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Attorneys for Plaintiff, JUAN ANTONIO CARBALLO,
on behalf of himself and all others aggrieved

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ORANGE

30-2020-01176371-CU-OE-CJC

Assigned for All Purposes

JUAN ANTONIO CARBALLO, on behalf of
himself and all others aggrieved,

CASE NO.: Judge Derek W. Hunt

REPRESENTATIVE ACTION

Plaintiff,

**COMPLAINT UNDER THE LABOR
CODE PRIVATE ATTORNEYS'
GENERAL ACT OF 2004 FOR CIVIL
PENALTIES UNDER LABOR CODE
SECTIONS 210, 226.3, 558, 1197.1 and 2699**

v.

DEMAND FOR JURY TRIAL

PROFESSIONAL CABINET SOLUTIONS.,
a California corporation; AMERICAN
WOODMARK CORP., a Virginia corporation;
RSI HOME PRODUCTS INC., a Delaware
corporation; and DOES 1 through 100,
inclusive,

[Amount in Controversy Greater Than
\$25,000.00]

Defendants.

COMES NOW plaintiff JUAN ANTONIO CARBALLO ("Plaintiff"), on behalf of himself and all other aggrieved employees, and alleges as follows:

JURISDICTION AND VENUE

1. This is a representative action, pursuant to the Labor Code Private Attorneys General Act of 2004, codified at Labor Code section 2698, *et seq.* ("PAGA"), on behalf of Plaintiff and all other aggrieved current and former employees of PROFESSIONAL CABINET SOLUTIONS, a California corporation, and any of its respective subsidiaries or affiliated companies within the State of California ("PROFESSIONAL CABINET"), AMERICAN WOODMARK CORP., a Virginia corporation, and any of its respective subsidiaries or affiliated companies within the State of California ("AMERICAN WOODMARK"), RSI HOME PRODUCTS INC., a Delaware corporation, and any of its respective subsidiaries or affiliated companies within the State of California ("RSI HOME", and collectively with PROFESSIONAL CABINET, AMERICAN WOODMARK, and DOES 1 through 100, as further defined below. "Defendants"), as a proxy of the Labor and Workforce Development Agency of the State of California ("LWDA"), on behalf of Plaintiff and all other current and former non-exempt employees of Defendants working within the Civil Penalty Period, as further defined herein, and, as it pertains to the alleged claims for failure to comply with Labor Code section 2810.5, Labor Code section 203, Labor Code section 226, Labor Code section 246, *et seq.*, Labor Code section 2802, on behalf of all employees of Defendants working within the Civil Penalty Period (collectively, "Aggrieved Employees").

2. Jurisdiction exists in the Superior Court of the State of California pursuant to Code of Civil Procedure section 410.10.

3. Venue is proper in Orange County in California pursuant to Code of Civil Procedure section 392, *et seq.* because, among other things, Orange County is where the causes of action complained of herein arose; the county in which the employment relationship began; the county in which performance of the employment contract, or part of it, between Plaintiff and Defendants was due to be performed; and the county in which the employment contract, or part of it, between Plaintiff and Defendants was actually performed.

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1 4. Plaintiff is an “aggrieved employee” under PAGA, as he was employed by
2 Defendants during the applicable statutory period and suffered one or more of the Labor Code
3 violations set forth herein. Accordingly, Plaintiff seeks to recover, on behalf of himself and all other
4 aggrieved current and former employees of Defendants, the civil penalties provided by PAGA plus
5 reasonable attorneys’ fees and costs, as the term “civil penalty” is defined under *ZB N.A. v. Superior*
6 *Court* (2019) 8 Cal.5th 175, under the Labor Code Private Attorneys General Act of 2004, codified
7 at Labor Code section 2698, *et seq.* (“PAGA”) plus reasonable attorneys’ fees and costs, for Plaintiff
8 and all other aggrieved current and former employees of Defendants during the Civil Penalty Period

9 5. Plaintiff seeks to recover the PAGA civil penalties through a representative action
10 permitted by PAGA and the California Supreme Court in, among other authorities, *Arias v. Superior*
11 *Court* (2009) 46 Cal.4th 969. According to the same authorities, class certification of the PAGA
12 allegations described herein is not required.

13 6. During the period beginning one (1) year preceding the provision of notice to the
14 LWDA regarding the herein-described Labor Code violations (the “Civil Penalty Period”),
15 Defendants violated, *inter alia*, Labor Code sections 200, 201, 202, 203, 204, 226, 226.3, 210, 246,
16 432, 510, 512, 558, 1174, 1194, 1197, 1197.1, 1198.5, 2802, 2699, and 2810.5. among others.

17 7. Labor Code section 2699, subdivisions (a) and (g), authorizes aggrieved employees
18 such as Plaintiff, on behalf of himself and all other aggrieved current and former employees within
19 the statutory period, to bring a civil action to recover civil penalties pursuant to the procedures
20 specified in Labor Code section 2699.3.

21 8. On or around July 22, 2020, Plaintiff provided written notice under Labor Code
22 section 2699.3 online and by certified mail, with return receipt requested, of Defendants’ violation
23 of various, including the herein-described, provisions of the Labor Code. to the Labor and
24 Workforce Development Agency (“LWDA”), as well as by certified mail. with return receipt
25 requested to Defendants, and each of them.

26 9. Pursuant to Labor Code section 2699.3, subdivision (a)(2)(A). the LWDA did not
27 provide notice of its intention to investigate Defendants’ alleged violations within sixty-five (65)
28

1 calendar days of the July 22, 2020 postmarked date of the herein-described notice sent by Plaintiff
2 to the LWDA and Defendants.

3 **PAGA REPRESENTATIVE ALLEGATIONS**

4 10. At all relevant times mentioned herein, Defendants had and have a policy or practice
5 of failing to pay overtime wages to Plaintiff and other Aggrieved Employees in the State of
6 California in violation of California state wage and hour laws as a result of, without limitation,
7 Plaintiff and other Aggrieved Employees working over eight (8) hours in a workday or forty (40)
8 hours in a workweek; over twelve (12) hours in a workday; and/or seven (7) consecutive workdays
9 in a workweek without being properly compensated for all hours worked in excess of eight (8) hours
10 in a workday or forty (40) hours in a workweek; all hours worked in excess of twelve (12) hours in
11 a workday; and/or for all hours worked on the seventh consecutive workday in a workweek, as a
12 result of, among other things, Defendants, failing to accurately track and/or pay for all hours actually
13 worked; engaging, suffering, or permitting employees to work off the clock, including, without
14 limitation, by requiring employees to wait in lines to clock in, by requiring some employees to clock
15 out and continue working, and by calling employees during non-working hours for work-related
16 business; by manipulating and/or editing time entries to show lesser hours than actually worked; by
17 auto-deducting meal periods not taken; and by paying overtime hours at the regular or otherwise
18 improper rate(s) of pay due to, among other things, failing to account for shift rate differentials, to
19 the detriment of Plaintiff and other Aggrieved Employees.

20 11. At all relevant times mentioned herein, Defendants had and have a practice or policy
21 of failing to compensate Plaintiff and other Aggrieved Employees with minimum wages for all hours
22 worked, as a result of, without limitation, Defendants routinely failing to pay Plaintiff or other
23 aggrieved employees' wages for all hours worked or otherwise under Defendants' control due to,
24 without limitation, failing to accurately track and/or pay for all hours actually worked; engaging,
25 suffering, or permitting employees to work off the clock, including, without limitation, by requiring
26 employees to wait in lines to clock in, by requiring some employees to clock out and continue
27 working, and by calling employees during non-working hours for work-related business; by
28 manipulating and/or editing time entries to show lesser hours than actually worked; by auto-

1 deducting meal periods not taken; by failing to pay for reporting time pay; by failing to pay for split
2 shift premiums; and by improperly deducting wages from employee paystubs, to the detriment of
3 Plaintiff and other Aggrieved Employees.

4 12. At all relevant times mentioned herein, Defendants had and have a policy or practice
5 of failing to provide Plaintiff and other Aggrieved Employees a thirty (30) minute uninterrupted,
6 timely, and complete meal period for days on which the employee worked in excess of five (5) hours
7 in a workday; a second thirty (30) minute uninterrupted, timely, and complete meal period for days
8 on which the employee worked in excess of ten (10) hours in a workday; or compensation in lieu
9 thereof, including, without limitation, by interrupting meal periods, not providing timely meal
10 periods, failing to provide first and second meal periods all together, providing short meal periods,
11 and/or auto-deducting meal periods even when they were not taken, as required by California wage
12 and hour laws.

13 13. At all relevant times mentioned herein, Defendants had and have a policy or practice
14 of failing to provide Plaintiff and other Aggrieved Employees paid, uninterrupted, timely, and
15 complete rest periods of at least ten (10) minutes per four (4) hours worked or major fractions
16 thereof, or compensation in lieu thereof, including, without limitation, by failing to provide rest
17 periods all together; requiring that employees carry cellular telephones or walkie-talkies during rest
18 periods; not permitting employees to leave the premises; and otherwise requiring on-duty/on-call
19 rest periods, as required by California wage and hour laws.

20 14. At all relevant times mentioned herein, Defendants had and have a policy or practice
21 of failing to comply with Labor Code section 226, subdivision (a) by intentionally failing to furnish
22 Plaintiff and other Aggrieved Employees with itemized wage statements that accurately reflect all
23 gross wages earned; total hours worked by the employee; net wages earned; all deductions; all
24 applicable hourly rates in effect during the pay period and the corresponding number of hours
25 worked at each hourly rate by the employee; and other such information as required by Labor Code
26 section 226, subdivision (a).

27 15. At all relevant times mentioned herein, Defendants had and have a policy or practice
28 of failing to comply with Labor Code section 226, subdivision (a) by intentionally failing to furnish

1 Plaintiff and other Aggrieved Employees with documents signed to obtain or hold employment
2 under Labor Code section 432, personnel records under Labor Code section 1198.5, and time records
3 under Labor Code section 1174, making it difficult for Plaintiff and other Aggrieved Employees to
4 calculate their unpaid wages and/or premium payments, to the detriment of Plaintiff and other
5 Aggrieved Employees.

6 16. At all relevant times mentioned herein, Defendants had and have a policy or practice
7 of failing to timely pay Plaintiff and other Aggrieved Employees, among other wages, all wages
8 owed as a result of Defendants' practice or policy of failing to pay, among other wages, overtime
9 wages, minimum wages, premium wages, paid time off and vacation time owed as required by Labor
10 Code sections 201, 202, and 203.

11 17. At all relevant times mentioned herein, Defendants have had a policy or practice of
12 failing and refusing, and continue to fail and refuse, to reimburse employees Plaintiff and other
13 aggrieved employees for their costs incurred, including but not limited to, for work supplies through
14 wage deductions, and purchase and maintenance of a personal cellular phone, as required by Labor
15 Code section 2802.

16 18. At all relevant times mentioned herein, Defendants have had a policy or practice of
17 failing to comply with the notice requirements of Labor Code section 2810.5 (*i.e.*, the Wage Theft
18 Protection Act of 2011) by, among other things, failing to provide Plaintiff and other Aggrieved
19 Employees with the rates of pay and overtime rates of pay applicable to their employment;
20 allowances claimed as part of the minimum wage; the regular payday designated by Defendants; the
21 name, address, and telephone number of the workers' compensation insurance carrier; information
22 regarding paid sick leave; and other pertinent information required to be disclosed by Defendants
23 under Labor Code section 2810.5.

24 19. At all relevant times mentioned herein, Defendants failed to provide Plaintiff and
25 other Aggrieved Employees with the amount of paid sick leave required to be provided pursuant to
26 California law (including, without limitation Labor Code section 246, *et seq.*), and also did not
27 permit its use upon request as contemplated under California laws, to the detriment of Plaintiff and
28 all other Aggrieved Employees.

20. At all relevant times mentioned herein, Defendants have had a policy or practice of failing to pay Plaintiff and Aggrieved Employees their wages in accordance with Labor Code Section 204, which requires that: “[l]abor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive of any calendar month, shall be paid for between the 1st and 10th day of the following month.”.

21. Plaintiff, in Plaintiff's representative capacity, seeks civil penalties under Labor Code sections 210, 226.3, 558, 1174.5, 1197.1, and 2699 for the herein-described acts, which violate the California Labor Code as described above, including on behalf of Plaintiff and other Aggrieved Employees pursuant to PAGA.

PARTIES

22. Plaintiff is a resident of the State of California. At all relevant times herein, Plaintiff is informed and believes, and based thereon alleges that Defendants employed Plaintiff as a non-exempt employee, with duties that included, but were not limited to, examination of equipment, operating machinery, general labor, and participating in meetings. Plaintiff is informed and believes he began working for Defendants from approximately October of 2006 through approximately May of 2020. Defendants paid (or purported to pay) Plaintiff an hourly wage for his services.

23. Plaintiff is informed and believes and based thereon alleges that defendant PROFESSIONAL CABINET is, and at all times relevant hereto was, a corporation organized and existing under and by virtue of the laws of the State of California and doing business in the County of Orange, State of California.

24. Plaintiff is informed and believes and based thereon alleges that defendant AMERICAN WOODMARK is, and at all times relevant hereto was, a corporation organized and existing under and by virtue of the laws of the State of Virginia and doing business in the County of Orange, State of California.

25. Plaintiff is informed and believes and based thereon alleges that defendant RSI HOME is, and at all times relevant hereto was, a corporation organized and existing under and by virtue of the laws of the State of Delaware and doing business in the County of Orange, State of

1 California.

2 26. The true names and capacities, whether individual, corporate, associate, or otherwise,
3 of defendants sued herein as DOES 1 through 100, inclusive, are currently unknown to Plaintiff,
4 who therefore sues defendants by such fictitious names under Code of Civil Procedure section 474.
5 Plaintiff is informed and believes and based thereon alleges that each of the defendants designated
6 herein as DOE is legally responsible in some manner for the unlawful acts referred to herein.
7 Plaintiff will seek leave of court to amend this Complaint to reflect the true names and capacities of
8 the defendants designated hereinafter as DOES when such identities become known. Plaintiff is
9 informed and believes, and based thereon alleges, that each defendant acted in all respects pertinent
10 to this action, as the agent of the other defendant(s), carried out a joint scheme, business plan or
11 policy in all respects pertinent hereto, and the acts of each defendant are legally attributable to the
12 other defendants. Whenever, heretofore or hereinafter, reference is made to "Defendants," it shall
13 include PROFESSIONAL CABINET, AMERICAN WOODMARK, RSI HOME, and any of their
14 parent, subsidiary, or affiliated companies within the State of California, as well as DOES 1 through
15 100 identified herein.

16 **JOINT LIABILITY ALLEGATIONS**

17 27. Plaintiff is informed and believes, and based thereon alleges, that at all times
18 mentioned herein, each of the defendants was the agent, principal, employee, employer,
19 representative, joint venture or co-conspirator of each of the other defendants, either actually or
20 ostensibly, and in doing the things alleged herein acted within the course and scope of such agency,
21 employment, joint venture, and conspiracy.

22 28. All of the acts and conduct described herein of each and every corporate defendant
23 was duly authorized, ordered, and directed by the respective and collective defendant corporate
24 employers, and the officers and management-level employees of said corporate employers. In
25 addition thereto, said corporate employers participated in the aforementioned acts and conduct of
26 their said employees, agents, and representatives, and each of them; and upon completion of the
27 aforesaid acts and conduct of said corporate employees, agents, and representatives, the defendant
28 corporation respectively and collectively ratified, accepted the benefits of, condoned, lauded,

1 acquiesced, authorized, and otherwise approved of each and all of the said acts and conduct of the
2 aforementioned corporate employees, agents and representatives.

3 29. As a result of the aforementioned facts, Plaintiff is informed and believes, and based
4 thereon alleges that Defendants, and each of them, are joint employers.

5 **FIRST CAUSE OF ACTION**

6 **(Civil Penalties Under Labor Code § 210 – Against All Defendants)**

7 30. Plaintiff re-alleges each and every allegation set forth in the preceding paragraphs
8 and incorporates each by reference as though fully set forth hereat.

9 31. At all relevant times herein, Labor Code section 204, requires and required that:
10 “[l]abor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for
11 between the 16th and 26th day of the month during which the labor was performed, and labor
12 performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for
13 between the 1st and 10th day of the following month.”

14 32. At all relevant times herein, Labor Code section 210, subdivision (a) states and stated
15 that “[i]n addition to, and entirely independent and apart from, any other penalty provided in this
16 article, every person who fails to pay the wages of each employee as provided in Sections 201.3,
17 204, 204b, 204.1, 205, 205.5, and 1197.5, shall be subject to a civil penalty as follows: (1) For any
18 initial violation, one hundred dollars (\$100) for each failure to pay each employee” and “(2) For
19 each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for
20 each failure to pay each employee, plus 25 percent of the amount unlawfully withheld.”

21 33. At all relevant times herein, Defendants have had a consistent policy or practice of,
22 at times, failing to pay Plaintiff and aggrieved employees during their employment on a timely basis
23 as per Labor Code section 204. Thus, pursuant to Labor Code section 210, Plaintiff and other
24 aggrieved employees or former employees he seeks to represent are entitled to recover civil penalties
25 for Defendants’ violations of Labor Code section 204, in the amount of one hundred dollars (\$100)
26 for each aggrieved employee or former employee for each initial violation per employee, and two
27 hundred dollars (\$200) for each aggrieved employee or former employee for each subsequent
28 violation in connection with each payment that was made in violation of Labor Code section 204.

1 **SECOND CAUSE OF ACTION**

2 **(Civil Penalties Under Labor Code § 226.3 – Against All Defendants)**

3 34. Plaintiff re-alleges and incorporates by reference all of the allegations contained in
4 the preceding paragraphs of this Complaint as though fully set forth hereat.

5 35. Defendants had and have a policy or practice of failing to comply with Labor Code
6 section 226, subdivision (a) by intentionally failing to furnish Plaintiff with itemized wage
7 statements that accurately reflect gross wages earned; total hours worked; net wages earned; the
8 name and address of the legal entity that is the employer and, if the employer is a farm labor
9 contractor, the name and address of the legal entity that secured the services of the employer; all
10 applicable hourly rates in effect during the pay period and the corresponding number of hours
11 worked at each hourly rate; and other such information as required by Labor Code section 226,
12 subdivision (a).

13 36. Labor Code section 226.3 states that “[a]ny employer who violates subdivision (a)
14 of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250)
15 per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for
16 each violation in a subsequent citation, for which the employer fails to provide the employee a wage
17 deduction statement or fails to keep the records required in subdivision (a) of Section 226.”

18 37. Labor Code section 226.3 further provides that “[t]he civil penalties provided for in
19 this section are in addition to any other penalty provided by law.”

20 38. Plaintiff is informed and believes, and based thereon alleges, that Defendants had
21 and have a policy or practice of, at times, failing to furnish non-exempt employees, including,
22 without limitation, Plaintiff, with itemized wage statements that accurately reflect all gross wages
23 earned; total hours worked by the employee; net wages earned; all deductions; all applicable hourly
24 rates in effect during the pay period and the corresponding number of hours worked at each hourly
25 rate by the employee; and other such information as required by Labor Code section 226,
26 subdivision (a).

27 / / /

28 / / /

39. Pursuant to Labor Code section 226.3, Plaintiff and other aggrieved employees he seeks to represent are entitled to recover civil penalties for Defendants' violation of Labor Code section 226, subdivision (a) in the amount of two hundred fifty dollars (\$250) for each aggrieved current or former employee per pay period for the initial violation, and one thousand dollars (\$1,000) for each aggrieved current or former employee per pay period for each subsequent violation.

THIRD CAUSE OF ACTION

(Violation of Labor Code § 558 – Against All Defendants)

40. Plaintiff re-alleges each and every allegation set forth in the preceding paragraphs and incorporates each by reference as though fully set forth hereat.

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

- a. For any initial violation, fifty dollars (\$50) for each underpaid employee and for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages;
- b. For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages;
- c. Wages recovered pursuant to this section shall be paid to the affected employee.”

42. Plaintiff is informed and believes, and based thereon alleges, that Defendants, and each of them, on occasion violated, or caused to be violated, the Labor Code sections described herein, including causing Plaintiff and other aggrieved employees not to, among other things: be paid overtime wages and minimum wages; receive meal and rest periods or compensation in lieu thereof; be paid timely wages during their employment and after their employment separation; receive accurate, itemized wage statements; be provided with the opportunity to inspect employment records; be reimbursed for work expenses; and be provided with notice as required under Labor

1 Code section 2810.5.

2 43. As a direct and proximate result of Defendants' conduct, Plaintiff and other
3 Aggrieved Employees are entitled to recover directly from Defendants civil penalties pursuant to
4 Labor Code section 558 in amounts to be determined at trial.

5 **FOURTH CAUSE OF ACTION**

6 **(Violation of Labor Code § 1197.1 – Against All Defendants)**

7 44. Plaintiff re-alleges each and every allegation set forth in the preceding paragraphs
8 and incorporates each by reference as though fully set forth hereat.

9 45. Pursuant to Labor Code section 1197.1, subdivision (a): "Any employer or other
10 person acting either individually or as an officer, agent, or employee of another person, who pays
11 or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or
12 local law, or by an order of the commission shall be subject to a civil penalty. restitution of wages,
13 liquidated damages payable to the employee, and any applicable penalties imposed pursuant to
14 Section 203 as follows:

- 15 a. For any initial violation that is intentionally committed. one hundred dollars
16 (\$100) for each underpaid employee for each pay period for which the
17 employee is underpaid. This amount shall be in addition to an amount
18 sufficient to recover underpaid wages, liquidated damages pursuant to Section
19 1194.2, and any applicable penalties imposed pursuant to Section 203.
- 20 b. For each subsequent violation for the same specific offense, two hundred fifty
21 dollars (\$250) for each underpaid employee for each pay period for which the
22 employee is underpaid regardless of whether the initial violation is
23 intentionally committed. This amount shall be in addition to an amount
24 sufficient to recover underpaid wages, liquidated damages pursuant to Section
25 1194.2, and any applicable penalties imposed pursuant to Section 203.
- 26 c. Wages, liquidated damages, and any applicable penalties imposed pursuant to
27 Section 203, recovered pursuant to this section shall be paid to the affected
28 employee."

46. Plaintiff is informed and believes, and based thereon alleges, that Defendants on occasion caused Plaintiff and aggrieved employees not be paid minimum wages as a result of Defendants, without limitation, by routinely failing to pay Plaintiff or other Aggrieved Employees' wages for all hours worked or otherwise under Defendants' control due to, without limitation, failing to accurately track and/or pay for all hours actually worked, engaging, suffering, or permitting employees to work off the clock, including by without limitation, by requiring employees to clock out and continue working and/or by manipulating or editing time entries to show lesser hours than actually worked including, without limitation, auto-deducting meal periods not taken during the pay period.

47. As a direct and proximate result of Defendants' conduct, Plaintiff and other aggrieved employees are entitled to recover directly from Defendants civil penalties pursuant to Labor Code section 1197.1.

FIFTH CAUSE OF ACTION

(Civil Penalties Under Labor Code § 2699 – Against All Defendants)

48. Plaintiff re-alleges and incorporates by reference all of the allegations contained in the preceding paragraphs of this Complaint as though fully set forth hereat.

49. Pursuant to Labor Code section 2699, subdivision (a), notwithstanding any other provision of law, any provision of the Labor Code that provides for a civil penalty to be assessed and collected by the LWDA or any of its departments, divisions, commissions, boards, agencies or employees for a violation of the Labor Code may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees pursuant to the procedures specified in Labor Code section 2699.3.

50. Pursuant to Labor Code section 2699, subdivision (f). for all provisions of the Labor Code except those for which a civil penalty is specifically provided, the established civil penalty for a violation of those provisions is as follows: if, at the time of the alleged violation, the person employs one or more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation.

1 51. Plaintiff is informed and believes and based thereon alleges that Defendants, and
2 each of them, violated the Labor Code sections described herein, including, without limitation, for
3 the failure to: pay overtime wages and minimum wages; provide meal and rest periods or
4 compensation in lieu thereof; provide accurate, itemized wage statements; pay timely wages during
5 employment and after employment separation; provide employees the opportunity to inspect
6 employment records; reimburse work expenses; failed to provide and pay for sick pay leave, and
7 provide notice as required under Labor Code section 2810.5, entitling Plaintiff and other Aggrieved
8 Employees to civil penalties for each of these Labor Code violations in the amounts set forth in
9 Labor Code section 2699, subdivision (f).

10 52. Moreover, Plaintiff and other aggrieved current and former employees within the
11 State of California whom he seeks to represent are entitled to an award of reasonable attorneys' fees
12 and costs in connection with their herein-described claims for civil penalties.

13 **REQUEST FOR JURY TRIAL**

14 53. Plaintiff hereby requests a trial by jury.

15 **PRAYER**

16 **WHEREFORE**, on behalf of himself and all others aggrieved, Plaintiff prays for judgment
17 against Defendants as follows:

- 18 A. An award of civil penalties pursuant to Labor Code sections 210, 226.3, 558, 1197.1,
19 and 2699;
- 20 B. An award of reasonable attorneys' fees and costs pursuant to Labor Code sections
21 210, 226.3, 558, 1197.1, and 2699;
- 22 C. Pre-judgment and post-judgment interest;
- 23 D. For costs of suit incurred herein; and
- 24 E. Such other and further relief as the Court deems just and proper.

25 Dated: December 29, 2020

BIBIYAN LAW GROUP, P.C.

26 BY:

DIEGO AVILES

27 DAVID D. BIBIYAN

28 Attorneys for Plaintiff JUAN ANTONIO CARBALLO,
on behalf of himself and other Aggrieved Employees