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individually and on behalf of all other Aggrieved Employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

Case No. 25STCV04416

FREDERICK WILLIAMS, individually and
on behalf of all other Aggrieved Employees;

Plaintiff,

vs.

**COMPLAINT FOR ENFORCEMENT
UNDER THE PRIVATE ATTORNEYS
GENERAL ACT, CALIFORNIA LABOR
CODE § 2698, ET SEQ.**

BDS NATIONAL RETAIL SOLUTIONS,
LLC; BDS MARKETING, LLC; BDS
MARKETING, INC.; BDS SOLUTIONS
GROUP, LLC; BDS CONNECTED
SOLUTIONS, LLC; APOLLO RETAIL
SPECIALISTS, LLC; and DOES 1 through
50, inclusive,

Defendants.

Violation of California Labor Code § 2698, et
seq. (California Labor Code Private Attorneys
General Act of 2004)

Plaintiff Frederick Williams (hereinafter referred to as “REPRESENTATIVE
PLAINTIFF”) alleges as follows:

PARTIES

1. REPRESENTATIVE PLAINTIFF is an individual who resides in California and
was employed by BDS NATIONAL RETAIL SOLUTIONS, LLC, BDS MARKETING, LLC,
BDS MARKETING, INC., BDS SOLUTIONS GROUP, LLC, BDS CONNECTED
SOLUTIONS, LLC, and APOLLO RETAIL SPECIALISTS, LLC, from on or about 2002 until

on or about January, 2020.

2. REPRESENTATIVE PLAINTIFF is informed and believes, and based on such information and belief, alleges that at all times mentioned herein, BDS NATIONAL RETAIL SOLUTIONS, LLC, BDS MARKETING, LLC, BDS MARKETING, INC., BDS SOLUTIONS GROUP, LLC, BDS CONNECTED SOLUTIONS, LLC and APOLLO RETAIL SPECIALISTS, LLC are licensed to do business and actually doing business in the State of California.

3. REPRESENTATIVE PLAINTIFF is informed and believes, and based on such information and belief, alleges that DEFENDANTS provide installations of product displays in major retailers across the country and in California. Thus, DEFENDANTS are subject to the applicable California laws as alleged throughout this Complaint.

4. REPRESENTATIVE PLAINTIFF is unaware of the true names and capacities, whether corporate, individual, or otherwise, of DEFENDANTS named as DOES 1 through 50, inclusive. Pursuant to California Code of Civil Procedure section 474, REPRESENTATIVE PLAINTIFF will seek leave of court to amend this complaint to state said DEFENDANTS' true names and capacities when the same have been ascertained. REPRESENTATIVE PLAINTIFF is informed and believes, and based thereon alleges, that said fictitiously-named DEFENDANTS are responsible in some manner for the injuries and damages to REPRESENTATIVE PLAINTIFF and the other AGGRIEVED EMPLOYEES as further alleged herein.

5. The AGGRIEVED EMPLOYEES worked for all of the DEFENDANTS or for any of the DEFENDANTS as non-exempt, hourly-paid employees. Nothing in this Complaint should be interpreted as limiting the AGGRIEVED EMPLOYEES to non-exempt, hourly-paid employees who worked for all DEFENDANTS only.

6. The definition of "employer" for purposes of the California Labor Code includes irregular working arrangements, and was specifically drafted in order to prevent evasion and subterfuge of California's labor laws. To that end, REPRESENTATIVE PLAINTIFF is informed and believes, and based thereon alleges, that DEFENDANTS, including any as of now

unknown entities, must be classified as joint-employers for purposes of liability for civil penalties under the Private Attorneys General Act (“PAGA”). As such, DEFENDANTS are each liable for civil penalties for violation of the California Labor Code as to REPRESENTATIVE PLAINTIFF and the other AGGRIEVED EMPLOYEES.

7. The term “DEFENDANTS” used throughout this Complaint includes all named DEFENDANTS whether corporate, individual, or otherwise, and all unnamed DEFENDANTS whether corporate, individual, or otherwise, that are now unknown but are referred to throughout this Complaint as DOES 1 through 50, inclusive.

8. This is only a Private Attorney General Action Complaint, pursuant to California Labor Code section 2699 et seq., on behalf of REPRESENTATIVE PLAINTIFF and all other persons similarly situated who worked for DEFENDANTS in their California locations as non-exempt, hourly employees (herein collectively identified as “AGGRIEVED EMPLOYEES”) for:

(i) failure to provide employment records in violation of Labor Code sections 226, 432, and 1198.5;

(ii) failure to pay overtime and double time in violation of Labor Code sections 510 and the applicable Wage Orders;

(iii) failure to provide rest and meal periods in violation of Labor Code sections 226.7, 512(a), and the applicable Wage Orders;

(iv) failure to pay minimum wage in violation of Labor Code sections 1182.2, 1194, 1197, 1197.1, and the applicable Wage Orders;

(v) failure to keep accurate payroll records and provide itemized wage statements in violation of Labor Code sections 226(a), 1174(d), 1198, and the applicable Wage Orders;

(vi) failure to pay reporting time wages in violation of California Code of Regulations, Title 8, section 11050(5)(A);

(vii) failure to pay split shift wages in violation of California Code of Regulations 11050(4)(C);

(viii) failure to pay all wages earned on time in violation of Labor Code section 204, 210;

(ix) failure to pay all wages earned upon discharge or resignation in violation of Labor Code sections 201, 202, and 203;

(x) failure to provide basic information at the time of hiring and when employment changes occur in violation of Labor Code section 2810.5(a)(1)(A)-(C) (Wage Theft Prevention Act).

(xi) failure to reimburse necessary, business-related expenses in violation of Labor Code sections 2800 and 2802;

(xii) failure to provide notice of paid sick time and accrual and failure to pay sick time at regular rate, in violation of Labor Code section 246;

(xiii) unlawful prevention of disclosure of wages/working conditions in violation of Labor Code 232, 232.5; and

(xiv) employers, and individuals acting on behalf of employers, violating or causing to be violated a section of the Labor Code or any Wage Order in violation of Labor Code section 558(a).

VENUE AND JURISDICTION

9. Venue as to each Defendant is proper in this judicial district pursuant to California Code of Civil Procedure section 395 and under California Government Code section 12965(b), in that DEFENDANTS conduct business within the County of Los Angeles and each Defendant is within the jurisdiction of this Court for service of process, REPRESENTATIVE PLAINTIFFS' injuries were incurred within the County of Los Angeles, the actions giving rise to REPRESENTATIVE PLAINTIFFS' Complaint arose within the County of Los Angeles, and DEFENDANTS are located in the County of Los Angeles.

10. Under the plain meaning of the relevant venue statutes, DEFENDANTS' "liability" (§ 395.5), and "some part of the cause" (§ 393), arose in Los Angeles County because Labor Code violations allegedly occurred there. (See *Black Diamond Asphalt, Inc. v. Superior Court* (2003) 109 Cal.App.4th 166, 172, 134 Cal.Rptr.2d 510 [under § 395.5, liability arises

where a breach of legal rights occurs]; *Dow AgroSciences LLC v. Superior Court*, *supra*, 16 Cal.App.5th at pp. 1074-1077, 224 Cal.Rptr.3d 761 [under § 393, subd. (a), in an action against a corporation for breach of statutory duty to warn residents about toxic fumigant, the cause “arose” where the residents were exposed to the fumigants].) See *Crestwood Behavioral Health, Inc. v. Superior Court of Alameda County* (2021) 60 Cal.App.5th 1069 [275 Cal.Rptr.3d 316, 60 Cal.App.5th 1069].

11. REPRESENTATIVE PLAINTIFF is informed and believes, and based thereon alleges, that no federal question is raised and that the Class Action Fairness Act (“CAFA”), 28 U.S.C. Section 1322(d) does not apply, or in the alternative that exceptions for local cases or controversies under the CAFA do apply and prohibit removal of the action to federal Court.

12. REPRESENTATIVE PLAINTIFF is informed and believes, and based thereon alleges, that based on the total number of pay periods REPRESENTATIVE PLAINTIFF worked, REPRESENTATIVE PLAINTIFF’s individual claims do not arise to the necessary amount in controversy so as to implicate traditional jurisdiction under 28 U.S.C. 1322(a) or jurisdiction under the CAFA.

13. Further, as a representative action under the PAGA, the matter is not subject to removal under 28 U.S.C. Sections 1322(a)-(d). PAGA civil penalty actions are not subject to federal jurisdiction.

14. This Court has jurisdiction over REPRESENTATIVE PLAINTIFFS’ claims for civil penalties under the PAGA, California Labor Code sections 2698 *et seq.*

SCOPE

15. The “AGGRIEVED EMPLOYEES” are DEFENDANTS’ current and former hourly-paid, non-exempt employees, who either were or are employed in the State of California from September 23, 2019 through the date of judgment in this action.

STATEMENT OF FACTS

16. REPRESENTATIVE PLAINTIFF was hired by DEFENDANTS with the job title of Installer on or about 2002. DEFENDANTS are entities that are provide installations of product displays in major retailers across the country. REPRESENTATIVE PLAINTIFF

worked for DEFENDANTS up until on or about January, 2020.

17. While employed with DEFENDANTS, REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES that REPRESENTATIVE PLAINTIFF seeks to represent in this action, working as non-exempt, hourly-paid employees were regularly required to work off-the-clock, and/or during their rest and/or meal periods.

18. REPRESENTATIVE PLAINTIFF filed a PAGA Notice on September 23, 2020 by serving a PAGA Notice to all named DEFENDANTS and to the LWDA in compliance with Labor Code section 2699.3. As of November 27, 2020, 65 Days after REPRESENTATIVE PLAINTIFF's PAGA Notice, REPRESENTATIVE PLAINTIFF has not received correspondence from the LWDA regarding its intent to investigate PLAINTIFF's claims. REPRESENTATIVE PLAINTIFF amended the PAGA Notice twice, on December 22, 2020 and on April 19, 2024.

FAILURE TO PROVIDE EMPLOYMENT RECORDS

19. California Labor Code Section 226 provides, "An employer who receives a written or oral request to inspect or copy records pursuant to subdivision (b) pertaining to a current or former employee [records of hours worked and wages paid]...shall comply with the request as soon as practicable, but no later than 21 calendar days from the date of the request."

20. California Labor Code Section 432 provides, "If an employee signs any instrument relating to the obtaining or holding of employment, he shall be given a copy of the instrument upon request."

21. California Labor Code Section 1198.5 provides that every employee shall be permitted to inspect and obtain a copy of their personnel records upon request.

22. In accordance with the process set out in Labor Code Section 226, REPRESENTATIVE PLAINTIFF requested, in writing by letter via certified first-class mail to DEFENDANTS and regular first-class mail to DEFENDANTS, that DEFENDANTS provide REPRESENTATIVE PLAINTIFF with wage and payroll history, all documents signed by REPRESENTATIVE PLAINTIFF pursuant to Labor Code Section 432, and a copy of REPRESENTATIVE PLAINTIFF's personnel records pursuant to Labor Code Section 1198.5.

23. The time periods provided to DEFENDANTS by Labor Code Sections 226, 432, 1198.5 and any other relevant statutes have elapsed since DEFENDANTS received REPRESENTATIVE PLAINTIFF's correspondence requesting documents pursuant to Labor Code Sections 226, 432, and 1198.5, and a copy of REPRESENTATIVE PLAINTIFF's personnel records pursuant to Labor Code Section 1198.5. However, DEFENDANTS failed to provide REPRESENTATIVE PLAINTIFF with all of the employment documents to which he is entitled.

24. REPRESENTATIVE PLAINTIFF is informed and believes, and based thereon alleges, that DEFENDANTS failed to provide records in compliance with Labor Code Sections 226, 432, and 1198.5 to other AGGRIEVED EMPLOYEES in response to their requests.

OVERTIME / DOUBLE TIME

25. California Labor Code sections 510 and the applicable Wage Orders require employers to pay employees working more than eight (8) hours in a day, more than 40 hours in a week, or for the first eight (8) hours worked on the seventh consecutive day of work in a workweek at the rate of at least time-and-one-half (1.5) times their regular rate of pay ("overtime") for time such worked, and two (2) times their regular rate of pay ("double time") for such hours worked in excess of 12 hours in a day or for all hours worked in excess of eight (8) on the seventh consecutive day of work in a workweek. "Regular rate" includes all remuneration, including earned non-discretionary incentive pay, such as per diems, door fees, commissions, bonuses, meal allowance, mask allowances, and gift cards, and shift differentials.

26. During the relevant time period, REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES regularly worked in excess of eight (8), and in excess of 12, hours in a workday and/or 40 hours in a workweek and/or on the seventh consecutive day of work in a workweek.

27. DEFENDANTS routinely required REPRESENTATIVE PLAINTIFF and the other AGGRIEVED EMPLOYEES to perform work tasks before and/or after their scheduled shifts, and/or during off-the-clock meal breaks, and/or during rest breaks and/or otherwise off-the-clock. DEFENDANTS failed to pay REPRESENTATIVE PLAINTIFF and other

AGGRIEVED EMPLOYEES overtime wages for this time and/or falsified timekeeping records by editing and/or manipulating the records to hide this fact. REPRESENTATIVE PLAINTIFF and other hourly-paid, non-exempt employees performed off-the-clock work including by not limited to: waiting in long lines to clocking in, remaining on-call, complete pre-shift tasks before clocking in and post-shift tasks after clocking out, clocking out for meal periods and continue working, clocking out for rest periods, don and doff uniforms and/or safety equipment off the clock, attend company meetings off the clock, make phone calls or drive off the clock, go through security screenings, bag checks, perform temperature checks off the clock, uploading photographs, and communicate with supervisors off the clock regarding time reporting and project progress. As a consequence, DEFENDANTS willfully failed to pay REPRESENTATIVE PLAINTIFF and the other AGGRIEVED EMPLOYEES all of the wages to which they were entitled.

28. DEFENDANTS also detrimentally rounded REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES records. For example, REPRESENTATIVE PLAINTIFF worked for *exactly* 17 hours of regular time, *exactly* four (4) hours of overtime, and *exactly* 1.5 hours of double-time during the relevant pay period. Such round, whole, exact numbers simply do not result if the employer is actually tracking the time that employee spent working.

29. DEFENDANTS willfully failed to properly calculate the regular rate of pay for the purposes of paying overtime, by failing to include earned non-discretionary incentive pay, such as bonuses, per diems, door fees, commissions, meal allowance, mask allowances, gift cards, shift differentials, and other forms of remuneration into the calculation.

MEAL / REST BREAKS

30. California Labor Code sections 226.7, 512(a), and the applicable Wage Orders require employers to pay employees one (1) additional hour of pay at the employees' regular rate for each work day that a legally compliant meal and/or rest break was not provided. Employers cannot require, cause, or permit an employee to work more than five (5) hours per day without providing an uninterrupted meal break. If an employee works over ten (10) hours

1 in a workday, employers are required to either provide a second, uninterrupted 30-minute meal
2 break or pay employees an additional one (1) hour of pay at the employees' regular rate. If the
3 employer fails to properly record a valid meal period, it is presumed that no meal period was
4 provided. Furthermore, no employer shall require an employee to work during any rest period.
5 Rest periods requirements are based on the total hours worked; employees are legally entitled
6 to ten (10) minutes per four (4) hours, or major fraction thereof, that employee worked.

7 31. REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES
8 worked shifts in excess of five (5) hours without an uninterrupted, timely, and complete meal
9 break, and worked shifts of ten (10) hours or more without an uninterrupted, timely, and
10 complete second meal break, and worked over four (4) hour periods (or major fractions thereof)
11 without authorizing or permitting REPRESENTATIVE PLAINTIFF or other AGGRIEVED
12 EMPLOYEES to take uninterrupted, timely, and complete ten (10) minute rest breaks.

13 32. DEFENDANTS failed to provide REPRESENTATIVE PLAINTIFF and other
14 AGGRIEVED EMPLOYEES with the required rest and meal break periods.
15 REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES were routinely
16 required to work through these periods instead, because of understaffing, inadequate coverage,
17 unreasonably high workload and expectations, and/or other actions, inactions, or decisions made
18 by and within the sole control and discretion of DEFENDANTS.

19 33. REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES were
20 required to carry cellular telephones or walkie-talkies during meal periods, thus not being
21 relieved of all duties; were routinely required to remain on DEFENDANTS premises during
22 their meal and rest periods; were routinely required to clock out for their rest periods; were
23 routinely required to drive to different assignments during their breaks; and were routinely
24 required to take on-duty/on-call meal periods. DEFENDANTS also required
25 REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES to clock in early
26 from their breaks, resulting in short meal periods, or failed to timely allow REPRESENTATIVE
27 PLAINTIFF and other AGGRIEVED EMPLOYEES to take breaks, resulting in late breaks.
28

1 34. REPRESENTATIVE PLAINTIFF is informed and believes, and based thereon
2 alleges, that any purported appearance of meal and rest break compliance is because
3 DEFENDANTS systematically and routinely clocked out for and/or otherwise edited
4 and/manipulated the timekeeping records of REPRESENTATIVE PLAINTIFF and other
5 AGGRIEVED EMPLOYEES in an attempt to hide the aforementioned infractions.
6 DEFENDANTS, knowingly and contrary to law and public policy, employed a tactic of
7 clocking-out employees for rest and/or meal periods that were never taken and/or were legally
8 non-compliant, and/or otherwise falsified or altered timekeeping records. DEFENDANTS also
9 auto-deducted meal periods that could not be auto-deducted by law or during which
10 AGGRIEVED EMPLOYEES worked. DEFENDANTS required REPRESENTATIVE
11 PLAINTIFF and other AGGRIEVED EMPLOYEES to waive their breaks in order to clock out
12 for the day.

13 35. DEFENDANTS knew, or should have known, that their behavior caused
14 REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES to work through the
15 above-described meal and/or rest periods. As a company-wide policy, DEFENDANTS still
16 chose not to pay meal and rest period premiums required by law.

17 36. DEFENDANTS also maintain policies or practices of failing to permit
18 REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES from taking
19 cooldown rest periods as required under California Code of Regulations, Title 8, section 3395
20 and premium pay in lieu thereof under Labor Code section 226.7.

21 37. To the extent DEFENDANTS paid any premium wages earned for missed meal
22 or rest breaks, DEFENDANTS failed to pay premiums at the correct hourly rate to
23 AGGRIEVED EMPLOYEES as they improperly calculated the regular rate of pay for the
24 purposes of paying premium wages, by failing to include earned non-discretionary incentive
25 pay, such as bonuses, per diems, door fees, commissions, meal allowance, mask allowances, gift
26 cards, shift differentials, and other forms of remuneration into the calculation.

27 ///

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MINIMUM WAGE

38. California Labor Code sections 1182.12, 1194, 1197, and 1197.1 require employers to pay the minimum wage as set by the IWC. California Labor Code section 1182.12, as amended by Senate Bill 3, Chapter 4, Section 3, defines the minimum wage as;

(1) For any employer who employs 26 or more employees:

(A) From January 1, 2017, to December 31, 2017, \$10.50 per hour.

(B) From January 1, 2018, to December 31, 2018, \$11 per hour.

(C) From January 1, 2019, to December 31, 2019, \$12 per hour.

(D) From January 1, 2020, to December 31, 2020, \$13 per hour.

(E) From January 1, 2021, to December 31, 2021, \$14 per hour.

(F) From January 1, 2022, and until adjusted by subdivision (c) \$15 per hour.

(2) For any employer who employs 25 or fewer employees:

(A) From January 1, 2018, to December 31, 2018, \$10.50 per hour.

(B) From January 1, 2019, to December 31, 2019, \$11 per hour.

(C) From January 1, 2020, to December 31, 2020, \$12 per hour.

(D) From January 1, 2021, to December 31, 2021, \$13 per hour.

(E) From January 1, 2022, to December 31, 2022, \$14 per hour.

(F) From January 1, 2023, and until adjusted by subdivision (c) \$15 per hour.

39. The minimum wage standard applies to each hour employees worked for which they were not paid. Therefore, employer's failure to pay for any particular hour worked by an employee is unlawful even if averaging an employee's total pay over all hours worked, paid or not, results in an average hourly wage above minimum wage.

40. As alleged throughout this Complaint, due to the company-wide failures of DEFENDANTS, REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES were forced to work off-the-clock before and/or after their scheduled work shifts, and/or during rest breaks, and/or during meal breaks. DEFENDANTS willfully failed to pay REPRESENTATIVE PLAINTIFF and other hourly-paid, non-exempt employees the wages to which they were entitled. DEFENDANTS routinely required this work to be performed before

and/or after scheduled shifts, and/or during off-the-clock meal breaks, and/or during rest breaks. DEFENDANTS failed to pay REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES overtime wages for this time and/or falsified timekeeping records to hide this fact. REPRESENTATIVE PLAINTIFF and other hourly-paid, non-exempt employees performed off-the-clock work including by not limited to: waiting in long lines to clocking in, remaining on-call, complete pre-shift tasks before clocking in and post-shift tasks after clocking out, clocking out for meal periods and continue working, clocking out for rest periods, don and doff uniforms and/or safety equipment off the clock, attend company meetings off the clock, make phone calls or drive off the clock, go through security screenings, bag checks, perform temperature checks off the clock, uploading photographs, and communicate with supervisors off the clock regarding time reporting and project progress.

41. DEFENDANTS failed to pay REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES minimum wage for this time and/or falsified timekeeping records to hide this fact. DEFENDANTS also failed to pay all AGGRIEVED EMPLOYEES split shift premiums. DEFENDANTS also failed to pay reporting time, as they required all Aggrieved Employee to report to work, but failed to finish more than half of the AGGRIEVED EMPLOYEES' usual or scheduled day's work without being pay for half the usual or scheduled work at their regular rate of pay. DEFENDANTS also failed to pay AGGRIEVED EMPLOYEES the correct minimum wage, as mandated by each individual county, city, or other locality.

42. DEFENDANTS unlawfully deducted REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES' wages by issuing in payment of wages due, or to become due, or as an advance on wages to be earned: an order, check, draft, note, memorandum, gift card, or other acknowledgement of indebtedness, (unless it was negotiable and payable in cash, on demand, without discount, at some established place of business in the state), the name and address of which must but did not appear on the instrument, and at the time of its issuance and for a reasonable time thereafter, which must be but was not at least 30 days, the maker or drawer did not have sufficient funds in, or credit, arrangement, or understanding with the drawee for its

1 payment or any scrip, coupon, cards, or other thing redeemable, in merchandise or purporting
2 to be payable or redeemable otherwise than in money.

3 43. DEFENDANTS willfully failed to properly calculate the regular rate of pay for
4 the purposes of paying overtime, minimum wages, premium wages, paid time off, sick pay,
5 vacation pay, and other pay, by failing to include earned non-discretionary incentive pay, such
6 as bonuses, per diems, door fees, commissions, meal allowance, mask allowances, gift cards,
7 shift differentials, and other forms of remuneration into the calculation, and thus listed
8 inaccurate rates on payroll records.

9 **ACCURATE/ITEMIZED WAGE STATEMENTS**

10 44. California Labor Code 226(a) requires employers to create and provide to
11 employees true and accurate employment records. California Labor Code section 226(e)
12 provides that if an employer fails to furnish an employee with same, the employee is entitled to
13 recover the greater of all actual damages, or \$50.00 for an initial infraction, and \$100 per
14 employee for each subsequent violation in any pay period. California Labor Code 226.3 imposes
15 civil penalties on any employer in violation of section 226(a) at \$250 per employee violation in
16 an initial citation, and \$1,000 per employee for each subsequent violation.

17 45. California Labor Code 1174(d) requires employers to keep payroll records
18 showing hours worked, and wages paid to and/or number of piece-rate units earned, for all
19 employees. California Labor Code section 1174.5 subjects employers to a \$500 penalty for filing
20 to maintain same.

21 46. California Labor Code section 1198 provides that maximum hours and standard
22 conditions of labor are fixed by the Labor Commissioner in the applicable Wage Orders.
23 Pursuant to the applicable Wage Order, employers must keep accurate records of when
24 employees begin and end each work period and each meal period.

25 47. DEFENDANTS willfully failed to maintain accurate payroll records for
26 REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES as a result of
27 DEFENDANTS failure to accurately record employees rest breaks, meal breaks, and off-the-
28 clock work. DEFENDANTS failed to accurately keep records of start and stop times for meal

periods and/or work shifts. DEFENDANTS failure makes it impossible for REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES to accurately determine the extent of their underpayment, thereby causing further injuries to each of them.

48. DEFENDANTS knowingly provided employees with records that do not meet the statutory requirements of truth and accuracy, because DEFENDANTS failed to truthfully and accurately document, among other things, employees off-the-clock work. As a result, DEFENDANTS failed to accurately list the correct amount of gross wages earned by REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES, total hours worked by REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES, net wages earned by REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES, all deductions, all applicable hourly rate in effect during the pay period and the corresponding number of hours worked at each hourly rate by REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES, the legal name and address of the employer, the total hours of sick leave available, and other such information as requested by Labor Code section 226(a).

49. The statements in question are deficient in many other ways, including, but not limited to: failure to list total hours worked, failing to list applicable hourly rates and the numbers of hours worked at each rate, failure to list piece-rate units earned and the applicable piece-rate, failure to list deductions, failure to track sick leave, failure to list the employee and SSN/EID properly, failure to list the full legal name and address of the employer, failure to list inclusive dates for which employees are paid, failure to provide employees with the ability to easily access wage statements and get hard copies at no expense to the employee, and/or failure to state all hours worked as a result of off-the-clock work.

50. DEFENDANTS willfully failed to maintain accurate payroll records for REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES as a result of DEFENDANTS failure to accurately record employees rest breaks, and/or meal breaks, and/or off-the-clock work. DEFENDANTS' failure makes it impossible for REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES to accurately determine the extent of their underpayment, thereby causing further injuries to each of them.

51. DEFENDANTS willfully failed to properly calculate the regular rate of pay for the purposes of paying overtime, minimum wages, premium wages, paid time off, sick pay, vacation pay, and other pay, by failing to include earned non-discretionary incentive pay, such as bonuses, per diems, door fees, commissions, meal allowance, mask allowances, gift cards, shift differentials, and other forms of remuneration into the calculation, and thus listed inaccurate rates on payroll records.

REPORTING TIME

52. California Code of Regulations, Title 8, section 11050(5)(A) provides that for each workday when an employee is required to and does in fact report to work, but is either not put to work or is furnished less than half of said employee's usual scheduled day's work, that employee should be paid for no less than half, and in no event less than two (2) hours, of the employees' regular rate of pay.

53. REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES were frequently told by DEFENDANTS to report to work and were either not put to work or were furnished less than half of said employee's usual scheduled day's work. DEFENDANTS routinely failed to pay the required reporting time wages to REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES for each of these instances.

SPLIT SHIFTS

54. California Code of Regulations 11050(4)(C) provides that when an employee works a "split shift", one (1) hour's pay at the State or local minimum wage (whichever is greater) must be paid in addition to the minimum wage for that workday. A "split shift" is defined as a work schedule which is interrupted by non-paid, non-working periods established by the employer, other than *bona fide* rest or meal periods.

55. DEFENDANTS routinely scheduled REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES for multiple different shifts throughout the same workday, separated by periods other than *bona fide* rest or meal breaks. DEFENDANTS failed to pay REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES one (1) hour's pay at the applicable minimum wage, which resulted in REPRESENTATIVE PLAINTIFF and other

AGGRIEVED EMPLOYEES being paid less than the applicable minimum wage for that day. As a further consequence, DEFENDANTS also failed to separately list “split shift” payments on REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES wage statements.

ALL WAGES PAID ON TIME

56. California Labor Code section 204 requires that all wages earned, other than those due upon termination, be paid on time as defined by the statute, which requires that: “[l]abor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive of any calendar month, shall be paid for between the 1st and 10th day of the following month.”

57. As a result of the numerous company-wide failures of DEFENDANTS as described throughout this Complaint, DEFENDANTS failed to pay REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES all wages due to them, including, but not limited to: vacation time, overtime wages, double time wages, meal and rest break premiums, sick pay, paid time off, and minimum wages within the statutorily required time period. DEFENDANTS failed to provide all temporary workers with owed wages weekly by not later than the regular payday of the following week.

ALL WAGES PAID ON DISCHARGE / TERMINATION

58. California Labor Code sections 201, 202, and 203 provide that employees who are terminated are due all wages earned immediately. Employees who resign their employment without giving 72-hours’ notice are due all wages earned within 72 hours of their resignation. Employees who resign their employment giving 72-hours’ notice are entitled to all wages earned at the time their resignation becomes effective.

59. DEFENDANTS terminated their employment relationship with REPRESENTATIVE PLAINTIFF on January 28, 2020. Accordingly, REPRESENTATIVE PLAINTIFF was due all wages earned at that time immediately. When REPRESENTATIVE PLAINTIFF did receive their final paycheck from DEFENDANTS, that final paycheck was legally deficient in that it did not account for all wages earned, despite DEFENDANTS knowing

that such wages were due to REPRESENTATIVE PLAINTIFF. DEFENDANTS failed to reimburse REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES with deposits made, including uniform deposits together with all interest owed at the separation of employment.

60. DEFENDANTS willfully failed to timely pay REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES who are no longer employed by DEFENDANTS all wages earned, including, but not limited to: overtime wages, double time wages, minimum wages, rest period premium wages, meal period premium wages, sick pay, vacation time and/or paid time off. DEFENDANTS willfully failed to pay the correct regular rate by failing to properly calculate the regular rate of pay for the purposes of paying overtime, minimum wages, premium wages, paid time off, sick pay, vacation pay, and other pay, by failing to include earned non-discretionary incentive pay, such as bonuses, per diems, door fees, commissions, meal allowance, mask allowances, gift cards, shift differentials, and other forms of remuneration into the calculation, and thus listed inaccurate rates on payroll records.

WAGE THEFT PREVENTION ACT

61. Codified in California Labor Code section 2810.5, California's Wage Theft Protection Act requires employers to provide employees with basic information at the time of hiring and when changes occur to their employment. The Wage Theft Protection Act provides that an employee must be furnished with written notice of, at the time of hiring; rate of pay (including overtime), whether paid by hour, salary, piece-rate, shift, day, week, commission, or otherwise, and allowances claimed such as meal or lodging. This notice must include a statement that the employee can accrue and use sick leave, has the right to request and use paid sick leave, may not be terminated or retaliated against for requesting or using paid sick leave, and has the right to file a complaint against any employer who does so retaliate.

62. DEFENDANTS hired REPRESENTATIVE PLAINTIFF on or about 2002, and REPRESENTATIVE PLAINTIFF continued to work for DEFENDANTS until on or about January, 2020. During that time, changes, including, but not limited to, rates of pay and overtime rates of pay applicable to their employment; allowances claimed as part of the minimum wage;

the regular payday designated by Defendants; the name of the employer, including any “doing business as” names used; the name, address, and telephone number of the workers’ compensation insurance carrier; information regarding paid sick leave; raises; promotions; title changes; relocations; and new and additional assignments were earned by and/or assigned to REPRESENTATIVE PLAINTIFF. As a result of each of these, changes occurred to REPRESENTATIVE PLAINTIFF’s employment as defined by Labor Code 2810.5(a)(1)(A)-(C) and the Wage Theft Prevention Act.

63. When hired and each time such changes to REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES employment occurred, DEFENDANTS were required to furnish documents to REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES with such basic information and written notice of, among other things, their rate of pay (including overtime), their right to accrue and request paid sick leave, and their right to file a complaint against DEFENDANTS should they infringe upon such rights. DEFENDANTS failed to furnish REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES with such written notices as required.

FAILURE TO REIMBURSE

64. California Labor Code Sections 2800 and 2802 require that an employer indemnify employees for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of their duties. Labor Code section 2804 provides that “[a]ny contract or agreement, express or implied, made by any employee to waive the benefits of this article or any part thereof, is null and void, and this article shall not deprive any employee or his personal representative of any right or remedy to which he is entitled under the laws of this State.”

65. REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES were directed and expected to incur personal expenses on behalf of DEFENDANTS while performing their job duties. Such personal expenses include, but are not limited to, use of personal cell phone, such as purchase and maintenance of cellular phones and cellular phone plans; personal vehicle use, such as expenses for gas, mileage, and wear and tear; laundry expenses; purchase

of uniforms; purchase of tools and safety equipment; travel expenses; and parking expenses. REPRESENTATIVE PLAINTIFF and the other AGGRIEVED EMPLOYEES would not have been able to successfully accomplish their job duties absent incurring these personal expenses. DEFENDANTS failed to indemnify REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES for all necessary expenditures or losses accordingly.

66. DEFENDANTS failed to reimburse REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES with deposits made, including uniform deposits together with all interest owed at the separation of employment.

**NOTICE OF PAID SICK TIME AND ACCRUAL AND FAILURE TO PAY SICK
TIME AT REGULAR RATE**

67. California Labor Code section 246 provides that an employee who works for the same employer for more than 30 days is entitled to paid sick days. Paid sick leave is to accrue at a rate not less than one (1) hour per every 30 hours worked, such accrual beginning at the commencement of employment. Employers must provide employees with written notice setting the amount of sick leave available (or paid time off in lieu thereof) for use on either itemized wage statements (as described in Labor Code section 226) or in a separate writing accompanying such wage statements.

68. DEFENDANTS failed to pay sick pay at the correct hourly rate to AGGRIEVED EMPLOYEES when paying as they improperly calculated the regular rate of pay for the purposes of paying sick pay, by failing to include earned non-discretionary incentive pay, such as bonuses, per diems, door fees, commissions, meal allowance, mask allowances, gift cards, shift differentials, and other forms of remuneration into the calculation.

69. California Labor Code section 246 provides that an employee who works for the same employer for more than 30 days is entitled to paid sick days. Sick pay must be compensated at the employee's regular rate of pay for the workweek in which the paid leave was taken, or at a rate determined by averaging over 90-days. During the relevant time period, DEFENDANTS failed to pay AGGRIEVED EMPLOYEES sick pay when due, and/or failed to pay sick pay at the correct rate due pursuant to California Labor Code section 246 when AGGRIEVED

1 EMPLOYEES also earned additional compensation. DEFENDANTS failed to permit paid sick
2 time upon request by REPRESENTATIVE PLAINTIFF and other AGGRIEVED
3 EMPLOYEES.

4 70. REPRESENTATIVE PLAINTIFF was hired by DEFENDANTS on or about
5 2002 and worked for DEFENDANTS until on or about January, 2020. REPRESENTATIVE
6 PLAINTIFF and other AGGRIEVED EMPLOYEES worked for DEFENDANT for more than
7 30 days, triggering the protections of Labor Code section 246 as described above. Nevertheless,
8 DEFENDANTS failed to furnish upon REPRESENTATIVE PLAINTIFF and other
9 AGGRIEVED EMPLOYEES, either on itemized wage statements or in a separate writing
10 accompanying such wage statements, the amount of sick leave available to
11 REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES.

12 71. As such, DEFENDANTS unlawfully retained and continue to retain paid sick
13 leave that should have been paid to REPRESENTATIVE PLAINTIFF and other AGGRIEVED
14 EMPLOYEES but for DEFENDANTS failure to properly institute and/or adhere to a legally
15 compliant paid sick leave program. REPRESENTATIVE PLAINTIFF is informed and believes,
16 and based thereon alleges, that these practices were experienced and continue to be experienced
17 by the other AGGRIEVED EMPLOYEES.

18 PROVIDE RECORDS

19 72. California Labor Code section 226(b) requires employers to “afford current and
20 former employees the right to inspect or receive a copy of records pertaining to their
21 employment, upon reasonable request to the employer.” Labor Code section 432 states that “[i]f
22 an employee ... signs any instrument relating to the obtaining or holding of employment, he shall
23 be given a copy of the instrument upon request.” Labor Code section 1198.5 grants “[e]very
24 current and former employee, or his or her representative, ... the right to inspect and receive a
25 copy of the personnel files that the employer maintains relating to the employee’s performance
26 or to any grievance concerning the employee.” Section 7(A) (Records) of the IWC Wage Orders,
27 which may be enforced through Labor Code section 1198, mandates that employers maintain
28 and make available “time records showing when the employee begins and ends each work

period” as well as time records showing “[m]eal periods, split shift intervals, and daily hours worked[.]” Labor Code section 117 4(d) requires these and other records be maintained for at least three years.

73. DEFENDANTS failed to provide AGGRIEVED EMPLOYEES with records upon their request.

PREVENT DISCLOSURE OF WORKING CONDITIONS / VIOLATIONS

74. California Labor Code, section 232, precludes employers from disciplining employees for disclosing their wages. Labor Code section 232.5 prohibits an employer from discharging or retaliating against an employee who discusses or discloses information about the employer's working conditions.

75. DEFENDANTS maintained a policy or practice which prevented AGGRIEVED EMPLOYEES from engaging in lawful conduct during non-work hours, including, without limitation, preventing Employees from using or disclosing their wages in negotiating a new job with a prospective employer; from disclosing who else works at DEFENDANTS; disclosing under what circumstances that they might be receptive to an offer from a rival employer; disclosing illegal conduct, violations of state and federal law, either within DEFENDANTS to their managers or outside to private attorneys or government officials. These policies and/or practices prevented REPRESENTATIVE PLAINTIFF and/or other AGGRIEVED EMPLOYEES from disclosing information about unsafe or discriminatory working conditions, or about wage and hour violations in violation of Labor Code Sections 96(k), 98.6, 232, 232.5, 1102.5 and 1197.1.

SUITABLE SEATING

76. California Code of Regulations 11050(14)(A) provides: “All working employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats.” In addition, Subsection B provides: “When employees are not engaged in the active duties of their employment and the nature of the work requires standing, an adequate number of suitable seats shall be placed in reasonable proximity to the work area and employees shall be permitted to use such seats when it does not interfere with the performance of their duties.”

77. DEFENDANTS failed to provide REPRESENTATIVE PLAINTIFF and all other AGGRIEVED EMPLOYEES with suitable seats when the nature of the work reasonably permits the use of seats. DEFENDANTS has failed to place an adequate number of seats in reasonable proximity to the work area and/or permitted employees to use such seats when it does not interfere with the performance of their duties when employees are not engaged in the active duties of their employment and the nature of their work requires standing.

FURNISH AND USE SAFETY DEVICES AND SAFEGUARDS

78. Pursuant to California Labor Code sections 6400-6404 and 6406-6407 of the California Occupational Safety and Health Act ("Cal OSHA"), employers must maintain a safe and healthful place of employment. Specifically, Labor Code section 6400, requires "(a) Every employer shall furnish employment and a place of employment that is safe and healthful for the employees therein . . ."

79. Labor Code section 6401 provides as follows: "Every employer shall furnish and use safety devices and safeguards, and shall adopt and use practices, means, methods, operations, and processes which are reasonably adequate to render such employment and place of employment safe and healthful. Every employer shall do every other thing reasonably necessary to protect the life, safety, and health of employees.

80. Labor Code section 6402 prohibits the following: "No employer shall require, or permit any employee to go or be in any employment or place of employment which is not safe and healthful."

81. Labor Code section 6403 requires that employees provide safety devices to their employees and states: "No employer shall fail or neglect to do any of the following: (a) To provide and use safety devices and safeguards reasonably adequate to render the employment and place of employment safe. (b) To adopt and use methods and processes reasonably adequate to render the employment and place of employment safe. (c) To do every other thing reasonably necessary to protect the life, safety, and health of employees."

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82. Labor Code section 6409.6 sets forth the actions an employer (or representative of employer) must take within one business day of receiving notice of potential exposure to COVID-19, including but not limited to employee-notice and reporting requirements.

83. DEFENDANTS failed to provide REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES with a safe and healthful employment by failing or neglected to: provide and use safety devices and safeguards reasonably adequate to render the employment and place of employment safe; adopt and use methods and processes reasonably adequate to render the employment and place of employment safe; and do every other thing reasonably necessary to protect the life, safety, and health of employees and provide a place of employment safe and healthful. This includes but is not limited to DEFENDANTS failing to disinfect time clocks and other surfaces after use by REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES; failing to provide adequate protection equipment to REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES; and failing to provide adequate distance in working conditions between REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES.

84. DEFENDANTS failed to provide REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES, or their exclusive representatives, with sufficient, adequate and proper notice of the Covid-19 exposure within one business day of receiving notice of potential Covid-19 workplace exposure from a qualifying individual. DEFENDANTS failed to keep adequate records of written notifications for a period of at least three years.

85. DEFENDANTS failed to provide REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES, or their exclusive representative, with information regarding COVID-19-related benefits to which the REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES may be entitled under applicable federal, state, or local laws, including, but not limited to, workers' compensation, and options for exposed employees, including COVID-19-related leave, company sick leave, state-mandated leave, supplemental sick leave, or negotiated leave provisions, as well as antiretaliation and antidiscrimination protections of the employee.

86. DEFENDANTS failed to provide REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES, or their exclusive representative, with notice of the cleaning and disinfection plan that the DEFENDANTS was implementing per the guidelines of the federal Centers for Disease Control and Prevention and the COVID-19 prevention program per the Cal-OSHA COVID-19 Emergency Temporary Standards.

87. DEFENDANTS failed to notify the local public health agency in the jurisdiction of the worksite of the names, number, occupation, and worksite of employees who had a laboratory-confirmed case of COVID-19, as defined by the State Department of Public Health; a positive COVID-19 diagnosis from a licensed health care provider; a COVID-19- related order to isolate provided by a public health official; or died due to COVID-19, in the determination of a county public health department or per inclusion in the COVID-19 statistics of a county.

88. DEFENDANTS failed to provide adequate and readily accessible sanitation facilities; a regular schedule for servicing, cleaning, and supplying each facility to ensure it is maintained in a clean, sanitary and serviceable condition; an adequate supply of suitable cleansing agents, water, single-use towels or blowers; and a sufficient number of toilets to be used by each sex of employee.

UNLAWFUL BACKGROUND CHECKS

89. Labor Code section 432.5 provides that “no employer...shall require any employee or applicant for employment to agree, in writing, to any term or condition which is known by such employer...to be prohibited by law.”

90. DEFENDANTS conducted unlawful background checks on prospective and current AGGRIEVED EMPLOYEES prior to making a conditional offer. DEFENDANTS required job applicants and AGGRIEVED EMPLOYEES to disclose their conviction history before DEFENDANTS made a conditional offer of employment; inquiring into or considering the conviction history of applicants before DEFENDANTS made any conditional offers of employment; considering, distributing, or disseminating information about arrests not followed by conviction, referrals to or participation in a pretrial or posttrial diversion program, convictions that have been sealed, dismissed, expunged, or statutorily eradicated pursuant to

law, or any conviction for which the convicted person has received a full pardon or has been issued a certificate of rehabilitation, while conducting conviction history background checks in connection with any applications for employment; intending to deny an applicant a position of employment solely or in part because of the applicant's conviction history; and asking applicants for employment to disclose, through any written form or verbally, information concerning or related to an arrest, detention, processing, diversion, supervision, adjudication, or court disposition that occurred while the person was subject to the process and jurisdiction of the juvenile court, to the detriment of REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES.

91. DEFENDANTS relied on the salary history information of an applicant for employment as a factor in determining whether to offer employment to an applicant or what salary to offer the applicant in violation of Labor Code section 432.3 by including, on DEFENDANTS' application for employment, an inquiry regarding current and/or former salary history information, including, without limitation, compensation and benefits of the applicant for employment.

CIVIL PENALTIES AND INDIVIDUAL LIABILITY

92. California Labor Code section 558(a) provides that any employer, including individuals acting on behalf of employers, that violates, or causes to be violated, a section of the Labor Code or any applicable Wage Orders are subject to the following penalties;

- \$50 for any initial violation for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover unpaid wages;
- \$100 for each subsequent violation for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount to recover unpaid wages;

93. Labor Code section 558.1 permits joint and several liability as to both an individual and employer for violations of Labor Code sections 203, 226, 226.7, 1194, and 2802.

Labor Code section 558(c) provides that the penalties in this section are in addition to any other civil penalty.

94. DEFENDANTS are employers, and violated REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES' rights by violating, or causing to be violated, various sections of this code as described throughout this Complaint.

FIRST CAUSE OF ACTION

(VIOLATION OF LABOR CODE § 2698, ET SEQ.)

(By REPRESENTATIVE PLAINTIFF Against DEFENDANTS)

95. REPRESENTATIVE PLAINTIFF incorporates by reference the allegations contained in each of the preceding paragraphs and each and every part thereof with the same force and effect as though fully set forth herein.

96. PAGA expressly establishes that any provisions of the California Labor Code which provides for a civil penalty to be assessed and collected by the LWDA, or any of its departments, divisions, commissions, boards, agencies or employees for a violation of the California Labor Code, may be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself, and other current or former employees.

97. Whenever the LWDA, or any of its departments, divisions, commissions, boards, agencies, or employees has discretion to assess a civil penalty, a court in a civil action is authorized to exercise the same discretion, subject to the same limitations and conditions, to assess a civil penalty.

98. REPRESENTATIVE PLAINTIFF and the other hourly-paid or non-exempt employees, are "AGGRIEVED EMPLOYEES" within the meaning of California Labor Code section 2699(c) as they are all current or former employees of DEFENDANT, and one or more of the alleged violations was committed against them.

Failure to Provide Employment Records

99. DEFENDANTS failure to provide REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES with employment records constitutes unlawful and/or unfair activity and is prohibited by California Labor Code 226, 432, and 1198.5.

Failure to Pay Overtime / Double Time

100. DEFENDANTS failure to pay legally required overtime and double time wages to REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES is in violation of the Wage Orders and constitutes unlawful and/or unfair activity prohibited by California Labor Code sections 510 and 1198.

Failure to Provide Meal and Rest Periods

101. DEFENDANTS failure to provide legally required meal and rest periods to REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES constitutes unlawful and/or unfair activity prohibited by California Labor Code sections 226.7, 512(a), and the applicable Wage Orders.

Failure to Pay Minimum Wages

102. DEFENDANTS failure to pay legally required minimum wages to REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES constitutes unlawful and/or unfair activity prohibited by California Labor Code sections 1182.12, 1194, 1197, 1197.1, and the applicable Wage Orders.

Failure to Keep Accurate and Provide Itemized Wage Statements

103. DEFENDANTS failure to keep accurate and provide itemized wage statements to Plaintiff and other AGGRIEVED EMPLOYEES constitutes unlawful and/or unfair activity prohibited by California Labor Code section 226(a), 1174(d), and 1198.

Failure to Pay Reporting Time

104. DEFENDANTS failure to pay REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES who were required to and did in fact report to work, but who were then furnished less than half of such employees usual scheduled day's work, with at least half, and in no event less than two (2) hours, of the employees' regular rate of pay constitutes unlawful and/or unfair activity prohibited by California Code of Regulations 11050 (5)(A).

Failure to Pay "Split Shift" Premiums

105. DEFENDANTS failure to pay REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES one (1) hour's pay at the minimum wage in addition to the wages

for that workday for any workday in which REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES were scheduled for and required to work a “split shift” constitutes unlawful or unfair activity prohibited by California Labor Code 1198 and California Code of Regulations 11050(4)(C).

Failure to Timely Pay Wages During Employment

106. DEFENDANTS failure to timely pay wages to REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES during their employment constitutes unlawful and/or unfair activity prohibited by California Labor Code section 204, 210.

Failure to Timely Pay Wages Upon Termination

107. DEFENDANTS failure to timely pay wages to REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES upon termination constitutes unlawful and/or unfair activity prohibited by California Labor Code sections 201, 202, 203, 227.3.

Failure to Provide Information Required by the Wage Theft Prevention Act

108. DEFENDANTS failure to provide basic information to REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES related to the conditions of their pay and their rights regarding sick leave constitutes unlawful and/or unfair activity prohibited by California Labor Code section 2810.5(a)(1)(A)-(C).

Failure to Reimburse Necessary Business-Related Expenses and Costs

109. DEFENDANTS failure to reimburse REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES for necessary business-related expenses and costs constitutes unlawful and/or unfair activity prohibited by California Labor Code sections 2800 and 2802.

Failure to Provide Notice of Paid Sick Time & Failure To Pay Sick Time At Regular Rate

110. DEFENDANTS failure to provide REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES that works for DEFENDANTS for more than 30 days with written notice setting the amount of sick leave available (or paid time off in lieu thereof) for use in their itemized wage statements or in a separate writing accompanying such statements constitutes unlawful and/or unfair activity prohibited by California Labor Code section 246. DEFENDANTS failed to pay sick pay at the correct hourly rate to AGGRIEVED EMPLOYEES

when paying bonuses, commissions and/or other non-discretionary pay.

111. California Labor Code section 246 provides that an employee who works for the same employer for more than 30 days is entitled to paid sick days. Sick pay must be compensated at the employee's regular rate of pay for the workweek in which the paid leave was taken, or at a rate determined by averaging over 90-days. During the relevant time period, DEFENDANTS failed to pay AGGRIEVED EMPLOYEES sick pay when entitled to sick pay and/or failed to pay sick pay at the correct rate due pursuant to California Labor Code section 246 when Aggrieved Employees also earned additional compensation. As such, DEFENDANTS unlawfully retained and continue to retain paid sick leave that should have been paid to AGGRIEVED EMPLOYEES but for DEFENDANTS' failure to properly institute and/or adhere to a legally compliant paid sick leave program.

Unlawful Prevention of Right To Disclosure of Wages/Working Conditions

112. The California Labor Code, section 232, precludes employers from disciplining employees for disclosing their wages. Labor Code section 232.5 prohibits an employer from discharging or retaliating against an employee who discusses or discloses information about the employer's working conditions DEFENDANTS policies prevented Aggrieved Employees from engaging in lawful conduct during non-work hours, in violation of their right to disclose wages, working conditions, and illegal conduct in violation of Labor Code Sections 232 and 232.5.

Failure to Provide Suitable Seating

113. DEFENDANTS failure to provide REPRESENTATIVE PLAINTIFF and all other AGGRIEVED EMPLOYEES with suitable seats when the nature of the work reasonably permits the use of seats, and place an adequate number of seats in reasonable proximity to the work area and/or permit employees to use such seats when it does not interfere with the performance of their duties when employees are not engaged in the active duties of their employment and the nature of their work requires standing constitutes unlawful or unfair activity prohibited by California Labor Code 1198 and California Code of Regulations 11050(14)(A).

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Failure to Furnish and Use Safety Devices and Safeguards

114. DEFENDANTS failure to maintain a safe and healthful place of employment constitutes unlawful and/or unfair activity prohibited by California Labor Code sections 6400-6404 and 6406-6407 of the California Occupational Safety and Health Act ("Cal OSHA").

Unlawful Background Checks

115. Conducting unlawful background checks on prospective and current AGGRIEVED EMPLOYEES and requiring job applicants and AGGRIEVED EMPLOYEES to disclose their conviction history prior to making a conditional offer, and relying on the salary history information of an applicant for employment as a factor in determining whether to offer employment to an applicant or what salary to offer the applicant constitutes unlawful and/or unfair activity prohibited by California Labor Code section 432.3 and 432.5.

Civil Penalties

116. Pursuant to California Labor Code section 2699, REPRESENTATIVE PLAINTIFF, individually, and on behalf of all AGGRIEVED EMPLOYEES, requests and is entitled to recover penalties from DEFENDANTS and each of them, for violations of the Labor Code as more fully described herein according to proof, interest, attorneys' fees and costs pursuant to California Labor Code section 218.5, including but not limited to:

a. Penalties under California Labor Code section 2699 in the amount of a hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation, and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation;

b. Penalties under California Code of Regulations Title 8 section 11010, et seq. in the amount of fifty dollars (\$50) for each aggrieved employee per pay period for the initial violation, and one hundred dollars (\$100) for each aggrieved employee per pay period for each subsequent violation;

c. Penalties under California Labor Code section 210 in addition to, and entirely independent and apart from, any other penalties provided in the California Labor Code in the amount of a hundred dollars (\$100) for each aggrieved employee per pay

1 Dated: February 14, 2024

2 **HAIG B. KAZANDJIAN LAWYERS, APC.**

3
4 By: 
5 Haig B. Kazandjian, Esq.
6 Cathy Gonzalez, Esq.
7 David VanPelt, Esq.
8 Attorneys for Plaintiff Frederick Williams
9 Individually and on behalf of other
10 AGGRIEVED EMPLOYEES
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