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Attorneys for Plaintiff **ABDULRASHID DESAI**,
On behalf of the general public as private attorney general

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

ABDULRASHID DESAI, On behalf of the
general public as private attorney general,

Plaintiff,

v.

CYPRESS PRIVATE SECURITY, LP a
California Limited Partnership, and DOES 1-
50, inclusive,

Defendants.

Case No.

ASSIGNED FOR ALL PURPOSES TO:

JUDGE:

DEPT:

**[PROPOSED] PAGA
REPRESENTATIVE ACTION
COMPLAINT PURSUANT TO THE
PRIVATE ATTORNEYS GENERAL ACT
(Labor Code §§ 2698 *et seq*).**

COMES NOW Plaintiff ABDULRASHID DESAI (“Plaintiff”), on behalf the general public and all non-exempt aggrieved employees, acting on behalf of the California Attorney General as private attorney general, asserts claims against Defendants CYPRESS PRIVATE SECURITY, LP; and DOES 1-50, inclusive (collectively “Defendants”) as follows:

I. INTRODUCTION

1. This is a representative action for recovery of penalties under the Private Attorneys General Act of 2004 (“PAGA”), Cal. Lab. Code sections 2698 *et seq.* PAGA permits “aggrieved employees” to bring a lawsuit as a representative action on behalf of the general public as private attorney general and all other current and former aggrieved employees, to recover civil penalties and address an employer’s violations of the California Labor Code.

2. In this case, Defendants violated various provisions of the California Labor Code. As set forth below, Defendants implemented policies and practices which led to unpaid wages resulting from Defendant’s: (a) to pay wages including overtime, (b) failure to provide meal periods for every work period exceeding more than ten (10) hours per day and failure to pay an additional hour’s of pay or accurately pay an additional hour’s of pay in lieu of providing a meal period; (c) failure to provide rest breaks for every four hours or major fraction thereof worked and failure to pay an additional hour’s of pay or accurately pay an additional hour’s of pay in lieu of providing a rest period; (d) failing to pay all wages earned and owed upon separation from Defendant’s employ, and (e) failing to provide accurate itemized wage statements. As a result of these unpaid wages enumerated under Labor Code §2699.5, Plaintiff seeks penalties under Labor Code 2698, *et. seq.* on behalf of the general public as private attorney general and all other aggrieved employees..

II. JURISDICTION AND VENUE

3. The California Superior Court has jurisdiction over this action pursuant to California Constitution Article VI, Section 10, which grants the Superior Court “original jurisdiction in all cases except those given by statute to other trial courts.” The statutes under which this action is brought do not give jurisdiction to any other court.

1 4. This Court has jurisdiction over Defendants because, upon information and belief,
2 each Defendant either has sufficient minimum contacts in California, or otherwise intentionally
3 avails itself of the California market so as to render the exercise of jurisdiction over it by the
4 California Courts consistent with traditional notions of fair play and substantial justice.

5 5. Venue as to each Defendant is proper in this judicial district pursuant to Code of
6 Civil Procedure section 395. Defendants are doing business throughout California, including but
7 not limited to Los Angeles County, and each Defendant is within the jurisdiction of this Court for
8 service of process purposes. The unlawful acts alleged herein have a direct effect on Plaintiff and
9 all other aggrieved employees within the State of California. Defendants employ numerous
10 aggrieved employees in in the State of California.

11 6. On information and belief, Defendants have conducted business within the State of
12 California during the purported liability period and continue to conduct business throughout the
13 State of California. The unlawful acts alleged herein have had a direct effect on Plaintiff, and the
14 similarly situated non-exempt aggrieved employees within California.

15 7. The California Superior Court also has jurisdiction in this matter because on
16 information and belief there are no federal questions at issue, as the issues herein are based solely
17 on California statutes and law, including the California Labor Code, the IWC Wage Orders, the
18 California Code of Civil Procedure, the California Civil Code, and the California Business and
19 Professions Code.

20 8. On information and belief, during the statutory liability period and continuing to
21 the present ("liability period"), Defendant consistently maintained and enforced against
22 Defendant's Non-Exempt Aggrieved Employees, among others, the following unlawful practices
23 and policies, in violation of California state wage and hour laws: (a) to pay wages including
24 overtime, (b) failure to provide meal periods for every work period exceeding more than ten (10)
25 hours per day and failure to pay an additional hour's of pay or accurately pay an additional hour's
26 of pay in lieu of providing a meal period; (c) failure to provide rest breaks for every four hours or
27 major fraction thereof worked and failure to pay an additional hour's of pay or accurately pay an
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1 additional hour's of pay in lieu of providing a rest period; (d) failing to pay all wages earned and
2 owed upon separation from Defendant's employ, and (e) failing to provide accurate itemized wage
3 statements.

4 9. On information and belief, during the statutory liability period and continuing to
5 the present, Defendants have had a consistent policy of failing to provide its Non-Exempt
6 Employees within the State of California, including Plaintiff, unfettered, uninterrupted, duty free
7 rest periods of at least (10) minutes per four (4) hours worked or major fraction thereof and failing
8 to pay such employees one (1) hour of pay at the employees regular rate of compensation for each
9 workday that the rest period is not provided, as required by California state wage and hour laws.

10 10. On information and belief, during the statutory liability period and continuing to
11 the present, Defendants have had a consistent policy of failing to pay wages including overtime
12 wages for hours worked while subject to the control of Defendants.

13 11. On information and belief, during the statutory liability period and continuing to
14 the present (rest and meal period liability period), Defendants have had a consistent policy of
15 requiring its Non-Exempt Employees within the State of California, including Plaintiff, to work at
16 least five (5) and or ten (10) hours without a meal period and failing to pay or accurately pay such
17 employees one (1) hour of pay at the employees regular rate of compensation for each workday
18 that the meal period is not provided, as required by California state wage and hour laws.

19 12. On information and belief, during the statutory liability period and continuing to
20 the present (rest and meal period liability period), Defendants have had a consistent policy of
21 requiring its Non-Exempt Employees within the State of California, including Plaintiff, to work in
22 excess of four hours and or ten (10) hours without authorizing and permitting a rest period and
23 failing to pay or accurately pay such employees one (1) hour of pay at the employees regular rate
24 of compensation for each workday that the rest period is not authorized and permitted, as required
25 by California state wage and hour laws.

26 13. On information and belief, during the statutory liability period and continuing to
27 the present, Defendants have had a consistent policy of failing to timely pay wages upon
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1 separation.

2 14. On information and belief, during the statutory liability period and continuing to
3 the present, Defendants have failed to provide Plaintiff and aggrieved employees accurate itemized
4 wage statements.

5 15. Plaintiff on behalf of the general public as private attorney general and all other
6 aggrieved employees bring this action pursuant to Labor Code 2698, et. seq. for violations
7 enumerated under 2699.5 as follows: sections 201-203, 510, 512, 558, 226, 266.3, 226.7, 266.3,
8 1174, 1174.5, 1175, 1194, 1197, 1197.1, 1198, and seeking penalties, interest, attorneys' fees and
9 costs.

10 **III. PARTIES**

11 **A. Plaintiff**

12 17. Plaintiff, ABDULRASHID DESAI, was at all times relevant to this action, a
13 resident of Yucaipa, California. Plaintiff was employed by Defendants in approximately October
14 2019 as a Non-Exempt Employee working as a security guard during the liability period until his
15 separation from Defendants' employ in approximately December 2019.

16 18. As Defendants' employee, Plaintiff, and all other aggrieved employees were
17 regularly required to and subsequently suffered:

- 18 a) perform work subject to the control of the employer without being compensated all
19 wages including overtime, all in violation of California labor laws, regulations, and the
20 Industrial Welfare Commission Wage Order ("IWC");
- 21 b) work without being permitted or authorized a minimum ten-minute rest period for
22 every four hours or major fraction thereof worked and not compensated one (1) hour of
23 pay at his regular rate of compensation for each workday that a rest period was not
24 provided, all in violation of California labor laws, regulations, and the Industrial
25 Welfare Commission Wage Orders ("IWC");
- 26 c) work in excess of six and ten hours per day without being provided meal periods and
27 not compensated one (1) hour of pay at the regular rate of compensation for each
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1 workday that a meal period was not provided, all in violation of California labor laws,
2 regulations, and the Industrial Welfare Commission Wage Orders (“IWC”); and
3 d) not provided accurate itemized wage statements.

4 19. On information and belief, Defendants willfully failed to pay all earned wages in
5 the form regular wages and overtime wages, and meal and rest period premium wages, to its
6 Non-Exempt Employees and members of the Representative Group; nor have Defendants
7 returned to Plaintiff or members of the Representative Group, upon or after separation from
8 employment with Defendants, all wages earned and owing. Plaintiff seeks penalties under Labor
9 Code 2698, *et. seq.* on behalf of the general public as private attorney general and all other
10 aggrieved employees..

11 **B. Defendants**

12 20. Defendants CYPRESS PRIVATE SECURITY, LP, operates as a security services
13 provider for various commercial properties throughout California. Plaintiff estimates there are in
14 excess of 100 Non-Exempt Employees who work or have worked for Defendants over the last
15 year.

16 21. Other than identified herein, Plaintiff is unaware of the true names, capacities,
17 relationships and extent of participation in the conduct alleged herein, of the defendants sued as
18 DOES 1 through 50, but is informed and believes and thereon alleges that said defendants are
19 legally responsible for the wrongful conduct alleged herein and therefore sues these defendants by
20 such fictitious names. Plaintiff will amend this complaint when their true names and capabilities
21 are ascertained.

22 22. Plaintiff is informed and believes and thereon alleges that each Defendant, directly
23 or indirectly, or through agents or other persons, employed Plaintiff and other members of the
24 Representative Group , and exercised control over their wages, hours, and working conditions.
25 Plaintiff is informed and believes and thereon alleges that each defendant acted in all respects
26 pertinent to this action as the agent of the other defendants, carried out a joint scheme, business
27 plan or policy in all respects pertinent hereto, and the acts of each defendant are legally attributable
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1 to the other defendants.

2 **IV. GENERAL ALLEGATIONS**

3 23. At all times set forth herein, Defendants employed Plaintiff and other persons in
4 the capacity of non-exempt positions, however titled, throughout the state of California.

5 24. Plaintiff are informed and believe Aggrieved Employees have at all times pertinent
6 hereto been Non-Exempt within the meaning of the California Labor Code and the implementing
7 rules and regulations of the IWC California Wage Orders.

8 25. Plaintiff is informed and believe that all Aggrieved Employees are citizens of the
9 state of California.

10 26. Defendants continue to employ Non-Exempt Employees, however titled, in
11 California and implement a uniform set of policies and practices to all non-exempt employees, as
12 they were all engaged in the generic job duties of providing security service to Defendants' clients.

13 27. Plaintiff is informed and believe, and thereon alleges, that Defendants are and were
14 advised by skilled lawyers and other professionals, employees, and advisors with knowledge of
15 the requirements of California's wage and employment laws.

16 28. On information and belief, during the relevant time frame, Plaintiff and Aggrieved
17 Employees frequently worked well over eight (8) hours in a day and forty (40) hours in a work
18 week.

19 29. During the relevant time frame, Defendants compensated Plaintiff and Aggrieved
20 Employees based upon an hourly rate.

21 30. On information and belief, during the relevant time frame, Plaintiff and Aggrieved
22 Employees typically worked five or more days a week and were assigned to various locations.
23 Plaintiff and Aggrieved Employees typical worked shifts of ten or more hours a day.

24 31. Plaintiff are informed and believe that the Aggrieved Employees were required to
25 keep similar schedules.

26 32. Plaintiff and Aggrieved Employees duties while on security assignment were to
27 provide security for various points of interest throughout a venue or location and to respond to any
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complaints or issues related to the security of the property or event they were assigned to.

33. Plaintiff and the Aggrieved Employees were not properly compensated for all hours worked. For instance, Plaintiff and Aggrieved Employees were often unable to take their lawfully required lunches due to Defendants' failure to provide sufficient staffing for their relief. Defendants' insufficient staffing resulted in Plaintiff and Aggrieved Employees having to regularly work through their lunch breaks as Defendants failed to provide for their relief. Thus even though Plaintiff and Aggrieved Employees were clocked out for their lunches, they were still performing their security duties resulting in such time going uncompensated. Defendants' failure to appropriately compensate Plaintiff and Aggrieved Employees for the off the clock work over time resulted on a large and disproportionate underpayment of wages including overtime wages to Plaintiff and Aggrieved Employees.

34. Plaintiff and the Aggrieved Employees were regularly required to work shifts in excess of five hours without being provided a lawful meal period and over ten hours in a day without being provided a second lawful meal period as required by law.

35. Indeed, during the relevant time, as a consequence of Defendants' staffing and scheduling practices, lack of coverage, work demands, and Defendants' policies and practices, Defendants frequently failed to provide Plaintiff and the Aggrieved Employees timely, legally complaint uninterrupted 30-minute meal periods on shifts over five hours as required by law.

36. Similarly, as a consequence of Defendants' staffing and scheduling practices, lack of coverage, work demands, and Defendants' policies and practices, Defendants frequently failed to provide Plaintiff and the Aggrieved Employees legally compliant second meal periods on shifts over ten hours as required by law.

37. On information and belief, Plaintiff and Aggrieved Employees did not waive their rights to meal periods under the law.

38. Plaintiff and the Aggrieved Employees were not provided with valid lawful on-duty meal periods.

39. Plaintiff and the Aggrieved Employees were not allowed to leave the premises

1 during meal periods.

2 40. Despite the above-mentioned meal period violations, Defendants failed to
3 compensate Plaintiff, and on information and belief, failed to compensate Aggrieved Employees,
4 one additional hour of pay at their regular rate as required by California law when meal periods
5 were not timely or lawfully provided in a compliant manner.

6 41. Plaintiff are informed and believe, and thereon alleges, that Defendants know,
7 should know, knew, and/or should have known that Plaintiff and the other Aggrieved Employees
8 were entitled to receive premium wages based on their regular rate of pay under Labor Code §226.7
9 but were not receiving such compensation.

10 42. In addition, during the relevant time frame, Plaintiff and the Non-Exempt
11 Employees were systematically not authorized and permitted to take one net ten-minute paid, rest
12 period for every four hours worked or major fraction thereof, which is a violation of the Labor
13 Code and IWC wage order.

14 43. Defendants maintained and enforced scheduling practices, policies, and imposed
15 work demands that frequently required Plaintiff and Aggrieved Employees to forego their lawful,
16 paid rest periods of a net ten minutes for every four hours worked or major fraction thereof. Such
17 requisite rest periods were not timely authorized and permitted as a result of Defendants' failure
18 to provide relief for Plaintiff and Aggrieved Employees to take their lawfully required breaks.

19 44. In addition, Plaintiff and the Aggrieved Employees were not allowed to leave the
20 premises during rest breaks.

21 45. Despite the above-mentioned rest period violations, Defendants did not compensate
22 Plaintiff, and on information and belief, did not pay Aggrieved Employees one additional hour of
23 pay at their regular rate as required by California law, including Labor Code section 226.7 and the
24 applicable IWC wage order, for each day on which lawful rest periods were not authorized and
25 permitted.

26 46. Defendants also failed to provide accurate, lawful itemized wage statements to
27 Plaintiff and the Aggrieved Employees in part because of the above specified violations. In
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1 addition, upon information and belief, Defendants omitted an accurate itemization of total hours
2 worked, including premiums due and owing for meal and rest period violations, gross pay and net
3 pay figures from Plaintiff and the Aggrieved Employees' wage statements.

4 47. Plaintiff are informed and believe, and thereon alleges, that at all times herein
5 mentioned, Defendants knew that at the time of termination of employment (or within 72 hours
6 thereof for resignations without prior notice as the case may be) they had a duty to accurately
7 compensate Plaintiff and Aggrieved Employees for all wages owed including minimum wages,
8 meal and rest period premiums, and that Defendants had the financial ability to pay such
9 compensation, but willfully, knowingly, recklessly, and/or intentionally failed to do so in part
10 because of the above-specified violations.

11 48. Upon information and belief, Defendants failed to keep accurate records pursuant
12 to Labor Code § 1174.5.

13 49. Upon information and belief, Defendants knew and or should have known that it is
14 improper to implement policies and commit unlawful acts such as:

15 (a) requiring employees to work four (4) hours or a major fraction thereof without
16 being provided a minimum ten (10) minute rest period and without compensating the employees
17 with one (1) hour of pay at the employees' regular rate of compensation for each workday that a
18 rest period was not provided;

19 (b) requiring employees to work in excess of five (5) hours or ten (10) hours per day
20 without being provided an uninterrupted thirty minute meal period and/or a second meal period,
21 and without compensating employees with one (1) hour of pay at the regular rate of compensation
22 for each workday that such a meal period was not provided;

23 (c) failing to provide accurate itemized wage statements; and

24 (d) failing to timely pay Plaintiff and Aggrieved Employees;

25 50. In addition to the violations above, and on information and belief, Defendants knew
26 they had a duty to compensate Plaintiff and aggrieved employees for the allegations asserted
27 herein, and that Defendants had the financial ability to pay such compensation, but willfully,
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1 knowingly, recklessly, and/or intentionally failed to do so.

2 **V. REPRESENTATIVE CLAIMS**

3 **THE PRIVATE ATTORNEYS GENERAL ACT- LABOR CODE §§ 2698 *et seq.***

4 51. Plaintiff incorporates by reference and re-alleges each and every allegation
5 contained above, as though fully set forth herein.

6 52. On May 4, 2020 Plaintiff complied with notice requirements pursuant to Labor
7 Code section 2699.3. A copy of the letter sent to the LWDA is attached hereto as **Exhibit A**,
8 indicating that the LWDA and Defendants were put on notice of the claims alleged here and that
9 the notice requirement has been satisfied. Sixty five days have passed and the LWDA has not
10 indicated intent to investigate the claims. Therefore, Plaintiff may proceed with this action in a
11 representative capacity. The substance and violations set forth in this Complaint of which the
12 LWDA was provided timely notice, Plaintiff has also sent a copy of this PAGA Representative
13 Action Complaint to the LWDA.

14 53. Plaintiff is an aggrieved employee as defined in Labor Code Section 2699(a).
15 Plaintiff brings this cause of action on behalf of all current and former California Non-Exempt
16 Employees of Defendants.

17 54. Pursuant to Labor Code section 2699(a) Plaintiff seek to recover civil penalties for
18 which Defendants are liable due to numerous Labor Code violations as set forth in this Complaint,
19 including without limitation Labor Code section 201-203, 226, 266.3, 226.7, 510, 558, 512, 1174,
20 1174.5, 1175, 1194, 1197, 1197.1, and, 2698 *et seq.*, applicable IWC Wage Orders and California
21 Code of Regulations, Title 8, section 11000 *et. seq.*

22 55. At all times relevant, Plaintiff and all other aggrieved employees regularly
23 performed non-exempt work in excess of 50% of the time, and thus, were subject to the meal and
24 rest break requirements of the applicable IWC wage order and the Labor Code.

25 56. Defendants violated Labor Code section 510, and 1194 by failing to accurately pay
26 overtime wages owed as discussed above Defendants' failure to account for work time performed
27 off-the-clock by Plaintiff and Aggrieved Employees. Therefore, Defendants violated section 510,
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1 and 1194 by not compensating its Non-Exempt Employees for work performed in excess of eight
2 hours (8) in a day or forty hours in a work week (40). Section 510 of the Labor Code codifies the
3 right to overtime compensation at the rate of one and one-half times the regular rate of pay for all
4 hours worked in excess of eight (8) hours in a day or forty (40) hours in a work week and to
5 overtime compensation twice the regular rate of pay for hours worked in excess of twelve (12)
6 hours in a day or in excess of eight (8) hours in a day on the seventh day of work in a particular
7 work week

8 57. Defendants violated Labor Code section 200, 558, 1194, 1197, by failing to
9 accurately pay at least minimum wages due as a result Defendants' failure to compensate Plaintiff
10 and Aggrieved Employees for off the clock work performed.

11 58. Defendants violated Labor Code sections 512 and 226.7 for failing to provide
12 timely, uninterrupted first and second meal periods and requiring unlawful on duty meal periods,
13 or compensation in lieu thereof. Pursuant to Labor Code section 512, no employer shall employ
14 an employee for a work period of more than five (5) hours without providing a meal break of not
15 less than thirty (30) minutes in which the employee is relieved of all of his or her duties. An
16 employer may not employ an employee for a work period of more than ten (10) hours per day
17 without providing the employee with a second meal period of not less than thirty (30) minutes,
18 except that if the total hours worked is no more than twelve (12) hours, the second meal period
19 may be waived by mutual consent of the employer and the employee only if the first meal period
20 was not waived.

21 59. Defendants failed to provide Plaintiff and all other aggrieved employees
22 uninterrupted duty free meal periods of not less than thirty (30) minutes. Defendants implemented
23 and enforced policies of on duty meal period practices which required employees to work during
24 their meal periods, to forego their meal periods, and/or to return to work from meal periods prior
25 to thirty (30) uninterrupted minutes. As a proximate result of the aforementioned violations,
26 Plaintiff and all other aggrieved employees have been damaged in an amount according to proof
27 at time of trial.
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1 60. Plaintiff, and on information and belief, all aggrieved employees, were
2 systematically not permitted or authorized to take ten minute rest periods for every four hours
3 worked or major fraction thereof, which is a violation of the Labor Code and IWC wage order.
4 Plaintiff and on information and belief, aggrieved employees, were not compensated with one hour
5 of wages for every day in which a rest period was missed or untimely as a result of Defendants'
6 policies, practices, or work demands. By failing to authorize and permit a ten-minute rest period
7 for every four hours or major fraction thereof worked per day by its Non-Exempt Employees, and
8 by failing to provide compensation for such non-provided or shortened rest periods, as alleged
9 above, Defendants willfully violated the provisions of Labor Code sections 226.7, 512 and the
10 applicable IWC Wage Order.

11 61. Defendants also willfully violated Labor Code sections 201-203 by failing to
12 provide all owed wages at separation from employment. Labor Code sections 201 and 202 require
13 Defendants to pay their employees all wages due either at time of firing, or within seventy-two
14 (72) hours of voluntary separation, if not sooner. Section 203 of the Labor Code provides that if
15 an employer willfully fails to timely pay such wages the employer must, as a penalty, continue to
16 pay the subject employee's wages until the back wages are paid in full or an action is commenced.
17 The penalty cannot exceed 30 days of wages.

18 62. Plaintiff and all other aggrieved employees who were separated from employment
19 are entitled to compensation for all forms of wages earned, including but not limited to
20 compensation regular and overtime wages, and for non-provided meal and rest periods, but to date
21 have not received such compensation, therefore entitling them to penalties under PAGA for
22 violations of Labor Code sections 201-203.

23 63. On information and belief, Defendants willfully failed to pay all wages due and
24 owing upon separation from employment. These wages include regular and overtime wages, and
25 meal and rest period premiums.

26 64. On information and belief, Defendants failed to provide accurate itemized wage
27 statements which failed to include all hours worked, including overtime, accurate accounting of,
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1 the lawful meal and rest period premiums due and owing to Plaintiff and the aggrieved employees,
2 and the address of the legal entity that is the employer pursuant to Labor Code section 226(a).

3 65. Additionally, Defendants have no accurate records relating to aggrieved
4 employees' work periods, meal periods, total daily hours worked, total hours worked per payroll
5 period and applicable pay rates, in violation of Wage Order. Similarly, Defendants failed to
6 maintain accurate records relating to hours worked daily in violation of Labor Code sections
7 1174(d), 1174.5.

8 66. As a result of Defendants' unlawful conduct, Plaintiff and Aggrieved employees
9 are entitled to penalties to the extent they were not paid at the prevailing wage rate for all hours
10 worked.

11 67. Plaintiff and the Representative Aggrieved Employees are entitled to recover
12 Penalties and attorneys' fees and costs under Labor Code section 2698, et. seq.

13 **PRAYER FOR RELIEF**

14 WHEREFORE, Plaintiff prays for judgment against Defendants, as follows:

- 15 1. For penalties according to proof, pursuant to Labor Code §§ 2698 et seq.;
- 16 2. For reasonable attorneys' fees and costs; and
- 17 3. For such other and further relief as the Court deems proper.
- 18

19 Dated: May 4, 2020

JAMES R. HAWKINS, APLC

21 _____
22 James R. Hawkins, Esq.
23 Gregory E. Mauro, Esq.
24 Michael Calvo, Esq.

25 Attorneys for Plaintiff, and the general public
26 as private attorneys general
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