

SUMMONS
(CITACION JUDICIAL)

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO): RRL Corporation; and Does 1-10, inclusive,

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):

Michael Daw, on behalf of himself and all
other aggrieved employees,

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is: **Orange County Superior Court**
(El nombre y dirección de la corte es): **Civil Complex Center**
751 West Santa Ana Blvd.
Santa Ana, CA 92701||

CASE NUMBER:
(Número del Caso):

30-2020-01157398-CU-OE-CXC

Judge Randall Sherman

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Jonathan M. Lebe, 777 S. Alameda Street, 2nd Floor, Los Angeles, CA 90021

DAVID H. YAMASAKI, Clerk of the Court

DATE: **08/27/2020**
(Fecha)

Clerk, by
(Secretario)

Handwritten signature

, Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

Sarah Loose

[SEAL]



NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):

3. ☐ on behalf of (specify):

- under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other (specify):

4. ☐ by personal delivery on (date):

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jon@lebelaw.com
LEBE LAW, APLC
777 S. Alameda Street, Second Floor
Los Angeles, CA 90021
Telephone: (213) 358-7046

Attorneys for Plaintiff Michael Daw,
On behalf of himself and all other aggrieved employees

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE**

Michael Daw, on behalf of himself and all
other aggrieved employees,

Plaintiff,

vs.

RRL Corporation; and Does 1-10, inclusive,
Defendants.

Case No. 30-2020-01157398-CU-OE-CXC
Assigned for all purposes to: Judge Randall J. Sherman
Dept: CX105

**COMPLAINT FOR RECOVERY OF
CIVIL PENALTIES PURSUANT TO
THE PRIVATE ATTORNEYS
GENERAL ACT ("PAGA")**

(1) PAGA Civil Penalties for
Violations of Labor Code §§ 1194,
1197.1 and the Applicable Wage Order
for Failure to Pay All Minimum Wages;

(2) PAGA Civil Penalties for
Violations of Labor Code §§ 510, 1194,
1198 and the Applicable Wage Order for
Failure to Pay All Overtime Wages;

(3) PAGA Civil Penalties for
Violations of Labor Code §§ 204, 210
and the Applicable Wage Order for
Failure to Pay All Wages;

(4) PAGA Civil Penalties for
Violations of Labor Code §§ 226.7, 512
and the Applicable Wage Order for
Failure to Provide Timely and Compliant
Meal Periods;

(5) PAGA Civil Penalties for
Violations of Labor Code § 226.7, and
the Applicable Wage Order for Failure to

Provide Timely and Compliant Rest Periods;

(6) PAGA Civil Penalties for Violations of Labor Code §§ 246 *et seq.* for Failure to Provide Sick Pay;

(7) PAGA Civil Penalties for Violations of Labor Code §§ 221 (Unlawful Deduction of Wages);

(8) PAGA Civil Penalties for Violations of Labor Code §§ 226(a), 226.3 and the Applicable Wage Order for Failure to Provide Accurate and Itemized Wage Statements;

(9) PAGA Civil Penalties for Violations of Labor Code §§ 201-203 for Failure to Timely Pay All Wages Due to Terminated/Separated Employees; and

(10) PAGA Civil Penalties for Violations of Labor Code §§ 2802 and the Applicable Wage Order for Failure to Reimburse All Reasonable and Necessary Business Expenses.

DEMAND FOR JURY TRIAL

Plaintiff Michael Daw (“Plaintiff”), on behalf of himself and all others similarly aggrieved alleges as follows:

INTRODUCTION

1. Plaintiff is an individual who worked as a loan officer for Defendant RRL Corporation and Does 1 through 10, inclusive (“Defendants”). Plaintiff seek to recover civil penalties for all California-based “aggrieved employees” during the “Relevant Time Period” (defined as April 6, 2019¹ to the date of trial up to and including the date of commencement of trial) who incurred wage and hour violations and losses as hereinafter described.

2. On June 16, 2020, Plaintiff gave notice of these claims to the California Labor and

¹ The statute of limitations for this matter was tolled pursuant to Cal. Rules of Court, Appendix I, Emergency Rule No. 9.

1 Workforce Development Agency (“LWDA”) and to the agent for service of process for each
2 Defendant. Plaintiff has not received any response from the LWDA indicating that it intends to
3 investigate these claims. Accordingly, Plaintiff has exhausted all notice requirements under the
4 PAGA.

5 **JURISDICTION AND VENUE**

6 3. The relief sought by Plaintiff on behalf of himself and the aggrieved employees
7 below exceeds the minimal jurisdictional limits of the Superior Court and will be established
8 according to proof at trial. The Court has personal jurisdiction over each of the parties because
9 they are either citizens of this State, doing business in this State or otherwise have minimum
10 contacts with this State.

11 4. Based on information and belief, Plaintiff alleges that this entire action arises solely
12 under the laws of the State of California and applicable regulations of the health, safety and wages
13 of the employees residing in the State of California. Plaintiff alleges, on information and belief,
14 that no federal question is raised. Moreover, PAGA civil penalty actions are not subject to federal
15 jurisdiction.

16 5. Venue is proper in this Court because, upon information and belief, Plaintiff
17 worked for Defendants in this county, Defendants transact business or have offices in this county,
18 and the acts and omissions alleged herein took place in this county.

19 **PARTIES**

20 **Plaintiff**

21 6. Plaintiff Michael Daw is a citizen of California who worked for Defendants from
22 within the past year. Details regarding Plaintiff’s precise hours, pay, and revenue generated for
23 Defendant are available by reference to Defendant’s records. Throughout Plaintiff’s employment,
24 he and his co-workers were subjected to wage theft.

25 **Defendants**

26 7. Defendant RRL Corporation is a corporation that does business in California and
27 in the County of Orange.

28 8. Plaintiff is unaware of the true names or capacities of the defendants sued herein

1 under the fictitious names Does 1 through 10 but will seek leave of this Court to amend this
2 Complaint and serve such fictitiously named defendants once their names and capacities become
3 known.

4 9. Plaintiff is informed and believes, and thereon alleges, that each defendant acted in
5 all respects pertinent to this action as the agent of the other defendant, carried out a joint scheme,
6 business plan or policy in all respects pertinent hereto, and the acts of each defendant are legally
7 attributable to the other defendant. Furthermore, defendants in all respects acted as the employer
8 and/or joint employer of Plaintiff and the aggrieved employees.

9 10. Plaintiff is informed and believes, and thereon alleges, that each and all of the acts
10 and omissions alleged herein were performed by, or are attributable to, Defendants and/or DOES
11 1 through 10, acting as the agent or alter ego for the other, with legal authority to act on the other's
12 behalf. The acts of any and all Defendants were in accordance with, and represent, the official
13 policy of Defendants.

14 11. At all relevant times, Defendants, and each of them, acted within the scope of such
15 agency or employment, or ratified each and every act or omission complained of herein. At all
16 relevant times, Defendants, and each of them, aided and abetted the acts and omissions of each
17 and all the other Defendants in proximately causing the damages herein alleged.

18 12. Plaintiff is informed and believes, and thereon alleges, that each of said Defendants
19 is in some manner intentionally, negligently or otherwise responsible for the acts, omissions,
20 occurrences and transactions alleged herein.

21 **GENERAL ALLEGATIONS**

22 13. At all relevant times mentioned herein, Defendants employed Plaintiff and other
23 persons as non-exempt employees.

24 14. Defendants employed Plaintiff during the relevant time period.

25 15. Plaintiff is informed and believes, and thereon alleges, that at all times mentioned
26 herein, Defendants were advised by skilled lawyers, employees and other professionals who were
27 knowledgeable about California wage and hour law, employment and personnel practices and the
28 requirements of California.

1 16. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
2 should have known that Plaintiff and other aggrieved employees were entitled to receive wages
3 for all time worked (including minimum and overtime wages) and that they were not receiving all
4 wages earned for work that was required to be performed, in violation of the Labor Code and IWC
5 Wage Orders. For example, Defendants failed to pay Plaintiff and aggrieved employees the
6 minimum wage for all hours worked when they were forced to work off-the-clock or for non-
7 productive time such as time spent on required meetings, training, administrative tasks, clerical
8 work and rest breaks when they were paid on a commissions-only basis or working off-the-clock.

9 17. Additionally, Defendants failed to pay all overtime wages at the correct rate of pay
10 by failing to account for all non-discretionary wages, bonuses and commissions. Defendants have
11 failed to indemnify Claimant and aggrieved employees for all necessary expenditures or losses
12 incurred. Defendants failed to reimburse Plaintiff and other aggrieved employees for all business
13 expenses incurred for Defendants' benefit, including requiring Plaintiff and other aggrieved
14 employees to use their cellular phones for business purposes, mileage for work-related driving
15 including but not limited to driving a customer's car to their home after a repair, requiring Plaintiff
16 and aggrieved employees to purchase clothing from Defendants, among other expenses.

17 18. Defendants issued wage statements that failed to provide the correct hours worked
18 for regular hours, vacation time and rest and recovery periods, applicable hourly rates of pay for
19 regular, rest and recovery periods, vacation and overtime hours, the rate of pay for all hours (e.g.,
20 vacation pay), all wages earned, and the other items required by Labor Code § 226(a).

21 19. Plaintiff is informed and believes, and thereon alleges, that Defendants had a policy
22 and practice of regularly interrupting Plaintiff and aggrieved employees during purported meal
23 periods and treating purported meal periods as on-duty. Indeed, Defendants required Plaintiff and
24 aggrieved employees to stay on duty and to be responsive to their cellular phones during any
25 purported breaks. Defendants also had no policy or practice of providing second meal periods for
26 shifts 10 hours or longer in length. Defendants knew or should have known that Plaintiff and
27 other aggrieved employees were entitled to receive all meal periods or payment of one (1)
28 additional hour of pay at Plaintiff's and aggrieved employees' regular rate of pay when they did

1 not receive a timely, uninterrupted meal period. In violation of the Labor Code and IWC Wage
2 Orders, Plaintiff and other aggrieved employees did not receive all meal periods or payment of
3 one (1) additional hour of pay at Plaintiff's and aggrieved employees' correct regular rate of pay,
4 including non-discretionary wages, bonuses, and commissions, when they did not receive a timely,
5 uninterrupted meal period.

6 20. Plaintiff is informed and believes, and thereon alleges, that Defendants had no
7 policy or practice of providing uninterrupted rest breaks. Defendants knew or should have known
8 that Plaintiff and other aggrieved employees were entitled to receive all rest breaks or payment of
9 one (1) additional hour of pay at Plaintiff and other aggrieved employees' regular rate of pay when
10 a rest break was missed, and were entitled to payment of wages for time spent when rest breaks
11 were taken. In violation of the Labor Code and IWC Wage Orders, Plaintiff and other aggrieved
12 employees did not receive paid rest breaks or payment of one (1) additional hour of pay at Plaintiff
13 and other aggrieved employees' correct regular rate of pay, including non-discretionary wages,
14 bonuses and commissions, when a rest break was missed.

15 21. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
16 should have known that they were prohibited from withholding amounts from the wages of
17 Plaintiff and other aggrieved employees, aside for certain statutory exceptions. In violation of the
18 Labor Code, Defendants made unlawful deductions from Plaintiff and other aggrieved employees'
19 wages including for, but not limited to, deductions of overtime payments.

20 22. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
21 should have known that Plaintiff and other aggrieved employees were entitled to timely payment
22 of wages during their employment. In violation of the California Labor Code, Plaintiff and other
23 aggrieved employees did not receive payment of all wages within permissible time periods.

24 23. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
25 should have known that Plaintiff and other aggrieved employees were entitled to paid sick leave
26 at their regular rate of pay. In violation of the California Labor Code, Plaintiff and other aggrieved
27 employees did not receive all paid sick leave at their regular rate of pay.

24. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should have known that Plaintiff and aggrieved employees were entitled to timely payment of wages upon separation of employment, including all vested vacation wages. In violation of the California Labor Code, Plaintiff and the aggrieved employees did not receive payment of all wages including, but not limited to, unpaid wages, overtime wages, and accrued but unused vacation wages, within permissible time periods.

25. Plaintiff suffered losses as detailed above as a result of these practices and is therefore an aggrieved employee under Labor Code section 2699(c). Plaintiff is informed and believe that because the Defendants used identical procedures for all employees, there are many other aggrieved employees who suffered the above violations including underpayment of wages, non-compliant meal periods and rest breaks, failure to provide sick leave, failure to reimburse all reasonable and necessary business expenses, and derivative violations for inaccurate pay and wage statements, and failure to timely pay all wages due to employees who were separated or were terminated from employment during the applicable limitations period, and for which recovery under PAGA is owed.

FIRST CAUSE OF ACTION

**PAGA CIVIL PENALTIES FOR VIOLATIONS OF LABOR CODE §§ 1194,
1197.1 AND THE APPLICABLE WAGE ORDER FOR
FAILURE TO PAY ALL MINIMUM WAGES**

(By Plaintiff on behalf of all similarly aggrieved employees against each Defendant)

26. Plaintiff incorporates the preceding paragraphs of this Complaint expressly herein by this reference as if all prior paragraphs were set forth in full, including the Notice to the LWDA dated June 16, 2020.

27. The Labor Code and the Wage Order provide that in the State of California an employer must pay a minimum wage to an employee, which is eight dollars (\$8.00) per hour for all hours worked effective January 1, 2008, nine dollars (\$9.00) per hour for all hours worked effective July 1, 2014, ten dollars (\$10.00) per hour for all hours worked effective January 1, 2016, ten dollars and fifty cents (\$10.50) per hour for all hours worked effective January 1, 2017, eleven

1 dollars (\$11.00) per hour for all hours worked effective January 1, 2018, twelve dollars (\$12.00)
2 per hour for all hours worked effective January 1, 2019, and thirteen dollars (\$13.00) per hour for
3 all hours worked effective January 1, 2020.

4 28. Labor Code section 1194 states: “Notwithstanding any agreement to work for a
5 lesser wage, any employee receiving less than the legal minimum wage or the legal overtime
6 compensation applicable to the employee is entitled to recover in a civil action the unpaid balance
7 of the full amount of this minimum wage or overtime compensation, including interest thereon,
8 reasonable attorney’s fees, and costs of suit.”

9 29. Here, based on the foregoing, Defendants deprived Plaintiff and similarly aggrieved
10 employees of their rightfully earned minimum wage compensation, including overtime
11 compensation at the minimum wage rate, as a direct and proximate result of Defendants’ failure
12 to pay said compensation. Consequently, Plaintiff, on behalf of himself and other aggrieved
13 employees, intends to seek civil penalties pursuant to the PAGA for the alleged violations.

14 30. Labor Code section 1197.1(a)(1) provides that: “For any initial violation that is
15 intentionally committed, one hundred dollars (\$100) for each underpaid employee for each pay
16 period for which the employee is underpaid. This amount shall be in addition to an amount
17 sufficient to recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any
18 applicable penalties imposed pursuant to Section 203.”

19 31. Labor Code section 1191.1(a)(2) provides that: “For each subsequent violation for
20 the same specific offense, two hundred fifty dollars (\$250) for each underpaid employee for each
21 pay period for which the employee is underpaid regardless of whether the initial violation is
22 intentionally committed. This amount shall be in addition to an amount sufficient to recover
23 underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable penalties
24 imposed pursuant to Section 203.

25 32. Violations of the Wage Orders are governed by the civil penalty provisions of Labor
26 Code section 558: “(a) Any Employers or other person acting on behalf of an Employers who
27 violates, or causes to be violated, a section of this chapter or any provision regulating hours and
28 days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty

1 as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each
2 pay period for which the employee was underpaid; (2) For each subsequent violation, one hundred
3 dollars (\$100) for each underpaid employee for each pay period for which the employee was
4 underpaid.”

5 33. Accordingly, the Defendants are subject to assessment of civil penalties pursuant
6 to Labor Code section 1197.1(a) for violations of statutes and subject to civil penalties for
7 violations of the applicable Wage Order as provided by Labor Code section 558(a) in an amount
8 according to proof.

9 34. Plaintiff will seek recovery of attorneys’ fees pursuant to Labor Code section
10 2699(g) and/or Code of Civil Procedure section 1021.5 to the extent enforcement of California
11 labor laws and applicable regulations is determined to be in the public interest and consistent with
12 the Legislative intent stated in Labor Code section 90.5, in an amount according to proof and
13 subject to Court approval.

14 **SECOND CAUSE OF ACTION**

15 **PAGA CIVIL PENALTIES FOR VIOLATIONS OF LABOR CODE §§ 510,**
16 **1194, 1198 AND THE APPLICABLE WAGE ORDER FOR**
17 **FAILURE TO PAY ALL OVERTIME WAGES**

18 **(By Plaintiff on behalf of all similarly aggrieved employees against each Defendant)**

19 35. Plaintiff incorporates the preceding paragraphs of this Complaint expressly herein
20 by this reference as if all prior paragraphs were set forth in full, including the Notice to the LWDA
21 dated June 16, 2020.

22 36. Labor Code section 510(a) states in pertinent part that: “Eight hours of labor
23 constitutes a day’s work. Any work in excess of eight hours in one workday and any work in excess
24 of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in
25 any one workweek shall be compensated at the rate of no less than one and one-half times the
26 regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be
27 compensated at the rate of no less than twice the regular rate of pay for an employee.”

28 37. Labor Code section 1194 states: “Notwithstanding any agreement to work for a

1 lesser wage, any employee receiving less than the legal minimum wage or the legal overtime
2 compensation applicable to the employee is entitled to recover in a civil action the unpaid balance
3 of the full amount of this minimum wage or overtime compensation, including interest thereon,
4 reasonable attorney's fees, and costs of suit."

5 38. Each of these statutes is listed in Labor Code section 2699.5 as a statute for which
6 violation of has been established to be subject to the default civil penalty provisions in Labor Code
7 section 2699(f)(2). That section provides: "(f) For all provisions of this code except those for
8 which a civil penalty is specifically provided, there is established a civil penalty for a violation of
9 these provisions, as follows: ... (2) If, at the time of the alleged violation, the person employs one
10 or more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved employee
11 per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved employee
12 per pay period for each subsequent violation."

13 39. Here, based on the foregoing, Defendants deprived Plaintiff and similarly aggrieved
14 employees of their rightfully earned overtime compensation as a direct and proximate result of
15 Defendants' failure to pay said compensation. Consequently, Plaintiff, on behalf of himself and
16 other aggrieved employees, intends to seek civil penalties pursuant to the PAGA for the alleged
17 violations.

18 40. Violations of the Wage Orders are governed by the civil penalty provisions of Labor
19 Code section 558: "(a) Any Employers or other person acting on behalf of an Employers who
20 violates, or causes to be violated, a section of this chapter or any provision regulating hours and
21 days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty
22 as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each
23 pay period for which the employee was underpaid; (2) For each subsequent violation, one hundred
24 dollars (\$100) for each underpaid employee for each pay period for which the employee was
25 underpaid."

26 41. Accordingly, the Defendants are subject to assessment of civil penalties pursuant
27 to Labor Code section 2699.5 for violations of statutes and subject to civil penalties for violations
28 of the applicable Wage Order as provided by Labor Code section 558(a) in an amount according

1 to proof.

2 42. Plaintiff will seek recovery of attorneys' fees pursuant to Labor Code section
3 2699(g) and/or Code of Civil Procedure section 1021.5 to the extent enforcement of California
4 labor laws and applicable regulations is determined to be in the public interest and consistent with
5 the Legislative intent stated in Labor Code section 90.5, in an amount according to proof and
6 subject to Court approval.

7 **THIRD CAUSE OF ACTION**

8 **PAGA CIVIL PENALTIES FOR VIOLATIONS OF LABOR CODE § 204, 210 AND THE**
9 **APPLICABLE WAGE ORDER FOR FAILURE TO PAY ALL WAGES**

10 **(By Plaintiff on behalf of all similarly aggrieved employees against each Defendant)**

11 43. Plaintiff incorporates the preceding paragraphs of this Complaint expressly herein
12 by this reference as if all prior paragraphs were set forth in full, including the Notice to the LWDA
13 dated June 16, 2020.

14 44. Labor Code section 204(a) provides: "All wages, other than those mentioned in
15 Section 201, 201.3, 202, 204.1, or 204.2, earned by any person in any employment are due and
16 payable twice during each calendar month, on days designated in advance by the Employers as the
17 regular paydays. Labor performed between the 1st and 15th days, inclusive, of any calendar month
18 shall be paid for between the 16th and the 26th day of the month during which the labor was
19 performed, and labor performed between the 16th and the last day, inclusive, of any calendar
20 month, shall be paid for between the 1st and 10th day of the following month."

21 45. Labor Code section 210(a) provides: "(a) **In addition to, and entirely**
22 **independent and apart from, any other penalty provided in this article**, every person who fails
23 to pay the wages of each employee as provided in Sections 201.3, 204, 204b, 204.1, 204.2, 205,
24 205.5, and 1197.5, shall be subject to a civil penalty as follows: (1) For any initial violation, one
25 hundred dollars (\$100) for each failure to pay each employee. (2) For each subsequent violation,
26 or any willful or intentional violation, two hundred dollars (\$200) for each failure to pay each
27 employee, plus 25 percent of the amount unlawfully withheld." [Emphasis added.]

28 46. This statute is listed in Labor Code section 2699.5 as a statute for which violation

1 of has been established to be subject to the default civil penalty provisions in Labor Code section
2 2699(f)(2). That section provides: “(f) For all provisions of this code except those for which a civil
3 penalty is specifically provided, there is established a civil penalty for a violation of these
4 provisions, as follows: ... (2) If, at the time of the alleged violation, the person employs one or
5 more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved employee per
6 pay period for the initial violation and two hundred dollars (\$200) for each aggrieved employee
7 per pay period for each subsequent violation.”

8 47. Here, based on the foregoing, Defendants deprived Plaintiff and similarly aggrieved
9 employees of their rightfully earned compensation, including overtime compensation and hours at
10 the minimum wage rate, as a direct and proximate result of Defendants’ failure to pay said
11 compensation. Consequently, Plaintiff, on behalf of himself and other aggrieved employees,
12 intends to seek civil penalties pursuant to the PAGA for the alleged violations.

13 48. Violations of the Wage Orders are governed by the civil penalty provisions of Labor
14 Code section 558: “(a) Any Employers or other person acting on behalf of an Employers who
15 violates, or causes to be violated, a section of this chapter or any provision regulating hours and
16 days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty
17 as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each
18 pay period for which the employee was underpaid; (2) For each subsequent violation, one hundred
19 dollars (\$100) for each underpaid employee for each pay period for which the employee was
20 underpaid.”

21 49. Accordingly, the Defendants are subject to assessment of civil penalties pursuant
22 to Labor Code section 2699.5 for violations of statutes and subject to civil penalties for violations
23 of the applicable Wage Order as provided by Labor Code section 558(a) in an amount according
24 to proof.

25 50. Plaintiff will seek recovery of attorneys’ fees pursuant to Labor Code section
26 2699(g) and/or Code of Civil Procedure section 1021.5 to the extent enforcement of California
27 labor laws and applicable regulations is determined to be in the public interest and consistent with
28 the Legislative intent stated in Labor Code section 90.5, in an amount according to proof and

1 subject to Court approval.

2 **FOURTH CAUSE OF ACTION**

3 **PAGA CIVIL PENALTIES FOR VIOLATIONS OF LABOR CODE §§ 226.7, 512**

4 **AND THE APPLICABLE WAGE ORDER FOR FAILURE TO PROVIDE**

5 **TIMELY AND COMPLIANT MEAL PERIODS**

6 **(By Plaintiff on behalf of all similarly aggrieved employees against each Defendant)**

7 51. Plaintiff incorporates the preceding paragraphs of this Complaint expressly herein
8 by this reference as if all prior paragraphs were set forth in full, including the Notice to the LWDA
9 dated April 1, 2020, and the Amended Notice dated July 8, 2020.

10 52. Labor Code section 226.7(b) provides: “An Employers shall not require an
11 employee to work during a meal or rest or recovery period mandated pursuant to an applicable
12 statute, or applicable regulation, standard, or order of the Industrial Welfare Commission, the
13 Occupational Safety and Health Standards Board, or the Division of Occupational Safety and
14 Health.”

15 53. Labor Code section 226.7(c) provides: “If an Employers fails to provide an
16 employee a meal or rest or recovery period in accordance with a state law, including, but not
17 limited to, an applicable statute or applicable regulation, standard, or order of the Industrial
18 Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of
19 Occupational Safety and Health, the Employers shall pay the employee one additional hour of pay
20 at the employee’s regular rate of compensation for each workday that the meal or rest or recovery
21 period is not provided.”

22 54. Labor Code section 512(a) provides: “(a) An Employers shall not employ an
23 employee for a work period of more than five hours per day without providing the employee with
24 a meal period of not less than 30 minutes, except that if the total work period per day of the
25 employee is no more than six hours, the meal period may be waived by mutual consent of both the
26 Employers and employee. An Employers shall not employ an employee for a work period of more
27 than 10 hours per day without providing the employee with a second meal period of not less than
28 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period

1 may be waived by mutual consent of the Employers and the employee only if the first meal period
2 was not waived.”

3 55. Here, based on the foregoing, Defendants employed Plaintiff and aggrieved
4 employees for work periods of more than five hours without a timely meal period of not less than
5 thirty minutes, where they were free from employer control, and failed to compensate them for
6 such meal periods at the correct regular rate of pay, as required by Labor Code § 226.7 and the
7 applicable Wage Order.

8 56. Labor Code sections 226.7 and 512 are statutes specifically listed in Labor Code
9 section 2699.5 as statutes for which violations of have been established to be subject to the default
10 civil penalty provisions in Labor Code section 2699(f)(2). That section provides: “(f) For all
11 provisions of this code except those for which a civil penalty is specifically provided, there is
12 established a civil penalty for a violation of these provisions, as follows: ... (2) If, at the time of
13 the alleged violation, the person employs one or more employees, the civil penalty is one hundred
14 dollars (\$100) for each aggrieved employee per pay period for the initial violation and two hundred
15 dollars (\$200) for each aggrieved employee per pay period for each subsequent violation.”

16 57. Violations of the Wage Orders are governed by the civil penalty provisions of Labor
17 Code section 558: “(a) Any Employers or other person acting on behalf of an Employers who
18 violates, or causes to be violated, a section of this chapter or any provision regulating hours and
19 days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty
20 as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each
21 pay period for which the employee was underpaid; (2) For each subsequent violation, one hundred
22 dollars (\$100) for each underpaid employee for each pay period for which the employee was
23 underpaid.”

24 58. Accordingly, the Defendants are subject to assessment of civil penalties pursuant
25 to Labor Code section 2699(f)(2) for violations of statutes and subject to civil penalties for
26 violations of the applicable Wage Order as provided by Labor Code section 558(a) in an amount
27 according to proof.

28 59. Plaintiff will seek recovery of attorneys’ fees pursuant to Labor Code section

1 2699(g) and/or Code of Civil Procedure section 1021.5 to the extent enforcement of California
2 labor laws and applicable regulations is determined to be in the public interest and consistent with
3 the Legislative intent stated in Labor Code section 90.5, in an amount according to proof and
4 subject to Court approval.

5 **FIFTH CAUSE OF ACTION**

6 **PAGA CIVIL PENALTIES FOR VIOLATIONS OF LABOR CODE § 226.7 AND THE**
7 **APPLICABLE WAGE ORDER, FOR FAILURE TO PROVIDE TIMELY**
8 **AND COMPLIANT REST PERIODS**

9 **(By Plaintiff on behalf of all similarly aggrieved employees against each Defendant)**

10 60. Plaintiff incorporates the preceding paragraphs of this Complaint expressly herein
11 by this reference as if all prior paragraphs were set forth in full, including the Notice to the LWDA
12 dated June 16, 2020.

13 61. Labor Code section 226.7(b) provides: “An Employers shall not require an
14 employee to work during a meal or rest or recovery period mandated pursuant to an applicable
15 statute, or applicable regulation, standard, or order of the Industrial Welfare Commission, the
16 Occupational Safety and Health Standards Board, or the Division of Occupational Safety and
17 Health.”

18 62. Labor Code section 226.7(c) provides: “If an Employers fails to provide an
19 employee a meal or rest or recovery period in accordance with a state law, including, but not
20 limited to, an applicable statute or applicable regulation, standard, or order of the Industrial
21 Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of
22 Occupational Safety and Health, the Employers shall pay the employee one additional hour of pay
23 at the employee’s regular rate of compensation for each workday that the meal or rest or recovery
24 period is not provided.”

25 63. Here, based on the foregoing, Defendants employed Plaintiff and aggrieved
26 employees for work periods of four hours or major fraction thereof without timely rest periods of
27 ten minutes where they were free of employer control, and failed to compensate them for such rest
28 periods, as required by Labor Code section 226.7 and the applicable Wage Order.

1 64. Labor Code sections 226.7 is a statute specifically listed in Labor Code section
2 2699.5 as statutes for which violations of have been established to be subject to the default civil
3 penalty provisions in Labor Code section 2699(f)(2). That section provides: “(f) For all provisions
4 of this code except those for which a civil penalty is specifically provided, there is established a
5 civil penalty for a violation of these provisions, as follows: ... (2) If, at the time of the alleged
6 violation, the person employs one or more employees, the civil penalty is one hundred dollars
7 (\$100) for each aggrieved employee per pay period for the initial violation and two hundred dollars
8 (\$200) for each aggrieved employee per pay period for each subsequent violation.”

9 65. Violations of the Wage Orders are governed by the civil penalty provisions of Labor
10 Code section 558: “(a) Any Employers or other person acting on behalf of an Employers who
11 violates, or causes to be violated, a section of this chapter or any provision regulating hours and
12 days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty
13 as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each
14 pay period for which the employee was underpaid; (2) For each subsequent violation, one hundred
15 dollars (\$100) for each underpaid employee for each pay period for which the employee was
16 underpaid.”

17 66. Accordingly, Defendants are subject to assessment of civil penalties pursuant to
18 Labor Code section 2699(f)(2) for violations of statutes and subject to civil penalties for violations
19 of the applicable Wage Order as provided by Labor Code section 558(a) in an amount according
20 to proof.

21 67. Plaintiff will seek recovery of attorneys’ fees pursuant to Labor Code section
22 2699(g) and/or Code of Civil Procedure section 1021.5 to the extent enforcement of California
23 labor laws and applicable regulations is determined to be in the public interest and consistent with
24 the Legislative intent stated in Labor Code section 90.5, in an amount according to proof and
25 subject to Court approval.

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1 **SIXTH CAUSE OF ACTION**

2 **PAGA CIVIL PENALTIES FOR VIOLATIONS OF LABOR CODE §§ 246 *ET SEQ.* FOR**
3 **FAILURE TO PROVIDE SICK PAY**

4 **(By Plaintiff on behalf of all similarly aggrieved employees and against each Defendant)**

5 68. Plaintiff incorporates the preceding paragraphs of this Complaint expressly herein
6 by this reference as if all prior paragraphs were set forth in full, including the Notice to the LWDA
7 dated June 16, 2020.

8 69. California's Healthy Workplaces Healthy Families Act of 2014 was enacted to
9 provide employees who have worked in California for 30 or more days from the commencement
10 of employment with paid sick days to be accrued at least one hour for every 30 hours worked.

11 70. Pursuant to Labor Code § 246 (b)(4) employers must provide no less than 24 hours
12 or three 3 days of paid sick leave or equivalent paid leave or paid time off in each year of the
13 employee's employment.

14 71. Labor Code § 246 (i) provides that an employer must provide an employee with
15 written notice that sets forth the amount of paid sick leave available or paid time off that an
16 employer provides in lieu of sick leave for use on either the employee's itemized wage statement
17 or in a separate written statement provided on the designated pay date with the employee's wages.

18 72. Here, based on the foregoing, Plaintiff and other aggrieved employees did not
19 receive sick leave at their regular rate of pay, in violation of Labor Code §§ 246 *et seq.*

20 73. Consequently, Plaintiff, on behalf of himself and other aggrieved employees, seeks
21 to recover civil penalties pursuant to the PAGA for the alleged violations in an amount according
22 to proof and subject to Court approval.

23 74. Plaintiff will seek recovery of attorneys' fees pursuant to Labor Code section
24 2699(g) and/or Code of Civil Procedure section 1021.5 to the extent enforcement of California
25 labor laws and applicable regulations is determined to be in the public interest and consistent with
26 the Legislative intent stated in Labor Code section 90.5, in an amount according to proof and
27 subject to Court approval.

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1 2699(g) and/or Code of Civil Procedure section 1021.5 to the extent enforcement of California
2 labor laws and applicable regulations is determined to be in the public interest and consistent with
3 the Legislative intent stated in Labor Code section 90.5, in an amount according to proof and
4 subject to Court approval.

5 **EIGHTH CAUSE OF ACTION**

6 **PAGA CIVIL PENALTIES FOR LABOR CODE §§ 226(a), 226.3 AND**
7 **THE APPLICABLE WAGE ORDER FOR FAILURE TO PROVIDE ACCURATE AND**
8 **ITEMIZED WAGE STATEMENTS**

9 **(By Plaintiff on behalf of all similarly aggrieved employees and against each Defendant)**

10 82. Plaintiff incorporates the preceding paragraphs of this Complaint expressly herein
11 by this reference as if all prior paragraphs were set forth in full, including the Notice to the LWDA
12 dated June 16, 2020.

13 83. Labor Code section 226(a) provides in pertinent part: “(a) An employer,
14 semimonthly or at the time of each payment of wages, shall furnish to his or her employee, either
15 as a detachable part of the check, draft, or voucher paying the employee’s wages, or separately if
16 wages are paid by personal check or cash, an accurate itemized statement in writing showing (1)
17 gross wages earned, (2) total hours worked by the employee. . . (3) the number of piece-rate units
18 earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions,
19 provided that all deductions made on written orders of the employee may be aggregated and shown
20 as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is
21 paid, . . . (8) the name and address of the legal entity that is the employer . . . and (9) all applicable
22 hourly rates in effect during the pay period and the corresponding number of hours worked at each
23 hourly rate by the employee...”

24 84. Labor Code section 226.3 provides in pertinent part: “Any employer who violates
25 subdivision (a) of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty
26 dollars (\$250) per employee per violation in an initial citation and one thousand dollars (\$1,000)
27 per employee for each violation in a subsequent citation, for which the employer fails to provide
28 the employee a wage deduction statement or fails to keep the records required in subdivision (a)

1 of Section 226. The civil penalties provided for in this section are in addition to any other penalty
2 provided by law...”

3 85. Here, during Plaintiff and aggrieved employees’ employment with Defendants,
4 Defendants intentionally and knowingly failed to provide Plaintiff and aggrieved employees with
5 timely and accurate wage and hour statements showing, among other things, gross and net wages
6 earned, total hours worked, all hours worked at the applicable hourly rate, and all applicable hourly
7 rates in effect during each pay period and the corresponding number of hours worked at each
8 hourly rate.

9 86. Defendants systemically failed to provide such wage statements with accurate
10 information and engaged in a policy of failing to pay for all hours actually worked.

11 87. The aforementioned conduct violated Labor Code section 226(a). It also violated
12 the applicable Wage Order on required recordkeeping. Finally, the practices described herein
13 violate Labor Code section 226.3, which assigns a specific civil penalty scheme for enforcement
14 actions by the Department of Labor Standards and Enforcement (“DLSE”) or the LWDA.

15 88. Labor Code section 226(a) is a statute listed under Labor Code section 2699.5 for
16 which civil penalties may be recovered under the default civil penalty scheme outlined in Labor
17 Code section 2699(f)(2), cited above.

18 89. Labor Code section 226.3 provides an additional recoverable penalty “in the
19 amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and
20 one thousand dollars (\$1,000) per employee for each violation in a subsequent citation...” The
21 civil penalty assessments under Section 226.3 “are **in addition** to any other penalty provided by
22 law.” [Emphasis added.]

23 90. Consequently, Plaintiff, on behalf of himself and other aggrieved employees, seeks
24 to recover civil penalties pursuant to the PAGA for the alleged violations in an amount according
25 to proof and subject to Court approval.

26 91. Plaintiff will also seek recovery of attorneys’ fees and litigation expenses pursuant
27 to Labor Code section 2699(g) and/or Code of Civil Procedure section 1021.5 to the extent
28 enforcement of California labor laws and applicable regulations is determined to be in the public

1 interest and consistent with the Legislative intent stated in Labor Code section 90.5, in an amount
2 according to proof and subject to Court approval.

3 **NINTH CAUSE OF ACTION**

4 **PAGA CIVIL PENALTIES FOR VIOLATIONS OF LABOR CODE §§ 201-203**
5 **FOR FAILURE TO TIMELY PAY ALL WAGES DUE TO**
6 **TERMINATED/SEPARATED EMPLOYEES**

7 **(By Plaintiff on behalf of all similarly aggrieved employees against each Defendant)**

8 92. Plaintiff incorporates the preceding paragraphs of this Complaint expressly herein
9 by this reference as if all prior paragraphs were set forth in full, including the Notice to the LWDA
10 dated June 16, 2020.

11 93. Labor Code section 201 provides in part: “If an employer discharges an employee,
12 the wages earned and unpaid at the time of discharge are due and payable immediately.”

13 94. Labor Code section 202 provides in part: “ If an employee not having a written
14 contract for a definite period quits his or her employment, his or her wages shall become due and
15 payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice
16 of his or her intention to quit, in which case the employee is entitled to his or her wages at the time
17 of quitting.

18 95. Labor Code section 203 provides: “If an employer willfully fails to pay, without
19 abatement or reduction, in accordance with Sections 201, 201.3, 201.5, 201.9, 202, and 205.5, any
20 wages of an employee who is discharged or who quits, the wages of the employee shall continue
21 as a penalty from the due date thereof at the same rate until paid or until an action therefor is
22 commenced; but the wages shall not continue for more than 30 days. An employee who secretes
23 or absents themselves or themselves to avoid payment to him or her, or who refuses to receive the
24 payment when fully tendered to him or her, including any penalty then accrued under this section,
25 is not entitled to any benefit under this section for the time during which he or she so avoids
26 payment.”

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96. Labor Code section 203 is a statute listed under Labor Code section 2699.5 for which civil penalties may be recovered under the default civil penalty scheme outlined in Labor Code section 2699(f)(2), cited above.

97. Here, Plaintiff and other aggrieved employees who were separated or were terminated from their employment within the applicable limitations period were not paid all wages due in a timely manner including as detailed above.

98. Consequently, Plaintiff, on behalf of himself and other aggrieved employees, seeks to recover civil penalties pursuant to the PAGA for the alleged violations per pay period in an amount according to proof and subject to Court approval.

99. Plaintiff will also seek recovery of attorneys' fees and litigation expenses pursuant to Labor Code section 2699(g) and/or Code of Civil Procedure section 1021.5 to the extent enforcement of California labor laws and applicable regulations is determined to be in the public interest and consistent with the Legislative intent stated in Labor Code section 90.5, in an amount according to proof and subject to Court approval.

TENTH CAUSE OF ACTION

**PAGA CIVIL PENALTIES FOR VIOLATIONS OF LABOR CODE §§ 2800, 2802 AND
THE APPLICABLE WAGE ORDER FOR FAILURE TO REIMBURSE ALL
REASONABLE AND NECESSARY BUSINESS EXPENSES
(By Plaintiff on behalf of all similarly aggrieved employees against each Defendant)**

100. Plaintiff incorporates the preceding paragraphs of this Complaint expressly herein by this reference as if all prior paragraphs were set forth in full, including the Notice to the LWDA dated June 16, 2020.

101. California Labor Code section 2802(a) provides: “An employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful.”

102. California Labor Code section 2802(b) provides: “All awards made by a court or

1 by the Division of Labor Standards Enforcement for reimbursement of necessary expenditures
2 under this section shall carry interest at the same rate as judgments in civil actions. Interest shall
3 accrue from the date on which the employee incurred the necessary expenditure or loss.”

4 103. California Labor Code section 2802(c) provides: “For purposes of this section, the
5 term ‘necessary expenditures or losses shall include all reasonable costs, including, but not limited
6 to, attorney’s fees incurred by the employee enforcing the rights granted by this section.”

7 104. California Labor Code section 2802(d) provides: “In addition to recovery of
8 penalties under this section in a court action or proceedings pursuant to Section 98, the
9 commissioner may issue a citation against an employer or other person acting on behalf of the
10 employer who violates reimbursement obligations for an amount determined to be due to an
11 employee under this section. The procedures for issuing, contesting, and enforcing judgments for
12 citations or civil penalties issued by the commissioner shall be the same as those set forth in Section
13 1197.1. Amounts recovered pursuant to this section shall be paid to the affected employee.”

14 105. California Labor Code section 1197.1 provides: “(1) For any initial violation that
15 is intentionally committed, one hundred dollars (\$100) for each underpaid employee for each pay
16 period for which the employee is underpaid. This amount shall be in addition to an amount
17 sufficient to recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any
18 applicable penalties imposed pursuant to Section 203. (2) For each subsequent violation for the
19 same specific offense, two hundred fifty dollars (\$250) for each underpaid employee for each pay
20 period for which the employee is underpaid regardless of whether the initial violation is
21 intentionally committed. This amount shall be in addition to liquidated damages pursuant to
22 Section 1194.2, and any applicable penalties imposed pursuant to Section 203.

23 106. Business expenses incurred by employees for work are not waivable, and
24 Defendants are liable if the expenses were required in order to perform work. Here, Plaintiff and
25 other aggrieved employees did not receive adequate reimbursement for necessary business
26 expenses, including but not limited to reimbursement for use of their personal cell phones and
27 personal home internet expenses.

28 107. As a result of Defendants’ conduct, Plaintiff, on behalf of himself and other

aggrieved employees, seeks to recover civil penalties pursuant to the PAGA for the alleged failure to pay business-related expenses, in an amount according to proof and subject to Court approval.

108. Plaintiff will also seek recovery of attorneys' fees and litigation expenses pursuant to Labor Code section 2699(g) and/or Code of Civil Procedure section 1021.5 to the extent enforcement of California labor laws and applicable regulations is determined to be in the public interest and consistent with the Legislative intent stated in Labor Code section 90.5, in an amount according to proof and subject to Court approval.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for relief as follows:

1. On the First Cause of Action, Plaintiff individually and on behalf of all aggrieved employees against all Defendants, Plaintiff seeks:

a. Civil Penalties pursuant to Labor Code § 1197.1:

i. \$100 for each aggrieved employee per pay period for the initial violation;

and

ii. \$250 for each aggrieved employee per pay period for each subsequent violation; and

b. Civil Penalties pursuant to Labor Code § 558:

i. \$50 for each underpaid employee for each pay period; and

ii. \$100 per employee per pay period for subsequent violations.

2. On the Second Cause of Action, by Plaintiff individually and on behalf of all aggrieved employees against all Defendants, Plaintiff seeks:

a. Civil penalties pursuant to Labor Code § 2699(f):

i. \$100 for each aggrieved employee per pay period for the initial violation;

and

ii. \$200 for each aggrieved employee per pay period for each subsequent violation; and

b. Civil penalties pursuant to Labor Code § 558:

i. \$50 for each underpaid employee for each pay period; and

- 1 ii. \$100 per employee per pay period for subsequent violations.
- 2 3. On the Third Cause of Action, by Plaintiff individually and on behalf of all
- 3 aggrieved employees against all Defendants, Plaintiff seeks:
- 4 a. Civil penalties pursuant to Labor Code § 2699(f):
- 5 i. \$100 for each aggrieved employee per pay period for the initial violation;
- 6 and
- 7 ii. \$200 for each aggrieved employee per pay period for each subsequent
- 8 violation; and
- 9 b. Civil penalties pursuant to Labor Code § 558:
- 10 i. \$50 for each underpaid employee for each pay period; and
- 11 ii. \$100 per employee per pay period for subsequent violations.
- 12 4. On the Fourth Cause of Action, by Plaintiff individually and on behalf of all
- 13 aggrieved employees against all Defendants, Plaintiff seeks:
- 14 a. Civil penalties pursuant to Labor Code § 2699(f):
- 15 i. \$100 for each aggrieved employee per pay period for the initial violation;
- 16 and
- 17 ii. \$200 for each aggrieved employee per pay period for each subsequent
- 18 violation; and
- 19 b. Civil penalties pursuant to Labor Code § 558:
- 20 i. \$50 for each underpaid employee for each pay period; and
- 21 ii. \$100 per employee per pay period for subsequent violations.
- 22 5. On the Fifth Cause of Action, by Plaintiff individually and on behalf of all
- 23 aggrieved employees against all Defendants, Plaintiff seeks:
- 24 a. Civil penalties pursuant to Labor Code § 2699(f):
- 25 i. \$100 for each aggrieved employee per pay period for the initial violation
- 26 and \$200 for each aggrieved employee per pay period for each subsequent
- 27 violation; and
- 28 b. Civil penalties pursuant to Labor Code § 558:

- i. \$50 for each underpaid employee for each pay period; and
 - ii. \$100 per employee per pay period for subsequent violations.
 6. On the Sixth Cause of Action, by Plaintiff individually and on behalf of all aggrieved employees against all Defendants, Plaintiff seeks:
 - a. Civil penalties pursuant to Labor Code § 2699(f):
 - i. \$100 for each aggrieved employee per pay period for the initial violation; and
 - ii. \$200 for each aggrieved employee per pay period for each subsequent violation; and/or
 - b. Civil penalties pursuant to Labor Code § 248.5.
 7. On the Seventh Cause of Action, by Plaintiff individually and on behalf of all aggrieved employees against all Defendants, Plaintiff seeks:
 - a. Civil penalties pursuant to Labor Code § 2699(f):
 - i. \$100 for each aggrieved employee per pay period for the initial violation; and
 - ii. \$200 for each aggrieved employee per pay period for each subsequent violation; and
 - b. Civil penalties pursuant to Labor Code § 225.5:
 - i. \$100 for each aggrieved employee per pay period for the initial violation; and
 - ii. \$200 for each aggrieved employee per pay period for each subsequent violation.
 8. On the Eighth Cause of Action, by Plaintiff individually and on behalf of all aggrieved employees against all Defendants, Plaintiff seeks:
 - a. Civil penalties pursuant to Labor Code § 226:
 - i. \$50 per employee per violation for an initial citation and \$100 per employee for each violation for subsequent citations, not to exceed \$4,000 per employee; and

1 b. Civil penalties pursuant to Labor Code § 226.3:

2 i. \$250 per employee per violation for an initial citation; and

3 ii. \$1,000 per employee for each violation for subsequent citation;

4 9. On the Ninth Cause of Action, by Plaintiff individually and on behalf of all
5 aggrieved employees against all Defendants, Plaintiff seeks:

6 a. Civil penalties pursuant to Labor Code § 2699(f):

7 i. \$100 for each aggrieved employee per pay period for the initial violation;

8 and

9 ii. \$200 for each aggrieved employee per pay period for each subsequent
10 violation.

11 10. On the Tenth Cause of Action, by Plaintiff individually and on behalf of all
12 aggrieved employees against all Defendants, Plaintiff seeks:

13 a. Civil penalties pursuant to Labor Code § 1197.1:

14 i. \$100 for each aggrieved employee per pay period for the initial violation;

15 and

16 ii. \$250 for each aggrieved employee per pay period for each subsequent
17 violation; and

18 b. Civil penalties pursuant to Labor Code § 2699(f):

19 i. \$100 for each aggrieved employee per pay period for the initial violation;

20 and

21 ii. \$200 for each aggrieved employee per pay period for each subsequent
22 violation.

23 11. For reasonable attorneys' fees under the California Labor Code and any other
24 statutes, including California Labor Code of Civil Procedure § 1021.5 and/or California Labor
25 Code § 2699(g);

26 12. For costs of the suit incurred herein;

27 13. For pre- and post-judgment interest at the prevailing statutory rate;

1 14. For civil penalties as described above pursuant to PAGA, 75% of which will be
2 paid to the Labor Workforce Development Agency and 25% of which will be distributed to the
3 aggrieved employees;

4 15. For such equitable relief as the Court may deem just and proper; and

5 16. For such other relief as the Court may deem proper.

6
7 DATED: August 27, 2020

LEBE LAW, APLC

8
9 By: 
10 Jonathan M. Lebe

11 Attorney for Plaintiff Michael Daw, individually and
12 on behalf of all others similarly situate

13 **DEMAND FOR JURY TRIAL**

14 Plaintiff demands a trial by jury on all claims so triable.

15 DATED: August 27, 2020

LEBE LAW, APLC

16
17 By: 
18 Jonathan M. Lebe

19 Attorney for Plaintiff Michael Daw, individually and
20 on behalf of all others similarly situated

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you **must** complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

Auto (22)—Personal Injury/Property Damage/Wrongful Death
Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury/Wrongful Death
Product Liability (*not asbestos or toxic/environmental*) (24)
Medical Malpractice (45)
Medical Malpractice—Physicians & Surgeons
Other Professional Health Care Malpractice
Other PI/PD/WD (23)
Premises Liability (e.g., slip and fall)
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
Intentional Infliction of Emotional Distress
Negligent Infliction of Emotional Distress
Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)
Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)
Defamation (e.g., slander, libel) (13)
Fraud (16)
Intellectual Property (19)
Professional Negligence (25)
Legal Malpractice
Other Professional Malpractice (*not medical or legal*)
Other Non-PI/PD/WD Tort (35)

Employment

Wrongful Termination (36)
Other Employment (15)

Contract

Breach of Contract/Warranty (06)
Breach of Rental/Lease Contract (*not unlawful detainer or wrongful eviction*)
Contract/Warranty Breach—Seller Plaintiff (*not fraud or negligence*)
Negligent Breach of Contract/Warranty
Other Breach of Contract/Warranty
Collections (e.g., money owed, open book accounts) (09)
Collection Case—Seller Plaintiff
Other Promissory Note/Collections Case
Insurance Coverage (*not provisionally complex*) (18)
Auto Subrogation
Other Coverage
Other Contract (37)
Contractual Fraud
Other Contract Dispute

Real Property

Eminent Domain/Inverse Condemnation (14)
Wrongful Eviction (33)
Other Real Property (e.g., quiet title) (26)
Writ of Possession of Real Property
Mortgage Foreclosure
Quiet Title
Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

Unlawful Detainer

Commercial (31)
Residential (32)
Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

Judicial Review

Asset Forfeiture (05)
Petition Re: Arbitration Award (11)
Writ of Mandate (02)
Writ—Administrative Mandamus
Writ—Mandamus on Limited Court Case Matter
Writ—Other Limited Court Case Review
Other Judicial Review (39)
Review of Health Officer Order
Notice of Appeal—Labor
Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

Enforcement of Judgment

Enforcement of Judgment (20)
Abstract of Judgment (Out of County)
Confession of Judgment (*non-domestic relations*)
Sister State Judgment
Administrative Agency Award (*not unpaid taxes*)
Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

RICO (27)
Other Complaint (*not specified above*) (42)
Declaratory Relief Only
Injunctive Relief Only (*non-harassment*)
Mechanics Lien
Other Commercial Complaint Case (*non-tort/non-complex*)
Other Civil Complaint (*non-tort/non-complex*)

Miscellaneous Civil Petition

Partnership and Corporate Governance (21)
Other Petition (*not specified above*) (43)
Civil Harassment
Workplace Violence
Elder/Dependent Adult Abuse
Election Contest
Petition for Name Change
Petition for Relief From Late Claim
Other Civil Petition

SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE

ALTERNATIVE DISPUTE RESOLUTION (ADR)
INFORMATION PACKAGE

NOTICE TO PLAINTIFF(S) AND/OR CROSS-COMPLAINANT(S):

Rule 3.221(c) of the California Rules of Court requires you to serve a copy of the ADR Information Package along with the complaint and/or cross-complaint.

California Rules of Court – Rule 3.221
Information about Alternative Dispute Resolution (ADR)

(a) Each court shall make available to the plaintiff, at the time of filing of the complaint, an ADR Information Package that includes, at a minimum, all of the following:

- (1) General information about the potential advantages and disadvantages of ADR and descriptions of the principal ADR processes.
- (2) Information about the ADR programs available in that court, including citations to any applicable local court rules and directions for contacting any court staff responsible for providing parties with assistance regarding ADR.
- (3) Information about the availability of local dispute resolution programs funded under the Dispute Resolutions Program Act (DRPA), in counties that are participating in the DRPA. This information may take the form of a list of the applicable programs or directions for contacting the county's DRPA coordinator.
- (4) An ADR stipulation form that parties may use to stipulate to the use of an ADR process.

(b) A court may make the ADR Information Package available on its website as long as paper copies are also made available in the clerk's office.

(c) The plaintiff must serve a copy of the ADR Information Package on each defendant along with the complaint. Cross-complainants must serve a copy of the ADR Information Package on any new parties to the action along with the cross-complaint.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE

ADR Information

Introduction.

Most civil disputes are resolved without filing a lawsuit, and most civil lawsuits are resolved without a trial. The courts and others offer a variety of Alternative Dispute Resolution (ADR) processes to help people resolve disputes without a trial. ADR is usually less formal, less expensive, and less time-consuming than a trial. ADR can also give people more opportunity to determine when and how their dispute will be resolved.

BENEFITS OF ADR.

Using ADR may have a variety of benefits, depending on the type of ADR process used and the circumstances of the particular case. Some potential benefits of ADR are summarized below.

Save Time. A dispute often can be settled or decided much sooner with ADR; often in a matter of months, even weeks, while bringing a lawsuit to trial can take a year or more.

Save Money. When cases are resolved earlier through ADR, the parties may save some of the money they would have spent on attorney fees, court costs, experts' fees, and other litigation expenses.

Increase Control Over the Process and the Outcome. In ADR, parties typically play a greater role in shaping both the process and its outcome. In most ADR processes, parties have more opportunity to tell their side of the story than they do at trial. Some ADR processes, such as mediation, allow the parties to fashion creative resolutions that are not available in a trial. Other ADR processes, such as arbitration, allow the parties to choose an expert in a particular field to decide the dispute.

Preserve Relationships. ADR can be a less adversarial and hostile way to resolve a dispute. For example, an experienced mediator can help the parties effectively communicate their needs and point of view to the other side. This can be an important advantage where the parties have a relationship to preserve.

Increase Satisfaction. In a trial, there is typically a winner and a loser. The loser is not likely to be happy, and even the winner may not be completely satisfied with the outcome. ADR can help the parties find win-win solutions and achieve their real goals. This, along with all of ADR's other potential advantages, may increase the parties' overall satisfaction with both the dispute resolution process and the outcome.

Improve Attorney-Client Relationships. Attorneys may also benefit from ADR by being seen as problem-solvers rather than combatants. Quick, cost-effective, and satisfying resolutions are likely to produce happier clients and thus generate repeat business from clients and referrals of their friends and associates.

DISADVANTAGES OF ADR.

ADR may not be suitable for every dispute.

Loss of protections. If ADR is binding, the parties normally give up most court protections, including a decision by a judge or jury under formal rules of evidence and procedure, and review for legal error by an appellate court.

Less discovery. There generally is less opportunity to find out about the other side's case with ADR than with litigation. ADR may not be effective if it takes place before the parties have sufficient information to resolve the dispute.

Additional costs. The neutral may charge a fee for his or her services. If a dispute is not resolved through ADR, the parties may have to put time and money into both ADR and a lawsuit.

Effect of delays if the dispute is not resolved. Lawsuits must be brought within specified periods of time, known as statutes of limitation. Parties must be careful not to let a statute of limitations run out while a dispute is in an ADR process.

TYPES OF ADR IN CIVIL CASES.

The most commonly used ADR processes are arbitration, mediation, neutral evaluation and settlement conferences.

Arbitration. In arbitration, a neutral person called an "arbitrator" hears arguments and evidence from each side and then decides the outcome of the dispute. Arbitration is less formal than a trial, and the rules of evidence are often relaxed. Arbitration may be either "binding" or "nonbinding." Binding arbitration means that the parties waive their right to a trial and agree to accept the arbitrator's decision as final. Generally, there is no right to appeal an arbitrator's decision. Nonbinding arbitration means that the parties are free to request a trial if they do not accept the arbitrator's decision.

Cases for Which Arbitration May Be Appropriate. Arbitration is best for cases where the parties want another person to decide the outcome of their dispute for them but would like to avoid the formality, time, and expense of a trial. It may also be appropriate for complex matters where the parties want a decision-maker who has training or experience in the subject matter of the dispute.

Cases for Which Arbitration May Not Be Appropriate. If parties want to retain control over how their dispute is resolved, arbitration, particularly binding arbitration, is not appropriate. In binding arbitration, the parties generally cannot appeal the arbitrator's award, even if it is not supported by the evidence or the law. Even in nonbinding arbitration, if a party requests a trial and does not receive a more favorable result at trial than in arbitration, there may be penalties.

Mediation. In mediation, an impartial person called a "mediator" helps the parties try to reach a mutually acceptable resolution of the dispute. The mediator does not decide the dispute but helps the parties communicate so they can try to settle the dispute themselves. Mediation leaves control of the outcome with the parties.

Cases for Which Mediation May Be Appropriate. Mediation may be particularly useful when parties have a relationship they want to preserve. So when family members, neighbors, or business partners have a dispute, mediation may be the ADR process to use. Mediation is also effective when emotions are getting in the way of resolution. An effective mediator can hear the parties out and help them communicate with each other in an effective and nondestructive manner.

Cases for Which Mediation May Not Be Appropriate. Mediation may not be effective if one of the parties is unwilling to cooperate or compromise. Mediation also may not be effective if one of the parties has a significant advantage in power over the other. Therefore, it may not be a good choice if the parties have a history of abuse or victimization.

Neutral Evaluation. In neutral evaluation, each party gets a chance to present the case to a neutral person called an "evaluator." The evaluator then gives an opinion on the strengths and weaknesses of each party's evidence and arguments and about how the dispute could be resolved. The evaluator is

often an expert in the subject matter of the dispute. Although the evaluator's opinion is not binding, the parties typically use it as a basis for trying to negotiate a resolution of the dispute.

Cases for Which Neutral Evaluation May Be Appropriate. Neutral evaluation may be most appropriate in cases in which there are technical issues that require special expertise to resolve or the only significant issue in the case is the amount of damages.

Cases for Which Neutral Evaluation May Not Be Appropriate. Neutral evaluation may not be appropriate when there are significant personal or emotional barriers to resolving the dispute.

Settlement Conferences. Settlement conferences may be either mandatory or voluntary. In both types of settlement conferences, the parties and their attorneys meet with a judge or a neutral person called a "settlement officer" to discuss possible settlement of their dispute. The judge or settlement officer does not make a decision in the case but assists the parties in evaluating the strengths and weaknesses of the case and in negotiating a settlement. Settlement conferences are appropriate in any case where settlement is an option. Mandatory settlement conferences are often held close to the date a case is set for trial.

ADDITIONAL INFORMATION.

In addition to mediation, arbitration, neutral evaluation, and settlement conferences, there are other types of ADR, including conciliation, fact finding, mini-trials, and summary jury trials. Sometimes parties will try a combination of ADR types. The important thing is to try to find the type or types of ADR that are most likely to resolve your dispute.

To locate a dispute resolution program or neutral in your community:

- Contact the California Department of Consumer Affairs, Consumer Information Center, toll free, at 1-800-852-5210
- Contact the Orange County Bar Association at (949) 440-6700
- Look in the telephone directories under "Arbitrators" or "Mediators"

Low cost mediation services are provided under the Orange County Dispute Resolution Program Act (DRPA). For information regarding DRPA, contact:

- OC Human Relations (714) 480-6575, mediator@ochumanrelations.org
- Waymakers (949) 250-4058

For information on the Superior Court of California, County of Orange court ordered arbitration program, refer to Local Rule 360.

The Orange County Superior Court offers programs for Civil Mediation and Early Neutral Evaluation (ENE). For the Civil Mediation program, mediators on the Court's panel have agreed to accept a fee of \$300 for up to the first two hours of a mediation session. For the ENE program, members of the Court's panel have agreed to accept a fee of \$300 for up to three hours of an ENE session. Additional information on the Orange County Superior Court Civil Mediation and Early Neutral Evaluation (ENE) programs is available on the Court's website at www.occourts.org.

