not contain their own civil
11 penalties. Employees bring this civil action to recover civil penalties for the violations identified
12 below, including civil penalties pursuant to Section 2699, subdivision (f) as well as those civil
13 penalties specifically set forth within the text of the California Labor Code. Those civil penalties
14 are sought for violations committed against Employees of Employers.

15 3. Pursuant to Section 2699.3, subdivisions (a)(1) and (b)(1), Plaintiff gave proper
16 notice to the California Labor and Workforce Development Agency, the Division of Occupational
17 Safety and Health, and Defendants, of the specific provisions of the California Labor Code alleged
18 to have been violated, including the facts and theories to support the alleged violation. Neither the
19 LWDA nor the Division of Occupational Safety and Health inspected or investigated the violations.
20 With respect to those violations that were curable under Subdivisions (b)(1) and/or (c)(1), the
21 Employers failed to cure the violations within the time provided under PAGA. Plaintiff and
22 Employees are, therefore, entitled to all civil penalties pursuant to Sections 2699(a), and pursuant
23 to Section 2699(f), in addition to Plaintiff’s costs and attorneys’ fees.

24 **JURISDICTION AND VENUE**

25 4. This Court has jurisdiction over this action pursuant to the California Constitution,
26 Article VI, §10.

27 5. Venue is proper in this Court because this action arises from employment in Santa
28 Barbara County.

PARTIES

6. For all times relevant herein, MARIANO JARQUIN JUAREZ was an adult individual residing in Santa Barbara County, California. Mr. Juarez is not suing in his individual capacity; he is proceeding herein solely under the PAGA, on behalf of the State of California for all aggrieved employees, including himself and approximately 2,000 other aggrieved employees.

7. For all times relevant herein, Plaintiff is informed and believes, and on that basis alleges, that Defendant FAITH FARMING, LLC was and is a California limited liability company with its principal California place of business in Santa Maria, CA.

8. For all times relevant herein, Plaintiff is informed and believes, and on that basis alleges, that Defendant INNOVATIVE PRODUCE, INC. was and is a California corporation with its principal place of business in Santa Maria, CA.

9. Whenever in this Complaint reference is made to any act, deed, or conduct of Defendants, the allegation means that Defendants engaged in the act, deed, or conduct by or through one or more of its agents, employees, or representatives, who was actively engaged in the management, direction, control, or transaction of the business and affairs of Defendants.

10. Plaintiff is ignorant of the true names and capacities, whether individual, corporate, associate, or otherwise, of the defendants sued herein as Does 1 through 25, inclusive, and therefore sues said defendants (the "Doe Defendants") by such fictitious names. Plaintiff will amend this Complaint to insert the true names and capacities of the Doe Defendants at such time as the identities of the Doe Defendants are ascertained.

11. Plaintiff is informed and believes, and based thereon alleges, that the Doe Defendants are the partners, agents, or principals and co-conspirators of Defendants, and of each other; that Defendants and the Doe Defendants performed the acts and conduct herein alleged directly, aided and abetted the performance thereof, or knowingly acquiesced in, ratified, and accepted the benefits of such acts and conduct, and therefore each of the Doe Defendants is liable to the extent of the liability of Defendants as alleged herein.

12. Plaintiff is further informed and believe, and thereon allege, that at all times herein material, each Defendant was completely dominated and controlled by its co-Defendant(s) and each

1 was the alter ego of the other. Whenever and wherever reference is made in this Complaint to any
2 conduct by Defendants, or any of them, such allegations and references shall also be deemed to
3 mean the conduct of each of the Defendants, acting individually, jointly, and severally. Whenever
4 and wherever reference is made to individuals who are not named as defendants in this Complaint,
5 but were employees and/or agents of Defendants, such individuals at all relevant times acted on
6 behalf of Defendants named in this Complaint within the scope of their respective employment or
7 agency with Defendants.

8 **FIRST COUNT**

9 **Failure to Pay Minimum Wages Owed**

10 **(By Plaintiff against All Defendants)**

11 13. Plaintiff incorporates by reference and realleges each and every allegation
12 contained above, as though fully set forth herein.

13 14. Section 1197 provides that “[t]he minimum wage for employees fixed by the
14 commission or by any applicable state or local law, is the minimum wage to be paid to employees,
15 and the payment of a lower wage than the minimum so fixed is unlawful.” “[O]n and after January
16 1, 2016, the minimum wage for all industries shall be not less than ten dollars (\$10) per hour.” Cal.
17 Lab. Code, § 1182.12, subd. (a). “[T]he minimum wage for all industries shall not be less than the
18 amounts set forth in this subdivision (1) For any employer who employs 26 or more employees,
19 the minimum wage shall be as follows: (A) From January 1, 2017, to December 31, 2017,
20 inclusive,—ten dollars and fifty cents (\$10.50) per hour. (B) From January 1, 2018, to December
21 31, 2018, inclusive,—eleven dollars (\$11) per hour. (C) From January 1, 2019, to December 31,
22 2019, inclusive,—twelve dollars (\$12) per hour. (D) From January 1, 2020, to December 31, 2020,
23 inclusive,—thirteen dollars (\$13) per hour.” Cal. Lab. Code, § 1182.12, subd. (b).

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

1 (1) For any initial violation that is intentionally committed, one hundred dollars (\$100) for each
2 underpaid employee for each pay period for which the employee is underpaid. This amount shall be
3 in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to
4 Section 1194.2, and any applicable penalties imposed pursuant to Section 203. (2) For each
5 subsequent violation for the same specific offense, two hundred fifty dollars (\$250) for each
6 underpaid employee for each pay period for which the employee is underpaid regardless of whether
7 the initial violation is intentionally committed. This amount shall be in addition to an amount
8 sufficient to recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any
9 applicable penalties imposed pursuant to Section 203.”

10 16. Throughout the Statutory Period, Employers failed to pay Employees at least
11 minimum wage for all time worked, including nonproductive times, which must be paid at a rate of
12 not less than minimum wage pursuant to California law. Employers advised Employees, including
13 Mr. Juarez, to report to work in the fields approximately 15 minutes prior to their scheduled work
14 times. This was to enable Employers to commence their operations using Employees’ collective
15 labor with maximum efficiency and profits for Employers at Employees’ expense. Employers paid
16 zero dollars for these times during which Employees were required to report to work early without
17 pay. Consequently, Employers violated the foregoing minimum wage laws.

18 17. In addition, the Employees were compensated based largely upon the number of
19 “pieces” harvested. Throughout the Statutory Period, Employers’ policy and practices required
20 Employees, including Mr. Juarez, to take two 15-minute rest breaks during their workdays; however,
21 Employers paid Employees only 10 minutes for these rest periods mandated by Employers where
22 Employees were not free to leave the Employers’ premises or otherwise free of the Employers’
23 control. Because Employers required Employees to take 15-minute rest periods on the Employers’
24 premises, during which they were subject to the Employers’ control, Employers were required to
25 pay Employees for the full 15 minutes of each rest period required by the Employer. Employers
26 paid zero dollars for nonproductive time after 10 minutes during rest periods mandated by the
27 Employers. Consequently, Employers violated the foregoing minimum wage laws.

28

18. Finally, Employers required Employees to take meal periods during their workdays where they regularly worked more than 5 hours in the workday. Employers prohibited Employees from leaving Employers' premises during meal periods, claiming that the Employers feared liability and lack of insurance coverage if Employees left the Employers' premises during meal periods. Because Employees were required to stay on the Employers' premises during meal periods, Employers were required to pay Employees for meal period times as hours worked. Employers failed to do so, thereby further violating the foregoing minimum wage laws.

19. Employees are entitled to all civil penalties available under the PAGA for these violations.

SECOND COUNT

Failure to Pay Overtime Wages Owed

(By Plaintiff against All Defendants)

20. Plaintiff incorporates by reference and realleges each and every allegation contained above, as though fully set forth herein.

21. “The maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.” Cal. Lab. Code, § 1198. Prior to January 1, 2019, pursuant to Industrial Welfare Commission Wage Order 14, “employees shall not be employed more than ten (10) hours in any one workday or more than six (6) days in any workweek unless the employee receives one and one-half (1 1/2) times such employee’s regular rate of pay for all hours worked over ten (10) hours in any workday and for the first eight (8) hours on the seventh (7th) day of work and double the employee’s regular rate of pay for all hours worked over eight (8) on the seventh (7th) day of work in the workweek.”

22. Effective January 1, 2019, for employers of more than 25 employees like Employers, Wage Order 14 provides that Employees shall not be employed more than nine and one-half (9 1/2) hours per workday or fifty-five (55) hours per workweek unless the employee receives one and one-

1 half (1 1/2) times such employee's regular rate of pay for all hours worked over nine and one-half (9
2 1/2) hours in any one workday or more than fifty-five (55) hours in any one workweek.

3 23. Starting January 1, 2020, Employees shall not be employed more than nine (9) hours
4 per workday or fifty (50) hours per workweek unless the employee receives one and one-half (1 1/2)
5 times such employee's regular rate of pay for all hours worked over nine (9) hours in any one workday
6 or more than fifty (50) hours in any one workweek.

7 24. Starting January 1, 2021, Employees shall not be employed more than eight and one-
8 half (8 1/2) hours per workday or forty-five (45) hours per workweek unless the employee receives
9 one and one-half (1 1/2) times such employee's regular rate of pay for all hours worked over eight
10 and one-half (8 1/2) hours in any one workday or more than forty-five (45) hours in any one
11 workweek.

12 25. Starting January 1, 2022, Employees shall not be employed more than eight (8) hours
13 per workday or work in excess of forty (40) hours per workweek unless the employee receives one
14 and one-half (1 1/2) times such employee's regular rate of pay for all hours worked over eight (8)
15 hours in any workday or more than forty (40) hours in any workweek and double the employee's
16 regular rate of pay for all hours worked over twelve (12) hours in any one workday.

17 26. "Any employer or other person acting on behalf of an employer who violates, or causes
18 to be violated, a section of this chapter or any provision regulating hours and days of work in any
19 order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any
20 initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the
21 employee was underpaid in addition to an amount sufficient to recover underpaid wages. (2) For each
22 subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period
23 for which the employee was underpaid in addition to an amount sufficient to recover underpaid
24 wages." Cal. Lab. Code, § 558, subd. (a).

25 27. Employees incorporate the preceding sections herein. Throughout the Statutory
26 Period, Employers failed to pay Employees at least minimum wage for all time worked, as discussed
27 above. For example, because Employees' early reporting time, excess rest period times, and meal
28 periods were improperly not counted as hours worked after January 1, 2019 during the Statutory

1 Period, Employees also accrued additional overtime wages for hours in excess of 9.5 in their
2 workdays, and/or in excess of 55 in their workweeks, that were never paid to Employees. Moreover,
3 because Employees' early reporting time, excess rest period times, and meal periods were improperly
4 not counted as hours worked after January 1, 2020 during the Statutory Period, Employees also
5 accrued additional overtime wages for hours in excess of 9 in their workdays, and/or in excess of 50
6 in their workweeks, that were never paid to Employees.

7 28. Employees are entitled to all civil penalties available under the PAGA for these
8 violations.

9 **THIRD COUNT**

10 **Failure to Provide or Pay for Recovery Periods**

11 **(By Plaintiff against All Defendants)**

12 29. Plaintiff incorporates by reference and realleges each and every allegation contained
13 above, as though fully set forth herein.

14 30. "An employer shall not require an employee to work during a ... recovery period
15 mandated pursuant to an applicable statute, or applicable regulation, standard, or order of ... the
16 Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health."
17 Cal. Lab. Code, § 226.7, subd. (b). "As used in this section, 'recovery period' means a cooldown
18 period afforded an employee to prevent heat illness." Cal. Lab. Code, § 226.7, subd. (a). "A rest or
19 recovery period mandated pursuant to a state law ... shall be counted as hours worked, for which there
20 shall be no deduction from wages." Cal. Lab. Code, § 226.7, subd. (d). "If an employer fails to provide
21 an employee a ... recovery period in accordance with a state law ... the employer shall pay the
22 employee one additional hour of pay at the employee's regular rate of compensation for each workday
23 that the meal or rest or recovery period is not provided." Cal. Lab. Code, § 226.7, subd. (c).

24 31. Pursuant to the applicable regulation, "[w]hen the outdoor temperature in the work area
25 exceeds 80 degrees Fahrenheit, the employer shall have and maintain one or more areas with shade at
26 all times while employees are present that are either open to the air or provided with ventilation or
27 cooling. The amount of shade present shall be at least enough to accommodate the number of
28 employees on recovery or rest periods, so that they can sit in a normal posture fully in the shade

1 without having to be in physical contact with each other. The shade shall be located as close as
2 practicable to the areas where employees are working. Subject to the same specifications, the amount
3 of shade present during meal periods shall be at least enough to accommodate the number of
4 employees on the meal period who remain onsite.” Cal. Code Regs., tit. 8, § 3395, subd. (d)(1).

5 32. “Employees shall be allowed and encouraged to take a preventative cool-down rest in
6 the shade when they feel the need to do so to protect themselves from overheating. Such access to
7 shade shall be permitted at all times. An individual employee who takes a preventative cool-down rest
8 (A) shall be monitored and asked if he or she is experiencing symptoms of heat illness; (B) shall be
9 encouraged to remain in the shade; and (C) shall not be ordered back to work until any signs or
10 symptoms of heat illness have abated, but in no event less than 5 minutes in addition to the time
11 needed to access the shade.” Cal. Code Regs., tit. 8, § 3395, subd. (d)(3). “For purposes of this section,
12 preventative cool-down rest period has the same meaning as ‘recovery period’ in Labor Code Section
13 226.7(a).” Cal. Code Regs., tit. 8, § 3395, subd. (e)(6).

14 33. “When temperatures reach 95 degrees or above, the employer shall ensure that the
15 employee takes a minimum ten minute net preventative cool-down rest period every two hours. The
16 preventative cool-down rest period required by this paragraph may be provided concurrently with
17 any other meal or rest period required by Industrial Welfare Commission Order No. 14 (8 CCR
18 11140) if the timing of the preventative cool-down rest period coincides with a required meal or rest
19 period thus resulting in no additional preventative cool-down rest period required in an eight hour
20 workday. If the workday will extend beyond eight hours, then an additional preventative cool-down
21 rest period will be required at the conclusion of the eighth hour of work; and if the workday extends
22 beyond ten hours, then another preventative cool-down rest period will be required at the conclusion
23 of the tenth hour and so on.” Cal. Code Regs., tit. 8, § 3395, subd. (e)(6).

24 34. Throughout the Statutory Period, Employers failed to allow or encourage shaded
25 recovery periods as required by law when temperatures exceeded eighty degrees and when
26 temperatures were eighty degrees and lower. Employers also failed to ensure that Employees took
27 cool-down recovery periods at any time, including when temperatures reached ninety-five degrees.

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35. Employees are entitled to all civil penalties available under the PAGA for these violations.

FOURTH COUNT

Failure to Provide Compliant Meal Periods or Pay Meal Premiums

(By Plaintiff against All Defendants)

36. Plaintiff incorporates by reference and realleges each and every allegation contained above, as though fully set forth herein.

37. “An employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes, except that if the total work period per day of the employee is no more than six hours, the meal period may be waived by mutual consent of both the employer and employee. An employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.” Cal. Lab. Code, § 512, subd. (a).

38. Pursuant to Labor Code sections 226.7 and 512, and Wage Order 14, duty-free meal periods of no less than thirty (30) minutes are required for all non-exempt employees who work at least five (5) hours in a work period per day. The employee must be free to leave the employer's premises. An employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes. Time records of meal periods must be kept. Meal periods must be paid when the employee is not relieved of all duties or free to leave the premises. An employer who fails to provide a duty-free meal period must pay the employee an additional one (1) hour regular pay for each day in which a duty-free meal period is not provided.

39. “If an employer fails to provide an employee a meal or rest or recovery period in accordance with a state law, including, but not limited to, an applicable statute or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health, the employer shall pay

1 the employee one additional hour of pay at the employee's regular rate of compensation for each
2 workday that the meal or rest or recovery period is not provided." Cal. Lab. Code, § 226.7, subd.
3 (c).

4 40. "Any employer or other person acting on behalf of an employer who violates, or
5 causes to be violated, a section of this chapter or any provision regulating hours and days of work
6 in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1)
7 For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for
8 which the employee was underpaid in addition to an amount sufficient to recover underpaid wages.
9 (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each
10 pay period for which the employee was underpaid in addition to an amount sufficient to recover
11 underpaid wages." Cal. Lab. Code, § 558, subd. (a).

12 41. Employees incorporate the preceding sections herein. Throughout the Statutory
13 Period, although Employees were entitled to a meal period within the first five (5) hours of work,
14 Employers regularly scheduled Employees' first meal periods, including Mr. Juarez's meal periods,
15 after such time. Moreover, as alleged above, Employers prohibited Employees from leaving
16 Employers' premises during meal periods.

17 42. In addition, pursuant to the applicable regulation, "[w]hen the outdoor temperature
18 in the work area exceeds 80 degrees Fahrenheit ... the amount of shade present during meal periods
19 shall be at least enough to accommodate the number of employees on the meal period who remain
20 onsite." Cal. Code Regs., tit. 8, § 3395, subd. (d)(1). The amount of shade present during meal
21 periods "shall be at least enough to accommodate the number of employees ... so that they can sit
22 in a normal posture fully in the shade without having to be in physical contact with each other. The
23 shade shall be located as close as practicable to the areas where employees are working." Cal. Code
24 Regs., tit. 8, § 3395, subd. (d)(1).

25 43. Employees incorporate the preceding sections herein. Employers' meal periods, to
26 the extent any were provided, were noncompliant because they failed to provide sufficient shade
27 when temperatures exceeded eighty degrees so that Employees could sit in a normal posture fully
28 in the shade without touching each other.

44. Employers also violated Section 226.7 by not paying meal period premium wages for the foregoing violations.

45. Accordingly, Employers are specifically subject to civil penalties for violation of § 226.7 and § 3395, and Employees are entitled to all civil penalties available under the PAGA for these violations.

FIFTH COUNT

Inaccurate Wage Statements

(By Plaintiff against All Defendants)

46. Plaintiff incorporates by reference and realleges each and every allegation contained above, as though fully set forth herein.

47. “Every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her 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 statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, ... (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, ..., and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee and, beginning July 1, 2013, if the employer is a temporary services employer as defined in Section 201.3, the rate of pay and the total hours worked for each temporary services assignment.”

Cal. Lab. Code, § 226, subd. (a).

48. “Any employer who violates subdivision (a) of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent

1 citation, for which the employer fails to provide the employee a wage deduction statement or fails
2 to keep the records required in subdivision (a) of Section 226. The civil penalties provided for in
3 this section are in addition to any other penalty provided by law.” Cal. Lab. Code, § 226.3.

4 49. Employees incorporate the preceding sections herein. Throughout the Statutory
5 Period, Employers failed to furnish Employees with accurate itemized statements at the time of each
6 payment of wages showing the correct gross wages earned, correct total hours worked, correct net
7 wages earned, and the corresponding correct number of hours worked at each applicable hourly rate.
8 Rather than providing statements of actual time worked and a correct payment of wages based thereon,
9 Employers failed to capture and pay Employees for early reporting time, excess rest period time, and
10 meal periods, and also failed to capture and pay premium pay for noncompliant meal periods.
11 Consequently, Employers failed to provide Employees accurate itemized wages statements as
12 required by Section 226.

13 50. Employees are entitled to all civil penalties available under the PAGA for these
14 violations.

15 **SIXTH COUNT**

16 **Untimely Payment of Wages**

17 **(By Plaintiff against All Defendants)**

18 51. Plaintiff incorporates by reference and realleges each and every allegation contained
19 above, as though fully set forth herein.

20 52. Generally, “[a]ll wages, other than those mentioned in Section 201, 201.3, 202, 204.1,
21 or 204.2, earned by any person in any employment are due and payable twice during each calendar
22 month, on days designated in advance by the employer as the regular paydays. Labor performed
23 between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th
24 and the 26th day of the month during which the labor was performed, and labor performed between
25 the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th
26 day of the following month.” Cal. Lab. Code, § 204, subd. (a).

27 53. Generally, “[l]abor performed by a weekly-paid employee during any calendar week
28 and prior to or on the regular payday shall be paid for not later than the regular payday of the employer

1 for such weekly-paid employee falling during the following calendar week. Labor performed by a
2 weekly-paid employee during any calendar week and subsequent to the regular payday shall be paid
3 for not later than seven days after the regular payday of the employer for such weekly-paid employee
4 falling during the following calendar week.” Cal. Lab. Code, § 204b.

5 54. Special rules govern agricultural employees, however: “All wages, other than those
6 mentioned in Sections 201 and 202, earned by any agricultural employee, as defined in Section
7 1140.4, are due and payable twice during each calendar month, on days designated in advance by the
8 agricultural employer as the regular paydays. Labor performed between the 1st and the 15th days,
9 inclusive, of any calendar month shall be paid between the 16th and the 22nd day of the month during
10 which the labor was performed. Labor performed between the 16th and the last day, inclusive, of any
11 calendar month shall be paid between the first and the seventh day of the following month.” Cal. Lab.
12 Code, § 205.5.

13 55. “In addition to, and entirely independent and apart from, any other penalty
14 provided in this article, every person who fails to pay the wages of each employee as provided in
15 Sections 201.3, 204, 204b, 204.1, 204.2, 205, 205.5, and 1197.5, shall be subject to a civil penalty
16 as follows: (1) For any initial violation, one hundred dollars (\$100) for each failure to pay each
17 employee. (2) For each subsequent violation, or any willful or intentional violation, two hundred
18 dollars (\$200) for each failure to pay each employee, plus 25 percent of the amount unlawfully
19 withheld.” Cal. Lab. Code, § 210, subd. (a).

20 56. Employees incorporate the preceding sections herein. Rather than timely paying
21 Employees all wages due within the periods set forth above, throughout the Statutory Period,
22 Employers failed to timely pay Employees for all hours worked, overtime wages, and all premium
23 wages.

24 57. Employees are entitled to all civil penalties available under the PAGA for these
25 violations.

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SEVENTH COUNT

Failure to Pay Wages at Termination

(By Plaintiff against All Defendants)

58. Plaintiff incorporates by reference and realleges each and every allegation contained above, as though fully set forth herein.

59. “If an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately.” Cal. Lab. Code, § 201, subd. (a). “If an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.3, 201.5, 201.9, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days. An employee who secretes or absents himself or herself to avoid payment to him or her, or who refuses to receive the payment when fully tendered to him or her, including any penalty then accrued under this section, is not entitled to any benefit under this section for the time during which he or she so avoids payment.” Cal. Lab. Code, § 203, subd. (a).

60. Employees incorporate the preceding sections herein. Throughout the Statutory Period, Employers failed to pay Employees at least minimum wage, overtime, and all premium wages for all time worked. These wages were owed and due to Employees at the time of their termination. Employers did not provide these payments to Employees at the time of termination or within a sufficient time of resignation as required by law. Employers’ failure to timely pay these wages at the time of termination, and failure to pay Employees’ continued wages for the 30-day period thereafter, constitutes a violation of Sections 201 and 203.

61. Employees are entitled to all civil penalties available under the PAGA for these violations.

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1 **EIGHTH COUNT**

2 **Violation of Heat Illness Prevention Health-and-Safety Standards**

3 **(By Plaintiff against All Defendants)**

4 62. Plaintiff incorporates by reference and realleges each and every allegation contained
5 above, as though fully set forth herein.

6 63. "Every employer and every employee shall comply with occupational safety and health
7 standards, with Section 25910 of the Health and Safety Code, and with all rules, regulations, and
8 orders pursuant to this division which are applicable to his own actions and conduct." Lab. Code
9 6407."

10 64. Among these rules, regulations, and orders is Title 8, Section 3395 of the California
11 Code of Regulations, which was applicable to Employers and the Employees. Throughout the
12 Statutory Period, Employers violated the following provision of § 3395:

13
14 (d) Access to shade. (1) Shade shall be present when the temperature exceeds 80
15 degrees Fahrenheit. When the outdoor temperature in the work area exceeds 80
16 degrees Fahrenheit, the employer shall have and maintain one or more areas with
17 shade at all times while employees are present that are either open to the air or
18 provided with ventilation or cooling. The amount of shade present shall be at least
19 enough to accommodate the number of employees on recovery or rest periods, so that
20 they can sit in a normal posture fully in the shade without having to be in physical
21 contact with each other. The shade shall be located as close as practicable to the areas
22 where employees are working. Subject to the same specifications, the amount of
23 shade present during meal periods shall be at least enough to accommodate the
24 number of employees on the meal period who remain onsite. (2) Shade shall be
25 available when the temperature does not exceed 80 degrees Fahrenheit. When the
26 outdoor temperature in the work area does not exceed 80 degrees Fahrenheit
27 employers shall either provide shade as per subsection (d)(1) or provide timely access
28 to shade upon an employee's request. (3) Employees shall be allowed and encouraged
to take a preventative cool-down rest in the shade when they feel the need to do so to
protect themselves from overheating. Such access to shade shall be permitted at all
times. An individual employee who takes a preventative cool-down rest (A) shall be
monitored and asked if he or she is experiencing symptoms of heat illness; (B) shall
be encouraged to remain in the shade; and (C) shall not be ordered back to work until
any signs or symptoms of heat illness have abated, but in no event less than 5
minutes in addition to the time needed to access the shade. (4) If an employee
exhibits signs or reports symptoms of heat illness while taking a preventative cool-

1 down rest or during a preventative cool-down rest period, the employer shall provide
2 appropriate first aid or emergency response according to subsection (f) of this
3 section. ...

4 65. Throughout the Statutory Period, Employers failed to provide or encourage shade
5 or recovery periods as required by law when temperatures exceeded eighty degrees or when they
6 were eighty degrees or lower. Employees were not allowed to take a recovery period in the shade
7 whenever they felt the need to do so to protect themselves from overheating, as required by
8 regulation; rather, Employers advised Employees they could take a recovery period only if they
9 fainted, lost consciousness, or were about to lose consciousness due to heat. Employers
10 maintained an unlawfully high threshold for Employees to be permitted to take heat recovery
11 periods, and failed to implement any and all of the foregoing required procedures..

12 (e) High-heat procedures. The employer shall implement high-heat procedures when
13 the temperature equals or exceeds 95 degrees Fahrenheit. These procedures shall
14 include the following to the extent practicable: (1) Ensuring that effective
15 communication by voice, observation, or electronic means is maintained so that
16 employees at the work site can contact a supervisor when necessary. An electronic
17 device, such as a cell phone or text messaging device, may be used for this purpose
18 only if reception in the area is reliable. (2) Observing employees for alertness and
19 signs or symptoms of heat illness. The employer shall ensure effective employee
20 observation/monitoring by implementing one or more of the following: (A)
21 Supervisor or designee observation of 20 or fewer employees, or (B) Mandatory
22 buddy system, or (C) Regular communication with sole employee such as by radio or
23 cellular phone, or (D) Other effective means of observation. (3) Designating one or
24 more employees on each worksite as authorized to call for emergency medical
25 services, and allowing other employees to call for emergency services when no
26 designated employee is available. (4) Reminding employees throughout the work
27 shift to drink plenty of water. (5) Pre-shift meetings before the commencement of
28 work to review the high heat procedures, encourage employees to drink plenty of
water, and remind employees of their right to take a cool-down rest when necessary.
(6) For employees employed in agriculture, the following shall also apply: When
temperatures reach 95 degrees or above, the employer shall ensure that the employee
takes a minimum ten minute net preventative cool-down rest period every two hours.
The preventative cool-down rest period required by this paragraph may be provided
concurrently with any other meal or rest period required by Industrial Welfare
Commission Order No. 14 (8 CCR 11140) if the timing of the preventative cool-
down rest period coincides with a required meal or rest period thus resulting in no

1 additional preventative cool-down rest period required in an eight hour workday. If
2 the workday will extend beyond eight hours, then an additional preventative cool-
3 down rest period will be required at the conclusion of the eighth hour of work; and if
4 the workday extends beyond ten hours, then another preventative cool-down rest
period will be required at the conclusion of the tenth hour and so on.

5 (f) Emergency Response Procedures. The Employer shall implement effective
6 emergency response procedures including: (1) Ensuring that effective communication
7 by voice, observation, or electronic means is maintained so that employees at the
8 work site can contact a supervisor or emergency medical services when necessary.
9 An electronic device, such as a cell phone or text messaging device, may be used for
10 this purpose only if reception in the area is reliable. If an electronic device will not
11 furnish reliable communication in the work area, the employer will ensure a means of
12 summoning emergency medical services. (2) Responding to signs and symptoms of
13 possible heat illness, including but not limited to first aid measures and how
14 emergency medical services will be provided. (A) If a supervisor observes, or any
15 employee reports, any signs or symptoms of heat illness in any employee, the
16 supervisor shall take immediate action commensurate with the severity of the illness.
17 (B) If the signs or symptoms are indicators of severe heat illness (such as, but not
18 limited to, decreased level of consciousness, staggering, vomiting, disorientation,
19 irrational behavior or convulsions), the employer must implement emergency
20 response procedures. (C) An employee exhibiting signs or symptoms of heat illness
shall be monitored and shall not be left alone or sent home without being offered
onsite first aid and/or being provided with emergency medical services in accordance
with the employer's procedures. (3) Contacting emergency medical services and, if
necessary, transporting employees to a place where they can be reached by an
emergency medical provider. (4) Ensuring that, in the event of an emergency, clear
and precise directions to the work site can and will be provided as needed to
emergency responders.

21 (g) Acclimatization. (1) All employees shall be closely observed by a supervisor or
22 designee during a heat wave. For purposes of this section only, 'heat wave' means
23 any day in which the predicted high temperature for the day will be at least 80
24 degrees Fahrenheit and at least ten degrees Fahrenheit higher than the average high
25 daily temperature in the preceding five days. (2) An employee who has been newly
assigned to a high heat area shall be closely observed by a supervisor or designee for
the first 14 days of the employee's employment.

26 (h) Training. (1) Employee training. Effective training in the following topics shall be
27 provided to each supervisory and non-supervisory employee before the employee
28 begins work that should reasonably be anticipated to result in exposure to the risk of
heat illness: (A) The environmental and personal risk factors for heat illness, as well

1 as the added burden of heat load on the body caused by exertion, clothing, and
2 personal protective equipment. (B) The employer's procedures for complying with
3 the requirements of this standard, including, but not limited to, the employer's
4 responsibility to provide water, shade, cool-down rests, and access to first aid as well
5 as the employees' right to exercise their rights under this standard without retaliation.
6 (C) The importance of frequent consumption of small quantities of water, up to 4
7 cups per hour, when the work environment is hot and employees are likely to be
8 sweating more than usual in the performance of their duties. (D) The concept,
9 importance, and methods of acclimatization pursuant to the employer's procedures
10 under subsection (i)(4). (E) The different types of heat illness, the common signs and
11 symptoms of heat illness, and appropriate first aid and/or emergency responses to the
12 different types of heat illness, and in addition, that heat illness may progress quickly
13 from mild symptoms and signs to serious and life threatening illness. (F) The
14 importance to employees of immediately reporting to the employer, directly or
15 through the employee's supervisor, symptoms or signs of heat illness in themselves,
16 or in co-workers. (G) The employer's procedures for responding to signs or
17 symptoms of possible heat illness, including how emergency medical services will be
18 provided should they become necessary. (H) The employer's procedures for
19 contacting emergency medical services, and if necessary, for transporting employees
20 to a point where they can be reached by an emergency medical service provider. (I)
21 The employer's procedures for ensuring that, in the event of an emergency, clear and
22 precise directions to the work site can and will be provided as needed to emergency
23 responders. These procedures shall include designating a person to be available to
24 ensure that emergency procedures are invoked when appropriate. (2) Supervisor
25 training. Prior to supervising employees performing work that should reasonably be
26 anticipated to result in exposure to the risk of heat illness effective training on the
27 following topics shall be provided to the supervisor: (A) The information required to
28 be provided by section (h)(1) above. (B) The procedures the supervisor is to follow to
implement the applicable provisions in this section. (C) The procedures the
supervisor is to follow when an employee exhibits signs or reports symptoms
consistent with possible heat illness, including emergency response procedures. (D)
How to monitor weather reports and how to respond to hot weather advisories.

(i) Heat Illness Prevention Plan. The employer shall establish, implement, and
maintain, an effective heat illness prevention plan. The plan shall be in writing in
both English and the language understood by the majority of the employees and shall
be made available at the worksite to employees and to representatives of the Division
upon request. The Heat Illness Prevention Plan may be included as part of the
employer's Illness and Injury Prevention Program required by section 3203, and
shall, at a minimum, contain: (1) Procedures for the provision of water and access to
shade. (2) The high heat procedures referred to in subsection (e). (3) Emergency
Response Procedures in accordance with subsection (f). (4) Acclimatization methods

1 and procedures in accordance with subsection (g).

2 66. Employers also violated Cal. Code Regs., Title 8, § 3457, and the specific
3 provisions alleged to have been violated, including the facts and theories to support the alleged
4 violation, are discussed in further detail in the next section.

5 67. Employees are entitled to all civil penalties available under the PAGA for these
6 violations.

7 **NINTH COUNT**

8 **Improper Payment of Nonproductive Time, and Piece-Rate Rest and Recovery Periods**

9 **(By Plaintiff against All Defendants)**

10 68. Plaintiff incorporates by reference and realleges each and every allegation contained
11 above, as though fully set forth herein.

12 69. Section 226.2 “appl[ies] for employees who are compensated on a piece-rate basis for
13 any work performed during a pay period. This section shall not be construed to limit or alter minimum
14 wage or overtime compensation requirements, or the obligation to compensate employees for all hours
15 worked under any other statute or local ordinance. For the purposes of this section, ‘applicable
16 minimum wage’ means the highest of the federal, state, or local minimum wage that is applicable to
17 the employment, and ‘other nonproductive time’ means time under the employer’s control, exclusive
18 of rest and recovery periods, that is not directly related to the activity being compensated on a piece-
19 rate basis.” Cal. Lab. Code, § 226.2.

20 70. Throughout the Statutory Period, Employers violated the following provisions of
21 Section 226.2, subdivision (a): For employees compensated on a piece-rate basis during a pay period,
22 the following shall apply for that pay period:

23 (1) Employees shall be compensated for rest and recovery periods and other nonproductive
24 time separate from any piece-rate compensation. As alleged above, Employers maintained an
25 illegal practice of not paying piece-rate Employees separately for early reporting time, the full
26 amount of rest periods, meal periods, recovery periods, and other nonproductive time at the
27 appropriate rates as required by law.

28 (2) The itemized statement required by subdivision (a) of Section 226 shall, in addition to the

1 other items specified in that subdivision, separately state the following, to which the
2 provisions of Section 226 shall also be applicable: (A) The total hours of compensable rest
3 and recovery periods, the rate of compensation, and the gross wages paid for those periods
4 during the pay period. (B) Except for employers paying compensation for other
5 nonproductive time in accordance with paragraph (7), the total hours of other nonproductive
6 time, as determined under paragraph (5), the rate of compensation, and the gross wages paid
7 for that time during the pay period.

8 As alleged above, Employers failed to provide itemized statements that accurately listed the
9 total hours of compensable rest and recovery periods, the rate of compensation, and the gross
10 wages paid for those periods during the pay period, or the total hours of other nonproductive
11 time worked, the rate of compensation, and the gross wages paid for that time during the pay
12 period.

13 (3) (A) Employees shall be compensated for rest and recovery periods at a regular hourly
14 rate...

15 As alleged above, Employers failed to pay Employees for rest and recovery periods at their
16 regular hourly rate.

17 (4) Employees shall be compensated for other nonproductive time at an hourly rate that is no
18 less than the applicable minimum wage.

19 As alleged above, Employers failed to pay Employees for nonproductive time at a rate of at
20 least the applicable minimum wage.

21 71. Employers are subject to additional civil penalties as provided by law for these
22 violations.

23 **TENTH COUNT**

24 **Inaccurate Address on Wage Statements**

25 **(By Plaintiff against All Defendants)**

26 72. Plaintiff incorporates by reference and realleges each and every allegation contained
27 above, as though fully set forth herein.

1 73. “An employer, semimonthly or at the time of each payment of wages, shall furnish
2 to his or her employee, either as a detachable part of the check, draft, or voucher paying the
3 employee’s wages, or separately if wages are paid by personal check or cash, an accurate itemized
4 statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except
5 as provided in subdivision (j), (3) the number of piece-rate units earned and any applicable piece
6 rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions
7 made on written orders of the employee may be aggregated and shown as one item, (5) net wages
8 earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the
9 employee and only the last four digits of his or her social security number or an employee
10 identification number other than a social security number, (8) the name and address of the legal
11 entity that is the employer and, if the employer is a farm labor contractor, as defined in subdivision
12 (b) of Section 1682, the name and address of the legal entity that secured the services of the
13 employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding
14 number of hours worked at each hourly rate by the employee....” Cal. Lab. Code, § 226, subd. (a).

15 74. “An employer that is required by this code or any regulation adopted pursuant to
16 this code to keep the information required by subdivision (a) shall afford current and former
17 employees the right to inspect or copy records pertaining to their employment, upon reasonable
18 request to the employer.” Cal. Lab. Code, § 226, subd. (b). “An employer who receives a written
19 or oral request to inspect or copy records pursuant to subdivision (b) pertaining to a current or
20 former employee shall comply with the request as soon as practicable, but no later than 21 calendar
21 days from the date of the request.” Cal. Lab. Code, § 226, subd. (c).

22 75. “Any employer who violates subdivision (a) of Section 226 shall be subject to a
23 civil penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an
24 initial citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent
25 citation, for which the employer fails to provide the employee a wage deduction statement or fails
26 to keep the records required in subdivision (a) of Section 226. The civil penalties provided for in
27 this section are in addition to any other penalty provided by law.” Cal. Lab. Code, § 226.3. An
28

1 employer who violates subdivisions (b) or (c) of Section 226 is also subject to additional civil
2 penalties under Section 2699(f).

3 76. Throughout the Statutory Period, Faith Farming, LLC violated subdivisions (a),
4 (b), and (c) of Section 226 by: (1) issuing inaccurate wage statements that failed to indicate the
5 address of the legal entity that employed Employees (improperly including a Santa Maria,
6 California post office on the statements); and (2) failing to maintain or produce upon Employees'
7 request either a duplicate of the itemized statements provided to Employees or a computer-
8 generated record that accurately shows all of the required information. As indicated by Faith
9 Farming, LLC's Statement of Information and other filings submitted to the California Secretary
10 of State, the "address of the legal entity that is the employer" is 1615 W. Main Street, Santa Maria,
11 CA 93458.

12 77. Employees are entitled to penalties under the PAGA for these violations.

13 **ELEVENTH COUNT**

14 **Failure to Maintain Records of Wage Statements**

15 **(By Plaintiff against Defendant Faith Farming LLC)**

16 78. Plaintiff incorporates by reference and realleges each and every allegation contained
17 above, as though fully set forth herein.

18 79. "An employer, semimonthly or at the time of each payment of wages, shall furnish
19 to his or her employee, either as a detachable part of the check, draft, or voucher paying the
20 employee's wages, or separately if wages are paid by personal check or cash, an accurate itemized
21 statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except
22 as provided in subdivision (j), (3) the number of piece-rate units earned and any applicable piece
23 rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions
24 made on written orders of the employee may be aggregated and shown as one item, (5) net wages
25 earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the
26 employee and only the last four digits of his or her social security number or an employee
27 identification number other than a social security number, (8) the name and address of the legal
28 entity that is the employer and, if the employer is a farm labor contractor, as defined in subdivision

1 (b) of Section 1682, the name and address of the legal entity that secured the services of the
2 employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding
3 number of hours worked at each hourly rate by the employee....” Cal. Lab. Code, § 226, subd. (a).

4 80. “An employer that is required by this code or any regulation adopted pursuant to
5 this code to keep the information required by subdivision (a) shall afford current and former
6 employees the right to inspect or copy records pertaining to their employment, upon reasonable
7 request to the employer.” Cal. Lab. Code, § 226, subd. (b). “An employer who receives a written
8 or oral request to inspect or copy records pursuant to subdivision (b) pertaining to a current or
9 former employee shall comply with the request as soon as practicable, but no later than 21 calendar
10 days from the date of the request.” Cal. Lab. Code, § 226, subd. (c).

11 81. “Any employer who violates subdivision (a) of Section 226 shall be subject to a
12 civil penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an
13 initial citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent
14 citation, for which the employer fails to provide the employee a wage deduction statement or fails
15 to keep the records required in subdivision (a) of Section 226. The civil penalties provided for in
16 this section are in addition to any other penalty provided by law.” Cal. Lab. Code, § 226.3. An
17 employer who violates subdivisions (b) or (c) of Section 226 is also subject to additional civil
18 penalties under Section 2699(f).

19 82. Throughout the Statutory Period, Faith Farming, LLC violated subdivisions (a),
20 (b), and (c) of Section 226 by failing to maintain or produce upon Employees’ request either a
21 duplicate of the itemized statements provided to Employees or a computer-generated record that
22 accurately shows all of the required information. Faith Farming, LLC maintained records
23 pertaining to Employees which lacked the data required by Section 226(a)(6) (inclusive dates of
24 pay periods), Section 226(a)(8) part 1 (address of employer), and Section 226(a)(8) part 2 (name
25 and address of the legal entity that secured the services of the employer). The records produced
26 to Employees lacked this information.

27 83. Defendant Faith Farming LLC is subject to additional civil penalties as provided
28 by law for these violations.

1 **TWELFTH COUNT**

2 **Failure to Make Employment Records Available to Employees**

3 **(By Plaintiff against All Defendants)**

4 84. Plaintiff incorporates by reference and realleges each and every allegation contained
5 above, as though fully set forth herein.

6 85. “Every current and former employee, or his or her representative, has the right to
7 inspect and receive a copy of the personnel records that the employer maintains relating to the
8 employee’s performance or to any grievance concerning the employee.” Lab. Code, § 1198.5, subd.
9 (a).

10 86. “The employer shall make the contents of those personnel records available for
11 inspection to the current or former employee, or his or her representative, at reasonable intervals and
12 at reasonable times, but not later than 30 calendar days from the date the employer receives a written
13 request, unless the current or former employee, or his or her representative, and the employer agree in
14 writing to a date beyond 30 calendar days to inspect the records, and the agreed-upon date does not
15 exceed 35 calendar days from the employer’s receipt of the written request. Upon a written request
16 from a current or former employee, or his or her representative, the employer shall also provide a copy
17 of the personnel records, at a charge not to exceed the actual cost of reproduction, not later than 30
18 calendar days from the date the employer receives the request, unless the current or former employee,
19 or his or her representative, and the employer agree in writing to a date beyond 30 calendar days to
20 produce a copy of the records, as long as the agreed-upon date does not exceed 35 calendar days from
21 the employer’s receipt of the written request. Except as provided in paragraph (2) of subdivision (c),
22 the employer is not required to make those personnel records or a copy thereof available at a time
23 when the employee is actually required to render service to the employer, if the requester is the
24 employee.” Lab. Code, § 1198.5, subd. (b)(1).

25 87. “For purposes of this section, a request to inspect or receive a copy of personnel records
26 shall be made in either of the following ways: (i) Written and submitted by the current or former
27 employee or his or her representative. (ii) Written and submitted by the current or former employee
28

1 or his or her representative by completing an employer-provided form.” Lab. Code, § 1198.5, subd.
2 (b)(2)(A).

3 88. “The employer shall do all of the following: ... (3) (A) With regard to former
4 employees, make a former employee’s personnel records available for inspection, and, if requested by
5 the employee or his or her representative, provide a copy thereof, at the location where the employer
6 stores the records, unless the parties mutually agree in writing to a different location. A former
7 employee may receive a copy by mail if he or she reimburses the employer for actual postal expenses.”
8 Lab. Code, § 1198.5, subd. (c)(3)(A).

9 89. In addition, “[a]n employer that is required by this code or any regulation adopted
10 pursuant to this code to keep the information required by subdivision (a) [of section 226] shall afford
11 current and former employees the right to inspect or copy records pertaining to their employment,
12 upon reasonable request to the employer. ... If the employer provides copies of the records, the actual
13 cost of reproduction may be charged to the current or former employee.” Cal. Lab. Code, § 226, subd.
14 (b). “An employer who receives a written or oral request to inspect or copy records pursuant to
15 subdivision (b) pertaining to a current or former employee shall comply with the request as soon as
16 practicable, but no later than 21 calendar days from the date of the request.” Cal. Lab. Code, § 226,
17 subd. (c).

18 90. Throughout the Statutory Period, Employers maintained an illegal policy and
19 practice of conditioning timely access to a copy of the Employees’ personnel records under
20 Section 1198.5 and wage statements/data required by Section 226, upon an agreement in advance
21 to reimburse Employers for the costs of production. Moreover, Employers maintained an illegal
22 policy and practice of blocking Employees’ requests to inspect their personnel files and wage
23 statements/data in person at the location where the Employers store the records. When Employees
24 such as Mr. Juarez requested to inspect these records at the location where Employers stored them,
25 it was Employers’ policy and practice to unlawfully require Employees to go to the Employers’
26 attorney’s office for the inspection to take place, and on occasion at a time past the 30-day period
27 for production no less as was the case with Mr. Juarez’s request.

91. Employers are subject to additional civil penalties for their foregoing acts and omissions.

THIRTEENTH COUNT

Retaliation

(By Plaintiff against All Defendants)

92. Plaintiff incorporates by reference and realleges each and every allegation contained above, as though fully set forth herein.

93. “A person shall not ... in any manner discriminate, retaliate, or take any adverse action against any employee ... because the employee has initiated any action or notice pursuant to Section 2699, ... or because of the exercise by the employee ... on behalf of himself, herself, or others of any rights afforded him or her.” Lab. Code, § 98.6, subd. (a). “In addition to other remedies available, an employer who violates this section is liable for a civil penalty not exceeding ten thousand dollars (\$10,000) per employee for each violation of this section, to be awarded to the employee or employees who suffered the violation.” Lab. Code, § 98.6, subd. (b)(3).

94. On or about April 1, 2020, Mr. Juarez initiated a notice pursuant to Section 2699. Earlier, on March 26, 2020, Mr. Juarez had invoked his rights under Sections 226 and 1198.5 to access his employment records. Employers violated these rights and failed to provide timely access to Mr. Juarez's employment files. Mr. Juarez has alleged that the Employers engaged in the above-described general policy and practice to block access to their employment records. Alternatively, Mr. Juarez alleges that Employers retaliated against Mr. Juarez by its efforts to block his request to inspect and/or access copies of his employment records because Mr. Juarez initiated a notice under Section 2699. Employers are subject to an additional civil penalty of up to \$10,000.

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PRAYER

WHEREFORE, Plaintiff and Employees pray for judgment against Defendants, as follows:

1. For civil penalties pursuant to Labor Code sections 2698, *et seq.* in an amount not less than \$5,000,000;
2. For reasonable costs and attorneys' fees; and
3. For such other and further relief as the Court deems proper.

DATED: September 30, 2020

WORKWORLD LAW

By: 
RUBEN ESCOBEDO
Attorney for STATE OF CALIFORNIA ex
rel. MARIANO JARQUIN JUAREZ, as
Private Attorney General