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VIA FAX

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

BERTHA MARQUEZ, as an individual, on
behalf of herself and all persons similarly
situated,

Plaintiff,

v.

LAVA DS, LLC d.b.a. INSTAFF, a
California limited liability company
authorized to do business in the state of
California; UNIS, LLC, a Delaware limited
liability company authorized to do business
in the state of California; UNIS COMPANY,
INC., a California corporation authorized to
do business in the state of California; and
DOES 1 through 100 inclusive,

Defendants.

Case No.: **21STCV03405**

CLASS & REPRESENTATIVE ACTION

**COMPLAINT FOR DAMAGES,
RESTITUTION, PENALTIES, AND
INJUNCTIVE RELIEF:**

- (1) **FAILURE TO PROVIDE LEGALLY
COMPLIANT MEAL PERIODS AND/OR
COMPENSATION IN LIEU THEREOF
(Labor Code §§ 204, 226.7, 512, and 558);**
- (2) **FAILURE TO PROVIDE LEGALLY
COMPLIANT REST PERIODS AND/OR
COMPENSATION IN LIEU THEREOF
(Labor Code §§ 204 and 226.7);**
- (3) **FAILURE TO TIMELY PAY MINIMUM,
REGULAR, AND/OR OVERTIME
WAGES
(Labor Code §§ 204, 210, 510, 1194, 1197,
1197.1, and 1198);**
- (4) **FAILURE TO TIMELY PAY ALL
WAGES DUE AND OWING UPON
SEPARATION OF EMPLOYMENT
(Labor Code §§ 201-204 and 210);**
- (5) **FAILURE TO REIMBURSE FOR
NECESSARY BUSINESS EXPENSES
(Labor Code § 2802);**
- (6) **FAILURE TO FURNISH ACCURATE
ITEMIZED WAGE STATEMENTS
(Labor Code §§ 226, 226.3, and 246(i));**

- (7) **FAILURE TO MAINTAIN ACCURATE EMPLOYMENT AND PAYROLL RECORDS**
(Labor Code §§ 226, 1174, and 1174.5);
- (8) **VIOLATION OF CALIFORNIA’S UNFAIR COMPETITION LAW**
(Bus. & Prof. Code §§ 17200, *et seq.*); and
- (9) **VIOLATIONS OF THE PRIVATE ATTORNEYS GENERAL ACT OF 2004**
(Labor Code §§ 2698 *et seq.*).

DEMAND FOR JURY TRIAL

Plaintiff Bertha Marquez (“Plaintiff”) brings this class and representative action on behalf of herself and all persons similarly situated against Defendants Lava DS, LLC d.b.a. In-Staff, UNIS, LLC, UNIS Company, Inc., and DOES 1 through 100, inclusive (collectively, “Defendants”), on the following grounds:

INTRODUCTION

1. This action is brought by Plaintiff on behalf of herself and all individuals who currently or formerly performed work for Defendants, individually and/or collectively, in California, including those individuals who were hired by Lava DS, LLC d.b.a. In-Staff, UNIS, LLC, UNIS Company, Inc., other staffing agencies and/or other third parties (referred to herein as “UNIS Workers”).

2. Plaintiff asserts that during the relevant time period, Defendants engaged in a common pattern and practice of wage and hour violations under the California Labor Code (“Labor Code”) and the California Industrial Welfare Commission’s (“IWC”) Wage Order No. 9-2001 to decrease their employment related costs and increase their profits by, among other things:

- a. Failing to provide the opportunity to take legally compliant meal periods and/or pay compensation in lieu thereof;
- b. Failing to authorize and permit legally compliant rest periods and/or pay compensation in lieu thereof;
- c. Failing to timely compensate for all hours worked, including minimum, regular, and/or overtime wages;

- d. Failing to timely pay all wages due and owing upon separation of employment;
- e. Failing to reimburse for necessary business expenses;
- f. Failing to furnish accurate itemized wage statements;
- g. Failing to maintain accurate employment and payroll records;
- h. Engaging in unlawful, unfair and/or fraudulent business practices; and
- i. Violating the Private Attorneys General Act of 2004 (“PAGA”).

3. By and through this class and representative action, Plaintiff seeks to recover all available remedies, including, but not limited to, damages, restitution, injunctive relief and penalties, as well as reasonable attorneys’ fees and litigation costs, as provided under California law.

4. All allegations in this Complaint are based upon information and belief except those allegations that pertain to Plaintiff named herein and her counsel, which are based upon personal knowledge. Each allegation in this Complaint has evidentiary support or is likely to have evidentiary support after reasonable opportunity for further investigation and formal discovery.

JURISDICTION AND VENUE

5. This Court has jurisdiction over this action pursuant to California Code of Civil Procedure (“Code of Civil Procedure”) section 410.10. Pursuant to Code of Civil Procedure section 382, California Business and Professions Code (“Business & Professions Code”) section 17203, and Labor Code section 2698 *et seq.*, Plaintiff brings this action on behalf of herself and all UNIS Workers.

6. This Court has personal jurisdiction over Defendants because Defendants conduct business in the state of California and have caused injuries in the county of Los Angeles, as well as throughout the state of California, through their acts and omissions, and by their violations of the Labor Code and Business & Professions Code, as alleged herein.

7. Venue as to Defendants is proper in this judicial district pursuant to Code of Civil Procedure section 395(a). Defendants transact business in Los Angeles County and are otherwise within this Court’s jurisdiction for purposes of service of process. The unlawful acts alleged herein have a direct effect on Plaintiff and other UNIS Workers within the county of Los Angeles and the state of California.

8. Pursuant to rule 3.400 of the California Rules of Court, this case shall be deemed a complex action because it is filed as a class action and involves specialized case management, extensive discovery and evidence, difficult and/or novel issues and is likely to require extensive post-judgment supervision.

THE PARTIES

I. PLAINTIFF

9. Plaintiff Bertha Marquez at all material times mentioned herein:

- a. Was a resident of the county of Riverside;
- b. Has been employed by Defendants since 2009 and as of the date of this Complaint, remains employed by Defendants.
- c. Worked as a warehouse lead and customer service representative at Defendants' fulfillment and distribution warehouses located in Walnut, Fontana, Hacienda Heights/Azusa, and Riverside, California;
- d. Was classified by Defendants as a non-exempt employee for purposes of the Labor Code and the IWC Wage Orders;
- e. Earned an hourly wage;
- f. Was paid on a bi-weekly basis;
- g. Was typically scheduled to work five (5) days a week and eight (8) hours each workday;
- h. Was not provided with the opportunity to take legally compliant meal periods and/or paid compensation in lieu thereof;
- i. Was not authorized or permitted to take legally compliant rest periods and/or paid compensation in lieu thereof;
- j. Was not timely compensated the appropriate minimum, regular, and/or overtime wages for all time worked, including time spent working off-the-clock and time spent working through meal periods;
- k. Was not reimbursed for all necessary business expenses;
- l. Was not furnished with accurate itemized wage statements;

- 1 m. Contends her employment and payroll records are not accurately maintained by
2 Defendants;
- 3 n. Was subject to Defendants’ unlawful, unfair, and/or fraudulent business
4 practices;
- 5 o. Is a member of the class defined herein;
- 6 p. Is an “aggrieved employee” as defined by Labor Code section 2699(c); and
- 7 q. Complied with all requirements outlined in Labor Code sections 2698 *et seq.*

8 **II. DEFENDANTS**

9 10. Defendant Lava DS, LLC d.b.a. In-Staff (“In-Staff”) is a California limited liability
10 company authorized to do business in California. The California Secretary of State website lists In-
11 Staff’s entity address in Rowland Heights, California. In-Staff is believed to be in the business of
12 warehouse service – logistics. In-Staff is believed to provide warehouse services to UNIS, LLC and
13 UNIS Company, Inc. For example, “INSTAFF” is listed on Plaintiff’s “Statement of Earnings.”
14 Additionally, In-Staff’s email signature includes “218 Machlin Ct. Walnut, Ca. 91789” as its address,
15 which is the same address as UNIS, LLC and UNIS Company, Inc.

16 11. Defendant UNIS, LLC (“UNIS”) is a Delaware limited liability company authorized to
17 do business in California. UNIS is believed to be a third-party logistic provider which owns, operates
18 and/or manages several fulfillment and distribution warehouses throughout California, including in
19 Walnut, Fontana, Riverside, City of Industry, and Buena Park. UNIS is believed to use In-Staff’s
20 warehouse services, as well as the services of other employment agencies, at its various fulfillment and
21 distribution warehouses throughout California. UNIS is headquartered at 218 Machlin Ct., Walnut,
22 California 91789.

23 12. Defendant UNIS Company, Inc. (“UNIS Company”) is a Delaware corporation
24 authorized to do business in the state of California. UNIS Company is believed to be a third-party
25 logistics provider that unifies the supply chain networks through technology and information services.
26 UNIS Company is believed to be a professional management company that owns, operates and/or
27 manages UNIS, LLC and other entities. UNIS Company is believed to use In-Staff’s warehouse
28

1 services, as well as the services of other employment agencies, throughout California. UNIS Company
2 has its headquarters at 218 Machlin Ct., Walnut, California 91789.

3 13. The true names and capacities, whether individual, corporate, subsidiary, partnership,
4 associate, or otherwise of Defendant Does 1 through 100, inclusive, are unknown to Plaintiff, who
5 therefore sues these defendants by such fictitious names pursuant to Code of Civil Procedure section
6 474. Plaintiff will amend this Complaint, setting forth the true names and capacities of these
7 fictitiously named defendants when their true names are ascertained. Plaintiff is informed and believes,
8 and on that basis alleges, that each of the fictitious defendants have participated in the acts and/or
9 omissions alleged in this Complaint.

10 14. At all times mentioned herein, the acts alleged to have been done and/or caused by the
11 named defendants are also alleged to have been done and/or caused by the fictitiously named
12 defendants, and by each of their agents and/or employees who acted within the scope of their agency
13 and/or employment.

14 15. At all times mentioned herein, each defendant, including each fictitiously named
15 defendant, is believed to have acted individually or as an officer, agent, or employee of the each of the
16 other defendants.

17 16. At all times mentioned herein, each defendant, including each fictitiously named
18 defendant, acted as an agent, servant, employee, co-conspirator, alter-ego and/or joint venture of each
19 of the other defendants, and in doing the things alleged herein acted within the course and scope of
20 such agency, employment, alter-ego and/or in furtherance of the joint venture.

21 17. At all times mentioned herein, the acts and/or omissions of each of the defendants,
22 including each fictitiously named defendant, concurrently contributed to the various acts and/or
23 omissions of each and every one of each of the other defendants, including each fictitiously named
24 defendant, in proximately causing the wrongful conduct, harm, and/or damages alleged herein. Each of
25 the defendants, including each fictitiously named defendant, approved of, condoned, and/or otherwise
26 ratified each and every one of the acts and/or omissions complained herein. Each defendant, including
27 each fictitiously named defendant, were and are acting with authority of each and every other
28 defendant and/or are acting as agents of each and every other defendant or fictitiously named

1 defendant.

2 18. At all times mentioned herein there was a unity of interest and ownership between each
3 defendant, including each fictitiously named defendant, such that all defendants acted as a single
4 employer of Plaintiff and all other UNIS Workers.

5 19. At all times mentioned herein each named defendant, including each fictitiously named
6 defendant, exercised supervision and control over the wages, hours, and/or working conditions of
7 Plaintiff and all other UNIS Workers, including, but not limited to, implementing standard policies,
8 procedures, practices and guidelines.

9 20. At all times mentioned herein, each defendant, including each fictitiously named
10 defendant, caused UNIS Workers, including Plaintiff, to perform work and/or prevented Plaintiff and
11 other UNIS Workers from performing work.

12 21. At all times mentioned herein, each defendant, including each fictitiously named
13 defendant, had control over UNIS Workers.

14 22. Each defendant, including each fictitiously named defendant, is alleged to have caused
15 each of the violations alleged herein.

16 23. Each defendant, including each fictitiously named defendant, is jointly and severally
17 liable for each of the violations alleged herein.

18 **FACTUAL ALLEGATIONS**

19 24. Plaintiff realleges and incorporates by reference, as though fully set forth herein, all
20 paragraphs of this Complaint.

21 25. Plaintiff began her employment with Defendants in 2009, when Unified Network
22 Information Services bought out her previous employer. From 2009 to early 2017, Plaintiff worked as
23 part of Defendants' fulfillment services as a Lead at Defendants' warehouse/distribution center in
24 Walnut, California. As a Lead, Plaintiff was in charge of various departments, workers, and orders. For
25 instance, Plaintiff was involved with order planning, releasing orders, ensuring packing stations
26 completed orders on time, inventory and customer service. In 2017, Plaintiff transferred to
27 Defendants' distribution center in Fontana, California. Plaintiff worked in Fontana, California as a
28 Lead until late August/September 2017, when she was transferred to the Hacienda Heights/Azusa

1 location on a temporary basis. In November 2017, Plaintiff was transferred to a new warehouse in
2 Fontana, where she worked as both a Lead and Customer Service Representative. As a customer
3 service representative, Plaintiff's job duties consisted of assisting with the Defendants' fulfillment and
4 distribution orders, maintaining warehouse accounts, and providing excellent customer service, among
5 other things. Upon reporting concerns about discrimination and harassment from her new Director and
6 Operations Manager, who referred to her as the "Mexican old lady," Plaintiff was transferred to a
7 warehouse in Riverside, California in April 2020 where she performed work as a Customer Service
8 Representative. However, shortly after starting her position in Riverside, she was told by her Director
9 that she had to go back to the Fontana location and work in the warehouse, instead of in the office,
10 because "that is where [she] belong[s]." Following a brief leave of absence due to the stress and
11 anxiety brought on by the discrimination and harassment she experienced in the workplace, Plaintiff
12 returned to work, and continues to work, as a Lead for Defendants.

13 26. At all relevant times, Plaintiff was classified by Defendants as a non-exempt employee,
14 earned an hourly wage, and was paid on a bi-weekly basis. Plaintiff currently earns \$16.50 per hour.
15 Plaintiff typically worked five (5) days per week, eight (8) hours each workday, for a total of
16 approximately forty (40) hours per week.

17 27. Plaintiff asserts that Defendants have employed, and will continue to employ, other
18 UNIS Workers throughout the state of California at its various fulfillment and distribution warehouses
19 ("warehouses") during the relevant statutory period.

20 28. Plaintiff alleges that she and a number of other UNIS Workers are categorized as non-
21 exempt employees, earn an hourly wage, and are paid on a bi-weekly basis.

22 29. Plaintiff also alleges that she and all UNIS Workers are "employees" as the term is used
23 in the Labor Code and applicable IWC Wage Order regulating wages, hours and working conditions in
24 the state of California.

25 30. Plaintiff further alleges that she and a number of other UNIS Workers regularly work at
26 least eight (8) hours a day and/or forty (40) hours a week.

27 31. Plaintiff contends that she and all other UNIS Workers were subject to, and those
28 currently employed continue to be subject to, the same and/or similar policies, practices, procedures

1 guidelines and/or culture described herein.

2 32. Plaintiff further alleges that she and all other UNIS Workers have suffered, and those
3 currently employed will continue to suffer, the same and/or similar violations of law described herein.

4 33. For all, or a substantial portion, of the relevant time period, Plaintiff is informed and
5 believes and thereon alleges that, Defendants exercised joint control of the terms and conditions of jobs
6 of all UNIS Workers and are therefore jointly and severally liable for the violations asserted herein.

7 34. Plaintiff asserts that Defendants have a policy, practice, procedure, guideline and/or
8 culture of understaffing its warehouses in order to, among other things, decrease their employment
9 related costs and increase their profits.

10 35. Plaintiff contends that, per Defendants' policy, practice, procedure and/or guideline,
11 UNIS Workers are expected to make themselves available at all times for drivers who arrive at the
12 warehouse and are reprimanded if the driver leaves the warehouse without being attended to. Plaintiff
13 contends that this policy, practice, procedure and/or guideline impedes and/or discourages UNIS
14 Workers from being able to take legally compliant meal and/or rest periods and/or results in off-the-
15 clock work.

16 36. Plaintiff contends that Defendants did not, and do not, have a policy, practice,
17 procedure, guideline and/or culture of providing all UNIS Workers with the opportunity to take a
18 timely, uninterrupted, thirty (30) minute off-duty meal period before the end of their fifth hour of work
19 when they worked five (5) or more hours in a day. Similarly, Plaintiff contends that Defendants did
20 not, and do not have a policy, practice, procedure, guideline and/or culture of providing all UNIS
21 Workers with the opportunity to take a second timely, uninterrupted, thirty (30) minute off-duty meal
22 period before the end of their tenth hour of work when they worked more than ten (10) hours in a work
23 day.

24 37. Plaintiff asserts that Defendants did not, and do not, have a policy, practice, procedure,
25 guideline and/or culture of obtaining the consent necessary to waive a meal period, when Plaintiff
26 and/or other UNIS Workers worked no more than six (6) hours in a day. Plaintiff also asserts that
27 Defendants did not, and do not, have a policy, practice, procedure, guideline and/or culture of
28

1 obtaining the consent necessary to waive a meal period when they worked no more than twelve (12)
2 hours.

3 38. Plaintiff alleges that Defendants did not, and do not, have a policy, practice, procedure,
4 guideline and/or culture of paying meal period premium wages to Plaintiff and other UNIS Workers
5 for meal periods that do not comply with California law.

6 39. Plaintiff contends, for example, that due in part to Defendants' understaffing of its
7 warehouses, Plaintiff and other UNIS Workers were consistently directed, forced and/or otherwise
8 pressured to skip their meal periods to complete their work duties in order to compensate for
9 understaffing issues.

10 40. Plaintiff alleges, for instance, that due in part to Defendants' understaffing of its
11 warehouses and the requirement to attend to drivers, UNIS Workers were instructed, forced and/or
12 otherwise compelled to take meal periods that occurred after their sixth and/or eleventh hour of work
13 and/or take meal periods that were less than thirty minutes.

14 41. Plaintiff also contends that on the rare occasion they were able to take a meal and/or rest
15 period, Plaintiff alleges she, and other UNIS Workers, were required to monitor their radios and/or cell
16 phones and be readily available to return to work if necessary. Plaintiff further contends that she, and
17 other UNIS Workers, were required to monitor their personal cell phones for calls or text messages, as
18 the Companies would contact them on their personal devices if they did not immediately respond to
19 calls on the company-issued radio. In fact, UNIS Workers often experienced interrupted meal and/or
20 rest periods because they were called back to work during their meal and/or rest periods.

21 42. Plaintiff further asserts that meal periods were frequently untimely and/or interrupted by
22 work-related tasks, such as drivers arriving at the warehouse to pick-up and/or drop-off shipments,
23 UPS, FedEx and/or other parcel carriers delivering items, as well as interruptions from warehouse
24 employees asking work-related questions, either in person, through a radio call or a phone call and/or
25 text message.

26 43. Plaintiff alleges that Defendants have a policy, practice, procedure, guideline and/or
27 culture of regularly making changes to the timesheets of UNIS Workers to, among other things,
28 modify the meal periods actually taken by UNIS Workers.

1 44. Plaintiff asserts that Defendants knew or should have known that Plaintiff and other
2 UNIS Workers were not provided with the opportunity to take legally complaint meal periods due in
3 large part to Defendants' understaffing of the warehouse and Defendants requirement that UNIS
4 Workers be readily available for drivers.

5 45. Plaintiff contends that although she and other UNIS Workers were not provided with
6 legally compliant meal periods, she and all other UNIS Workers were not timely compensated for non-
7 compliant meal periods as provided by California law.

8 46. Plaintiff alleges that Defendants did not, and do not, have a policy, practice, procedure,
9 guideline, and/or culture of authorizing and permitting Plaintiff and other UNIS Workers to take
10 uninterrupted off-duty rest periods of at least ten (10) minutes in length for every four (4) hours
11 worked or major fraction thereof.

12 47. Plaintiff contends that Defendants did not, and do not, have a policy, practice,
13 procedure, guideline and/or culture of paying rest period premium wages to Plaintiff and other UNIS
14 Workers for rest periods that do not comply with California law.

15 48. Plaintiff contends that she and other UNIS Workers were regularly instructed, directed,
16 pressured, compelled and/or otherwise coerced to work through their rest periods in order to meet the
17 needs of the warehouse, as there were not enough employees to relieve UNIS Workers, like Plaintiff,
18 for their rest periods.

19 49. Plaintiff also contends that she and all other UNIS Workers regularly received rest
20 periods that were untimely, interrupted by instructions to perform their job responsibilities, such as
21 addressing drivers who arrived at the warehouse to pick-up and/or drop-off shipments, UPS, FedEx
22 and/or other parcel carriers delivering items, as well as interruptions from warehouse employees asking
23 work-related questions, due in part to Defendants' inadequate staffing of its warehouse.

24 50. Plaintiff contends that although she and other UNIS Workers were not provided with
25 legally compliant rest periods, she and all other UNIS Workers were not timely compensated for non-
26 compliant rest periods as required by California law.

27 51. Plaintiff further contends that Defendants have a policy, practice, procedure, guideline,
28 and/or culture of not compensating her and all other UNIS Workers on the regular pay days designated

1 by Defendants all minimum and regular wages, and/or no later than the next regular pay day all
2 overtime wages, for all time actually engaged in work on behalf of Defendants.

3 52. Plaintiff asserts that Defendants had, and continue to have, a policy, practice, procedure
4 and/or guideline of not timely compensating UNIS Workers, including Plaintiff for the time they were
5 engaged in work for Defendants while they were clocked out for a meal period.

6 53. Plaintiff asserts that Defendants had, and continue to have, a policy, practice, procedure
7 and/or guideline of not permitting UNIS Workers to clock-in earlier than five minutes prior to their
8 scheduled shift start time. Plaintiff alleges that she, as well as other UNIS Workers, are often
9 instructed, encouraged and/or otherwise compelled to begin working earlier than five minutes before
10 their scheduled start time, particularly if a driver contacts them. Plaintiff asserts that she and other
11 UNIS Workers were not timely paid for the time worked prior to clocking-in at the start of the
12 workday. Thus, Plaintiff and other UNIS Workers were not compensated for all of the time they spent
13 performing work on behalf of Defendants.

14 54. Plaintiff also asserts that she and other UNIS Workers were not compensated for time
15 they spent responding to communications on the company-issued radio while off-the-clock, such as
16 during meal periods. Plaintiff also asserts and other UNIS Workers are often contacted on their
17 personal cellphone by other UNIS Workers, the Companies' management, and shipment delivery
18 drivers, including UPS and FedEx drivers, when they are not clocked-in for work, such as when they
19 are on a meal period or not scheduled to work. Plaintiff further asserts that when she was on a leave of
20 absence she continuously received work-related phone calls on her personal cell phone. Plaintiff
21 further contends that Defendants improperly considered this time as non-compensable and failed to
22 provide any renumeration. As a result, Plaintiff and other UNIS Workers were not compensated for all
23 of the time they spent under the employer's control.

24 55. Plaintiff further asserts that Defendants manipulated the time records of UNIS Workers
25 to reduce the time actually worked by Plaintiff and other UNIS Workers.

26 56. Plaintiff contends that as a result of Defendants' failure to timely and appropriately
27 compensate UNIS Workers for all time worked, actually worked, and/or all premium wages for non-
28 compliant meal and/or rest periods, Defendants had, and continue to have, a policy, practice,

1 procedure, guideline and/or culture of failing to timely pay all wages due and owed upon termination
2 and/or separation of employment. Plaintiff also contends that Defendants have a policy, practice,
3 procedure and/or culture of failing to pay the appropriate waiting time penalties to former UNIS
4 Workers for such untimely payment of wages.

5 57. As a policy, practice, procedure, guideline, and/or culture, Plaintiff asserts that
6 Defendants failed to reimburse Plaintiff and other UNIS Workers for all necessary business expenses
7 that were incurred in the discharge of their job duties. For instance, Plaintiff and other UNIS Workers
8 were required to use, and often used, their personal cell phones to monitor incoming calls and text
9 messages from managers and co-workers regarding work-related issues. Moreover, when UNIS
10 Workers did not immediately respond to communications on the company-issued radio, they were
11 contacted on their personal electronic devices. Additionally, UNIS Workers were contacted about work
12 related matters on their personal electronic devices outside of their scheduled work hours. Despite
13 using their personal cell phones for work purposes, UNIS Workers, such as Plaintiff, did not receive
14 any reimbursement for the use of their personal cell phones in violation of California law.

15 58. Plaintiff alleges that Defendants had, and continue to have, a policy, practice,
16 procedure, guideline and/or culture of furnishing inaccurate wage statements to UNIS Workers. For
17 instance, the wage statements furnished to UNIS Workers did not, and do not, accurately reflect,
18 among other things, the actual gross wages earned, total hours actually worked, all deductions, net
19 wages actually earned, and all applicable hourly rates. As a result, of the lack of information on the
20 wage statements furnished, UNIS Workers were unable to promptly and easily determine, among other
21 things, the total number of hours worked, the applicable hourly rates in effect during the pay period
22 and/or the corresponding number of hours worked at each hourly rate.

23 59. Plaintiff contends that Defendants have a policy, practice, procedure, guideline and/or
24 culture of failing to maintain accurate employment records for UNIS Workers. It is Plaintiff's
25 understanding and belief that Defendants have not maintained payroll records, wage statements or time
26 records showing the actual daily hours worked by and the wages paid to UNIS Workers, the beginning
27 and end time of each work period and/or meal period, and/or copies of the wage statements furnished
28 to UNIS Workers. Plaintiff asserts that due to Defendants' failure to record the proper beginning and

1 end of each work period and the total hours of compensable time worked, such as time spent working
2 during meal periods, Defendants knowingly and intentionally failed to maintain accurate employee
3 and/or payroll records as required by California law.

4 60. On August 14, 2020, Plaintiff submitted written notice to the California Labor and
5 Workforce Development Agency (“LWDA”), UNIS Company, and UNIS informing them of
6 Defendants’ alleged violations of the Labor Code under the PAGA (codified in Labor Code sections
7 2698 *et seq.*), including the facts and theories to support each violation. A true and correct copy of the
8 August 14, 2020 written notice is attached hereto as **Exhibit 1** and is incorporated herein by reference.

9 61. Furthermore, on September 25, 2020, Plaintiff submitted a first amended notice to the
10 LWDA, UNIS Company, UNIS and In-Staff informing them of Defendants’ alleged Labor Code
11 violations, including the facts and theories to support each violation. A true and correct copy of the
12 September 25, 2020 written notice is attached hereto as **Exhibit 2** and incorporated herein by
13 reference.

14 62. On October 19, 2020, Plaintiff submitted a second amended notice to the LWDA,
15 UNIS Company, UNIS, In-Staff and Combined Employer Services, Inc. informing them of
16 Defendants’ alleged violations of the Labor Code, including the facts and theories to support each
17 violation. A true and correct copy of the October 19, 2020 written notices is attached hereto as **Exhibit**
18 **3** and incorporated herein by reference.

19 63. The LWDA had 65 days to provide notice of whether it intended to investigate the
20 alleged violations. To date, the LWDA has not provided notice of whether it intends to investigate the
21 alleged violations of the Labor Code. Pursuant to the PAGA, Plaintiff has the right to pursue, and does
22 so pursue, the asserted claims in a representative action in her representative capacity on behalf of
23 herself, all other UNIS Workers, the general public and the state of California as permitted by Labor
24 Code section 2699.3.

25 64. Plaintiff further believes that additional violations may be discovered and therefore
26 reserves her right to allege additional violations of the law as investigation and discovery warrants. In
27 the event Plaintiff discovers additional violations, Plaintiff will seek to amend the operative complaint
28 as necessary.

1 **CLASS DEFINITIONS**

2 65. Plaintiff's proposed class consists of the following:

3 All current or former non-exempt employees of Defendants, individually
4 and/or collectively, in California, including those individuals who were
5 hired by Lava DS, LLC d.b.a. In-Staff, UNIS, LLC, UNIS Company, Inc.,
6 other staffing agencies and/or other third parties during the period
7 commencing on the date that is within four years prior to the filing of this
8 Complaint through and including the last date of trial (hereinafter the
9 "Class Period"). To the extent that California Rules of Court, Appendix I,
10 Emergency Rule 9 and/or equitable tolling operates to toll the claims by
11 the class against Defendants, the time period should be adjusted
12 accordingly.

13 a. Plaintiff's proposed Waiting Time Penalties Sub-class consists of the following:

14 All current or former non-exempt employees of Defendants,
15 individually and/or collectively, in California, including those
16 individuals who were hired by Lava DS, LLC d.b.a. In-Staff,
17 UNIS, LLC, UNIS Company, Inc., other staffing agencies and/or
18 other third parties during the Class Period. To the extent that
19 California Rules of Court, Appendix I, Emergency Rule 9 and/or
20 equitable tolling operates to toll the claims by the sub-class against
21 Defendants, the time period should be adjusted accordingly.

22 66. Members of the class and/or sub-class are all "employees" as the term is used in the
23 Labor Code and the IWC Wage Orders regulating wages, hours, and working conditions in the state of
24 California.

25 67. A more precise definition of the class and/or sub-class may be determined after further
26 investigation and discovery. Plaintiff reserves her right to redefine the class and/or create subclasses at
27 any time prior to the court's order on Plaintiff's Motion for Class Certification as provided by law.
28 (Cal. Rules Ct., R. 3.765(b).)

21 **CLASS ALLEGATIONS**

22 68. Plaintiff realleges and incorporates by reference, as though fully set forth herein, all
23 paragraphs of this Complaint.

24 69. Plaintiff brings this action on behalf of herself and on behalf of all persons within the
25 defined class and/or sub-class defined herein.

26 70. This class action meets the statutory prerequisites for the maintenance of a class action,
27 as set forth in Code of Civil Procedure section 382 and California Civil Code ("Civil Code") section
28 1781, in that:

- a. The persons who comprise the class and/or sub-class are so numerous that the joinder of all such persons is impracticable and the disposition of their claims as a class will benefit the parties and the Court;
- b. Nearly all factual, legal, statutory, declaratory and injunctive relief issues that are raised in this Complaint are common to the class and/or sub-class and will apply uniformly to every member of the class and/or sub-class, and as a practical matter, be dispositive of the interests of the other members not party to the adjudication;
- c. The parties opposing the class and/or sub-class have acted or have refused to act on grounds generally applicable to the class and/or sub-class, thereby making final injunctive relief or declaratory relief appropriate with respect to the class and/or sub-class as a whole; and
- d. Common questions of law and fact exist as to the members of the class and/or sub-class and predominate over any question affecting only individual members, and a class action is superior to other available methods for the fair and efficient adjudication of the controversy, including consideration of:
 - i. The interests of class members in individually controlling the prosecution or defense of separate actions;
 - ii. The extent and nature of any litigation concerning the controversy already commenced by or against members of the class;
 - iii. The desirability or undesirability of concentrating the litigation of the claims in this particular forum; and
 - iv. The likely difficulties in managing a class action.

71. The Court should permit this action to be maintained as a class action pursuant to Code of Civil Procedure 382 and Civil Code section 1781 because:

- a. Questions of law and fact common to the class and/or sub-class are substantially similar and predominate over any questions affecting only individual members;
- b. A class action is superior to any other available method for the fair and efficient

- adjudication of class members' claims;
- c. The members of the class and/or sub-class are so numerous that it is impractical to bring all class members before the Court;
 - d. Plaintiff's claims are typical of the claims of the class and/or sub-class;
 - e. Class members will not be able to obtain effective and economic legal redress unless the action is maintained as a class action;
 - f. There is a community of interest in obtaining appropriate legal and equitable relief for the common law and statutory violations and other improprieties alleged, and in obtaining adequate compensation for the damages that Defendants' actions have inflicted upon the class and/or sub-class;
 - g. Plaintiff can fairly and adequately protect the interests of the class and/or sub-class;
 - h. There is a community of interest in ensuring that the combined assets and available insurance of Defendants are sufficient to adequately compensate the members of the class and/or sub-class for the injuries sustained; and
 - i. Defendants have acted or refused to act on grounds generally applicable to the class and/or sub-class, thereby making final injunctive relief appropriate with respect to the class as a whole.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

(By Plaintiff Individually and Behalf of the Class Against Defendants and Does 1-50)

FAILURE TO PROVIDE LEGALLY COMPLIANT MEAL PERIODS

AND/OR COMPENSATION IN LIEU THEREOF

[Labor Code §§ 204, 226.7, 512, and the "Meal Periods" Section of IWC Wage Order No. 9-2001]

72. Plaintiff realleges and incorporates by this reference, as though fully set forth herein, all paragraphs of this Complaint.

73. Labor Code section 512(a) states,

1 An employer may not employ an employee for a work period of more than
2 five hours per day without providing the employee with a meal period of
3 not less than 30 minutes, except that if the total work period per day of the
4 employee is no more than six hours, the meal period may be waived by
5 mutual consent of both the employer and employee. An employer may not
6 employ an employee for a work period of more than 10 hours per day
7 without providing the employee with a second meal period of not less than
8 30 minutes, except that if the total hours worked is no more than 12 hours,
9 the second meal period may be waived by mutual consent of the employer
10 and the employee only if the first meal period was not waived. (Emphasis
11 added.)

74. The “Meal Periods” section of IWC Wage Order No. 9-2001 provides, in pertinent part,

7 (A) No employer shall employ any person for a work period of more than
8 five (5) hours without a meal period of not less than 30 minutes, except
9 that when a work period of not more than six (6) hours will complete the
10 day's work the meal period may be waived by mutual consent of the
11 employer and the employee. Unless the employee is relieved of all duty
12 during a 30-minute meal period, the meal period shall be considered an
13 “on duty” meal period and counted as time worked. An “on duty” meal
14 period shall be permitted only when the nature of the work prevents an
15 employee from being relieved of all duty and when by written agreement
16 between the parties an on-the-job paid meal is agreed to.

13 (B) An employer may not employ an employee for a work period of more
14 than ten (10) hours per day without providing the employee with a second
15 meal period of not less than 30 minutes, except that if the total hours
16 worked is no more than 12 hours, the second meal period may be waived
17 by mutual consent of the employer and the employee only if the first meal
18 period was not waived....

17 (D) If an employer fails to provide an employee a meal period in
18 accordance with the applicable provisions of this order, the employer shall
19 pay the employee one (1) hour of pay at the employee's regular rate of
20 compensation for each workday that the meal period is not provided.
(Emphasis added.)

20 75. A meal period generally comports with the requirements under California law if the
21 employee has at least 30 minutes uninterrupted, is free to leave the premises, and is relieved of all duty
22 for the entire period. (See *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1036.)
23 Additionally, “an employer may not undermine formal policy of providing meal breaks by pressuring
24 employees to perform their duties in ways that omit breaks.” (*Id.* at 1040.)

25 76. Labor Code section 226.7(b) states, “[a]n employer shall not require an employee to
26 work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable
27 regulation, standard, or order of the Industrial Welfare Commission...” Labor Code section 226.7(c)
28 further provides,

1 [i]f an employer fails to provide an employee a meal or rest or recovery
2 period in accordance with a state law... the employer shall pay the
3 employee one additional hour of pay at the employee's regular rate of
compensation for each workday that the meal or rest or recovery period is
not provided.

4 77. Labor Code section 204 establishes an employee's fundamental right in the state of
5 California to be paid wages in a timely manner for their work. Premium wages under Labor Code §
6 226.7 are wages that are due and payable in accordance with Labor Code § 204. (*Murphy v. Kenneth*
7 *Cole Productions, Inc.* (2007) 40 Cal.4th 1094, 1103-1114.)

8 78. As discussed herein, Plaintiff contends that Defendants did not, and do not, have a
9 policy, practice, procedure, guideline and/or culture of providing all UNIS Workers with the
10 opportunity to take a timely, uninterrupted, thirty (30) minute off-duty meal period before the end of
11 their fifth hour of work when they worked five (5) or more hours in a day. Similarly, Plaintiff contends
12 that Defendants did not, and do not, have a policy, practice, procedure, guideline and/or culture of
13 providing all UNIS Workers with the opportunity to take a second, timely, uninterrupted, thirty (30)
14 minute off-duty meal period before the end of their tenth hour of work when they worked more than
15 ten (10) hours in a work day.

16 79. Plaintiff asserts that Defendants did not, and do not, have a policy, practice, procedure,
17 guideline and/or culture of obtaining the consent necessary to waive a meal period, when Plaintiff
18 and/or other UNIS Workers worked no more than six (6) hours in a day. Plaintiff also asserts that
19 Defendants did not, and do not, have a policy, practice, procedure, guideline and/or culture of
20 obtaining the consent necessary to waive a meal period when they worked no more than twelve (12)
21 hours.

22 80. Plaintiff alleges that Defendants did not, and do not, have a policy, practice, procedure,
23 guideline and/or culture of paying meal period premium wages to Plaintiff and other UNIS Workers
24 for meal periods that do not comply with California law.

25 81. Plaintiff contends, for example, that due in part to Defendants' understaffing of its
26 warehouses, Plaintiff and other UNIS Workers were consistently directed, forced, and/or otherwise
27 pressured to skip their meal periods to complete their work duties in order to compensate for
28 understaffing issues.

1 82. Plaintiff alleges, for instance, that due in part to Defendants' understaffing of its
2 warehouses and the requirement to attend to drivers, UNIS Workers were instructed, forced and/or
3 otherwise compelled to take meal periods that occurred after their sixth and/or eleventh hour of work
4 and/or take meal periods that were less than thirty minutes.

5 83. Plaintiff also contends that on the rare occasion they were able to take a meal and/or rest
6 period, Plaintiff alleges she, and other UNIS Workers, were required to monitor their radios and/or cell
7 phones and be readily available to return to work if necessary. Plaintiff further contends that she, and
8 other UNIS Workers, were required to monitor their personal cell phones for calls or text messages, as
9 the Companies would contact them on their personal devices if they did not immediately respond to
10 calls on the company-issued radio. In fact, UNIS Workers often experienced interrupted meal and/or
11 rest periods because they were called back to work during their meal and/or rest periods.

12 84. Plaintiff further asserts that meal periods were frequently untimely and/or interrupted by
13 work-related tasks, such as drivers arriving at the warehouse to pick-up and/or drop-off shipments,
14 UPS, FedEx and/or other parcel carriers delivering items, as well as interruptions from warehouse
15 employees asking work-related questions, either in person, through a radio call or a phone call and/or
16 text message.

17 85. Plaintiff alleges that Defendants have a policy, practice, procedure, guideline and/or
18 culture of regularly making changes to the timesheets of UNIS Workers to, among other things,
19 modify the meal periods actually taken by UNIS Workers.

20 86. Plaintiff asserts that Defendants knew or should have known that Plaintiff and other
21 UNIS Workers were not provided with the opportunity to take legally complaint meal periods due in
22 large part to Defendants' understaffing of the warehouse and Defendants requirement that UNIS
23 Workers be readily available for drivers.

24 87. Plaintiff contends that although she and other UNIS Workers were not provided with
25 legally compliant meal periods, she and all other UNIS Workers were not timely compensated for non-
26 compliant meal periods as provided by California law.

27 88. Defendants' unlawful conduct caused Plaintiff and other UNIS Workers to suffer, and
28 current UNIS Workers will continue to suffer, damages in an amount which is presently unknown, but

1 which exceeds the jurisdictional limits of this Court and which will be ascertained according to proof
2 at trial.

3 89. Pursuant to Labor Code section 226.7(c) and IWC Order No. 9-2001, Plaintiff and other
4 UNIS Workers are entitled to, and seek to, recover the full amount of unpaid premium wages for non-
5 compliant meal periods.

6 90. Pursuant to Labor Code section 218.6, Plaintiff and other UNIS Workers are entitled to,
7 and seek to, recover prejudgment interest on the amount of premium wages owed.

8 91. Plaintiff, on behalf of herself and other UNIS Workers, is entitled to, and seeks to
9 recover reasonable attorneys' fees and costs as permitted by Labor Code section 218.5 and Code of
10 Civil Procedure section 1021.5.

11 92. Plaintiff, on behalf of herself and other UNIS Workers requests further relief as
12 described in the below prayer.

13 **SECOND CAUSE OF ACTION**

14 **(By Plaintiff Individually and Behalf of the Class Against Defendants and Does 1-50)**

15 **FAILURE TO PROVIDE LEGALLY COMPLIANT REST PERIODS**

16 **AND/OR COMPENSATION IN LIEU THEREOF**

17 **[Labor Code §§ 204, 226.7, and the "Rest Periods" Section of IWC Wage Order No. 9-2001]**

18 93. Plaintiff realleges and incorporates by this reference, as though fully set forth herein, all
19 paragraphs of this Complaint.

20 94. In pertinent part, Labor Code section 226.7 provides:

21 (b) An employer shall not require an employee to work during a meal
22 or rest or recovery period mandated pursuant to an applicable statute,
23 or applicable regulation, standard, or order of the Industrial Welfare
Commission, the Occupational Safety and Health Standards Board, or
the Division of Occupational Safety and health.

24 (c) If an employer fails to provide an employee a meal or rest or recovery
25 period in accordance with a state law, including but not limited to, an
26 applicable statute or applicable regulation, standard, or order of the
27 Industrial Welfare Commission, the Occupational Safety and Health
Standards Board, or the Division of Occupational Safety and Health, the
employer shall pay the employee one additional hour of pay at the
employee's regular rate of compensation for workday that the meal or rest
or recovery period is not provided.

28 95. The "Rest Periods" section of IWC Wage Order No. 9-2001 states,

1 (A) Every employer shall authorize and permit all employees to take
2 rest periods, which insofar as practicable shall be in the middle of
3 each work period. The authorized rest period time shall be based on
4 the total hours worked daily at the rate of ten (10) minutes of net rest
5 time per four (4) hours or major fraction thereof. However, a rest
6 period need not be authorized for employees whose total daily work
7 time is less than three and one-half (3 ½) hours. Authorized rest
8 period time shall be counted as hours worked for which there shall be
9 no deduction from wages.

10 (B) If an employer fails to provide an employee a rest period in
11 accordance with the applicable provisions of this order, the employer
12 shall pay the employee one (1) hour of pay at the employee's regular
13 rate of compensation for each workday that the rest period is not
14 provided. (Emphasis added.)

15 96. Unless an employer relieves its employees of any and all work-related duties and also
16 relinquishes all control over how its employees spent their time during rest periods, the employer has
17 not authorized and permitted lawful off-duty rest periods. (*Augustus v. ABM Security Services, Inc.*
18 (2016) 2 Cal.5th 267, 269.)

19 97. Plaintiff alleges, as discussed herein, that Defendants did not, and do not, have a policy,
20 practice, procedure, guideline, and/or culture of authorizing and permitting Plaintiff and other UNIS
21 Workers to take uninterrupted off-duty rest periods of at least ten (10) minutes in length for every four
22 (4) hours worked or major fraction thereof.

23 98. Plaintiff contends that Defendants did not, and do not, have a policy, practice,
24 procedure, guideline and/or culture of paying rest period premium wages to Plaintiff and other UNIS
25 Workers for rest periods that do not comply with California law.

26 99. Plaintiff contends that she and other UNIS Workers were regularly instructed, directed,
27 pressured, compelled and/or otherwise coerced to work through their rest periods in order to meet the
28 needs of the warehouse, as there were not enough employees to relieve UNIS Workers, like Plaintiff,
for their rest periods.

100. Plaintiff also contends that she and all other UNIS Workers regularly received rest
periods that were untimely, interrupted by instructions to perform their job responsibilities, such as
addressing drivers who arrived at the warehouse to pick-up and/or drop-off shipments, UPS, FedEx

1 and/or other parcel carriers delivering items, as well as interruptions from warehouse employees asking
2 work-related questions, due in part to Defendants' inadequate staffing of its warehouse.

3 101. Plaintiff contends that although she and other UNIS Workers were not provided with
4 legally compliant rest periods, she and all other UNIS Workers were not timely compensated for non-
5 compliant rest periods as required by California law.

6 102. Due to Defendants' unlawful conduct, Plaintiff and other UNIS Workers have suffered,
7 and will continue to suffer, damages in an amount which is presently unknown, but which exceeds the
8 jurisdictional limits of this Court and which will be ascertained according to proof at trial.

9 103. According to Labor Code section 226.7(c) and IWC Wage Order No. 9-2001, Plaintiff
10 and other UNIS Workers are entitled to, and seek to, recover the full amount of unpaid premium wages
11 for noncompliant rest periods.

12 104. Pursuant to Labor Code section 218.6, Plaintiff and other UNIS Workers are entitled to,
13 and seek to, recover prejudgment interest on the amount of premium wages owed.

14 105. Plaintiff, on behalf of herself and other UNIS Workers, is entitled to, and seeks to,
15 recover reasonable attorneys' fees and costs as provided by Labor Code section 218.5 and Code of
16 Civil Procedure section 1021.5.

17 106. Plaintiff, on behalf of herself and other UNIS Workers requests further relief as
18 described in the below prayer.

19 **THIRD CAUSE OF ACTION**

20 **(By Plaintiff Individually and Behalf of the Class Against Defendants and Does 1-50)**

21 **FAILURE TO TIMELY PAY MINIMUM, REGULAR, AND/OR OVERTIME WAGES**

22 **[Labor Code §§ 204, 210, 510, 1194, 1197, 1197.1, 1198, 1199, and the "Minimum Wages" and**
23 **"Hours and Days of Work" Sections of IWC Wage Order No. 9-2001]**

24 107. Plaintiff realleges and incorporates by this reference, as though fully set forth herein, all
25 paragraphs of this Complaint.

26 108. Labor Code section 204 establishes an employee's fundamental right in the state of
27 California to be paid wages in a timely manner for their work. Specifically, Labor Code section 204(a)
28 states that "[a]ll wages ... earned by any person in any employment are due and payable twice during

1 each calendar month, on days designated in advance by the employer as the regular pay days.”

2 Moreover, “all wages earned for labor in excess of the normal work period shall be paid no later than
3 the payday for the next regular payroll period.” (Labor Code § 204(b)(1).)

4 109. Labor Code § 1197 states “[t]he minimum wage for employees fixed by the commission
5 is the minimum wage to be paid to employees, and the payment of a less wage than the minimum so
6 fixed is unlawful.” (See also *Gonzalez v. Downtown LA Motors, LP* (2013) 215 Cal. App. 4th 36, 44
7 [providing that an employer may not pay “less than the applicable minimum wage for all hours worked
8 in the payroll period, whether the remuneration is measured by time, piece, commission, or
9 otherwise”].)

10 110. Labor Code section 1198 mandates,

11 [t]he maximum hours of work and the standard conditions of labor fixed
12 by the commission shall be the maximum hours of work and the standard
13 conditions of labor for employees. The employment of any employee for
14 longer hours than those fixed by the order or under conditions of labor
15 prohibited by the order is unlawful.

16 111. The “Minimum Wages” section of IWC Wage Order No. 9-2001 also states that,
17 “[e]very employer shall pay to each employee, on the established payday for the period involved, not
18 less than the applicable minimum wage for all hours worked in the payroll period, whether the
19 remuneration is measured by time, piece, commission, or otherwise.”

20 112. Labor Code § 510(a), which codifies an employee’s right to overtime compensation,
21 provides:

22 Eight hours of labor constitutes a day’s work. Any work in excess of eight
23 hours in one workday and any work in excess of 40 hours in any one
24 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
26 one-half times the regular rate of pay for an employee. In addition, any
27 work in excess of eight hours on any seventh day of a workweek shall be
28 compensated at the rate of no less than twice the regular rate of pay.
Nothing in this section requires an employer to combine more than one
rate of overtime compensation in order to calculate the amount to be paid
to an employee for any hour of overtime work. (Emphasis added.)

113. The “Hours and Days of Work” and “Minimum Wages” sections of the IWC Wage
Order No. 9-2001 mandate the same requirements as Labor Code section 510.

1 114. Under California law, an employee may not waive his or her right to overtime
2 compensation. (*Early v. Superior Court* (2000) 79 Cal. App. 4th 1420, 1430.)

3 115. Labor Code section 558 provides that “any employer or other person acting on behalf of
4 an employer who violates, or causes to be violated, a section of this chapter or any provision regulating
5 hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil
6 penalty” of \$50 for each underpaid employee for each pay period for which the employee was
7 underpaid plus an amount sufficient to recover underpaid wages for any initial violation, and \$100 for
8 each underpaid employee for each pay period for which the employee was underpaid in addition to an
9 amount sufficient to recover underpaid wages for each subsequent violation.

10 116. Labor Code section 1194(a) states:

11 Notwithstanding any agreement to work for a lesser wage, any
12 employee receiving less than the legal minimum wage or the legal
13 overtime compensation applicable to the employee is entitled to
14 recover in a civil action the unpaid balance of the full amount of this
15 minimum wage or overtime compensation, including interest thereon,
16 reasonable attorney’s fees, and costs of suit.

17 117. Labor Code section 1197.1 further provides,

18 [a]ny employer or other person acting either individually or as an officer,
19 agent, or employee of another person, who pays or causes to be paid to any
20 employee a wage less than the minimum fixed by an applicable state or local
21 law or by an order of the commission shall be subject to a civil penalty,
22 restitution of wages, liquidated damages payable to the employee, and any
23 applicable penalties imposed pursuant to Section 203...

24 118. In pertinent part Labor Code section 1194.2 states,

25 In any action under Section 98, 1193.6, 1194, or 1197.1 to recover wages
26 because of the payment of a wage less than the minimum wage fixed by
27 an order of the commission or by statute, an employee shall be entitled to
28 recover liquidated damages in an amount equal to the wages unlawfully
29 unpaid and interest thereon.

30 119. Labor Code section 1199 imposes “a fine of not less than one hundred dollars (\$100)”
31 for any employer who violates the provisions set forth in Labor Code section 1198.

32 120. Labor Code section 210 provides that, “every person who fails to pay the wages of an
33 employee as provided in Section...204...shall be subject to a civil penalty of \$100 for an initial
34 violation and \$200 plus 25% of the amount unlawfully withheld for a subsequent violation.”

1 121. Plaintiff contends that Defendants have a policy, practice, procedure, guideline, and/or
2 culture of not compensating her and all other UNIS Workers on the regular pay days designated by
3 Defendants all minimum and regular wages, and/or no later than the next regular pay day all overtime
4 wages, for all time actually engaged in work on behalf of Defendants.

5 122. Plaintiff asserts that Defendants had, and continue to have a policy, practice, procedure
6 and/or guideline of not timely compensating UNIS Workers, including Plaintiff, for the time they were
7 engaged in work for Defendants while they were clocked out for a meal period.

8 123. Plaintiff asserts that Defendants had, and continue to have a policy, practice, procedure
9 and/or guideline of not permitting UNIS Workers to clock-in earlier than five minutes prior to their
10 scheduled shift start time. Plaintiff alleges that she, as well as other UNIS Workers, are often
11 instructed, encouraged and/or otherwise compelled to begin working earlier than five minutes before
12 their scheduled start time, particularly if a driver contacts them. Plaintiff asserts that she and other
13 UNIS Workers were not timely paid for the time worked prior to clocking-in at the start of the
14 workday. Thus, Plaintiff and other UNIS Workers were not compensated for all of the time they spent
15 performing work on behalf of Defendants.

16 124. Plaintiff also asserts that she and other UNIS Workers were not compensated for time
17 they spent responding to communications on the company-issued radio while off-the-clock, such as
18 during meal periods. Plaintiff also asserts and other UNIS Workers are often contacted on their
19 personal cellphone by other UNIS Workers, the Companies' management, and shipment delivery
20 drivers, including UPS and FedEx drivers, when they are not clocked in for work, such as when they
21 are on a meal period or not scheduled to work. Plaintiff further asserts that when she was on a leave of
22 absence she continuously received work-related phone calls on her personal cell phone. Plaintiff
23 further contends that Defendants improperly considered this time as non-compensable and failed to
24 provide any remuneration. As a result, Plaintiff and other UNIS Workers were not compensated for all
25 of the time they spent under the employer's control.

26 125. Plaintiff further asserts that Defendants manipulated the time records of UNIS Workers
27 to reduce the time actually worked by Plaintiff and other UNIS Workers. By virtue of Defendants'
28 unlawful failure to compensate Plaintiff and other UNIS Workers for their time worked, UNIS

Workers have suffered, and will continue to suffer, damages in amounts which are presently unknown, but which exceed the jurisdictional limits of this Court and which will be ascertained according to proof at trial.

126. Having received less than the legal minimum wage and/or applicable rate of overtime compensation, Plaintiff and other UNIS Workers are entitled to and now seek to recover all wages and penalties owed, including penalties available under Labor Code sections 210, 558, 1194.2, 1197.1, as well as interest and reasonable attorneys' fees and costs pursuant to Labor Code sections 218.5 and 1194 and Code of Civil Procedure section 1021.5.

127. Plaintiff, on behalf of herself and other UNIS Workers requests further relief as described in the below prayer.

FOURTH CAUSE OF ACTION

(By Plaintiff Individually and Behalf of the Sub-Class Against Defendants and Does 1-50)

FAILURE TO TIMELY PAY ALL WAGES DUE AND OWED

UPON SEPARATION OF EMPLOYMENT

[Labor Code §§ 201-203 and 210]

128. Plaintiff realleges and incorporates by this reference, as though fully set forth herein, all paragraphs of this Complaint.

129. Labor Code § 200(a) defines "wages" to include "all amounts for labor performed by employees...whether the amount is fixed or ascertained by the standard of time...commission basis, or other method of calculation." The term "labor" is further defined in subsection (b) to include "labor, work, or service whether rendered or performed under contract, subcontract, partnership...or other agreement if the labor...is performed personally by the person demanding payment."

130. Pursuant to Labor Code § 201(a), when an employer discharges an employee, all earned wages that remain unpaid at the time of discharge are due and payable immediately.

131. According to Labor Code § 202(a):

If an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

1 Notwithstanding any other provision of law, an employee who quits
2 without providing a 72-hour notice shall be entitled to receive payment
3 by mail if he or she so requests and designates a mailing address. The
4 date of mailing shall constitute the date of payment for purposes of the
5 requirement to provide payment within 72 hours of the notice of
6 quitting.

7
8
9 132. In pertinent part, Labor Code § 203(a) further provides:

10 If an employer willfully fails to pay, without abatement or reduction,
11 in accordance with Sections 201, 201.3, 201.5, 201.9, 202, and 205.5,
12 any wages of an employee who is discharged or who quits, the wages
13 of the employee shall continue as a penalty from the due date thereof
14 at the same rate until paid or until an action thereof is commenced; but
15 the wages shall not continue for more than 30 days.

16 133. Labor Code section 210 provides that, “every person who fails to pay the wages of an
17 employee as provided in Sections 201.3, 204, ... shall be subject to a civil penalty” of \$100 for an
18 initial violation and \$200 plus 25% of the amount unlawfully withheld for a subsequent violation.

19 134. Defendants had, and continue to have, a policy, practice, procedure, guideline and/or
20 culture of failing to timely pay all wages due and owing upon separation of employment and/or paying
21 the required waiting time penalties.

22 135. Plaintiff contends that as a result of Defendants’ failure to timely and appropriately
23 compensate UNIS Workers for all time worked actually worked and/or all premium wages for non-
24 compliant meal and/or rest periods, Defendants had, and continue to have, a policy, practice,
25 procedure, guideline and/or culture of failing to timely pay all wages due and owed upon termination
26 and/or separation of employment.

27 136. Plaintiff also contends that Defendants have a policy, practice, procedure and/or culture
28 of failing to pay the appropriate waiting time penalties to former UNIS Workers for such untimely
payment of wages.

137. Defendants knowingly failed to timely and appropriately compensate Plaintiff and other
UNIS Workers for all minimum, regular, and/or overtime wages, as well as meal and/or rest period
premium wages, as described herein.

138. Although Defendants no longer employ a number of UNIS Workers, Defendants have
yet to pay all wages owed to former UNIS Workers, as required under California law, as well as the
required waiting time penalties.

139. As a consequence of Defendants' willful and deliberate refusal to render such wages, Plaintiff and other affected UNIS Workers are entitled to, and thus seek, a maximum of thirty (30) days' wages at their daily rate of pay as a waiting time penalty, pursuant to Labor Code section 203.

140. Plaintiff, on behalf of herself and other UNIS Workers, is entitled to, and seeks to recover reasonable attorneys' fees and costs as permitted by Labor Code section 218.5 and Code of Civil Procedure section 1021.5.

141. Plaintiff, on behalf of herself and other UNIS Workers requests further relief as described in the below prayer.

FIFTH CAUSE OF ACTION

(By Plaintiff Individually and Behalf of the Class Against Defendants and Does 1-50)

FAILURE TO REIMBURSE FOR NECESSARY BUSINESS EXPENSES

[Labor Code § 2802]

142. Plaintiff realleges and incorporates by this reference, as though fully set forth herein, all paragraphs of this Complaint.

143. Labor Code § 2802 requires employers in all cases to indemnify employees for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties.

144. In pertinent part, Labor Code § 2802 provides:

(b) All awards made by a court or by the Division of Labor Standards Enforcement for reimbursement of necessary expenditures under this section shall carry interest at the same rate as judgements in civil actions. Interest shall accrue from the date on which the employee incurred the necessary expenditure or loss.

(c) For purposes of this section, the term "necessary expenditures or losses" shall include all reasonable costs, including but not limited to, attorney's fees incurred by the employee enforcing the rights granted by this section.

145. As discussed herein, Defendants have a policy, practice, procedure, guideline, and/or culture of failing to reimburse Plaintiff and other UNIS Workers for all necessary business expenses that were incurred in the discharge of their job duties, such as the use of their personal cell phones. For instance, Plaintiff and other UNIS Workers were required to use and often used their personal cell

1 phones to monitor incoming calls and text messages from managers and co-workers regarding work-
2 related issues. Further, when UNIS Workers did not immediately respond to communications on the
3 company-issued radio, they were contacted on their personal electronic devices. Additionally, UNIS
4 Workers were contacted about work-related matters on their personal electronic devices outside of
5 their scheduled work hours.

6 146. Despite using their personal cell phones for work purposes, UNIS Workers, such as
7 Plaintiff, did not receive any reimbursement for the use of their personal cell phones in violation of
8 California law.

9 147. Plaintiff and other UNIS Workers are entitled to and seek reimbursement of their
10 necessary expenditures including, but not limited to, a reasonable percentage of their cell phone bill,
11 plus interest, including reasonable attorneys' fees and costs pursuant to Labor Code section 2802.

12 148. Plaintiff and other UNIS Workers are also entitled to, and seek to recover, reasonable
13 attorneys' fees and costs under Labor Code section 218.5 and Code of Civil Procedure section 1021.5.

14 149. Plaintiff, on behalf of herself and other UNIS Workers, requests further relief as
15 described in the below prayer.

16 SIXTH CAUSE OF ACTION

17 **(By Plaintiff Individually and Behalf of the Class Against Defendants and Does 1-50)**

18 **FAILURE TO FURNISH ACCURATE ITEMIZED WAGE STATEMENTS**

19 **[Labor Code §§ 226, 226.3, and the "Records" Section of IWC Wage Order No. 9-2001]**

20 150. Plaintiff realleges and incorporates by this reference, as though fully set forth herein, all
21 paragraphs of this Complaint.

22 151. Labor Code section 226 states in pertinent part:

23 Every employer shall, semimonthly or at the time of each payment of
24 wages, furnish each of his or her employees, either as detachable part of
25 the check, draft, or voucher paying the employee's wages, or separately
26 when wages are paid by personal check or cash, an accurate itemized
27 statement in writing showing (1) gross wages earned, (2) total hours
28 worked by the employee... (5) net wages earned, (6) the inclusive dates
of the period for which the employee is paid... (7) the name of the
employee and only the last four digits of his or her social security number
or an employee identification number...(8) the name and address of the
legal entity that is the employer, and (9) all applicable hourly rates in effect

during each period and the corresponding number of hours worked at each hourly rate by the employee...

152. The “Records” section of IWC Wage Order No. 9-2001 states in pertinent part,

[e]very employer shall semimonthly or at the time of each payment of wages furnish to each employee...an itemized wage statement in writing showing (1) all deductions; (2) the inclusive dates of the period for which the employee is paid; (3) the name of the employee and the employee’s social security number; and (4) the name of the employer, provided all deductions made on written orders of the employee may be aggregate and shown as one item.

153. An injury occurs where the employer fails to provide accurate information and the employee cannot “promptly and easily determine” the total number of hours worked or the “applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate.” (Labor Code § 226(a)(9)-(e)(2)(B)(i).)

154. Labor Code § 226(e)(2)(c) explains that the phrase “promptly and easily determine” means that “a reasonable person would be able to readily ascertain the information without reference to documents or information.”

155. Labor Code section 226(e)(1) further provides,

[a]n employee suffering injury as a result of knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand (\$4,000), and is entitled to an award of costs and reasonable attorneys’ fees.

156. According to Labor Code section 226(h), “an employee may also bring an action for injunctive relief to ensure compliance with this section and is entitled to an award of costs and reasonable attorneys’ fees.”

157. Labor Code section 226.3 imposes an additional civil penalty on the employer of \$250.00 per employee per violation of Labor Code section 226(a) in an initial citation and \$1,000 per employee for each violation in a subsequent citation.

158. Plaintiff asserts that Defendants had, and continue to have, a policy, practice, procedure, guideline and/or culture of furnishing UNIS Workers, including Plaintiff, with wage statements that do not comply with California law. For example, the wage statements furnished to UNIS Workers did not, and do not, accurately reflect, among other things, the actual gross wages earned, total hours actually

1 worked, all deductions, net wages actually earned, and all applicable hourly rates. As a result, of the
2 lack of information on the wage statements furnished, UNIS Workers were unable to promptly and
3 easily determine, among other things, the total number of hours worked, the applicable hourly rates in
4 effect during the pay period and/or the corresponding number of hours worked at each hourly rate.

5 159. Due to the lack of information on the furnished wage statements, UNIS Workers, such
6 as Plaintiff, were unable to promptly and easily determine the total number of hours worked, the
7 applicable hourly rates in effect during the pay period and/or the corresponding number of hours
8 worked at each hourly rate, among other things.

9 160. As a result, Plaintiff and other former UNIS Workers are entitled to, and seek to
10 recover, the greater of all actual damages or \$50 for the initial pay period in which the violation occurs
11 and \$100 per employee for each violation in a subsequent pay period, not to exceed \$4,000 as provided
12 under Labor Code section 226(e)(1).

13 161. Moreover, there is no indication that Defendants will refrain from providing UNIS
14 Workers with inaccurate wage statements in the future. Plaintiff believes and alleges that if Defendants
15 are not enjoined from the conduct described herein, Defendants will continue to violate California law
16 at the expense of UNIS Workers. Pursuant to Labor Code section 226(h), Plaintiff and all other UNIS
17 Workers are entitled to, and therefore seek injunctive relief in order to ensure that Defendants comply
18 with Labor Code section 226.

19 162. Plaintiff and other UNIS Workers are entitled to, and seek to recover, civil penalties
20 pursuant to Labor Code section 226.3 for violations of Labor Code section 226(a).

21 163. Plaintiff and all other UNIS Workers are further entitled to, and seek to recover,
22 reasonable attorneys' fees and costs as provided under Labor Code section 226(e)(1) and (h) and Code
23 of Civil Procedure section 1021.5.

24 164. Plaintiff, on behalf of herself and other UNIS Workers requests further relief as
25 described in the below prayer.

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1 **SEVENTH CAUSE OF ACTION**

2 **(By Plaintiff Individually and Behalf of the Class Against Defendants and Does 1-50)**

3 **FAILURE TO MAINTAIN ACCURATE EMPLOYMENT AND PAYROLL RECORDS**

4 **[Labor Code §§ 226, 1174, 1174.5 and the “Records” Section of IWC Wage Order No. 9-2001]**

5 165. Plaintiff realleges and incorporates by this reference, as though fully set forth herein, all
6 paragraphs of this Complaint.

7 166. Labor Code section 1174(d) states in pertinent part,

8 [e]very person employing labor in this state shall keep, at a central
9 location in the state or at the plants or establishments at which employees
10 are employed, payroll records showing the hours worked daily by and the
11 wages paid to, and the number of piece-rate units earned by and any
12 applicable piece rate paid to, employees employed at the respective plants
13 or establishments. These records shall be kept in accordance with rules
established for this purpose by commission, but in case shall be kept on
file for not less than three years. An employer shall not prohibit an
employee from maintaining a personal record of hours worked, or, if paid
on a piece-rate basis, piece-rate units earned.

14 167. The “Records” section of IWC Wage Order No. 9-2001 states that every employer shall
15 keep accurate information with respect to each one of its employees, including time records showing
16 when the employee begins and ends each work period, meal periods, total daily hours worked, total
17 wages paid each payroll period, and total hours worked in the payroll period and applicable rates of
18 pay.

19 168. Pursuant to Labor Code section 226(a) and the “Records” section of IWC Wage Order
20 No. 9-2001, an employer must keep a copy of the wage statements furnished and the record of
21 deductions on file for at least three years.

22 169. Labor Code section 1174.5 imposes a civil penalty of \$500 for an employer’s failure to
23 maintain accurate and complete records. This civil penalty is in addition to any other civil penalty
24 imposed by the Labor Code.

25 170. Labor Code section 226(e)(1) further provides,

26 [a]n employee suffering injury as a result of a knowing and intentional
27 failure by an employer to comply with subdivision (a) [of Labor Code §
28 226] is entitled to recover the greater of all actual damages or fifty dollars
(\$50) for the initial pay period in which a violation occurs and one hundred
dollars (\$100) per employee for each violation in a subsequent pay period,

not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney's fees.

171. Plaintiff alleges that Defendants, as described herein, had, and continue to have, a policy, practice, procedure, guideline, and/or culture of intentionally and willfully failing to maintain accurate employment and payroll records. For example, it is Plaintiff's understanding and belief that Defendants have not maintained payroll records, wage statements or time records showing the actual daily hours worked by and the wages paid to UNIS Workers, the beginning and end time of each work period and/or meal period, and/or copies of the wage statements furnished to UNIS Workers.

172. Plaintiff asserts that due to Defendants' failure to record the proper beginning and end of each work period and the total hours of compensable time worked, such as time spent working during meal periods, Defendants knowingly and intentionally failed to maintain accurate employee and/or payroll records as required by California law.

173. Plaintiff and other UNIS Workers have suffered, and continue to suffer, injuries and damages as a consequence of Defendants' deliberate failure to maintain accurate employment and payroll records as required by the Labor Code. Specifically, Plaintiff and other UNIS Workers were denied their legal right and protected interest in having accurate and complete employment records available to them.

174. Plaintiff and other UNIS Workers are entitled to and seek damages as outlined in Labor Code section 226(e)(1) and 1174.5.

175. Plaintiff, on behalf of herself and other UNIS Workers, is entitled to, and seeks to recover reasonable attorneys' fees and costs as provided by Code of Civil Procedure section 1021.5.

176. Plaintiff, on behalf of herself and other UNIS Workers requests further relief as described in the below prayer.

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1 **EIGHTH CAUSE OF ACTION**

2 **(By Plaintiff Individually and Behalf of the Class Against Defendants and Does 1-50)**

3 **VIOLATION OF CALIFORNIA’S UNFAIR COMPETITION LAW**

4 **[Bus. & Prof. Code §§ 17200 *et seq.*]**

5 177. Plaintiff realleges and incorporates by reference, as though fully set forth herein, all
6 paragraphs of this Complaint.

7 178. As codified in California Business and Professions Code sections 17200 *et seq.*,
8 California’s Unfair Competition Law (“UCL”) broadly prohibits “any unlawful, unfair or fraudulent
9 business act or practice.”

10 179. A cause of action may be brought under the UCL if a practice violates some other law.
11 The “unlawful” prong of the UCL effectively deems a violation of the underlying law a per se
12 violation of Business and Professions Code sections 17200 *et seq.* (*Cel-Tech Commc’ns, Inc. v. Los*
13 *Angeles Cellular Tel. Co.* (1999) 20 Cal.4th 163, 180.) Virtually any law or regulation – federal or
14 state, statutory, or common law – can serve as a predicate for a section 17200 “unlawful” violation.
15 (*Farmers Ins. Exch. v. Superior Court* (1992) 2 Cal.4th 377, 383.)

16 180. The “unfair” prong of the UCL does not require a practice to be specifically proscribed
17 by any law. (*Korea Supply Co. v. Lockheed Martin Corp.* (2003) 20 Cal.4th 1134, 1143 [internal
18 citations omitted].) Pursuant to the California Supreme Court, the “unfair standard” is intentionally
19 broad to give maximum discretion to courts in prohibiting new schemes to defraud. (*Cel-Tech*
20 *Commc’ns, Inc., supra*, 20 Cal.4th at 180-81.)

21 181. Under the UCL, a “fraudulent” business act or practice is one where “members of the
22 public are likely to be deceived.” (*Blakemore v. Superior Court* (2005) 129 Cal. App. 4th 36, 49.) A
23 showing of actual deception, reasonable reliance, or damages is not required. (*Ibid.*) The fraudulent
24 prong may be used to attack the deceptive manner in which otherwise lawful contract terms are
25 presented to an individual. (*Boschma v. Home Loan Ctr., Inc.* (2011) 198 Cal.App.4th 230, 253.) As
26 such, even a true statement may be unlawful under section 17200 if it is “couched in such a manner
27 that is likely to mislead or deceive..., such as by failing to disclose other relevant information.” (*Ibid.*)

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1 182. As discussed herein, Defendants' business practices violate all three prongs of
2 California's UCL.

3 Unlawful

4 183. As described herein, Defendants violated the Labor Code by, among other things,
5 refusing to (1) provide legally compliant meal and/or rest periods and/or paying compensation in lieu
6 thereof; (2) failing to timely pay all minimum, regular, and/or overtime wages for all hours actually
7 worked; (3) timely pay all wages due and owing to UNIS Workers upon separation of employment
8 and/or pay the mandated waiting time penalties; (4) to reimburse UNIS Workers for necessary business
9 expenses; (5) furnish UNIS Workers with accurate itemized wage statements that reflect, among other
10 things, the hours worked and corresponding hourly rate; and (6) maintain accurate employment and
11 payroll records. Such refusals are clear violations of California law, and thus a per se violation of the
12 UCL. (*Cel-Tech Commc'ns, Inc.*, *supra*, 20 Cal.4th at 180.) Therefore, Penske has clearly engaged in
13 unlawful business practices under the UCL.

14 Unfair

15 184. Defendants' policy, practice, procedure, guideline and/or culture of (1) not providing
16 legally compliant meal and/or rest periods and/or paying compensation in lieu thereof; (2) failing to
17 timely pay all minimum, regular, and/or overtime wages for all hours actually worked; (3) failing to
18 timely pay all wages due and owing to UNIS Workers upon separation of employment and/or pay the
19 mandated waiting time penalties; (4) refusing to reimburse UNIS Workers for necessary business
20 expenses; (5) failing to furnish UNIS Workers with accurate itemized wage statements that reflect,
21 among other things, the hours worked and corresponding hourly rate; and (6) failing to maintain
22 accurate employment and payroll records are inherently unfair because Defendants knowingly stripped
23 UNIS Workers of (a) their earned wages; (b) the rights afforded to them by the Labor Code; and (c)
24 deprived UNIS Workers from easily determining whether they were properly paid.

25 Fraudulent

26 185. Defendants' failure to timely pay UNIS Workers all earned wages during and upon
27 separation of employment constitutes a fraudulent business practice as it knowingly and intentionally
28 defrauded UNIS Workers of earned wages. Additionally, Defendants' failure to provide UNIS

Workers with legally compliant meal and/or rest periods and/or compensation in lieu thereof constitutes a fraudulent business practice because they knowingly and intentionally misled UNIS Workers as to their rights under the Labor Code and caused UNIS Workers to not receive appropriate periods of rest and/or compensation in lieu thereof. Further, Defendants' policy, practice, procedure, guideline and/or culture of mandating and/or otherwise compelling UNIS Workers to use their personal cell phones in discharge of their work duties without reimbursement is a fraudulent business practice because Defendants failed to inform and/or otherwise indemnify UNIS Workers for their expenses. Moreover, Defendants' policy, practice, procedure, guideline and/or culture of furnishing UNIS Workers with inaccurate wage statements constitutes a fraudulent business practice as Plaintiff and all other UNIS Workers are likely to be, and actually are deceived, as to whether they were paid for all time worked, particularly as the wage statements do not include the total hours worked, all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate. Further, Defendants' policy, practice, procedure, guideline and/or culture of failing to maintain accurate employment and payroll records showing, among other things, the total daily hours worked and the beginning and end time of each work period and/or meal period, is also fraudulent because it intentionally misleads UNIS Workers as to their earned wages.

186. As a direct and proximate result of Defendants' unlawful, unfair and fraudulent business practices, Plaintiff and all other UNIS Workers have suffered injury-in-fact and have lost wages rightfully owed to them.

187. Through its unlawful, unfair and fraudulent conduct, Defendants have been unjustly enriched by receiving and continuing to receive benefits and profits at the expense of UNIS Workers. Therefore, pursuant to the UCL, Defendants should be enjoined from this activity and made to disgorge all ill-gotten gains and restore Plaintiff and all other UNIS Workers the wages wrongfully withheld from them.

188. Moreover, the unlawful, unfair and fraudulent conduct alleged herein has continued, and there is no indication that Defendants will refrain from such activity in the future. Plaintiff believes and alleges that, if Defendants are not enjoined from the conduct described herein, Defendants will continue to violate California law at the expense of UNIS Workers. Accordingly, Plaintiff requests that

1 the Court issue a preliminary and permanent injunction against Defendants.

2 189. Plaintiff, on behalf of herself and all other UNIS Workers, requests further relief as
3 described in the below prayer.

4 **NINTH CAUSE OF ACTION**

5 **(By Plaintiff in her Representative Capacity Against Defendants and Does 1-50)**

6 **VIOLATIONS OF THE PRIVATE ATTORNEYS GENERAL ACT OF 2004**

7 **[Labor Code §§ 2698 *et seq.*]**

8 190. Plaintiff realleges and incorporates by this reference, as though fully set forth herein, all
9 paragraphs of this Complaint.

10 191. Pursuant to the PAGA, any provision of the Labor Code allowing for a civil penalty to
11 be assessed and collected by the LWDA, or any of its departments, divisions, commissions, boards,
12 agencies, or employees, for a violation of the Labor Code, may be recovered through a civil action
13 brought by an aggrieved employee on behalf of herself and other current or former employees pursuant
14 to the procedures specified in Labor Code section 2699.3.

15 192. All civil penalties recovered are in addition to any other relief provided for under the
16 Labor Code and must be allocated seventy-five percent (75%) to the LWDA and twenty-five percent
17 (25%) to the aggrieved employees pursuant to Labor Code section 2699(i).

18 193. Pursuant to *Arias v. Superior Court* (2009) 46 Cal.4th 969, 975, claims brought under
19 the PAGA are not subject to the requirements of class certification. Plaintiff therefore does not seek to
20 certify the claims pursuant the PAGA alleged herein.

21 194. During all, or a portion of, the one-year and sixty-five day period before Plaintiff filed
22 notice of her claims with the LWDA, Defendants were Plaintiff's and all other UNIS Workers'
23 employer or person(s) acting on behalf of Plaintiff's employer either individually or as an officer,
24 agent, or employee of another person, within the meaning of Labor Code sections 558 and 1197.1, who
25 paid or caused to be paid to any employee a wage less than the minimum fixed by California state law,
26 and as such, are subject to civil penalties for each underpaid employee, as well as liquidated damages
27 pursuant to Labor Code section 1194.2, and any applicable penalties imposed pursuant to Labor Code
28 section 203.

1 195. Plaintiff is an “aggrieved employee” under PAGA, as she was employed by the alleged
2 violators, Defendants, within the past year and suffered one or more violations of the Labor Code, and
3 therefore is properly suited to represent the interests of other UNIS Workers.

4 196. Plaintiff alleges that all other UNIS Workers are also “aggrieved employees” under the
5 PAGA because they were employed by Defendants and have experienced one or more of the alleged
6 violations outlined herein.

7 197. Plaintiff has complied with the notice requirements outlined in Labor Code section
8 2699.3 and therefore exhausted her administrative remedies. On August 14, 2020, Plaintiff submitted
9 written notice to the LWDA, UNIS Company, and UNIS informing them of Defendants’ alleged
10 violations of the Labor Code under the PAGA (codified in Labor Code sections 2698 *et seq.*),
11 including the facts and theories to support each violation. (Exhibit 1.) Thereafter, on September 25,
12 2020, Plaintiff submitted a first amended notice to the LWDA, UNIS Company, UNIS and In-Staff
13 informing them of Defendants’ alleged Labor Code violations, including the facts and theories to
14 support each violation. (Exhibit 2.) Subsequently, on October 19, 2020, Plaintiff submitted a second
15 amended notice to the LWDA, UNIS Company, UNIS, In-Staff and Combined Employer Services,
16 Inc. informing them of Defendants’ alleged violations of the Labor Code, including the facts and
17 theories to support each violation. (Exhibit 3.)

18 198. Under the PAGA statute, the LWDA had 65 days to provide notice of whether it
19 intended to investigate the alleged violations. To date, the LWDA has not provided notice of whether it
20 intends to investigate the alleged violations. Plaintiff thus has the right to pursue, and does pursue, her
21 claims under PAGA in a representative capacity pursuant to Labor Code sections 2699 and 2699.3.

22 199. As set forth herein, Defendants have committed, and continue to commit, numerous
23 violations for which the Labor Code and IWC Wage Order No. 9-2001 entitles Plaintiff in her
24 representative capacity, to recover civil penalties, on behalf of herself and all other UNIS Workers and
25 the general public, as well as attorneys’ fees and costs, against Defendants for the alleged violations of
26 the Labor Code, described herein.

1 200. Plaintiff, in her representative capacity, on behalf of herself and all other UNIS
2 Workers, is entitled to and thus seeks to recover civil penalties through a representative action based
3 on violations of the following Labor Code and/or IWC Wage Order provisions:

- 4 a. Failure to provide the opportunity to take legally compliant meal periods and/or
5 failure to timely pay compensation in lieu thereof in violation of Labor Code
6 sections 204, 226.7, 512, and the “Meal Periods” section of IWC Wage Order
7 No. 9-2001;
- 8 b. Failure to authorize and permit legally compliant rest periods and/or failure to
9 timely pay compensation in lieu thereof in violation of Labor Code sections 204,
10 226.7, and the “Rest Periods” section of IWC Wage Order No. 9-2001;
- 11 c. Failure to timely pay minimum, regular, and/or overtime wages in violation of
12 Labor Code sections 204, 210, 510, 1194, 1194.2, 1197, 1197.1, 1198, 1199,
13 and the “Minimum Wages” and “Hours and Days of Work” sections of IWC
14 Wage Order No. 9-2001;
- 15 d. Failure to timely pay all wages due and owing upon separation of employment
16 in violation of Labor Code sections 201-203 and 210;
- 17 e. Failure to reimburse for necessary work expenses in violation of Labor Code
18 section 2802;
- 19 f. Failure to furnish accurate itemized wage statements in violation of Labor Code
20 sections 226, 226.3, and the “Records” section of IWC Wage Order No. 9-2001;
21 and
- 22 g. Failure to maintain accurate employment and payroll records in violation of
23 Labor Code sections 226(a), 1174, 1174.5, and the “Records” section of IWC
24 Wage Order No. 9-2001.

25 201. Labor Code section 210 provides that any person who fails to pay wages as provided in
26 Labor Code sections 201.3, 204, 204(b), 204.1, 204.2, 205, 205.5, and 1197.5 shall be subject to a civil
27 penalty of \$100 for any initial violation for each failure to pay each employee and for each subsequent
28 violation, or any willful or intentional violation \$200 for each failure to pay each employee, plus 25%

1 if the amount unlawfully withheld, in addition to any other penalty. Therefore, Plaintiff and other
2 UNIS Workers are entitled to and do seek such civil penalties.

3 202. Labor Code section 226.3 imposes a civil penalty of \$250 per employee per violation in
4 an initial citation and \$1,000 per employee for each violation in a subsequent citation for violations of
5 Labor Code section 226(a). Therefore, Plaintiff and other UNIS Workers are entitled to and seek the
6 described civil penalty.

7 203. For violations of Labor Code sections 510 and 512, in addition to any other recovery
8 provided by law, Labor Code section 558 imposes a civil penalty of \$50 per pay period for each
9 underpaid employee for the initial violation and \$100 per pay period for each underpaid employee for
10 each subsequent violation of any section of Labor Code Division 2, Part 2, Chapter 1, or any provision
11 regulating hours and days of work in any order of the IWC. Therefore, Plaintiff and other UNIS
12 Workers are entitled to and do seek such civil penalties.

13 204. Labor Code section 1174.5 imposes a civil penalty of \$500 for an employer's failure to
14 maintain accurate and complete records. This civil penalty is in addition to the civil penalty that would
15 be imposed pursuant to Labor Code section 2699(f) for a violation of Labor Code section 1174(d).
16 Therefore, Plaintiff and other UNIS Workers are entitled to and seek the described civil penalty.

17 205. Labor Code section 1197.1 imposes upon Defendants, for each initial violation of wage
18 and hour laws, a penalty of \$100 for each underpaid employee for each pay period for which the
19 employee is underpaid and \$250 for each subsequent violation for the same offense for each underpaid
20 employee for each pay period for which the employee is underpaid. This amount shall be in addition
21 to an amount sufficient to recover underpaid wages and liquidated damages pursuant to Labor Code
22 section 1194.2, which states: "[i]n any action under Section 98, 1193.6, 1194, or 1197.1 to recover
23 wages because of the payment of a wage less than the minimum wage fixed by an order of the
24 commission or by statute, an employee shall be entitled to recover liquidated damages in an amount
25 equal to the wages unlawfully unpaid and interest thereon." Therefore, Plaintiff and other UNIS
26 Workers are entitled to and seek the described civil penalty.

27 206. Labor Code section 2699(f) imposes a civil penalty of \$100 per pay period, per
28 employee for the initial violation, and \$200 per pay period, per employee for each subsequent violation

1 for all Labor Code provisions for which a civil penalty is not specifically provided, including Labor
2 Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512, 1174, 1194, 1197, 1197.1, 1198, 1199, and
3 2802. Plaintiff and other UNIS Workers are entitled to, and therefore seek, the civil penalty outlined in
4 Labor Code section 2699(f).

5 207. Labor Code section 2699(g)(1) provides that an employee who prevails in a civil action
6 brought pursuant to the PAGA shall be entitled to an award of reasonable attorneys' fees and costs. As
7 such, Plaintiff, in her representative capacity on behalf of herself and all other UNIS Workers, is
8 entitled to, and therefore seeks, attorneys' fees and costs.

9 208. Plaintiff, in her representative capacity on behalf of herself and all other UNIS Workers,
10 is entitled to and seeks recovery of reasonable attorneys' fees as provided by Labor Code section 218.5
11 and Code of Civil Procedure section 1021.5.

12 209. Plaintiff, in her representative capacity on behalf of herself and all other UNIS Workers
13 of Defendants in California, requests further relief as described in the below prayer.

14 **PRAYER FOR RELIEF**

15 Plaintiff prays for judgement against Defendants in favor of the class and representative action
16 as follows:

- 17 a. For an order determining that this action may be maintained as a class action with
18 the named Plaintiff as the class representative;
- 19 b. For the attorneys appearing on the above caption to be named class counsel;
- 20 c. For all wages and benefits due to Plaintiff and all other UNIS Workers currently
21 or formerly employed by Defendants pursuant to California law;
- 22 d. For all minimum and regular wages and/or overtime compensation owed pursuant
23 to Labor Code sections 510, 1194, 1197.1, and/or other applicable law;
- 24 e. For premium wages pursuant to Labor Code section 226.7 and/or other applicable
25 law;
- 26 f. For waiting time penalties pursuant to Labor Code section 203 and/or other
27 applicable law;
- 28 g. For unreimbursed business expenses pursuant to Labor Code section 2802 and/or

- 1 other applicable law;
- 2 h. For damages, pursuant to Labor Code section 226 and/or other applicable law;
- 3 i. For all liquidated damages, pursuant to Labor Code sections 226(e), 1197.1,
- 4 and/or other applicable law;
- 5 j. For any and all penalties available for the Labor Code violations alleged herein,
- 6 including penalties under Labor Code sections 210, 226.3, 558, 1174.5, 1197.1,
- 7 1199, 2699(f), and/or other applicable law;
- 8 k. For an order determining that Plaintiff is entitled to recover a civil penalty of \$100
- 9 for each aggrieved employee per pay period for the initial violation and \$200 for
- 10 each aggrieved employee per pay period for each subsequent violation as provided
- 11 in Labor Code section 2699(f);
- 12 l. For a declaratory judgment that Defendants violated Labor Code sections 201,
- 13 202, 203, 204, 226, 226.7, 510, 512, 1174, 1197, 1198, and 2802, as well as the
- 14 “Hours and Days of Work,” “Minimum Wages,” “Records,” “Meal Periods,” and
- 15 “Rest Periods” sections of the Wage Order of the Industrial Welfare Commission
- 16 and/or other applicable law;
- 17 m. For injunctive relief, pursuant to Labor Code section 226(h) and Business and
- 18 Professions Code section 17203, and/or other applicable law;
- 19 n. For restitution for Defendants’ unfair, unlawful, and fraudulent business
- 20 practices;
- 21 o. For reasonable attorneys’ fees and costs of suit pursuant to Labor Code sections
- 22 218.5, 226(h), 226(e)(1), 1194, 2699(g), 2802, Code of Civil Procedure section
- 23 1021.5, the “common fund” theory, the “substantial benefit” theory, and/or other
- 24 applicable law, theory or doctrine;
- 25 p. For pre- and post- judgment interest as provided by California law;
- 26 q. For appropriate equitable relief pursuant to California law; and
- 27 r. For any other relief, the Court may deem as just and proper.

28 ///

1 **DEMAND FOR JURY TRIAL**

2 Plaintiff hereby demands a jury trial on issues triable to a jury.

3
4 Dated: January 26, 2021

GRAHAMHOLLIS APC

5
6 By: Monique R. Rodriguez
7 Graham S.P. Hollis
8 Vilmarie Cordero
9 Monique R. Rodriguez
10 *Attorneys for Plaintiff Bertha Marquez*
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EXHIBIT 1

August 14, 2020

Attorneys at Law

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VIA ONLINE ELECTRONIC FILING

California Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, CA 94612

CERTIFIED MAIL (RETURN RECEIPT)

UNIS, LLC
218 Machlin Ct
Walnut, CA 91789

UNIS, LLC
c/o CT Corporation System, Agent for Service of Process
818 West Seventh Street, Suite 930
Los Angeles, CA 90017

UNIS Company, Inc.
218 Machlin Ct
Walnut, CA 91789

UNIS Company, Inc.
c/o CT Corporation System, Agent for Service of Process
818 West Seventh Street, Suite 930
Los Angeles, CA 90017

**Re: Bertha Marquez's Wage and Hour Claims Against UNIS Company, Inc.
and UNIS, LLC**

Dear California Labor and Workforce Development Agency, UNIS Company, Inc., and
UNIS, LLC:

Please be advised that Bertha Marquez ("Claimant") has retained our firm to represent
her for various claims against UNIS Company, Inc. and UNIS, LLC (the "Companies").

Please be advised that this letter shall serve as Claimant's written notice to the
California Labor and Workforce Development Agency ("LWDA") and the Companies
of the alleged California Labor Code ("Labor Code") violations Claimant claims that the
Companies committed against her and all other current or former non-exempt
employees who performed work for the Companies in California during the relevant
statutory period, including those hired by the Companies, staffing agencies or other
third-parties. Claimant provides this notice, which includes the facts and theories to

Graham S.P. Hollis

Vilmarie Cordero

Nathan Reese

Hali Anderson

David Lin

Erick Dos Santos

Alex Kuner

Monique Rodriguez

support the Labor Code violations alleged herein, in accordance with the Private Attorneys General Act of 2004 (codified in Labor Code §§ 2698 *et seq.*, “PAGA”), Labor Code § 2699.3.

Pursuant to Labor Code § 2699(a), and by way of this letter, Claimant intends to represent herself and all other current or former non-exempt employees in California who performed work for the Companies, including those individuals who were hired by UNIS Company, Inc., UNIS, LLC, staffing agencies or other third-parties, during the relevant time period (referred to herein as “UNIS Workers”). All UNIS Workers, including Claimant, are believed to have suffered at least one of the Labor Code violations described herein. Claimant therefore contends that she and all other UNIS Workers are “aggrieved employees” as defined by the PAGA.

FACTUAL BACKGROUND

UNIS Company, Inc. is a professional management company that owns and operates UNIS, LLC and other entities. UNIS Company, Inc. is a third-party logistics provider that unifies the supply chain networks through technology and information services. UNIS Company, Inc. is incorporated in the state of Delaware and is authorized to do business in the state of California. UNIS Company, Inc. has its headquarters in Walnut, California.

UNIS, LLC is a third-party logistics provider which owns and operates several fulfillment and distribution warehouses throughout California, including in Walnut, Fontana, Riverside, City of Industry, and Buena Park. UNIS, LLC is incorporated in the state of Delaware and is authorized to do business in the state of California. UNIS, LLC has its headquarters located in Walnut, California.

UNIS Company, Inc. and UNIS, LLC use staffing agencies and other third-parties to supply its workforce. Claimant contends that the Companies, staffing agencies, and other third-parties are jointly and severally liable for the claims asserted herein. Claimant alleges that at all relevant times, the Companies, staffing agencies, and other third-parties exercised control over the wages, hours and/or working conditions of UNIS Workers, that the Companies, staffing agencies, and other third-parties caused UNIS Workers to work and/or prevent UNIS Workers from working and that the Companies, staffing agencies, and other third-parties had control over UNIS Workers, among other things.

Claimant has been employed by the Companies since 2009 and as of the date of this letter, remains employed by the Companies. Over the course of her employment, Claimant has worked as warehouse lead and customer service representative at the Companies’ fulfillment and distribution warehouses in Walnut, Fontana, Hacienda Heights/Azusa, and Riverside. As a warehouse lead, Claimant’s job duties consist of overseeing the workers in the warehouse, planning and releasing fulfillment orders, ensuring that packing stations complete orders on a timely basis, and maintaining inventory, among other things. As a customer service representative, Claimant’s job duties consist of assisting with the Companies’ fulfillment and distribution orders, maintaining warehouse accounts, and providing excellent customer service, among other things. At all relevant times, Claimant has been classified as a non-exempt employee and is paid an hourly rate of \$16.50 per hour. Claimant typically works five (5) days per week and eight (8) hours each workday, for a total of approximately forty (40) hours per week. The Companies also employed other UNIS Workers throughout the state of California at its fulfillment and distribution warehouses during the relevant statutory period.

Claimant alleges that the Companies denied Claimant and other UNIS Workers specific rights afforded to them under the Labor Code and the applicable Industrial Welfare Commission (“IWC”) Wage Order. Specifically, the Companies failed to provide Claimant and other UNIS Workers with legally compliant meal and/or rest periods or timely pay them meal and/or rest period premiums, failed to timely pay all minimum, regular, and overtime wages for all time worked, failed to timely pay all wages due and owed upon separation of employment, failed to reimburse for necessary business expenses, failed to issue accurate itemized wage statements, and failed to maintain accurate records. Upon information and belief, all policies, practices, guidelines, and/or procedures of the Companies applicable to Claimant were also applicable to all other UNIS Workers during the statutory period.

Claimant asserts that the Companies did not provide her and other UNIS Workers with 30-minute, off-duty meal periods before the start of their sixth hour of work. Claimant also alleges that the Companies did not authorize and permit her, or other UNIS Workers, to take legally compliant off-duty, 10-minute rest periods for every four hours worked or major fraction thereof. Claimant contends that the Companies’ failure to provide UNIS Workers with legally compliant meal and/or rest periods was largely due to the Companies’ policy, practice, procedure, and/or guideline of understaffing its warehouses and not providing sufficient coverage for UNIS Workers to take off-duty meal and/or rest periods. Claimant asserts that she and other UNIS Workers were regularly required to work through their meal and/or rest periods, experienced meal and/or rest periods interrupted by work duties, and/or were not provided with meal and/or rest periods at all. For example, Claimant claims that she, and other UNIS Workers, would often clock-out for their meal period, but continue working on their tasks due to their workload. Furthermore, Claimant was frequently unable to take uninterrupted meal periods and/or rest periods due to the Companies’ policy, practice, procedure and/or guideline of requiring UNIS Workers to carry and monitor a company-issued radio at all times. Additionally, Claimant contends that meal periods were frequently interrupted by work-related tasks, such as drivers arriving at the warehouse to pick-up and/or drop-off shipments, UPS, FedEx and/or other parcel carriers delivering items, as well as interruptions from warehouse employees asking work-related questions, either in person, through a radio call or a phone call and/or text message. Claimant asserts that, per the Companies’ policy, practice, procedure and/or guideline, UNIS Workers are expected to make themselves available at all times for drivers who arrive at the warehouse and are reprimanded if the driver leaves the warehouse without being attended to.

Claimant further asserts that she, as well as other UNIS Workers, were often not provided with a second rest period during their eight-hour shift due to their workload and the Companies’ policy, practice, procedure and/or guideline of not scheduling coverage for UNIS Workers to take uninterrupted meal and/or rest periods. Furthermore, Claimant and other UNIS Workers were consistently directed, forced and/or otherwise pressured to skip their meal and/or rest periods to complete their work duties and to compensate for understaffing issues. On the rare occasion they were able to take a meal and/or rest period, Claimant alleges she, and other UNIS Workers, were required to monitor their radios and/or cell phones, and be readily available to return to work if necessary. In fact, UNIS Workers often experienced interrupted meal and/or rest periods because they were called back to work during their meal and/or rest periods. Claimant alleges she, and other UNIS Workers, were also required to monitor their personal cell phones for calls or text messages, as the Companies would contact them on their personal devices if they did not immediately respond to calls on the company-issued radio. Moreover, Claimant and other UNIS Workers were not provided with a second meal period and/or a third rest period when they worked 10 or more hours in a single work day. As a result of the Companies’ illegal policies practices, procedures

and/or guidelines, Claimant and other UNIS Workers were regularly required to work through their meal and/or rest periods, take interrupted meal and/or rest periods, and/or were not provided with a meal and/or rest period at all. Claimant and, on information and belief, other UNIS Workers did not sign a meal period waiver or an on-duty meal agreement at any point during their employment. Even if Claimant or any UNIS Workers signed any such waivers and/or agreements, they were not applied in accordance with California law.

Although Claimant and other UNIS Workers did not receive legally compliant meal and/or rest periods, the Companies did not pay Claimant and, on information and belief, other UNIS Workers the additional one hour of pay at the employee's regular rate of pay as required under Labor Code § 226.7 and IWC Wage Order No. 9-2001. Therefore, the Companies owe Claimant and, on information and belief, other UNIS Workers a meal and/or rest period premium for each work day that Claimant and other UNIS Workers were not provided with a compliant meal and/or rest period.

Furthermore, Claimant and, on information and belief, other UNIS Workers were not timely paid all minimum, regular, and/or overtime wages for all time worked as a result of the Companies' failure to pay them for the time they spent working through their meal periods. The Companies improperly considered the work Claimant and other UNIS Workers performed during their meal periods as non-compensable time and failed to provide any remuneration. Additionally, Claimant contends, upon information and belief, that she and other UNIS Workers were not paid for the time worked prior to clocking-in at the start of the workday. Claimant contends the Companies have a policy, practice, procedure and/or guideline of requiring UNIS Workers to clock-in at the start of a shift no earlier than five minutes prior to their scheduled start time. However, Claimant alleges that she, as well as other UNIS Workers, are often compelled to begin working earlier than the beginning of their shift and are not paid for the work performed. Moreover, Claimant contends she is often contacted on her personal cellphone by warehouse workers, the Companies' management, and shipment delivery drivers, including UPS and FedEx drivers, when she is not clocked-in. In fact, Claimant continues to receive multiple work-related phone calls on her personal cell phone despite being on a leave of absence. Claimant alleges she, as well as other UNIS Workers, are not paid for the time spent taking work-related calls while off-the-clock. Because UNIS Workers are required to work off-the-clock during meal periods, as well as before the start of their regularly scheduled shift, and are compelled to take work-related phone calls when not clocked-in, the Companies did not timely pay Claimant and other UNIS Workers minimum, regular, and/or overtime wages for all time worked including, but not limited to, when Claimant and other UNIS Workers worked in excess of eight (8) hours in a work day and/or forty (40) hours in a workweek.

Claimant contends, based on information and belief, that the Companies failed to timely pay former UNIS Workers all wages due and owed upon separation of employment, including minimum, regular, and/or overtime wages for all hours worked and/or meal and/or rest period premium wages, as required by Labor Code §§ 201, 202, and 204. Claimant further contends, based on information and belief, that former UNIS Workers were not paid any waiting time penalties as provided under Labor Code § 203.

The Companies also failed to reimburse Claimant and other UNIS Workers for all necessary business expenses that were incurred in the discharge of their job duties. For instance, Claimant and other UNIS Workers were required to use and often used their personal cell phones to monitor incoming calls and text messages from managers and co-workers regarding work-related issues when they did not immediately respond to calls on the company-issued radio. Claimant alleges that other warehouse workers, the

Companies' management, and drivers, including drivers from UPS and FedEx, have her personal cell phone number, and regularly contact her for work-related purposes. Despite requiring UNIS Workers, including Claimant, to use their personal cell phones in the discharge of their work duties, the Companies did not have a policy, practice, procedure and/or guideline of reimbursing its employees. Claimant and other UNIS Workers did not receive any reimbursement for the use of their personal cell phones as required by California law.

Moreover, the wage statements issued by the Companies to UNIS Workers, including Claimant, did not include the correct total regular and/or overtime hours actually worked, the correct amount of gross and/or net wages actually earned, and/or all applicable hourly rates and the corresponding number of hours actually worked at each hourly rate, among other things, as required under Labor Code § 226. The wage statements also did not include the pay period information, the appropriate name and address of the legal entity that employed Claimant and other UNIS Workers.

As a direct result of the Companies' illegal policies, practices, procedures, and/or guidelines, like those described herein, the Companies failed to maintain accurate records reflecting all of Claimant's and other UNIS Worker's actual time worked and actual wages earned and paid, among other things, in violation of California law.

Due to the foregoing Labor Code violations, the Companies denied Claimant and other UNIS Workers certain rights afforded to them under the California Labor Code and IWC Wage Order No. 9-2001. Claimant makes these claims against the Companies on behalf of herself and all other current or former non-exempt employees who performed work for the Companies in California, including employees who were hired through staffing agencies or other third-parties.

The facts and/or claims contained herein are based on the information available at the time of this writing. Since Claimant's investigation is ongoing, Claimant reserves her right to assert any and all related facts, claims and/or theories discovered after the sending of this letter on behalf of herself and the current or former UNIS Workers against the Companies and/or other persons that may be discovered after the sending of this letter. Such other persons include, but are not limited to, those persons who have acted as an agent, subsidiary, servant, employee, co-conspirator, alter-ego, and/or joint venture of the Companies, as well as those persons who caused and/or concurrently contributed to the various acts and/or admissions of each and every one of the others, including the Companies, in proximately causing the wrongful conduct, harm, and/or damages alleged herein or otherwise participated in or ratified any or all of the acts and/or omissions complained of herein, and those who were acting within the authority and/or scope of the Companies. Claimant reserves the right to include other persons and/or revise these facts and/or add any new claims by amending this letter and/or by adding claims to her civil complaint.

**FAILURE TO PROVIDE LEGALLY COMPLIANT MEAL AND/OR REST PERIODS
OR COMPENSATION IN LIEU THEREOF**

(Labor Code §§ 204, 226.7, and 512, and the "Meal Periods" and
"Rest Periods" sections of IWC Wage Order No. 9-2001)

Labor Code § 226.7(b) states, "[a]n employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission..." Labor Code § 226.7(c) states, "[i]f an employer fails to provide

an employee a meal or rest or recovery period in accordance with a state law... the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest or recovery period is not provided."

Labor Code § 512(a) states,

"[a]n employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes" and "[a]n employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes."

The "Meal Periods" section of IWC Wage Order No. 9-2001 states,

"[n]o employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes, except that when a work period of not more than six (6) hours will complete the day's work the meal period may be waived by mutual consent of the employer and the employee."

The "Meal Periods" section of IWC Wage Order No. 9-2001 further states,

"[a]n employer may not employ an employee for a work period of more than ten (10) hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of employer and employee only if the first meal period was not waived."

Furthermore, "[i]f an employer fails to provide an employee a meal period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided."

The "Meal Periods" section of the applicable IWC Wage Order also states,

"[u]nless the employee is relieved of all duty during a 30 minute meal period, the meal period shall be considered an 'on duty' meal period and counted as time worked. An 'on duty' meal period shall be permitted only when the nature of the work prevents an employee from being relieved of all duty and when by written agreement between the parties an on-the-job meal period is agreed to. The written agreement shall state that the employee may, in writing, revoke the agreement at any time."

The "Rest Periods" section of the Applicable IWC Wage Order states,

“[e]very employer shall authorize and permit employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof.”

Furthermore, “[i]f an employer fails to provide an employee a rest period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee’s regular rate of compensation for each workday that the rest period is not provided.”

Premium wages under Labor Code § 226.7 are wages that are due payable in accordance with the Labor Code § 204. *Murphy v. Kenneth Cole Productions, Inc.* (2007) 40 Cal.4th 1094, 1103-1114.

As set forth herein, the Companies failed to provide Claimant and other UNIS Workers with the opportunity to take uninterrupted, off-duty meal periods of at least 30-minutes before the start of their sixth hour of work and/or did not provide the opportunity to take a second legally compliant meal period when they worked more than 10 hours in a single work day. The Companies also did not authorize and permit Claimant and other UNIS Workers to take legally compliant rest periods, as required by California law. Despite not receiving legally compliant meal and/or rest periods, UNIS Workers, including Claimant were not paid the mandated one-hour of premium wages for each day a meal and/or rest period was not provided. Accordingly, Claimant and other UNIS Workers are entitled to receive one-hour of premium wages for each day a meal period was not provided and/or one-hour of premium wages for each day a rest period was not authorized and permitted. Claimant will pursue all available remedies for the Companies’ violations on behalf of herself and other UNIS Workers to the extent allowed by law.

FAILURE TO PAY MINIMUM, REGULAR, AND/OR OVERTIME WAGES

(Labor Code §§ 204, 210, 510, 1194, 1194.2, 1197, 1197.1, 1198, and 1199, and the “Minimum Wages” and “Hours and Days of Work” sections of IWC Wage Order No. 9-2001)

Labor Code § 1197 states, “[t]he minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a less wage than the minimum so fixed is unlawful.”

Labor Code § 1198 states,

“[t]he maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.”

Labor Code § 510 states,

“[e]ight hours of labor constitutes a day’s work. Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and

one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee.”

The “Hours and Days of Work” and “Minimum Wages” sections of IWC Wage Order No. 9-2001 mandates the same requirements as Labor Code § 510.

Labor Code § 204(a) states in pertinent part, “[a]ll wages...earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays.” Furthermore, Labor Code § 204(b)(1) states, “all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period.” The “Minimum Wages” section of the applicable IWC Wage Order also states that “[e]very employer shall pay to each employee, on the established payday for the period involved, not less than the applicable minimum wage for all hours worked in the payroll period, whether the remuneration is measured by time, piece, commission, or otherwise.”

Labor Code § 210 provides that, “every person who fails to pay the wages of an employee as provided in Section...204...shall be subject to a civil penalty” of \$100 for an initial violation and \$200 plus 25% of the amount unlawfully withheld for a subsequent violation.”

Labor Code § 1197.1 provides that,

“[a]ny employer or other person acting either individually or as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or local law or by an order of the commission shall be subject to a civil penalty, restitution of wages, liquidated damages payable to the employee, and any applicable penalties imposed pursuant to Section 203...”

Labor Code § 1199 imposes “a fine of not less than one hundred dollars (\$100)” for any employer who violates the provisions set forth in Labor Code § 1198.

Labor Code § 1194(a) states, “...any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney’s fees, and costs of suit.” Liquidated damages in an amount equal to the minimum wages unlawfully unpaid and interest thereon are provided for under Labor Code § 1194.2.

As set forth above, the Companies required Claimant and other UNIS Workers to work off-the-clock during meal periods without compensation. Furthermore, the Companies did not compensate Claimant and other UNIS Workers for the time spent working off-the-clock prior to starting their scheduled shift. Likewise, the Companies also did not compensate Claimant and other UNIS Workers for the time spent answering work-related phone calls and/or text messages on their personal cellphones while off-the-clock.

The Companies thus failed to timely pay Claimant and, on information and belief, other UNIS Workers all minimum, regular, and/or overtime wages for all hours worked, as required by law. Claimant will pursue all available remedies for the Companies' violations on behalf of herself and other UNIS Workers to the extent allowed by law.

FAILURE TO TIMELY PAY ALL WAGES DUE AND OWING UPON SEPARATION OF EMPLOYMENT

(Labor Code §§ 201, 202, 203, and 210)

Labor Code § 201 states, in pertinent part, "[i]f an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately." Labor Code § 202 provides,

"[i]f an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting."

Labor Code § 203(a) further provides,

"[i]f an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.3, 201.5, 201.9, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefore is commenced; but the wages shall not continue for more than 30 days."

Labor Code § 210 mandates that, "... every person who fails to pay the wages of an employee as provided in Sections 201.3...shall be subject to a civil penalty" of \$100 for an initial violation and \$200 plus 25% of the amount unlawfully withheld for a subsequent violation.

As set forth above, the Companies violated these Labor Code sections by not timely paying former UNIS Workers all minimum, regular, and/or overtime wages for all time worked and/or meal and/or rest period premium wages within the required time upon separation of their employment. To date, the Companies have also not paid the required waiting time penalties for its failure to pay for such wages. As a result of the Companies' failure to comply with the aforementioned Labor Code provisions, the Companies owe waiting time penalties to former UNIS Workers, which the Companies have not yet paid. Claimant will pursue all available remedies for the Companies' violations on behalf of former UNIS Workers to the extent allowed by law.

FAILURE TO REIMBURSE FOR NECESSARY BUSINESS EXPENSES

(Labor Code § 2802)

Labor Code § 2802(a) provides in pertinent part, "[a]n 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."

Labor Code § 2802(b) states, “[a]ll awards made by a court or by the Division of Labor Standards Enforcement for reimbursement of necessary expenditures under this section shall carry interest at the same rate as judgments in civil actions. Interest shall accrue from the date on which the employee incurred the necessary expenditure or loss.” Accordingly, Claimant will request that she receives interest on the applicable amount.

Furthermore, Labor Code § 2802(c) states, “[f]or purposes of this section, the term ‘necessary expenditures or losses’ shall include all reasonable costs, including, but not limited to, attorney’s fees incurred by the employee enforcing the rights granted by this section.” Consequently, Claimant will also request reimbursement of the attorney’s fees incurred in pursuing this matter.

As set forth above, the Companies required Claimant and other UNIS Workers to use their personal cell phones in the discharge of their work duties without reimbursement in violation of California law. Claimant will pursue all available remedies for the Companies’ violations on behalf of herself and other UNIS Workers to the extent allowed by law.

FAILURE TO FURNISH ACCURATE ITEMIZED WAGE STATEMENTS

(Labor Code §§ 226 and 226.3, and the “Records” section of IWC Wage Order No. 9-2001)

Labor Code § 226(a) states, in pertinent part, that every employer shall provide an accurate, itemized wage statement in writing with respect to each of its employees showing: “(1) gross wages earned, (2) total hours worked by the employee, ..., (5) net wages earned, ..., and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.”

Labor Code § 226(e) imposes a penalty of the greater of all actual damages or \$50 for the initial pay period in which a violation occurs and \$100 per employee for each violation in a subsequent pay period, not exceeding an aggregate penalty of \$4,000, and entitles an employee to an award of costs and reasonable attorney’s fees. Labor Code § 226.3 imposes an additional civil penalty on the employer of \$250.00 per employee per violation of Labor Code § 226(a) in an initial citation and \$1,000 per employee for each violation in a subsequent citation.

As set forth above, the Companies failed to provide Claimant and other UNIS Workers with accurate itemized wage statements that comply with the requirements of the Labor Code because the wage statements furnished did not, among other things, include the correct total regular and/or overtime hours actually worked, the correct amount of gross and/or net wages actually earned, and/or all applicable hourly rates and the corresponding number of hours worked at each hourly rate. Specifically, Claimant noticed several times that her wage statements did not reflect the correct number of hours she actually worked, as recorded on her timecards. Claimant will pursue all available remedies for the Companies’ violations on behalf of herself and other UNIS Workers to the extent allowed by law.

FAILURE TO MAINTAIN ACCURATE RECORDS

(Labor Code §§ 226, 1174 and 1174.5, and the “Records” section of IWC Wage Order No. 9-2001)

Labor Code § 1174 states, “[e]very person employing labor in this state shall... [k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records

showing the hours worked daily by and the wages paid to, ..., employees employed at the respective plants or establishments.” See also Labor Code § 226(a).

The “Records” section of IWC Wage Order No. 9-2001 states that every employer shall keep accurate information with respect to each one of its employees, including time records showing when the employee begins and ends each work period, meal periods, total daily hours worked, total wages paid each payroll period, and total hours worked in the payroll period and applicable rates of pay.

Labor Code § 1174.5 imposes a civil penalty of \$500 for an employer’s failure to maintain accurate and complete records. This civil penalty is in addition to the civil penalty of \$100 per pay period, per aggrieved employee that would be imposed pursuant to Labor Code § 2699 for a violation of Labor Code § 1174(d).

Labor Code § 226(e)(1) provides,

“[a]n employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) [of Labor Code § 226] is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney’s fees.”

As set forth above, the Companies violated these requirements by failing to accurately record employee hours actually worked including, but not limited to, the Companies’ failure to record the proper beginning and end of each work period, the meal periods, the total hours worked during the pay period, the applicable rates of pay, and the wages earned and paid, among other things. Claimant will pursue all available remedies for the Companies’ violations on behalf of herself and other UNIS Workers to the extent allowed by law.

CIVIL PENALTIES FOR VIOLATION OF THE LABOR CODE AND IWC WAGE ORDERS
(Labor Code §§ 210, 226.3, 558, 1174.5, 1197.1, and 2699(f))

Labor Code § 210 provides that any person who fails to pay wages as provided in sections 201.3, 204, 204(b), 204.1, 204.2, 205, 205.5 and 1197.5 shall be subject to a civil penalty of \$100 for any initial violation for each failure to pay each employee and for each subsequent violation, or any willful or intentional violation \$200 for each failure to pay each employee, plus 25 % if the amount unlawfully withheld, in addition to any other penalty.

For violations of Labor Code § 226(a), Labor Code § 226.3 imposes a civil penalty of \$250 per employee per violation in an initial citation and \$1,000 per employee for each violation in a subsequent citation.

Labor Code § 558 subjects any employer or any person acting on behalf of an employer who violates Labor Code Part 2, Chapter 1, of the Labor Code (Labor Code §§ 500-558), or any provision regulating the hours and days of work in any IWC Wage Order, to a civil penalty as follows: “[f]or any initial

violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid. For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid.”

For violations of Labor Code § 1174 subdivisions (b), (c), and (d), Labor Code § 1174.5 imposes a civil penalty of \$500.

Similarly, Labor Code § 1197.1 subjects any employer or other person acting either individually or as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or local law, or by an order of the commission to a civil penalty, restitution of wages, liquidated damages payable to the employee, and any applicable penalties imposed pursuant to § 203 as follows:

“(1) For any initial violation that is intentionally committed, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee is underpaid. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to § 1194.2, and any applicable penalties imposed pursuant to § 203. (2) For each subsequent violation for the same specific offense, two hundred fifty dollars (\$250) for each underpaid employee for each pay period for which the employee is underpaid regardless of whether the initial violation is intentionally committed. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to § 1194.2, and any applicable penalties imposed pursuant to § 203. (3) Wages, liquidated damages, and any applicable penalties imposed pursuant to § 203, recovered pursuant to this section shall be paid to the affected employee.”

Labor Code § 2699(f) imposes a civil penalty of \$100 per pay period, per employee for the initial violation and \$200 per pay period, per employee for each subsequent violation for all Labor Code provisions for which a civil penalty is not specifically provided, including, but not limited to, Labor Code §§ 201, 202, 203, 204, 210, 226(a), 226.7, 510, 512, 1174(c), 1174(d), 1194, 1197, 1197.1, 1198, 1199, 2802, and relevant IWC Wage Orders.

As set forth above, the Companies violated the Labor Code and IWC Wage Order 9-2001 by, among other things, failing to timely pay Claimant and UNIS Workers all regular, minimum, and/or overtime wages, and/or meal and rest period premium wages, as required under the Labor Code and the applicable sections of IWC Wage Order 9-2001. As a result, the Companies are liable for civil penalties under the Labor Code and Claimant will pursue all available remedies including, but not limited to, those stated herein, for the Companies’ violations on behalf of herself and other UNIS Workers to the extent allowed by law.

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ATTORNEY'S FEES, COSTS, INTEREST, LIQUIDATED DAMAGES AND PENALTIES

(Labor Code §§ 210, 218.5, 218.6, 226(e), 558, 1194, 1194.2, 1197.1, 2802, and 2698, *et seq.*)

Labor Code §§ 210, 218.5, 218.6, 225.5, 226(e), 558, 1194, 1194.2, 1197.1, 1198.5, 2802, and 2698, *et seq.*, among others, give employees the right to recover in a civil action the full amount of damages, liquidated damages and penalties, including interest thereon, as well as reasonable attorney's fees and costs.

Under Labor Code § 2699(g)(1), an aggrieved employee, such as Claimant, is entitled to an award of reasonable attorneys' fees and costs. Claimant has already incurred actual damages, costs and attorney's fees and she will continue to incur such as a result of the Companies' unlawful actions. Claimant will pursue all available remedies including, but not limited to, those provided by the PAGA, on behalf of herself and other UNIS Workers to the extent permitted by law for the violations of law described herein and those later discovered.

CONCLUSION

Based on the foregoing, the Companies have violated the Labor Code and IWC Wage Order 9-2001, thereby depriving Claimant and other UNIS Workers of the rights and protections afforded to them. Claimant has satisfied the prerequisites of the PAGA to serve as a representative of all current or former non-exempt employees who performed work for the Companies in California, including those employed by the Companies, staffing agencies or other third-parties, the general public, and the state of California in order to enforce California labor laws and to seek civil penalties for the provisions set forth herein, as well as those which may be later discovered.

Accordingly, if the LWDA declines to intervene or act within time prescribed by the Labor Code, Claimant may elect to initiate and/or amend a civil action, on behalf of herself and all other current or former non-exempt employees who performed work for the Companies in California, including those hired by the Companies, staffing agencies or other third-parties, as permitted by the PAGA.

Sincerely,

Monique R. Rodriguez

Monique R. Rodriguez

EXHIBIT 2

September 25, 2020

Attorneys at Law

3555 Fifth Avenue Suite 200
San Diego, California 92103
619.692.0800 voice
619.692.0822 fax

www.grahamhollis.com

Monique R. Rodriguez
mrodriguez@grahamhollis.com
619.546.4373 direct

VIA ONLINE ELECTRONIC FILING

California Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, CA 94612

CERTIFIED MAIL (RETURN RECEIPT)

INSTAFF
19745 Colima Rd., Ste. 1 #283
Rowland, Heights, CA 91748

UNIS, LLC
218 Machlin Ct
Walnut, CA 91789

UNIS, LLC
c/o CT Corporation System, Agent for Service of Process
818 West Seventh Street, Suite 930
Los Angeles, CA 90017

UNIS Company, Inc.
218 Machlin Ct
Walnut, CA 91789

UNIS Company, Inc.
c/o CT Corporation System, Agent for Service of Process
818 West Seventh Street, Suite 930
Los Angeles, CA 90017

Graham S.P. Hollis

Vilmarie Cordero

Nathan Reese

Hali Anderson

David Lin

Erick Dos Santos

Alex Kuner

Monique Rodriguez

Re: Amendment to Bertha Marquez's Wage and Hour Claims Against UNIS Company, Inc., UNIS, LLC, and INSTAFF

Dear California Labor and Workforce Development Agency, UNIS Company, Inc., UNIS, LLC and INSTAFF:

Please be advised that Bertha Marquez ("Claimant") has retained our firm to represent her for various claims against UNIS Company, Inc., UNIS, LLC, and INSTAFF (the "Companies").

Please be advised that this letter shall serve as Claimant's amended written notice to the California Labor and Workforce Development Agency ("LWDA") and the Companies

of the alleged California Labor Code (“Labor Code”) violations Claimant claims that the Companies, individually and collectively, committed against her and all individuals who currently or formerly performed work for the Companies, individually and/or collectively, in California during the relevant statutory period including, but not limited to, those hired by the Companies, staffing agencies or other third-parties. Claimant provides this amended notice, which includes the facts and theories to support the Labor Code violations alleged herein, in accordance with the Private Attorneys General Act of 2004 (codified in Labor Code §§ 2698 *et seq.*, “PAGA”), Labor Code § 2699.3.

Pursuant to Labor Code § 2699(a), and by way of this amended notice, Claimant intends to represent herself and all other individuals who currently or formerly performed work for the Companies, individually and/or collectively, in California, including those individuals who were hired by UNIS Company, Inc., UNIS, LLC, INSTAFF, staffing agencies or other third-parties, during the relevant time period (referred to herein as “UNIS Workers”). All UNIS Workers, including Claimant, are believed to have suffered at least one of the Labor Code violations described herein. Claimant therefore contends that she and all other UNIS Workers are “aggrieved employees” as defined by the PAGA.

The original written notice is attached hereto as Exhibit A (“Original Notice”) and incorporated herein by reference. The claims in the Original Notice are asserted on behalf of Claimant and all UNIS Workers against the Companies, individually and collectively. The Original Notice was submitted to the LWDA via online upload on August 14, 2020 and sent to UNIS Company, Inc. and UNIS, LLC via certified mail on the same date.

Also, in a separate, but not necessarily mutually exclusive, alternative theory of liability, the Companies, jointly and severally, and the Chief Executive Officer/Director/Manager James Lin, are liable for the PAGA civil penalties under Labor Code § 558 as “other person(s)” who caused the violations alleged herein. See *Atempa v. Pedrazzani* (2018) 27 Cal.App.5th 809, 820 (“if there is evidence and a finding that a party other than the employer ‘violates, or causes of be violated’ the overtime laws (§ 558(a)), or ‘pays or causes to be paid to an employee’ less than minimum wage (§ 1197.1(a)), then that party is liable for certain civil penalties regardless of the identity or business structure of the employer”); see also *Moua v. IBM* (N.D. Cal. 2019) 2019 U.S. Dist. LEXIS 40851 (holding the same).

The facts and/or claims contained in this amended notice, as well as the Original Notice, are based on the information available at the time of this writing. Since Claimant’s investigation is ongoing, Claimant reserves her right to assert any and all related facts, claims, and/or theories discovered after the sending of this amended notice on behalf of herself and all other individuals who currently or formerly performed work for the Companies, individually or collectively, in California including, but not limited to, those individuals who were hired by UNIS Company, Inc., UNIS, LLC, INSTAFF, staffing agencies, other third-parties, and/or other persons that may be discovered after the sending of this amended notice. Such other persons may include, but are not limited to, those persons who have acted as an agent, subsidiary, servant, employee, co-conspirator, alter-ego, and/or joint venture of the Companies, individually and collectively, as well as those persons who caused and/or concurrently contributed to the various acts and/or admissions of each and every one of the others, including the Companies, individually and collectively, in proximately causing the wrongful conduct, harm, and/or damages alleged herein or otherwise participated in or ratified

CA Labor and Workforce Development Agency
UNIS Company, Inc.
UNIS, LLC
INSTAFF
September 25, 2020
Page 3



any or all of the acts and/or omissions complained herein, and those who were acting within the authority and/or scope of the Companies, individually and collectively. Claimant reserves the right to modify the facts and/or add any new claims by amending this notice and/or by adding claims to her civil complaint.

Based on the this amended notice and the Original Notice, the Companies, individually and collectively, have violated the Labor Code and IWC Wage Order 9-2001, thereby depriving Claimant and other UNIS Workers of the rights and protections afforded to them. Claimant has satisfied the prerequisites of the PAGA to serve as a representative of all individuals who currently or formerly performed work for the Companies, individually and/or collectively, in California, including those employed by the Companies, staffing agencies or other third-parties, the general public, and the state of California in order to enforce California labor laws and to seek civil penalties for the provisions set forth herein, as well as those which may be later discovered.

Accordingly, if the LWDA declines to intervene or act within time prescribed by the Labor Code, Claimant may elect to initiate and/or amend a civil action, on behalf of herself and all individuals who currently or formerly performed work for the Companies, individually and/or collectively, in California, including those employed by the Companies, staffing agencies or other third-parties, as permitted by the PAGA.

Sincerely,

A handwritten signature in black ink that reads 'Monique R. Rodriguez'. The signature is written in a cursive, flowing style.

Monique R. Rodriguez

Enclosure: Exhibit A – Letter to the LWDA, dated August 14, 2020 (“Original Notice”)

EXHIBIT A

EXHIBIT A

August 14, 2020

Attorneys at Law

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California Labor and Workforce Development Agency
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c/o CT Corporation System, Agent for Service of Process
818 West Seventh Street, Suite 930
Los Angeles, CA 90017

**Re: Bertha Marquez's Wage and Hour Claims Against UNIS Company, Inc.
and UNIS, LLC**

Dear California Labor and Workforce Development Agency, UNIS Company, Inc., and
UNIS, LLC:

Please be advised that Bertha Marquez ("Claimant") has retained our firm to represent
her for various claims against UNIS Company, Inc. and UNIS, LLC (the "Companies").

Please be advised that this letter shall serve as Claimant's written notice to the
California Labor and Workforce Development Agency ("LWDA") and the Companies
of the alleged California Labor Code ("Labor Code") violations Claimant claims that the
Companies committed against her and all other current or former non-exempt
employees who performed work for the Companies in California during the relevant
statutory period, including those hired by the Companies, staffing agencies or other
third-parties. Claimant provides this notice, which includes the facts and theories to

Graham S.P. Hollis

Vilmarie Cordero

Nathan Reese

Hali Anderson

David Lin

Erick Dos Santos

Alex Kuner

Monique Rodriguez

support the Labor Code violations alleged herein, in accordance with the Private Attorneys General Act of 2004 (codified in Labor Code §§ 2698 *et seq.*, “PAGA”), Labor Code § 2699.3.

Pursuant to Labor Code § 2699(a), and by way of this letter, Claimant intends to represent herself and all other current or former non-exempt employees in California who performed work for the Companies, including those individuals who were hired by UNIS Company, Inc., UNIS, LLC, staffing agencies or other third-parties, during the relevant time period (referred to herein as “UNIS Workers”). All UNIS Workers, including Claimant, are believed to have suffered at least one of the Labor Code violations described herein. Claimant therefore contends that she and all other UNIS Workers are “aggrieved employees” as defined by the PAGA.

FACTUAL BACKGROUND

UNIS Company, Inc. is a professional management company that owns and operates UNIS, LLC and other entities. UNIS Company, Inc. is a third-party logistics provider that unifies the supply chain networks through technology and information services. UNIS Company, Inc. is incorporated in the state of Delaware and is authorized to do business in the state of California. UNIS Company, Inc. has its headquarters in Walnut, California.

UNIS, LLC is a third-party logistics provider which owns and operates several fulfillment and distribution warehouses throughout California, including in Walnut, Fontana, Riverside, City of Industry, and Buena Park. UNIS, LLC is incorporated in the state of Delaware and is authorized to do business in the state of California. UNIS, LLC has its headquarters located in Walnut, California.

UNIS Company, Inc. and UNIS, LLC use staffing agencies and other third-parties to supply its workforce. Claimant contends that the Companies, staffing agencies, and other third-parties are jointly and severally liable for the claims asserted herein. Claimant alleges that at all relevant times, the Companies, staffing agencies, and other third-parties exercised control over the wages, hours and/or working conditions of UNIS Workers, that the Companies, staffing agencies, and other third-parties caused UNIS Workers to work and/or prevent UNIS Workers from working and that the Companies, staffing agencies, and other third-parties had control over UNIS Workers, among other things.

Claimant has been employed by the Companies since 2009 and as of the date of this letter, remains employed by the Companies. Over the course of her employment, Claimant has worked as warehouse lead and customer service representative at the Companies’ fulfillment and distribution warehouses in Walnut, Fontana, Hacienda Heights/Azusa, and Riverside. As a warehouse lead, Claimant’s job duties consist of overseeing the workers in the warehouse, planning and releasing fulfillment orders, ensuring that packing stations complete orders on a timely basis, and maintaining inventory, among other things. As a customer service representative, Claimant’s job duties consist of assisting with the Companies’ fulfillment and distribution orders, maintaining warehouse accounts, and providing excellent customer service, among other things. At all relevant times, Claimant has been classified as a non-exempt employee and is paid an hourly rate of \$16.50 per hour. Claimant typically works five (5) days per week and eight (8) hours each workday, for a total of approximately forty (40) hours per week. The Companies also employed other UNIS Workers throughout the state of California at its fulfillment and distribution warehouses during the relevant statutory period.

Claimant alleges that the Companies denied Claimant and other UNIS Workers specific rights afforded to them under the Labor Code and the applicable Industrial Welfare Commission (“IWC”) Wage Order. Specifically, the Companies failed to provide Claimant and other UNIS Workers with legally compliant meal and/or rest periods or timely pay them meal and/or rest period premiums, failed to timely pay all minimum, regular, and overtime wages for all time worked, failed to timely pay all wages due and owed upon separation of employment, failed to reimburse for necessary business expenses, failed to issue accurate itemized wage statements, and failed to maintain accurate records. Upon information and belief, all policies, practices, guidelines, and/or procedures of the Companies applicable to Claimant were also applicable to all other UNIS Workers during the statutory period.

Claimant asserts that the Companies did not provide her and other UNIS Workers with 30-minute, off-duty meal periods before the start of their sixth hour of work. Claimant also alleges that the Companies did not authorize and permit her, or other UNIS Workers, to take legally compliant off-duty, 10-minute rest periods for every four hours worked or major fraction thereof. Claimant contends that the Companies’ failure to provide UNIS Workers with legally compliant meal and/or rest periods was largely due to the Companies’ policy, practice, procedure, and/or guideline of understaffing its warehouses and not providing sufficient coverage for UNIS Workers to take off-duty meal and/or rest periods. Claimant asserts that she and other UNIS Workers were regularly required to work through their meal and/or rest periods, experienced meal and/or rest periods interrupted by work duties, and/or were not provided with meal and/or rest periods at all. For example, Claimant claims that she, and other UNIS Workers, would often clock-out for their meal period, but continue working on their tasks due to their workload. Furthermore, Claimant was frequently unable to take uninterrupted meal periods and/or rest periods due to the Companies’ policy, practice, procedure and/or guideline of requiring UNIS Workers to carry and monitor a company-issued radio at all times. Additionally, Claimant contends that meal periods were frequently interrupted by work-related tasks, such as drivers arriving at the warehouse to pick-up and/or drop-off shipments, UPS, FedEx and/or other parcel carriers delivering items, as well as interruptions from warehouse employees asking work-related questions, either in person, through a radio call or a phone call and/or text message. Claimant asserts that, per the Companies’ policy, practice, procedure and/or guideline, UNIS Workers are expected to make themselves available at all times for drivers who arrive at the warehouse and are reprimanded if the driver leaves the warehouse without being attended to.

Claimant further asserts that she, as well as other UNIS Workers, were often not provided with a second rest period during their eight-hour shift due to their workload and the Companies’ policy, practice, procedure and/or guideline of not scheduling coverage for UNIS Workers to take uninterrupted meal and/or rest periods. Furthermore, Claimant and other UNIS Workers were consistently directed, forced and/or otherwise pressured to skip their meal and/or rest periods to complete their work duties and to compensate for understaffing issues. On the rare occasion they were able to take a meal and/or rest period, Claimant alleges she, and other UNIS Workers, were required to monitor their radios and/or cell phones, and be readily available to return to work if necessary. In fact, UNIS Workers often experienced interrupted meal and/or rest periods because they were called back to work during their meal and/or rest periods. Claimant alleges she, and other UNIS Workers, were also required to monitor their personal cell phones for calls or text messages, as the Companies would contact them on their personal devices if they did not immediately respond to calls on the company-issued radio. Moreover, Claimant and other UNIS Workers were not provided with a second meal period and/or a third rest period when they worked 10 or more hours in a single work day. As a result of the Companies’ illegal policies practices, procedures

and/or guidelines, Claimant and other UNIS Workers were regularly required to work through their meal and/or rest periods, take interrupted meal and/or rest periods, and/or were not provided with a meal and/or rest period at all. Claimant and, on information and belief, other UNIS Workers did not sign a meal period waiver or an on-duty meal agreement at any point during their employment. Even if Claimant or any UNIS Workers signed any such waivers and/or agreements, they were not applied in accordance with California law.

Although Claimant and other UNIS Workers did not receive legally compliant meal and/or rest periods, the Companies did not pay Claimant and, on information and belief, other UNIS Workers the additional one hour of pay at the employee's regular rate of pay as required under Labor Code § 226.7 and IWC Wage Order No. 9-2001. Therefore, the Companies owe Claimant and, on information and belief, other UNIS Workers a meal and/or rest period premium for each work day that Claimant and other UNIS Workers were not provided with a compliant meal and/or rest period.

Furthermore, Claimant and, on information and belief, other UNIS Workers were not timely paid all minimum, regular, and/or overtime wages for all time worked as a result of the Companies' failure to pay them for the time they spent working through their meal periods. The Companies improperly considered the work Claimant and other UNIS Workers performed during their meal periods as non-compensable time and failed to provide any remuneration. Additionally, Claimant contends, upon information and belief, that she and other UNIS Workers were not paid for the time worked prior to clocking-in at the start of the workday. Claimant contends the Companies have a policy, practice, procedure and/or guideline of requiring UNIS Workers to clock-in at the start of a shift no earlier than five minutes prior to their scheduled start time. However, Claimant alleges that she, as well as other UNIS Workers, are often compelled to begin working earlier than the beginning of their shift and are not paid for the work performed. Moreover, Claimant contends she is often contacted on her personal cellphone by warehouse workers, the Companies' management, and shipment delivery drivers, including UPS and FedEx drivers, when she is not clocked-in. In fact, Claimant continues to receive multiple work-related phone calls on her personal cell phone despite being on a leave of absence. Claimant alleges she, as well as other UNIS Workers, are not paid for the time spent taking work-related calls while off-the-clock. Because UNIS Workers are required to work off-the-clock during meal periods, as well as before the start of their regularly scheduled shift, and are compelled to take work-related phone calls when not clocked-in, the Companies did not timely pay Claimant and other UNIS Workers minimum, regular, and/or overtime wages for all time worked including, but not limited to, when Claimant and other UNIS Workers worked in excess of eight (8) hours in a work day and/or forty (40) hours in a workweek.

Claimant contends, based on information and belief, that the Companies failed to timely pay former UNIS Workers all wages due and owed upon separation of employment, including minimum, regular, and/or overtime wages for all hours worked and/or meal and/or rest period premium wages, as required by Labor Code §§ 201, 202, and 204. Claimant further contends, based on information and belief, that former UNIS Workers were not paid any waiting time penalties as provided under Labor Code § 203.

The Companies also failed to reimburse Claimant and other UNIS Workers for all necessary business expenses that were incurred in the discharge of their job duties. For instance, Claimant and other UNIS Workers were required to use and often used their personal cell phones to monitor incoming calls and text messages from managers and co-workers regarding work-related issues when they did not immediately respond to calls on the company-issued radio. Claimant alleges that other warehouse workers, the

Companies' management, and drivers, including drivers from UPS and FedEx, have her personal cell phone number, and regularly contact her for work-related purposes. Despite requiring UNIS Workers, including Claimant, to use their personal cell phones in the discharge of their work duties, the Companies did not have a policy, practice, procedure and/or guideline of reimbursing its employees. Claimant and other UNIS Workers did not receive any reimbursement for the use of their personal cell phones as required by California law.

Moreover, the wage statements issued by the Companies to UNIS Workers, including Claimant, did not include the correct total regular and/or overtime hours actually worked, the correct amount of gross and/or net wages actually earned, and/or all applicable hourly rates and the corresponding number of hours actually worked at each hourly rate, among other things, as required under Labor Code § 226. The wage statements also did not include the pay period information, the appropriate name and address of the legal entity that employed Claimant and other UNIS Workers.

As a direct result of the Companies' illegal policies, practices, procedures, and/or guidelines, like those described herein, the Companies failed to maintain accurate records reflecting all of Claimant's and other UNIS Worker's actual time worked and actual wages earned and paid, among other things, in violation of California law.

Due to the foregoing Labor Code violations, the Companies denied Claimant and other UNIS Workers certain rights afforded to them under the California Labor Code and IWC Wage Order No. 9-2001. Claimant makes these claims against the Companies on behalf of herself and all other current or former non-exempt employees who performed work for the Companies in California, including employees who were hired through staffing agencies or other third-parties.

The facts and/or claims contained herein are based on the information available at the time of this writing. Since Claimant's investigation is ongoing, Claimant reserves her right to assert any and all related facts, claims and/or theories discovered after the sending of this letter on behalf of herself and the current or former UNIS Workers against the Companies and/or other persons that may be discovered after the sending of this letter. Such other persons include, but are not limited to, those persons who have acted as an agent, subsidiary, servant, employee, co-conspirator, alter-ego, and/or joint venture of the Companies, as well as those persons who caused and/or concurrently contributed to the various acts and/or admissions of each and every one of the others, including the Companies, in proximately causing the wrongful conduct, harm, and/or damages alleged herein or otherwise participated in or ratified any or all of the acts and/or omissions complained of herein, and those who were acting within the authority and/or scope of the Companies. Claimant reserves the right to include other persons and/or revise these facts and/or add any new claims by amending this letter and/or by adding claims to her civil complaint.

**FAILURE TO PROVIDE LEGALLY COMPLIANT MEAL AND/OR REST PERIODS
OR COMPENSATION IN LIEU THEREOF**

(Labor Code §§ 204, 226.7, and 512, and the "Meal Periods" and
"Rest Periods" sections of IWC Wage Order No. 9-2001)

Labor Code § 226.7(b) states, "[a]n employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission..." Labor Code § 226.7(c) states, "[i]f an employer fails to provide

an employee a meal or rest or recovery period in accordance with a state law... the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest or recovery period is not provided."

Labor Code § 512(a) states,

"[a]n employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes" and "[a]n employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes."

The "Meal Periods" section of IWC Wage Order No. 9-2001 states,

"[n]o employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes, except that when a work period of not more than six (6) hours will complete the day's work the meal period may be waived by mutual consent of the employer and the employee."

The "Meal Periods" section of IWC Wage Order No. 9-2001 further states,

"[a]n employer may not employ an employee for a work period of more than ten (10) hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of employer and employee only if the first meal period was not waived."

Furthermore, "[i]f an employer fails to provide an employee a meal period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided."

The "Meal Periods" section of the applicable IWC Wage Order also states,

"[u]nless the employee is relieved of all duty during a 30 minute meal period, the meal period shall be considered an 'on duty' meal period and counted as time worked. An 'on duty' meal period shall be permitted only when the nature of the work prevents an employee from being relieved of all duty and when by written agreement between the parties an on-the-job meal period is agreed to. The written agreement shall state that the employee may, in writing, revoke the agreement at any time."

The "Rest Periods" section of the Applicable IWC Wage Order states,

“[e]very employer shall authorize and permit employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof.”

Furthermore, “[i]f an employer fails to provide an employee a rest period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee’s regular rate of compensation for each workday that the rest period is not provided.”

Premium wages under Labor Code § 226.7 are wages that are due payable in accordance with the Labor Code § 204. *Murphy v. Kenneth Cole Productions, Inc.* (2007) 40 Cal.4th 1094, 1103-1114.

As set forth herein, the Companies failed to provide Claimant and other UNIS Workers with the opportunity to take uninterrupted, off-duty meal periods of at least 30-minutes before the start of their sixth hour of work and/or did not provide the opportunity to take a second legally compliant meal period when they worked more than 10 hours in a single work day. The Companies also did not authorize and permit Claimant and other UNIS Workers to take legally compliant rest periods, as required by California law. Despite not receiving legally compliant meal and/or rest periods, UNIS Workers, including Claimant were not paid the mandated one-hour of premium wages for each day a meal and/or rest period was not provided. Accordingly, Claimant and other UNIS Workers are entitled to receive one-hour of premium wages for each day a meal period was not provided and/or one-hour of premium wages for each day a rest period was not authorized and permitted. Claimant will pursue all available remedies for the Companies’ violations on behalf of herself and other UNIS Workers to the extent allowed by law.

FAILURE TO PAY MINIMUM, REGULAR, AND/OR OVERTIME WAGES

(Labor Code §§ 204, 210, 510, 1194, 1194.2, 1197, 1197.1, 1198, and 1199, and the “Minimum Wages” and “Hours and Days of Work” sections of IWC Wage Order No. 9-2001)

Labor Code § 1197 states, “[t]he minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a less wage than the minimum so fixed is unlawful.”

Labor Code § 1198 states,

“[t]he maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.”

Labor Code § 510 states,

“[e]ight hours of labor constitutes a day’s work. Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and

one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee.”

The “Hours and Days of Work” and “Minimum Wages” sections of IWC Wage Order No. 9-2001 mandates the same requirements as Labor Code § 510.

Labor Code § 204(a) states in pertinent part, “[a]ll wages...earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays.” Furthermore, Labor Code § 204(b)(1) states, “all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period.” The “Minimum Wages” section of the applicable IWC Wage Order also states that “[e]very employer shall pay to each employee, on the established payday for the period involved, not less than the applicable minimum wage for all hours worked in the payroll period, whether the remuneration is measured by time, piece, commission, or otherwise.”

Labor Code § 210 provides that, “every person who fails to pay the wages of an employee as provided in Section...204...shall be subject to a civil penalty” of \$100 for an initial violation and \$200 plus 25% of the amount unlawfully withheld for a subsequent violation.”

Labor Code § 1197.1 provides that,

“[a]ny employer or other person acting either individually or as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or local law or by an order of the commission shall be subject to a civil penalty, restitution of wages, liquidated damages payable to the employee, and any applicable penalties imposed pursuant to Section 203...”

Labor Code § 1199 imposes “a fine of not less than one hundred dollars (\$100)” for any employer who violates the provisions set forth in Labor Code § 1198.

Labor Code § 1194(a) states, “...any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney’s fees, and costs of suit.” Liquidated damages in an amount equal to the minimum wages unlawfully unpaid and interest thereon are provided for under Labor Code § 1194.2.

As set forth above, the Companies required Claimant and other UNIS Workers to work off-the-clock during meal periods without compensation. Furthermore, the Companies did not compensate Claimant and other UNIS Workers for the time spent working off-the-clock prior to starting their scheduled shift. Likewise, the Companies also did not compensate Claimant and other UNIS Workers for the time spent answering work-related phone calls and/or text messages on their personal cellphones while off-the-clock.

The Companies thus failed to timely pay Claimant and, on information and belief, other UNIS Workers all minimum, regular, and/or overtime wages for all hours worked, as required by law. Claimant will pursue all available remedies for the Companies' violations on behalf of herself and other UNIS Workers to the extent allowed by law.

FAILURE TO TIMELY PAY ALL WAGES DUE AND OWING UPON SEPARATION OF EMPLOYMENT

(Labor Code §§ 201, 202, 203, and 210)

Labor Code § 201 states, in pertinent part, "[i]f an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately." Labor Code § 202 provides,

"[i]f an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting."

Labor Code § 203(a) further provides,

"[i]f an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.3, 201.5, 201.9, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefore is commenced; but the wages shall not continue for more than 30 days."

Labor Code § 210 mandates that, "... every person who fails to pay the wages of an employee as provided in Sections 201.3...shall be subject to a civil penalty" of \$100 for an initial violation and \$200 plus 25% of the amount unlawfully withheld for a subsequent violation.

As set forth above, the Companies violated these Labor Code sections by not timely paying former UNIS Workers all minimum, regular, and/or overtime wages for all time worked and/or meal and/or rest period premium wages within the required time upon separation of their employment. To date, the Companies have also not paid the required waiting time penalties for its failure to pay for such wages. As a result of the Companies' failure to comply with the aforementioned Labor Code provisions, the Companies owe waiting time penalties to former UNIS Workers, which the Companies have not yet paid. Claimant will pursue all available remedies for the Companies' violations on behalf of former UNIS Workers to the extent allowed by law.

FAILURE TO REIMBURSE FOR NECESSARY BUSINESS EXPENSES

(Labor Code § 2802)

Labor Code § 2802(a) provides in pertinent part, "[a]n 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."

Labor Code § 2802(b) states, “[a]ll awards made by a court or by the Division of Labor Standards Enforcement for reimbursement of necessary expenditures under this section shall carry interest at the same rate as judgments in civil actions. Interest shall accrue from the date on which the employee incurred the necessary expenditure or loss.” Accordingly, Claimant will request that she receives interest on the applicable amount.

Furthermore, Labor Code § 2802(c) states, “[f]or purposes of this section, the term ‘necessary expenditures or losses’ shall include all reasonable costs, including, but not limited to, attorney’s fees incurred by the employee enforcing the rights granted by this section.” Consequently, Claimant will also request reimbursement of the attorney’s fees incurred in pursuing this matter.

As set forth above, the Companies required Claimant and other UNIS Workers to use their personal cell phones in the discharge of their work duties without reimbursement in violation of California law. Claimant will pursue all available remedies for the Companies’ violations on behalf of herself and other UNIS Workers to the extent allowed by law.

FAILURE TO FURNISH ACCURATE ITEMIZED WAGE STATEMENTS

(Labor Code §§ 226 and 226.3, and the “Records” section of IWC Wage Order No. 9-2001)

Labor Code § 226(a) states, in pertinent part, that every employer shall provide an accurate, itemized wage statement in writing with respect to each of its employees showing: “(1) gross wages earned, (2) total hours worked by the employee, ..., (5) net wages earned, ..., and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.”

Labor Code § 226(e) imposes a penalty of the greater of all actual damages or \$50 for the initial pay period in which a violation occurs and \$100 per employee for each violation in a subsequent pay period, not exceeding an aggregate penalty of \$4,000, and entitles an employee to an award of costs and reasonable attorney’s fees. Labor Code § 226.3 imposes an additional civil penalty on the employer of \$250.00 per employee per violation of Labor Code § 226(a) in an initial citation and \$1,000 per employee for each violation in a subsequent citation.

As set forth above, the Companies failed to provide Claimant and other UNIS Workers with accurate itemized wage statements that comply with the requirements of the Labor Code because the wage statements furnished did not, among other things, include the correct total regular and/or overtime hours actually worked, the correct amount of gross and/or net wages actually earned, and/or all applicable hourly rates and the corresponding number of hours worked at each hourly rate. Specifically, Claimant noticed several times that her wage statements did not reflect the correct number of hours she actually worked, as recorded on her timecards. Claimant will pursue all available remedies for the Companies’ violations on behalf of herself and other UNIS Workers to the extent allowed by law.

FAILURE TO MAINTAIN ACCURATE RECORDS

(Labor Code §§ 226, 1174 and 1174.5, and the “Records” section of IWC Wage Order No. 9-2001)

Labor Code § 1174 states, “[e]very person employing labor in this state shall... [k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records

showing the hours worked daily by and the wages paid to, ..., employees employed at the respective plants or establishments.” See also Labor Code § 226(a).

The “Records” section of IWC Wage Order No. 9-2001 states that every employer shall keep accurate information with respect to each one of its employees, including time records showing when the employee begins and ends each work period, meal periods, total daily hours worked, total wages paid each payroll period, and total hours worked in the payroll period and applicable rates of pay.

Labor Code § 1174.5 imposes a civil penalty of \$500 for an employer’s failure to maintain accurate and complete records. This civil penalty is in addition to the civil penalty of \$100 per pay period, per aggrieved employee that would be imposed pursuant to Labor Code § 2699 for a violation of Labor Code § 1174(d).

Labor Code § 226(e)(1) provides,

“[a]n employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) [of Labor Code § 226] is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney’s fees.”

As set forth above, the Companies violated these requirements by failing to accurately record employee hours actually worked including, but not limited to, the Companies’ failure to record the proper beginning and end of each work period, the meal periods, the total hours worked during the pay period, the applicable rates of pay, and the wages earned and paid, among other things. Claimant will pursue all available remedies for the Companies’ violations on behalf of herself and other UNIS Workers to the extent allowed by law.

CIVIL PENALTIES FOR VIOLATION OF THE LABOR CODE AND IWC WAGE ORDERS

(Labor Code §§ 210, 226.3, 558, 1174.5, 1197.1, and 2699(f))

Labor Code § 210 provides that any person who fails to pay wages as provided in sections 201.3, 204, 204(b), 204.1, 204.2, 205, 205.5 and 1197.5 shall be subject to a civil penalty of \$100 for any initial violation for each failure to pay each employee and for each subsequent violation, or any willful or intentional violation \$200 for each failure to pay each employee, plus 25 % if the amount unlawfully withheld, in addition to any other penalty.

For violations of Labor Code § 226(a), Labor Code § 226.3 imposes a civil penalty of \$250 per employee per violation in an initial citation and \$1,000 per employee for each violation in a subsequent citation.

Labor Code § 558 subjects any employer or any person acting on behalf of an employer who violates Labor Code Part 2, Chapter 1, of the Labor Code (Labor Code §§ 500-558), or any provision regulating the hours and days of work in any IWC Wage Order, to a civil penalty as follows: “[f]or any initial

violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid. For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid.”

For violations of Labor Code § 1174 subdivisions (b), (c), and (d), Labor Code § 1174.5 imposes a civil penalty of \$500.

Similarly, Labor Code § 1197.1 subjects any employer or other person acting either individually or as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or local law, or by an order of the commission to a civil penalty, restitution of wages, liquidated damages payable to the employee, and any applicable penalties imposed pursuant to § 203 as follows:

“(1) For any initial violation that is intentionally committed, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee is underpaid. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to § 1194.2, and any applicable penalties imposed pursuant to § 203. (2) For each subsequent violation for the same specific offense, two hundred fifty dollars (\$250) for each underpaid employee for each pay period for which the employee is underpaid regardless of whether the initial violation is intentionally committed. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to § 1194.2, and any applicable penalties imposed pursuant to § 203. (3) Wages, liquidated damages, and any applicable penalties imposed pursuant to § 203, recovered pursuant to this section shall be paid to the affected employee.”

Labor Code § 2699(f) imposes a civil penalty of \$100 per pay period, per employee for the initial violation and \$200 per pay period, per employee for each subsequent violation for all Labor Code provisions for which a civil penalty is not specifically provided, including, but not limited to, Labor Code §§ 201, 202, 203, 204, 210, 226(a), 226.7, 510, 512, 1174(c), 1174(d), 1194, 1197, 1197.1, 1198, 1199, 2802, and relevant IWC Wage Orders.

As set forth above, the Companies violated the Labor Code and IWC Wage Order 9-2001 by, among other things, failing to timely pay Claimant and UNIS Workers all regular, minimum, and/or overtime wages, and/or meal and rest period premium wages, as required under the Labor Code and the applicable sections of IWC Wage Order 9-2001. As a result, the Companies are liable for civil penalties under the Labor Code and Claimant will pursue all available remedies including, but not limited to, those stated herein, for the Companies’ violations on behalf of herself and other UNIS Workers to the extent allowed by law.

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ATTORNEY'S FEES, COSTS, INTEREST, LIQUIDATED DAMAGES AND PENALTIES

(Labor Code §§ 210, 218.5, 218.6, 226(e), 558, 1194, 1194.2, 1197.1, 2802, and 2698, *et seq.*)

Labor Code §§ 210, 218.5, 218.6, 225.5, 226(e), 558, 1194, 1194.2, 1197.1, 1198.5, 2802, and 2698, *et seq.*, among others, give employees the right to recover in a civil action the full amount of damages, liquidated damages and penalties, including interest thereon, as well as reasonable attorney's fees and costs.

Under Labor Code § 2699(g)(1), an aggrieved employee, such as Claimant, is entitled to an award of reasonable attorneys' fees and costs. Claimant has already incurred actual damages, costs and attorney's fees and she will continue to incur such as a result of the Companies' unlawful actions. Claimant will pursue all available remedies including, but not limited to, those provided by the PAGA, on behalf of herself and other UNIS Workers to the extent permitted by law for the violations of law described herein and those later discovered.

CONCLUSION

Based on the foregoing, the Companies have violated the Labor Code and IWC Wage Order 9-2001, thereby depriving Claimant and other UNIS Workers of the rights and protections afforded to them. Claimant has satisfied the prerequisites of the PAGA to serve as a representative of all current or former non-exempt employees who performed work for the Companies in California, including those employed by the Companies, staffing agencies or other third-parties, the general public, and the state of California in order to enforce California labor laws and to seek civil penalties for the provisions set forth herein, as well as those which may be later discovered.

Accordingly, if the LWDA declines to intervene or act within time prescribed by the Labor Code, Claimant may elect to initiate and/or amend a civil action, on behalf of herself and all other current or former non-exempt employees who performed work for the Companies in California, including those hired by the Companies, staffing agencies or other third-parties, as permitted by the PAGA.

Sincerely,

Monique R. Rodriguez

Monique R. Rodriguez

EXHIBIT 3

November 9, 2020

Attorneys at Law

3555 Fifth Avenue Suite 200
San Diego, California 92103
619.692.0800 voice
619.692.0822 fax

www.grahamhollis.com

Monique R. Rodriguez
mrodriguez@grahamhollis.com
619.546.4373 direct

VIA ONLINE ELECTRONIC FILING

California Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, CA 94612

CERTIFIED MAIL (RETURN RECEIPT)

Combined Employer Services, Inc.
1520 Bridgegate Drive, Suite 108
Diamond Bar, CA 91765

UNIS, LLC
218 Machlin Ct
Walnut, CA 91789

Combined Employer Services, Inc.
c/o Marina Wang, Agent for Service of Process
1520 Bridgegate Drive, Suite 108
Diamond Bar, CA 91765

UNIS, LLC
c/o C T Corporation System, Agent
for Service of Process
818 West Seventh Street, Suite 930
Los Angeles, CA 90017

Lava DS, LLC dba INSTAFF
19745 Colima Rd., #1-283
Rowland, Heights, CA 91748

UNIS Company, Inc.
218 Machlin Ct
Walnut, CA 91789

Lava DS, LLC dba INSTAFF
c/o C T Corporation System, Agent for Service of
Process
818 West Seventh Street, Ste. 930
Los Angeles, CA 90017

UNIS Company, Inc.
c/o C T Corporation System, Agent
for Service of Process
818 West Seventh Street, Suite 930
Los Angeles, CA 90017

Logistics Team
218 Machlin Ct.
Walnut, CA 91789

South Bay Group
218 Machlin Ct.
Walnut, CA 91789

**Re: LWDA-CM-802671-20 – Third Amendment to Bertha Marquez’s
Wage and Hour Claims Against UNIS Company, Inc.; UNIS, LLC;
Lava DS, LLC dba INSTAFF; Combined Employer Services, Inc.;
Logistics Team; and South Bay Group**

Dear California Labor and Workforce Development Agency, UNIS Company, Inc.,
UNIS, LLC, Lava DS, LLC, Combined Employer Services, Inc., Logistics Team, and
South Bay Group:

Graham S.P. Hollis

Vilmarie Cordero

Nathan Reese

Hali Anderson

David Lin

Erick Dos Santos

Alex Kuner

Monique Rodriguez

Ridgeway J. Woulfe

LWDA
Combined Employer Services, Inc.
LAVA DS, LLC dba INSTAFF
Logistics Team
South Bay Group
UNIS, LLC
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Please be advised that Bertha Marquez (“Claimant”) has retained our firm to represent her for various claims against UNIS Company, Inc., UNIS, LLC, Lava DS, LLC dba INSTAFF, Combined Employer Services, Inc., Logistics Team, and South Bay Group (the “Companies”).

Please be advised that this letter shall serve as Claimant’s third amended written notice to the California Labor and Workforce Development Agency (“LWDA”) and the Companies of the alleged California Labor Code (“Labor Code”) violations Claimant claims that the Companies, individually and collectively, committed against her and all individuals who currently or formerly performed work for the Companies, individually and/or collectively, in California during the relevant statutory period including, but not limited to, those hired by the Companies, staffing agencies or other third-parties. Claimant provides this amended notice, which includes the facts and theories to support the Labor Code violations alleged herein, in accordance with the Private Attorneys General Act of 2004 (codified in Labor Code §§ 2698 *et seq.*, “PAGA”), Labor Code § 2699.3.

Pursuant to Labor Code § 2699(a), and by way of this third amended notice, Claimant intends to represent herself and all other individuals who currently or formerly performed work for the Companies, individually and/or collectively, in California, including those individuals who were hired by UNIS Company, Inc., UNIS, LLC, Lava DS, LLC dba INSTAFF, Combined Employer Services, Inc., Logistics Team, and South Bay Group, staffing agencies or other third-parties, during the relevant time period (referred to herein as “UNIS Workers”). All UNIS Workers, including Claimant, are believed to have suffered at least one of the Labor Code violations described herein. Claimant therefore contends that she and all other UNIS Workers are “aggrieved employees” as defined by the PAGA.

The original written notice is attached hereto as Exhibit A (“Original Notice”) and incorporated herein by reference. The Original Notice was submitted to the LWDA via online upload on August 14, 2020 and sent to UNIS Company, Inc. and UNIS, LLC via certified mail on the same date. The amended written notice is attached hereto as Exhibit B (“Amended Notice”) and incorporated herein by reference. The Amended Notice was submitted to the LWDA via online upload on September 25, 2020 and sent to UNIS Company, Inc., UNIS, LLC and Lava DS, LLC dba INSTAFF via certified mail on the same date. The Second Amended Notice was submitted to the LWDA on October 19, 2020 via online upload and sent to UNIS Company, Inc., UNIS, LLC, Lava DS, LLC dba INSTAFF, and Combined Employer Services, Inc. via certified mail on the same date. The Second Amended Notice is attached hereto as Exhibit C (“Second Amended Notice”) and incorporated herein by reference.

The claims asserted in the Original Notice, in the Amended Notice, and in the Second Amended Notice are asserted on behalf of Claimant and all UNIS Worker against the Companies, individually and collectively. Claimant contends that UNIS Company, Inc., UNIS, LLC, Lava DS, LLC dba INSTAFF, Combined Employer Services, Inc., Logistics Team, and South Bay Group are jointly and severally liable for the claims asserted herein as well as the claims asserted in the Original Notice, Amended Notice and Second Amended Notice.

LWDA
Combined Employer Services, Inc.
LAVA DS, LLC dba INSTAFF
Logistics Team
South Bay Group
UNIS, LLC
UNIS Company, Inc.
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Also, in a separate, but not necessarily mutually exclusive, alternative theory of liability, UNIS Company, Inc., UNIS, LLC, Lava DS, LLC dba INSTAFF, Combined Employer Services, Inc., Logistics Team, South Bay Group, James Lin the Chief Executive Officer/Director of UNIS Company, Inc., James Lin the Chief Executive Officer/Manager of UNIS, LLC, Alan Yang the Chief Executive Officer/Manager of Lava DS, LLC dba INSTAFF, and Donny Woo the Chief Executive Officer/Chief Financial Officer of Combined Employer Services, Inc. are liable for the PAGA civil penalties under Labor Code § 558 as “other person(s)” who caused the violations alleged herein. See *Atempa v. Pedrazzani* (2018) 27 Cal.App.5th 809, 820 (“if there is evidence and a finding that a party other than the employer ‘violates, or causes of be violated’ the overtime laws (§ 558(a)), or ‘pays or causes to be paid to an employee’ less than minimum wage (§ 1197.1(a)), then that party is liable for certain civil penalties regardless of the identity or business structure of the employer”); see also *Moua v. IBM* (N.D. Cal. 2019) 2019 U.S. Dist. LEXIS 40851 (holding the same).

The facts and/or claims contained in this third amended notice, as well as in the Original Notice, Amended Notice and Second Amended Notice, are based on the information available at the time of this writing. Since Claimant’s investigation is ongoing, Claimant reserves her right to assert any and all related facts, claims, and/or theories discovered after the sending of this third amended notice on behalf of herself and all other individuals who currently or formerly performed worked for the Companies, individually or collectively, in California including, but not limited to, those individuals who were hired by UNIS Company, Inc., UNIS, LLC, Lava DS, LLC dba INSTAFF, Combined Employer Staffing, Inc., Logistics Team, South Bay Group, staffing agencies, other third-parties, and/or other persons that may be discovered after the sending of this amended notice. Such other persons may include, but are not limited to, those persons who have acted as an agent, subsidiary, servant, employee, co-conspirator, alter-ego, and/or joint venture of the Companies, individually and collectively, as well as those persons who caused and/or concurrently contributed to the various acts and/or admissions of each and every one of the others, including the Companies, individually and collectively, in proximately causing the wrongful conduct, harm, and/or damages alleged herein or otherwise participated in or ratified any or all of the acts and/or omissions complained herein, and those who were acting within the authority and/or scope of the Companies, individually and collectively. Claimant reserves the right to modify the facts and/or add any new claims by amending this notice and/or by adding claims to her civil complaint.

Based on the this third amended notice, the Original Notice, the Amended Notice, and the Second Amended Notice, the Companies, individually and collectively, have violated the Labor Code and IWC Wage Order 9-2001, thereby depriving Claimant and other UNIS Workers of the rights and protections afforded to them. Specifically, Claimant contends that the Companies, individually and collectively, violated Labor Code §§ 201-203, 204, 210, 226, 226.3, 226.7, 510, 512, 1174, 1174.5, 1194, 1194.2, 1197, 1197.2, 1198, 1199, 2802 and IWC Wage Order 9-2001. Claimant has satisfied the prerequisites of the PAGA to serve as a representative of all individuals who currently or formerly performed work for the Companies, individually and/or collectively, in California, including those employed by the Companies, staffing agencies or other third-parties, the general public, and the state of California in order to enforce California labor laws and to seek civil penalties for the provisions set forth herein, as well as those which may be later discovered.

LWDA
Combined Employer Services, Inc.
LAVA DS, LLC dba INSTAFF
Logistics Team
South Bay Group
UNIS, LLC
UNIS Company, Inc.
November 9, 2020
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Accordingly, if the LWDA declines to intervene or act within time prescribed by the Labor Code, Claimant may elect to initiate and/or amend a civil action, on behalf of herself and all individuals who currently or formerly performed work for the Companies, individually and/or collectively, in California, including those employed by the Companies, staffing agencies or other third-parties, as permitted by the PAGA.

Sincerely,

A handwritten signature in black ink that reads "Monique R. Rodriguez". The signature is written in a cursive, flowing style.

Monique R. Rodriguez

Enclosures: Exhibit A – Letter to LWDA, dated August 14, 2020 (“Original Notice”)
 Exhibit B – Amended Letter to the LWDA, dated September 25, 2020
 (“Amended Notice”)
 Exhibit C – Second Amended Letter to the LWDA, dated October 19,
 2020 (“Second Amended Notice”)

EXHIBIT A

August 14, 2020

Attorneys at Law

3555 Fifth Avenue Suite 200
San Diego, California 92103
619.692.0800 voice
619.692.0822 fax

www.grahamhollis.com

Monique R. Rodriguez
mrodriguez@grahamhollis.com
619.546.4373 direct

VIA ONLINE ELECTRONIC FILING

California Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, CA 94612

CERTIFIED MAIL (RETURN RECEIPT)

UNIS, LLC
218 Machlin Ct
Walnut, CA 91789

UNIS, LLC
c/o CT Corporation System, Agent for Service of Process
818 West Seventh Street, Suite 930
Los Angeles, CA 90017

UNIS Company, Inc.
218 Machlin Ct
Walnut, CA 91789

UNIS Company, Inc.
c/o CT Corporation System, Agent for Service of Process
818 West Seventh Street, Suite 930
Los Angeles, CA 90017

**Re: Bertha Marquez's Wage and Hour Claims Against UNIS Company, Inc.
and UNIS, LLC**

Dear California Labor and Workforce Development Agency, UNIS Company, Inc., and
UNIS, LLC:

Please be advised that Bertha Marquez ("Claimant") has retained our firm to represent
her for various claims against UNIS Company, Inc. and UNIS, LLC (the "Companies").

Please be advised that this letter shall serve as Claimant's written notice to the
California Labor and Workforce Development Agency ("LWDA") and the Companies
of the alleged California Labor Code ("Labor Code") violations Claimant claims that the
Companies committed against her and all other current or former non-exempt
employees who performed work for the Companies in California during the relevant
statutory period, including those hired by the Companies, staffing agencies or other
third-parties. Claimant provides this notice, which includes the facts and theories to

Graham S.P. Hollis

Vilmarie Cordero

Nathan Reese

Hali Anderson

David Lin

Erick Dos Santos

Alex Kuner

Monique Rodriguez

support the Labor Code violations alleged herein, in accordance with the Private Attorneys General Act of 2004 (codified in Labor Code §§ 2698 *et seq.*, “PAGA”), Labor Code § 2699.3.

Pursuant to Labor Code § 2699(a), and by way of this letter, Claimant intends to represent herself and all other current or former non-exempt employees in California who performed work for the Companies, including those individuals who were hired by UNIS Company, Inc., UNIS, LLC, staffing agencies or other third-parties, during the relevant time period (referred to herein as “UNIS Workers”). All UNIS Workers, including Claimant, are believed to have suffered at least one of the Labor Code violations described herein. Claimant therefore contends that she and all other UNIS Workers are “aggrieved employees” as defined by the PAGA.

FACTUAL BACKGROUND

UNIS Company, Inc. is a professional management company that owns and operates UNIS, LLC and other entities. UNIS Company, Inc. is a third-party logistics provider that unifies the supply chain networks through technology and information services. UNIS Company, Inc. is incorporated in the state of Delaware and is authorized to do business in the state of California. UNIS Company, Inc. has its headquarters in Walnut, California.

UNIS, LLC is a third-party logistics provider which owns and operates several fulfillment and distribution warehouses throughout California, including in Walnut, Fontana, Riverside, City of Industry, and Buena Park. UNIS, LLC is incorporated in the state of Delaware and is authorized to do business in the state of California. UNIS, LLC has its headquarters located in Walnut, California.

UNIS Company, Inc. and UNIS, LLC use staffing agencies and other third-parties to supply its workforce. Claimant contends that the Companies, staffing agencies, and other third-parties are jointly and severally liable for the claims asserted herein. Claimant alleges that at all relevant times, the Companies, staffing agencies, and other third-parties exercised control over the wages, hours and/or working conditions of UNIS Workers, that the Companies, staffing agencies, and other third-parties caused UNIS Workers to work and/or prevent UNIS Workers from working and that the Companies, staffing agencies, and other third-parties had control over UNIS Workers, among other things.

Claimant has been employed by the Companies since 2009 and as of the date of this letter, remains employed by the Companies. Over the course of her employment, Claimant has worked as warehouse lead and customer service representative at the Companies’ fulfillment and distribution warehouses in Walnut, Fontana, Hacienda Heights/Azusa, and Riverside. As a warehouse lead, Claimant’s job duties consist of overseeing the workers in the warehouse, planning and releasing fulfillment orders, ensuring that packing stations complete orders on a timely basis, and maintaining inventory, among other things. As a customer service representative, Claimant’s job duties consist of assisting with the Companies’ fulfillment and distribution orders, maintaining warehouse accounts, and providing excellent customer service, among other things. At all relevant times, Claimant has been classified as a non-exempt employee and is paid an hourly rate of \$16.50 per hour. Claimant typically works five (5) days per week and eight (8) hours each workday, for a total of approximately forty (40) hours per week. The Companies also employed other UNIS Workers throughout the state of California at its fulfillment and distribution warehouses during the relevant statutory period.

Claimant alleges that the Companies denied Claimant and other UNIS Workers specific rights afforded to them under the Labor Code and the applicable Industrial Welfare Commission (“IWC”) Wage Order. Specifically, the Companies failed to provide Claimant and other UNIS Workers with legally compliant meal and/or rest periods or timely pay them meal and/or rest period premiums, failed to timely pay all minimum, regular, and overtime wages for all time worked, failed to timely pay all wages due and owed upon separation of employment, failed to reimburse for necessary business expenses, failed to issue accurate itemized wage statements, and failed to maintain accurate records. Upon information and belief, all policies, practices, guidelines, and/or procedures of the Companies applicable to Claimant were also applicable to all other UNIS Workers during the statutory period.

Claimant asserts that the Companies did not provide her and other UNIS Workers with 30-minute, off-duty meal periods before the start of their sixth hour of work. Claimant also alleges that the Companies did not authorize and permit her, or other UNIS Workers, to take legally compliant off-duty, 10-minute rest periods for every four hours worked or major fraction thereof. Claimant contends that the Companies’ failure to provide UNIS Workers with legally compliant meal and/or rest periods was largely due to the Companies’ policy, practice, procedure, and/or guideline of understaffing its warehouses and not providing sufficient coverage for UNIS Workers to take off-duty meal and/or rest periods. Claimant asserts that she and other UNIS Workers were regularly required to work through their meal and/or rest periods, experienced meal and/or rest periods interrupted by work duties, and/or were not provided with meal and/or rest periods at all. For example, Claimant claims that she, and other UNIS Workers, would often clock-out for their meal period, but continue working on their tasks due to their workload. Furthermore, Claimant was frequently unable to take uninterrupted meal periods and/or rest periods due to the Companies’ policy, practice, procedure and/or guideline of requiring UNIS Workers to carry and monitor a company-issued radio at all times. Additionally, Claimant contends that meal periods were frequently interrupted by work-related tasks, such as drivers arriving at the warehouse to pick-up and/or drop-off shipments, UPS, FedEx and/or other parcel carriers delivering items, as well as interruptions from warehouse employees asking work-related questions, either in person, through a radio call or a phone call and/or text message. Claimant asserts that, per the Companies’ policy, practice, procedure and/or guideline, UNIS Workers are expected to make themselves available at all times for drivers who arrive at the warehouse and are reprimanded if the driver leaves the warehouse without being attended to.

Claimant further asserts that she, as well as other UNIS Workers, were often not provided with a second rest period during their eight-hour shift due to their workload and the Companies’ policy, practice, procedure and/or guideline of not scheduling coverage for UNIS Workers to take uninterrupted meal and/or rest periods. Furthermore, Claimant and other UNIS Workers were consistently directed, forced and/or otherwise pressured to skip their meal and/or rest periods to complete their work duties and to compensate for understaffing issues. On the rare occasion they were able to take a meal and/or rest period, Claimant alleges she, and other UNIS Workers, were required to monitor their radios and/or cell phones, and be readily available to return to work if necessary. In fact, UNIS Workers often experienced interrupted meal and/or rest periods because they were called back to work during their meal and/or rest periods. Claimant alleges she, and other UNIS Workers, were also required to monitor their personal cell phones for calls or text messages, as the Companies would contact them on their personal devices if they did not immediately respond to calls on the company-issued radio. Moreover, Claimant and other UNIS Workers were not provided with a second meal period and/or a third rest period when they worked 10 or more hours in a single work day. As a result of the Companies’ illegal policies practices, procedures

and/or guidelines, Claimant and other UNIS Workers were regularly required to work through their meal and/or rest periods, take interrupted meal and/or rest periods, and/or were not provided with a meal and/or rest period at all. Claimant and, on information and belief, other UNIS Workers did not sign a meal period waiver or an on-duty meal agreement at any point during their employment. Even if Claimant or any UNIS Workers signed any such waivers and/or agreements, they were not applied in accordance with California law.

Although Claimant and other UNIS Workers did not receive legally compliant meal and/or rest periods, the Companies did not pay Claimant and, on information and belief, other UNIS Workers the additional one hour of pay at the employee's regular rate of pay as required under Labor Code § 226.7 and IWC Wage Order No. 9-2001. Therefore, the Companies owe Claimant and, on information and belief, other UNIS Workers a meal and/or rest period premium for each work day that Claimant and other UNIS Workers were not provided with a compliant meal and/or rest period.

Furthermore, Claimant and, on information and belief, other UNIS Workers were not timely paid all minimum, regular, and/or overtime wages for all time worked as a result of the Companies' failure to pay them for the time they spent working through their meal periods. The Companies improperly considered the work Claimant and other UNIS Workers performed during their meal periods as non-compensable time and failed to provide any remuneration. Additionally, Claimant contends, upon information and belief, that she and other UNIS Workers were not paid for the time worked prior to clocking-in at the start of the workday. Claimant contends the Companies have a policy, practice, procedure and/or guideline of requiring UNIS Workers to clock-in at the start of a shift no earlier than five minutes prior to their scheduled start time. However, Claimant alleges that she, as well as other UNIS Workers, are often compelled to begin working earlier than the beginning of their shift and are not paid for the work performed. Moreover, Claimant contends she is often contacted on her personal cellphone by warehouse workers, the Companies' management, and shipment delivery drivers, including UPS and FedEx drivers, when she is not clocked-in. In fact, Claimant continues to receive multiple work-related phone calls on her personal cell phone despite being on a leave of absence. Claimant alleges she, as well as other UNIS Workers, are not paid for the time spent taking work-related calls while off-the-clock. Because UNIS Workers are required to work off-the-clock during meal periods, as well as before the start of their regularly scheduled shift, and are compelled to take work-related phone calls when not clocked-in, the Companies did not timely pay Claimant and other UNIS Workers minimum, regular, and/or overtime wages for all time worked including, but not limited to, when Claimant and other UNIS Workers worked in excess of eight (8) hours in a work day and/or forty (40) hours in a workweek.

Claimant contends, based on information and belief, that the Companies failed to timely pay former UNIS Workers all wages due and owed upon separation of employment, including minimum, regular, and/or overtime wages for all hours worked and/or meal and/or rest period premium wages, as required by Labor Code §§ 201, 202, and 204. Claimant further contends, based on information and belief, that former UNIS Workers were not paid any waiting time penalties as provided under Labor Code § 203.

The Companies also failed to reimburse Claimant and other UNIS Workers for all necessary business expenses that were incurred in the discharge of their job duties. For instance, Claimant and other UNIS Workers were required to use and often used their personal cell phones to monitor incoming calls and text messages from managers and co-workers regarding work-related issues when they did not immediately respond to calls on the company-issued radio. Claimant alleges that other warehouse workers, the

Companies' management, and drivers, including drivers from UPS and FedEx, have her personal cell phone number, and regularly contact her for work-related purposes. Despite requiring UNIS Workers, including Claimant, to use their personal cell phones in the discharge of their work duties, the Companies did not have a policy, practice, procedure and/or guideline of reimbursing its employees. Claimant and other UNIS Workers did not receive any reimbursement for the use of their personal cell phones as required by California law.

Moreover, the wage statements issued by the Companies to UNIS Workers, including Claimant, did not include the correct total regular and/or overtime hours actually worked, the correct amount of gross and/or net wages actually earned, and/or all applicable hourly rates and the corresponding number of hours actually worked at each hourly rate, among other things, as required under Labor Code § 226. The wage statements also did not include the pay period information, the appropriate name and address of the legal entity that employed Claimant and other UNIS Workers.

As a direct result of the Companies' illegal policies, practices, procedures, and/or guidelines, like those described herein, the Companies failed to maintain accurate records reflecting all of Claimant's and other UNIS Worker's actual time worked and actual wages earned and paid, among other things, in violation of California law.

Due to the foregoing Labor Code violations, the Companies denied Claimant and other UNIS Workers certain rights afforded to them under the California Labor Code and IWC Wage Order No. 9-2001. Claimant makes these claims against the Companies on behalf of herself and all other current or former non-exempt employees who performed work for the Companies in California, including employees who were hired through staffing agencies or other third-parties.

The facts and/or claims contained herein are based on the information available at the time of this writing. Since Claimant's investigation is ongoing, Claimant reserves her right to assert any and all related facts, claims and/or theories discovered after the sending of this letter on behalf of herself and the current or former UNIS Workers against the Companies and/or other persons that may be discovered after the sending of this letter. Such other persons include, but are not limited to, those persons who have acted as an agent, subsidiary, servant, employee, co-conspirator, alter-ego, and/or joint venture of the Companies, as well as those persons who caused and/or concurrently contributed to the various acts and/or admissions of each and every one of the others, including the Companies, in proximately causing the wrongful conduct, harm, and/or damages alleged herein or otherwise participated in or ratified any or all of the acts and/or omissions complained of herein, and those who were acting within the authority and/or scope of the Companies. Claimant reserves the right to include other persons and/or revise these facts and/or add any new claims by amending this letter and/or by adding claims to her civil complaint.

**FAILURE TO PROVIDE LEGALLY COMPLIANT MEAL AND/OR REST PERIODS
OR COMPENSATION IN LIEU THEREOF**

(Labor Code §§ 204, 226.7, and 512, and the "Meal Periods" and
"Rest Periods" sections of IWC Wage Order No. 9-2001)

Labor Code § 226.7(b) states, "[a]n employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission..." Labor Code § 226.7(c) states, "[i]f an employer fails to provide

an employee a meal or rest or recovery period in accordance with a state law... the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest or recovery period is not provided."

Labor Code § 512(a) states,

"[a]n employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes" and "[a]n employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes."

The "Meal Periods" section of IWC Wage Order No. 9-2001 states,

"[n]o employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes, except that when a work period of not more than six (6) hours will complete the day's work the meal period may be waived by mutual consent of the employer and the employee."

The "Meal Periods" section of IWC Wage Order No. 9-2001 further states,

"[a]n employer may not employ an employee for a work period of more than ten (10) hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of employer and employee only if the first meal period was not waived."

Furthermore, "[i]f an employer fails to provide an employee a meal period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided."

The "Meal Periods" section of the applicable IWC Wage Order also states,

"[u]nless the employee is relieved of all duty during a 30 minute meal period, the meal period shall be considered an 'on duty' meal period and counted as time worked. An 'on duty' meal period shall be permitted only when the nature of the work prevents an employee from being relieved of all duty and when by written agreement between the parties an on-the-job meal period is agreed to. The written agreement shall state that the employee may, in writing, revoke the agreement at any time."

The "Rest Periods" section of the Applicable IWC Wage Order states,

“[e]very employer shall authorize and permit employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof.”

Furthermore, “[i]f an employer fails to provide an employee a rest period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee’s regular rate of compensation for each workday that the rest period is not provided.”

Premium wages under Labor Code § 226.7 are wages that are due payable in accordance with the Labor Code § 204. *Murphy v. Kenneth Cole Productions, Inc.* (2007) 40 Cal.4th 1094, 1103-1114.

As set forth herein, the Companies failed to provide Claimant and other UNIS Workers with the opportunity to take uninterrupted, off-duty meal periods of at least 30-minutes before the start of their sixth hour of work and/or did not provide the opportunity to take a second legally compliant meal period when they worked more than 10 hours in a single work day. The Companies also did not authorize and permit Claimant and other UNIS Workers to take legally compliant rest periods, as required by California law. Despite not receiving legally compliant meal and/or rest periods, UNIS Workers, including Claimant were not paid the mandated one-hour of premium wages for each day a meal and/or rest period was not provided. Accordingly, Claimant and other UNIS Workers are entitled to receive one-hour of premium wages for each day a meal period was not provided and/or one-hour of premium wages for each day a rest period was not authorized and permitted. Claimant will pursue all available remedies for the Companies’ violations on behalf of herself and other UNIS Workers to the extent allowed by law.

FAILURE TO PAY MINIMUM, REGULAR, AND/OR OVERTIME WAGES

(Labor Code §§ 204, 210, 510, 1194, 1194.2, 1197, 1197.1, 1198, and 1199, and the “Minimum Wages” and “Hours and Days of Work” sections of IWC Wage Order No. 9-2001)

Labor Code § 1197 states, “[t]he minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a less wage than the minimum so fixed is unlawful.”

Labor Code § 1198 states,

“[t]he maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.”

Labor Code § 510 states,

“[e]ight hours of labor constitutes a day’s work. Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and

one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee.”

The “Hours and Days of Work” and “Minimum Wages” sections of IWC Wage Order No. 9-2001 mandates the same requirements as Labor Code § 510.

Labor Code § 204(a) states in pertinent part, “[a]ll wages...earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays.” Furthermore, Labor Code § 204(b)(1) states, “all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period.” The “Minimum Wages” section of the applicable IWC Wage Order also states that “[e]very employer shall pay to each employee, on the established payday for the period involved, not less than the applicable minimum wage for all hours worked in the payroll period, whether the remuneration is measured by time, piece, commission, or otherwise.”

Labor Code § 210 provides that, “every person who fails to pay the wages of an employee as provided in Section...204...shall be subject to a civil penalty” of \$100 for an initial violation and \$200 plus 25% of the amount unlawfully withheld for a subsequent violation.”

Labor Code § 1197.1 provides that,

“[a]ny employer or other person acting either individually or as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or local law or by an order of the commission shall be subject to a civil penalty, restitution of wages, liquidated damages payable to the employee, and any applicable penalties imposed pursuant to Section 203...”

Labor Code § 1199 imposes “a fine of not less than one hundred dollars (\$100)” for any employer who violates the provisions set forth in Labor Code § 1198.

Labor Code § 1194(a) states, “...any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney’s fees, and costs of suit.” Liquidated damages in an amount equal to the minimum wages unlawfully unpaid and interest thereon are provided for under Labor Code § 1194.2.

As set forth above, the Companies required Claimant and other UNIS Workers to work off-the-clock during meal periods without compensation. Furthermore, the Companies did not compensate Claimant and other UNIS Workers for the time spent working off-the-clock prior to starting their scheduled shift. Likewise, the Companies also did not compensate Claimant and other UNIS Workers for the time spent answering work-related phone calls and/or text messages on their personal cellphones while off-the-clock.

The Companies thus failed to timely pay Claimant and, on information and belief, other UNIS Workers all minimum, regular, and/or overtime wages for all hours worked, as required by law. Claimant will pursue all available remedies for the Companies' violations on behalf of herself and other UNIS Workers to the extent allowed by law.

FAILURE TO TIMELY PAY ALL WAGES DUE AND OWING UPON SEPARATION OF EMPLOYMENT

(Labor Code §§ 201, 202, 203, and 210)

Labor Code § 201 states, in pertinent part, "[i]f an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately." Labor Code § 202 provides,

"[i]f an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting."

Labor Code § 203(a) further provides,

"[i]f an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.3, 201.5, 201.9, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefore is commenced; but the wages shall not continue for more than 30 days."

Labor Code § 210 mandates that, "... every person who fails to pay the wages of an employee as provided in Sections 201.3...shall be subject to a civil penalty" of \$100 for an initial violation and \$200 plus 25% of the amount unlawfully withheld for a subsequent violation.

As set forth above, the Companies violated these Labor Code sections by not timely paying former UNIS Workers all minimum, regular, and/or overtime wages for all time worked and/or meal and/or rest period premium wages within the required time upon separation of their employment. To date, the Companies have also not paid the required waiting time penalties for its failure to pay for such wages. As a result of the Companies' failure to comply with the aforementioned Labor Code provisions, the Companies owe waiting time penalties to former UNIS Workers, which the Companies have not yet paid. Claimant will pursue all available remedies for the Companies' violations on behalf of former UNIS Workers to the extent allowed by law.

FAILURE TO REIMBURSE FOR NECESSARY BUSINESS EXPENSES

(Labor Code § 2802)

Labor Code § 2802(a) provides in pertinent part, "[a]n 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."

Labor Code § 2802(b) states, “[a]ll awards made by a court or by the Division of Labor Standards Enforcement for reimbursement of necessary expenditures under this section shall carry interest at the same rate as judgments in civil actions. Interest shall accrue from the date on which the employee incurred the necessary expenditure or loss.” Accordingly, Claimant will request that she receives interest on the applicable amount.

Furthermore, Labor Code § 2802(c) states, “[f]or purposes of this section, the term ‘necessary expenditures or losses’ shall include all reasonable costs, including, but not limited to, attorney’s fees incurred by the employee enforcing the rights granted by this section.” Consequently, Claimant will also request reimbursement of the attorney’s fees incurred in pursuing this matter.

As set forth above, the Companies required Claimant and other UNIS Workers to use their personal cell phones in the discharge of their work duties without reimbursement in violation of California law. Claimant will pursue all available remedies for the Companies’ violations on behalf of herself and other UNIS Workers to the extent allowed by law.

FAILURE TO FURNISH ACCURATE ITEMIZED WAGE STATEMENTS

(Labor Code §§ 226 and 226.3, and the “Records” section of IWC Wage Order No. 9-2001)

Labor Code § 226(a) states, in pertinent part, that every employer shall provide an accurate, itemized wage statement in writing with respect to each of its employees showing: “(1) gross wages earned, (2) total hours worked by the employee, ..., (5) net wages earned, ..., and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.”

Labor Code § 226(e) imposes a penalty of the greater of all actual damages or \$50 for the initial pay period in which a violation occurs and \$100 per employee for each violation in a subsequent pay period, not exceeding an aggregate penalty of \$4,000, and entitles an employee to an award of costs and reasonable attorney’s fees. Labor Code § 226.3 imposes an additional civil penalty on the employer of \$250.00 per employee per violation of Labor Code § 226(a) in an initial citation and \$1,000 per employee for each violation in a subsequent citation.

As set forth above, the Companies failed to provide Claimant and other UNIS Workers with accurate itemized wage statements that comply with the requirements of the Labor Code because the wage statements furnished did not, among other things, include the correct total regular and/or overtime hours actually worked, the correct amount of gross and/or net wages actually earned, and/or all applicable hourly rates and the corresponding number of hours worked at each hourly rate. Specifically, Claimant noticed several times that her wage statements did not reflect the correct number of hours she actually worked, as recorded on her timecards. Claimant will pursue all available remedies for the Companies’ violations on behalf of herself and other UNIS Workers to the extent allowed by law.

FAILURE TO MAINTAIN ACCURATE RECORDS

(Labor Code §§ 226, 1174 and 1174.5, and the “Records” section of IWC Wage Order No. 9-2001)

Labor Code § 1174 states, “[e]very person employing labor in this state shall... [k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records

showing the hours worked daily by and the wages paid to, ..., employees employed at the respective plants or establishments.” See also Labor Code § 226(a).

The “Records” section of IWC Wage Order No. 9-2001 states that every employer shall keep accurate information with respect to each one of its employees, including time records showing when the employee begins and ends each work period, meal periods, total daily hours worked, total wages paid each payroll period, and total hours worked in the payroll period and applicable rates of pay.

Labor Code § 1174.5 imposes a civil penalty of \$500 for an employer’s failure to maintain accurate and complete records. This civil penalty is in addition to the civil penalty of \$100 per pay period, per aggrieved employee that would be imposed pursuant to Labor Code § 2699 for a violation of Labor Code § 1174(d).

Labor Code § 226(e)(1) provides,

“[a]n employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) [of Labor Code § 226] is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney’s fees.”

As set forth above, the Companies violated these requirements by failing to accurately record employee hours actually worked including, but not limited to, the Companies’ failure to record the proper beginning and end of each work period, the meal periods, the total hours worked during the pay period, the applicable rates of pay, and the wages earned and paid, among other things. Claimant will pursue all available remedies for the Companies’ violations on behalf of herself and other UNIS Workers to the extent allowed by law.

CIVIL PENALTIES FOR VIOLATION OF THE LABOR CODE AND IWC WAGE ORDERS
(Labor Code §§ 210, 226.3, 558, 1174.5, 1197.1, and 2699(f))

Labor Code § 210 provides that any person who fails to pay wages as provided in sections 201.3, 204, 204(b), 204.1, 204.2, 205, 205.5 and 1197.5 shall be subject to a civil penalty of \$100 for any initial violation for each failure to pay each employee and for each subsequent violation, or any willful or intentional violation \$200 for each failure to pay each employee, plus 25 % if the amount unlawfully withheld, in addition to any other penalty.

For violations of Labor Code § 226(a), Labor Code § 226.3 imposes a civil penalty of \$250 per employee per violation in an initial citation and \$1,000 per employee for each violation in a subsequent citation.

Labor Code § 558 subjects any employer or any person acting on behalf of an employer who violates Labor Code Part 2, Chapter 1, of the Labor Code (Labor Code §§ 500-558), or any provision regulating the hours and days of work in any IWC Wage Order, to a civil penalty as follows: “[f]or any initial

violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid. For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid.”

For violations of Labor Code § 1174 subdivisions (b), (c), and (d), Labor Code § 1174.5 imposes a civil penalty of \$500.

Similarly, Labor Code § 1197.1 subjects any employer or other person acting either individually or as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or local law, or by an order of the commission to a civil penalty, restitution of wages, liquidated damages payable to the employee, and any applicable penalties imposed pursuant to § 203 as follows:

“(1) For any initial violation that is intentionally committed, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee is underpaid. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to § 1194.2, and any applicable penalties imposed pursuant to § 203. (2) For each subsequent violation for the same specific offense, two hundred fifty dollars (\$250) for each underpaid employee for each pay period for which the employee is underpaid regardless of whether the initial violation is intentionally committed. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to § 1194.2, and any applicable penalties imposed pursuant to § 203. (3) Wages, liquidated damages, and any applicable penalties imposed pursuant to § 203, recovered pursuant to this section shall be paid to the affected employee.”

Labor Code § 2699(f) imposes a civil penalty of \$100 per pay period, per employee for the initial violation and \$200 per pay period, per employee for each subsequent violation for all Labor Code provisions for which a civil penalty is not specifically provided, including, but not limited to, Labor Code §§ 201, 202, 203, 204, 210, 226(a), 226.7, 510, 512, 1174(c), 1174(d), 1194, 1197, 1197.1, 1198, 1199, 2802, and relevant IWC Wage Orders.

As set forth above, the Companies violated the Labor Code and IWC Wage Order 9-2001 by, among other things, failing to timely pay Claimant and UNIS Workers all regular, minimum, and/or overtime wages, and/or meal and rest period premium wages, as required under the Labor Code and the applicable sections of IWC Wage Order 9-2001. As a result, the Companies are liable for civil penalties under the Labor Code and Claimant will pursue all available remedies including, but not limited to, those stated herein, for the Companies’ violations on behalf of herself and other UNIS Workers to the extent allowed by law.

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ATTORNEY'S FEES, COSTS, INTEREST, LIQUIDATED DAMAGES AND PENALTIES

(Labor Code §§ 210, 218.5, 218.6, 226(e), 558, 1194, 1194.2, 1197.1, 2802, and 2698, *et seq.*)

Labor Code §§ 210, 218.5, 218.6, 225.5, 226(e), 558, 1194, 1194.2, 1197.1, 1198.5, 2802, and 2698, *et seq.*, among others, give employees the right to recover in a civil action the full amount of damages, liquidated damages and penalties, including interest thereon, as well as reasonable attorney's fees and costs.

Under Labor Code § 2699(g)(1), an aggrieved employee, such as Claimant, is entitled to an award of reasonable attorneys' fees and costs. Claimant has already incurred actual damages, costs and attorney's fees and she will continue to incur such as a result of the Companies' unlawful actions. Claimant will pursue all available remedies including, but not limited to, those provided by the PAGA, on behalf of herself and other UNIS Workers to the extent permitted by law for the violations of law described herein and those later discovered.

CONCLUSION

Based on the foregoing, the Companies have violated the Labor Code and IWC Wage Order 9-2001, thereby depriving Claimant and other UNIS Workers of the rights and protections afforded to them. Claimant has satisfied the prerequisites of the PAGA to serve as a representative of all current or former non-exempt employees who performed work for the Companies in California, including those employed by the Companies, staffing agencies or other third-parties, the general public, and the state of California in order to enforce California labor laws and to seek civil penalties for the provisions set forth herein, as well as those which may be later discovered.

Accordingly, if the LWDA declines to intervene or act within time prescribed by the Labor Code, Claimant may elect to initiate and/or amend a civil action, on behalf of herself and all other current or former non-exempt employees who performed work for the Companies in California, including those hired by the Companies, staffing agencies or other third-parties, as permitted by the PAGA.

Sincerely,

Monique R. Rodriguez

Monique R. Rodriguez

EXHIBIT B

September 25, 2020

Attorneys at Law

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VIA ONLINE ELECTRONIC FILING

California Labor and Workforce Development Agency
Attn: PAGA Administrator
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Oakland, CA 94612

CERTIFIED MAIL (RETURN RECEIPT)

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UNIS, LLC
c/o CT Corporation System, Agent for Service of Process
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UNIS Company, Inc.
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Graham S.P. Hollis

Vilmarie Cordero

Nathan Reese

Hali Anderson

David Lin

Erick Dos Santos

Alex Kuner

Monique Rodriguez

Re: Amendment to Bertha Marquez's Wage and Hour Claims Against UNIS Company, Inc., UNIS, LLC, and INSTAFF

Dear California Labor and Workforce Development Agency, UNIS Company, Inc., UNIS, LLC and INSTAFF:

Please be advised that Bertha Marquez ("Claimant") has retained our firm to represent her for various claims against UNIS Company, Inc., UNIS, LLC, and INSTAFF (the "Companies").

Please be advised that this letter shall serve as Claimant's amended written notice to the California Labor and Workforce Development Agency ("LWDA") and the Companies

of the alleged California Labor Code (“Labor Code”) violations Claimant claims that the Companies, individually and collectively, committed against her and all individuals who currently or formerly performed work for the Companies, individually and/or collectively, in California during the relevant statutory period including, but not limited to, those hired by the Companies, staffing agencies or other third-parties. Claimant provides this amended notice, which includes the facts and theories to support the Labor Code violations alleged herein, in accordance with the Private Attorneys General Act of 2004 (codified in Labor Code §§ 2698 *et seq.*, “PAGA”), Labor Code § 2699.3.

Pursuant to Labor Code § 2699(a), and by way of this amended notice, Claimant intends to represent herself and all other individuals who currently or formerly performed work for the Companies, individually and/or collectively, in California, including those individuals who were hired by UNIS Company, Inc., UNIS, LLC, INSTAFF, staffing agencies or other third-parties, during the relevant time period (referred to herein as “UNIS Workers”). All UNIS Workers, including Claimant, are believed to have suffered at least one of the Labor Code violations described herein. Claimant therefore contends that she and all other UNIS Workers are “aggrieved employees” as defined by the PAGA.

The original written notice is attached hereto as Exhibit A (“Original Notice”) and incorporated herein by reference. The claims in the Original Notice are asserted on behalf of Claimant and all UNIS Workers against the Companies, individually and collectively. The Original Notice was submitted to the LWDA via online upload on August 14, 2020 and sent to UNIS Company, Inc. and UNIS, LLC via certified mail on the same date.

Also, in a separate, but not necessarily mutually exclusive, alternative theory of liability, the Companies, jointly and severally, and the Chief Executive Officer/Director/Manager James Lin, are liable for the PAGA civil penalties under Labor Code § 558 as “other person(s)” who caused the violations alleged herein. See *Atempa v. Pedrazzani* (2018) 27 Cal.App.5th 809, 820 (“if there is evidence and a finding that a party other than the employer ‘violates, or causes of be violated’ the overtime laws (§ 558(a)), or ‘pays or causes to be paid to an employee’ less than minimum wage (§ 1197.1(a)), then that party is liable for certain civil penalties regardless of the identity or business structure of the employer”); see also *Moua v. IBM* (N.D. Cal. 2019) 2019 U.S. Dist. LEXIS 40851 (holding the same).

The facts and/or claims contained in this amended notice, as well as the Original Notice, are based on the information available at the time of this writing. Since Claimant’s investigation is ongoing, Claimant reserves her right to assert any and all related facts, claims, and/or theories discovered after the sending of this amended notice on behalf of herself and all other individuals who currently or formerly performed work for the Companies, individually or collectively, in California including, but not limited to, those individuals who were hired by UNIS Company, Inc., UNIS, LLC, INSTAFF, staffing agencies, other third-parties, and/or other persons that may be discovered after the sending of this amended notice. Such other persons may include, but are not limited to, those persons who have acted as an agent, subsidiary, servant, employee, co-conspirator, alter-ego, and/or joint venture of the Companies, individually and collectively, as well as those persons who caused and/or concurrently contributed to the various acts and/or admissions of each and every one of the others, including the Companies, individually and collectively, in proximately causing the wrongful conduct, harm, and/or damages alleged herein or otherwise participated in or ratified

CA Labor and Workforce Development Agency
UNIS Company, Inc.
UNIS, LLC
INSTAFF
September 25, 2020
Page 3



any or all of the acts and/or omissions complained herein, and those who were acting within the authority and/or scope of the Companies, individually and collectively. Claimant reserves the right to modify the facts and/or add any new claims by amending this notice and/or by adding claims to her civil complaint.

Based on the this amended notice and the Original Notice, the Companies, individually and collectively, have violated the Labor Code and IWC Wage Order 9-2001, thereby depriving Claimant and other UNIS Workers of the rights and protections afforded to them. Claimant has satisfied the prerequisites of the PAGA to serve as a representative of all individuals who currently or formerly performed work for the Companies, individually and/or collectively, in California, including those employed by the Companies, staffing agencies or other third-parties, the general public, and the state of California in order to enforce California labor laws and to seek civil penalties for the provisions set forth herein, as well as those which may be later discovered.

Accordingly, if the LWDA declines to intervene or act within time prescribed by the Labor Code, Claimant may elect to initiate and/or amend a civil action, on behalf of herself and all individuals who currently or formerly performed work for the Companies, individually and/or collectively, in California, including those employed by the Companies, staffing agencies or other third-parties, as permitted by the PAGA.

Sincerely,

A handwritten signature in black ink that reads 'Monique R. Rodriguez'.

Monique R. Rodriguez

Enclosure: Exhibit A – Letter to the LWDA, dated August 14, 2020 (“Original Notice”)

EXHIBIT A

EXHIBIT A

August 14, 2020

Attorneys at Law

3555 Fifth Avenue Suite 200
San Diego, California 92103
619.692.0800 voice
619.692.0822 fax

www.grahamhollis.com

Monique R. Rodriguez
mrodriguez@grahamhollis.com
619.546.4373 direct

VIA ONLINE ELECTRONIC FILING

California Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, CA 94612

CERTIFIED MAIL (RETURN RECEIPT)

UNIS, LLC
218 Machlin Ct
Walnut, CA 91789

UNIS, LLC
c/o CT Corporation System, Agent for Service of Process
818 West Seventh Street, Suite 930
Los Angeles, CA 90017

UNIS Company, Inc.
218 Machlin Ct
Walnut, CA 91789

UNIS Company, Inc.
c/o CT Corporation System, Agent for Service of Process
818 West Seventh Street, Suite 930
Los Angeles, CA 90017

**Re: Bertha Marquez's Wage and Hour Claims Against UNIS Company, Inc.
and UNIS, LLC**

Dear California Labor and Workforce Development Agency, UNIS Company, Inc., and
UNIS, LLC:

Please be advised that Bertha Marquez ("Claimant") has retained our firm to represent
her for various claims against UNIS Company, Inc. and UNIS, LLC (the "Companies").

Please be advised that this letter shall serve as Claimant's written notice to the
California Labor and Workforce Development Agency ("LWDA") and the Companies
of the alleged California Labor Code ("Labor Code") violations Claimant claims that the
Companies committed against her and all other current or former non-exempt
employees who performed work for the Companies in California during the relevant
statutory period, including those hired by the Companies, staffing agencies or other
third-parties. Claimant provides this notice, which includes the facts and theories to

Graham S.P. Hollis

Vilmarie Cordero

Nathan Reese

Hali Anderson

David Lin

Erick Dos Santos

Alex Kuner

Monique Rodriguez

support the Labor Code violations alleged herein, in accordance with the Private Attorneys General Act of 2004 (codified in Labor Code §§ 2698 *et seq.*, “PAGA”), Labor Code § 2699.3.

Pursuant to Labor Code § 2699(a), and by way of this letter, Claimant intends to represent herself and all other current or former non-exempt employees in California who performed work for the Companies, including those individuals who were hired by UNIS Company, Inc., UNIS, LLC, staffing agencies or other third-parties, during the relevant time period (referred to herein as “UNIS Workers”). All UNIS Workers, including Claimant, are believed to have suffered at least one of the Labor Code violations described herein. Claimant therefore contends that she and all other UNIS Workers are “aggrieved employees” as defined by the PAGA.

FACTUAL BACKGROUND

UNIS Company, Inc. is a professional management company that owns and operates UNIS, LLC and other entities. UNIS Company, Inc. is a third-party logistics provider that unifies the supply chain networks through technology and information services. UNIS Company, Inc. is incorporated in the state of Delaware and is authorized to do business in the state of California. UNIS Company, Inc. has its headquarters in Walnut, California.

UNIS, LLC is a third-party logistics provider which owns and operates several fulfillment and distribution warehouses throughout California, including in Walnut, Fontana, Riverside, City of Industry, and Buena Park. UNIS, LLC is incorporated in the state of Delaware and is authorized to do business in the state of California. UNIS, LLC has its headquarters located in Walnut, California.

UNIS Company, Inc. and UNIS, LLC use staffing agencies and other third-parties to supply its workforce. Claimant contends that the Companies, staffing agencies, and other third-parties are jointly and severally liable for the claims asserted herein. Claimant alleges that at all relevant times, the Companies, staffing agencies, and other third-parties exercised control over the wages, hours and/or working conditions of UNIS Workers, that the Companies, staffing agencies, and other third-parties caused UNIS Workers to work and/or prevent UNIS Workers from working and that the Companies, staffing agencies, and other third-parties had control over UNIS Workers, among other things.

Claimant has been employed by the Companies since 2009 and as of the date of this letter, remains employed by the Companies. Over the course of her employment, Claimant has worked as warehouse lead and customer service representative at the Companies’ fulfillment and distribution warehouses in Walnut, Fontana, Hacienda Heights/Azusa, and Riverside. As a warehouse lead, Claimant’s job duties consist of overseeing the workers in the warehouse, planning and releasing fulfillment orders, ensuring that packing stations complete orders on a timely basis, and maintaining inventory, among other things. As a customer service representative, Claimant’s job duties consist of assisting with the Companies’ fulfillment and distribution orders, maintaining warehouse accounts, and providing excellent customer service, among other things. At all relevant times, Claimant has been classified as a non-exempt employee and is paid an hourly rate of \$16.50 per hour. Claimant typically works five (5) days per week and eight (8) hours each workday, for a total of approximately forty (40) hours per week. The Companies also employed other UNIS Workers throughout the state of California at its fulfillment and distribution warehouses during the relevant statutory period.

Claimant alleges that the Companies denied Claimant and other UNIS Workers specific rights afforded to them under the Labor Code and the applicable Industrial Welfare Commission (“IWC”) Wage Order. Specifically, the Companies failed to provide Claimant and other UNIS Workers with legally compliant meal and/or rest periods or timely pay them meal and/or rest period premiums, failed to timely pay all minimum, regular, and overtime wages for all time worked, failed to timely pay all wages due and owed upon separation of employment, failed to reimburse for necessary business expenses, failed to issue accurate itemized wage statements, and failed to maintain accurate records. Upon information and belief, all policies, practices, guidelines, and/or procedures of the Companies applicable to Claimant were also applicable to all other UNIS Workers during the statutory period.

Claimant asserts that the Companies did not provide her and other UNIS Workers with 30-minute, off-duty meal periods before the start of their sixth hour of work. Claimant also alleges that the Companies did not authorize and permit her, or other UNIS Workers, to take legally compliant off-duty, 10-minute rest periods for every four hours worked or major fraction thereof. Claimant contends that the Companies’ failure to provide UNIS Workers with legally compliant meal and/or rest periods was largely due to the Companies’ policy, practice, procedure, and/or guideline of understaffing its warehouses and not providing sufficient coverage for UNIS Workers to take off-duty meal and/or rest periods. Claimant asserts that she and other UNIS Workers were regularly required to work through their meal and/or rest periods, experienced meal and/or rest periods interrupted by work duties, and/or were not provided with meal and/or rest periods at all. For example, Claimant claims that she, and other UNIS Workers, would often clock-out for their meal period, but continue working on their tasks due to their workload. Furthermore, Claimant was frequently unable to take uninterrupted meal periods and/or rest periods due to the Companies’ policy, practice, procedure and/or guideline of requiring UNIS Workers to carry and monitor a company-issued radio at all times. Additionally, Claimant contends that meal periods were frequently interrupted by work-related tasks, such as drivers arriving at the warehouse to pick-up and/or drop-off shipments, UPS, FedEx and/or other parcel carriers delivering items, as well as interruptions from warehouse employees asking work-related questions, either in person, through a radio call or a phone call and/or text message. Claimant asserts that, per the Companies’ policy, practice, procedure and/or guideline, UNIS Workers are expected to make themselves available at all times for drivers who arrive at the warehouse and are reprimanded if the driver leaves the warehouse without being attended to.

Claimant further asserts that she, as well as other UNIS Workers, were often not provided with a second rest period during their eight-hour shift due to their workload and the Companies’ policy, practice, procedure and/or guideline of not scheduling coverage for UNIS Workers to take uninterrupted meal and/or rest periods. Furthermore, Claimant and other UNIS Workers were consistently directed, forced and/or otherwise pressured to skip their meal and/or rest periods to complete their work duties and to compensate for understaffing issues. On the rare occasion they were able to take a meal and/or rest period, Claimant alleges she, and other UNIS Workers, were required to monitor their radios and/or cell phones, and be readily available to return to work if necessary. In fact, UNIS Workers often experienced interrupted meal and/or rest periods because they were called back to work during their meal and/or rest periods. Claimant alleges she, and other UNIS Workers, were also required to monitor their personal cell phones for calls or text messages, as the Companies would contact them on their personal devices if they did not immediately respond to calls on the company-issued radio. Moreover, Claimant and other UNIS Workers were not provided with a second meal period and/or a third rest period when they worked 10 or more hours in a single work day. As a result of the Companies’ illegal policies practices, procedures

and/or guidelines, Claimant and other UNIS Workers were regularly required to work through their meal and/or rest periods, take interrupted meal and/or rest periods, and/or were not provided with a meal and/or rest period at all. Claimant and, on information and belief, other UNIS Workers did not sign a meal period waiver or an on-duty meal agreement at any point during their employment. Even if Claimant or any UNIS Workers signed any such waivers and/or agreements, they were not applied in accordance with California law.

Although Claimant and other UNIS Workers did not receive legally compliant meal and/or rest periods, the Companies did not pay Claimant and, on information and belief, other UNIS Workers the additional one hour of pay at the employee's regular rate of pay as required under Labor Code § 226.7 and IWC Wage Order No. 9-2001. Therefore, the Companies owe Claimant and, on information and belief, other UNIS Workers a meal and/or rest period premium for each work day that Claimant and other UNIS Workers were not provided with a compliant meal and/or rest period.

Furthermore, Claimant and, on information and belief, other UNIS Workers were not timely paid all minimum, regular, and/or overtime wages for all time worked as a result of the Companies' failure to pay them for the time they spent working through their meal periods. The Companies improperly considered the work Claimant and other UNIS Workers performed during their meal periods as non-compensable time and failed to provide any remuneration. Additionally, Claimant contends, upon information and belief, that she and other UNIS Workers were not paid for the time worked prior to clocking-in at the start of the workday. Claimant contends the Companies have a policy, practice, procedure and/or guideline of requiring UNIS Workers to clock-in at the start of a shift no earlier than five minutes prior to their scheduled start time. However, Claimant alleges that she, as well as other UNIS Workers, are often compelled to begin working earlier than the beginning of their shift and are not paid for the work performed. Moreover, Claimant contends she is often contacted on her personal cellphone by warehouse workers, the Companies' management, and shipment delivery drivers, including UPS and FedEx drivers, when she is not clocked-in. In fact, Claimant continues to receive multiple work-related phone calls on her personal cell phone despite being on a leave of absence. Claimant alleges she, as well as other UNIS Workers, are not paid for the time spent taking work-related calls while off-the-clock. Because UNIS Workers are required to work off-the-clock during meal periods, as well as before the start of their regularly scheduled shift, and are compelled to take work-related phone calls when not clocked-in, the Companies did not timely pay Claimant and other UNIS Workers minimum, regular, and/or overtime wages for all time worked including, but not limited to, when Claimant and other UNIS Workers worked in excess of eight (8) hours in a work day and/or forty (40) hours in a workweek.

Claimant contends, based on information and belief, that the Companies failed to timely pay former UNIS Workers all wages due and owed upon separation of employment, including minimum, regular, and/or overtime wages for all hours worked and/or meal and/or rest period premium wages, as required by Labor Code §§ 201, 202, and 204. Claimant further contends, based on information and belief, that former UNIS Workers were not paid any waiting time penalties as provided under Labor Code § 203.

The Companies also failed to reimburse Claimant and other UNIS Workers for all necessary business expenses that were incurred in the discharge of their job duties. For instance, Claimant and other UNIS Workers were required to use and often used their personal cell phones to monitor incoming calls and text messages from managers and co-workers regarding work-related issues when they did not immediately respond to calls on the company-issued radio. Claimant alleges that other warehouse workers, the

Companies' management, and drivers, including drivers from UPS and FedEx, have her personal cell phone number, and regularly contact her for work-related purposes. Despite requiring UNIS Workers, including Claimant, to use their personal cell phones in the discharge of their work duties, the Companies did not have a policy, practice, procedure and/or guideline of reimbursing its employees. Claimant and other UNIS Workers did not receive any reimbursement for the use of their personal cell phones as required by California law.

Moreover, the wage statements issued by the Companies to UNIS Workers, including Claimant, did not include the correct total regular and/or overtime hours actually worked, the correct amount of gross and/or net wages actually earned, and/or all applicable hourly rates and the corresponding number of hours actually worked at each hourly rate, among other things, as required under Labor Code § 226. The wage statements also did not include the pay period information, the appropriate name and address of the legal entity that employed Claimant and other UNIS Workers.

As a direct result of the Companies' illegal policies, practices, procedures, and/or guidelines, like those described herein, the Companies failed to maintain accurate records reflecting all of Claimant's and other UNIS Worker's actual time worked and actual wages earned and paid, among other things, in violation of California law.

Due to the foregoing Labor Code violations, the Companies denied Claimant and other UNIS Workers certain rights afforded to them under the California Labor Code and IWC Wage Order No. 9-2001. Claimant makes these claims against the Companies on behalf of herself and all other current or former non-exempt employees who performed work for the Companies in California, including employees who were hired through staffing agencies or other third-parties.

The facts and/or claims contained herein are based on the information available at the time of this writing. Since Claimant's investigation is ongoing, Claimant reserves her right to assert any and all related facts, claims and/or theories discovered after the sending of this letter on behalf of herself and the current or former UNIS Workers against the Companies and/or other persons that may be discovered after the sending of this letter. Such other persons include, but are not limited to, those persons who have acted as an agent, subsidiary, servant, employee, co-conspirator, alter-ego, and/or joint venture of the Companies, as well as those persons who caused and/or concurrently contributed to the various acts and/or admissions of each and every one of the others, including the Companies, in proximately causing the wrongful conduct, harm, and/or damages alleged herein or otherwise participated in or ratified any or all of the acts and/or omissions complained of herein, and those who were acting within the authority and/or scope of the Companies. Claimant reserves the right to include other persons and/or revise these facts and/or add any new claims by amending this letter and/or by adding claims to her civil complaint.

**FAILURE TO PROVIDE LEGALLY COMPLIANT MEAL AND/OR REST PERIODS
OR COMPENSATION IN LIEU THEREOF**

(Labor Code §§ 204, 226.7, and 512, and the "Meal Periods" and
"Rest Periods" sections of IWC Wage Order No. 9-2001)

Labor Code § 226.7(b) states, "[a]n employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission..." Labor Code § 226.7(c) states, "[i]f an employer fails to provide

an employee a meal or rest or recovery period in accordance with a state law... the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest or recovery period is not provided."

Labor Code § 512(a) states,

"[a]n employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes" and "[a]n employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes."

The "Meal Periods" section of IWC Wage Order No. 9-2001 states,

"[n]o employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes, except that when a work period of not more than six (6) hours will complete the day's work the meal period may be waived by mutual consent of the employer and the employee."

The "Meal Periods" section of IWC Wage Order No. 9-2001 further states,

"[a]n employer may not employ an employee for a work period of more than ten (10) hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of employer and employee only if the first meal period was not waived."

Furthermore, "[i]f an employer fails to provide an employee a meal period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided."

The "Meal Periods" section of the applicable IWC Wage Order also states,

"[u]nless the employee is relieved of all duty during a 30 minute meal period, the meal period shall be considered an 'on duty' meal period and counted as time worked. An 'on duty' meal period shall be permitted only when the nature of the work prevents an employee from being relieved of all duty and when by written agreement between the parties an on-the-job meal period is agreed to. The written agreement shall state that the employee may, in writing, revoke the agreement at any time."

The "Rest Periods" section of the Applicable IWC Wage Order states,

“[e]very employer shall authorize and permit employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof.”

Furthermore, “[i]f an employer fails to provide an employee a rest period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee’s regular rate of compensation for each workday that the rest period is not provided.”

Premium wages under Labor Code § 226.7 are wages that are due payable in accordance with the Labor Code § 204. *Murphy v. Kenneth Cole Productions, Inc.* (2007) 40 Cal.4th 1094, 1103-1114.

As set forth herein, the Companies failed to provide Claimant and other UNIS Workers with the opportunity to take uninterrupted, off-duty meal periods of at least 30-minutes before the start of their sixth hour of work and/or did not provide the opportunity to take a second legally compliant meal period when they worked more than 10 hours in a single work day. The Companies also did not authorize and permit Claimant and other UNIS Workers to take legally compliant rest periods, as required by California law. Despite not receiving legally compliant meal and/or rest periods, UNIS Workers, including Claimant were not paid the mandated one-hour of premium wages for each day a meal and/or rest period was not provided. Accordingly, Claimant and other UNIS Workers are entitled to receive one-hour of premium wages for each day a meal period was not provided and/or one-hour of premium wages for each day a rest period was not authorized and permitted. Claimant will pursue all available remedies for the Companies’ violations on behalf of herself and other UNIS Workers to the extent allowed by law.

FAILURE TO PAY MINIMUM, REGULAR, AND/OR OVERTIME WAGES

(Labor Code §§ 204, 210, 510, 1194, 1194.2, 1197, 1197.1, 1198, and 1199, and the “Minimum Wages” and “Hours and Days of Work” sections of IWC Wage Order No. 9-2001)

Labor Code § 1197 states, “[t]he minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a less wage than the minimum so fixed is unlawful.”

Labor Code § 1198 states,

“[t]he maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.”

Labor Code § 510 states,

“[e]ight hours of labor constitutes a day’s work. Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and

one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee.”

The “Hours and Days of Work” and “Minimum Wages” sections of IWC Wage Order No. 9-2001 mandates the same requirements as Labor Code § 510.

Labor Code § 204(a) states in pertinent part, “[a]ll wages...earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays.” Furthermore, Labor Code § 204(b)(1) states, “all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period.” The “Minimum Wages” section of the applicable IWC Wage Order also states that “[e]very employer shall pay to each employee, on the established payday for the period involved, not less than the applicable minimum wage for all hours worked in the payroll period, whether the remuneration is measured by time, piece, commission, or otherwise.”

Labor Code § 210 provides that, “every person who fails to pay the wages of an employee as provided in Section...204...shall be subject to a civil penalty” of \$100 for an initial violation and \$200 plus 25% of the amount unlawfully withheld for a subsequent violation.”

Labor Code § 1197.1 provides that,

“[a]ny employer or other person acting either individually or as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or local law or by an order of the commission shall be subject to a civil penalty, restitution of wages, liquidated damages payable to the employee, and any applicable penalties imposed pursuant to Section 203...”

Labor Code § 1199 imposes “a fine of not less than one hundred dollars (\$100)” for any employer who violates the provisions set forth in Labor Code § 1198.

Labor Code § 1194(a) states, “...any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney’s fees, and costs of suit.” Liquidated damages in an amount equal to the minimum wages unlawfully unpaid and interest thereon are provided for under Labor Code § 1194.2.

As set forth above, the Companies required Claimant and other UNIS Workers to work off-the-clock during meal periods without compensation. Furthermore, the Companies did not compensate Claimant and other UNIS Workers for the time spent working off-the-clock prior to starting their scheduled shift. Likewise, the Companies also did not compensate Claimant and other UNIS Workers for the time spent answering work-related phone calls and/or text messages on their personal cellphones while off-the-clock.

The Companies thus failed to timely pay Claimant and, on information and belief, other UNIS Workers all minimum, regular, and/or overtime wages for all hours worked, as required by law. Claimant will pursue all available remedies for the Companies' violations on behalf of herself and other UNIS Workers to the extent allowed by law.

**FAILURE TO TIMELY PAY ALL WAGES DUE AND OWING UPON SEPARATION OF
EMPLOYMENT**

(Labor Code §§ 201, 202, 203, and 210)

Labor Code § 201 states, in pertinent part, "[i]f an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately." Labor Code § 202 provides,

"[i]f an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting."

Labor Code § 203(a) further provides,

"[i]f an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.3, 201.5, 201.9, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefore is commenced; but the wages shall not continue for more than 30 days."

Labor Code § 210 mandates that, "... every person who fails to pay the wages of an employee as provided in Sections 201.3...shall be subject to a civil penalty" of \$100 for an initial violation and \$200 plus 25% of the amount unlawfully withheld for a subsequent violation.

As set forth above, the Companies violated these Labor Code sections by not timely paying former UNIS Workers all minimum, regular, and/or overtime wages for all time worked and/or meal and/or rest period premium wages within the required time upon separation of their employment. To date, the Companies have also not paid the required waiting time penalties for its failure to pay for such wages. As a result of the Companies' failure to comply with the aforementioned Labor Code provisions, the Companies owe waiting time penalties to former UNIS Workers, which the Companies have not yet paid. Claimant will pursue all available remedies for the Companies' violations on behalf of former UNIS Workers to the extent allowed by law.

FAILURE TO REIMBURSE FOR NECESSARY BUSINESS EXPENSES

(Labor Code § 2802)

Labor Code § 2802(a) provides in pertinent part, "[a]n 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."

Labor Code § 2802(b) states, “[a]ll awards made by a court or by the Division of Labor Standards Enforcement for reimbursement of necessary expenditures under this section shall carry interest at the same rate as judgments in civil actions. Interest shall accrue from the date on which the employee incurred the necessary expenditure or loss.” Accordingly, Claimant will request that she receives interest on the applicable amount.

Furthermore, Labor Code § 2802(c) states, “[f]or purposes of this section, the term ‘necessary expenditures or losses’ shall include all reasonable costs, including, but not limited to, attorney’s fees incurred by the employee enforcing the rights granted by this section.” Consequently, Claimant will also request reimbursement of the attorney’s fees incurred in pursuing this matter.

As set forth above, the Companies required Claimant and other UNIS Workers to use their personal cell phones in the discharge of their work duties without reimbursement in violation of California law. Claimant will pursue all available remedies for the Companies’ violations on behalf of herself and other UNIS Workers to the extent allowed by law.

FAILURE TO FURNISH ACCURATE ITEMIZED WAGE STATEMENTS

(Labor Code §§ 226 and 226.3, and the “Records” section of IWC Wage Order No. 9-2001)

Labor Code § 226(a) states, in pertinent part, that every employer shall provide an accurate, itemized wage statement in writing with respect to each of its employees showing: “(1) gross wages earned, (2) total hours worked by the employee, ..., (5) net wages earned, ..., and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.”

Labor Code § 226(e) imposes a penalty of the greater of all actual damages or \$50 for the initial pay period in which a violation occurs and \$100 per employee for each violation in a subsequent pay period, not exceeding an aggregate penalty of \$4,000, and entitles an employee to an award of costs and reasonable attorney’s fees. Labor Code § 226.3 imposes an additional civil penalty on the employer of \$250.00 per employee per violation of Labor Code § 226(a) in an initial citation and \$1,000 per employee for each violation in a subsequent citation.

As set forth above, the Companies failed to provide Claimant and other UNIS Workers with accurate itemized wage statements that comply with the requirements of the Labor Code because the wage statements furnished did not, among other things, include the correct total regular and/or overtime hours actually worked, the correct amount of gross and/or net wages actually earned, and/or all applicable hourly rates and the corresponding number of hours worked at each hourly rate. Specifically, Claimant noticed several times that her wage statements did not reflect the correct number of hours she actually worked, as recorded on her timecards. Claimant will pursue all available remedies for the Companies’ violations on behalf of herself and other UNIS Workers to the extent allowed by law.

FAILURE TO MAINTAIN ACCURATE RECORDS

(Labor Code §§ 226, 1174 and 1174.5, and the “Records” section of IWC Wage Order No. 9-2001)

Labor Code § 1174 states, “[e]very person employing labor in this state shall... [k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records

showing the hours worked daily by and the wages paid to, ..., employees employed at the respective plants or establishments.” See also Labor Code § 226(a).

The “Records” section of IWC Wage Order No. 9-2001 states that every employer shall keep accurate information with respect to each one of its employees, including time records showing when the employee begins and ends each work period, meal periods, total daily hours worked, total wages paid each payroll period, and total hours worked in the payroll period and applicable rates of pay.

Labor Code § 1174.5 imposes a civil penalty of \$500 for an employer’s failure to maintain accurate and complete records. This civil penalty is in addition to the civil penalty of \$100 per pay period, per aggrieved employee that would be imposed pursuant to Labor Code § 2699 for a violation of Labor Code § 1174(d).

Labor Code § 226(e)(1) provides,

“[a]n employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) [of Labor Code § 226] is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney’s fees.”

As set forth above, the Companies violated these requirements by failing to accurately record employee hours actually worked including, but not limited to, the Companies’ failure to record the proper beginning and end of each work period, the meal periods, the total hours worked during the pay period, the applicable rates of pay, and the wages earned and paid, among other things. Claimant will pursue all available remedies for the Companies’ violations on behalf of herself and other UNIS Workers to the extent allowed by law.

CIVIL PENALTIES FOR VIOLATION OF THE LABOR CODE AND IWC WAGE ORDERS

(Labor Code §§ 210, 226.3, 558, 1174.5, 1197.1, and 2699(f))

Labor Code § 210 provides that any person who fails to pay wages as provided in sections 201.3, 204, 204(b), 204.1, 204.2, 205, 205.5 and 1197.5 shall be subject to a civil penalty of \$100 for any initial violation for each failure to pay each employee and for each subsequent violation, or any willful or intentional violation \$200 for each failure to pay each employee, plus 25 % if the amount unlawfully withheld, in addition to any other penalty.

For violations of Labor Code § 226(a), Labor Code § 226.3 imposes a civil penalty of \$250 per employee per violation in an initial citation and \$1,000 per employee for each violation in a subsequent citation.

Labor Code § 558 subjects any employer or any person acting on behalf of an employer who violates Labor Code Part 2, Chapter 1, of the Labor Code (Labor Code §§ 500-558), or any provision regulating the hours and days of work in any IWC Wage Order, to a civil penalty as follows: “[f]or any initial

violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid. For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid.”

For violations of Labor Code § 1174 subdivisions (b), (c), and (d), Labor Code § 1174.5 imposes a civil penalty of \$500.

Similarly, Labor Code § 1197.1 subjects any employer or other person acting either individually or as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or local law, or by an order of the commission to a civil penalty, restitution of wages, liquidated damages payable to the employee, and any applicable penalties imposed pursuant to § 203 as follows:

“(1) For any initial violation that is intentionally committed, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee is underpaid. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to § 1194.2, and any applicable penalties imposed pursuant to § 203. (2) For each subsequent violation for the same specific offense, two hundred fifty dollars (\$250) for each underpaid employee for each pay period for which the employee is underpaid regardless of whether the initial violation is intentionally committed. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to § 1194.2, and any applicable penalties imposed pursuant to § 203. (3) Wages, liquidated damages, and any applicable penalties imposed pursuant to § 203, recovered pursuant to this section shall be paid to the affected employee.”

Labor Code § 2699(f) imposes a civil penalty of \$100 per pay period, per employee for the initial violation and \$200 per pay period, per employee for each subsequent violation for all Labor Code provisions for which a civil penalty is not specifically provided, including, but not limited to, Labor Code §§ 201, 202, 203, 204, 210, 226(a), 226.7, 510, 512, 1174(c), 1174(d), 1194, 1197, 1197.1, 1198, 1199, 2802, and relevant IWC Wage Orders.

As set forth above, the Companies violated the Labor Code and IWC Wage Order 9-2001 by, among other things, failing to timely pay Claimant and UNIS Workers all regular, minimum, and/or overtime wages, and/or meal and rest period premium wages, as required under the Labor Code and the applicable sections of IWC Wage Order 9-2001. As a result, the Companies are liable for civil penalties under the Labor Code and Claimant will pursue all available remedies including, but not limited to, those stated herein, for the Companies’ violations on behalf of herself and other UNIS Workers to the extent allowed by law.

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ATTORNEY'S FEES, COSTS, INTEREST, LIQUIDATED DAMAGES AND PENALTIES

(Labor Code §§ 210, 218.5, 218.6, 226(e), 558, 1194, 1194.2, 1197.1, 2802, and 2698, *et seq.*)

Labor Code §§ 210, 218.5, 218.6, 225.5, 226(e), 558, 1194, 1194.2, 1197.1, 1198.5, 2802, and 2698, *et seq.*, among others, give employees the right to recover in a civil action the full amount of damages, liquidated damages and penalties, including interest thereon, as well as reasonable attorney's fees and costs.

Under Labor Code § 2699(g)(1), an aggrieved employee, such as Claimant, is entitled to an award of reasonable attorneys' fees and costs. Claimant has already incurred actual damages, costs and attorney's fees and she will continue to incur such as a result of the Companies' unlawful actions. Claimant will pursue all available remedies including, but not limited to, those provided by the PAGA, on behalf of herself and other UNIS Workers to the extent permitted by law for the violations of law described herein and those later discovered.

CONCLUSION

Based on the foregoing, the Companies have violated the Labor Code and IWC Wage Order 9-2001, thereby depriving Claimant and other UNIS Workers of the rights and protections afforded to them. Claimant has satisfied the prerequisites of the PAGA to serve as a representative of all current or former non-exempt employees who performed work for the Companies in California, including those employed by the Companies, staffing agencies or other third-parties, the general public, and the state of California in order to enforce California labor laws and to seek civil penalties for the provisions set forth herein, as well as those which may be later discovered.

Accordingly, if the LWDA declines to intervene or act within time prescribed by the Labor Code, Claimant may elect to initiate and/or amend a civil action, on behalf of herself and all other current or former non-exempt employees who performed work for the Companies in California, including those hired by the Companies, staffing agencies or other third-parties, as permitted by the PAGA.

Sincerely,

Monique R. Rodriguez

Monique R. Rodriguez

EXHIBIT C

October 19, 2020

Attorneys at Law

3555 Fifth Avenue Suite 200
San Diego, California 92103
619.692.0800 voice
619.692.0822 fax

www.grahamhollis.com

Monique R. Rodriguez
mrodriguez@grahamhollis.com
619.546.4373 direct

VIA ONLINE ELECTRONIC FILING

California Labor and Workforce Development
Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, CA 94612

CERTIFIED MAIL (RETURN RECEIPT)

Combined Employer Services, Inc.
1520 Bridgegate Drive, Suite 108
Diamond Bar, CA 91765

UNIS, LLC
218 Machlin Ct
Walnut, CA 91789

Combined Employer Services, Inc.
c/o Marina Wang, Agent for Service of Process
1520 Bridgegate Drive, Suite 108
Diamond Bar, CA 91765

UNIS, LLC
c/o C T Corporation System, Agent for
Service of Process
818 West Seventh Street, Suite 930
Los Angeles, CA 90017

Lava DS, LLC dba INSTAFF
19745 Colima Rd., #1-283
Rowland, Heights, CA 91748

UNIS Company, Inc.
218 Machlin Ct
Walnut, CA 91789

Lava DS, LLC dba INSTAFF
c/o C T Corporation System, Agent for Service
of Process
818 West Seventh Street, Ste. 930
Los Angeles, CA 90017

UNIS Company, Inc.
c/o C T Corporation System, Agent for
Service of Process
818 West Seventh Street, Suite 930
Los Angeles, CA 90017

Graham S.P. Hollis

Vilmarie Cordero

Nathan Reese

Hali Anderson

David Lin

Erick Dos Santos

Alex Kuner

Monique Rodriguez

Ridgeway J. Woulfe

Re: LWDA-CM-802671-20 - Second Amendment to Bertha Marquez's Wage and Hour Claims Against UNIS Company, Inc., UNIS, LLC, Lava DS, LLC dba INSTAFF, and Combined Employer Services, Inc.

Dear California Labor and Workforce Development Agency, UNIS Company, Inc., UNIS, LLC, Lava DS, LLC and Combined Employer Services, Inc.:

Please be advised that Bertha Marquez ("Claimant") has retained our firm to represent her for various claims against UNIS Company, Inc., UNIS, LLC, Lava DS, LLC dba INSTAFF, and Combined Employer Services, Inc. (the "Companies").

Please be advised that this letter shall serve as Claimant's second amended written notice to the California Labor and Workforce Development Agency ("LWDA") and the Companies of the alleged California Labor Code ("Labor Code") violations Claimant claims that the Companies, individually and collectively, committed against her and all individuals who currently or formerly performed work for the Companies, individually and/or collectively, in California during the relevant statutory period including, but not limited to, those hired by the Companies, staffing agencies or other third-parties. Claimant provides this second amended notice, which includes the facts and theories to support the Labor Code violations alleged herein, in accordance with the Private Attorneys General Act of 2004 (codified in Labor Code §§ 2698 *et seq.*, "PAGA"), Labor Code § 2699.3.

Pursuant to Labor Code § 2699(a), and by way of this second amended notice, Claimant intends to represent herself and all other individuals who currently or formerly performed work for the Companies, individually and/or collectively, in California, including those individuals who were hired by UNIS Company, Inc., UNIS, LLC, Lava DS, LLC dba INSTAFF, Combined Employer Services, Inc., staffing agencies or other third-parties, during the relevant time period (referred to herein as "UNIS Workers"). All UNIS Workers, including Claimant, are believed to have suffered at least one of the Labor Code violations described herein. Claimant therefore contends that she and all other UNIS Workers are "aggrieved employees" as defined by the PAGA.

The original written notice is attached hereto as Exhibit A ("Original Notice") and incorporated herein by reference. The Original Notice was submitted to the LWDA via online upload on August 14, 2020 and sent to UNIS Company, Inc. and UNIS, LLC via certified mail on the same date. The amended written notice is attached hereto as Exhibit B ("Amended Notice") and incorporated herein by reference. The Amended Notice was submitted to the LWDA via online upload on September 25, 2020 and sent to UNIS Company, Inc., UNIS, LLC and Lava DS, LLC dba INSTAFF via certified mail on the same date.

The claims asserted in the Original Notice and in the Amended Notice are asserted on behalf of Claimant and all UNIS Worker against the Companies, individually and collectively. Claimant contends that UNIS Company, Inc., UNIS, LLC, Lava DS, LLC dba INSTAFF, and Combined Employer Services, Inc. are jointly and severally liable for the claims asserted in herein as well as the claims asserted in the Original Notice and Amended Notice.

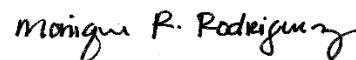
Also, in a separate, but not necessarily mutually exclusive, alternative theory of liability, UNIS Company, Inc., UNIS, LLC, Lava DS, LLC dba INSTAFF, Combined Employer Services, Inc., James Lin the Chief Executive Officer/Director of UNIS Company, Inc., James Lin the Chief Executive Officer/Manager of UNIS, LLC, Alan Yang the Chief Executive Officer/Manager of Lava DS, LLC dba INSTAFF, and Donny Woo the Chief Executive Officer/Chief Financial Officer of Combined Employer Services, Inc., are liable for the PAGA civil penalties under Labor Code § 558 as "other person(s)" who caused the violations alleged herein. See *Atempa v. Pedrazzani* (2018) 27 Cal.App.5th 809, 820 ("if there is evidence and a finding that a party other than the employer 'violates, or causes of be violated' the overtime laws (§ 558(a)), or 'pays or causes to be paid to an employee' less than minimum wage (§ 1197.1(a)), then that party is liable for certain civil penalties regardless of the identity or business structure of the employer"); see also *Moua v. IBM* (N.D. Cal. 2019) 2019 U.S. Dist. LEXIS 40851 (holding the same).

The facts and/or claims contained in this second amended notice, as well as the Original Notice and Amended Notice, are based on the information available at the time of this writing. Since Claimant's investigation is ongoing, Claimant reserves her right to assert any and all related facts, claims, and/or theories discovered after the sending of this second amended notice on behalf of herself and all other individuals who currently or formerly performed work for the Companies, individually or collectively, in California including, but not limited to, those individuals who were hired by UNIS Company, Inc., UNIS, LLC, Lava DS, LLC dba INSTAFF, Combined Employer Staffing, Inc., staffing agencies, other third-parties, and/or other persons that may be discovered after the sending of this amended notice. Such other persons may include, but are not limited to, those persons who have acted as an agent, subsidiary, servant, employee, co-conspirator, alter-ego, and/or joint venture of the Companies, individually and collectively, as well as those persons who caused and/or concurrently contributed to the various acts and/or admissions of each and every one of the others, including the Companies, individually and collectively, in proximately causing the wrongful conduct, harm, and/or damages alleged herein or otherwise participated in or ratified any or all of the acts and/or omissions complained herein, and those who were acting within the authority and/or scope of the Companies, individually and collectively. Claimant reserves the right to modify the facts and/or add any new claims by amending this notice and/or by adding claims to her civil complaint.

Based on the this second amended notice, the Original Notice and the Amended Notice, the Companies, individually and collectively, have violated the Labor Code and IWC Wage Order 9-2001, thereby depriving Claimant and other UNIS Workers of the rights and protections afforded to them. Claimant has satisfied the prerequisites of the PAGA to serve as a representative of all individuals who currently or formerly performed work for the Companies, individually and/or collectively, in California, including those employed by the Companies, staffing agencies or other third-parties, the general public, and the state of California in order to enforce California labor laws and to seek civil penalties for the provisions set forth herein, as well as those which may be later discovered.

Accordingly, if the LWDA declines to intervene or act within time prescribed by the Labor Code, Claimant may elect to initiate and/or amend a civil action, on behalf of herself and all individuals who currently or formerly performed work for the Companies, individually and/or collectively, in California, including those employed by the Companies, staffing agencies or other third-parties, as permitted by the PAGA.

Sincerely,



Monique R. Rodriguez

Enclosures: Exhibit A – Letter to the LWDA, dated August 14, 2020 (“Original Notice”)
 Exhibit B – Amended Letter to the LWDA, dated September 25, 2020 (“Amended Notice”)

EXHIBIT A

EXHIBIT A

August 14, 2020

Attorneys at Law

3555 Fifth Avenue Suite 200
San Diego, California 92103
619.692.0800 voice
619.692.0822 fax

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Monique R. Rodriguez
mrodriguez@grahamhollis.com
619.546.4373 direct

VIA ONLINE ELECTRONIC FILING

California Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, CA 94612

CERTIFIED MAIL (RETURN RECEIPT)

UNIS, LLC
218 Machlin Ct
Walnut, CA 91789

UNIS, LLC
c/o CT Corporation System, Agent for Service of Process
818 West Seventh Street, Suite 930
Los Angeles, CA 90017

UNIS Company, Inc.
218 Machlin Ct
Walnut, CA 91789

UNIS Company, Inc.
c/o CT Corporation System, Agent for Service of Process
818 West Seventh Street, Suite 930
Los Angeles, CA 90017

**Re: Bertha Marquez's Wage and Hour Claims Against UNIS Company, Inc.
and UNIS, LLC**

Dear California Labor and Workforce Development Agency, UNIS Company, Inc., and
UNIS, LLC:

Please be advised that Bertha Marquez ("Claimant") has retained our firm to represent
her for various claims against UNIS Company, Inc. and UNIS, LLC (the "Companies").

Please be advised that this letter shall serve as Claimant's written notice to the
California Labor and Workforce Development Agency ("LWDA") and the Companies
of the alleged California Labor Code ("Labor Code") violations Claimant claims that the
Companies committed against her and all other current or former non-exempt
employees who performed work for the Companies in California during the relevant
statutory period, including those hired by the Companies, staffing agencies or other
third-parties. Claimant provides this notice, which includes the facts and theories to

Graham S.P. Hollis

Vilmarie Cordero

Nathan Reese

Hali Anderson

David Lin

Erick Dos Santos

Alex Kuner

Monique Rodriguez

support the Labor Code violations alleged herein, in accordance with the Private Attorneys General Act of 2004 (codified in Labor Code §§ 2698 *et seq.*, “PAGA”), Labor Code § 2699.3.

Pursuant to Labor Code § 2699(a), and by way of this letter, Claimant intends to represent herself and all other current or former non-exempt employees in California who performed work for the Companies, including those individuals who were hired by UNIS Company, Inc., UNIS, LLC, staffing agencies or other third-parties, during the relevant time period (referred to herein as “UNIS Workers”). All UNIS Workers, including Claimant, are believed to have suffered at least one of the Labor Code violations described herein. Claimant therefore contends that she and all other UNIS Workers are “aggrieved employees” as defined by the PAGA.

FACTUAL BACKGROUND

UNIS Company, Inc. is a professional management company that owns and operates UNIS, LLC and other entities. UNIS Company, Inc. is a third-party logistics provider that unifies the supply chain networks through technology and information services. UNIS Company, Inc. is incorporated in the state of Delaware and is authorized to do business in the state of California. UNIS Company, Inc. has its headquarters in Walnut, California.

UNIS, LLC is a third-party logistics provider which owns and operates several fulfillment and distribution warehouses throughout California, including in Walnut, Fontana, Riverside, City of Industry, and Buena Park. UNIS, LLC is incorporated in the state of Delaware and is authorized to do business in the state of California. UNIS, LLC has its headquarters located in Walnut, California.

UNIS Company, Inc. and UNIS, LLC use staffing agencies and other third-parties to supply its workforce. Claimant contends that the Companies, staffing agencies, and other third-parties are jointly and severally liable for the claims asserted herein. Claimant alleges that at all relevant times, the Companies, staffing agencies, and other third-parties exercised control over the wages, hours and/or working conditions of UNIS Workers, that the Companies, staffing agencies, and other third-parties caused UNIS Workers to work and/or prevent UNIS Workers from working and that the Companies, staffing agencies, and other third-parties had control over UNIS Workers, among other things.

Claimant has been employed by the Companies since 2009 and as of the date of this letter, remains employed by the Companies. Over the course of her employment, Claimant has worked as warehouse lead and customer service representative at the Companies’ fulfillment and distribution warehouses in Walnut, Fontana, Hacienda Heights/Azusa, and Riverside. As a warehouse lead, Claimant’s job duties consist of overseeing the workers in the warehouse, planning and releasing fulfillment orders, ensuring that packing stations complete orders on a timely basis, and maintaining inventory, among other things. As a customer service representative, Claimant’s job duties consist of assisting with the Companies’ fulfillment and distribution orders, maintaining warehouse accounts, and providing excellent customer service, among other things. At all relevant times, Claimant has been classified as a non-exempt employee and is paid an hourly rate of \$16.50 per hour. Claimant typically works five (5) days per week and eight (8) hours each workday, for a total of approximately forty (40) hours per week. The Companies also employed other UNIS Workers throughout the state of California at its fulfillment and distribution warehouses during the relevant statutory period.

Claimant alleges that the Companies denied Claimant and other UNIS Workers specific rights afforded to them under the Labor Code and the applicable Industrial Welfare Commission (“IWC”) Wage Order. Specifically, the Companies failed to provide Claimant and other UNIS Workers with legally compliant meal and/or rest periods or timely pay them meal and/or rest period premiums, failed to timely pay all minimum, regular, and overtime wages for all time worked, failed to timely pay all wages due and owed upon separation of employment, failed to reimburse for necessary business expenses, failed to issue accurate itemized wage statements, and failed to maintain accurate records. Upon information and belief, all policies, practices, guidelines, and/or procedures of the Companies applicable to Claimant were also applicable to all other UNIS Workers during the statutory period.

Claimant asserts that the Companies did not provide her and other UNIS Workers with 30-minute, off-duty meal periods before the start of their sixth hour of work. Claimant also alleges that the Companies did not authorize and permit her, or other UNIS Workers, to take legally compliant off-duty, 10-minute rest periods for every four hours worked or major fraction thereof. Claimant contends that the Companies’ failure to provide UNIS Workers with legally compliant meal and/or rest periods was largely due to the Companies’ policy, practice, procedure, and/or guideline of understaffing its warehouses and not providing sufficient coverage for UNIS Workers to take off-duty meal and/or rest periods. Claimant asserts that she and other UNIS Workers were regularly required to work through their meal and/or rest periods, experienced meal and/or rest periods interrupted by work duties, and/or were not provided with meal and/or rest periods at all. For example, Claimant claims that she, and other UNIS Workers, would often clock-out for their meal period, but continue working on their tasks due to their workload. Furthermore, Claimant was frequently unable to take uninterrupted meal periods and/or rest periods due to the Companies’ policy, practice, procedure and/or guideline of requiring UNIS Workers to carry and monitor a company-issued radio at all times. Additionally, Claimant contends that meal periods were frequently interrupted by work-related tasks, such as drivers arriving at the warehouse to pick-up and/or drop-off shipments, UPS, FedEx and/or other parcel carriers delivering items, as well as interruptions from warehouse employees asking work-related questions, either in person, through a radio call or a phone call and/or text message. Claimant asserts that, per the Companies’ policy, practice, procedure and/or guideline, UNIS Workers are expected to make themselves available at all times for drivers who arrive at the warehouse and are reprimanded if the driver leaves the warehouse without being attended to.

Claimant further asserts that she, as well as other UNIS Workers, were often not provided with a second rest period during their eight-hour shift due to their workload and the Companies’ policy, practice, procedure and/or guideline of not scheduling coverage for UNIS Workers to take uninterrupted meal and/or rest periods. Furthermore, Claimant and other UNIS Workers were consistently directed, forced and/or otherwise pressured to skip their meal and/or rest periods to complete their work duties and to compensate for understaffing issues. On the rare occasion they were able to take a meal and/or rest period, Claimant alleges she, and other UNIS Workers, were required to monitor their radios and/or cell phones, and be readily available to return to work if necessary. In fact, UNIS Workers often experienced interrupted meal and/or rest periods because they were called back to work during their meal and/or rest periods. Claimant alleges she, and other UNIS Workers, were also required to monitor their personal cell phones for calls or text messages, as the Companies would contact them on their personal devices if they did not immediately respond to calls on the company-issued radio. Moreover, Claimant and other UNIS Workers were not provided with a second meal period and/or a third rest period when they worked 10 or more hours in a single work day. As a result of the Companies’ illegal policies practices, procedures

and/or guidelines, Claimant and other UNIS Workers were regularly required to work through their meal and/or rest periods, take interrupted meal and/or rest periods, and/or were not provided with a meal and/or rest period at all. Claimant and, on information and belief, other UNIS Workers did not sign a meal period waiver or an on-duty meal agreement at any point during their employment. Even if Claimant or any UNIS Workers signed any such waivers and/or agreements, they were not applied in accordance with California law.

Although Claimant and other UNIS Workers did not receive legally compliant meal and/or rest periods, the Companies did not pay Claimant and, on information and belief, other UNIS Workers the additional one hour of pay at the employee's regular rate of pay as required under Labor Code § 226.7 and IWC Wage Order No. 9-2001. Therefore, the Companies owe Claimant and, on information and belief, other UNIS Workers a meal and/or rest period premium for each work day that Claimant and other UNIS Workers were not provided with a compliant meal and/or rest period.

Furthermore, Claimant and, on information and belief, other UNIS Workers were not timely paid all minimum, regular, and/or overtime wages for all time worked as a result of the Companies' failure to pay them for the time they spent working through their meal periods. The Companies improperly considered the work Claimant and other UNIS Workers performed during their meal periods as non-compensable time and failed to provide any remuneration. Additionally, Claimant contends, upon information and belief, that she and other UNIS Workers were not paid for the time worked prior to clocking-in at the start of the workday. Claimant contends the Companies have a policy, practice, procedure and/or guideline of requiring UNIS Workers to clock-in at the start of a shift no earlier than five minutes prior to their scheduled start time. However, Claimant alleges that she, as well as other UNIS Workers, are often compelled to begin working earlier than the beginning of their shift and are not paid for the work performed. Moreover, Claimant contends she is often contacted on her personal cellphone by warehouse workers, the Companies' management, and shipment delivery drivers, including UPS and FedEx drivers, when she is not clocked-in. In fact, Claimant continues to receive multiple work-related phone calls on her personal cell phone despite being on a leave of absence. Claimant alleges she, as well as other UNIS Workers, are not paid for the time spent taking work-related calls while off-the-clock. Because UNIS Workers are required to work off-the-clock during meal periods, as well as before the start of their regularly scheduled shift, and are compelled to take work-related phone calls when not clocked-in, the Companies did not timely pay Claimant and other UNIS Workers minimum, regular, and/or overtime wages for all time worked including, but not limited to, when Claimant and other UNIS Workers worked in excess of eight (8) hours in a work day and/or forty (40) hours in a workweek.

Claimant contends, based on information and belief, that the Companies failed to timely pay former UNIS Workers all wages due and owed upon separation of employment, including minimum, regular, and/or overtime wages for all hours worked and/or meal and/or rest period premium wages, as required by Labor Code §§ 201, 202, and 204. Claimant further contends, based on information and belief, that former UNIS Workers were not paid any waiting time penalties as provided under Labor Code § 203.

The Companies also failed to reimburse Claimant and other UNIS Workers for all necessary business expenses that were incurred in the discharge of their job duties. For instance, Claimant and other UNIS Workers were required to use and often used their personal cell phones to monitor incoming calls and text messages from managers and co-workers regarding work-related issues when they did not immediately respond to calls on the company-issued radio. Claimant alleges that other warehouse workers, the

Companies' management, and drivers, including drivers from UPS and FedEx, have her personal cell phone number, and regularly contact her for work-related purposes. Despite requiring UNIS Workers, including Claimant, to use their personal cell phones in the discharge of their work duties, the Companies did not have a policy, practice, procedure and/or guideline of reimbursing its employees. Claimant and other UNIS Workers did not receive any reimbursement for the use of their personal cell phones as required by California law.

Moreover, the wage statements issued by the Companies to UNIS Workers, including Claimant, did not include the correct total regular and/or overtime hours actually worked, the correct amount of gross and/or net wages actually earned, and/or all applicable hourly rates and the corresponding number of hours actually worked at each hourly rate, among other things, as required under Labor Code § 226. The wage statements also did not include the pay period information, the appropriate name and address of the legal entity that employed Claimant and other UNIS Workers.

As a direct result of the Companies' illegal policies, practices, procedures, and/or guidelines, like those described herein, the Companies failed to maintain accurate records reflecting all of Claimant's and other UNIS Worker's actual time worked and actual wages earned and paid, among other things, in violation of California law.

Due to the foregoing Labor Code violations, the Companies denied Claimant and other UNIS Workers certain rights afforded to them under the California Labor Code and IWC Wage Order No. 9-2001. Claimant makes these claims against the Companies on behalf of herself and all other current or former non-exempt employees who performed work for the Companies in California, including employees who were hired through staffing agencies or other third-parties.

The facts and/or claims contained herein are based on the information available at the time of this writing. Since Claimant's investigation is ongoing, Claimant reserves her right to assert any and all related facts, claims and/or theories discovered after the sending of this letter on behalf of herself and the current or former UNIS Workers against the Companies and/or other persons that may be discovered after the sending of this letter. Such other persons include, but are not limited to, those persons who have acted as an agent, subsidiary, servant, employee, co-conspirator, alter-ego, and/or joint venture of the Companies, as well as those persons who caused and/or concurrently contributed to the various acts and/or admissions of each and every one of the others, including the Companies, in proximately causing the wrongful conduct, harm, and/or damages alleged herein or otherwise participated in or ratified any or all of the acts and/or omissions complained of herein, and those who were acting within the authority and/or scope of the Companies. Claimant reserves the right to include other persons and/or revise these facts and/or add any new claims by amending this letter and/or by adding claims to her civil complaint.

**FAILURE TO PROVIDE LEGALLY COMPLIANT MEAL AND/OR REST PERIODS
OR COMPENSATION IN LIEU THEREOF**

(Labor Code §§ 204, 226.7, and 512, and the "Meal Periods" and
"Rest Periods" sections of IWC Wage Order No. 9-2001)

Labor Code § 226.7(b) states, "[a]n employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission..." Labor Code § 226.7(c) states, "[i]f an employer fails to provide

an employee a meal or rest or recovery period in accordance with a state law... the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest or recovery period is not provided."

Labor Code § 512(a) states,

"[a]n employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes" and "[a]n employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes."

The "Meal Periods" section of IWC Wage Order No. 9-2001 states,

"[n]o employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes, except that when a work period of not more than six (6) hours will complete the day's work the meal period may be waived by mutual consent of the employer and the employee."

The "Meal Periods" section of IWC Wage Order No. 9-2001 further states,

"[a]n employer may not employ an employee for a work period of more than ten (10) hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of employer and employee only if the first meal period was not waived."

Furthermore, "[i]f an employer fails to provide an employee a meal period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided."

The "Meal Periods" section of the applicable IWC Wage Order also states,

"[u]nless the employee is relieved of all duty during a 30 minute meal period, the meal period shall be considered an 'on duty' meal period and counted as time worked. An 'on duty' meal period shall be permitted only when the nature of the work prevents an employee from being relieved of all duty and when by written agreement between the parties an on-the-job meal period is agreed to. The written agreement shall state that the employee may, in writing, revoke the agreement at any time."

The "Rest Periods" section of the Applicable IWC Wage Order states,

“[e]very employer shall authorize and permit employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof.”

Furthermore, “[i]f an employer fails to provide an employee a rest period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee’s regular rate of compensation for each workday that the rest period is not provided.”

Premium wages under Labor Code § 226.7 are wages that are due payable in accordance with the Labor Code § 204. *Murphy v. Kenneth Cole Productions, Inc.* (2007) 40 Cal.4th 1094, 1103-1114.

As set forth herein, the Companies failed to provide Claimant and other UNIS Workers with the opportunity to take uninterrupted, off-duty meal periods of at least 30-minutes before the start of their sixth hour of work and/or did not provide the opportunity to take a second legally compliant meal period when they worked more than 10 hours in a single work day. The Companies also did not authorize and permit Claimant and other UNIS Workers to take legally compliant rest periods, as required by California law. Despite not receiving legally compliant meal and/or rest periods, UNIS Workers, including Claimant were not paid the mandated one-hour of premium wages for each day a meal and/or rest period was not provided. Accordingly, Claimant and other UNIS Workers are entitled to receive one-hour of premium wages for each day a meal period was not provided and/or one-hour of premium wages for each day a rest period was not authorized and permitted. Claimant will pursue all available remedies for the Companies’ violations on behalf of herself and other UNIS Workers to the extent allowed by law.

FAILURE TO PAY MINIMUM, REGULAR, AND/OR OVERTIME WAGES

(Labor Code §§ 204, 210, 510, 1194, 1194.2, 1197, 1197.1, 1198, and 1199, and the “Minimum Wages” and “Hours and Days of Work” sections of IWC Wage Order No. 9-2001)

Labor Code § 1197 states, “[t]he minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a less wage than the minimum so fixed is unlawful.”

Labor Code § 1198 states,

“[t]he maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.”

Labor Code § 510 states,

“[e]ight hours of labor constitutes a day’s work. Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and

one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee.”

The “Hours and Days of Work” and “Minimum Wages” sections of IWC Wage Order No. 9-2001 mandates the same requirements as Labor Code § 510.

Labor Code § 204(a) states in pertinent part, “[a]ll wages...earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays.” Furthermore, Labor Code § 204(b)(1) states, “all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period.” The “Minimum Wages” section of the applicable IWC Wage Order also states that “[e]very employer shall pay to each employee, on the established payday for the period involved, not less than the applicable minimum wage for all hours worked in the payroll period, whether the remuneration is measured by time, piece, commission, or otherwise.”

Labor Code § 210 provides that, “every person who fails to pay the wages of an employee as provided in Section...204...shall be subject to a civil penalty” of \$100 for an initial violation and \$200 plus 25% of the amount unlawfully withheld for a subsequent violation.”

Labor Code § 1197.1 provides that,

“[a]ny employer or other person acting either individually or as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or local law or by an order of the commission shall be subject to a civil penalty, restitution of wages, liquidated damages payable to the employee, and any applicable penalties imposed pursuant to Section 203...”

Labor Code § 1199 imposes “a fine of not less than one hundred dollars (\$100)” for any employer who violates the provisions set forth in Labor Code § 1198.

Labor Code § 1194(a) states, “...any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney’s fees, and costs of suit.” Liquidated damages in an amount equal to the minimum wages unlawfully unpaid and interest thereon are provided for under Labor Code § 1194.2.

As set forth above, the Companies required Claimant and other UNIS Workers to work off-the-clock during meal periods without compensation. Furthermore, the Companies did not compensate Claimant and other UNIS Workers for the time spent working off-the-clock prior to starting their scheduled shift. Likewise, the Companies also did not compensate Claimant and other UNIS Workers for the time spent answering work-related phone calls and/or text messages on their personal cellphones while off-the-clock.

The Companies thus failed to timely pay Claimant and, on information and belief, other UNIS Workers all minimum, regular, and/or overtime wages for all hours worked, as required by law. Claimant will pursue all available remedies for the Companies' violations on behalf of herself and other UNIS Workers to the extent allowed by law.

FAILURE TO TIMELY PAY ALL WAGES DUE AND OWING UPON SEPARATION OF EMPLOYMENT

(Labor Code §§ 201, 202, 203, and 210)

Labor Code § 201 states, in pertinent part, "[i]f an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately." Labor Code § 202 provides,

"[i]f an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting."

Labor Code § 203(a) further provides,

"[i]f an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.3, 201.5, 201.9, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefore is commenced; but the wages shall not continue for more than 30 days."

Labor Code § 210 mandates that, "... every person who fails to pay the wages of an employee as provided in Sections 201.3...shall be subject to a civil penalty" of \$100 for an initial violation and \$200 plus 25% of the amount unlawfully withheld for a subsequent violation.

As set forth above, the Companies violated these Labor Code sections by not timely paying former UNIS Workers all minimum, regular, and/or overtime wages for all time worked and/or meal and/or rest period premium wages within the required time upon separation of their employment. To date, the Companies have also not paid the required waiting time penalties for its failure to pay for such wages. As a result of the Companies' failure to comply with the aforementioned Labor Code provisions, the Companies owe waiting time penalties to former UNIS Workers, which the Companies have not yet paid. Claimant will pursue all available remedies for the Companies' violations on behalf of former UNIS Workers to the extent allowed by law.

FAILURE TO REIMBURSE FOR NECESSARY BUSINESS EXPENSES

(Labor Code § 2802)

Labor Code § 2802(a) provides in pertinent part, "[a]n 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."

Labor Code § 2802(b) states, “[a]ll awards made by a court or by the Division of Labor Standards Enforcement for reimbursement of necessary expenditures under this section shall carry interest at the same rate as judgments in civil actions. Interest shall accrue from the date on which the employee incurred the necessary expenditure or loss.” Accordingly, Claimant will request that she receives interest on the applicable amount.

Furthermore, Labor Code § 2802(c) states, “[f]or purposes of this section, the term ‘necessary expenditures or losses’ shall include all reasonable costs, including, but not limited to, attorney’s fees incurred by the employee enforcing the rights granted by this section.” Consequently, Claimant will also request reimbursement of the attorney’s fees incurred in pursuing this matter.

As set forth above, the Companies required Claimant and other UNIS Workers to use their personal cell phones in the discharge of their work duties without reimbursement in violation of California law. Claimant will pursue all available remedies for the Companies’ violations on behalf of herself and other UNIS Workers to the extent allowed by law.

FAILURE TO FURNISH ACCURATE ITEMIZED WAGE STATEMENTS

(Labor Code §§ 226 and 226.3, and the “Records” section of IWC Wage Order No. 9-2001)

Labor Code § 226(a) states, in pertinent part, that every employer shall provide an accurate, itemized wage statement in writing with respect to each of its employees showing: “(1) gross wages earned, (2) total hours worked by the employee, ..., (5) net wages earned, ..., and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.”

Labor Code § 226(e) imposes a penalty of the greater of all actual damages or \$50 for the initial pay period in which a violation occurs and \$100 per employee for each violation in a subsequent pay period, not exceeding an aggregate penalty of \$4,000, and entitles an employee to an award of costs and reasonable attorney’s fees. Labor Code § 226.3 imposes an additional civil penalty on the employer of \$250.00 per employee per violation of Labor Code § 226(a) in an initial citation and \$1,000 per employee for each violation in a subsequent citation.

As set forth above, the Companies failed to provide Claimant and other UNIS Workers with accurate itemized wage statements that comply with the requirements of the Labor Code because the wage statements furnished did not, among other things, include the correct total regular and/or overtime hours actually worked, the correct amount of gross and/or net wages actually earned, and/or all applicable hourly rates and the corresponding number of hours worked at each hourly rate. Specifically, Claimant noticed several times that her wage statements did not reflect the correct number of hours she actually worked, as recorded on her timecards. Claimant will pursue all available remedies for the Companies’ violations on behalf of herself and other UNIS Workers to the extent allowed by law.

FAILURE TO MAINTAIN ACCURATE RECORDS

(Labor Code §§ 226, 1174 and 1174.5, and the “Records” section of IWC Wage Order No. 9-2001)

Labor Code § 1174 states, “[e]very person employing labor in this state shall... [k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records

showing the hours worked daily by and the wages paid to, ..., employees employed at the respective plants or establishments.” See also Labor Code § 226(a).

The “Records” section of IWC Wage Order No. 9-2001 states that every employer shall keep accurate information with respect to each one of its employees, including time records showing when the employee begins and ends each work period, meal periods, total daily hours worked, total wages paid each payroll period, and total hours worked in the payroll period and applicable rates of pay.

Labor Code § 1174.5 imposes a civil penalty of \$500 for an employer’s failure to maintain accurate and complete records. This civil penalty is in addition to the civil penalty of \$100 per pay period, per aggrieved employee that would be imposed pursuant to Labor Code § 2699 for a violation of Labor Code § 1174(d).

Labor Code § 226(e)(1) provides,

“[a]n employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) [of Labor Code § 226] is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney’s fees.”

As set forth above, the Companies violated these requirements by failing to accurately record employee hours actually worked including, but not limited to, the Companies’ failure to record the proper beginning and end of each work period, the meal periods, the total hours worked during the pay period, the applicable rates of pay, and the wages earned and paid, among other things. Claimant will pursue all available remedies for the Companies’ violations on behalf of herself and other UNIS Workers to the extent allowed by law.

CIVIL PENALTIES FOR VIOLATION OF THE LABOR CODE AND IWC WAGE ORDERS

(Labor Code §§ 210, 226.3, 558, 1174.5, 1197.1, and 2699(f))

Labor Code § 210 provides that any person who fails to pay wages as provided in sections 201.3, 204, 204(b), 204.1, 204.2, 205, 205.5 and 1197.5 shall be subject to a civil penalty of \$100 for any initial violation for each failure to pay each employee and for each subsequent violation, or any willful or intentional violation \$200 for each failure to pay each employee, plus 25 % if the amount unlawfully withheld, in addition to any other penalty.

For violations of Labor Code § 226(a), Labor Code § 226.3 imposes a civil penalty of \$250 per employee per violation in an initial citation and \$1,000 per employee for each violation in a subsequent citation.

Labor Code § 558 subjects any employer or any person acting on behalf of an employer who violates Labor Code Part 2, Chapter 1, of the Labor Code (Labor Code §§ 500-558), or any provision regulating the hours and days of work in any IWC Wage Order, to a civil penalty as follows: “[f]or any initial

violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid. For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid.”

For violations of Labor Code § 1174 subdivisions (b), (c), and (d), Labor Code § 1174.5 imposes a civil penalty of \$500.

Similarly, Labor Code § 1197.1 subjects any employer or other person acting either individually or as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or local law, or by an order of the commission to a civil penalty, restitution of wages, liquidated damages payable to the employee, and any applicable penalties imposed pursuant to § 203 as follows:

“(1) For any initial violation that is intentionally committed, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee is underpaid. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to § 1194.2, and any applicable penalties imposed pursuant to § 203. (2) For each subsequent violation for the same specific offense, two hundred fifty dollars (\$250) for each underpaid employee for each pay period for which the employee is underpaid regardless of whether the initial violation is intentionally committed. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to § 1194.2, and any applicable penalties imposed pursuant to § 203. (3) Wages, liquidated damages, and any applicable penalties imposed pursuant to § 203, recovered pursuant to this section shall be paid to the affected employee.”

Labor Code § 2699(f) imposes a civil penalty of \$100 per pay period, per employee for the initial violation and \$200 per pay period, per employee for each subsequent violation for all Labor Code provisions for which a civil penalty is not specifically provided, including, but not limited to, Labor Code §§ 201, 202, 203, 204, 210, 226(a), 226.7, 510, 512, 1174(c), 1174(d), 1194, 1197, 1197.1, 1198, 1199, 2802, and relevant IWC Wage Orders.

As set forth above, the Companies violated the Labor Code and IWC Wage Order 9-2001 by, among other things, failing to timely pay Claimant and UNIS Workers all regular, minimum, and/or overtime wages, and/or meal and rest period premium wages, as required under the Labor Code and the applicable sections of IWC Wage Order 9-2001. As a result, the Companies are liable for civil penalties under the Labor Code and Claimant will pursue all available remedies including, but not limited to, those stated herein, for the Companies’ violations on behalf of herself and other UNIS Workers to the extent allowed by law.

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ATTORNEY'S FEES, COSTS, INTEREST, LIQUIDATED DAMAGES AND PENALTIES

(Labor Code §§ 210, 218.5, 218.6, 226(e), 558, 1194, 1194.2, 1197.1, 2802, and 2698, *et seq.*)

Labor Code §§ 210, 218.5, 218.6, 225.5, 226(e), 558, 1194, 1194.2, 1197.1, 1198.5, 2802, and 2698, *et seq.*, among others, give employees the right to recover in a civil action the full amount of damages, liquidated damages and penalties, including interest thereon, as well as reasonable attorney's fees and costs.

Under Labor Code § 2699(g)(1), an aggrieved employee, such as Claimant, is entitled to an award of reasonable attorneys' fees and costs. Claimant has already incurred actual damages, costs and attorney's fees and she will continue to incur such as a result of the Companies' unlawful actions. Claimant will pursue all available remedies including, but not limited to, those provided by the PAGA, on behalf of herself and other UNIS Workers to the extent permitted by law for the violations of law described herein and those later discovered.

CONCLUSION

Based on the foregoing, the Companies have violated the Labor Code and IWC Wage Order 9-2001, thereby depriving Claimant and other UNIS Workers of the rights and protections afforded to them. Claimant has satisfied the prerequisites of the PAGA to serve as a representative of all current or former non-exempt employees who performed work for the Companies in California, including those employed by the Companies, staffing agencies or other third-parties, the general public, and the state of California in order to enforce California labor laws and to seek civil penalties for the provisions set forth herein, as well as those which may be later discovered.

Accordingly, if the LWDA declines to intervene or act within time prescribed by the Labor Code, Claimant may elect to initiate and/or amend a civil action, on behalf of herself and all other current or former non-exempt employees who performed work for the Companies in California, including those hired by the Companies, staffing agencies or other third-parties, as permitted by the PAGA.

Sincerely,

Monique R. Rodriguez

Monique R. Rodriguez

EXHIBIT B

EXHIBIT B

September 25, 2020

Attorneys at Law

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VIA ONLINE ELECTRONIC FILING

California Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, CA 94612

CERTIFIED MAIL (RETURN RECEIPT)

INSTAFF
19745 Colima Rd., Ste. 1 #283
Rowland, Heights, CA 91748

UNIS, LLC
218 Machlin Ct
Walnut, CA 91789

UNIS, LLC
c/o CT Corporation System, Agent for Service of Process
818 West Seventh Street, Suite 930
Los Angeles, CA 90017

UNIS Company, Inc.
218 Machlin Ct
Walnut, CA 91789

UNIS Company, Inc.
c/o CT Corporation System, Agent for Service of Process
818 West Seventh Street, Suite 930
Los Angeles, CA 90017

Graham S.P. Hollis

Vilmarie Cordero

Nathan Reese

Hali Anderson

David Lin

Erick Dos Santos

Alex Kuner

Monique Rodriguez

Re: Amendment to Bertha Marquez's Wage and Hour Claims Against UNIS Company, Inc., UNIS, LLC, and INSTAFF

Dear California Labor and Workforce Development Agency, UNIS Company, Inc., UNIS, LLC and INSTAFF:

Please be advised that Bertha Marquez ("Claimant") has retained our firm to represent her for various claims against UNIS Company, Inc., UNIS, LLC, and INSTAFF (the "Companies").

Please be advised that this letter shall serve as Claimant's amended written notice to the California Labor and Workforce Development Agency ("LWDA") and the Companies

of the alleged California Labor Code (“Labor Code”) violations Claimant claims that the Companies, individually and collectively, committed against her and all individuals who currently or formerly performed work for the Companies, individually and/or collectively, in California during the relevant statutory period including, but not limited to, those hired by the Companies, staffing agencies or other third-parties. Claimant provides this amended notice, which includes the facts and theories to support the Labor Code violations alleged herein, in accordance with the Private Attorneys General Act of 2004 (codified in Labor Code §§ 2698 *et seq.*, “PAGA”), Labor Code § 2699.3.

Pursuant to Labor Code § 2699(a), and by way of this amended notice, Claimant intends to represent herself and all other individuals who currently or formerly performed work for the Companies, individually and/or collectively, in California, including those individuals who were hired by UNIS Company, Inc., UNIS, LLC, INSTAFF, staffing agencies or other third-parties, during the relevant time period (referred to herein as “UNIS Workers”). All UNIS Workers, including Claimant, are believed to have suffered at least one of the Labor Code violations described herein. Claimant therefore contends that she and all other UNIS Workers are “aggrieved employees” as defined by the PAGA.

The original written notice is attached hereto as Exhibit A (“Original Notice”) and incorporated herein by reference. The claims in the Original Notice are asserted on behalf of Claimant and all UNIS Workers against the Companies, individually and collectively. The Original Notice was submitted to the LWDA via online upload on August 14, 2020 and sent to UNIS Company, Inc. and UNIS, LLC via certified mail on the same date.

Also, in a separate, but not necessarily mutually exclusive, alternative theory of liability, the Companies, jointly and severally, and the Chief Executive Officer/Director/Manager James Lin, are liable for the PAGA civil penalties under Labor Code § 558 as “other person(s)” who caused the violations alleged herein. See *Atempa v. Pedrazzani* (2018) 27 Cal.App.5th 809, 820 (“if there is evidence and a finding that a party other than the employer ‘violates, or causes of be violated’ the overtime laws (§ 558(a)), or ‘pays or causes to be paid to an employee’ less than minimum wage (§ 1197.1(a)), then that party is liable for certain civil penalties regardless of the identity or business structure of the employer”); see also *Moua v. IBM* (N.D. Cal. 2019) 2019 U.S. Dist. LEXIS 40851 (holding the same).

The facts and/or claims contained in this amended notice, as well as the Original Notice, are based on the information available at the time of this writing. Since Claimant’s investigation is ongoing, Claimant reserves her right to assert any and all related facts, claims, and/or theories discovered after the sending of this amended notice on behalf of herself and all other individuals who currently or formerly performed work for the Companies, individually or collectively, in California including, but not limited to, those individuals who were hired by UNIS Company, Inc., UNIS, LLC, INSTAFF, staffing agencies, other third-parties, and/or other persons that may be discovered after the sending of this amended notice. Such other persons may include, but are not limited to, those persons who have acted as an agent, subsidiary, servant, employee, co-conspirator, alter-ego, and/or joint venture of the Companies, individually and collectively, as well as those persons who caused and/or concurrently contributed to the various acts and/or admissions of each and every one of the others, including the Companies, individually and collectively, in proximately causing the wrongful conduct, harm, and/or damages alleged herein or otherwise participated in or ratified

CA Labor and Workforce Development Agency
UNIS Company, Inc.
UNIS, LLC
INSTAFF
September 25, 2020
Page 3



any or all of the acts and/or omissions complained herein, and those who were acting within the authority and/or scope of the Companies, individually and collectively. Claimant reserves the right to modify the facts and/or add any new claims by amending this notice and/or by adding claims to her civil complaint.

Based on the this amended notice and the Original Notice, the Companies, individually and collectively, have violated the Labor Code and IWC Wage Order 9-2001, thereby depriving Claimant and other UNIS Workers of the rights and protections afforded to them. Claimant has satisfied the prerequisites of the PAGA to serve as a representative of all individuals who currently or formerly performed work for the Companies, individually and/or collectively, in California, including those employed by the Companies, staffing agencies or other third-parties, the general public, and the state of California in order to enforce California labor laws and to seek civil penalties for the provisions set forth herein, as well as those which may be later discovered.

Accordingly, if the LWDA declines to intervene or act within time prescribed by the Labor Code, Claimant may elect to initiate and/or amend a civil action, on behalf of herself and all individuals who currently or formerly performed work for the Companies, individually and/or collectively, in California, including those employed by the Companies, staffing agencies or other third-parties, as permitted by the PAGA.

Sincerely,

A handwritten signature in black ink that reads 'Monique R. Rodriguez'. The signature is written in a cursive, flowing style.

Monique R. Rodriguez

Enclosure: Exhibit A – Letter to the LWDA, dated August 14, 2020 (“Original Notice”)

EXHIBIT A

EXHIBIT A

August 14, 2020

Attorneys at Law

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UNIS Company, Inc.
c/o CT Corporation System, Agent for Service of Process
818 West Seventh Street, Suite 930
Los Angeles, CA 90017

**Re: Bertha Marquez's Wage and Hour Claims Against UNIS Company, Inc.
and UNIS, LLC**

Dear California Labor and Workforce Development Agency, UNIS Company, Inc., and
UNIS, LLC:

Please be advised that Bertha Marquez ("Claimant") has retained our firm to represent
her for various claims against UNIS Company, Inc. and UNIS, LLC (the "Companies").

Please be advised that this letter shall serve as Claimant's written notice to the
California Labor and Workforce Development Agency ("LWDA") and the Companies
of the alleged California Labor Code ("Labor Code") violations Claimant claims that the
Companies committed against her and all other current or former non-exempt
employees who performed work for the Companies in California during the relevant
statutory period, including those hired by the Companies, staffing agencies or other
third-parties. Claimant provides this notice, which includes the facts and theories to

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Monique Rodriguez

support the Labor Code violations alleged herein, in accordance with the Private Attorneys General Act of 2004 (codified in Labor Code §§ 2698 *et seq.*, “PAGA”), Labor Code § 2699.3.

Pursuant to Labor Code § 2699(a), and by way of this letter, Claimant intends to represent herself and all other current or former non-exempt employees in California who performed work for the Companies, including those individuals who were hired by UNIS Company, Inc., UNIS, LLC, staffing agencies or other third-parties, during the relevant time period (referred to herein as “UNIS Workers”). All UNIS Workers, including Claimant, are believed to have suffered at least one of the Labor Code violations described herein. Claimant therefore contends that she and all other UNIS Workers are “aggrieved employees” as defined by the PAGA.

FACTUAL BACKGROUND

UNIS Company, Inc. is a professional management company that owns and operates UNIS, LLC and other entities. UNIS Company, Inc. is a third-party logistics provider that unifies the supply chain networks through technology and information services. UNIS Company, Inc. is incorporated in the state of Delaware and is authorized to do business in the state of California. UNIS Company, Inc. has its headquarters in Walnut, California.

UNIS, LLC is a third-party logistics provider which owns and operates several fulfillment and distribution warehouses throughout California, including in Walnut, Fontana, Riverside, City of Industry, and Buena Park. UNIS, LLC is incorporated in the state of Delaware and is authorized to do business in the state of California. UNIS, LLC has its headquarters located in Walnut, California.

UNIS Company, Inc. and UNIS, LLC use staffing agencies and other third-parties to supply its workforce. Claimant contends that the Companies, staffing agencies, and other third-parties are jointly and severally liable for the claims asserted herein. Claimant alleges that at all relevant times, the Companies, staffing agencies, and other third-parties exercised control over the wages, hours and/or working conditions of UNIS Workers, that the Companies, staffing agencies, and other third-parties caused UNIS Workers to work and/or prevent UNIS Workers from working and that the Companies, staffing agencies, and other third-parties had control over UNIS Workers, among other things.

Claimant has been employed by the Companies since 2009 and as of the date of this letter, remains employed by the Companies. Over the course of her employment, Claimant has worked as warehouse lead and customer service representative at the Companies’ fulfillment and distribution warehouses in Walnut, Fontana, Hacienda Heights/Azusa, and Riverside. As a warehouse lead, Claimant’s job duties consist of overseeing the workers in the warehouse, planning and releasing fulfillment orders, ensuring that packing stations complete orders on a timely basis, and maintaining inventory, among other things. As a customer service representative, Claimant’s job duties consist of assisting with the Companies’ fulfillment and distribution orders, maintaining warehouse accounts, and providing excellent customer service, among other things. At all relevant times, Claimant has been classified as a non-exempt employee and is paid an hourly rate of \$16.50 per hour. Claimant typically works five (5) days per week and eight (8) hours each workday, for a total of approximately forty (40) hours per week. The Companies also employed other UNIS Workers throughout the state of California at its fulfillment and distribution warehouses during the relevant statutory period.

Claimant alleges that the Companies denied Claimant and other UNIS Workers specific rights afforded to them under the Labor Code and the applicable Industrial Welfare Commission (“IWC”) Wage Order. Specifically, the Companies failed to provide Claimant and other UNIS Workers with legally compliant meal and/or rest periods or timely pay them meal and/or rest period premiums, failed to timely pay all minimum, regular, and overtime wages for all time worked, failed to timely pay all wages due and owed upon separation of employment, failed to reimburse for necessary business expenses, failed to issue accurate itemized wage statements, and failed to maintain accurate records. Upon information and belief, all policies, practices, guidelines, and/or procedures of the Companies applicable to Claimant were also applicable to all other UNIS Workers during the statutory period.

Claimant asserts that the Companies did not provide her and other UNIS Workers with 30-minute, off-duty meal periods before the start of their sixth hour of work. Claimant also alleges that the Companies did not authorize and permit her, or other UNIS Workers, to take legally compliant off-duty, 10-minute rest periods for every four hours worked or major fraction thereof. Claimant contends that the Companies’ failure to provide UNIS Workers with legally compliant meal and/or rest periods was largely due to the Companies’ policy, practice, procedure, and/or guideline of understaffing its warehouses and not providing sufficient coverage for UNIS Workers to take off-duty meal and/or rest periods. Claimant asserts that she and other UNIS Workers were regularly required to work through their meal and/or rest periods, experienced meal and/or rest periods interrupted by work duties, and/or were not provided with meal and/or rest periods at all. For example, Claimant claims that she, and other UNIS Workers, would often clock-out for their meal period, but continue working on their tasks due to their workload. Furthermore, Claimant was frequently unable to take uninterrupted meal periods and/or rest periods due to the Companies’ policy, practice, procedure and/or guideline of requiring UNIS Workers to carry and monitor a company-issued radio at all times. Additionally, Claimant contends that meal periods were frequently interrupted by work-related tasks, such as drivers arriving at the warehouse to pick-up and/or drop-off shipments, UPS, FedEx and/or other parcel carriers delivering items, as well as interruptions from warehouse employees asking work-related questions, either in person, through a radio call or a phone call and/or text message. Claimant asserts that, per the Companies’ policy, practice, procedure and/or guideline, UNIS Workers are expected to make themselves available at all times for drivers who arrive at the warehouse and are reprimanded if the driver leaves the warehouse without being attended to.

Claimant further asserts that she, as well as other UNIS Workers, were often not provided with a second rest period during their eight-hour shift due to their workload and the Companies’ policy, practice, procedure and/or guideline of not scheduling coverage for UNIS Workers to take uninterrupted meal and/or rest periods. Furthermore, Claimant and other UNIS Workers were consistently directed, forced and/or otherwise pressured to skip their meal and/or rest periods to complete their work duties and to compensate for understaffing issues. On the rare occasion they were able to take a meal and/or rest period, Claimant alleges she, and other UNIS Workers, were required to monitor their radios and/or cell phones, and be readily available to return to work if necessary. In fact, UNIS Workers often experienced interrupted meal and/or rest periods because they were called back to work during their meal and/or rest periods. Claimant alleges she, and other UNIS Workers, were also required to monitor their personal cell phones for calls or text messages, as the Companies would contact them on their personal devices if they did not immediately respond to calls on the company-issued radio. Moreover, Claimant and other UNIS Workers were not provided with a second meal period and/or a third rest period when they worked 10 or more hours in a single work day. As a result of the Companies’ illegal policies practices, procedures

and/or guidelines, Claimant and other UNIS Workers were regularly required to work through their meal and/or rest periods, take interrupted meal and/or rest periods, and/or were not provided with a meal and/or rest period at all. Claimant and, on information and belief, other UNIS Workers did not sign a meal period waiver or an on-duty meal agreement at any point during their employment. Even if Claimant or any UNIS Workers signed any such waivers and/or agreements, they were not applied in accordance with California law.

Although Claimant and other UNIS Workers did not receive legally compliant meal and/or rest periods, the Companies did not pay Claimant and, on information and belief, other UNIS Workers the additional one hour of pay at the employee's regular rate of pay as required under Labor Code § 226.7 and IWC Wage Order No. 9-2001. Therefore, the Companies owe Claimant and, on information and belief, other UNIS Workers a meal and/or rest period premium for each work day that Claimant and other UNIS Workers were not provided with a compliant meal and/or rest period.

Furthermore, Claimant and, on information and belief, other UNIS Workers were not timely paid all minimum, regular, and/or overtime wages for all time worked as a result of the Companies' failure to pay them for the time they spent working through their meal periods. The Companies improperly considered the work Claimant and other UNIS Workers performed during their meal periods as non-compensable time and failed to provide any remuneration. Additionally, Claimant contends, upon information and belief, that she and other UNIS Workers were not paid for the time worked prior to clocking-in at the start of the workday. Claimant contends the Companies have a policy, practice, procedure and/or guideline of requiring UNIS Workers to clock-in at the start of a shift no earlier than five minutes prior to their scheduled start time. However, Claimant alleges that she, as well as other UNIS Workers, are often compelled to begin working earlier than the beginning of their shift and are not paid for the work performed. Moreover, Claimant contends she is often contacted on her personal cellphone by warehouse workers, the Companies' management, and shipment delivery drivers, including UPS and FedEx drivers, when she is not clocked-in. In fact, Claimant continues to receive multiple work-related phone calls on her personal cell phone despite being on a leave of absence. Claimant alleges she, as well as other UNIS Workers, are not paid for the time spent taking work-related calls while off-the-clock. Because UNIS Workers are required to work off-the-clock during meal periods, as well as before the start of their regularly scheduled shift, and are compelled to take work-related phone calls when not clocked-in, the Companies did not timely pay Claimant and other UNIS Workers minimum, regular, and/or overtime wages for all time worked including, but not limited to, when Claimant and other UNIS Workers worked in excess of eight (8) hours in a work day and/or forty (40) hours in a workweek.

Claimant contends, based on information and belief, that the Companies failed to timely pay former UNIS Workers all wages due and owed upon separation of employment, including minimum, regular, and/or overtime wages for all hours worked and/or meal and/or rest period premium wages, as required by Labor Code §§ 201, 202, and 204. Claimant further contends, based on information and belief, that former UNIS Workers were not paid any waiting time penalties as provided under Labor Code § 203.

The Companies also failed to reimburse Claimant and other UNIS Workers for all necessary business expenses that were incurred in the discharge of their job duties. For instance, Claimant and other UNIS Workers were required to use and often used their personal cell phones to monitor incoming calls and text messages from managers and co-workers regarding work-related issues when they did not immediately respond to calls on the company-issued radio. Claimant alleges that other warehouse workers, the

Companies' management, and drivers, including drivers from UPS and FedEx, have her personal cell phone number, and regularly contact her for work-related purposes. Despite requiring UNIS Workers, including Claimant, to use their personal cell phones in the discharge of their work duties, the Companies did not have a policy, practice, procedure and/or guideline of reimbursing its employees. Claimant and other UNIS Workers did not receive any reimbursement for the use of their personal cell phones as required by California law.

Moreover, the wage statements issued by the Companies to UNIS Workers, including Claimant, did not include the correct total regular and/or overtime hours actually worked, the correct amount of gross and/or net wages actually earned, and/or all applicable hourly rates and the corresponding number of hours actually worked at each hourly rate, among other things, as required under Labor Code § 226. The wage statements also did not include the pay period information, the appropriate name and address of the legal entity that employed Claimant and other UNIS Workers.

As a direct result of the Companies' illegal policies, practices, procedures, and/or guidelines, like those described herein, the Companies failed to maintain accurate records reflecting all of Claimant's and other UNIS Worker's actual time worked and actual wages earned and paid, among other things, in violation of California law.

Due to the foregoing Labor Code violations, the Companies denied Claimant and other UNIS Workers certain rights afforded to them under the California Labor Code and IWC Wage Order No. 9-2001. Claimant makes these claims against the Companies on behalf of herself and all other current or former non-exempt employees who performed work for the Companies in California, including employees who were hired through staffing agencies or other third-parties.

The facts and/or claims contained herein are based on the information available at the time of this writing. Since Claimant's investigation is ongoing, Claimant reserves her right to assert any and all related facts, claims and/or theories discovered after the sending of this letter on behalf of herself and the current or former UNIS Workers against the Companies and/or other persons that may be discovered after the sending of this letter. Such other persons include, but are not limited to, those persons who have acted as an agent, subsidiary, servant, employee, co-conspirator, alter-ego, and/or joint venture of the Companies, as well as those persons who caused and/or concurrently contributed to the various acts and/or admissions of each and every one of the others, including the Companies, in proximately causing the wrongful conduct, harm, and/or damages alleged herein or otherwise participated in or ratified any or all of the acts and/or omissions complained of herein, and those who were acting within the authority and/or scope of the Companies. Claimant reserves the right to include other persons and/or revise these facts and/or add any new claims by amending this letter and/or by adding claims to her civil complaint.

**FAILURE TO PROVIDE LEGALLY COMPLIANT MEAL AND/OR REST PERIODS
OR COMPENSATION IN LIEU THEREOF**

(Labor Code §§ 204, 226.7, and 512, and the "Meal Periods" and
"Rest Periods" sections of IWC Wage Order No. 9-2001)

Labor Code § 226.7(b) states, "[a]n employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission..." Labor Code § 226.7(c) states, "[i]f an employer fails to provide

an employee a meal or rest or recovery period in accordance with a state law... the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest or recovery period is not provided."

Labor Code § 512(a) states,

"[a]n employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes" and "[a]n employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes."

The "Meal Periods" section of IWC Wage Order No. 9-2001 states,

"[n]o employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes, except that when a work period of not more than six (6) hours will complete the day's work the meal period may be waived by mutual consent of the employer and the employee."

The "Meal Periods" section of IWC Wage Order No. 9-2001 further states,

"[a]n employer may not employ an employee for a work period of more than ten (10) hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of employer and employee only if the first meal period was not waived."

Furthermore, "[i]f an employer fails to provide an employee a meal period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided."

The "Meal Periods" section of the applicable IWC Wage Order also states,

"[u]nless the employee is relieved of all duty during a 30 minute meal period, the meal period shall be considered an 'on duty' meal period and counted as time worked. An 'on duty' meal period shall be permitted only when the nature of the work prevents an employee from being relieved of all duty and when by written agreement between the parties an on-the-job meal period is agreed to. The written agreement shall state that the employee may, in writing, revoke the agreement at any time."

The "Rest Periods" section of the Applicable IWC Wage Order states,

“[e]very employer shall authorize and permit employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof.”

Furthermore, “[i]f an employer fails to provide an employee a rest period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee’s regular rate of compensation for each workday that the rest period is not provided.”

Premium wages under Labor Code § 226.7 are wages that are due payable in accordance with the Labor Code § 204. *Murphy v. Kenneth Cole Productions, Inc.* (2007) 40 Cal.4th 1094, 1103-1114.

As set forth herein, the Companies failed to provide Claimant and other UNIS Workers with the opportunity to take uninterrupted, off-duty meal periods of at least 30-minutes before the start of their sixth hour of work and/or did not provide the opportunity to take a second legally compliant meal period when they worked more than 10 hours in a single work day. The Companies also did not authorize and permit Claimant and other UNIS Workers to take legally compliant rest periods, as required by California law. Despite not receiving legally compliant meal and/or rest periods, UNIS Workers, including Claimant were not paid the mandated one-hour of premium wages for each day a meal and/or rest period was not provided. Accordingly, Claimant and other UNIS Workers are entitled to receive one-hour of premium wages for each day a meal period was not provided and/or one-hour of premium wages for each day a rest period was not authorized and permitted. Claimant will pursue all available remedies for the Companies’ violations on behalf of herself and other UNIS Workers to the extent allowed by law.

FAILURE TO PAY MINIMUM, REGULAR, AND/OR OVERTIME WAGES

(Labor Code §§ 204, 210, 510, 1194, 1194.2, 1197, 1197.1, 1198, and 1199, and the “Minimum Wages” and “Hours and Days of Work” sections of IWC Wage Order No. 9-2001)

Labor Code § 1197 states, “[t]he minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a less wage than the minimum so fixed is unlawful.”

Labor Code § 1198 states,

“[t]he maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.”

Labor Code § 510 states,

“[e]ight hours of labor constitutes a day’s work. Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and

one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee.”

The “Hours and Days of Work” and “Minimum Wages” sections of IWC Wage Order No. 9-2001 mandates the same requirements as Labor Code § 510.

Labor Code § 204(a) states in pertinent part, “[a]ll wages...earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays.” Furthermore, Labor Code § 204(b)(1) states, “all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period.” The “Minimum Wages” section of the applicable IWC Wage Order also states that “[e]very employer shall pay to each employee, on the established payday for the period involved, not less than the applicable minimum wage for all hours worked in the payroll period, whether the remuneration is measured by time, piece, commission, or otherwise.”

Labor Code § 210 provides that, “every person who fails to pay the wages of an employee as provided in Section...204...shall be subject to a civil penalty” of \$100 for an initial violation and \$200 plus 25% of the amount unlawfully withheld for a subsequent violation.”

Labor Code § 1197.1 provides that,

“[a]ny employer or other person acting either individually or as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or local law or by an order of the commission shall be subject to a civil penalty, restitution of wages, liquidated damages payable to the employee, and any applicable penalties imposed pursuant to Section 203...”

Labor Code § 1199 imposes “a fine of not less than one hundred dollars (\$100)” for any employer who violates the provisions set forth in Labor Code § 1198.

Labor Code § 1194(a) states, “...any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney’s fees, and costs of suit.” Liquidated damages in an amount equal to the minimum wages unlawfully unpaid and interest thereon are provided for under Labor Code § 1194.2.

As set forth above, the Companies required Claimant and other UNIS Workers to work off-the-clock during meal periods without compensation. Furthermore, the Companies did not compensate Claimant and other UNIS Workers for the time spent working off-the-clock prior to starting their scheduled shift. Likewise, the Companies also did not compensate Claimant and other UNIS Workers for the time spent answering work-related phone calls and/or text messages on their personal cellphones while off-the-clock.

The Companies thus failed to timely pay Claimant and, on information and belief, other UNIS Workers all minimum, regular, and/or overtime wages for all hours worked, as required by law. Claimant will pursue all available remedies for the Companies' violations on behalf of herself and other UNIS Workers to the extent allowed by law.

FAILURE TO TIMELY PAY ALL WAGES DUE AND OWING UPON SEPARATION OF EMPLOYMENT

(Labor Code §§ 201, 202, 203, and 210)

Labor Code § 201 states, in pertinent part, "[i]f an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately." Labor Code § 202 provides,

"[i]f an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting."

Labor Code § 203(a) further provides,

"[i]f an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.3, 201.5, 201.9, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefore is commenced; but the wages shall not continue for more than 30 days."

Labor Code § 210 mandates that, "... every person who fails to pay the wages of an employee as provided in Sections 201.3...shall be subject to a civil penalty" of \$100 for an initial violation and \$200 plus 25% of the amount unlawfully withheld for a subsequent violation.

As set forth above, the Companies violated these Labor Code sections by not timely paying former UNIS Workers all minimum, regular, and/or overtime wages for all time worked and/or meal and/or rest period premium wages within the required time upon separation of their employment. To date, the Companies have also not paid the required waiting time penalties for its failure to pay for such wages. As a result of the Companies' failure to comply with the aforementioned Labor Code provisions, the Companies owe waiting time penalties to former UNIS Workers, which the Companies have not yet paid. Claimant will pursue all available remedies for the Companies' violations on behalf of former UNIS Workers to the extent allowed by law.

FAILURE TO REIMBURSE FOR NECESSARY BUSINESS EXPENSES

(Labor Code § 2802)

Labor Code § 2802(a) provides in pertinent part, "[a]n 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."

Labor Code § 2802(b) states, “[a]ll awards made by a court or by the Division of Labor Standards Enforcement for reimbursement of necessary expenditures under this section shall carry interest at the same rate as judgments in civil actions. Interest shall accrue from the date on which the employee incurred the necessary expenditure or loss.” Accordingly, Claimant will request that she receives interest on the applicable amount.

Furthermore, Labor Code § 2802(c) states, “[f]or purposes of this section, the term ‘necessary expenditures or losses’ shall include all reasonable costs, including, but not limited to, attorney’s fees incurred by the employee enforcing the rights granted by this section.” Consequently, Claimant will also request reimbursement of the attorney’s fees incurred in pursuing this matter.

As set forth above, the Companies required Claimant and other UNIS Workers to use their personal cell phones in the discharge of their work duties without reimbursement in violation of California law. Claimant will pursue all available remedies for the Companies’ violations on behalf of herself and other UNIS Workers to the extent allowed by law.

FAILURE TO FURNISH ACCURATE ITEMIZED WAGE STATEMENTS

(Labor Code §§ 226 and 226.3, and the “Records” section of IWC Wage Order No. 9-2001)

Labor Code § 226(a) states, in pertinent part, that every employer shall provide an accurate, itemized wage statement in writing with respect to each of its employees showing: “(1) gross wages earned, (2) total hours worked by the employee, ..., (5) net wages earned, ..., and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.”

Labor Code § 226(e) imposes a penalty of the greater of all actual damages or \$50 for the initial pay period in which a violation occurs and \$100 per employee for each violation in a subsequent pay period, not exceeding an aggregate penalty of \$4,000, and entitles an employee to an award of costs and reasonable attorney’s fees. Labor Code § 226.3 imposes an additional civil penalty on the employer of \$250.00 per employee per violation of Labor Code § 226(a) in an initial citation and \$1,000 per employee for each violation in a subsequent citation.

As set forth above, the Companies failed to provide Claimant and other UNIS Workers with accurate itemized wage statements that comply with the requirements of the Labor Code because the wage statements furnished did not, among other things, include the correct total regular and/or overtime hours actually worked, the correct amount of gross and/or net wages actually earned, and/or all applicable hourly rates and the corresponding number of hours worked at each hourly rate. Specifically, Claimant noticed several times that her wage statements did not reflect the correct number of hours she actually worked, as recorded on her timecards. Claimant will pursue all available remedies for the Companies’ violations on behalf of herself and other UNIS Workers to the extent allowed by law.

FAILURE TO MAINTAIN ACCURATE RECORDS

(Labor Code §§ 226, 1174 and 1174.5, and the “Records” section of IWC Wage Order No. 9-2001)

Labor Code § 1174 states, “[e]very person employing labor in this state shall... [k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records

showing the hours worked daily by and the wages paid to, ..., employees employed at the respective plants or establishments.” See also Labor Code § 226(a).

The “Records” section of IWC Wage Order No. 9-2001 states that every employer shall keep accurate information with respect to each one of its employees, including time records showing when the employee begins and ends each work period, meal periods, total daily hours worked, total wages paid each payroll period, and total hours worked in the payroll period and applicable rates of pay.

Labor Code § 1174.5 imposes a civil penalty of \$500 for an employer’s failure to maintain accurate and complete records. This civil penalty is in addition to the civil penalty of \$100 per pay period, per aggrieved employee that would be imposed pursuant to Labor Code § 2699 for a violation of Labor Code § 1174(d).

Labor Code § 226(e)(1) provides,

“[a]n employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) [of Labor Code § 226] is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney’s fees.”

As set forth above, the Companies violated these requirements by failing to accurately record employee hours actually worked including, but not limited to, the Companies’ failure to record the proper beginning and end of each work period, the meal periods, the total hours worked during the pay period, the applicable rates of pay, and the wages earned and paid, among other things. Claimant will pursue all available remedies for the Companies’ violations on behalf of herself and other UNIS Workers to the extent allowed by law.

CIVIL PENALTIES FOR VIOLATION OF THE LABOR CODE AND IWC WAGE ORDERS

(Labor Code §§ 210, 226.3, 558, 1174.5, 1197.1, and 2699(f))

Labor Code § 210 provides that any person who fails to pay wages as provided in sections 201.3, 204, 204(b), 204.1, 204.2, 205, 205.5 and 1197.5 shall be subject to a civil penalty of \$100 for any initial violation for each failure to pay each employee and for each subsequent violation, or any willful or intentional violation \$200 for each failure to pay each employee, plus 25 % if the amount unlawfully withheld, in addition to any other penalty.

For violations of Labor Code § 226(a), Labor Code § 226.3 imposes a civil penalty of \$250 per employee per violation in an initial citation and \$1,000 per employee for each violation in a subsequent citation.

Labor Code § 558 subjects any employer or any person acting on behalf of an employer who violates Labor Code Part 2, Chapter 1, of the Labor Code (Labor Code §§ 500-558), or any provision regulating the hours and days of work in any IWC Wage Order, to a civil penalty as follows: “[f]or any initial

violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid. For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid.”

For violations of Labor Code § 1174 subdivisions (b), (c), and (d), Labor Code § 1174.5 imposes a civil penalty of \$500.

Similarly, Labor Code § 1197.1 subjects any employer or other person acting either individually or as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or local law, or by an order of the commission to a civil penalty, restitution of wages, liquidated damages payable to the employee, and any applicable penalties imposed pursuant to § 203 as follows:

“(1) For any initial violation that is intentionally committed, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee is underpaid. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to § 1194.2, and any applicable penalties imposed pursuant to § 203. (2) For each subsequent violation for the same specific offense, two hundred fifty dollars (\$250) for each underpaid employee for each pay period for which the employee is underpaid regardless of whether the initial violation is intentionally committed. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to § 1194.2, and any applicable penalties imposed pursuant to § 203. (3) Wages, liquidated damages, and any applicable penalties imposed pursuant to § 203, recovered pursuant to this section shall be paid to the affected employee.”

Labor Code § 2699(f) imposes a civil penalty of \$100 per pay period, per employee for the initial violation and \$200 per pay period, per employee for each subsequent violation for all Labor Code provisions for which a civil penalty is not specifically provided, including, but not limited to, Labor Code §§ 201, 202, 203, 204, 210, 226(a), 226.7, 510, 512, 1174(c), 1174(d), 1194, 1197, 1197.1, 1198, 1199, 2802, and relevant IWC Wage Orders.

As set forth above, the Companies violated the Labor Code and IWC Wage Order 9-2001 by, among other things, failing to timely pay Claimant and UNIS Workers all regular, minimum, and/or overtime wages, and/or meal and rest period premium wages, as required under the Labor Code and the applicable sections of IWC Wage Order 9-2001. As a result, the Companies are liable for civil penalties under the Labor Code and Claimant will pursue all available remedies including, but not limited to, those stated herein, for the Companies’ violations on behalf of herself and other UNIS Workers to the extent allowed by law.

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ATTORNEY'S FEES, COSTS, INTEREST, LIQUIDATED DAMAGES AND PENALTIES

(Labor Code §§ 210, 218.5, 218.6, 226(e), 558, 1194, 1194.2, 1197.1, 2802, and 2698, *et seq.*)

Labor Code §§ 210, 218.5, 218.6, 225.5, 226(e), 558, 1194, 1194.2, 1197.1, 1198.5, 2802, and 2698, *et seq.*, among others, give employees the right to recover in a civil action the full amount of damages, liquidated damages and penalties, including interest thereon, as well as reasonable attorney's fees and costs.

Under Labor Code § 2699(g)(1), an aggrieved employee, such as Claimant, is entitled to an award of reasonable attorneys' fees and costs. Claimant has already incurred actual damages, costs and attorney's fees and she will continue to incur such as a result of the Companies' unlawful actions. Claimant will pursue all available remedies including, but not limited to, those provided by the PAGA, on behalf of herself and other UNIS Workers to the extent permitted by law for the violations of law described herein and those later discovered.

CONCLUSION

Based on the foregoing, the Companies have violated the Labor Code and IWC Wage Order 9-2001, thereby depriving Claimant and other UNIS Workers of the rights and protections afforded to them. Claimant has satisfied the prerequisites of the PAGA to serve as a representative of all current or former non-exempt employees who performed work for the Companies in California, including those employed by the Companies, staffing agencies or other third-parties, the general public, and the state of California in order to enforce California labor laws and to seek civil penalties for the provisions set forth herein, as well as those which may be later discovered.

Accordingly, if the LWDA declines to intervene or act within time prescribed by the Labor Code, Claimant may elect to initiate and/or amend a civil action, on behalf of herself and all other current or former non-exempt employees who performed work for the Companies in California, including those hired by the Companies, staffing agencies or other third-parties, as permitted by the PAGA.

Sincerely,

Monique R. Rodriguez

Monique R. Rodriguez