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Sherril R. Carter, Executive Officer/Clerk of Court

By: Kristina Vargas, Deputy

Michael R. Crosner (Bar No. 41299)
mike@crosnerlegal.com

Zachary M. Crosner (Bar No. 272295)
zach@crosnerlegal.com

Blake R. Jones (Bar No. 211221)
blake@crosnerlegal.com

CROSNER LEGAL, PC
9440 Santa Monica Blvd., Ste. 301
Beverly Hills, CA 90210
Tel: (310) 496-5818
Fax: (310) 510-6429

Attorneys for HAE TAEK LEE, on
behalf of himself and all others similarly
situated

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

HAE TAEK LEE, on behalf of himself and
all others similarly situated,

Plaintiff,

v.

GLOBAL EXPEDITED
TRANSPORTATION, INC., a California
corporation; SEUNG MUN BAEK, an
individual; and DOES 1-100,

Defendants.

Case No.: **20STCV43064**

CLASS ACTION COMPLAINT FOR:

1. **Failure to Pay Minimum Wage for All Hours Worked [Labor Code §§ 1194 And 1197]**
2. **Failure to Pay Wages for All Hours Worked at Overtime [Labor Code §§ 226.2, 510, 1194, And 1198]**
3. **Failure to Provide Meal Periods [Labor Code §§ 512 and 226.7]**
4. **Failure to Authorize or Permit Rest Periods [Labor Code § 226.7]**
5. **Failure to Pay for All Reimbursable Expenses [Labor Code § 2802]**
6. **Failure to Provide Complete and Accurate Wage Statements [Labor Code § 226]**
7. **Failure to Pay All Wages Timely Upon Separation of Employment [Labor Code §§ 201, 202, And 203]**
8. **Unfair Business Practices [Bus. & Prof. Code §§ 17200, Et Seq.]**
9. **Violation of the Private Attorneys General Act [Labor Code §§ 2698, et seq.]**

DEMAND FOR JURY TRIAL

GENERAL ALLEGATIONS

1. Plaintiff HAE TAEK LEE (“Plaintiff”) is an individual residing in the State of California. Plaintiff and the Class Members, as set forth below, are all current and former non-exempt hourly, piece rate, or commissioned employees employed by Defendants in the State of California or who made one or more deliveries for Defendants in California, at any time beginning four years before the filing of this Complaint (the “Class Period”).

2. On information and belief, Defendants GLOBAL EXPEDITED TRANSPORTATION, INC. is a California corporation, duly licensed to conduct business in the State of California, and operates and employs non-exempt employees within Los Angeles County. During the Class Period, Defendants employed, and continues to employ, drivers to provide delivery and other moving services. Drivers job duties include driving delivery vehicles, loading and unloading delivery vehicles, and performing additional miscellaneous duties at the direction of Defendants.

3. On information and belief, Defendants SEUNG MUN BAEK is an individual residing in the State of California and is, and at all relevant times has been, the CEO of Defendants GLOBAL EXPEDITED TRANSPORTATION, INC. and had direct control and power over the working conditions and the violations at issue in this Complaint (SEUNG MUN BAEK and GLOBAL EXPEDITED TRANSPORTATION, INC. are collectively referred to herein as “Defendants”).

4. On information and belief, SEUNG MUN BAEK devised and implemented the policies at issue in this complaint and “caused” these violations as that term is used in Labor Code §§ 558 and 1197.1. Pursuant to Labor code §§558 and 1197.1, SEUNG MUN BAEK is liable as a person who “caused” the violations to occur.

5. Plaintiff is unaware of the names and capacities of those Defendants sued as DOES 1 through 100 but will amend this complaint when that information becomes known. Plaintiff is informed and believes and thereon alleges that, at all relevant times, each of the defendants,

1 including the DOE defendants, was the officer, director, employee, agent, representative, alter ego,
2 or co-conspirator of each of the other defendants, and in engaging in the conduct alleged herein, was
3 acting in the course and scope of, and in furtherance of, such relationship. Unless otherwise
4 specified, Plaintiff will refer to all Defendants as “Defendants,” and each allegation pertains to each
5 defendant.

6 **JURISDICTION AND VENUE**

7 6. This Court has jurisdiction over the claims asserted herein as Plaintiff was employed
8 in this County for Defendants and Defendants operate its business within this County.

9 **FACTUAL BACKGROUND**

10 7. Plaintiff resides in the County of Los Angeles. Plaintiff worked for Defendants as a
11 non-exempt employee driver from approximately June 2019 through September 2019.

12 8. During the Class Period, Defendants employed the Class Members, including
13 Plaintiff, on a piece-rate basis that is determined by a flat-rate and/or predetermined rates. During
14 the Class Period, Plaintiff and the Class Members were required to do work that fell outside the
15 piece-rate pay criteria, such as non-piece rate tasks, including, but not limited to, pre-trip and post-
16 trip inspections, waiting time, fueling, cleaning, setting up, completing paperwork, loading,
17 unloading, waiting between jobs and tasks, and/or performing work duties that otherwise fall outside
18 of the piece-rate pay criteria. Under Defendants’ piece-rate pay system, Defendants failed to pay
19 Plaintiff and other employees who were compensated on a piece-rate basis for this “non-productive”
20 time (i.e., hours that they were working but were not actually performing piece-rate work.) Further,
21 on the occasions when Defendants did pay employees for non-productive time, Defendants failed
22 to pay Plaintiff and the Class Members compensated on a piece-rate basis the correct rate of pay for
23 such activities.

24 9. During the applicable Class Period, Defendants did not separately compensate
25 Plaintiff and the Class Members for rest periods in compliance with Labor Code section 226.2
26 although Plaintiff and the Class Members are entitled to a paid rest period for every four hours
27 worked, or major fraction thereof. Thus, Plaintiff and the Class Members were not compensated for
28 rest periods under Defendants’ piece-rate compensation system. Further, on the occasions when

1 Defendants did pay employees for rest periods, Defendants failed to pay Plaintiff and the Class
2 Members who were compensated on a piece-rate basis the correct rate of pay for such activities.
3 Defendants also automatically deducted for off-duty meal periods despite failing to relieve Plaintiff
4 and Class Members for off duty meal periods of at least thirty minutes, and having actual and
5 constructive knowledge of on-duty work during these purported periods.

6 10. During the Class Period, Defendants failed to incorporate all forms of non-
7 discretionary remuneration into the regular rate for purposes of calculating overtime pay, resulting
8 in systematic underpayment of overtime wages to Plaintiff and the Class Members. Defendants also
9 failed to Plaintiff and the Class Members minimum wages and overtime for all hours worked.

10 11. During the Class Period, Plaintiff and the Class Members were not provided meal
11 periods in compliance with California law. Among other things, Defendants (1) frequently failed
12 to provide timely, uninterrupted, duty free meal periods or second meal periods; (2) routinely failed
13 to maintain records showing if and when meal periods were taken; and, (3) largely failed to pay
14 meal period premiums for missed meal periods.

15 12. During the Class Period, Plaintiff and the Class Members were not provided with
16 timely rest periods in compliance with California law. Among other things, Plaintiff and the Class
17 Members were forced to work through rest periods or had their rest periods interrupted due to the
18 nature of the business. Defendants largely failed to pay rest period premium pay for missed rest
19 periods.

20 13. During the Class Period, Defendants failed to reimburse Plaintiff and the Class
21 Members for business expenses including, but not limited to, mileage/fuel for the trucks and
22 business-related cell phone usage. Defendants underpaid Plaintiff and the Class Members for
23 mileage/fuel, reimbursing and/or compensating them significantly less than the IRS mileage rate,
24 and not reimbursing/compensating them for all mileage actually traveled.

25 14. During the Class Period, Defendants failed to provide Plaintiff and the Class
26 Members with accurate, itemized wage statements in compliance with California law. Additionally,
27 Defendants' wage statements completely failed to itemize total hours worked and all applicable
28 hourly rates in effect.

1 15. During the Class Period, Defendants failed to timely pay all wage that were due and
2 owing to Plaintiff and the Class Members, including upon separation of employment. Defendants
3 also failed to compensate Plaintiff and the Class Members' their final wages until the end of the pay
4 period and/or the subsequent pay period notwithstanding whether the date of separation of
5 employment was earlier in the pay period, resulting in systematic late payment of final wages.

6 16. Defendants failed to provide paid sick leave to Plaintiff and the Class Members,
7 further failing to put them on notice of their paid sick leave rights—or thereby putting their
8 entitlement to sick leave in a Labor Code Section 2810.5 notice. In addition, Defendants failed to
9 maintain accurate records of used sick leave and the balance of paid sick leave left to the employee
10 throughout the relevant time period. Notably, where an employer compensates an employee with
11 non-discretionary bonus pay (as Defendants did here), any sick leave/sick pay calculation must
12 incorporate the value of the non-discretionary bonuses; upon information and belief, Defendants'
13 sick leave/sick pay calculation did not. Additionally, Defendants failed to provide notice of the
14 correct sick leave amount balance left for Plaintiff and the Class Members, and thus affecting their
15 intelligent exercise of their paid sick leave. But for this failure, Plaintiff and the Class Members
16 would have used their paid sick leave at least prior to their respective separation, for as on several
17 occasions thereafter, he or she would have been entitled to use the banked sick leave and earn
18 appropriate compensation. This illegal retention of paid sick leave is unlawful and Plaintiff seeks
19 all forms of injunctive relief, restitution, and declaratory relief as permitted by California law, on
20 behalf of herself and all aggrieved employees.

21 17. An Employer is required to provide paid sick days in accordance to Labor Code
22 Section 245 through 248.5. Defendants failed to provide a Labor Code Section 2810.5 notice,
23 putting Plaintiff and the Class Members on notice of their right to use paid sick leave. Defendants
24 failed to provide the posting required by these statutes, showing and demonstrating all of the
25 following: (1) an employee is entitled to accrue, request, and use paid sick days; (2) the amount of
26 sick days provided for by this article; (3) the terms of use of paid sick days; (4) that retaliation or
27 discrimination against an employee who requests paid sick days or uses paid sick days, or both, is
28 prohibited and that an employee has the right under this article to file a complaint with the Labor

1 Commissioner against an employer who retaliates or discriminates against the employee.

2 18. Defendants failed to maintain records documenting the hours worked and paid sick
3 days accrued and used by employees in violation of Labor Code Section 247.5, permitting the
4 presumption that Plaintiff and the Class Members were entitled to the maximum number of hours
5 accruable under this article at the time of their termination. Defendants further failed to comply with
6 Labor Code Section 246, that is, providing its employees with a 226 statement or separate writing
7 containing amount of paid sick leave available, or paid time off leave an employer provides in lieu
8 of sick leave, at the time it pays its period wages and provides a Labor Code Section 226 statement.

9 19. Moreover, Defendants unlawfully retained and continue to retain paid sick leave that
10 should have been paid and wasn't as a result of its failure to properly institute a paid sick leave
11 program. On information and belief, Plaintiff alleges that all of these practices were experienced
12 and continue to be experienced by other similarly aggrieved employees. Plaintiff requests all
13 appropriate relief under the PAGA and these statutes, including but not limited to the restitution of
14 earned paid sick leave that could have been used, but wasn't, due to Defendants' sole failure to
15 institute such a paid sick leave entitlement/paid sick leave bank as required by California law.

16 20. Accordingly, Defendants have violated Labor Code sections 233 and 234 as to
17 Plaintiff and all similarly aggrieved employees. These violations subject Defendants to civil
18 penalties under the Labor Code, including without limitation Labor Code Section 233 and 234 and
19 2699. Each violation of each Labor Code section and Wage Order provision, for each aggrieved
20 employee, results in a separate civil penalty.

21 21. Defendants unlawfully deducted money from Plaintiff's and the Class Members'
22 paychecks, including but not limited to advances, without obtaining written agreement and
23 authorization from Plaintiff and the Class Members for these deductions, in violation of Labor Code
24 sections 221, 224 and 226.8.

25 22. During the Class Period, Defendants failed to maintain time records as required by
26 California Labor Code Sections 1174, 1174.5, 1199, and the pertinent wage order.

27 **CLASS ACTION ALLEGATIONS**

28 23. Plaintiff brings this action on behalf of himself and all others similarly situated as a

1 class action pursuant to Code of Civil Procedure section 382. The Class Plaintiff seeks to represent
2 is defined as follows: “All current and former non-exempt hourly, piece rate, or commissioned
3 employees employed by Defendants in the State of California or who made one or more deliveries
4 for Defendants in California, at any time beginning four years before the filing of this Complaint”
5 (the “Class Members”).

6 24. There is a well-defined community of interest in the litigation and the class is
7 ascertainable.

8 25. **Numerosity:** While the exact number of class members is unknown to Plaintiff at
9 this time, Plaintiff is informed and believes the class consists of at least one hundred individuals. As
10 such, the Plaintiff classes are so numerous that the individual joinder of all members is impractical
11 under the circumstances of this case.

12 26. **Common Questions of Law and Fact:** This lawsuit is suitable for class treatment
13 because common questions of law and fact predominate over individual issues. Common questions
14 include, but are not limited to, the following:

15 (a) Whether Defendants failed to pay Class Members for all hours worked, including
16 all regular and overtime hours as required by California law;

17 (b) Whether Defendants failed to pay Class Members for non-productive time and
18 rest periods as required by California law;

19 (c) Whether Defendants violated California Labor Code section 226.7 and the
20 applicable Wage Order by failing to provide Class Members with required rest periods or paying
21 rest period premiums for missed rest periods;

22 (d) Whether Defendants failed to provide Class Members with accurate itemized
23 wages statements as required by Labor Code section 226;

24 (e) Whether Defendants violated California Labor Code sections 512 and 226.7, as
25 well as, the applicable Wage Order, by failing to provide Class Members with required meal periods
26 or paying meal period premiums for missed meal periods;

1 (f) Whether Defendants violated California Labor Code section 226.7, as well as the
2 applicable Wage Order, by failing to provide Class Members with required rest periods or paying
3 rest period premiums for missed rest periods;

4 (g) Whether Defendants failed to pay Class Members for all reimbursable expenses as
5 required under Labor Code section 2802;

6 (h) Whether Defendants made unlawful deductions from the Class Members' wages;

7 (i) Whether Defendants failed to provide all sick leave days and accrual and pay all
8 sick leave compensation due and owing to the Class Members;

9 (j) Whether Class Members are entitled to unpaid wages, penalties, and other relief
10 pursuant to their claims;

11 (k) Whether, as a consequence of Defendants' unlawful conduct, the Class Members
12 are entitled to restitution, and/or equitable relief;

13 (l) Whether Defendants' affirmative defenses, if any, raise any common issues of law
14 or fact as to Plaintiff and as to the Class Members as a whole;

15 (m) Whether Defendants timely paid all wages that were due and owing to Class
16 Members, including upon separation of employment; and,

17 (n) Whether Defendants committed unlawful business acts or practice within the
18 meaning of Business and Professions Code section 17200 *et seq.*

19 27. **Typicality:** Plaintiff's claims are typical of the claims of the Class Members.
20 Plaintiff and all Class Members sustained injuries and damages arising out of and caused by
21 Defendants' common course of conduct in violation of laws and regulations that have the force and
22 effect of law and statutes as alleged. Plaintiff was subjected to the same uniform policies and
23 practices complained of herein that affected all such employees. Thus, as Plaintiff was subjected to
24 the same unlawful policies and practices as all Class Members, his claims are typical of the class he
25 seeks to represent.

26 28. **Adequacy of Representation:** Plaintiff will fairly and adequately protect the
27 interests of the Class Members. Plaintiff has no interest that is adverse to the interests of the other
28 Class Members.

29. **Superiority:** A class action is superior to other available means for the fair and efficient adjudication of this controversy since individual joinder of all members of the class is impractical. Class action treatment will permit a large number of similarly situated persons to prosecute their common claims in a single forum simultaneously, efficiently, and without the unnecessary duplication of effort and expense that numerous individual actions would engender. Furthermore, as the damages suffered by each individual member of the class may be relatively small, the expenses and burden of individual litigation would make it difficult or impossible for individual members of the class to redress the wrongs done to them, while an important public interest will be served by addressing the matter as a class action. The cost to the court system of adjudication of such individualized litigation would be substantial. Individualized litigation would also present the potential for inconsistent or contradictory judgments. Finally, the alternative of filing a claim with the California Labor Commissioner is not superior, given the lack of discovery in such proceedings, the fact that there are fewer available remedies, and the losing party has the right to a trial de novo in the Superior Court.

30. **Public Policy Consideration:** Employers throughout the state violate wage and hour laws. Current employees often are afraid to assert their rights out of fear of direct or indirect retaliation. Former employees fear bringing actions because they perceive their former employers can blacklist them in their future endeavors with negative references and by other means. Class actions provide the class members who are not named in the complaint with a type of anonymity that allows for vindication of their rights.

FIRST CAUSE OF ACTION
**FAILURE TO PAY WAGES FOR ALL HOURS OF WORK AT THE LEGAL MINIMUM
WAGE RATE IN VIOLATION OF LABOR CODE SECTIONS 226.2, 510, 1194, 1197, 1198**
(As Against Defendants and DOE Defendants by the Class)

31. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in the preceding paragraphs.

32. Pursuant to Labor Code sections 1194, 1197, 1197.1 and Wage Orders, Plaintiff and the Class Members are entitled to receive wages for all hours worked, i.e., all time subject to Defendants' control, and those wages must be paid at least at the minimum wage rate in effect during

1 the time the employees earned the wages.

2 33. California law requires employers to pay commissioned or piece rate employees
3 separately for rest periods and non-productive time. *See Vaquero v. Stoneledge Furniture, LLC*
4 (2017) 9 Cal. App. 5th 98; Labor Code § 226.2. Labor Code Section 226.2 provides formula for
5 calculating an employee's "regular rate" for purposes of paying rest periods.

6 34. Specifically, Labor Code Section 226.2 provides, in relevant part:

7 (3)(A) Employees shall be compensated for rest and recovery periods
8 at a regular hourly rate that is no less than the higher of:

9 (i) An average hourly rate determined by dividing the total
10 compensation for the workweek, exclusive of compensation for rest
11 and recovery periods and any premium compensation for overtime,
12 by the total hours worked during the workweek, exclusive of rest and
13 recovery periods.

14 (ii) The applicable minimum wage.

15 35. Defendants' payroll policies and procedures required Plaintiff and the Class
16 Members to be engaged, suffered, or permitted to work without being paid wages for all the time in
17 which they were subject to Defendants' control. During the Class Period, Defendants failed to pay
18 Plaintiff and the Class Members separately for their non-productive time and rest periods. In
19 addition, Defendants failed to pay Plaintiff and the Class Members the correct rates for their non-
20 productive time and rest periods, as well as failed to pay them for all hours worked.

21 36. By its policy of not compensating Plaintiff and the Class Members for all time
22 worked including, but not limited to, off-the-work clock, as well as pre-trip and post-trip inspections,
23 waiting time, fueling, cleaning, setting up, completing paperwork, loading, unloading, waiting
24 between jobs and tasks, and/or performing work duties that otherwise fall outside of the piece-rate
25 pay criteria, Defendants violated the provisions of Cal. Code of Regs., tit. 8, § 11090, subds. 1 and
26 4(B), Lab. Code §§ 200, 226.2, 221, 222, and 223.

27 37. Defendants' payroll policies and procedures failed to compensate Plaintiff and the
28 Class Members for all hours worked. Specifically, Defendants automatically deducted for off-duty
meal periods despite failing to relieve Plaintiff and Class Members for off duty meal periods of at

1 least thirty minutes. Defendants had actual and constructive knowledge of on-duty work during
2 these purported periods.

3 38. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have
4 suffered damages in an amount subject to proof, to the extent that they were not paid wages at a
5 minimum wage rate for all hours worked.

6 39. Pursuant to California Labor Code Sections 1194 and 1194.2, Plaintiff and the Class
7 Members are entitled to recover unpaid minimum wages, interest thereon, liquidated damages in the
8 amount of their unpaid minimum wage, and attorney's fees and costs.

9 **SECOND CAUSE OF ACTION**
10 **FAILURE TO PAY WAGES FOR ALL HOURS WORKED AT OVERTIME IN**
11 **VIOLATION OF LABOR CODE SECTIONS 510, 1194, 1197 and 1198**
12 **(As Against Defendants and DOE Defendants by the Class)**

13 40. Plaintiff re-alleges and incorporates by reference each and every allegation set forth
14 in the preceding paragraphs.

15 41. It is unlawful under California law for an employer to suffer or permit an employee
16 to work in excess of eight hours per workday or 40 hours per workweek without paying premium
17 wages under California Labor Code § 510 and IWC Wage Order 9 § 3. Employees who work more
18 than 12 hours per day are entitled to an overtime premium of twice their regular rate of pay. *Id.* It is
19 also unlawful under California law for an employer to suffer or permit an employee to work in
20 excess of 30 hours per workweek or six hours per day during any seven-day workweek under Labor
21 Code §§550-556, or to suffer or permit an employee to work on the seventh day of a seven-day
22 workweek without paying premium wages under California Labor Code §510 and IWC Wage Order
23 9 § 3.

24 42. California Labor Code §1198 makes employment of an employee for longer hours
25 than the IWC sets or under conditions the IWC prohibits unlawful. California Labor Code §1194(a)
26 entitles an employee to recover in a civil action the unpaid balance of all overtime compensation
27 due but not paid.

28 43. Plaintiff and the Class Members routinely worked in excess of eight and/or 12
hours per workday and/or in excess of 40 hours per workweek.

44. Plaintiff and the Class Members also worked seven-day workweeks in excess of six hours per day and in excess of 40 hours per week.

45. Plaintiff is informed and believes, and thereon alleges, that during all times mentioned herein Defendants required, allowed, suffered, and/or permitted Plaintiff and Class Members to engage in a variety of uncompensated work resulting in lost overtime and double time wages in accordance with the provisions of California Labor Code Sections 510, 550-556, 1194(a), 1198 and Section 3 of the Industrial Welfare Commission Wage Order 9 and/or any other applicable Wage Order. Defendants also at times failed to compensate Plaintiff and the Class Members at the proper overtime rate of pay by not incorporating all forms of non-discretionary remuneration into the regular rate of pay for purposes of calculating overtime compensation.

46. As such, Plaintiff, individually and on behalf of Class Members, may bring this action for overtime and double time wages, interest, costs of suit, and attorneys' fees pursuant to California Labor Code Sections 1194(a) and 218.5.

THIRD CAUSE OF ACTION
FAILURE TO PROVIDE REQUIRED MEAL PERIODS IN VIOLATION OF
CALIFORNIA LABOR CODE SECTIONS 512 AND 226.7
(As Against Defendants and DOE Defendants by the Class)

47. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in the preceding paragraphs.

48. During the Class Period, Plaintiff and the Class Members were non-exempt employees who performed work for Defendants that was covered by California Labor Code sections 512 and 226.7 and all applicable Wage Orders.

49. California law requires an employer to provide an employee an uninterrupted meal period of no less than 30-minutes in which the employee is relieved of all duties and the employer relinquishes control over the employee's activities no later than the employee's sixth hour of work. *See* Lab. Code §§ 226.7, 512; Wage Order No. 9 §11; *Brinker Rest. Corp. v. Super Ct. (Hohnbaum)* (2012) 53 Cal. 4th 1004. An employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second such meal period of not less than 30 minutes by no later than the start of the eleventh hour of work. *Id.* If the employee is not relieved

1 of all duty during a meal period, the meal period shall be considered an “on duty” meal period and
2 counted as time worked. A paid “on duty” meal period is only permitted when: (1) the nature of the
3 work prevents an employee from being relieved of all duty; and (2) the parties have a written
4 voluntary agreement agreeing to on duty meal periods.

5 50. During the Class Period, Plaintiff and the Class Members worked in shifts long
6 enough to entitle them to first and second meal periods under California law. Defendants failed to
7 provide Plaintiff and the Class Members a full 30-minute off-duty meal period for each five-hour
8 period of work as required by law.

9 51. Moreover, Defendants also failed to provide premium wages to Plaintiff and the
10 Class Members to compensate them for workdays they did not receive their legally required duty-
11 free meal period. Defendants employed policies and procedures which ensured Plaintiff and the
12 Class Members would not receive full 30-minute legally required meal periods. Defendants
13 employed policies and procedures which ensured Plaintiff and the Class Members did not receive
14 premium wages to compensate them for workdays that they did not receive either a first or a second
15 full meal period, or both. This practice resulted in Plaintiff and the Class Members not receiving
16 premium wages to compensate them for workdays which Defendants did not provide them with all
17 required meal periods, in compliance with California law.

18 52. Defendants are therefore liable to Plaintiff and the Class Members for one hour of
19 additional pay at the regular rate of compensation for each workday that the proper meal period was
20 not provided, pursuant to California Labor Code section 226.7 and the applicable Wage Order, plus
21 pre-judgment interest.

22 53. Plaintiff, on behalf of himself and the Class Members, seeks damages and all other
23 relief allowable, including a meal period premium wage for each workday Defendants failed to
24 provide all required 30-minute uninterrupted meal periods, plus pre-judgment interest.

25 **FOURTH CAUSE OF ACTION**
26 **FAILURE TO AUTHORIZE OR PERMIT REST PERIODS IN VIOLATION OF**
27 **CALIFORNIA LABOR CODE SECTIONS 226.2 AND 226.7**
28 **(As Against Defendants and DOE Defendants by the Class)**

54. Plaintiff re-alleges and incorporates by reference each and every allegation set forth
in the preceding paragraphs.

1 55. During the Class Period, Plaintiff and the Class Members were non-exempt
2 employees who performed work for Defendants that was covered by Labor Code sections 226.2 and
3 226.7 and the applicable Wage Order.

4 56. California law requires an employer to authorize or permit an employee to take a rest
5 period of ten (10) net minutes for every four hours worked or major fraction thereof. *See* Lab. Code
6 § 226.7; applicable Wage Order. Such rest periods must be in the middle of the four-hour period
7 “insofar as practicable.” *Id.* If the employer fails to provide any required rest period, the employer
8 must pay the employee one hour of pay at the employee’s regular rate of compensation for each
9 workday the employer did not provide at least one legally required rest period. *Id.*

10 57. Defendants failed to provide Plaintiff and the Class Members all required, timely rest
11 periods and failed to pay premium wages to Plaintiff and similarly situated employees for each
12 workday they did not receive all legally required rest periods. Defendants employed policies and
13 procedures which ensured Plaintiff and the Class Members would not receive all legally required
14 rest periods. Specifically, Defendants did not authorize and permit all required rest periods in strict
15 accordance to, and in compliance with the timing requirements of all applicable Wage Orders.
16 Plaintiff and the Class Members typically worked shifts entitling them to three rest periods, which
17 they were not provided.

18 58. Defendants employed policies and procedures which ensured Plaintiff and the Class
19 Members did not receive any premium wages to compensate them for workdays that they did not
20 receive all legally required rest periods.

21 59. This practice resulted in Defendants failing to pay Plaintiff and the Class Members
22 premium wages to compensate them for workdays in which Defendants did not provide the
23 employees with all required rest periods, in violation of California law.

24 60. Defendants are therefore liable to Plaintiff and the Class Members for one hour of
25 additional pay at the regular rate of compensation for each workday that a require rest periods was
26 not provided, pursuant to California Labor Code section 226.7 and the applicable Wage Order, plus
27 pre-judgment interest.

28 61. Plaintiff, on behalf of himself and on behalf of the Class Members, seeks damages

1 and all other relief allowable including: rest period premium wages for each workday the employee
2 was not provided with all required rest periods of ten net minutes; and prejudgment interest.

3 **FIFTH CAUSE OF ACTION**
4 **FAILURE TO PAY REIMBURSABLE EXPENSES IN VIOLATION OF LABOR CODE**
5 **SECTION 2802**
6 **(As Against Defendants and DOE Defendants by the Class)**

7 62. Plaintiff re-alleges and incorporates by reference each and every allegation set forth
8 in the preceding paragraphs.

9 63. During the Class Period, Plaintiff and the Class Members were non-exempt
10 employees who performed work for Defendants that was covered by California Labor Code section
11 2802.

12 64. Pursuant to California Labor Code section 2802, Plaintiff and the Class Members
13 were entitled to be reimbursed for all reasonable expenses associated with carrying out orders by
14 their employer and/or carrying out the duties assigned by their employers.

15 65. Defendants failed to pay Plaintiff and the Class Members for reimbursement of
16 reasonable expenses, including but not limited to mileage at the IRS rate or a rate of pay that covered
17 their actual expenses and wear and tear, as well as personal cell phone usage, data and associated
18 expenses when required to use for business purposes.

19 66. Defendants' failure to provide Plaintiff and the Class Members with full
20 reimbursement for all reasonable expenses associated with carrying out their duties required that
21 Plaintiff and the Class Members subsidize and/or carry the burden of business expenses in violation
22 of Labor Code section 2802.

23 67. As a result of Defendants' unlawful conduct, Plaintiff and the Class Members have
24 suffered injury in that they were not completely reimbursed as mandated by California law.

25 68. Pursuant to California Labor Code section 2802, Plaintiff and the Class Members are
26 entitled to recover the full amount of reimbursable expenses due, in addition to reasonable
27 attorneys' fees, and costs of suit.

28 **SIXTH CAUSE OF ACTION**
UNLAWFUL DEDUCTIONS FROM WAGES IN VIOLATION OF LABOR CODE
SECTIONS 221, 224, AND 226.8
(As Against Defendant and DOE Defendants by the Class)

1
2 69. Plaintiff re-alleges and incorporates by reference each and every allegation set forth
3 in the preceding paragraphs.

4 70. California Labor Code 221 prohibits an employer from taking back any wages
5 already earned by an employee.

6 71. California Labor Code section 224 outlines permissible deductions, including
7 deductions for state and federal income taxes, insurance premiums, and welfare or pension plan
8 contributions. However, the Courts have made it clear that the statute reflects a “strong public policy
9 favoring the protection of employees’ wages.” See *Ralphs Grocery Co. v. Superior Court* (2003)
10 112 Cal. App. 4th 1090, 1096-1097.

11 72. An employer can lawfully withhold amounts from an employee’s wages only when:
12 (1) required or empowered to do so by state or federal law; (2) when a deduction is expressly
13 authorized in writing by the employee to cover insurance premiums, benefit plan contributions, or
14 other deductions not amounting to a rebate on the employee’s wages; or (3) when a deduction to
15 cover health, welfare, or pension contributions is expressly authorized by a wage or collective
16 bargaining agreement.

17 73. California Labor Code section 226.8 makes it unlawful to charge a willfully
18 misclassified contractor a fee or to make any deductions from compensation for any purpose,
19 including for goods, materials, space rental, services, government licenses, repairs, equipment
20 maintenance, or fines.

21 74. Defendants unlawfully deducted money from Plaintiff’s and the Class Members’
22 paychecks. Specifically, Defendant has a policy and practice of deducting “advances” from
23 Plaintiff’s and the Class Members’ wages without written agreement and/or authorization from
24 Plaintiff and the Class Members. These deductions violate California Labor Code sections 221, 224,
25 and 226.8.

26 75. Defendant committed the acts alleged herein knowingly and willfully, with the
27 wrongful and deliberate intention of injuring Plaintiff and the Class Members, from improper motive
28 amounting to malice and conscious disregard of Plaintiff’s and the Class Members’ rights.

1 76. Plaintiff and the Class Members are entitled to recover the full amount of unlawful
2 deductions withheld, in addition to reasonable attorneys' fees, and costs of suit.

3 **SEVENTH CAUSE OF ACTION**
4 **FAILURE TO PROVIDE PAID SICK LEAVE IN VIOLATION OF LABOR CODE**
5 **SECTION 246**
6 **(As Against all Defendants and DOE Defendants by the Class)**

7 77. Plaintiffs hereby incorporate reference to all the allegations contained in this
8 Complaint as if fully alleged herein.

9 78. Labor Code § 246 provides that employers must provide employees with paid sick
10 leave as specified in the section. Although employers are permitted to adopt different methods under
11 which employees accrue paid sick leave, the accrual schedule must result in an employee having at
12 least 24 hours or three days of accrued paid sick leave by the 120th calendar day of employment.
13 Employers must provide employees with 24 hours or three days of paid sick leave every year. The
14 effective date of Labor Code § 246 was July 1, 2015.

15 79. Labor Code Section 246 also requires employers to post notice in the workplace
16 regarding the employees' entitlement to paid sick leave and requires the employer to list the amount
17 of the employee's accrued paid sick leave on the employee's itemized wage statement.

18 80. Defendants have a policy or practice of failing to provide Plaintiffs and Class
19 Members with all of the paid sick leave to which they are entitled under the Labor Code Section
20 246 and failed to notice the entitlement of sick leave and failed to notice the amount of sick leave
21 accrued each pay period on the Plaintiffs' and Class Members' wage statements.

22 81. Plaintiffs are informed and believe, and on that basis allege, that this failure by
23 Defendants to provide sick leave was willful and intentional.

24 82. As a result of the unlawful acts of Defendants, Plaintiffs and Class Members have
25 been deprived of additional wages in amounts to be proven at trial and are entitled to recover such
26 amounts, plus interest and penalties thereon, in addition to any other relief requested below.

27 **EIGHTH CAUSE OF ACTION**
28 **FAILURE TO PROVIDE COMPLETE AND ACCURATE WAGE STATEMENTS IN**
 VIOLATION OF LABOR CODE SECTION 226
 (As Against Defendants and DOE Defendants by the Class)

 83. Plaintiff re-alleges and incorporates by reference each and every allegation set forth

1 in the preceding paragraphs.

2 84. During the Class Period, Plaintiff and the Class Members were non-exempt
3 employees who performed work for Defendants that was covered by California Labor Code section
4 226.

5 85. Pursuant to California Labor Code section 226, subdivision (a), Plaintiff and the
6 other members of the class were entitled to receive, semimonthly or at the time of each payment of
7 wages, an itemized wage statement accurately stating the following:

8 (1) gross wages earned, (2) total hours worked by the employee,
9 except for any employee whose compensation is solely based on a
10 salary and who is exempt from payment of overtime under
11 subdivision (a) of Section 515 or any applicable order of the Industrial
12 Welfare Commission, (3) the number of piece-rate units earned and
13 any applicable piece rate if the employee is paid on a piece-rate basis,
14 (4) all deductions, provided that all deductions made on written orders
15 of the employee may be aggregated and shown as one item, (5) net
16 wages earned, (6) the inclusive dates of the period for which the
17 employee is paid, (7) the name of the employee and his or her social
18 security number, except that by January 1, 2008, only the last four
19 digits of his or her social security number or an employee
20 identification number other than a social security number may be
21 shown on the itemized statement, (8) the name and address of the
22 legal entity that is the employer, and (9) all applicable hourly rates in
23 effect during the pay period and the corresponding number of hours
24 worked at each hourly rate by the employee.

25 86. During the Class Period, Defendants intentionally failed to provide Plaintiff and the
26 Class with accurate wage statements in compliance with Labor Code section 226, including, but not
27 limited to, failing to identify or include on the wage statement (1) the total hours worked, (2) the
28 overtime hours worked, (3) the proper applicable rates of pay, (4) premium pay for missed meal
periods and rest periods, (5) rest period and non-productive pay; and, (6) the correct gross wage
earned.

29 87. As a result of Defendants' unlawful conduct, Plaintiff and the Class Members have
30 suffered injury. The absence of accurate information on their wage statements has prevented earlier
31 challenges to Defendants' unlawful pay practices, will require discovery and mathematical
32 computations to determine the amount of wages owed, and will cause difficulty and expense in
33 attempting to reconstruct time and pay records. Defendants' conduct led to the submission of

1 inaccurate information about wages and amounts deducted from wages to state and federal
2 government agencies. As a result, Plaintiff and the Class Members are required to participate in this
3 lawsuit and create more difficulty and expense for Plaintiff and the Class Members from having to
4 reconstruct time and pay records than if Defendants had complied with its legal obligations.

5 88. Pursuant to California Labor Code section 226(e), Plaintiff and the Class Members
6 are entitled to recover fifty dollars per employee for the initial pay period in which a Section 226
7 violation occurred and one hundred dollars per employee per violation for each subsequent pay
8 period, not to exceed an aggregate penalty of four thousand dollars per employee.

9 89. Pursuant to California Labor Code Section 226(h), Plaintiff and the Class Members
10 are entitled to bring an action for injunctive relief to ensure Defendants' compliance with California
11 Labor Code section 226(a). Injunctive relief is warranted because Defendants continues to provide
12 currently employed Class Members with inaccurate wage statements in violation of California Labor
13 Code section 226(a) and currently employed Class Members have no adequate legal remedy for the
14 continuing injuries that will be suffered as a result of Defendants' ongoing unlawful conduct.
15 Injunctive relief is the only remedy available for ensuring Defendants' compliance with California
16 Labor Code section 226(a).

17 90. Pursuant to California Labor Code sections 226(e) and 226(h), Plaintiff and the Class
18 Members are entitled to recover the full amount of penalties due under Section 226(e), reasonable
19 attorneys' fees, and costs of suit.

20 **SEVENTH CAUSE OF ACTION**
21 **FAILURE TO PAY ALL WAGES TIMELY UPON SEPARATION OF EMPLOYMENT**
22 **IN VIOLATION OF LABOR CODE SECTIONS 201, 202, and 203**
23 **(As Against Defendants and DOE Defendants by the Class)**

24 91. Plaintiff re-alleges and incorporates by reference each and every allegation set forth
25 in the preceding paragraphs.

26 92. During the Class Period, Plaintiff and the Class Members were non-employees who
27 performed work for Defendants that was covered by California Labor Code sections 201 or 202.

28 93. Pursuant to California Labor Code sections 201 and 202, Plaintiff and the Class
Members were entitled upon termination to timely payment of all wages earned and unpaid prior to

1 termination. Discharged employees were entitled to payment of all wages earned and unpaid prior
2 to discharge immediately upon termination. Employees who resigned were entitled to payment of
3 all wages earned and unpaid prior to resignation within 72 hours after giving notice of resignation
4 or, if they gave 72 hours previous notice, they were entitled to payment of all wages earned and
5 unpaid prior to resignation at the time of resignation.

6 94. Defendants failed to timely pay Plaintiff and the Class Members all wages earned
7 and unpaid upon separation of employment, in accordance with California Labor Code sections 201,
8 202, and 203.

9 95. Defendants' failure to pay Plaintiff and the Class Members all wages earned prior to
10 separation of employment timely in accordance with California Labor Code sections 201, 202, and
11 203 was willful. Defendants had the ability to pay all wages earned by non-employees prior to
12 separation of employment in accordance with California Labor Code sections 201, 202, 203, but
13 intentionally adopted policies or practices incompatible with the requirements of California Labor
14 Code sections 201, 202, and 203. As a result of Defendants' conduct, Plaintiff and the Class
15 Members have suffered injuries.

16 96. Pursuant to California Labor Code section 203, Plaintiff and the Class Members are
17 entitled to continuation of their wages, from the day their earned and unpaid wages were due upon
18 separation until paid, up to a maximum of 30 days.

19
20 **EIGHTH CAUSE OF ACTION**
21 **UNFAIR BUSINESS PRACTICES IN VIOLATION OF CALIFORNIA BUSINESS AND**
22 **PROFESSIONS CODE SECTION 17200, *ET SEQ.***
23 **(As Against Defendants and DOE Defendants by the Class)**

24 97. Plaintiff re-alleges and incorporates by reference each and every allegation set forth
25 in the preceding paragraphs.

26 98. The unlawful conduct of Defendants alleged herein constitutes unfair competition
27 within the meaning of California Business and Professions Code Section 17200. This unfair conduct
28 includes Defendants' use of policies and procedures which resulted in: failure to pay minimum and
overtime wages; failure to authorize or permit, or provide, all required meal and rest periods or pay
premium wages; failure to compensate for all reimbursable expenses; unlawfully deducting wages;

1 failure to pay all sick leave pay owed; failure to provide accurate wage and hour statements; and
2 failure to pay all wages due upon termination. Due to its unfair and unlawful business practices in
3 violation of the California Labor Code, Defendants have gained a competitive advantage over other
4 comparable companies doing business in the State of California that comply with their obligations
5 to authorize or permit rest and meal periods or pay rest period and meal period premium wages,
6 reimbursement business expenses, accrue and pay all sick leave pay, to provide accurate wage and
7 hour statements, and to pay minimum and overtime wages.

8 99. As a result of Defendants' unfair competition as alleged herein, Plaintiff and the
9 Class Members have suffered injury in fact and lost money or property, as described in more detail
10 above. Pursuant to California Business and Professions Code Section 17203, Plaintiff and Class
11 Members are entitled to restitution of all wages and other monies rightfully belonging to them that
12 Defendants failed to pay and wrongfully retained by means of its unlawful and unfair business
13 practices. Plaintiff also seeks an injunction against Defendants on behalf of the Class Members
14 enjoining Defendants, and any and all persons acting in concert with it, from engaging in each of
15 the unlawful practices, policies and patterns set forth herein.

16 **TWELFTH CAUSE OF ACTION**
17 **VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT**
18 **LABOR CODE §§ 2698, ET SEQ.**
19 **(Against All Defendants and Doe Defendants by the Class)**

20 100. Plaintiffs hereby incorporate reference to all the allegations contained in this
21 Complaint as if fully alleged herein.

22 101. Plaintiff is an "Aggrieved Employee" under PAGA, as he was employed by
23 Defendants during the applicable statutory limitations period and suffered one or more of the Labor
24 Code violations set forth herein. Accordingly, Plaintiff seeks to recover on behalf of himself and all
25 other current and former Aggrieved Employees, the civil penalties provided by PAGA, plus
26 reasonable attorney's fees and costs.

27 102. Plaintiff seeks to recover the PAGA civil penalties through a representative action
28 permitted by PAGA and the California Supreme Court in *Arias v. Superior Court*, 46 Cal. 4th
969(2009). Therefore, class certification of the PAGA claims is not required.

103. Therefore, the provisions of the California Labor Code that Employer has violated include, but are not limited to, Labor Code sections 201-203, 204, 216, 221-223, 224, 226, 226.7, 226.8, 245-248.5, 510, 512, 558, 558.1, 1174, 1194, 1197, 1198, 1199, 2751, 2802 and all applicable Wage Orders. These violations subject Employer to civil penalties as set forth in, including but not limited to, (1) the foregoing statutes, (2) Labor Code sections 210, 225.5, 226.3, 256, 558, 558.1, 1174.5, 1194.2, 1197.1, and 2699, and (3) IWC Wage Order 9-2001 as well as all interpretations of these laws by California Courts and administrative bodies, as well as any other law that is enforceable through PAGA, Defendants are liable for the following penalties:

- (i) All statutorily specified penalties recoverable under PAGA as enumerated in the relevant California Labor Code provisions listed herein only if permitted by the PAGA statute; and
- (ii) Default PAGA penalties for any violation of the enumerated list of Labor Code violations without a civil penalty recoverable under the PAGA, all in the default amounts provided by Labor Code Section 2699(f).

104. The proper measure of penalties under PAGA is the number of violations, whether those violations were committed as against Plaintiff Campbell or any Aggrieved Employee, whether a party to this action or not. Further, as a PAGA action, this claim need not be certified as a class action to proceed with a company-wide recovery. See *Arias v. Superior Court*, 46 Cal. 4th 969, 970-75 (2009).

105. Pursuant to Labor Code § 2699(g), and/or any and all other applicable laws, Plaintiff Campbell is entitled to recover civil penalties, costs, and attorneys' fees.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for relief and judgment as follows on behalf of himself and all aggrieved similarly situated employees:

1. For compensatory damages according to proof;
2. For an order requiring Defendants to make restitution of all amounts wrongfully withheld from Plaintiff and the Class Members;
3. For restitution of all monies due Plaintiff and Class Members;

4. For disgorgement of all profits garnered as a result of Defendants' unlawful practices;
5. For all penalties allowed by law;
6. For pre-judgment and post-judgment interest as permitted by law;
7. An award of civil penalties for and on behalf of Plaintiff and all similarly situated aggrieved employees pursuant to PAGA;
8. For reasonable attorney's fees and costs of suit; and
9. For such other and further relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff HAE TAEK LEE demands a trial on all claims so triable.

Dated: October 9, 2020

Respectfully submitted,
CROSNER LEGAL, PC

By: 
Zachary M. Crosner, Esq.
Michael R. Crosner, Esq.
Blake R. Jones, Esq.
Attorneys for Plaintiff
HAE TAEK LEE