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on behalf of himself and all others aggrieved

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES – CENTRAL DISTRICT**

20STCV21284

RICARDO P. FLORES, on behalf of himself
and all others aggrieved,

CASE NO.:

REPRESENTATIVE ACTION

Plaintiff,

**COMPLAINT UNDER THE LABOR
CODE PRIVATE ATTORNEYS'
GENERAL ACT OF 2004 FOR CIVIL
PENALTIES UNDER LABOR CODE
SECTIONS 210, 226.3, 558, 1197.1 and 2699**

v.

PARKWOOD LANDSCAPE
MAINTENANCE, INC., a California
corporation, and DOES 1 through 100,
inclusive,

DEMAND FOR JURY TRIAL

Defendants.

[Amount in Controversy Greater Than
\$25,000.00]

COMES NOW plaintiff RICARDO P. FLORES ("Plaintiff"), on behalf of himself and all other aggrieved employees, and alleges as follows:

INTRODUCTION

1. This is a representative action, pursuant to the Labor Code Private Attorneys General Act of 2004, codified at Labor Code section 2698, *et seq.* ("PAGA"), on behalf of Plaintiff and all other aggrieved current and former employees of PARKWOOD LANDSCAPE MAINTENANCE, INC., a California corporation, and any of its respective subsidiaries or affiliated companies within the State of California ("PARKWOOD" and collectively with DOES 1 through 100, as further defined below, "Defendants").

2. At all relevant times mentioned herein, Defendants had and have a policy or practice of, at times, failing to pay overtime wages to Plaintiff and other non-exempt employees in the State of California in violation of California state wage and hour laws as a result of, without limitation, Plaintiff and other aggrieved employees working over eight (8) hours in a workday or forty (40) hours in a workweek; over twelve (12) hours in a workday; and/or seven (7) consecutive workdays in a workweek without being properly compensated for all hours worked in excess of eight (8) hours in a workday or forty (40) hours in a workweek; all hours worked in excess of twelve (12) hours in a workday; and/or for all hours worked on the seventh consecutive workday in a workweek, as a result of, among other things, Defendants failing to accurately track and/or pay for all hours actually worked, engaging, suffering, or permitting employees to work off the clock, including by without limitation, auto-deducting meal periods not taken, detrimental rounding or manipulation of time entries, failing to pay overtime hours at the proper overtime rate of pay, including, without limitation, by failing to pay prevailing wages, failing to include prevailing wages in the overtime rate of pay, and failing to pay for reporting time pay, to the detriment of Plaintiff and other aggrieved employees.

3. At all relevant times mentioned herein, Defendants had and have a policy or practice of, at times, failing to pay minimum wages to Plaintiff and other non-exempt employees in the State of California in violation of California state wage and hour laws as a result of, including but not limited to, Defendants routinely failing to accurately track and/or pay for all hours actually worked,

1 engaging, suffering, or permitting employees to work off the clock, including by without limitation,
2 auto-deducting meal periods not taken, detrimental rounding and/or manipulation of time entries,
3 failing to pay prevailing wages, and failing to pay for reporting time pay, to the detriment of Plaintiff
4 and other aggrieved employees.

5 4. At all relevant times mentioned herein, Defendants had and have a policy or practice
6 of, on occasion, failing to provide Plaintiff and other aggrieved employees a thirty (30) minute
7 uninterrupted, timely, and complete meal period for days on which the employee worked in excess
8 of five (5) hours in a workday; a second thirty (30) minute uninterrupted, timely, and complete meal
9 period for days on which the employee worked in excess of ten (10) hours in a workday; or
10 compensation in lieu thereof, as required by California wage and hour laws.

11 5. At all relevant times mentioned herein, Defendants had and have a policy or practice
12 of, on occasion, failing to provide Plaintiff and other aggrieved employees paid, uninterrupted,
13 timely, and complete rest periods of at least ten (10) minutes per four (4) hours worked or major
14 fractions thereof, or compensation in lieu thereof, as required by California wage and hour laws.

15 6. At all relevant times mentioned herein, Defendants had and have a policy or practice
16 of failing to comply with Labor Code section 226, subdivision (a) by, at times, intentionally failing
17 to furnish Plaintiff other aggrieved employees with itemized wage statements that accurately reflect
18 all gross wages earned; total hours worked by the employee; net wages earned; all deductions; all
19 applicable hourly rates in effect during the pay period and the corresponding number of hours
20 worked at each hourly rate by the employee; and other such information as required by Labor Code
21 section 226, subdivision (a).

22 7. At all relevant times mentioned herein, Defendants had and have a policy or practice
23 of, on occasion, failing to timely pay Plaintiff and other aggrieved employees, among other wages,
24 overtime wages, minimum wages, and/or premium wages owed to them upon termination and/or
25 resignation, as required by Labor Code sections 201 and 202.

26 8. At all relevant times mentioned herein, Defendants have had a policy or practice of,
27 at times, failing to provide Plaintiff and other aggrieved employees with, or permit them inspection
28 of, records pertaining to their employment, including wage statements and similar payroll

1 documents under Labor Code section 226, documents signed to obtain or hold employment under
2 Labor Code section 432, personnel records under Labor Code section 1198.5, and time records under
3 Labor Code section 1174, to the detriment of Plaintiff and all other aggrieved employees.

4 9. At all relevant times mentioned herein, Defendants had and have a policy or practice
5 of failing to reimburse Plaintiff and other aggrieved employees with the costs they incurred,
6 including without limitation, purchasing tools, including but not limited to scissors, purchase of
7 mandatory uniforms, and separately laundering their mandatory uniforms, in furtherance of their
8 work duties, as required by Labor Code section 2802.

9 10. At all relevant times mentioned herein, Defendants had and have a policy or practice
10 of failing to provide Plaintiff and other aggrieved employees within the State of California with their
11 uniform deposits upon separation of employment, as well as interest that accrued on deposits paid
12 to Defendants for work uniforms, as required by Labor Code section 404.

13 11. At all relevant times mentioned herein, Defendants have had a policy or practice of
14 failing to comply with the notice requirements of Labor Code section 2810.5 (*i.e.*, the Wage Theft
15 Protection Act of 2011) by, among other things, failing to provide Plaintiff and other aggrieved
16 employees with the rates of pay and overtime rates of pay applicable to their employment;
17 allowances claimed as part of the minimum wage; the regular payday designated by Defendants; the
18 name of the employer, including any “doing business as” names used, the name, address, and
19 telephone number of the workers’ compensation insurance carrier; information regarding paid sick
20 leave; and other pertinent information required to be disclosed by Defendants under Labor Code
21 section 2810.5.

22 12. At all relevant times mentioned herein, Defendants have had a policy or practice of,
23 at times, failing to provide Plaintiff and other aggrieved employees with the amount of paid sick
24 leave required to be provided pursuant to California law (including, without limitation Labor Code
25 section 246, *et seq.*), and also did not permit its use upon request as contemplated under California
26 laws, to the detriment of Plaintiff and all other aggrieved employees.

27 13. At all relevant times mentioned herein, Defendants have had a policy or practice of
28 failing to pay employees their wages in accordance with Labor Code Section 204, which requires

1 that: "[l]abor performed between the 1st and 15th days, inclusive, of any calendar month shall be
2 paid for between the 16th and 26th day of the month during which the labor was performed, and
3 labor performed between the 16th and the last day, inclusive of any calendar month, shall be paid
4 for between the 1st and 10th day of the following month."

5 14. Plaintiff, in his representative capacity, seeks civil penalties under Labor Code
6 sections 210, 226.3, 558, 1197.1, and 2699 for the herein-described acts, which violate the California
7 Labor Code as described above, including on behalf of himself and other aggrieved employees
8 pursuant to PAGA.

9 **PARTIES**

10 **A. Plaintiff**

11 15. Plaintiff is a resident of the State of California. At all relevant times herein,
12 Defendants employed Plaintiff as a non-exempt employee, with duties that included, without
13 limitation, street and freeway cleaning, maintenance, and gardening, within the State of California
14 from in or about October of 2018 through on or about April of 2019.

15 **B. Defendants**

16 16. Plaintiff is informed and believes and based thereon alleges that defendant
17 PARKWOOD is, and at all times relevant hereto was, a corporation organized and existing under
18 and by virtue of the laws of the State of California and doing business in the County of Los Angeles,
19 State of California.

20 17. The true names and capacities, whether individual, corporate, associate, or otherwise,
21 of defendants sued herein as DOES 1 through 100, inclusive, are currently unknown to Plaintiff,
22 who therefore sues defendants by such fictitious names under Code of Civil Procedure section 474.
23 Plaintiff is informed and believes and based thereon alleges that each of the defendants designated
24 herein as DOE is legally responsible in some manner for the unlawful acts referred to herein.
25 Plaintiff will seek leave of court to amend this Complaint to reflect the true names and capacities of
26 the defendants designated hereinafter as DOES when such identities become known. Plaintiff is
27 informed and believes, and based thereon alleges, that each defendant acted in all respects pertinent
28 to this action, as the agent of the other defendant(s), carried out a joint scheme, business plan or

1 policy in all respects pertinent hereto, and the acts of each joint defendant are legally attributable to
2 the other defendants. As employers of Plaintiff and other aggrieved employees throughout the
3 relevant time period, Defendants, and each of them, are either solely, or jointly and severally liable
4 for the damages alleged in Plaintiff's operative complaint. Whenever, heretofore or hereinafter,
5 reference is made to "Defendants," it shall include PARKWOOD, and any of their subsidiaries or
6 affiliated companies within the State of California, as well DOES 1 through 100 identified herein.

7 JURISDICTION

8 18. Jurisdiction exists in the Superior Court of the State of California pursuant to Code
9 of Civil Procedure section 410.10.

10 19. Venue is proper in Los Angeles County in California pursuant to Code of Civil
11 Procedure section 392, *et seq.* because, among other things, Los Angeles County because, among
12 other things, Los Angeles County is where the causes of action complained of herein arose; the
13 county in which the employment relationship began; the county in which performance of the
14 employment contract, or part of it, between Plaintiff and Defendants was due to be performed; and
15 the county in which the employment contract, or part of it, between Plaintiff and Defendants was
16 actually performed.

17 20. Plaintiff is an "aggrieved employee" under PAGA, as he was employed by
18 Defendants during the applicable statutory period and suffered one or more of the Labor Code
19 violations set forth herein. Accordingly, Plaintiff seeks to recover, on behalf of himself and all other
20 aggrieved current and former employees of Defendants, the civil penalties provided by PAGA plus
21 reasonable attorneys' fees and costs, as the term "civil penalty" is defined under *ZB N.A. v. Superior*
22 *Court* (2019) 8 Cal.5th 175.

23 21. Plaintiff seeks to recover the PAGA civil penalties through a representative action
24 permitted by PAGA and the California Supreme Court in, among other authorities, *Arias v. Superior*
25 *Court* (2009) 46 Cal.4th 969. According to the same authorities, class certification of the PAGA
26 allegations described herein is not required.

27 22. During the period beginning one (1) year preceding the provision of notice to the
28 LWDA regarding the herein-described Labor Code violations (the "Civil Penalty Period"),

Defendants violated, *inter alia*, Labor Code sections 200, 201, 202, 203, 204, 226, 226.3, 210, 246, 404, 432, 510, 512, 558, 1174, 1194, 1197, 1197.1, 1198.5, 2802, 2699, and 2810.5, among others.

23. Labor Code section 2699, subdivisions (a) and (g), authorizes aggrieved employees such as Plaintiff, on behalf of himself and all other aggrieved current and former employees within the statutory period, to bring a civil action to recover civil penalties pursuant to the procedures specified in Labor Code section 2699.3.

24. On or around April 1, 2020, Plaintiff provided written notice under Labor Code section 2699.3 online and by certified mail, with return receipt requested, of Defendants' violation of various, including the herein-described, provisions of the Labor Code, to the Labor and Workforce Development Agency ("LWDA"), as well as by certified mail, with return receipt requested to Defendants, and each of them.

25. Pursuant to Labor Code section 2699.3, subdivision (a)(2)(A), the LWDA did not provide notice of its intention to investigate Defendants' alleged violations within sixty-five (65) calendar days of the April 1, 2020 postmarked date of the herein-described notice sent by Plaintiff to the LWDA and Defendants.

PAGA REPRESENTATIVE ALLEGATIONS

26. Plaintiff is informed and believes, and based thereon alleges, that Plaintiff and other aggrieved employees have, at times, not been paid, during the relevant time period, wages for all time worked, including overtime wages, as a result of, without limitation, Defendants failing to pay overtime wages to Plaintiff and other non-exempt employees in the State of California in violation of California state wage and hour laws as a result of, without limitation, Plaintiff and other aggrieved employees working over eight (8) hours in a workday or forty (40) hours in a workweek; over twelve (12) hours in a workday; and/or seven (7) consecutive workdays in a workweek without being properly compensated for all hours worked in excess of eight (8) hours in a workday or forty (40) hours in a workweek; all hours worked in excess of twelve (12) hours in a workday; and/or for all hours worked on the seventh consecutive workday in a workweek, as a result of, among other things, Defendants failing to accurately track and/or pay for all hours actually worked, engaging, suffering, or permitting employees to work off the clock, including by without limitation, auto-deducting meal

1 periods not taken, detrimental rounding or manipulation of time entries, failing to pay overtime
2 hours at the proper overtime rate of pay, including, without limitation, by failing to pay prevailing
3 wages, failing to include prevailing wages in the overtime rate of pay, and failing to pay for reporting
4 time pay, to the detriment of Plaintiff and other aggrieved employees in the State of California. As
5 such, Plaintiff is informed and believes, and based thereon alleges, that Defendants violated Labor
6 Code sections 510 and 1194, and applicable Wage Orders based on their practice of providing total
7 compensation that is less than the required legal overtime compensation, entitling Plaintiff and other
8 aggrieved employees to relief under, without limitation, these sections. In addition, Defendants
9 would also be liable for civil penalties pursuant to Labor Code sections 558 and 2699.

10 27. Plaintiff is informed and believes, and based thereon alleges, that Plaintiff and other
11 aggrieved employees have, at times, not been paid, during the relevant time period, wages for all
12 time worked, including minimum wages, as a result of, without limitation, Defendants routinely
13 failing to pay Plaintiff or other aggrieved employees' wages for all hours worked or otherwise under
14 Defendants' control due to, without limitation, failing to accurately track and/or pay for all hours
15 actually worked, engaging, suffering, or permitting employees to work off the clock, including by
16 without limitation, auto-deducting meal periods not taken, detrimental rounding or manipulation of
17 time entries, failing to pay overtime hours at the proper overtime rate of pay, including, without
18 limitation, by failing to pay prevailing wages, failing to include prevailing wages in the overtime
19 rate of pay, and failing to pay for reporting time pay. As such, Plaintiff is informed and believes,
20 and based thereon alleges, that Defendants violated, without limitation, Labor Code section 1197
21 and applicable Wage Orders, based on their continued failure to pay minimum wages, entitling
22 Plaintiff and other aggrieved employees to relief under, without limitation, Labor Code sections
23 1194 and 1194.2. Defendants would also be liable for civil penalties pursuant to Labor Code
24 sections 558, 1197.1, and 2699.

25 28. Plaintiff is informed and believes, and based thereon alleges, that Defendants had
26 and have policy or practice of, on occasion, failing to provide Plaintiff and other aggrieved
27 employees a thirty (30) minute uninterrupted, timely, and complete meal period for days on which
28 the employee worked in excess of five (5) hours in a workday; a second thirty (30) minute

1 uninterrupted, timely, and complete meal period for days on which the employee worked in excess
2 of ten (10) hours in a workday; or compensation in lieu thereof, including, without limitation, by
3 interrupting meal periods, not providing timely meal periods, failing to provide first and second
4 meal periods all together, providing short meal periods, and/or auto-deducting meal periods even
5 when they were not taken. As such, Plaintiff is informed and believes, and based thereon alleges,
6 that Defendants violated Labor Code section 512, entitling Plaintiff and other aggrieved employees
7 to premium payments under Labor Code section 226.7. Defendants would also be liable for civil
8 penalties pursuant to Labor Code sections 558 and 2699.

9 29. Plaintiff is informed and believes, and based thereon alleges, that Defendants had
10 and have a policy or practice of, on occasion, failing to provide Plaintiff and other aggrieved
11 employees paid, uninterrupted, timely, and complete rest periods of at least ten (10) minutes per
12 four (4) hours worked or major fractions thereof, or compensation in lieu thereof as required under
13 (the) applicable Wage Order(s). As such, Plaintiff is informed and believes, and based thereon
14 alleges, that he and other aggrieved employees are entitled to relief under, without limitation, Labor
15 Code section 226.7. Defendants would also be liable for civil penalties pursuant to Labor Code
16 sections 558 and 2699.

17 30. Plaintiff is informed and believes, and based thereon alleges, that Defendants had
18 and have a policy or practice of, at times, failing to furnish Plaintiff other aggrieved employees with
19 itemized wage statements that accurately reflect all gross wages earned; total hours worked by the
20 employee; net wages earned; all deductions; all applicable hourly rates in effect during the pay
21 period and the corresponding number of hours worked at each hourly rate by the employee; and
22 other such information as required by Labor Code section 226, subdivision (a). Consequently, since
23 Defendants would have failed to comply with Labor Code section 226, subdivision (a), Plaintiff and
24 other aggrieved employees would be entitled to recover penalties under, without limitation, Labor
25 Code section 226, subdivision (e). Defendants would also be liable for civil penalties pursuant to
26 Labor Code sections 226.3, 558 and 2699.

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1 31. Plaintiff is informed and believes, and based thereon alleges, that Defendants had
2 and have a policy or practice of, at times, failing or refusing to timely pay compensation to Plaintiff
3 and other terminated or resigned employees within the State of California, among other wages,
4 overtime wages, minimum wages, and/or premium wages. As such, Defendants would be liable for
5 waiting time penalties for having violated California Labor Code sections 201, 202, and 203.
6 Defendants would also be liable for civil penalties pursuant to Labor Code sections 558 and 2699.

7 32. At all relevant times mentioned herein, Defendants have had a policy or practice of,
8 at times, failing to provide Plaintiff and other aggrieved employees with, or permit them inspection
9 of, records pertaining to their employment, including wage statements and similar payroll
10 documents under Labor Code section 226, documents signed to obtain or hold employment under
11 Labor Code section 432, personnel records under Labor Code section 1198.5, and time records under
12 Labor Code section 1174, to the detriment of Plaintiff and all other aggrieved employees. As a
13 result of these violations, Defendants are liable for civil penalties pursuant to Labor Code sections
14 558 and 2699.

15 33. Plaintiff is informed and believes, and based thereon alleges, that Defendants had
16 and have a policy or practice of failing to reimburse Plaintiff and other aggrieved employees for
17 their costs incurred, including but not limited to, purchasing tools, scissors, purchase of mandatory
18 uniforms, and separately laundering mandatory uniforms, in furtherance of their work duties, as
19 required by Labor Code section 2802. Defendants would also be liable for civil penalties pursuant
20 to Labor Code sections 558 and 2699.

21 34. Plaintiff is informed and believes, and based thereon alleges, that Defendants had
22 and have a policy or practice of failing to provide Plaintiff and other aggrieved employees within
23 the State of California with their uniform deposits upon separation of employment, as well as interest
24 that accrued on deposits paid to Defendants for work uniforms, as required by Labor Code section
25 404. Defendants would also be liable for civil penalties pursuant to Labor Code sections 558 and
26 2699.

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1 35. Plaintiff is informed and believes, and based thereon alleges that Defendants have,
2 and at all times relevant hereto had, a policy or practice of failing to comply with the notice
3 requirements of Labor Code section 2810.5 (*i.e.*, the Wage Theft Protection Act of 2011) by, among
4 other things, failing to provide Plaintiff and other aggrieved employees with the rates of pay and
5 overtime rates of pay applicable to their employment; allowances claimed as part of the minimum
6 wage; the regular payday designated by Defendants; the name of the employer, including any “doing
7 business as” names used; the name, address, and telephone number of the workers’ compensation
8 insurance carrier; information regarding paid sick leave; and other pertinent information required to
9 be disclosed by Defendants under Labor Code section 2810.5. As such, Plaintiff is informed and
10 believes, and based thereon alleges that the failure to provide such information, including rates of
11 pay that are in effect, has permitted Defendants to pay employees at rates of pay that were not agreed
12 upon, in violation of overtime wage and minimum wage laws in California. As a result of these
13 violations, Defendants are liable for civil penalties pursuant to Labor Code sections 558 and 2699.

14 36. Plaintiff is informed and believes, and based thereon alleges, that Defendants had
15 and have a policy or practice of failing to provide Plaintiff and other aggrieved employees with the
16 amount of paid sick leave required to be provided pursuant to California law (including, without
17 limitation, Labor Code section 246, *et seq.*), and also did not permit its use upon request as
18 contemplated under California law. As such, Defendants would be liable for civil penalties for
19 violation of the paid sick leave regulations under Labor Code sections 558 and 2699.

20 37. Plaintiff is informed and believes, and based thereon alleges, that Defendants had
21 and have a policy or practice of, at times, failing to pay Plaintiff and other aggrieved employees
22 their wages in accordance with Labor Code section 204, which requires that “[l]abor performed
23 between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th
24 and 26th day of the month during which the labor was performed, and labor performed between the
25 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.” As such, Plaintiff is informed and believes, and based thereon alleges,
27 that Defendants did not and do not pay their employees in accordance with Labor Code section 204.
28 Defendants would be liable for civil penalties pursuant to Labor Code sections 210, 558 and 2699.

38. Plaintiff and other aggrieved employees at all times pertinent hereto were not exempt from receiving overtime wages, minimum wages, meal breaks or compensation in lieu thereof, rest breaks or compensation in lieu thereof, accurate wage statements, timely pay of wages during their employment and after their employment separation, the opportunity to inspect employment records, the proper accrual and use of paid sick leave, and other such provisions of California law and the implementing rules and regulations of the IWC California Wage Orders.

39. As a result of these violations, Defendants are liable for civil penalties under PAGA.

FIRST CAUSE OF ACTION

(Civil Penalties Under Labor Code § 210 – Against All Defendants)

40. Plaintiff re-alleges each and every allegation set forth in the preceding paragraphs and incorporates each by reference as though fully set forth hereat.

41. At all relevant times herein, Labor Code section 204, requires and required that: “[l]abor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month.”

42. At all relevant times herein, Labor Code section 210, subdivision (a) states and stated that “[i]n addition to, and entirely independent and apart from, any other penalty provided in this article, every person who fails to pay the wages of each employee as provided in Sections 201.3, 204, 204b, 204.1, 205, 205.5, and 1197.5, shall be subject to a civil penalty as follows: (1) For any initial violation, one hundred dollars (\$100) for each failure to pay each employee” and “(2) For each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for each failure to pay each employee, plus 25 percent of the amount unlawfully withheld.”

43. At all relevant times herein, Defendants have had a consistent policy or practice of, at times, failing to pay Plaintiff and aggrieved employees during their employment on a timely basis as per Labor Code section 204. Thus, pursuant to Labor Code section 210, Plaintiff and other aggrieved employees or former employees he seeks to represent are entitled to recover civil penalties for Defendants' violations of Labor Code section 204, in the amount of one hundred dollars (\$100)

1 for each aggrieved employee or former employee for each initial violation per employee, and two
2 hundred dollars (\$200) for each aggrieved employee or former employee for each subsequent
3 violation in connection with each payment that was made in violation of Labor Code section 204.

4 **SECOND CAUSE OF ACTION**

5 **(Civil Penalties Under Labor Code § 226.3 – Against All Defendants)**

6 44. Plaintiff re-alleges and incorporates by reference all of the allegations contained in
7 the preceding paragraphs of this Complaint as though fully set forth hereat.

8 45. Defendants had and have a policy or practice of failing to comply with Labor Code
9 section 226, subdivision (a) by intentionally failing to furnish Plaintiff with itemized wage
10 statements that accurately reflect gross wages earned; total hours worked; net wages earned; the
11 name and address of the legal entity that is the employer and, if the employer is a farm labor
12 contractor, the name and address of the legal entity that secured the services of the employer; all
13 applicable hourly rates in effect during the pay period and the corresponding number of hours
14 worked at each hourly rate; and other such information as required by Labor Code section 226,
15 subdivision (a).

16 46. Labor Code section 226.3 states that “[a]ny employer who violates subdivision (a)
17 of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250)
18 per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for
19 each violation in a subsequent citation, for which the employer fails to provide the employee a wage
20 deduction statement or fails to keep the records required in subdivision (a) of Section 226.”

21 47. Labor Code section 226.3 further provides that “[t]he civil penalties provided for in
22 this section are in addition to any other penalty provided by law.”

23 48. Plaintiff is informed and believes, and based thereon alleges, that Defendants had
24 and have a policy or practice of, at times, failing to furnish non-exempt employees, including,
25 without limitation, Plaintiff, with itemized wage statements that accurately reflect all gross wages
26 earned; total hours worked by the employee; net wages earned; all deductions; all applicable hourly
27 rates in effect during the pay period and the corresponding number of hours worked at each hourly
28 rate by the employee; and other such information as required by Labor Code section 226,

1 subdivision (a).

2 49. Pursuant to Labor Code section 226.3, Plaintiff and other aggrieved employees he
3 seeks to represent are entitled to recover civil penalties for Defendants' violation of Labor Code
4 section 226, subdivision (a) in the amount of two hundred fifty dollars (\$250) for each aggrieved
5 current or former employee per pay period for the initial violation, and one thousand dollars (\$1,000)
6 for each aggrieved current or former employee per pay period for each subsequent violation.

7 **THIRD CAUSE OF ACTION**

8 **(Violation of Labor Code § 558 – Against All Defendants)**

9 50. Plaintiff re-alleges each and every allegation set forth in the preceding paragraphs
10 and incorporates each by reference as though fully set forth hereat.

11 51. Pursuant to Labor Code section 558, subdivision (a): "Any employer or other person
12 acting on behalf of an employer who violates, or causes to be violated . . . any provision regulating
13 hours and days of work in any of the Industrial Welfare Commission" shall be subject to a civil
14 penalty as follows:

- 15 a. For any initial violation, fifty dollars (\$50) for each underpaid employee and
16 for each pay period for which the employee was underpaid in addition to an
17 amount sufficient to recover underpaid wages;
18 b. For each subsequent violation, one hundred dollars (\$100) for each underpaid
19 employee for each pay period for which the employee was underpaid in
20 addition to an amount sufficient to recover underpaid wages;
21 c. Wages recovered pursuant to this section shall be paid to the affected
22 employee."

23 52. Plaintiff is informed and believes, and based thereon alleges, that Defendants, and
24 each of them, on occasion violated, or caused to be violated, the Labor Code sections described
25 herein, including causing Plaintiff and other aggrieved employees not to, among other things: be
26 paid overtime wages and minimum wages; receive meal and rest periods or compensation in lieu
27 thereof; be paid timely wages during their employment and after their employment separation;
28 receive accurate, itemized wage statements; be provided with the opportunity to inspect employment

1 records; be reimbursed for work expenses; be reimbursed for uniform deposits and interest accrued
2 thereon; be provided with notice as required under Labor Code section 2810.5; and be provided with
3 the proper accrual and use of paid sick leave.

4 53. As a direct and proximate result of Defendants' conduct, Plaintiff and other
5 aggrieved employees are entitled to recover directly from Defendants civil penalties pursuant to
6 Labor Code section 558 in amounts to be determined at trial.

7 **FOURTH CAUSE OF ACTION**

8 **(Violation of Labor Code § 1197.1 – Against All Defendants)**

9 54. Plaintiff re-alleges each and every allegation set forth in the preceding paragraphs
10 and incorporates each by reference as though fully set forth hereat.

11 55. Pursuant to Labor Code section 1197.1, subdivision (a): "Any employer or other
12 person acting either individually or as an officer, agent, or employee of another person, who pays
13 or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or
14 local law, or by an order of the commission shall be subject to a civil penalty, restitution of wages,
15 liquidated damages payable to the employee, and any applicable penalties imposed pursuant to
16 Section 203 as follows:

- 17 a. For any initial violation that is intentionally committed, one hundred dollars
18 (\$100) for each underpaid employee for each pay period for which the
19 employee is underpaid. This amount shall be in addition to an amount
20 sufficient to recover underpaid wages, liquidated damages pursuant to Section
21 1194.2, and any applicable penalties imposed pursuant to Section 203.
- 22 b. For each subsequent violation for the same specific offense, two hundred fifty
23 dollars (\$250) for each underpaid employee for each pay period for which the
24 employee is underpaid regardless of whether the initial violation is
25 intentionally committed. This amount shall be in addition to an amount
26 sufficient to recover underpaid wages, liquidated damages pursuant to Section
27 1194.2, and any applicable penalties imposed pursuant to Section 203.

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1 c. Wages, liquidated damages, and any applicable penalties imposed pursuant to
2 Section 203, recovered pursuant to this section shall be paid to the affected
3 employee.”

4 56. Plaintiff is informed and believes, and based thereon alleges, that Defendants on
5 occasion caused Plaintiff and aggrieved employees not be paid minimum wages as a result of
6 Defendants, without limitation, by routinely failing to pay Plaintiff or other aggrieved employees’
7 wages for all hours worked or otherwise under Defendants’ control due to, without limitation, failing
8 to accurately track and/or pay for all hours actually worked, engaging, suffering, or permitting
9 employees to work off the clock, including by without limitation, auto-deducting meal periods not
10 taken, detrimental rounding and/or manipulation of time entries, failing to pay prevailing wages,
11 and failing to pay for reporting time pay.

12 57. As a direct and proximate result of Defendants’ conduct, Plaintiff and other
13 aggrieved employees are entitled to recover directly from Defendants civil penalties pursuant to
14 Labor Code section 1197.1.

15 **FIFTH CAUSE OF ACTION**

16 **(Civil Penalties Under Labor Code § 2699 – Against All Defendants)**

17 58. Plaintiff re-alleges and incorporates by reference all of the allegations contained in
18 the preceding paragraphs of this Complaint as though fully set forth hereat.

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

25 60. Pursuant to Labor Code section 2699, subdivision (f), for all provisions of the Labor
26 Code except those for which a civil penalty is specifically provided, the established civil penalty for
27 a violation of those provisions is as follows: if, at the time of the alleged violation, the person
28 employs one or more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved

1 employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved
2 employee per pay period for each subsequent violation.

3 61. Plaintiff is informed and believes and based thereon alleges that Defendants, and
4 each of them, violated the Labor Code sections described herein, including, without limitation, for
5 the failure to: pay overtime wages and minimum wages; provide meal and rest periods or
6 compensation in lieu thereof; provide accurate, itemized wage statements; pay timely wages during
7 employment and after employment separation; provide employees the opportunity to inspect
8 employment records; reimburse work expenses; reimburse uniform deposits and pay interest
9 accrued thereon; provide notice as required under Labor Code section 2810.5; and provide the
10 proper accrual and use of paid sick leave, entitling Plaintiff and other aggrieved employees to civil
11 penalties for each of these Labor Code violations in the amounts set forth in Labor Code section
12 2699, subdivision (f).

13 62. Moreover, Plaintiff and other aggrieved current and former employees within the
14 State of California whom he seeks to represent are entitled to an award of reasonable attorneys' fees
15 and costs in connection with their herein-described claims for civil penalties.

16 **REQUEST FOR JURY TRIAL**

17 63. Plaintiff hereby requests a trial by jury.

18 **PRAYER**

19 **WHEREFORE**, on behalf of himself and all others aggrieved, Plaintiff prays for judgment
20 against Defendants as follows:

- 21 A. An award of civil penalties pursuant to Labor Code sections 210, 226.3, 558, 1197.1,
22 and 2699;
23 B. An award of reasonable attorneys' fees and costs pursuant to Labor Code sections
24 210, 226.3, 558, 1197.1, and 2699;
25 C. Pre-judgment and post-judgment interest;
26 D. For costs of suit incurred herein; and

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E. Such other and further relief as the Court deems just and proper.

Dated: June 5, 2020

BIBIYAN LAW GROUP, P.C.

BY:



DAVID D. BIBIYAN

Attorneys for Plaintiff RICARDO P. FLORES, on
behalf of himself and all other aggrieved employees