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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

20STCV26548

BERNARDINO RIZO, as an aggrieved
employee pursuant to the Private Attorneys
General Act ("PAGA"), on behalf of the
State of California and other aggrieved
employees,

Plaintiff,

vs.

TAP WORLDWIDE, LLC, a Delaware
limited liability company; POLARIS
SALES INC., a Minnesota corporation; and
DOES 1 through 10, inclusive,

Defendants.

Case No.:

**COMPLAINT – PAGA ENFORCEMENT
ACTION**

- (1) Claim for Civil Penalties for Violations
of California Labor Code, Pursuant to
PAGA, §§ 2698, *et seq.*

Jury Trial Demanded

1 Plaintiff Bernardino Rizo, as an aggrieved employee and on behalf of the State of
2 California and all other aggrieved employees, alleges as follows:

3 JURISDICTION AND VENUE

4 1. This is an enforcement action under the Labor Code Private Attorneys General
5 Act of 2004, California Labor Code sections 2698 *et seq.* (“PAGA”) to recover civil penalties
6 and any other available relief on behalf of Plaintiff, the State of California, and other current
7 and former employees who worked for Defendants in California as a non-exempt, hourly paid
8 employee and received at least one wage statement and against whom one or more violations
9 of any provision in Division 2 Part 2 Chapter 1 of the Labor Code or any provision regulating
10 hours and days of work in the applicable Industrial Welfare Commission (“IWC”) Wage
11 Order were committed, as set forth in this complaint, at any time between one year prior to the
12 filing of the pre-filing written notice to the Labor and Workforce Development Agency
13 (“LWDA”) in this case on May 1, 2020, until judgment (“non-party Aggrieved Employees”).
14 Plaintiff’s share of civil penalties sought in this action does not exceed \$75,000.

15 2. This Court has jurisdiction over this action pursuant to the California
16 Constitution, Article VI, section 10. The statute under which this action is brought does not
17 specify any other basis for jurisdiction.

18 3. This Court has jurisdiction over all Defendants because, on information and
19 belief, Defendants are either citizens of California, have sufficient minimum contacts in
20 California, or otherwise intentionally avail themselves of the California market so as to render
21 the exercise of jurisdiction over them by the California courts consistent with traditional
22 notions of fair play and substantial justice. There is no basis for federal diversity jurisdiction
23 in this action given that the State of California, as the real party in interest in this action, is not
24 a “citizen” for purposes of satisfying diversity jurisdiction. *Urbino v. Orkin Servs. of Cal.*,
25 726 F.3d 1118, 1123 (9th Cir. Cal. 2013). *Urbino* also holds that civil penalties cannot be
26 aggregated to satisfy the amount in controversy requirement for federal diversity jurisdiction
27 in this action, and that diversity jurisdiction cannot be established when Plaintiff’s share of the
28 civil penalties attributable to violations personally suffered are less than \$75,000. *Id.* at 1122.

4. Venue is proper in this Court, because Defendants employ persons in this county, and employed Plaintiff in this county, and thus a substantial portion of the transactions and occurrences related to this action occurred in this county.

5. California Labor Code sections 2698, *et seq.*, the “Labor Code Private Attorneys General Act of 2004” (“PAGA”), authorize aggrieved employees to sue as private attorneys general their current or former employers for various civil penalties for violations of various provisions in the California Labor Code.

THE PARTIES

6. Plaintiff Bernardino Rizo is a resident of Maywood, in Los Angeles County, California. Defendants employed Plaintiff as an hourly paid, non-exempt Warehouse Associate 1 from approximately May 2017 to November 6, 2019. Plaintiff worked for Defendants at their warehouse location in Compton, California. During his employment, Plaintiff typically worked eight (8) to ten (10) hours or more per day, five (5) to six (6) days per week, and 40 to 60 hours per week. By the end of his employment, Plaintiff earned approximately \$15.50 per hour. His job duties included, without limitation, operating forklifts/cherry pickers to pull orders, receiving and processing orders, stocking inventory, and cleaning the work area.

7. TAP WORLDWIDE, LLC was and is, upon information and belief, a Delaware limited liability company, and at all times hereinafter mentioned, an employer whose employees are engaged throughout this county and the State of California.

8. POLARIS SALES INC. was and is, upon information and belief, a Minnesota corporation, and at all times hereinafter mentioned, an employer whose employees are engaged throughout this county and the State of California.

9. Plaintiff is unaware of the true names or capacities of the Defendants sued herein under the fictitious names DOES 1 through 10, but will seek leave of this Court to amend the complaint and serve such fictitiously named Defendants once their names and capacities become known.

10. Plaintiff is informed and believes, and thereon alleges, that DOES 1 through 10

1 were the partners, agents, owners, or managers of TAP WORLDWIDE, LLC and POLARIS
2 SALES INC. at all relevant times.

3 11. Plaintiff is informed and believes, and thereon alleges, that each and all of the
4 acts and omissions alleged herein was performed by, or is attributable to, TAP
5 WORLDWIDE, LLC; POLARIS SALES INC.; and/or DOES 1 through 10 (collectively,
6 “Defendants” or “TAP”), each acting as the agent, employee, alter ego, and/or joint venturer
7 of, or working in concert with, each of the other co-Defendants and was acting within the
8 course and scope of such agency, employment, joint venture, or concerted activity with legal
9 authority to act on the others’ behalf. The acts of any and all Defendants were in accordance
10 with, and represent, the official policy of Defendants.

11 12. At all relevant times, Defendants, and each of them, ratified each and every act
12 or omission complained of herein. At all relevant times, Defendants, and each of them, aided
13 and abetted the acts and omissions of each and all the other Defendants in proximately causing
14 the damages herein alleged.

15 13. Plaintiff is informed and believes, and thereon alleges, that each of said
16 Defendants is in some manner intentionally, negligently, or otherwise responsible for the acts,
17 omissions, occurrences, and transactions alleged herein.

18 14. Under California law, Defendants are jointly and severally liable as employers
19 for the violations alleged herein because they have each exercised sufficient control over the
20 wages, hours, working conditions, and employment status of Plaintiff and other non-party
21 Aggrieved Employees. Each Defendant had the power to hire and fire Plaintiff and other non-
22 party Aggrieved Employees, supervised and controlled their work schedule and/or conditions
23 of employment, determined their rate of pay, and maintained their employment records.
24 Defendants suffered or permitted Plaintiff and other non-party Aggrieved Employees to work
25 and/or “engaged” Plaintiff and other non-party Aggrieved Employees so as to create a
26 common-law employment relationship. As joint employers of Plaintiff and other non-party
27 Aggrieved Employees, Defendants are jointly and severally liable for the civil penalties
28 available to Plaintiff and other non-party Aggrieved Employees under the law.

1 15. Plaintiff is informed and believes, and thereon alleges, that at all relevant times,
2 Defendants, and each of them, have acted as joint employers with respect to Plaintiff and other
3 non-party Aggrieved Employees because Defendants have:

- 4 (a) jointly exercised meaningful control over the work performed by
5 Plaintiff and other non-party Aggrieved Employees;
6 (b) jointly exercised meaningful control over Plaintiff's and other non-party
7 Aggrieved Employees' wages, hours, and working conditions, including
8 the quantity, quality standards, speed, scheduling, and operative details
9 of the tasks performed by Plaintiff and other non-party Aggrieved
10 Employees;
11 (c) jointly required that Plaintiff and other non-party Aggrieved Employees
12 perform work which is an integral part of Defendants' businesses; and
13 (d) jointly exercised control over Plaintiff and other non-party Aggrieved
14 Employees as a matter of economic reality in that Plaintiff and other
15 non-party Aggrieved Employees were dependent on Defendants, who
16 shared the power to set the wages of Plaintiff and other non-party
17 Aggrieved Employees and determined their working conditions, and
18 who jointly reaped the benefits from the underpayment of their wages
19 and noncompliance with other statutory provisions governing their
20 employment.

21 16. Plaintiff is informed and believes, and thereon alleges, that at all relevant times
22 there has existed a unity of interest and ownership between Defendants such that any
23 individuality and separateness between the entities has ceased.

24 17. TAP WORLDWIDE, LLC; POLARIS SALES, INC.; and DOES 1 through 10
25 are therefore alter egos of each other.

26 18. Adherence to the fiction of the separate existence of Defendants would permit
27 an abuse of the corporate privilege, and would promote injustice by protecting Defendants
28 from liability for the wrongful acts committed by them under the name TAP.

19. Plaintiff further alleges, upon information and belief, that Defendants TAP WORLDWIDE, LLC and POLARIS SALES INC. are alter egos of each other for the following reasons:

- (a) Per Polaris Inc.'s SEC 10-K filing for 2019,¹ TAP WORLDWIDE, LLC and POLARIS SALES INC. are listed as fully-owned subsidiaries;
- (b) According to TAP WORLDWIDE, LLC's most recent "Statement of Information" forms filed with the California Secretary of State, POLARIS SALES INC. is listed as TAP WORLDWIDE, LLC's managing entity; and
- (c) On information and belief, TAP WORLDWIDE, LLC and POLARIS SALES, INC. utilize the same standardized employment forms and issue the same employment policies.

PAGA REPRESENTATIVE ALLEGATIONS

20. Defendants provide manufacturing, wholesaling, and operating of retail locations of aftermarket parts and accessories for trucks, Jeeps, SUVs, and four-wheel drive vehicles throughout the United States. Upon information and belief, Defendants maintain a single, centralized Human Resources ("HR") department at their corporate headquarters in Compton, California, which is responsible for the recruiting and hiring of new employees, and communicating and implementing Defendants' company-wide policies, including timekeeping policies and meal and rest period policies, to employees throughout California.

21. In particular, Plaintiff and other non-party Aggrieved Employees, on information and belief, received the same standardized documents and/or written policies. Upon information and belief, the usage of standardized documents and/or written policies, including new-hire documents, indicate that Defendants dictated policies at the corporate level and implemented them company-wide, regardless of their employees' assigned locations or positions. Upon information and belief, Defendants set forth uniform policies and procedures

¹ 10-K Annual Report 2/14/2020, "Polaris Inc. – Investors – Financial Information," <http://ir.polaris.com/investors/financial-information/sec-filings-details/default.aspx?FilingId=13919576> (last accessed July 7, 2020).

1 in several documents provided at an employee's time of hire.

2 22. Upon information and belief, Defendants maintain a centralized Payroll
3 department at their corporate headquarters in Compton, California, which processes payroll
4 for all non-exempt, hourly paid employees working for Defendants at their various locations
5 and jobsites in California, including Plaintiff and other non-party Aggrieved Employees.
6 Based upon information and belief, Defendants issue the same formatted wage statements to
7 all non-exempt, hourly paid employees in California, irrespective of their work locations.
8 Upon information and belief, Defendants process payroll for departing employees in the same
9 manner throughout the State of California, regardless of the manner in which each employee's
10 employment ends.

11 23. Defendants continue to employ non-exempt or hourly paid employees in
12 California.

13 24. Plaintiff is informed and believes, and thereon alleges, that at all times herein
14 mentioned, Defendants were advised by skilled lawyers and other professionals, employees
15 and advisors knowledgeable about California labor and wage law, employment and personnel
16 practices, and about the requirements of California law.

17 25. Plaintiff is informed and believes, and thereon alleges, that Plaintiff and other
18 non-party Aggrieved Employees were not paid for all hours worked because all hours worked
19 were not recorded.

20 26. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
21 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
22 receive certain wages for overtime compensation and that they were not receiving certain
23 wages for overtime compensation.

24 27. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
25 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
26 receive at least minimum wages for compensation and that they were not receiving at least
27 minimum wages for work that was required to be done off-the-clock. In violation of the
28 California Labor Code, Plaintiff and other non-party Aggrieved Employees were not paid at

1 least minimum wages for work done off-the-clock.

2 28. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
3 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
4 meal periods in accordance with the Labor Code or payment of one (1) additional hour of pay
5 at their regular rates of pay when they were not provided with timely, uninterrupted, thirty
6 (30) minute meal periods and that Plaintiff and/or other non-party Aggrieved Employees were
7 not provided with all meal periods or payment of one (1) additional hour of pay at their
8 regular rates of pay when they did not receive a timely, uninterrupted, thirty (30) minute meal
9 period.

10 29. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
11 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
12 rest periods in accordance with the Labor Code and applicable IWC Wage Order or payment
13 of one (1) additional hour of pay at their regular rates of pay when they were not authorized
14 and permitted to take a compliant rest period. In violation of the California Labor Code,
15 Plaintiff and other non-party Aggrieved Employees were not authorized and permitted to take
16 compliant rest periods, nor did Defendants provide Plaintiff and other non-party Aggrieved
17 Employees with payment of one (1) additional hour of pay at their regular rates of pay when
18 they were not authorized and permitted to take a compliant rest period.

19 30. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
20 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
21 receive complete and accurate wage statements in accordance with California law. In
22 violation of the California Labor Code, Plaintiff and other non-party Aggrieved Employees
23 were not provided complete and accurate wage statements.

24 31. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
25 should have known that they had a duty to maintain accurate and complete payroll records in
26 accordance with the Labor Code and applicable IWC Wage Order, but willfully, knowingly,
27 and intentionally failed to do so.

28 32. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or

1 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
2 timely payment of all wages earned upon termination of employment. In violation of the
3 California Labor Code, Plaintiff and other non-party Aggrieved Employees did not receive
4 payment of all wages due, including, but not limited to, overtime wages, minimum wages, and
5 meal and rest period premiums, within permissible time periods.

6 33. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
7 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
8 timely payment of wages during their employment. In violation of the California Labor Code,
9 Plaintiff and other non-party Aggrieved Employees did not receive payment of all wages,
10 including, but not limited to, overtime wages, minimum wages, and meal and rest period
11 premiums, within permissible time periods.

12 34. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
13 should have known that they had a duty to cover the costs and expenses other non-party
14 Aggrieved Employees incurred obtaining mandatory examinations and/or drug tests, but
15 willfully, knowingly, and intentionally failed to do so.

16 35. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
17 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
18 receive one day's rest in seven. In violation of the California Labor Code, Defendants
19 required Plaintiff and other non-party Aggrieved Employees to work more than six
20 consecutive days without a day of rest, where the total hours worked exceeded 30 hours in any
21 week or six hours in any one day thereof.

22 36. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
23 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
24 receive reimbursement for all business-related expenses and costs they incurred during the
25 course and scope of their employment and that they did not receive reimbursement of
26 applicable business-related expenses and costs incurred.

27 37. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
28 should have known that they had a duty to provide Plaintiff and other non-party Aggrieved

1 Employees with safety devices and safeguards, such as personal protective equipment, to
2 protect their life, safety, and health in the workplace, but willfully, knowingly, and
3 intentionally failed to do so.

4 38. Plaintiff is informed and believes, and thereon alleges, that at all times herein
5 mentioned, Defendants knew or should have known that they had a duty to compensate
6 Plaintiff and other non-party Aggrieved Employees for all hours worked, and that Defendants
7 had the financial ability to pay such compensation, but willfully, knowingly, and intentionally
8 failed to do so, and falsely represented to Plaintiff and other non-party Aggrieved Employees
9 that they were properly denied wages, all in order to increase Defendants' profits.

10 39. At all times herein set forth, PAGA provides that any provision of law under
11 the Labor Code and applicable IWC Wage Order that provides for a civil penalty to be
12 assessed and collected by the LWDA for violations of the California Labor Code and
13 applicable IWC Wage Order may, as an alternative, be recovered by aggrieved employees in a
14 civil action brought on behalf of themselves and other current or former employees pursuant
15 to procedures outlined in California Labor Code section 2699.3.

16 40. PAGA defines an "aggrieved employee" in Labor Code section 2699(c) as "any
17 person who was employed by the alleged violator and against whom one or more of the
18 alleged violations was committed."

19 41. Plaintiff and other current and former employees of Defendants are "aggrieved
20 employees" as defined by Labor Code section 2699(c) in that they are all Defendants' current
21 or former employees and one or more of the alleged violations were committed against them.

22 42. Pursuant to California Labor Code sections 2699.3 and 2699.5, an aggrieved
23 employee, including Plaintiff, may pursue a civil action arising under PAGA after the
24 following requirements have been met:

- 25 (a) The aggrieved employee shall give written notice by online filing
26 (hereinafter "Employee's Notice") to the LWDA and by certified mail
27 to the employer of the specific provisions of the California Labor Code
28 alleged to have been violated, including the facts and theories to support

1 the alleged violations.

2 (b) An aggrieved employee's notice filed with the LWDA pursuant to
3 2699.3(a) and any employer response to that notice shall be
4 accompanied by a filing fee of seventy-five dollars (\$75).

5 (c) The LWDA shall provide notice (hereinafter "LWDA Notice") to the
6 employer and the aggrieved employee by certified mail that it does not
7 intend to investigate the alleged violation within sixty (60) calendar
8 days of the postmark date of the Employee's Notice. Upon receipt of
9 the LWDA Notice, or if the LWDA Notice is not provided within sixty-
10 five (65) calendar days of the postmark date of the Employee's Notice,
11 the aggrieved employee may commence a civil action pursuant to
12 California Labor Code section 2699 to recover civil penalties in addition
13 to any other penalties to which the employee may be entitled.

14 43. Pursuant to California Labor Code sections 2699.3(c), aggrieved employees,
15 through Plaintiff, may pursue a civil action arising under PAGA for violations of any
16 provision other than those listed in Section 2699.5 after the following requirements have been
17 met:

18 (a) The aggrieved employee or representative shall give written notice by
19 online filing to the LWDA and by certified mail to the employer of the
20 specific provisions of the California Labor Code alleged to have been
21 violated (other than those listed in Section 2699.5), including the facts
22 and theories to support the alleged violation.

23 (b) An aggrieved employee's notice filed with the LWDA pursuant to
24 2699.3(c) and any employer response to that notice shall be
25 accompanied by a filing fee of seventy-five dollars (\$75).

26 (c) The employer may cure the alleged violation within thirty-three (33)
27 calendar days of the postmark date of the notice. The employer shall
28 give written notice by certified mail within that period of time to the

1 aggrieved employee or representative and the agency if the alleged
2 violation is cured, including a description of actions taken, and no civil
3 action pursuant to Section 2699 may commence. If the alleged violation
4 is not cured within the 33-day period, the employee may commence a
5 civil action pursuant to Section 2699.

6 44. On May 1, 2020, Plaintiff provided written notice by online filing to the
7 LWDA and by certified mail to Defendants of the specific provisions of the California Labor
8 Code alleged to have been violated, including facts and theories to support the alleged
9 violations, in accordance with California Labor Code section 2699.3. Plaintiff's written
10 notice was accompanied with the applicable filing fee of seventy-five dollars (\$75). The
11 LWDA PAGA Administrator has confirmed receipt of Plaintiff's written notice and assigned
12 Plaintiff PAGA Case Number LWDA-CM-785198-20. A true and correct copy of Plaintiff's
13 written notice to the LWDA and Defendants dated May 1, 2020, is attached hereto as "Exhibit
14 1."

15 45. As of the filing date of this complaint, over 65 days have passed since Plaintiff
16 sent the initial LWDA Notice described above, and the LWDA has not responded that it
17 intends to investigate Plaintiff's claims, and Defendants have not cured the violations.

18 46. Thus, Plaintiff has satisfied the administrative prerequisites under California
19 Labor Code sections 2699.3(a) and 2699.3(c) to recover civil penalties against Defendants for
20 violations of California Labor Code sections 201, 202, 203, 204, 222.5, 226(a), 226.7, 510,
21 512(a), 516, 551, 552, 1174(d), 1182.12, 1194, 1197, 1198, 2802, 6401, and 6403.

22 47. Labor Code section 558(a) provides "[a]ny employer or other person acting on
23 behalf of an employer who violates, or causes to be violated, a section of this chapter or any
24 provision regulating hours and days of work in any order of the Industrial Welfare
25 Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty
26 dollars (\$50) for each underpaid employee for each pay period for which the employee was
27 underpaid (2) For each subsequent violation, one hundred dollars (\$100) for each
28 underpaid employee for each pay period for which the employee was underpaid" Labor

Code section 558(c) provides “[t]he civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law.” Plaintiff, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties under Labor Code section 558 for himself, all other non-party Aggrieved Employees, and the State of California against Defendants for violations of Labor Code sections 510, 512(a), 516, 1198, and the applicable IWC wage order. Plaintiff, acting in the public interest as private attorney general, does not seek the recovery of unpaid wages under Labor Code section 558 from Defendants for violations of Labor Code sections 510, 512(a), 516, 1198, and the applicable IWC wage order.

48. Defendants, at all times relevant to this complaint, were employers or persons acting on behalf of an employer(s) who violated Plaintiff’s and other non-party Aggrieved Employees’ rights by violating various sections of the California Labor Code as set forth above.

49. As set forth below, Defendants have violated numerous provisions of both the Labor Code sections regulating hours and days of work as well as the applicable IWC Wage Order.

50. Pursuant to PAGA, and in particular, California Labor Code sections 2699(a), 2699.3(a), 2699.3(c), 2699.5, and section 558, Plaintiff, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for himself, all other non-party Aggrieved Employees, and the State of California against Defendants for violations of California Labor Code sections 201, 202, 203, 204, 222.5, 226(a), 226.7, 510, 512(a), 516, 551, 552, 1174(d), 1182.12, 1194, 1197, 1198, 2802, 6401, and 6403.

FIRST CAUSE OF ACTION

For Civil Penalties, Pursuant to California Labor Code §§ 2698, *et seq.*

(Against all Defendants)

51. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every allegation set forth above.

52. California Labor Code §§ 2698, *et seq.* (“PAGA”) permits Plaintiff to recover

1 civil penalties for the violation(s) of the Labor Code sections enumerated in Labor Code
2 section 2699.5. Section 2699.5 enumerates Labor Code sections 201, 202, 203, 204, 222.5,
3 226(a), 226.7, 510, 512(a), 551, 552, 1174(d), 1194, 1197, 1198, and 2802. Labor Code
4 section 2699.3(c) permits aggrieved employees, including Plaintiff, to recover civil penalties
5 for violations of those Labor Code sections not found in section 2699.5, including sections
6 516, 1182.12, 6401, and 6403.

7 53. Defendants' conduct, as alleged herein, violates numerous sections of the
8 California Labor Code, including, but not limited to, the following:

- 9 (a) Violation of Labor Code sections 510, 1198, and the applicable IWC
10 wage order for Defendants' failure to compensate Plaintiff and other
11 non-party Aggrieved Employees with all required overtime pay, as set
12 forth below;
- 13 (b) Violation of Labor Code sections 1182.12, 1194, 1197, 1198, and the
14 applicable IWC wage order for Defendants' failure to compensate
15 Plaintiff and other non-party Aggrieved Employees with at least
16 minimum wages for all hours worked as set forth below;
- 17 (c) Violation of Labor Code sections 226.7, 512(a), 516, 1198, and the
18 applicable IWC wage order for Defendants' failure to provide Plaintiff
19 and/or other non-party Aggrieved Employees with meal periods, as set
20 forth below;
- 21 (d) Violation of Labor Code sections 226.7, 516, 1198, and the applicable
22 IWC wage order for Defendants' failure to authorize and permit
23 Plaintiff and other non-party Aggrieved Employees to take rest periods,
24 as set forth below;
- 25 (e) Violation of Labor Code sections 226(a), 1198, and the applicable IWC
26 wage order for failure to provide accurate and complete wage statements
27 to Plaintiff and other non-party Aggrieved Employees, as set forth
28 below;

- (f) Violation of Labor Code sections 1174(d), 1198, and the applicable IWC wage order for failure to maintain payroll records as set forth below;
- (g) Violation of Labor Code section 204 for failure to pay all earned wages during employment as set forth below;
- (h) Violation of Labor Code sections 201, 202, and 203 for failure to pay all earned wages upon termination as set forth below;
- (i) Violation of Labor Code section 222.5 for failure to compensate other non-party Aggrieved Employees for mandatory physical examinations and/or drug testing as set forth below;
- (j) Violation of Labor Code sections 551 and 552 for failure to provide one day's rest in seven to Plaintiff and other non-party Aggrieved Employees, as set forth below;
- (k) Violation of Labor Code section 2802 for failure to reimburse Plaintiff and other non-party Aggrieved Employees for all business expenses necessarily incurred, as set forth below; and
- (l) Violation of Labor Code sections 6401 and 6403 for failure to provide safety devices and safeguards, such as personal protective equipment, to Plaintiff and other non-party Aggrieved Employees, as set forth below.

FAILURE TO PAY OVERTIME

VIOLATION OF LABOR CODE SECTIONS 510 AND 1198

54. Labor Code section 1198 makes it illegal to employ an employee under conditions of labor that are prohibited by the applicable wage order. California Labor Code section 1198 requires that “. . . the standard conditions of labor fixed by the commission shall be the . . . standard conditions of labor for employees. The employment of any employee . . . under conditions of labor prohibited by the order is unlawful.”

55. California Labor Code section 1198 and the applicable IWC Wage Order provide that it is unlawful to employ persons without compensating them at a rate of pay

1 either time-and-one-half or two-times that person's regular rate of pay, depending on the
2 number of hours worked by the person on a daily or weekly basis.

3 56. Specifically, the applicable IWC Wage Order provides that Defendants are and
4 were required to pay Plaintiff and other non-party Aggrieved Employees working more than
5 eight (8) hours in a day or more than forty (40) hours in a workweek, at the rate of time and
6 one-half (1½) for all hours worked in excess of eight (8) hours in a day or more than forty (40)
7 hours in a workweek.

8 57. The applicable IWC Wage Order further provides that Defendants are and were
9 required to pay Plaintiff and other non-party Aggrieved Employees working more than twelve
10 (12) hours in a day, overtime compensation at a rate of two (2) times their regular rate of pay.
11 An employee's regular rate of pay includes all remuneration for employment paid to, or on
12 behalf of, the employee, including nondiscretionary bonuses and incentive pay.

13 58. California Labor Code section 510 codifies the right to overtime compensation
14 at one and one-half (1½) times the regular rate of pay for hours worked in excess of eight (8)
15 hours in a day or forty (40) hours in a week or for the first eight (8) hours worked on the
16 seventh (7th) day of work, and to overtime compensation at twice the employee's regular rate
17 of pay for hours worked in excess of twelve (12) hours in a day or in excess of eight (8) hours
18 in a day on the seventh (7th) day of work.

19 59. During the relevant time period, Defendants willfully failed to pay all overtime
20 wages owed to Plaintiff and other non-party Aggrieved Employees. During the relevant time
21 period, Plaintiff and other non-party Aggrieved Employees were not paid overtime premiums
22 for all of the hours they worked in excess of eight (8) hours in a day, in excess of twelve (12)
23 hours in a day, and/or in excess of forty (40) hours in a week, because all hours worked were
24 not recorded.

25 60. First, during the relevant time period, Defendants had a company-wide policy
26 and/or practice of improperly rounding employee clock-in and clock-out duration times to the
27 nearest quarter-hour in their timekeeping system. Defendants' rounding policy has resulted in
28 the failure to compensate Plaintiff and non-party Aggrieved Employees fully for all hours

1 worked, causing Plaintiff and other non-party Aggrieved Employees to not be paid overtime
2 wages for all of the overtime hours they actually worked. Upon information and belief,
3 Defendants' rounding policy is, and continues to be, unfair and has, over time, resulted in the
4 underpayment of wages to Plaintiff and other non-party Aggrieved Employees. To the extent
5 Defendants' rounding policy has taken away time worked that was eligible for overtime,
6 Plaintiff and other non-party Aggrieved Employees have been denied overtime pay for all
7 hours worked.

8 61. Second, Defendants had and continue to have a company-wide loss prevention
9 policy requiring employees to undergo mandatory security checks before leaving the premises.
10 Specifically, Plaintiff and other non-party Aggrieved Employees were required to clock out
11 and then wait to undergo security screenings before leaving the premises at the end of a shift
12 or at the beginning of a meal period. For example, Plaintiff and other non-party Aggrieved
13 Employees required to spend several minutes waiting to undergo a security check after
14 clocking out at the end of the shift or at the beginning of a meal period before Defendants
15 permitted them to leave the premises. Although Defendants' requirement that Plaintiff and
16 other non-party Aggrieved Employees undergo security checks prior to exiting the premises
17 was mandatory, Defendants did not compensate Plaintiff and other non-party Aggrieved
18 Employees for the time spent waiting for and undergoing security checks. Thus, Plaintiff and
19 other non-party Aggrieved Employees were not compensated for the time spent waiting and
20 undergoing security screenings while off-the-clock.

21 62. Third, Defendants had, and continue to have, a company-wide policy and/or
22 practice of understaffing their facilities while assigning heavy workloads, resulting in a failure
23 to provide Plaintiff and other non-party Aggrieved Employees with adequate meal period
24 coverage. As a result of this lack of meal period coverage, Plaintiff and other non-party
25 Aggrieved Employees were not always afforded uninterrupted 30-minute meal periods during
26 shifts when they were entitled to receive a meal period. For example, Plaintiff's meal periods
27 were interrupted 1-2 times per month to respond to direct requests from supervisors. Thus,
28 Plaintiff and other non-party Aggrieved Employees missed or had meal periods interrupted in

1 order to complete their assigned workloads. Defendants did not pay Plaintiff and other non-
2 party Aggrieved Employees for the time they continued to perform tasks during meal periods.

3 63. Fourth, Defendants, on a company-wide basis, had a practice of failing to
4 schedule meal periods, which further caused Plaintiff and other non-party Aggrieved
5 Employees to not be relieved of their duties for compliant meal periods. As a result of these
6 policies and/or practices, Plaintiff and other non-party Aggrieved Employees were required to
7 work through part or all of their meal periods, in order to complete their assigned tasks.

8 64. Defendants knew or should have known that, as a result of these company-wide
9 practices and/or policies, Plaintiff and other non-party Aggrieved Employees were performing
10 their assigned duties during their meal periods and performing work off-the-clock before or
11 after their shifts, and were suffered or permitted to perform work for which they were not
12 paid. Defendants also knew, or should have known, that they did not compensate Plaintiff and
13 other non-party Aggrieved Employees applicable overtime rates of pay for overtime hours that
14 they worked.

15 65. Because Plaintiff and other non-party Aggrieved Employees worked shifts of
16 eight (8) hours a day or more or forty (40) hours a week or more, some of this off-the-clock
17 work qualified for overtime premium pay. Therefore, Plaintiff and other non-party Aggrieved
18 Employees were not paid overtime wages for all of the overtime hours they actually worked.

19 66. Defendants' failure to pay Plaintiff and other non-party Aggrieved Employees
20 the balance of overtime compensation as required by California law, violates the provisions of
21 California Labor Code sections 510 and 1198. Plaintiff and other non-party Aggrieved
22 Employees are entitled to recover civil penalties pursuant to Labor Code sections 558 and/or
23 2699(a), (f), and (g).

24 **FAILURE TO PAY MINIMUM WAGES**

25 **VIOLATION OF LABOR CODE SECTIONS 1182.12, 1194, 1197, AND 1198**

26 67. At all relevant times, California Labor Code sections 1182.12, 1194, 1197, and
27 1198 provide that the minimum wage for employees fixed by the IWC is the minimum wage
28 to be paid to employees, and the payment of a wage less than the minimum so fixed is

1 unlawful. Compensable work time is defined by the applicable wage order as “the time
2 during which an employee is subject to the control of an employer, and includes all the time
3 the employee is suffered or permitted to work, whether or not required to do so.” Cal. Code.
4 Regs. tit. 8, § 11070(2)(G) (defining “Hours Worked”).

5 68. As stated, due to Defendants’ policy of rounding Plaintiff and other non-party
6 Aggrieved Employees’ clock-in and clock-out duration times to the quarter-hour in their
7 timekeeping system, Defendants failed to compensate Plaintiff and other non-party Aggrieved
8 Employees fully for all hours worked. Also, as stated, Defendants required that Plaintiff and
9 other non-party Aggrieved Employees submit to off-the-clock security checks. In addition,
10 during the relevant time period, as a result of Defendants’ policy and/or practice of
11 understaffing their facilities and failure to schedule meal periods, Plaintiff and other non-party
12 Aggrieved Employees were forced to forego meal periods, have their meal periods interrupted,
13 and/or were otherwise not relieved of all duties during meal periods.

14 69. Furthermore, during the relevant time period, on information and belief,
15 Defendants also maintained and implemented a company-wide policy of requiring employees
16 to travel to a medical facility on their own time and using their own personal vehicles to
17 undergo mandatory drug tests and/or physical examinations. At all times, upon information
18 and belief, Defendants were in control of scheduling the date and time for the testing and/or
19 physical examination, selecting the provider/facility where the testing and/or physical
20 examination was to take place, and determining the scope of the testing and/or physical
21 examination. Defendants gave other non-party Aggrieved Employees strict instructions to
22 obtain drug testing and/or physical examinations, and other non-party Aggrieved Employees
23 underwent the testing and/or examination for the sole benefit of Defendants. Other non-party
24 Aggrieved Employees were required to travel in their own personal vehicles and spend time
25 undergoing Defendants’ mandatory drug test and/or physical examination. However,
26 Defendants did not compensate other non-party Aggrieved Employees for the time they spent
27 traveling to and from the medical facilities and undergoing the mandatory drug testing and/or
28 physical examinations.

1 70. Thus, Defendants did not pay minimum wages for all hours worked by Plaintiff
2 and other non-party Aggrieved Employees. To the extent that these off-the-clock hours did
3 not qualify for overtime premium payment, Defendants did not pay at least minimum wages
4 for those hours worked off-the-clock in violation of California Labor Code sections 1182.12,
5 1194, 1197, and 1198.

6 71. Defendants' failure to pay Plaintiff and other non-party Aggrieved Employees
7 minimum wages violates California Labor Code sections 1182.12, 1194, 1197, and 1198.
8 Plaintiff and other non-party Aggrieved Employees are therefore entitled to recover civil
9 penalties pursuant to Labor Code sections 2699(a), (f), and (g).

10 **FAILURE TO PROVIDE AND RECORD MEAL PERIODS**

11 **VIOLATION OF LABOR CODE SECTIONS 226.7, 512(a), 516, AND 1198**

12 72. At all relevant times herein set forth, the applicable IWC Wage Order(s) and
13 California Labor Code sections 226.7, 512(a), 516, and 1198 were applicable to Plaintiff and
14 non-party Aggrieved Employees' employment by Defendants.

15 73. At all relevant times herein set forth, California Labor Code section 512(a)
16 provides that an employer may not require, cause, or permit an employee to work for a period
17 of more than five (5) hours per day without providing the employee with a meal period of not
18 less than thirty (30) minutes, except that if the total work period per day of the employee is
19 not more than six (6) hours, the meal period may be waived by mutual consent of both the
20 employer and the employee. Under California law, first meal periods must start after no more
21 than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (Cal.
22 2012).

23 74. At all relevant times herein set forth, California Labor Code section 226.7,
24 512(a), 516, and 1198 provide that no employer shall require an employee to work during any
25 meal period mandated by an applicable order of the IWC.

26 75. At all relevant times herein set forth, Labor Code sections 226.7, 512(a), 1198,
27 and the applicable IWC Wage Order also require employers to provide a second meal period
28 of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay

1 an employee one (1) additional hour of pay at the employee's regular rate, except that if the
2 total hours worked is no more than twelve (12) hours, the second meal period may be waived
3 by mutual consent of the employer and the employee only if the first meal period was not
4 waived.

5 76. As stated, Defendants' company-wide policies and/or practices of understaffing
6 their facilities while assigning heavy workloads and deadlines, lack of adequate meal period
7 coverage, and failure to schedule meal periods, prevented Plaintiff and other non-party
8 Aggrieved Employees from taking all timely, uninterrupted meal periods to which they were
9 entitled. As a result of Defendants' practices and/or policies, Plaintiff and other non-party
10 Aggrieved Employees were forced to work in excess of five (5) hours before taking a meal
11 period. And, for the same reasons, Plaintiff and other non-party Aggrieved Employees had
12 their meal periods interrupted and/or had to forgo their meal periods altogether.

13 77. Moreover, Defendants did not provide Plaintiff and other non-party Aggrieved
14 Employees with second 30-minute meal periods on days that they worked in excess of ten (10)
15 hours in one day. For example, Plaintiff was never given a second 30-minute meal period
16 when he worked shifts of ten (10) or more hours. Plaintiff and other non-party Aggrieved
17 Employees did not sign valid meal period waivers on days that they were entitled to meal
18 periods and were not relieved of all duties.

19 78. Defendants knew or should have known that as a result of their policies,
20 Plaintiff and other non-party Aggrieved Employees were not actually relieved of all duties to
21 take timely, uninterrupted meal periods. Defendants further knew or should have known that
22 it did not pay Plaintiff and other non-party Aggrieved Employees meal period premium wages
23 when meal periods were missed, late, short, and/or interrupted.

24 79. Defendants also has engaged in a company-wide practice and/or policy of not
25 paying meal period premiums owed when compliant meal periods are not provided. Because
26 of this practice and/or policy, Plaintiff and other non-party Aggrieved Employees have not
27 received premium pay for missed, late, and interrupted meal periods.

28 80. Thus, Defendants failed to provide Plaintiff and other non-party Aggrieved

1 Employees compliant meal periods and failed to pay the full meal period premiums due.
2 Defendants' conduct violates the applicable IWC Wage Order, and California Labor Code
3 sections 226.7, 512(a), 516, and 1198. Plaintiff and other non-party Aggrieved Employees are
4 entitled to recover civil penalties pursuant to Labor Code sections 558 and/or 2699(a), (f), and
5 (g).

6 **FAILURE TO AUTHORIZE AND PERMIT REST PERIODS**

7 **VIOLATION OF LABOR CODE SECTIONS 226.7, 516, AND 1198**

8 81. At all relevant times herein set forth, the applicable IWC Wage Order and
9 California Labor Code sections 226.7, 516, and 1198 were applicable to Plaintiff and other
10 non-party Aggrieved Employees' employment by Defendants.

11 82. At all relevant times, the applicable IWC Wage Order provides that "[e]very
12 employer shall authorize and permit all employees to take rest periods, which insofar as
13 practicable shall be in the middle of each work period" and that the "rest period time shall be
14 based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4)
15 hours or major fraction thereof" unless the total daily work time is less than three and one-half
16 (3½) hours.

17 83. At all relevant times, California Labor Code section 226.7 provides that no
18 employer shall require an employee to work during any rest period mandated by an applicable
19 order of the California IWC. To comply with its obligation to authorize and permit rest
20 periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an
21 employer must "relinquish any control over how employees spend their break time, and
22 relieve their employees of all duties—including the obligation that an employee remain on
23 call. A rest period, in short, must be a period of rest." *Augustus v. ABM Security Services,*
24 *Inc.*, 2 Cal. 5th 257, 269-270 (2016).

25 84. Pursuant to the applicable IWC Wage Order and California Labor Code section
26 226.7(b), Plaintiff and other non-party Aggrieved Employees are entitled to recover from
27 Defendants one (1) additional hour of pay at their regular rates of pay for each work day that a
28 required rest period was not authorized and permitted.

1 85. During the relevant time period, Defendants regularly failed to authorize and
2 permit Plaintiff and other non-party Aggrieved Employees to take a ten (10) minute rest
3 period per each four (4) hour period worked or major fraction thereof. As with meal periods,
4 Defendants' company-wide practices, including understaffing their facilities while assigning
5 heavy workloads, prevented Plaintiff and other non-party Aggrieved Employees from being
6 relieved of all duty to take their rest periods. Additionally, Defendants' failed to schedule rest
7 periods, which, coupled with Defendants' failure to provide adequate rest period coverage,
8 further led to Plaintiff and other non-party Aggrieved Employees not being authorized and
9 permitted to take compliant rest periods.

10 86. Furthermore, Defendants maintained and implemented a company-wide
11 practice and/or policy requiring that Plaintiff and other non-party Aggrieved Employees
12 remain on Defendants' premises during their rest periods. Because Plaintiff and other non-
13 party Aggrieved Employees were restricted from leaving Defendants' premises during rest
14 periods, they were denied the ability to use their rest periods freely for their own purposes.
15 Thus, Defendants effectively maintained control over Plaintiff and other non-party Aggrieved
16 Employees during rest periods, and, as a result of this rest period policy, Defendants did not
17 relinquish control over Plaintiff and other non-party Aggrieved Employees during rest
18 periods.

19 87. As a result of Defendants' practices and policies, Plaintiff and other non-party
20 Aggrieved Employees would work shifts in excess of 3.5 hours, in excess of 6 hours, and/or in
21 excess of 10 hours without receiving all ten (10) minute rest periods to which they were
22 entitled. For example, approximately 1-2 times per month, Plaintiff's rest periods were
23 interrupted by his supervisors asking him for updates and information regarding customer
24 orders.

25 88. Defendants also have engaged in a company-wide practice and/or policy of not
26 paying all rest period premiums owed when compliant rest periods are not authorized or
27 permitted. Because of this practice and/or policy, Plaintiff and other non-party Aggrieved
28 Employees have not received premium pay for all missed rest periods.

89. Defendants' conduct violates the applicable IWC Wage Order and California Labor Code sections 226.7, 516, and 1198. Plaintiff and other non-party Aggrieved Employees are therefore entitled to recover civil penalties pursuant to Labor Code sections 558 and/or 2699(a), (f), and (g).

FAILURE TO PROVIDE AND MAINTAIN COMPLIANT WAGE STATEMENTS
VIOLATION OF LABOR CODE SECTIONS 226(a), 1174(d), AND 1198

90. At all relevant times herein, California Labor Code section 226(a) provides that every employer shall furnish each of his or her employees an accurate and complete itemized wage statement in writing, including, but not limited to, the name and address of the legal entity that is the employer, the inclusive dates of the pay period, total hours worked, and all applicable rates of pay.

91. During the relevant time period, Defendants have knowingly and intentionally provided Plaintiff and other non-party Aggrieved Employees with uniform, incomplete, and inaccurate wage statements. For example, Defendants issued uniform wage statements to Plaintiff and other non-party Aggrieved Employees that fail to correctly list: gross wages earned; total hours worked; net wages earned; and all applicable hourly rates in effect during the pay period, including overtime rates of pay, and the corresponding number of hours worked at each hourly rate. Specifically, Defendants violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

92. Because Defendants did not record the time Plaintiff and other non-party Aggrieved Employees spent working off-the-clock and improperly rounded their total hours worked, Defendants did not list the correct amount of gross wages and net wages earned by Plaintiff and other non-party Aggrieved Employees, in compliance with section 226(a)(1) and 226(a)(5), respectively. For the same reason, Defendants failed to accurately list the total number of the hours worked by Plaintiff and other non-party Aggrieved Employees, in violation of section 226(a)(2), and failed to list the applicable hourly rates of pay in effect during the pay period and the corresponding accurate number of hours worked at each hourly rate, in violation of section 226(a)(9).

1 93. The wage statement deficiencies also include, without limitation, failing to list
2 the number of piece-rate units earned and any applicable piece rate if the employee is paid on
3 a piece-rate basis; failing to list all deductions; failing to list the name of the employee and
4 only the last four digits of his or her social security number or an employee identification
5 number other than a social security number; failing to list the name and address of the legal
6 entity that is the employer; failing to list the inclusive dates of the period for which aggrieved
7 employees were paid; and/or failing to state all hours worked as a result of not recording or
8 stating hours worked off-the-clock.

9 94. California Labor Code section 1174(d) provides that “[e]very person employing
10 labor in this state shall ... [k]eep a record showing the names and addresses of all employees
11 employed and the ages of all minors” and “[k]eep, at a central location in the state or at the
12 plants or establishments at which employees are employed, payroll records showing the hours
13 worked daily by and the wages paid to, and the number of piece-rate units earned by and any
14 applicable piece rate paid to, employees employed at the respective plants or
15 establishments...” At all relevant times, and in violation of Labor Code section 1174(d),
16 Defendants willfully failed to maintain accurate payroll records for Plaintiff and other non-
17 party Aggrieved Employees showing the daily hours they worked and the wages paid thereto
18 as a result of failing to record the off-the-clock hours that they worked and improperly
19 rounding Plaintiff’s and other non-party Aggrieved Employees’ total hours worked.

20 95. California Labor Code section 1198 provides that the maximum hours of work
21 and the standard conditions of labor shall be those fixed by the Labor Commissioner and as
22 set forth in the applicable IWC Wage Orders. Section 1198 further provides that “[t]he
23 employment of any employees for longer hours than those fixed by the order or under
24 conditions of labor prohibited by the order is unlawful.” Pursuant to the applicable IWC
25 Wage Order, employers are required to keep accurate time records showing when the
26 employee begins and ends each work period and meal period. During the relevant time
27 period, Defendants failed, on a company-wide basis, to keep accurate records of work period
28 and meal period start and end times for Plaintiff and other non-party Aggrieved Employees, in

violation of section 1198. Furthermore, in light of Defendants' failure to provide Plaintiff and other non-party Aggrieved Employees with second 30-minute meal periods to which they were entitled, Defendants kept no records of meal start and end times for second meal periods.

96. Because Defendants' violations of 226(a), 1174(d), and 1198 were committed against Plaintiff and other non-party Aggrieved Employees, Plaintiff and other non-party Aggrieved Employees are entitled to recover civil penalties pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f), and (g).

FAILURE TO PAY WAGES DURING EMPLOYMENT

VIOLATION OF LABOR CODE SECTION 204

97. At all relevant times herein set forth, California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed. Labor Code section 204 further provides that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month.

98. At all relevant times herein, California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. Alternatively, at all relevant times herein, Labor Code section 204 provides that the requirements of this section are deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of the payroll period.

99. During the relevant time period, Defendants failed to pay Plaintiff and other non-party Aggrieved Employees all wages due to them including, but not limited to, overtime wages, minimum wages, and meal and rest period premium wages, within any time period specified by California Labor Code section 204.

100. Plaintiff and other non-party Aggrieved Employees are therefore entitled to

1 recover civil penalties pursuant to Labor Code sections 210 and/or 2699(a), (f), and (g).

2 **FAILURE TO PAY WAGES UPON TERMINATION**

3 **VIOLATION OF LABOR CODE SECTIONS 201, 202, AND 203**

4 101. At all times relevant herein set forth, Labor Code sections 201 and 202 provide
5 that if an employer discharges an employee, the wages earned and unpaid at the time of
6 discharge are due and payable immediately, and that if an employee voluntarily leaves his or
7 her employment, his or her wages shall become due and payable not later than seventy-two
8 (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of
9 his or her intention to quit, in which case the employee is entitled to his or her wages at the
10 time of quitting.

11 102. On information and belief, Defendants had a company-wide practice or policy
12 of paying departing employees their final wages on the next regular pay cycle, instead of
13 adhering to the time requirements set forth in Labor Code sections 201 and 202. For example,
14 Plaintiff was discharged from his employment with Defendants on November 6, 2019.
15 However, Defendants did not pay Plaintiff his final wages at the time of termination. Instead,
16 Plaintiff did not receive his final pay until several days after his discharge. Thus, Defendants
17 failed to timely pay Plaintiff owed final wages immediately, in violation of Labor Code
18 section 201.

19 103. Additionally, Defendants willfully failed to pay Plaintiff and other non-party
20 Aggrieved Employees who are no longer employed by Defendants all their earned wages,
21 including but not limited to, overtime wages, minimum wages, and/or meal and rest period
22 premium wages, either at the time of discharge, or within seventy-two (72) hours of their
23 leaving Defendants' employ in violation of California Labor Code sections 201, 202, and 203.

24 104. Plaintiff and other non-party Aggrieved Employees are therefore entitled to
25 recover civil penalties pursuant to Labor Code sections 256 and/or 2699(a), (f), and (g).

26 **FAILURE TO PAY COSTS OF MEDICAL OR PHYSICAL EXAMINATION**

27 **VIOLATION OF LABOR CODE SECTION 222.5**

28 105. At all relevant times herein, California Labor Code section 222.5 requires

1 employers to pay for the costs an employee incurs for obtaining any required medical or
2 physical examination.

3 106. During the relevant time period, Defendants implemented, on a company-wide
4 basis, an employer-imposed requirement that other non-party Aggrieved Employees undergo a
5 mandatory physical examination and/or drug test, but required them to do so at their own
6 expense. As stated, Defendants had a company-wide policy requiring that all employees,
7 including other non-party Aggrieved Employees, travel to a medical facility on their own time
8 and/or use their own personal vehicles to undergo physical examinations and/or drug testing.
9 At all times, Defendants were in control of scheduling the date and time for the examinations
10 and/or testing, selecting the provider/facility where the examinations and/or testing were to
11 take place, and determining the scope of the testing and/or examinations.

12 107. Other non-party Aggrieved Employees were required to travel in their own
13 vehicles to medical facilities selected by Defendants and spend time undergoing Defendants'
14 mandatory drug testing and/or physical examinations. However, Defendants did not
15 compensate other non-party Aggrieved Employees for the time they spent traveling to the
16 medical facilities, for the time they spent undergoing the drug testing and/or physical
17 examinations, and/or reimburse them for the travel expenses they incurred getting to and from
18 the medical facilities. Defendants' policy and/or not paying for all costs other non-party
19 Aggrieved Employees incurred obtaining mandatory drug testing and/or physical
20 examinations is in violation of California Labor Code section 222.5.

21 108. Other non-party Aggrieved Employees are therefore entitled to recover civil
22 penalties pursuant to Labor Code sections 2699(a), (f), and (g).

23 **FAILURE TO PROVIDE ONE DAY'S REST IN SEVEN**

24 **VIOLATION OF LABOR CODE SECTIONS 551 AND 552**

25 109. At all relevant times herein, California Labor Code section 551 provides that
26 every person employed in any occupation of labor is entitled to one day's rest in seven.
27 Additionally, California Labor Code section 552 prohibits employers from requiring
28 employees to work more than six consecutive days without a day of rest.

110. Further, at all times relevant herein set forth, California Labor Code section 556 exempts an employer from the day-of-rest requirement when the total hours worked by an employee do not exceed 30 hours in any week or six hours in any one day thereof.

111. During the relevant period, Defendants required Plaintiff and other non-party Aggrieved Employees to work eight (8) or more hours per day and seven (7) consecutive days in a workweek. For example, Plaintiff was once required to work twelve (12) consecutive days between October 7, 2019 through October 18, 2019. Because Plaintiff and other non-party Aggrieved Employees worked over thirty (30) hours per week and over six (6) hours per day in a workweek, they were not exempt from the day-of-rest requirement. To the extent that Plaintiff and other non-party Aggrieved Employees signed purported waivers of their right to a day's rest in seven, such waivers are invalid.

112. Thus, during the relevant time period, and in violation of Labor Code sections 551 and 552, Defendants willfully caused Plaintiff and other non-party Aggrieved Employees to work more than six days in seven. Plaintiff and other non-party Aggrieved Employees are therefore entitled to recover civil penalties pursuant to Labor Code sections 558 and/or 2699(a), (f), and (g).

FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENSES

VIOLATION OF LABOR CODE SECTION 2802

113. At all times herein set forth, California Labor Code section 2802 provides that an employer must reimburse employees for all necessary expenditures and losses incurred by the employee in the performance of his or her job. The purpose of Labor Code section 2802 is to prevent employers from passing off their cost of doing business and operating expenses on to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144 (2014). The applicable wage order, IWC Wage Order 7-2001, provides that: "[w]hen the employer requires the use of tools or equipment or they are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage may provide and maintain hand tools and equipment customarily required by the particular trade or craft."

114. First, Defendants required Plaintiff and other non-party Aggrieved Employees to wear uniform shirts bearing the company logo on a daily basis, but failed to provide Plaintiff and other non-party Aggrieved Employees with uniform cleaning services or reimburse them for cleaning expenses incurred. For example, due to the nature of his work, Plaintiff's uniform shirts would become stained with grease and dust such that he was unable to mix these clothes in with his other laundry. As a result, he had to wash his uniform items separately from any other items, thus incurring additional utility and laundry expenses.

115. Second, Defendants, on a company-wide basis, mandated that Plaintiff and other non-party Aggrieved Employees purchase special safety shoes such as steel-toed boots, which they were required to wear while at work. Plaintiff and other non-party Aggrieved Employees purchased steel-toed boots to wear inside Defendants' facilities, but were not reimbursed fully for these costs.

116. Third, during the relevant time period, Defendants, on a company-wide basis, forced Plaintiff and other non-party Aggrieved Employees to purchase their own supplies in order to complete their work-related duties. For example, Plaintiff would regularly have to purchase his own pens in order to be able to complete work-related duties such as taking orders. Although Defendants required Plaintiff to purchase and use his own supplies on the job, they did not reimburse him for these expenses.

117. Fourth, as stated, Defendants had a company-wide policy of requiring other non-party Aggrieved Employees to travel in their own personal vehicles to medical facilities to undergo mandatory drug testing and/or physical examinations, but did not reimburse them for their travel expenses, including mileage. Defendants maintained and implemented a company-wide policy of requiring employees to travel to a medical facility on their own time and using their own personal vehicles to undergo mandatory drug testing and/or physical examinations. At all times, Defendants were in control of scheduling the date and time for the testing and/or physical examinations, selecting the provider or facility where the testing and/or physical examinations were to take place, and determining the scope of the testing and/or physical examinations. Defendants gave other non-party Aggrieved Employees strict

1 instructions to obtain drug testing and physical examinations, and other non-party Aggrieved
2 Employees underwent the testing and examination for the sole benefit of Defendants. Other
3 non-party Aggrieved Employees followed Defendants' instructions, traveled in their personal
4 vehicles to medical facilities, and underwent Defendants' drug testing, but were not
5 reimbursed for their mileage to and from the medical facilities. Thus, although Defendants
6 required other non-party Aggrieved Employees to undergo drug testing and/or physical
7 examinations, Defendants failed to reimburse them for their travel expenses.

8 118. Defendants' could have provided Plaintiff and other non-party Aggrieved
9 Employees with the actual tools for use on the job, such as laundering services, office
10 supplies, steel-toed boots, and company vehicles to be used for fulfilling work-related tasks.
11 Or, Defendants could have reimbursed employees for their laundering expenses, office
12 supplies, boot expenses, travel expenses, and mileage. Instead, Defendants passed these
13 operating costs off onto Plaintiff and other non-party Aggrieved Employees. At all relevant
14 times, Plaintiff did not earn at least two (2) times the minimum wage.

15 119. Plaintiff and other non-party Aggrieved Employees are therefore entitled to
16 recover civil penalties pursuant to Labor Code sections 2699(a), (f), and (g).

17 **FAILURE TO PROVIDE SAFETY DEVICES AND SAFEGUARDS**

18 **VIOLATION OF LABOR CODE SECTIONS 6401 AND 6403**

19 120. At all times herein set forth, California Labor Code section 6401 provides that
20 employers must furnish and use safety devices and safeguards, and adopt and use practices,
21 means, methods, operations, and processes which are reasonably adequate to render the
22 employment and place of employment safe and healthy. California Labor Code Section 6401
23 further provides that an employer must to everything reasonably necessary to protect the life,
24 safety and health of its employees. California Labor Code section 6403(a) requires that
25 employers provide and use safety devices and safeguards reasonably adequate to render the
26 employment and place of employment safe.

27 121. Defendants, on a company-wide basis, failed to provide Plaintiff and other non-
28 party Aggrieved Employees with safety devices and safeguards, including personal protective

1 equipment such as steel-toed boots, to keep them safe in the workplace. Despite the fact that
2 Defendants required employees to wear certain personal protective equipment, including steel-
3 toed boots, Defendants failed to provide such reasonably necessary equipment to Plaintiff and
4 other non-party Aggrieved Employees to keep them safe.

5 122. Defendants' failure to provide Plaintiff and other non-party Aggrieved
6 Employees with safety devices and safeguards for the workplace violates Labor Code sections
7 6401 and 6403. Plaintiff and other non-party Aggrieved Employees are therefore entitled to
8 recover civil penalties pursuant to Labor Code sections 2699(a), (f), and (g).

9 **REQUEST FOR JURY TRIAL**

10 Plaintiff requests a trial by jury.

11 **PRAYER FOR RELIEF**

12 Plaintiff, on behalf of all other non-party Aggrieved Employees, prays for relief and
13 judgment against Defendants, jointly and severally, as follows:

14 1. For civil penalties and attorneys' fees in excess of twenty-five thousand dollars
15 (\$25,000). Plaintiff reserves the right to amend his prayer for relief to seek a different amount.

16 **As to the First Cause of Action**

17 2. That the Court declare, adjudge and decree that Defendants violated the
18 following California Labor Code provisions as to Plaintiff and/or other non-party Aggrieved
19 Employees: 510 and 1198 (by failing to pay all overtime compensation); 1182.12, 1194, 1197,
20 and 1198 (by failing to pay at least minimum wages for all hours worked); 226.7, 512(a), 516,
21 and 1198 (by failing to provide all meal periods); 226.7, 516, and 1198 (by failing to authorize
22 and permit all rest periods); 226(a), 1174(d), and 1198 (by failing to provide accurate wage
23 statements and maintain accurate payroll records); 201, 202, and 203 (by failing timely to pay
24 all earned wages upon termination); 204 (by failing timely to pay all earned wages during
25 employment); 222.5 (by failing to compensate for mandatory physical examinations and/or
26 drug testing), 551 and 552 (by failing to provide one day's rest in seven); 2802 (by failing to
27 reimburse business expenses); and 6401 and 6403 (by failing to provide safety devices and
28 safeguards).

1 3. For civil penalties, pursuant to California Labor Code sections 210, 226.3, 256,
2 558, 1174.5, 2699(a), (f), and (g), for violations of California Labor Code sections 201, 202,
3 203, 204, 222.5, 226(a), 226.7, 510, 512(a), 516, 551, 552, 1174(d), 1182.12, 1194, 1197,
4 1198, 2802, 6401, and 6403;

5 4. For attorneys' fees and costs pursuant to California Labor Code section
6 2699(g)(1), and any and all other relevant statutes, for Defendants' violations of California
7 Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 516, 551, 552, 1174(d),
8 1182.12, 1194, 1197, 1198, 2802, 6401, and 6403;

9 5. For pre-judgment and post-judgment interest as provided by law; and

10 6. For such other and further relief as the Court may deem equitable and
11 appropriate.

12
13 Dated: July 15, 2020

Respectfully submitted,

Capstone Law APC

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16 By: 

17 Bevin Allen Pike
18 Orlando Villalba
19 Joseph Hakakian

20 Attorneys for Plaintiff Bernardino Rizo
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EXHIBIT “1”

ANTHONY CASTILLO
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Anthony.Castillo@capstonelawyers.com

May 1, 2020

VIA ONLINE SUBMISSION

California Labor & Workforce Development Agency
ATTN: PAGA Administrator
(<https://dir.tfaforms.net/266>)

Subject: *Bernardino Rizo v. TAP Worldwide, LLC, et al.*

Dear PAGA Administrator:

This office represents Bernardino Rizo in connection with his claims under the California Labor Code. Mr. Rizo was an employee of TAP WORLDWIDE, LLC and/or POLARIS SALES INC. For the purpose of this letter, Mr. Rizo collectively refers to these entities as “TAP.”

The employers may be contacted directly at the addresses below:

TAP WORLDWIDE, LLC
400 WEST ARTESIA BLVD
COMPTON CA 90220

POLARIS SALES INC.
2100 HIGHWAY 55
MEDINA MN 55340

Mr. Rizo intends to seek civil penalties, attorney’s fees, costs, and other available relief for violations of the California Labor Code, which are recoverable under sections 2698, *et seq.*, the Labor Code Private Attorneys General Act of 2004 (“PAGA”). Mr. Rizo seeks relief on behalf of himself, the State of California, and other persons who are or were employed by TAP in California as a non-exempt, hourly paid employee and who received at least one wage statement (“aggrieved employees”). This letter is sent in compliance with the notice and reporting requirements of California Labor Code section 2699.3.

TAP employed Mr. Rizo as a non-exempt, hourly paid Warehouse Associate 1 from approximately May 15, 2017 to November 6, 2019. Mr. Rizo worked for TAP at its warehouse location in Compton, California. During his employment, Mr. Rizo typically worked eight (8) to ten (10) hours or more per day, five (5) to six (6) days per week, from 2:00 a.m. to either 10:30 a.m. or 12:30 p.m. Mr. Rizo’s primary job duties included, without limitation, operating forklifts/cherry pickers to pull orders, receiving and processing orders, stocking inventory, and cleaning the work area.

TAP has committed one or more of the following Labor Code violations against Mr. Rizo, the facts and theories of which follow, making him an “aggrieved employee” pursuant to California Labor Code section 2699(c):¹

TAP’s Company-Wide and Uniform Payroll and HR Practices

TAP WORLDWIDE, LLC is a Delaware limited liability company and POLARIS SALES INC. is a Minnesota corporation. TAP is the world’s leading manufacturer, wholesaler, and retailer of aftermarket parts and accessories for trucks, Jeeps, SUVs, and four-wheel drive vehicles. Upon information and belief, TAP maintains a single, centralized Human Resources (HR) department at its corporate headquarters in Compton, California, for all non-exempt, hourly paid employees working for TAP in California, including Mr. Rizo and other aggrieved employees. At all relevant times, TAP issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in California, including Mr. Rizo and other aggrieved employees, regardless of their location or position.

Upon information and belief, TAP maintains a centralized Payroll department at its corporate headquarters in Compton, California, which processes payroll for all non-exempt, hourly paid employees working for TAP in California, including Mr. Rizo and other aggrieved employees. Further, TAP issues the same formatted wage statements in the same manner for all non-exempt, hourly paid employees working in California, including Mr. Rizo and other aggrieved employees, irrespective of their location, position, or manner in which each employee’s employment ended. In other words, TAP utilized the same methods and formulas when calculating wages due to Mr. Rizo and other aggrieved employees in California.

Violation of California Labor Code §§ 510 and 1198 – Unpaid Overtime

California Labor Code sections 510 and 1198 and the applicable Industrial Welfare Commission (“IWC”) Wage Order require employers to pay employees working more than eight (8) hours in a day or more than forty (40) hours in a workweek at the rate of time-and-one-half (1½) times the regular rate of pay for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek. The applicable IWC Wage Order further provides that employers are required to pay employees working more than twelve (12) hours in a day overtime compensation at a rate of two (2) times their regular rate of pay. An employee’s regular rate of pay includes all remuneration for employment paid to, or on behalf of, the employee, including nondiscretionary bonuses and incentive pay.

TAP willfully failed to pay all overtime wages owed to Mr. Rizo and other aggrieved employees. During the relevant time period, Mr. Rizo and other aggrieved employees were not paid overtime premiums for all of the hours they worked in excess of eight (8) hours in a day, in excess of twelve

¹ These facts, theories, and claims are based on Mr. Rizo’s experience and counsel’s review of those records currently available relating to Mr. Rizo’s employment. Discovery conducted in litigation of wage and hour claims such as these often reveals additional claims that the aggrieved employee was not initially aware of (because the aggrieved employee was not aware of the law’s requirements, the employer misinformed its employee of the law’s requirements, or because the employer effectively hid the violations). Thus, Mr. Rizo reserves the right to supplement this letter with additional facts, theories, and claims if he becomes aware of them subsequent to the submission of this letter.

(12) hours in a day, and/or in excess of forty (40) hours in a week, because all hours that they worked were not recorded.

First, during the relevant time period, TAP has had a company-wide policy and/or practice of improperly rounding employee clock-in and clock-out duration times to the nearest quarter-hour in its timekeeping system. TAP's rounding policy has resulted in the failure to compensate Mr. Rizo and other aggrieved employees fully for all hours worked, causing Mr. Rizo and other aggrieved employees to not be paid overtime wages for all of the overtime hours they actually worked. Upon information and belief, TAP's rounding policy is, and continues to be, unfair and has, over time, resulted in the underpayment of wages to Mr. Rizo and other aggrieved employees. To the extent TAP's rounding policy has taken away time worked that was eligible for overtime, Mr. Rizo and other aggrieved employees have been denied overtime pay for all hours worked.

Second, TAP has and continues to have a company-wide loss prevention policy requiring employees to undergo mandatory security checks before leaving the premises. Specifically, Mr. Rizo and other aggrieved employees were required to clock out and then wait to undergo security screenings before leaving the premises at the end of a shift or at the beginning of a meal period. For example, Mr. Rizo and other aggrieved employees required to spend several minutes waiting to undergo a security check after clocking out at the end of the shift or at the beginning of a meal period before TAP permitted them to leave the premises. Although TAP's requirement that Mr. Rizo and other aggrieved employees undergo security checks prior to exiting the premises was mandatory, TAP did not compensate Mr. Rizo and other aggrieved employees for the time spent waiting for and undergoing security checks. Thus, Mr. Rizo and other aggrieved employees were not compensated for the time spent waiting and undergoing security screenings while off-the-clock.

Third, TAP had, and continues to have, a company-wide policy and/or practice of understaffing its facilities while assigning heavy workloads, resulting in a failure to provide Mr. Rizo and other aggrieved employees with adequate meal period coverage. As a result of this lack of meal period coverage, Mr. Rizo and other aggrieved employees were not always afforded uninterrupted 30-minute meal periods during shifts when they were entitled to receive a meal period. For example, Mr. Rizo's meal periods were interrupted 1-2 times per month to respond to direct requests from supervisors. Thus, Mr. Rizo and other aggrieved employees missed or had meal periods interrupted in order to complete their assigned workloads. TAP did not pay Mr. Rizo and other aggrieved employees for the time they continued to perform tasks during meal periods.

Fourth, TAP, on a company-wide basis, had a practice of failing to schedule meal periods, which further caused Mr. Rizo and other aggrieved employees to not be relieved of their duties for compliant meal periods. As a result of these policies and/or practices, Mr. Rizo and other aggrieved employees were required to work through part or all of their meal periods, in order to complete their assigned tasks.

TAP knew or should have known that, as a result of these company-wide practices and/or policies, Mr. Rizo and other aggrieved employees were performing their assigned duties during their meal periods and performing work off-the-clock before or after their shifts, and were suffered or permitted to perform work for which they were not paid. TAP also knew, or should have known, that it did not compensate Mr. Rizo and other aggrieved employees applicable overtime rates of pay for overtime hours that they worked.

Because Mr. Rizo and other aggrieved employees worked shifts of eight (8) hours a day or more or forty (40) hours a week or more, some of this off-the-clock work qualified for overtime premium pay. Therefore, Mr. Rizo and other aggrieved employees were not paid overtime wages for all of the overtime hours they actually worked. TAP's failure to pay Mr. Rizo and other aggrieved employees the balance of overtime compensation, as required by California law, violates the provisions of California Labor Code sections 510 and 1198.

Furthermore, TAP did not pay other aggrieved employees the correct overtime rates for the recorded overtime hours that they generated. In addition to an hourly wage, TAP paid other aggrieved employees shift differential pay, incentive pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the California Labor Code, TAP failed to incorporate all remunerations, including shift differential pay, incentive pay, and/or nondiscretionary bonuses, into the calculation of the regular rate of pay for purposes of calculating the overtime wage rate. Therefore, during times when other aggrieved employees worked overtime and received these other forms of pay, TAP failed to pay all overtime wages by paying a lower overtime rate than required.

Mr. Rizo and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 – Unpaid Minimum Wages

California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 require employers to pay employees the minimum wage fixed by the IWC. The payment of a lesser wage than the minimum so fixed is unlawful. Compensable work time is defined in Wage Order No. 7 as "the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so." Cal. Code. Regs. tit. 8, § 11070(2)(G) (defining "Hours Worked").

As set forth above, due to TAP's policy of rounding Mr. Rizo's and other aggrieved employees' clock-in and clock-out duration times to the quarter-hour in its timekeeping system, TAP failed to compensate Mr. Rizo and other aggrieved employees fully for all hours worked. Also, as stated, TAP required that Mr. Rizo and other aggrieved employees submit to off-the-clock security checks. In addition, during the relevant time period, as a result of TAP's policy and/or practice of understaffing its facilities and failure to schedule meal periods, Mr. Rizo and other aggrieved employees were forced to forego meal periods, have their meal periods interrupted, and/or were otherwise not relieved of all duties during meal periods.

Furthermore, during the relevant time period, on information and belief, TAP also maintained and implemented a company-wide policy of requiring employees to travel to a medical facility on their own time and using their own personal vehicles to undergo mandatory drug tests and/or physical examinations. At all times, upon information and belief, TAP was in control of scheduling the date and time for the testing and/or physical examination, selecting the provider/facility where the testing and/or physical examination was to take place, and determining the scope of the testing and/or physical examination. However, TAP did not compensate other aggrieved employees for the time they spent traveling to and from the medical facilities and undergoing the mandatory drug testing and/or physical examinations.

Thus, TAP did not pay minimum wages for all hours worked by Mr. Rizo and other aggrieved employees. To the extent that these off-the-clock hours did not qualify for overtime premium payment, TAP did not pay at least minimum wages for those hours worked off-the-clock in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198. Accordingly, TAP regularly failed to pay at least minimum wages to Mr. Rizo and other aggrieved employees for all of the hours they worked in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198.

Mr. Rizo and other aggrieved employees are therefore entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 1197.1 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 – Failure to Provide Meal Periods

California Labor Code sections 226.7, 512(a), 516, and 1198 and the applicable IWC Wage Order require employers to provide meal and rest periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. Pursuant to Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order, an employer may not require, cause or permit an employee to work for a period of more than five (5) hours per day without providing the employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee. Under California law, first meal periods must start after no more than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (Cal. 2012). Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order also require employers to provide a second meal period of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an employee one (1) additional hour of pay at the employee's regular rate, except that if the total hours worked is no more than twelve (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.

As stated, TAP's company-wide policies and/or practices of understaffing its facilities while assigning heavy workloads and deadlines, lack of adequate meal period coverage, and failure to schedule meal periods prevented Mr. Rizo and other aggrieved employees from taking all timely, uninterrupted meal periods to which they were entitled. As a result of TAP's practices and/or policies, Mr. Rizo and other aggrieved employees were forced to work in excess of five (5) hours before taking a meal period. And, for the same reasons, Mr. Rizo and other aggrieved employees had their meal periods interrupted and/or had to forgo their meal periods altogether.

Moreover, TAP did not provide Mr. Rizo and other aggrieved employees with second 30-minute meal periods on days that they worked in excess of ten (10) hours in one day. For example, Mr. Rizo was never given a second meal period when he worked shifts of ten (10) or more hours. Mr. Rizo and other aggrieved employees did not sign valid meal period waivers on days that they were entitled to meal periods and were not relieved of all duties.

TAP knew or should have known that as a result of its policies, Mr. Rizo and other aggrieved employees were not actually relieved of all duties to take timely, uninterrupted meal periods. TAP

further knew or should have known that it did not pay Mr. Rizo and other aggrieved employees meal period premium wages when meal periods were missed, late, short, and/or interrupted.

TAP also has engaged in a company-wide practice and/or policy of not paying meal period premiums owed when compliant meal periods are not provided. Because of this practice and/or policy, Mr. Rizo and other aggrieved employees have not received premium pay for missed, late, and interrupted meal periods. Alternatively, to the extent that TAP did pay meal period premium wages to other aggrieved employees, it did so at the incorrect rates. In addition to an hourly wage, TAP paid other aggrieved employees shift differential pay, incentive pay, and/or nondiscretionary bonuses. However, in violation of the California Labor Code, because TAP did not properly calculate other aggrieved employees' regular rates of pay by including all remunerations, such as shift differential pay, incentive pay, and/or nondiscretionary bonuses, any premiums paid for meal period violations were also paid at an incorrect rate and resulted in an underpayment of meal period premium wages.

Accordingly, TAP failed to provide all meal periods in violation of California Labor Code sections 226.7, 512, 516, and 1198. Mr. Rizo and other aggrieved employees are therefore entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 516, and 1198 – Failure to Authorize and Permit Rest Periods

California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC. The applicable IWC Wage Order provides that “[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period” and that the “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” unless the total daily work time is less than three and one-half (3½) hours.

To comply with its obligation to authorize and permit rest periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer must “relinquish any control over how employees spend their break time, and relieve their employees of all duties—including the obligation that an employee remain on call. A rest period, in short, must be a period of rest.” *Augustus, et al. v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 269-270 (2016).

During the relevant time period, TAP regularly failed to authorize and permit Mr. Rizo and other aggrieved employees to take a ten (10) minute rest period per each four (4) hour period worked or major fraction thereof. As with meal periods, TAP's company-wide practices, including understaffing its facilities while assigning heavy workloads, prevented Mr. Rizo and other aggrieved employees from being relieved of all duty to take their rest periods. Additionally, TAP failed to schedule rest periods, which, coupled with TAP's failure to provide adequate rest period coverage, further led to Mr. Rizo and other aggrieved employees not being authorized and permitted to take compliant rest periods.

Furthermore, TAP maintained and implemented a company-wide practice and/or policy requiring that Mr. Rizo and other aggrieved employees remain on TAP's premises during their rest periods. Because Mr. Rizo and other aggrieved employees were restricted from leaving TAP's

premises during rest periods, they were denied the ability to use their rest periods freely for their own purposes. Thus, TAP effectively maintained control over Mr. Rizo and other aggrieved employees during rest periods, and, as a result of this rest period policy, TAP did not relinquish control over Mr. Rizo and other aggrieved employees during rest periods.

As a result of TAP's practices and policies, Mr. Rizo and other aggrieved employees worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without receiving all uninterrupted 10-minute rest periods to which they were entitled. For example, approximately 1-2 times per month, Mr. Rizo's rest periods were interrupted by his supervisors asking him for updates and information regarding customer orders.

TAP also has engaged in a company-wide practice and/or policy of not paying all rest period premiums owed when compliant rest periods are not authorized and permitted. Because of this practice and/or policy, Mr. Rizo and other aggrieved employees have not received premium pay for all missed rest periods. Alternatively, to the extent that TAP did pay rest period premium wages to other aggrieved employees, it did so at the incorrect rates. Because TAP did not properly calculate other aggrieved employees' regular rates of pay by including all forms of compensation, such as shift differential pay, incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, any premiums paid for rest period violations were also paid at an incorrect rate and resulted in an underpayment of rest period premium wages.

Accordingly, TAP failed to authorize and permit all rest periods in violation of California Labor Code sections 226.7, 516, and 1198. Mr. Rizo and other aggrieved employees are therefore entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226(a), 1174(d), and 1198 – Non-Compliant Wage Statements and Failure to Maintain Accurate Payroll Records

California Labor Code section 226(a) requires employers to make, keep and provide true, accurate, and complete employment records. TAP has not provided Mr. Rizo and other aggrieved employees with properly itemized wage statements. Labor Code section 226(e) provides that if an employer fails to comply with providing an employee with properly itemized wages statements as set forth in 226(a), then the employee is entitled to recover the greater of all actual damages or \$50.00 for the initial pay period in which a violation occurs and \$100 per employee for each violation in a subsequent pay period, not to exceed \$4,000. Further, Labor Code section 226.3 provides that any employer who violates section 226(a) shall be subject to a civil penalty in the amount of \$250 per employee per violation in an initial citation and \$1,000 per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage statement or fails to keep the required records pursuant to Section 226(a).

During the relevant time period, TAP has knowingly and intentionally provided Mr. Rizo and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. For example, TAP issued uniform wage statements to Mr. Rizo and other aggrieved employees that fail to correctly list: gross wages earned; total hours worked; net wages earned; and all applicable hourly rates in effect during the pay period, including overtime rates of pay, and the corresponding number of hours worked at each hourly rate. Specifically, TAP violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

Because TAP did not record the time Mr. Rizo and other aggrieved employees spent working off-the-clock and improperly rounded their total hours worked, TAP did not list the correct amount of gross wages and net wages earned by Mr. Rizo and other aggrieved employees, in compliance with section 226(a)(1) and 226(a)(5), respectively. For the same reason, TAP failed to accurately list the total number of the hours worked by Mr. Rizo and other aggrieved employees, in violation of section 226(a)(2), and failed to list the applicable hourly rates of pay in effect during the pay period and the corresponding accurate number of hours worked at each hourly rate, in violation of section 226(a)(9).

Further, because TAP did not calculate other aggrieved employees' regular rate of pay correctly for purposes of paying overtime wages, TAP did not list the correct amount of gross wages earned by other aggrieved employees in compliance with section 226(a)(1) and did not list the correct amount of net wages earned by other aggrieved employees in violation of section 226(a)(5). TAP also failed to correctly list all applicable hourly rates in effect during the pay period, namely, correct overtime rates of pay and correct rates of pay for premium wages, in violation of section 226(a)(9).

The wage statement deficiencies also include, without limitation, failing to list the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; failing to list all deductions; failing to list 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; failing to list the name and address of the legal entity that is the employer; failing to list the inclusive dates of the period for which aggrieved employees were paid; and/or failing to state all hours worked as a result of not recording or stating hours worked off-the-clock.

California Labor Code section 1174(d) provides that "[e]very person employing labor in this state shall ... [k]eep a record showing the names and addresses of all employees employed and the ages of all minors" and "[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments..." Labor Code section 1174.5 provides that employers are subject to a \$500 civil penalty if they fail to maintain accurate and complete records as required by section 1174(d). During the relevant time period, and in violation of Labor Code section 1174(d), TAP willfully failed to maintain accurate payroll records for Mr. Rizo and other aggrieved employees showing the daily hours they worked and the wages paid thereto as a result of failing to record the off-the-clock hours that they worked and improperly rounding Mr. Rizo's and other aggrieved employees' total hours worked.

California Labor Code section 1198 provides that the maximum hours of work and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the applicable IWC Wage Orders. Section 1198 further provides that "[t]he employment of any employees for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful." Pursuant to the applicable IWC Wage Order, employers are required to keep accurate time records showing when the employee begins and ends each work period and meal period. At all relevant times, as stated, TAP failed to keep accurate records of work period and meal period start and end times for Mr. Rizo and other aggrieved employees. Furthermore, in light of TAP's failure to provide Mr. Rizo and other aggrieved employees with second 30-minute meal periods to which they were entitled, TAP kept no records of meal start and end times for second meal periods.

Because TAP failed to provide the correct net and gross wages earned, applicable rates of pay, and number of total hours worked on wage statements, Mr. Rizo and other aggrieved employees have

been prevented from verifying, solely from information on the wage statements themselves, that they were paid correctly and in full. Instead, Mr. Rizo and other aggrieved employees have had to look to sources outside of the wage statements themselves and reconstruct time records to determine whether in fact they were paid correctly and the extent of underpayment, thereby causing them injury.

Mr. Rizo and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f)-(g).

Violation of California Labor Code § 204 – Failure to Timely Pay Wages During Employment

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. Alternatively, California Labor Code section 204 provides that the requirements of this section are deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of the payroll period.

During the relevant time period, TAP failed to pay Mr. Rizo and other aggrieved employees all wages due to them, including, but not limited to, overtime wages, minimum wages, and/or meal and rest period premium wages, within any time period specified by California Labor Code section 204.

Mr. Rizo and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 210 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 201, 202, and 203 – Failure to Timely Pay Final Wages Upon Termination

California Labor Code sections 201, 202, and 203 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

On information and belief, TAP had a company-wide practice or policy of paying departing employees their final wages on the next regular pay cycle, instead of adhering to the time requirements set forth in Labor Code sections 201 and 202. For example, Mr. Rizo was discharged from TAP on November 6, 2019. However, TAP did not pay Mr. Rizo his final wages at the time of termination. Instead, Mr. Rizo did not receive his final pay until several days after his discharge. Thus, TAP failed to timely pay Mr. Rizo's owed final wages immediately, in violation of Labor Code section 201.

Additionally, TAP willfully failed to pay Mr. Rizo and other aggrieved employees who are no longer employed by TAP all their earned wages, including, but not limited to, overtime wages, minimum

wages, and/or meal and rest period premium wages, either at the time of discharge, or within seventy-two (72) hours of their leaving TAP's employ in violation of California Labor Code sections 201, 202, and 203.

Mr. Rizo and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 256 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 222.5 – Failure to Pay for Costs of Mandatory Physical Exams and/or Drug Testing

At all times herein set forth, California Labor Code section 222.5 requires employers to pay for the costs an employee incurs for obtaining any required medical or physical examination.

During the relevant time period, TAP implemented, on a company-wide basis, an employer-imposed requirement that Mr. Rizo and other aggrieved employees undergo a mandatory physical examination and/or drug test, but required them to do so at their own expense. As stated, TAP had a company-wide policy requiring that all employees, including Mr. Rizo and other aggrieved employees, travel to a medical facility on their own time and/or use their own personal vehicles to undergo physical examinations and/or drug testing. At all times, TAP was in control of scheduling the date and time for the examinations and/or testing, selecting the provider/facility where the examinations and/or testing were to take place, and determining the scope of the testing and/or examinations.

For example, Mr. Rizo was instructed by TAP to travel to a medical facility and obtain a drug test. Mr. Rizo followed TAP's instructions, traveled to the medical facility TAP selected, and underwent the testing. Mr. Rizo was required to travel approximately 10-20 miles roundtrip to a medical facility selected by TAP using his own vehicle. Other aggrieved employees similarly were required to travel in their own vehicles to medical facilities selected by TAP and undergo drug testing and/or physical examinations.

However, TAP did not compensate Mr. Rizo and other aggrieved employees for the time they spent traveling to the medical facilities, for the time they spent undergoing the drug testing and/or physical examinations, and/or reimburse them for the travel expenses they incurred getting to and from the medical facilities. TAP's policy and/or not paying for all costs Mr. Rizo and other aggrieved employees incurred obtaining mandatory drug testing and/or physical examinations is in violation of California Labor Code section 222.5. Mr. Rizo and other aggrieved employees are therefore entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

Violation of California Labor Code §§ 551 and 552 – Failure to Provide One Day's Rest in Seven

California Labor Code section 551 provides that every person employed in any occupation of labor is entitled to one day's rest in seven. California Labor Code section 552 prohibits employers from requiring employees to work more than six consecutive days without a day of rest. California Labor Code section 556 exempts an employer from the day-of-rest requirement when the total hours worked by an employee do not exceed 30 hours in any week or six hours in any one day thereof.

During the relevant period, TAP required Mr. Rizo and other aggrieved employees to work eight (8) or more hours per day and seven (7) consecutive days in a workweek. For example, Mr. Rizo was

once required to work twelve (12) consecutive days between October 7, 2019 through October 18, 2019. Because Mr. Rizo and other aggrieved employees worked over thirty (30) hours per week and over six (6) hours per day in a workweek, they were not exempt from the day-of-rest requirement. To the extent that Mr. Rizo and other aggrieved employees signed purported waivers of their right to a day's rest in seven, such waivers are invalid.

Thus, TAP caused Mr. Rizo and other aggrieved employees to work more than six days in seven, in violation of Labor Code sections 551 and 552. Mr. Rizo and other aggrieved employees are therefore entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 2802 – Unreimbursed Business Expenses

California Labor Code section 2802 requires employers to pay for all necessary expenditures and losses incurred by the employee in the performance of his or her job. The purpose of Labor Code section 2802 is to prevent employers from passing off their cost of doing business and operating expenses on to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144 (2014). The applicable wage order provides that: "[w]hen tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft."

First, TAP required Mr. Rizo and other aggrieved employees to wear uniform shirts bearing the company logo on a daily basis, but failed to provide Mr. Rizo and other aggrieved employees with uniform cleaning services or reimburse them for cleaning expenses incurred. For example, due to the nature of his work, Mr. Rizo's uniform shirts would become stained with grease and dust such that he was unable to mix these clothes in with his other laundry. As a result, he had to wash his uniform items separately from any other items, thus incurring additional utility and laundry expenses.

Second, TAP, on a company-wide basis, mandated that Mr. Rizo and other aggrieved employees purchase special safety shoes such as steel-toed boots, which they were required to wear while at work. Mr. Rizo and other aggrieved employees purchased steel-toed boots to wear inside TAP's facilities, but were not reimbursed fully for these costs.

Third, during the relevant time period, TAP, on a company-wide basis, forced Mr. Rizo and other aggrieved employees to purchase their own supplies in order to complete their work-related duties. For example, Mr. Rizo would have to regularly have to purchase his own pens in order to be able to complete work-related duties such as taking orders. Although TAP required Mr. Rizo to purchase and use his own supplies on the job, it did not reimburse him for these expenses.

Fourth, as stated, TAP had a company-wide policy of requiring Mr. Rizo and other aggrieved employees to travel in their own personal vehicles to medical facilities to undergo mandatory drug testing and/or physical examinations, but did not reimburse them for their travel expenses. For example, as described above, Mr. Rizo drove approximately 10-20 miles roundtrip to undergo drug testing per TAP's instructions, but was not reimbursed for his mileage to and from the medical facility.

TAP could have provided Mr. Rizo and other aggrieved employees with the actual tools for use on the job, such as laundering services, office supplies, steel-toed boots, and company vehicles to be used for fulfilling work-related tasks. Or, TAP could have reimbursed employees for their laundering expenses, office supplies, boot expenses, travel expenses, and mileage. Instead, TAP passed these operating costs off onto Mr. Rizo and other aggrieved employees. At all relevant times, Mr. Rizo did not earn at least two (2) times the minimum wage.

Thus, TAP had, and continues to have, a company-wide policy and/or practice of not reimbursing employees for expenses necessarily incurred in violation of California Labor Code section 2802. Mr. Rizo and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

Violation of California Labor Code §§ 6401 and 6403 – Failure to Provide Personal Protective Equipment

California Labor Code section 6401 provides that employers must furnish and use safety devices and safeguards, and adopt and use practices, means, methods, operations, and processes which are reasonably adequate to render the employment and place of employment safe and healthy. California Labor Code Section 6401 further provides that an employer must do everything reasonably necessary to protect the life, safety and health of its employees. California Labor Code section 6403(a) requires that employers provide and use safety devices and safeguards reasonably adequate to render the employment and place of employment safe.

TAP, on a company-wide basis, failed to provide Mr. Rizo and other aggrieved employees with personal protective equipment, such as steel-toed boots, to keep them safe in the workplace. Despite the fact that TAP required employees to wear certain personal protective equipment, including steel-toed boots, TAP failed to provide such reasonably necessary equipment to Mr. Rizo and other aggrieved employees to keep them safe.

TAP's failure to provide Mr. Rizo and other aggrieved employees with basic personal protective equipment for the workplace violates Labor Code sections 6401 and 6403. Mr. Rizo and other aggrieved employees are therefore entitled to recover penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code section 2699(a), (f)-(g).

California Labor Code § 558(a)

California Labor Code section 558(a) provides "[a]ny employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter 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 . . ." Labor Code section 558(c) provides that "[t]he civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law." TAP, at all relevant times, was an employer or person acting on behalf of an employer(s) who violated Mr. Rizo's and other aggrieved employees' rights by violating various sections of the California Labor Code.

Accordingly, Mr. Rizo seeks the remedies set forth in Labor Code section 558 for himself, the State

of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 1194.5, 2699(a), 2699.3(a) and 2699.3(c), 2699.5, and 558, Mr. Rizo, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties and injunctive relief for himself, all other aggrieved employees, and the State of California against TAP for violations of California Labor Code sections 201, 202, 203, 204, 222.5, 226(a), 226.7, 510, 512, 516, 551, 552, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, 6401, and 6403.

Therefore, on behalf of all aggrieved employees, Mr. Rizo seeks all applicable penalties related to these violations of the California Labor Code pursuant to PAGA.

Pre-Litigation Demand

This notice shall further serve as Mr. Rizo's reasonable attempt to settle his dispute with TAP prior to litigation. Pursuant to *Graham v. DaimlerChrysler Corp.*, 34 Cal. 4th 553 (2004), this notice serves to inform TAP of Mr. Rizo's aforementioned grievances and the proposed remedies as detailed below, while affording TAP a reasonable opportunity to satisfy Mr. Rizo's demands.

Demand is hereby made that TAP shall, within 30 calendar days of this notice, agree, in writing to the following corrective actions:

1. TAP shall pay Mr. Rizo and all other aggrieved employees employed by TAP at any time during the past three years from the date of this notice unpaid wages and compensation for the above-referenced violations.
2. TAP shall comply with all California labor laws and ensure that its non-exempt employees are paid overtime wages and minimum wages for all hours worked, and provided lawful meal and rest periods.
3. TAP shall conduct a survey or interview all current and former aggrieved employees in California who worked for TAP in the past three years to obtain information from them regarding the above-referenced violations, including, but not limited to: the number of meal periods which were not provided; the number of rest periods which were not authorized and permitted; the number of employees who were required to pay for uniform maintenance, travel, office supply, and boot expenses, or other expenditures in the discharge of their duties, and the number of employees who were required to work more than six consecutive days without a day of rest, with the investigation to be completed within 60 days.
4. TAP shall pay each aggrieved employee one hour of pay at his or her regular rate of pay for each work day he or she was not provided one or more meal periods, as required by Labor Code sections 226.7, 512, 516, and 1198. TAP also shall pay each aggrieved employee one hour of pay at his or her regular rate of pay for each work day he or she was not authorized and permitted one or more rest periods, as required by Labor Code sections 226.7, 516, and 1198.
5. TAP shall reimburse those aggrieved employees who were required to pay for any business expenses incurred for TAP's benefit, including, but not limited to, costs of uniform maintenance, travel, office supply, and boot expenses, as required by Labor Code sections 2802.

6. TAP shall pay accrued legal interest to all aggrieved employees at the rate of 10% per annum for said unpaid wages.
7. TAP shall provide Mr. Rizo and all aggrieved employees employed by TAP at any time during the past three years from the date of this notice corrected wage statements that include the requisite information set forth in Labor Code section 226(a).
8. TAP shall cease the practice of requiring aggrieved employees to work more than six days in seven (Labor Code sections 551 and 552).
9. TAP shall provide all aggrieved employees with safety devices and safeguards reasonably adequate to render the employment and place of employment safe, pursuant to Labor Code sections 6401 and 6403.
10. TAP shall pay waiting time penalties, equal to 30 days of pay, to each former aggrieved employee who was not paid all wages due as described herein.
11. TAP shall pay all penalties arising from the violations of the Labor Code and IWC Wage Order sections referenced above and pursuant to PAGA, Labor Code sections 2698, *et seq.*, including, but not limited to, penalties under Labor Code sections 210, 226.3, 256, 558, 1174.5, 1197.1, 1199, and 2699, and Wage Order No. 7-2001, section 20.

Thank you for your attention to this matter. If you have any questions, please contact me at the phone number or address below:

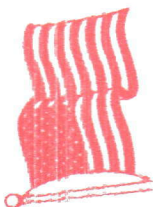
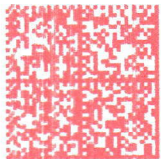
Anthony Castillo
Capstone Law APC
1875 Century Park East, Suite 1000
Los Angeles, CA 90067
(310) 556-4811

Best Regards,



Anthony Castillo

Copy: TAP WORLDWIDE, LLC (via U.S. Certified Mail); POLARIS SALES INC. (via U.S. Certified Mail)



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

TAP WORLDWIDE, LLC
400 WEST ARTESIA BLVD
COMPTON CA 90220



9590 9402 4882 9032 7432 91

2. Article Number (Transfer from service label)

7015 0640 0006 1449 0818

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

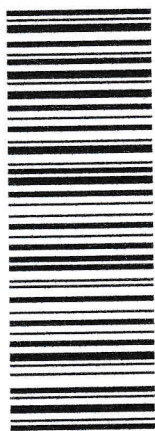
3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Registered Mail
- ☐ Registered Mail Restricted Delivery
- ☐ Return Receipt for Merchandise
- ☐ Signature Confirmation™
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- ☐ Priority Mail Express®
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- ☐ Return Receipt for Merchandise
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt

CERTIFIED MAIL®



7015 0640 0006 1449 0818

TAP WORLDWIDE, LLC
400 WEST ARTESIA BLVD
COMPTON CA 90220

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail OnlyFor delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee

\$ 3.50

Extra Services & Fees (check box, add fee as appropriate)

- ☒ Return Receipt (hardcopy) \$ 2.80
- ☐ Return Receipt (electronic) \$
- ☐ Certified Mail Restricted Delivery \$
- ☐ Adult Signature Required \$
- ☐ Adult Signature Restricted Delivery \$

Postage

\$ 1.63

Total Postage and Fees

\$ 7.93

Sent To

TAP WORLDWIDE, LLC
Street and Apt. No., or PO Box No. 400 WEST ARTESIA BLVD
City, State, ZIP+4® COMPTON CA 90220

Postmark
HereRizo v. Tap
Worldwide, LLC

PS Form 3800, April 2015 PSN 7530-02-000-9047

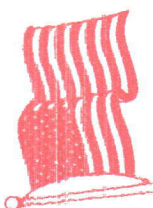
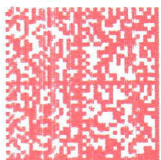
See Reverse for Instructions

7015 0640 0006 1449 0818

tone

LAW APC

Curry Park East, Ste 1000
Compton, CA 90067



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1. Article Addressed to:

POLARIS SALES INC.
2100 HIGHWAY 55
MEDINA MN 55340



9590 9402 4882 9032 7432 84

2. Article Number (Transfer from service label)

7015 0640 0006 1449 0832

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent

☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

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If YES, enter delivery address below: ☐ No

3. Service Type

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☐ Adult Signature Restricted Delivery

☒ Certified Mail®

☐ Certified Mail Restricted Delivery

☐ Collect on Delivery

☐ Collect on Delivery Restricted Delivery

☐ Insured Mail

☐ Insured Mail Restricted Delivery (\$500)

☐ Priority Mail Express®

☐ Registered Mail™

☐ Registered Mail Restricted Delivery

☐ Return Receipt for Merchandise

☐ Signature Confirmation™

☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt

CERTIFIED MAIL®



7015 0640 0006 1449 0832

POLARIS SALES INC.
2100 HIGHWAY 55
MEDINA MN 55340

U.S. Postal Service™ CERTIFIED MAIL® RECEIPT Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee

\$ 3.50

Extra Services & Fees (check box, add fee as appropriate)

☒ Return Receipt (hardcopy) \$ 2.80

☐ Return Receipt (electronic) \$

☐ Certified Mail Restricted Delivery \$

☐ Adult Signature Required \$

☐ Adult Signature Restricted Delivery \$

Postage

\$ 1.63

Total Postage and Fees

\$ 7.93

Sent To

POLARIS SALES INC.

Street and Apt. No., or PO Box No.

2100 HIGHWAY 55

City, State, ZIP+4®

MEDINA MN 55340

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions

Postmark
Here

Rizo v. Polaris
Sales Inc.

7015 0640 0006 1449 0832

tone

LAW APC

ury Park East, Ste 1000
es, CA 90067

SENDER: COMPLETE THIS SECTION

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- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

TAP WORLDWIDE, LLC
400 WEST ARTESIA BLVD
COMPTON CA 90220



9590 9402 4882 9032 7432 91

2. Article Number (Transfer from service label)

7015 0640 0006 1449 0818

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *Marcia Sandoz*

- ☐ Agent
☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- | | |
|--|---|
| ☐ Adult Signature | ☐ Priority Mail Express® |
| ☐ Adult Signature Restricted Delivery | ☐ Registered Mail™ |
| ☒ Certified Mail® | ☐ Registered Mail Restricted Delivery |
| ☐ Certified Mail Restricted Delivery | ☐ Return Receipt for Merchandise |
| ☐ Collect on Delivery | ☐ Signature Confirmation™ |
| ☐ Collect on Delivery Restricted Delivery | ☐ Signature Confirmation Restricted Delivery |
| ☐ Insured Mail | |
| ☐ Insured Mail Restricted Delivery (over \$500) | |

PS Form 3811, July 2015 PSN 7530-02-000-9053

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