

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: Steven Kleinfeld

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Attorneys for Plaintiff, RICHARD CRUZ,
individually and as a proxy for the State of California

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

[UNLIMITED CIVIL]

20STCV25980

RICHARD CRUZ, an individual, and as a proxy
for the State of California,

Plaintiff,

vs.

HENIN SERVICES LIMITED, a corporation;
and DOES 1 through 5, inclusive,

Defendants.

Case No.:

COMPLAINT FOR:

1. Private Attorneys General Act

DEMAND FOR JURY TRIAL

Plaintiff, RICHARD CRUZ, alleges as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction to hear the subject matter of this complaint. This Court also has jurisdiction over each defendant, as the unlawful business acts alleged herein occurred in California. Plaintiff's claims arise out of and are related to all Defendant's contacts with California.

2. Venue is proper in this Court because all or some of the violations of law and unlawful practices alleged herein occurred and are occurring in the County of Los Angeles.

PARTIES

3. Plaintiff is an individual who, at all relevant times, has resided in the State of California.
4. Defendant HENIN SERVICES LIMITED is a corporation that conducted, and is conducting, business in the State of California. HENIN SERVICES LIMITED registered the address

1 9434 Cherokee Ln. Beverly Hills, CA 90210 with the California Secretary of State as its principal place
2 of business in California.

3 5. Plaintiff is ignorant of the true names and capacities of the defendants sued herein as
4 DOES 1-5, inclusive, and therefore sues these defendants by such fictitious names and capacities.
5 Plaintiff will seek leave to amend this Complaint to allege their true names and capacities when
6 ascertained. Plaintiff is informed and believes and, on that basis, alleges that each fictitiously named
7 Defendants are responsible in some manner for the occurrences herein alleged, and that Plaintiff's
8 injuries were proximately caused by the conduct of such defendant.

9 6. All of the Defendants, including DOES 1-5, are alleged to be co-conspirators with each
10 other, in that each agreed to participate, and participated in, the furtherance of the objective of civil
11 wrongs as alleged in this Complaint.

12 7. Plaintiff is informed and believes and thereupon alleges that each Defendant entered into
13 a conspiracy and agreement with the other Defendants and/or subsequently joined said conspiracy and
14 ratified the prior acts and conduct of the Defendants who had previously entered into said conspiracy.
15 Plaintiff is currently unaware of when each Defendant joined said conspiracy and, upon information and
16 belief, alleges that all Defendants have knowingly, maliciously, and willfully entered into said
17 conspiracy, which continues until this day. The purposes of this ongoing conspiracy include, but are not
18 limited to, the wrongs alleged herein. All Defendants' acts and failures to act as alleged herein were
19 perpetrated in furtherance of the ongoing conspiracy.

20 8. Plaintiff is informed and believes and thereupon alleges that at all times material herein,
21 each defendant was completely dominated and controlled by its, his or her co-Defendants, each was the
22 agent, representative, and alter ego of the others, and all aided and abetted the wrongful acts of the
23 others.

24 9. Plaintiff is informed and believes and thereupon alleges that at all times material herein,
25 each of the Defendants was the agent, employee and/or joint venturer of, or working in concert with, co-
26 Defendants and was acting within the course and scope of such agency, employment, and/or joint
27 venture or concerted activity. To the extent that said conduct and omissions were perpetrated by certain
28 Defendants, Plaintiff is informed and believes and thereupon alleges that the remaining Defendant

and/or Defendants confirmed and ratified said conduct and omissions.

10. Whenever and wherever reference is made to individuals who are not named as defendants in this Complaint but are or were employees and/or agents of Defendants, such references shall be deemed to mean that such individuals at all relevant times acted on behalf of the Defendant within the scope of their employment.

11. Plaintiff is informed and believes and on that basis alleges that at all times relevant herein, the corporate Defendants, and each of them, had the right to control, and controlled, Plaintiff's wages, hours and working conditions, and has the right to control the manner in which Plaintiff performed work duties, including but not limited to supervision of work, engaged Plaintiff, suffered and permitted Plaintiff to work, and they were employers, joint employers, or co-employers of Plaintiff at all relevant times alleged herein.

12. Plaintiff is informed and believes and on that basis alleges that at all times relevant herein, the Defendant, and each of them, were an integrated enterprise in that they had an interrelation of operations, centralized control of labor relations, common management, and common ownership or financial control.

GENERAL ALLEGATIONS

13. Plaintiff worked for Defendant as a non-exempt driver and assistant from November 17, 2016, to March 30, 2020.

14. Until on or about December 26, 2019, Defendant required Plaintiff and his co-workers to do work-related activities on their personal cell phones without reimbursing them for any portion of their personal cell phone bills.

15. Until on or about December 26, 2019, Defendant denied Plaintiff and his non-exempt co-workers uninterrupted meal periods by not relieving them of all duties to take meal breaks. Although Defendant had a written policy that provided for meal breaks, Defendant would regularly interrupt Plaintiff and his non-exempt co-workers' meal breaks.

16. During the last year of his employment, Defendant denied Plaintiff and his non-exempt co-workers from uninterrupted rest periods by not relieving them of all duties to take rest breaks.

1 Although Defendant had a written policy that provides for rest breaks, Defendant would regularly
2 interrupt Plaintiff and his non-exempt co-workers' breaks.

3 17. Until on or about December 20, 2019, Defendant did not pay Plaintiff all of his overtime
4 compensation for overtime hours worked over 8 per day or 40 per week.

5 18. During the last year of his employment, Defendant subjected Plaintiff and his non-
6 exempt co-workers to an illegal condition of employment restraining them from disclosing information
7 about the their working conditions and making them sign a document that purports to deny them the
8 right to disclose information about their working conditions.

9 **FIRST CAUSE OF ACTION**

10 **PRIVATE ATTORNEYS GENERAL ACT**

11 **(AGAINST HENIN SERVICES LIMITED AND DOES 1-5)**

12 19. Plaintiff incorporates each allegation set forth in all of the preceding paragraphs as though
13 set forth herein in full again.

14 20. Pursuant to the California Labor Code Private Attorneys General Act ("PAGA"),
15 "Notwithstanding any other provision of law, any provision of [the California Labor Code] that provides
16 for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency or any
17 of its departments, divisions, commissions, boards, agencies, or employees, for a violation of this code,
18 may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of
19 himself or herself and other current or former employees pursuant to the procedures specified in Section
20 2699.3." Lab. Code § 2699(a). "For all provisions of [the California Labor Code] except those for which
21 a civil penalty is specifically provided, there is established a civil penalty for a violation of these
22 provisions." Lab. Code § 2699(f).

23 21. This PAGA suit "is fundamentally a law enforcement action." *Arias v. Super. Ct.*, 46
24 Cal. 4th 969, 986 (2009); *Iskanian v. CLS Transportation Los Angeles, LLC*, 59 Cal.4th 348, 386-387
25 (2014) ("[E]very PAGA action, whether seeking penalties for Labor Code violations as to only one
26 aggrieved employee—the plaintiff bringing the action—or as to other employees as well, is a
27 representative action on behalf of the state."); *Williams v. Super. Ct.*, 3 Cal. 5th 531, 538 (2017) ("a
28

PAGA suit, essentially a qui tam action filed on behalf of the state to assist it with labor law enforcement”).

22. A PAGA “violation” includes, and is used in these allegations to mean, a failure to comply with any requirement of the Labor Code. Lab. Code § 22. Under the PAGA, an “aggrieved employee” means any person who was employed by the alleged violator and against whom only one of the alleged violations was committed. Lab. Code § 2699(c). Plaintiff is an “aggrieved employee.”

Labor Code Violations Providing Civil Penalties Established Pursuant to 2699(f)(2): §§ 2802, 226.7, 512, 510, 204, 1198, 232.5, 226(a), 1174(d) § 2802

23. “An employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer.” Lab. Code § 2802(a). In *Cochran v. Schwan’s*, the court held:

If an employee is required to make work-related calls on a personal cell phone, then he or she is incurring an expense for purposes of section 2802. It does not matter whether the phone bill is paid for by a third person, or at all. In other words, it is no concern to the employer that the employee may pass on the expense to a family member or friend, or to a carrier that has to then write off a loss. It is irrelevant whether the employee changed plans to accommodate work-related cell phone usage. Also, the details of the employee’s cell phone plan do not factor into the liability analysis. Not only does our interpretation prevent employers from passing on operating expenses, it also prevents them from digging into the private lives of their employees to unearth how they handle their finances vis-à-vis family, friends and creditors. To show liability under section 2802, an employee need only show that he or she was required to use a personal cell phone to make work-related calls, and he or she was not reimbursed.

Cochran v. Schwan’s Home Serv., Inc., 228 Cal. App. 4th 1137, 1144–45 (2014), *review denied* (Nov. 25, 2014).

24. Here, like in *Cochran*, if an employee is required to do work-related activities on a personal cell phone, then he is incurring an expense for purposes of section 2802. Here, as in *Cochran*, to show liability under section 2802, an employee need only show that he was required or directed to use a personal cell phone to do work-related activities and was not reimbursed.

25. As set forth above, Defendant did not reimburse or pay Plaintiff or the other aggrieved employees for any portion of their cell phone expenses, in violation of Labor Code § 2802(a).

26. Labor Code § 2802 does not have a civil penalty specifically provided. Thus, Labor Code § 2699(f) is applicable to impose civil penalties of one hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation.

§ 226.7

27. “An employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant 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.” Lab. Code § 226.7(b).

28. Relevant Wage Orders of the Industrial Welfare Commission (“IWC”), applicable to Defendant, such as Wage Order No. 15-2001 section 12, provide that “Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof.”

29. As set forth above, Defendant did not permit Plaintiff and other aggrieved employees to have uninterrupted rest breaks with the opportunity to be relieved of all duties for rest breaks. Defendant did not compensate Plaintiff and the other aggrieved employees in lieu of providing them with rest breaks. As such, Defendant violated Labor Code section 226.7.

30. Relevant Wage Orders of the IWC, applicable to Defendant, such as Wage Order No. 15-2001 section 11, provide that “(A) No employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes, except that when a work period of not more than six (6) hours will complete the day’s work the meal period may be waived by mutual consent of the employer and the employee. (C) Unless the employee is relieved of all duty during a 30 minute meal period, the meal period shall be considered an —on duty meal period and counted as time worked. An —on duty meal period shall be permitted only when the nature of the work prevents an employee from being relieved of all duty and when by written agreement between the parties an on-the-job paid meal period is agreed to. The written agreement shall state that the employee may, in writing, revoke the agreement at any time.”

31. As set forth above, Defendant did not permit Plaintiff and other aggrieved employees uninterrupted duty-free meal periods with the opportunity to be relieved of all duties for meal breaks. Defendant did not compensate Plaintiff and the other aggrieved employees in lieu of providing them with meal breaks relieved of all duties. Defendant did not compensate Plaintiff and the other aggrieved employees for the on-duty meal periods. As such, Defendant violated California Labor Code section 226.7.

32. California Labor Code section 226.7 does not provide for its own self-contained “civil penalty” within the statute. Thus, California Labor Code section 2699(f)(2) applies to provide a civil penalty of \$100 for each aggrieved employee per pay period for the initial violation and \$200 for each aggrieved employee per pay period for each subsequent violation.

§ 512

33. “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.” Lab. Code § 512(a).

34. As set forth above, Defendant did not permit Plaintiff and other aggrieved employees uninterrupted duty-free meal periods with the opportunity to be relieved of all duties for meal breaks on the days they worked more than five hours.

35. California Labor Code section 512 does not provide for its own self-contained “civil penalty” within the statute. Thus, California Labor Code section 2699(f)(2) applies to provide a civil penalty of \$100 for each aggrieved employee per pay period for the initial violation and \$200 for each aggrieved employee per pay period for each subsequent violation.

§ 510

36. “Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek

1 shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an
2 employee.” Lab. Code § 510(a).

3 37. As set forth above, Plaintiff and the aggrieved employees worked more than eight hours
4 per workday and more than 40 hours per workweek. They were not compensated for those overtime
5 hours worked more than eight per day and 40 per week. As such, Defendant violated Labor Code § 510.

6 38. California Labor Code section 510 does not provide for its own self-contained “civil
7 penalty” within the statute. Thus, California Labor Code section 2699(f)(2) applies to provide a civil
8 penalty of \$100 for each aggrieved employee per pay period for the initial violation and \$200 for each
9 aggrieved employee per pay period for each subsequent violation.

10 **§ 204**

11 39. Labor Code Section 204(b)(1) provides that “all wages earned for labor in excess of the
12 normal work period shall be paid no later than the payday for the next regular payroll period.”

13 40. As set forth above, Plaintiff and the aggrieved employees worked more than eight hours
14 per workday and more than 40 hours per workweek. They were not compensated for those overtime
15 hours worked more than eight per day and 40 per week. As a result, they worked in excess of 40 hours
16 per week but were not paid overtime compensation for the hours over 40 per workweek worked. As
17 such, Defendant violated Labor Code Section 204(b)(1) by failing to pay him for all the overtime wages
18 that they earned which were in excess of the normal work period, by the next payday which followed the
19 overtime work. Labor Code Section 204 does not provide for its own self-contained civil penalty within
20 the statute. Thus, Labor Code Section 2699(f)(2) applies to provide a civil penalty of \$100 for each
21 aggrieved employee per pay period for the initial violation and \$200 for each aggrieved employee per
22 pay period for each subsequent violation.

23 **§ 1198**

24 41. California Labor Code section 1198 provides that the maximum hours of work and the
25 standard conditions of labor fixed by the commission shall be the maximum hours of work and the
26 standard conditions of labor for employees. California Labor Code section 1173 defines commission as
27 the IWC. Further, the “employment of any employee for longer hours than those fixed by the order or
28 under conditions of labor prohibited by the order is unlawful.” Lab. Code § 1198.

42. Sections 3(A)(1) of IWC Order Nos. 1-2001, 2-2001, 3-2001, 4-2001, 5-2001, 6-2001, 7-2001, 8-2001, 9-2001, 10-2001, 11-2001, 12-2001, 13-2001, 16-200, Section 3(C) of IWC Order No. 15-2001, and Section 4 of IWC Order No. 17-2001, provide that “employees shall not be employed more than eight (8) hours in any workday or more than 40 in a 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 40 hours in the workweek.” Section 7(A) requires every employer to keep accurate time records showing when the employee begins and ends each work period and the total hours worked in the payroll period.

43. As set forth above, Plaintiff’s co-workers, aggrieved employees, worked more than eight hours per workday and more than 40 hours per workweek and were not compensated for those overtime hours worked more than eight per day and 40 per week.

44. Relevant Wage Orders of the IWC, applicable to Defendant, such as Wage Order No. 15-2001 section 12, provide that “Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof.”

45. As set forth above, Defendant did not permit Plaintiff and other aggrieved employees to have uninterrupted rest breaks with the opportunity to be relieved of all duties for rest breaks.

46. Relevant Wage Orders of the IWC, applicable to Defendant, such as Wage Order No. 15-2001 section 11, provide that “(A) No employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes, except that when a work period of not more than six (6) hours will complete the day’s work the meal period may be waived by mutual consent of the employer and the employee. (C) Unless the employee is relieved of all duty during a 30 minute meal period, the meal period shall be considered an —on duty meal period and counted as time worked. An —on duty meal period shall be permitted only when the nature of the work prevents an employee from being relieved of all duty and when by written agreement between the parties an on-the-job paid meal period is agreed to. The written agreement shall state that the employee may, in writing, revoke the agreement at any time.”

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1 47. As set forth above, Defendant did not permit Plaintiff and other aggrieved employees to
2 have uninterrupted duty-free meal breaks with the opportunity to be relieved of all duties for meal
3 breaks.

4 48. Based on the foregoing, Defendant violated California Labor Code section 1198 by
5 violating the above-referenced sections of relevant Wage Orders of the IWC.

6 49. California Labor Code section 1198 does not provide for its own self-contained “civil
7 penalty” within the statute. Thus, California Labor Code section 2699(f)(2) applies to provide a civil
8 penalty of \$100 for each aggrieved employee per pay period for the initial violation and \$200 for each
9 aggrieved employee per pay period for each subsequent violation.

10 § 232.5

11 50. “No employer may do any of the following: (a) Require, as a condition of employment,
12 that an employee refrain from disclosing information about the employer's working conditions. (b)
13 Require an employee to sign a waiver or other document that purports to deny the employee the right to
14 disclose information about the employer's working conditions.” Cal. Lab. Code § 232.5(a)(b).

15 51. Defendant required as a condition of employment that Plaintiff and his co-workers refrain
16 from disclosing information about Defendant’s working conditions. Defendant required them to sign a
17 document that purports to deny them the right to disclose information about the employer's working
18 conditions.

19 52. Illegal confidentiality policy § II.C states that “Employee shall not communicate, disclose
20 disseminate, distribute, divulge . . . any Confidential Information to any third party.” Confidential
21 Information is defined as “Any information . . . concerning or related to the Protected Parties and their
22 dealings, activities, operations, including, without limitation, facts relating to events, occurrences, and
23 happenings at the Property.” Protected Parties is defined to mean employer Henin Services Limited. The
24 Property is defined to mean the worksite where Plaintiff and his co-workers worked at 9434 Cherokee
25 Lane. In other words, the so-called Confidentiality Agreement stated: employees shall not
26 communicate, disclose disseminate, distribute, divulge any information related to the employer and their
27 dealings, activities, operations, including, without limitation, facts relating to events, occurrences, and
28 happenings at the worksite.

53. The illegal confidentiality policy § II.D states that “Employee shall not communicate, disclose disseminate, publish, transfer, state, communicate, or deliver to any third-party any of the following, except as necessary for Employee to perform her or her [sic] duties with respect to his or her Employment, and then only upon receiving advance written consent from the Employer: any documents ... related in anyway to the Protected Parties.” In other words, the so-called Confidentiality Agreement states: employees shall not disclose any complaints related in any way to the employers, without first getting their written consent. This is preposterous.

54. Other aggrieved employees are all of Defendant’s California employees who were required as a condition of employment to refrain from disclosing information about Defendant’s working conditions, or who were required to sign a document that purports to deny their right to disclose information about the employer's working conditions.

§ 226(a)

55. Labor Code Section 226(a) provides that 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, among other items: (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) net wages earned, and (4) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

56. Due to Defendant’s failure to provide meal and rest breaks relieved of all duty, and failure to account for the time worked while receiving and responding to phone calls and text messages while off the clock, Plaintiff and other aggrieved employees’ itemized wage records did not show: (1) the accurate total hours worked by Plaintiff; (2) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by Plaintiff; (3) the accurate gross wages earned by Plaintiff; and (4) the accurate net wages earned by Plaintiff. As such, Defendant violated Labor Code Section 226(a)(1)(2)(5)(9).

57. Labor Code Section 226 does not provide for its own self-contained “civil” penalty within the statute. Thus, Labor Code Section 2699(f)(2) applies to provide a civil penalty of \$100 for each aggrieved employee per pay period for the initial violation and \$200 for each aggrieved employee per pay period for each subsequent violation.

§ 1174(d)

58. Labor Code Section 1174(d) provides that every person employing labor in this state shall keep payroll records showing the hours worked daily by and the wages paid to employees employed for not less than three years. "Person" means any person, association, organization, partnership, business trust, limited liability company, or corporation. Lab. Code § 18.

59. Defendant failed to maintain records showing the actual and accurate hours worked by Plaintiff's co-workers, aggrieved employees, in violation of Labor Code Section 1174. Labor Code Section 1174 does not provide for its own self-contained civil penalty within the statute. Thus, Labor Code Section 2699(f)(2) applies to provide a civil penalty of \$100 for each aggrieved employee per pay period for the initial violation and \$200 for each aggrieved employee per pay period for each subsequent violation.

Labor Code Violations Providing Civil Penalties Pursuant to 2699(a): §§ 558, 210, 226.3,

1174.5

§ 558

60. Pursuant to Labor Code section 558(a) any employer or other person acting on behalf of an employer who violates, or causes to be violated, [Labor Code sections 510 and 512] or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows:

(1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid.

(2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid.

61. As discussed above, Defendant violated Labor Code sections 510, 512, and the above-referenced provisions of IWC Wage Orders as applicable. As such, Defendant is subject to pay a pre-

determined amount of civil penalties for the initial and subsequent violations, pursuant to Section 558(a)(1)(2).

§ 210

62. Pursuant to Labor Code § 210(a), in 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 Section 204 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.

(2) For each subsequent violation, two hundred dollars (\$200) for each failure to pay each employee, plus 25 percent of the amount unlawfully withheld.

63. As discussed above, Defendant violated Labor Code § 204. As such, Defendant is subject to pay a pre-determined amount of civil penalties for the initial and subsequent violations “plus 25 percent of the amount unlawfully withheld,” as indivisible civil penalties pursuant to Section 210(a).

§ 226.3

64. “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 citation, for which the employer fails to provide the employee a wage deduction statement or fails to keep the records required in subdivision (a) of Section 226.” Lab. Code § 226.3. Defendant violated California Labor Code section 226(a) by issuing itemized wage records that did not show: (1) the accurate total hours worked by them; (2) all applicable hourly rates in effect during the pay period and the accurate corresponding number of hours worked at each hourly rate by them; (3) the accurate gross wages earned by them; and (4) the accurate net wages earned by them. Thus, Defendant is subject to civil penalties under section 226.3.

§ 1174.5

65. Pursuant to Labor Code Section 1174.5, any person employing labor who willfully fails to maintain accurate and complete records required by subdivision (d) of Section 1174 shall be subject to a civil penalty of five hundred dollars (\$500). As discussed above, Defendant violated Labor Code

1 Labor Code Section 1174(d). Defendant willfully failed to maintain records showing the accurate hours
2 worked daily by Plaintiff and the aggrieved employees. Thus, Defendant is subject to civil penalties

3 ***Exhaustion of Administrative Remedies***

4 66. On May 4, 2020, Plaintiff provided notice to the California Labor and Workforce
5 Development Agency ("LWDA"), pursuant to Labor Code § 2699.3, detailing the specific provisions of
6 the foregoing Labor Code sections that have been violated, including the facts and theories to support
7 the violations. The LWDA file number is LWDA-CM-785461-20. The notice was sent by certified
8 mail on or about May 4, 2020, to HENIN SERVICES LIMITED, (7018 1830 0001 0385 8736). Plaintiff
9 submitted a fee waiver to the LWDA.

10 67. The LWDA has not, within 65 days of Plaintiff's Notice of violations of the Labor Code,
11 sent Plaintiff notice that it intends to investigate the violations. Thus, Plaintiff has exhausted Plaintiff's
12 administrative remedies, pursuant to Labor Code section 2699.3(a), as a prerequisite to assert a civil
13 action, for civil penalties pursuant to Labor Code section 2699. Defendant has not sent any notice to
14 the LWDA attempting to cure the alleged violations of Labor Code statutes not enumerated in Labor
15 Code section 2699.5. Thus, Plaintiff has exhausted Plaintiff's administrative remedies, pursuant to
16 Labor Code section 2699.3(c), as a prerequisite to assert a civil action, for civil penalties pursuant to
17 Labor Code section 2699.

18 **PRAYER**

19 WHEREFORE, Plaintiff prays:

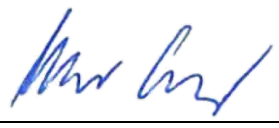
- 20 1. For civil penalties pursuant to the California Labor Code §§ 2698 *et seq.*
21 2. For injunctive relief in the form of an order enjoining the Defendant from continuing
22 violations of the Labor Code.
23 3. For reasonable attorneys' fees pursuant to the California Labor Code and Code of Civil
24 Procedure.
25 4. For costs of suit including expert witness fees.
26 5. For prejudgment interest.
27 6. For such other and further relief as the Court may deem proper.

28 **DEMAND FOR JURY TRIAL**

1 Plaintiff RICHARD CRUZ hereby demands a trial by jury.

2 Dated: July 10, 2020

GUTIERREZ DERHAM LAW FIRM LLP

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4 By: 

5 Matthew Gutierrez
6 Attorneys for Plaintiff, RICHARD CRUZ,
7 individually and as a proxy for the State of
8 California
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