

Nazo Koulloukian, SBN 263809
nazo@koullaw.com
Hilary Silvia, Of-Counsel, SBN 237993
hilary@koullaw.com
KOUL LAW FIRM, APC
217 S. Kenwood St.
Glendale, CA 91205
Telephone: (213) 325-3032
Facsimile: (818) 561-3938

Sahag Majarian, Esq. SBN 146621
sahagii@aol.com
LAW OFFICES OF SAHAG MAJARIAN II
18250 Ventura Blvd.
Tarzana, CA 91356
Telephone: (818) 609-0807
Facsimile: (818) 609-0892

Attorneys for Plaintiff,
LUCRECIA CASTILLO on behalf of
herself, all aggrieved employees, and the State
of California as a Private Attorneys General

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF RIVERSIDE

LUCRECIA CASTILLO, on behalf of herself,) Case No.: CVRI2000778
all aggrieved employees, and the State of)
California as a Private Attorneys General,)

Plaintiff,)

vs.)

FENDER MUSICAL INSTRUMENTS)
CORPORATION, a Delaware corporation, and)
DOES 1-50, inclusive.)

**STIPULATION TO PERMIT PLAINTIFF
TO FILE FIRST AMENDED
COMPLAINT; [~~PROPOSED~~] ORDER**

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EXHIBIT A

Nazo Koulloukian, SBN 263809
nazo@koullaw.com
KOUL LAW FIRM
217 S. Kenwood St.
Glendale, CA 91205
Telephone: (213) 325-3032
Facsimile: (818) 561-3938

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18250 Ventura Blvd.,
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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF RIVERSIDE

LUCRECIA CASTILLO, on behalf of herself,
all aggrieved employees, and the State of
California as a Private Attorneys General,

Plaintiffs,

vs.

FENDER MUSICAL INSTRUMENTS
CORPORATION, a Delaware corporation, and
DOES 1-50, inclusive,

Defendants.

Case No.: CVR12000778

**FIRST AMENDED REPRESENTATIVE
ACTION COMPLAINT**

Violation of the Private Attorneys General Act
of 2004, Cal. Labor Code §2698 *et seq.*

Plaintiff LUCRECIA CASTILLO brings this First Amended PAGA representative action
complaint on behalf of herself, all aggrieved employees, and the State of California as a Private
Attorneys General, and alleges as follows:

NATURE OF THE ACTION

1. Plaintiff LUCRECIA CASTILLO worked for defendant FENDER MUSICAL INSTRUMENTS CORPORATION and Does 1-50 (collectively “Defendant”). Defendant is a guitar and musical instruments manufacturer. Plaintiff brings this action pursuant to the Private Attorneys General Act of 2004 (“PAGA”), Cal. Labor Code §2698 *et seq.*, on a representative basis. All current and former hourly, non-exempt employees of Defendant in California within one year of serving notice on the LWDA to the present are aggrieved employees.

2. Defendant failed to comply with California Labor Code requirements due to erroneous, willful and intentional employment practices and policies. Plaintiff brings this representative action on behalf of herself, all other similarly situated aggrieved employees, and the State of California, based upon the claims articulated below. Plaintiff provided notice of her claims pursuant to §2698 *et. seq.*, to the Labor and Workforce and Development Agency (“LWDA”) as illustrated by the attached Exhibit, the content of which is expressly incorporated herein. The LWDA has not provided any notice to Plaintiff following the exhaustion of the 65-day notice period required by 2699.3(a)(2)(B). Accordingly, Plaintiff now brings this Complaint for civil penalties under the Private Attorneys General Act (“PAGA”), Labor Code §2698 *et seq.*

3. Defendant has had a consistent policy and/or practice of: (1) failing to comply with California law concerning payment of lawful wage for all hours worked, including minimum wage, straight time compensation, overtime wages, and double-time compensation; (2) failing to provide compliant off-duty meal breaks; (3) failing to provide safe working conditions; (4) failing to provide complaint rest breaks and cool-down recovery periods; (5) failing to timely pay all wages owed at termination; (6) failing to provide accurate wage statements and maintain accurate payroll records; (7) failing to pay reporting time pay; (8) failing to indemnify employees; (9) failing to pay all accrued vacation wages at termination; and (10) failing to provide all paid sick leave. Defendant is therefore liable for civil penalties under the Cal. Labor Code, including the Private Attorney General Act (“PAGA”), Labor Code §2698 *et seq.*, as described more fully herein.

THE PARTIES

4. Plaintiff LUCRECIA CASTILLO is a resident of the State of California and was employed as an hourly, nonexempt employee of Defendant for 33 years until May 2020.

5. Defendant FENDER MUSICAL INSTRUMENTS CORPORATION is a corporation incorporated in Delaware and doing business in California with the capacity to sue and to be sued, and doing business, in the county of Riverside, State of California.

6. Plaintiff is unaware of the true names, capacities, relationships, and extent of participation in the conduct alleged herein, of the Defendants sued as DOES 1 through 50, but is informed and believes and thereon alleges that said Defendants are legally responsible for the wrongful conduct alleged herein and therefore sues these Defendants by such fictitious names, Plaintiffs will amend this complaint when their true names and capabilities are ascertained.

7. Plaintiff is informed and believes and thereon alleges that each Defendant, directly or indirectly, or through agents or other persons, employed Plaintiff and other aggrieved employees of the representative class, and exercised control over their wages, hours, and working conditions. Plaintiff is informed and believes and thereon allege that each Defendant acted in all respects pertinent to this action as the agent of the other Defendants, carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendant is legally attributable to the other Defendants.

JURISDICTION AND VENUE

8. Venue is proper in this judicial district because Defendant conduct business in this county and each defendant has legal obligations to Plaintiff and many of the aggrieved employees in this case that arose in this county.

9. The statutory penalties sought by Plaintiff exceeds the minimal jurisdictional limits of the Superior Court and will be established according to proof at trial. Based on information, investigation and analysis, Plaintiff alleges that the amount in controversy, including claims for monetary damages, penalties and attorney's fees is more than twenty-five thousand dollars (\$25,000).

10. The California Superior Court has jurisdiction in this matter because Plaintiff is a resident of California and Defendant is qualified to do business in California and regularly

1 conduct business in California. Further, there is no federal question at issue as the claims herein
2 are based solely on California law.

3 **PAGA REPRESENTATIVE ACTION ALLEGATIONS**

4 11. During the relevant time-period, Defendant committed various violations of the
5 California Labor Code as alleged below in more detail. Defendant enforces multiple policies that
6 violate state law, which are intended to increase profits to the detriment of aggrieved employees.

7 12. Defendant FENDER MUSICAL INSTRUMENTS CORPORATION, is a corporation
8 operating a manufacturing facility in Corona, California. This representative action represents
9 over one hundred current and former aggrieved employees.

10 13. For at least one (1) year prior to the date of service notice on the LWDA, and continuing
11 to the present, Defendant engaged in unlawful employment practices that resulted in violations of
12 numerous Labor Code sections, as set forth more fully below.

13 14. Plaintiff and all current and former hourly, non-exempt employees in California within
14 one year of filing this action to the present are aggrieved employees within the meaning of Labor
15 Code 2699, *et seq.* (See Labor code §2699(c).)

16 15. Defendants, and each of them, have committed the following violations of the
17 California Labor Code:

18 **Failure to Comply with California Law Concerning Payment of Lawful Wage For All**
19 **Hours Worked, Including Minimum Wages, Straight Time Compensation, Overtime**
20 **Wages, and Double-Time Compensation**

21 (Cal. Labor Code §§210, 218, 510, 558, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2698 et seq., 8
22 CCR Section 11010, 11040, all applicable Wage Orders)

23 16. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and
24 incorporate said paragraphs herein by reference.

25 17. Section 2(G) of Wage Order 1 defines “hours worked” as “the time during which an
26 employee is subject to the control of an employer, and including all the time the employee is
27 suffered or permitted to work, whether or not required to do so.” When employees like Plaintiff
28 and aggrieved employees earning wages at or near minimum wage do not receive payment for all

1 hours worked, including time shaved from their timecards due to employer rounding, the result is
2 that they are earning less than the statutory minimum wages for all hours worked.

3 18. Labor Code section 510 states in relevant part:

4 “Eight hours of labor constitutes a day’s work. Any work in excess of eight
5 hours in one workday and any work in excess of 40 hours in any one
6 workweek and the first eight hours worked on the seventh day of work in
7 any one workweek shall be compensated at the rate of no less than one and
8 one-half times the regular rate of pay for an employee. Any work in excess
9 of 12 hours in one day shall be compensated at the rate of no less than twice
10 the regular rate of pay for an employee. In addition, any work in excess of
11 eight hours on any seventh day of a workweek shall be compensated at the
12 rate of no less than twice the regular rate of pay of an employee.”

13 19. Labor Code section 1197 provides, “The minimum wage for employees fixed by the
14 commission is the minimum wage to be paid to employees, and the payment of a less wage than
15 the minimum so fixed is unlawful.” Labor Code section 1194 states, “...any employee receiving
16 less than the legal minimum wage or the legal overtime compensation applicable to the employee
17 is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage
18 or overtime compensation, including interest thereon, reasonable attorney’s fees, and costs of suit.”
19 Further, Labor Code section 1198 provides, “The maximum hours of work and the standard
20 conditions of labor fixed by the commission shall be the maximum hours of work and the standard
21 conditions of labor for employees. The employment of any employee for longer hours than those
22 fixed by the order or under conditions of labor prohibited by the order is unlawful.”

23 20. Plaintiff alleges that Defendant maintained a policy and practice of not paying Plaintiff
24 and other aggrieved employees for all hours worked and failed to pay Plaintiff and other aggrieved
25 employees for all hours worked, including with all minimum wages, straight time wages, overtime
26 compensation, and double-time compensation for all the hours that they worked in violation of
27 Labor Code sections 210, 218, 510, 558, 1194, 1194.2, 1197, 1197.1, 1198, 1199, and the
28 applicable Wage Order.

1 21. Plaintiff and other aggrieved employees had their time shaved from their timecards due
2 to auto-deducting meal break practices and their timecards were rounded. Plaintiff and other
3 aggrieved employees were also required to work off the clock, including but not limited to before
4 and after their shifts, during temperature checks and security checks, and while waiting in long
5 lines to clock in and out for work and from meal periods, which resulted in underpayment for hours
6 worked each pay period, including overtime hours worked.

7 22. Also, Plaintiff and other aggrieved employees worked off the clock during meal
8 periods, and were not compensated for this time. For example, employee meal periods would be
9 interrupted, and the employee not compensated for work performed. As more fully set forth below,
10 Defendant failed to permit Plaintiff and others to take timely, off-duty, first and second meal breaks
11 of “not less than 30 minutes” for each five consecutive hours of work in violation of Labor Code
12 §§226.7 and 512. Plaintiff was either denied required breaks, forced to work through breaks, or
13 clocked out automatically although she continued working.

14 23. Moreover, Defendant failed to accurately calculate the regular rate of pay for
15 overtime compensation by failing to include all remuneration for employment paid to, or on
16 behalf of, the employee, including but not limited to non-discretionary bonuses, incentive pay,
17 and commissions.

18 24. Defendant’s foregoing policies, practices, and/or procedures resulted in Defendant
19 failing to pay Plaintiff and other current and former aggrieved employees for all hours worked, in
20 violation of Labor Code sections 510, 1194, 1197, 1198, and the applicable Wage Orders. Based
21 on these violations, Plaintiff intends to seek civil penalties on behalf of herself and other
22 aggrieved employees pursuant to Labor Code sections 2698, *et seq.*, and all applicable IWC
23 Wage Orders. In addition, based on the foregoing, Defendant is liable to Plaintiff and other
24 current and former employees for civil penalties under Labor Code sections 210, 225.5, 558,
25 558.1, and 1197.1, for failure to pay all wages for all hours worked, including for all overtime
26 hours worked.

27 25. As a derivative claim of Defendant’s failure to pay all wages at the correct rate for all
28 hours worked, Plaintiff seeks civil penalties for Defendant’s violations of Labor Code section
226(a) under Labor Code sections 226.3 and/or 2699(f)(2) because the failure to pay such wages

1 for all hours worked rendered Plaintiff's and other current and former aggrieved employees' pay
2 calculations inaccurate and resulted in their wage statements being inaccurate with respect to
3 gross wages earned, total hours worked, net wages earned and all applicable hourly rates in
4 effect during the pay period and the corresponding number of hours worked at each hourly rate,
5 in violation of Labor Code sections 226(a).

6 26. Failure to Pay All Wages Owed Twice Per Month: Defendant was required to pay
7 Plaintiff and aggrieved employees all wages earned twice during each calendar month pursuant
8 to Labor Code §204.

9 27. Wages earned between the 1st and 15th days, inclusive, of any calendar month must
10 be paid between the 16th and the 26th day of that month and wages earned between the 16th and
11 the last day, inclusive of any calendar month must be paid between the 1st and 10th day of the
12 following month. *Id.* Other payroll periods such as those that are weekly, biweekly, or
13 semimonthly, must be paid within seven (7) calendar days following the close of the payroll
14 period in which wages were earned. Labor Code §204(d).

15 28. Defendant failed to timely pay all wages earned to Plaintiff and other aggrieved
16 employees as a result of the unlawful employment policies and practices discussed herein, in
17 violation of Labor Code section 204. This includes, for example, failure to pay all meal and rest
18 period premiums, and wages for all hours worked. Based on these violations, Plaintiff intends to
19 seek civil penalties on behalf of herself and other aggrieved employees pursuant to PAGA, Labor
20 Code sections 2698, *et seq.*, and all applicable IWC Wage Orders. In addition, based on the
21 foregoing, Defendant is liable to Plaintiff and other current and former aggrieved employees for
22 civil penalties under Labor Code sections 210 for failure to timely pay all wages for all hours
23 worked.

24 **Failure to Provide Timely & Compliant Meal Breaks**

25 (Cal. Labor Code §§226, 226.7, 512, 516, 1199, 2698 *et seq.*, 8 CCR Section 11040, 11040, all
26 applicable Wage Order)

27 29. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and
28 incorporate said paragraphs herein by reference.

1 30. During Plaintiff's employment, Defendant failed to maintain a compliant meal period
2 policy and practice. Defendant failed to provide Plaintiff and all aggrieved employees with their
3 right to take a timely, off-duty unpaid 30-minute meal period. Labor Code §512 provides, "[a]n
4 employer may not employ an employee for a work period of more than five hours per day
5 without providing the employee with a meal period of not less than 30 minutes..."

6 31. California law requires an employer to provide an employee an uninterrupted meal
7 period of no less than thirty (30) minutes in which the employee is relieved of all duties and the
8 employer relinquishes control over the employee's activities prior to the employee's sixth hour
9 of work. Labor Code §§226.7, 512; §11 of all applicable Wage Orders; *Brinker Rest. Corp. v.*
10 *Super Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004. An employer may not employ an employee for a
11 work period of more than ten (10) hours per day without providing the employee with a second
12 such meal period of not less than thirty (30) minutes prior to the start of the eleventh hour of
13 work. *Id.* If the employer requires the employee to remain at the work site or facility during the
14 meal period, the meal period must be paid. This is true even when the employee is relieved of all
15 work duties during the meal period. *Bono Enterprises, Inc. v. Bradshaw* (1995) 32 Cal.App.4th
16 968. If an employer fails to provide an employee a meal period in accordance with the law, the
17 employer must pay the employee one (1) hour of pay at the employee's regular rate of pay for
18 each workday that a legally required and compliant meal period was not provided. Labor Code
19 §226.7; §11 of all applicable Wage Orders. Labor Code §1198 makes it unlawful for an
20 employer to employ an employee for longer hours than those fixed by the wage order or under
21 conditions of labor prohibited by the order.

22 32. Plaintiff alleges that Defendant failed to provide Plaintiff and other aggrieved
23 employees with all legally required and compliant meal periods. Defendant required employees
24 to work in excess of five hours without providing a 30-minute, uninterrupted meal period by the
25 end of the fifth hour of work. Defendant also required employees to work in excess of ten hours
26 without providing a 30-minute, uninterrupted meal period by the end of the tenth hour of work.

27 33. For a long period during Plaintiff's employment, Plaintiff and other aggrieved
28 employees did not clock in and out for lunch. Rather, lunch periods were automatically deducted
from wages regardless of whether and when breaks were taken. When breaks were taken, because

1 the break area is a substantial distance from the work area, Plaintiff spent a significant amount of
2 unpaid break time walking to the break area and did not have 30 minutes of uninterrupted break
3 time. Later, Defendant instituted a policy requiring employees to clock in and out for lunch. As
4 employees on the shift take lunch at the same time, there were long lines to clock in and out.
5 Plaintiff describes joining the clock in line 5 minutes before lunch was over to ensure she was able
6 to clock in on time. Further, Defendant did not adequately inform employees of their right to take
7 meal periods, and did not have adequate written policies or practices for providing meal periods
8 or the timing of meal periods. Defendant also did not have adequate policies or practices to verify
9 employees were taking their meal periods.

10 34. Additionally, Plaintiff alleges that Defendant maintained a policy, practice, and/or
11 procedure whereby it failed to pay Plaintiff and other current and former employees a meal period
12 premium wage of one (1) additional hour of pay at their regular rate of compensation for each
13 workday that they did not receive all legally required and compliant meal periods, in violation of
14 Labor Code section 226.7 and § 11 of all applicable Wage Orders. Moreover, Defendant failed to
15 accurately calculate the regular rate of pay for meal period premium wages by failing to include
16 all remuneration for employment paid to, or on behalf of, the employee, including but not limited
17 to non-discretionary bonuses, incentive pay, and commissions.

18 35. Defendant failed to permit Plaintiff and aggrieved employees to take timely, off-duty,
19 meal breaks of “not less than 30 minutes” for each five consecutive hours of work in violation of
20 Labor Code §§226.7 and 512, 1198, and the applicable Wage Orders. As a result of these
21 violations, Defendant is liable for civil penalties pursuant to Cal. Labor Code §§ 210, 558 and
22 2698 et. seq., and all applicable IWC Wage Orders. Defendant is also liable to Plaintiff and other
23 current and former aggrieved employees for civil penalties under Labor Code sections 210, 225.5,
24 226.6, 1174, and 1199 for failure to pay all meal period premium wages.

25 36. As a derivative claim of Defendant’s failure to provide all legally required and
26 compliant meal periods and/or failure to pay meal period premium wages, Plaintiff seeks penalties
27 under Labor Code section 226(a)(1) because the failure to pay meal period premiums and/or pay
28 meal period premiums rendered pay calculations inaccurate and in violation of Labor Code section
226(e)(2)(B)(i).

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37. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and incorporate said paragraphs herein by reference.

39. Defendant's manufacturing facility would get unsafely hot and dusty. Defendant does not have proper climate control or exhaust fans to cool the facility and keep dust to safe levels. Plaintiff and other aggrieved employees worked in unbearable heat and dust in the facility.

Failure to Provide Rest Breaks and Cool-Down Recovery Periods

41. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and incorporate said paragraphs herein by reference.

STIPULATION AND [PROPOSED] ORDER TO FILE FIRST AMENDED COMPLAINT

on.” *Brinker Restaurant Corp. v. Sup. Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004, 1029; Labor Code §226.7. Additionally, the rest period requirement “obligates Employer to permit – and authorizes employees to take – off-duty rest periods.” *Augustus v. ABM Security Services, Inc.* (2016) 5 Cal.5th 257, 269. That is, during rest periods an employer must relieve employees of all duties and relinquish control over how employees spend their time. *Id.* If the employer fails to authorize or permit a required rest period, the employer must pay the employee one (1) hour of pay at the employee’s regular rate of pay for each workday the employer did not authorize or permit a legally required rest period. Labor Code section 226.7; § 12 of all applicable Wage Orders.

43. Plaintiff alleges that Defendant failed to authorize and permit Plaintiff and other current and former employees to take all legally required and compliant rest periods. Defendant regularly required Plaintiff and other employees to work in excess of four consecutive hours a day without Defendant authorizing and permitting them to take a 10 minute, uninterrupted rest period for every four hours of work (or major fraction thereof), and without compensating them.

44. Plaintiff and aggrieved employees received shortened rest breaks as a result of the time it took them to walk from their workstations to the breakroom. Breaks were also frequently interrupted.

45. Further, Defendant did not adequately inform employees of their right to take rest periods, and did not have adequate written policies or practices for providing rest periods or the timing of rest periods. Defendant also did not have adequate policies or practices to verify employees were taking their rest periods. Defendant’s practice was for employees to work through rest periods.

46. Additionally, Plaintiff alleges that Defendant maintained a policy, practice, and/or procedure whereby they failed to pay Plaintiff and other current and former employees a rest period premium wage of one (1) additional hour of pay at their regular rate of compensation for each workday that they did not receive all legally required and compliant rest periods, in violation of Labor Code section 226.7 and § 12 of all applicable Wage Orders.

47. Moreover, Defendant failed to accurately calculate the regular rate of pay for rest period premium wages by failing to include all remuneration for employment paid to, or on behalf of, the employee, including but not limited to non-discretionary bonuses, incentive pay, and commissions.

1 48. Based on these violations, Plaintiff intends to seek civil penalties on behalf of herself
2 and other aggrieved employees pursuant to PAGA, Labor Code sections 210, 226.7, 558, 2698,
3 *et seq.*, and all applicable IWC Wage Orders. Defendant is also liable to Employees and other
4 current and former aggrieved California-based hourly non-exempt employees for civil penalties
5 under Labor Code sections 210 and 225.5 for failure to pay all rest period premium wages. As a
6 derivative claim of Defendant's failure to authorize or permit all legally required and compliant
7 rest periods and/or failure to pay rest period premium wages, Plaintiff seeks penalties under
8 Labor Code section 226(a)(1) because the failure to pay rest period premiums and/or pay rest
9 period premiums rendered Plaintiff's and other current and former employees' pay calculations
10 inaccurate and in violation of Labor Code section 226(e)(2)(B)(i).

11 49. Furthermore, California Code of Regulations, Title 8, section 3396 mandates that
12 employers implement an indoor heat illness prevention program that includes, among other
13 requirements, providing workers "preventative cool-down rest" defined as "a rest taken in a cool-
14 down area to prevent overheating" (Cal. Code Regs., tit. 8, § 3396) Under California Labor Code
15 section 226.7, if an employer fails to provide an employee a "rest or recovery period in
16 accordance with a state law," the employer shall pay the employee one additional hour of pay at
17 the employee's regular rate of compensation for each workday that the rest or recovery period is
18 not provided. (Labor Code section 226.7 (c).) As mentioned above, the warehouse did not have
19 proper ventilation and had ineffective climate control. Title 8 of the California Code of
20 Regulations cover standards for indoor heat exposure. Section 3203 requires that employers take
21 the steps necessary to protect employees' health and safety when the temperature exceeds 85
22 degrees in the workplace. Labor Code 226.7 requires that breaks comply with requirements of
23 the wage orders, OSHA, and the DOSHA. If breaks do not comply, Defendant has violated
24 California's rest break requirements. Accordingly, Defendant violated section 226.7 by failing
25 to provide required cool-down rest periods.

26 50. Additionally, Plaintiff alleges that Defendant maintained a policy, practice, and/or
27 procedure whereby it failed to pay Plaintiff and other current and former employees a recovery
28 cool-down period premium wage of one (1) additional hour of pay at their regular rate of
compensation for each workday that they did not receive all legally required and compliant

1 recovery periods, in violation of Labor Code section 226.7 and applicable Wage Orders.
2 Moreover, Defendant failed to accurately calculate the regular rate of pay for recovery cool-
3 down period premium wages by failing to include all remuneration for employment paid to, or
4 on behalf of, the employee, including but not limited to non-discretionary bonuses, incentive
5 pay, and commissions.

6 51. Based on these recovery cool-down period violations, Plaintiff intends to seek civil
7 penalties on behalf of herself and other aggrieved employees pursuant to PAGA, Labor Code
8 sections 558, 2698, *et seq.*, and all applicable IWC Wage Orders. Defendant is also liable to
9 Plaintiff and other current and former aggrieved California-based hourly non-exempt employees
10 for civil penalties under Labor Code sections 210 and 225.5 for failure to pay all recovery cool-
11 down period premium wages.

12 **Failure to Timely Pay All Wages Owed at Termination**

13 (Cal. Lab. Code §§200, 201, 202, 203, 1199 and 2698 *et seq.*, 8 CCR Section 11010, 11040, all
14 applicable Wage Orders)

15 52. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and
16 incorporate said paragraphs herein by reference.

17 53. Cal. Lab. Code § 200 provides that:

18 “As used in this article:

19 (d) "Wages" includes all amounts for labor performed by employees of every
20 description, whether the amount is fixed or ascertained by the standard of time,
21 task, piece, Commission basis, or other method of calculation.

22 (e) "Labor" includes labor, work, or service whether rendered or performed under
23 contract, subcontract, partnership, station plan, or other agreement if the to be
24 paid for is performed personally by the person demanding payment.”

25 54. Labor Code section 201(a) states that “[i]f an employer discharges an employee, the
26 wages earned and unpaid at the time of discharge are due and payable immediately.” Labor Code
27 section 202(a) continues, “[i]f an employee not having a written contract for a definite period
28 quits his or her employment, his or her wages shall become due and payable not later than 72
hours thereafter....”

1 55. Pursuant to Cal. Lab. Code § 202 (a), “[i]f an employee not having a written contract
2 for a definite period quits his or her employment, his or her wages shall become due and payable
3 not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his
4 or her intention to quit, in which case the employee is entitled to his or her wages at the time of
5 quitting. Notwithstanding any other provision of law, an employee who quits without providing a
6 72-hour notice shall be entitled to receive payment by mail if he or she so requests and
7 designates a mailing address. The date of the mailing shall constitute the date of payment for
8 purposes of the requirement to provide payment within 72 hours of the notice of quitting.”

9 56. Finally, Labor Code section 203(a) provides, “[i]f an employer willfully fails to
10 pay...any wages of an employee who is discharged or who quits, the wages of the employee
11 shall continue as a penalty from the due date thereof at the same rate until paid or until an action
12 therefor is commenced; but the wages shall not continue for more than 30 days....” Labor Code
13 section 256 states that “[t]he Labor Commissioner shall impose a civil penalty in an amount not
14 exceeding 30 days pay as waiting time under the terms of Section 203.”

15 57. Defendant knowingly and willfully failed to pay all compensation due and owing to
16 Plaintiff and aggrieved employees at the time employment terminated as required by Cal. Lab.
17 Code §§201 and 202 and therefore are entitled to waiting time penalties under Labor Code
18 section 203. Because of the violations of the Labor Code described herein,, Plaintiff and
19 aggrieved employees were underpaid (including regarding minimum wages, overtime wages,
20 meal period premium wages, rest period/cooldown period premium wages, reporting time pay,
21 sick wages, vacation wages) and those amounts remained due and owing when they separated
22 from Defendant.

23 58. Defendant willfully failed to pay employees who are no longer employed by it all
24 compensation due upon termination of employment within the time periods required by Cal. Lab.
25 Code §§201 and 202. Pursuant to §§203, Plaintiff and similarly situated individuals are now also
26 entitled to recover up to thirty (30) days of wages , at their regular hourly rate, due to
27 Defendant’s “willful” failure to comply with the statutory requirements of §§201 and 202 of the
28 Labor Code. Moreover, because Defendant violated §§201and 203, Defendant is liable for civil
penalties pursuant to Cal. Lab. Code § 2698 *et. seq.*, 210, and 256.

Civil Penalties for Failure to Furnish Accurate Wage Statements
and Maintain Accurate Records

(Cal. Labor Code §§ 226, 226.3, 1174, 1174.5, 1199, 2698 *et seq.*, 8 CCR Section 11010, 11040,
all applicable Wage Order.)

59. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and incorporate said paragraphs herein by reference.

60. California Labor Code §226(a) provides that “[e]very employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees...an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked..., (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions ... , (5) net wages earned, (6) the inclusive dates of period for which the employee is paid, (7) the name of the employee and his or her social security number..., (8) the name and address of the legal entity that is the employer, 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.”

61. Defendants knowingly and intentionally failed to provide timely, accurate, itemized wage statements to Plaintiff and the aggrieved employees, and maintain accurate records, in accordance with Labor Code §§226. As a result of the unlawful employment practices discussed herein, the statements provided to Plaintiff and aggrieved employees have not accurately reflected the correct hourly rates, gross wages earned and net wages earned, including wages for overtime and meal/rest premiums, accrued vacation wages, and total regular and overtime hours worked. Additionally, Plaintiff alleges that Defendant failed to include all categories of information required under Labor Code section 226. Such failures caused injury to Plaintiff and others, by, among other things, impeding them from knowing the total hours worked and the amount of wages to which they are and were entitled.

62. Additionally, the total hours listed on the wage statement includes hours itemized for meal breaks and vacation hours. The manner in which Holiday Pay is listed is also confusing, as it appears to be double counted. Such failures caused injury to Plaintiff and others, by, among other things, impeding them from knowing the total hours worked and the amount of wages and

1 vacation pay to which they are and were entitled. Defendant's unlawful employment practices
2 were knowing and intentional, and thus Defendant knowingly and intentionally failed to itemize
3 the gross wages earned, net wages earned, penalty pay, and total hours worked.

4 63. Based on these violations, Plaintiff seeks civil penalties pursuant to PAGA, Labor
5 Code sections 2698, et seq., and Labor Code section 226.3 and/or Labor Code section 2699(f)(2),
6 and all applicable IWC Wage Orders. Plaintiff and other aggrieved employees are also entitled
7 to recover from Defendant the greater of their actual damages caused by Defendant's failure to
8 comply with Labor Code section 226.3, or an aggregate penalty not exceeding \$4,000 per
9 employee.

10 64. Labor Code §226.3 provides, "[a]ny employer who violates subdivision (a) of Section
11 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per
12 employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for
13 each violation in a subsequent citation, for which the employer fails to provide the employee a
14 wage deduction statement or fails to keep the records required in subdivision (a) of Section 226.
15 The civil penalties provided for in this section are in addition to any other penalty provided by
16 law." Plaintiff seeks penalties as permitted under Labor Code §226 for herself and other
17 aggrieved employees for each violation.

18 65. In addition, Labor Code § 1174 provides that "[e]very employer employing labor in
19 this state shall ... (c) [k]eep a record showing the names and addresses of all employees
20 employed and the ages of all minors [and] (d) [k]eep at a central location in the state or at the
21 plants or establishments at which employees are employed, payroll records showing the hours
22 worked daily by and the wages paid to, and the number of piece-rate units earned by and any
23 applicable piece rate paid to, employees employed at the respective plants or establishments.
24 These records shall be kept in accordance with rules established for this purpose by the
25 commission, but in any case shall be kept on file for not less than two years." Further, Labor
26 Code section 1174.5 states that, "[a]ny person employing labor who willfully fails to maintain
27 the records required by subdivision (c) of Section 1174 or accurate and complete records
28 required by subdivision (d) of Section 1174, or to allow any member of the commission or
employees of the division to inspect records pursuant to subdivision (b) of Section 1174, shall be

subject to a civil penalty of five hundred dollars (\$500).” Pursuant to the applicable Wage Orders, every employer shall keep time records showing when the employee begins and ends each work period.

66. Defendant failed to maintain accurate records, including payroll records and records of all hours worked and of meal periods, in accordance with Labor Code § 1174. Defendant’s failure to provide and maintain accurate records deprived Plaintiff and other aggrieved employees with the ability to understand the accuracy and frequency of their hours worked and meal periods, and thus rendered them unable to dispute their wages. Plaintiff and other aggrieved employees have suffered substantial losses related to the use and enjoyment of such wages.

67. Based on these violations, Plaintiff intends to seek all applicable civil penalties on behalf of herself and other aggrieved employees pursuant to PAGA, Labor Code sections 2698, *et seq.*, Labor Code section 558.1, 226.6, 1174.5, and all applicable IWC Wage Orders.

68. Through this representative action, Plaintiff will advance the interests of hundreds of current and former employees, such that joinder is impracticable. These current and former employees can be readily be identified through a review of Defendant’s payroll records and the records of the company that handles payroll for Defendant.

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

Failure to Pay Reporting Time Pay

(Cal. Labor Code §§ 1194, 1197, 1198, and all applicable IWC Wage Orders)

70. Plaintiff alleges that Defendant failed to pay Plaintiff and other current and former aggrieved employees accurate reporting time pay. Labor Code sections 1198, 1194, 1197 and the Industrial Welfare Commission Wage Orders require an employer to pay “reporting time pay” under the applicable Wage Order. The applicable Wage Order requires that when an “employee is required to report for work and does report but is not put to work or is furnished less than half said employee's usual or scheduled day's work, the employee shall be paid for half the usual or scheduled day's work, but in no event for less than two (2) hours nor more than four

(4) hours, at the employee's regular rate of pay, which shall not be less than the minimum wage.”
§5(A) of all applicable Wage Orders.

71. Defendant required Plaintiff and other current and former aggrieved employees to report for work and be put to work for less than half of their usual or scheduled day’s work, but Defendant did not pay Plaintiff and other current and former aggrieved employees any reporting time pay and/or reporting time pay at the correct rate. Defendant failed to accurately calculate the regular rate of pay for reporting time pay by failing to include all remuneration for employment paid to, or on behalf of, the employee, including but not limited to non-discretionary bonuses, incentive pay, and commissions.

72. Based on these violations, Plaintiff intends to seek civil penalties on behalf of herself and other aggrieved employees pursuant to the PAGA, Labor Code §2698, et seq. and Labor Code §1197.1, subds. (a)(1)-(2), and all applicable IWC Wage Orders, on behalf of the LWDA against Defendant. Plaintiff seeks statutory penalties under Labor Code 226(a)(1) because the failure to pay such reporting time wages rendered Plaintiff’s and other current and former aggrieved employees’ pay calculations inaccurate and in violation of Labor Code § 226(e)(2)(B)(i)).

Failure to Indemnify Employees

(Cal. Labor Code §§ 2800, 2802)

73. Plaintiff alleges that Defendant failed to indemnify Plaintiff and other current and former employees for all necessary expenditures or losses incurred by them in the discharge of their duties. Labor Code section 2800 states, “An employer shall in all cases indemnify his employee for losses caused by the employer’s want of ordinary care.” Labor Code section 2802(a) states, “An employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer...”

74. Defendant failed to indemnify employees for all necessary expenditures or losses incurred by them in the discharge of their duties due to Defendant’s policies, practices, and/or procedures including, but not limited to, use of personal cellular telephones, use of personal vehicles, and the purchase of various tools and other items. Defendant’s aforementioned

1 policies, practices, and/or procedures resulted in employees not receiving indemnification for
2 employment-related expenditures, in violation of Labor Code sections 2800 and 2802. Based on
3 this violation, Plaintiff seeks both restitution for herself and other current and former aggrieved
4 employees and seeks civil penalties on behalf of herself and other aggrieved employees under
5 PAGA, Labor Code sections 2698, et seq., and all applicable IWC Wage Orders.

6 **Failure to Pay All Accrued Vacation Wages at Termination**

7 (Cal. Labor Code § 227.3)

8 75. Plaintiff alleges that Defendant failed to pay all accrued vacation wages at
9 termination. Labor Code section 227.3 requires employers to pay employees for all accrued,
10 unused, vested vacation time at their final rate of pay upon termination. Defendant maintained a
11 policy and practice of failing to pay the correct amount of vacation pay at termination, including
12 failing to pay at the employee's final wage rate. Based on this violation, Plaintiff intends to seek
13 civil penalties on behalf of herself and other aggrieved employees under PAGA, Labor Code
14 sections 2698, et seq., and all applicable IWC Wage Orders.

15 **Failure to Provide All Paid Sick Leave**

16 (Cal. Labor Code §§233, 234, 246)

17 76. Plaintiff alleges that Defendant failed to provide Plaintiff and other employees with
18 paid sick leave. Labor Code section 246, subdivision (a), states in relevant part “[a]n employee
19 who...works in California for the same employer for 30 or more days within a year from the
20 commencement of employment is entitled to paid sick days.” Additionally, an employee accrues
21 paid sick days at the rate of no less than one (1) hour per every thirty (30) hours worked,
22 beginning at the commencement of employment. Labor Code section 246(b). Labor Code
23 section 246, subdivision (l), provides that an employer shall calculate the paid sick time for non-
24 exempt employees in the same manner as the regular rate of pay for the workweek in which the
25 employee elected to use paid sick time. “The regular rate at which an employee is employed
26 shall be deemed to include all remuneration for employment paid to, or on behalf, of the
27 employee.” See Division of Labor Standards Enforcement – Enforcement Policies and
28 Interpretations Manual, Section 49.1.2. Pursuant to Labor Code section 233, an employer must

“permit an employee to use in any calendar year the employee’s accrued and available sick leave entitlement.”

77. Plaintiff alleges that Defendant failed to provide current and former aggrieved employees with all proper paid sick leave as required under California law. Further, when Plaintiff and other current and former aggrieved employees elected to use paid sick time, Defendant failed to pay them sick time wages at the proper sick time rate of pay due to Defendant’s failure to include all remuneration when calculating the sick time rate of pay. Specifically, Defendant maintained a policy, practice, and/or procedure of failing to include all remuneration including, but not limited to, non-discretionary bonuses, incentive pay, and commissions, for example, when calculating Plaintiff’s and other employees’ regular rate of pay for the purpose of paying sick time.

78. Plaintiff, on behalf of herself and all aggrieved employees, seeks all appropriate relief for the above-referenced violations, including but not limited to relief under Labor Code section 233 and 234, which incorporates the paid sick leave requirements. Based on these violations, Plaintiff also intend to seek civil penalties on behalf of herself and all aggrieved employees pursuant to PAGA, Labor Code sections 2698, et seq., and all applicable IWC Wage Orders.

FIRST CAUSE OF ACTION

Against All Defendants for Violation of the Private Attorneys General Act (“PAGA”) (California Labor Code §2698 *et seq.*)

79. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and incorporate said paragraphs herein by reference.

80. Plaintiff is an “aggrieved employee” under PAGA, as she was employed by Defendant during the applicable statutory period and suffered one or more of the Labor Code violations set forth herein. Accordingly, Plaintiff seeks to recover on behalf of herself and all other current and former hourly, non-exempt aggrieved employees of Defendant in California, the civil penalties provided by PAGA, plus reasonable attorneys’ fees and costs.

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

1 82. Plaintiff seeks civil penalties pursuant to PAGA for violations of the following Labor
2 Code provisions:

- 3 a. Failure To Comply with California Law Concerning Payment of Lawful Wage
4 For All Hours Worked, Including Minimum Wage, Straight Time Compensation,
5 Overtime Wages, And Double-Time Compensation (Cal. Labor Code §§210, 218,
6 510, 558, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2698 *et seq.*, 8 CCR Section
7 11010, 11040, all applicable Wage Orders);
- 8 b. Failure to Pay All Wages Owed Twice Per Month (Cal. Labor Code § 204, 210);
- 9 c. Failure to Provide Timely, Uninterrupted Meal Breaks (Cal. Labor Code §§226,
10 226.7, 512, 516, 1199, 2698 *et seq.* 8 CCR Section 11010, 11040, all applicable
11 Wage Order);
- 12 d. Failure to Provide Safe Working Conditions (Cal. Labor Code §1198, 8 CCR
13 Section 11010, 11040, all applicable Wage Order);
- 14 e. Failure to Provide Compliant Rest Breaks and Cool-Down Recovery Periods (Cal.
15 Labor Code §§226, 226.7, 512, 516, 1198, 2698 *et seq.* 8 CCR 3202, 8 CCR
16 Section 11010, 11040, all applicable Wage Orders ¶12);
- 17 f. Failure to Timely Pay All Wages Owed at Termination (Cal. Labor Code §§200,
18 201, 202, 203, 1199, 2698 *et seq.*, 8 CCR Section 11010, 11040, all applicable
19 Wage Order);
- 20 g. Failure to Provide Accurate Itemized Wage Statements and Maintain Accurate
21 Records (Cal. Labor Code §§226, 226.3, 1174, 1174.5, 1199, 2699 *et seq.* 8 CCR
22 Section 11010, 11040, all applicable Wage Order);
- 23 h. Failure to Pay Reporting Time Pay (Cal. Labor Code §§ 1194, 1197, 1198, and all
24 applicable IWC Wage Orders);
- 25 i. Failure to Indemnify Employees (Cal. Labor Code §§ 2800, 2802);
- 26 j. Failure to Pay All Accrued Vacation Wages at Termination (Cal. Labor Code §§
27 227.3);
- 28 k. Failure to Provide All Paid Sick Leave (Cal. Labor Code §§233, 234, 246).

1 83. With respect to violations of Labor Code §226(a), Labor Code §226.3 imposes a civil
2 penalty in addition to any other penalty provided by law of two hundred fifty dollars (\$250) per
3 aggrieved employee for the first violation, and one thousand dollars (\$1,000) per aggrieved
4 employee for each subsequent violation of Labor Code §226(a).

5 84. With respect to violations of Labor Code §512, Labor Code §558 imposes a civil
6 penalty in addition to any other penalty provided by law of fifty dollars (\$50) for initial
7 violations for each underpaid employee for each pay period for which the employee was
8 underpaid, and one hundred dollars (\$100) for subsequent violations for each underpaid
9 employee for each pay period for which the employee was underpaid.

10 85. With respect to violations of Labor Code § 1174, Labor Code § 1174.5 imposes a
11 civil penalty of five hundred dollars (\$500).

12 86. With respect to violations of Labor Code § 200-203, Labor Code § 256 imposes a
13 civil penalty in an amount not exceeding 30 days pay as waiting time under the terms of Section
14 203.

15 87. With respect to violations of Labor Code § 204, Labor Code § 210 imposes a civil
16 penalty in addition to any other penalty provided by law of one hundred dollars (\$100) per
17 aggrieved employee for the first violation, and two hundred dollars (\$200) per aggrieved
18 employee for each subsequent violation, plus 25 percent of the amount unlawfully withheld.

19 88. With respect to violations for unlawfully withholding wages due to an employee,
20 Labor Code § 225.5 imposes a civil penalty in addition to any other penalty provided by law of
21 one hundred dollars (\$100) per aggrieved employee for the first violation, and two hundred
22 dollars (\$200) per aggrieved employee for each subsequent violation, plus 25 percent of the
23 amount unlawfully withheld.

24 89. With respect to violations for failing to pay any employee a wage less than minimum
25 wage, Labor Code § 1197.1 imposes liquidated damages, restitution, and a civil penalty in
26 addition to any other penalty provided by law of one hundred dollars (\$100) per aggrieved
27 employee for the first violation that is intentionally committed, and two hundred fifty dollars
28 (\$250) per aggrieved employee for each subsequent violation for the same offense.

90. Labor Code §2698 *et seq.* imposes a civil penalty of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for all Labor Code provisions for which a civil penalty is not specifically provided.

91. Plaintiff and the other current and former employees of Defendant are aggrieved employees. They were or are employed by Defendant, and each of them, and the violations alleged herein were committed against them. Plaintiff brings this action on behalf of herself and all other current and former aggrieved employees.

92. At the time of each violation, Defendant employed one or more employees.

93. As a result of the aforesaid wrongful and illegal conduct of Defendant, and each of them, Plaintiff and aggrieved employees are entitled to civil penalties in an amount to be determined at trial, pre-judgment interest, costs and attorneys' fees.

94. Plaintiff has complied with all procedural requirements of Labor Code §2699.3 prior to filing this Complaint. By the Notice attached as Exhibit 1, submitted online to the Labor and Workforce Development Agency (“LWDA”) and served by certified mail upon Defendant, Plaintiff through counsel notified the LWDA and Defendants of the specific Labor Code provisions that Defendants have violated. The LWDA did not respond to Plaintiff’s Notice within the statutory timeframe, and Plaintiff has therefore exhausted administrative remedies. Pursuant to Labor Code §2699.3, Plaintiff may now pursue her PAGA claims in this action on behalf of aggrieved employees and the State of California.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually and on behalf of the aggrieved employees, prays for judgement against Defendant as follows:

1. An award of civil penalties pursuant to PAGA and the Cal. Labor Code in an amount to be determined at trial, but at least the jurisdictional amount of this Court;
2. An award of reasonable attorneys' fees and costs pursuant to California Labor Code §2699(g) and/or other applicable law, including California Code of Civil Procedure section 1021.5;

3. For civil penalties as provided under Labor Code §§210, 225.5, 226.3, 226.6, 256, 558, 558.1, 1174.5, 1197.1, and/or other applicable law;

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4. Pre-judgement and post-judgement interest as provided by law, including California Code of Civil Procedure sections 3287, 3289; and

5. Such other and further relief that the Court may deem just and proper.

DATED: September 2, 2025

**KOUL LAW FIRM
LAW OFFICES OF SAHAG MAJARIAN II**



BY: Nazo Koulloukian, Esq.

Attorneys for Plaintiff LUCRECIA CASTILLO,
and all aggrieved employees

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EXHIBIT 1

July 1, 2025

Via E-filing:

California Labor & Workforce
Development Agency
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102

Via Certified U.S. Mail:

Fender Musical Instruments Corporation
17600 N. Perimeter Drive
Suite 100
Scottsdale, AZ 85255

Re: AMENDED PAGA Notice Pursuant to California Labor Code §2699
Claimant: Lucrecia Castillo
Employer: Fender Musical Instruments Corporation

Dear Sir or Madam:

Lucrecia Castillo (hereafter “Claimant”) has retained Nazo Koulloukian, Esq. of the KOUL LAW FIRM, and Sahag Majarian of Law Offices of Sahag Majarian II, to represent her, and all other aggrieved employees, for wage and hour claims against her employer Fender Musical Instruments Corporation, hereafter “Employer.”

Fender Musical Instruments Corporation is a guitar and musical instruments manufacturer. Claimant worked for Employer for 33 years, most recently as a group lead in Employer’s manufacturing facility in Corona, California, until May of 2020.

Claimant brings this AMENDED PAGA Notice to add additional claims against Employer as detailed below.

Employer has violated, and/or has caused to be violated, several Labor Code provisions and it is therefore liable for civil penalties under Cal. Labor Code §2698 *et seq.* Based on the following facts and theories, Employer has violated and/or continues to violate, among other provisions of the California Labor Code and applicable wage law, California Labor Code sections 201–203, 204, 210, 218, 226, 226.3, 226.7,

510, 512, 516, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, and 1199, 8 CCR Section 3202, and IWC Wage Orders, including but not limited to Wage Orders No. 1 and 4, and the equivalent regulation sections, 8 CCR sections 11010, 11040.

We request that your agency investigate the claims alleged below or permit Claimant to seek civil penalties under the Private Attorney General Act (“PAGA”), Labor Code §2698 *et seq.*, on behalf of the Labor and Workforce and development Agency (“LWDA”) and the State of California in a representative action. This letter will serve as notice of these allegations pursuant to Cal. Lab. Code §2699.3.

Failure to Comply with California Law Concerning Payment of Lawful Wage For All Hours Worked, Including Minimum Wages, Straight Time Compensation, Overtime Wages, and Double-Time Compensation

(Cal. Labor Code §§210, 218, 510, 558, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2698 *et seq.*, 8 CCR Section 11010, 11040, all applicable Wage Orders)

Section 2(G) of Wage Order 1 defines “hours worked” as “the time during which an employee is subject to the control of an employer, and including all the time the employee is suffered or permitted to work, whether or not required to do so.”

Labor Code section 510 states in relevant part:

“Eight 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.”

Labor Code section 1197 provides, “The 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 section 1194 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.” Further, Labor Code section 1198 provides, “The maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard

1 conditions of labor for employees. The employment of any employee for longer hours than those
2 fixed by the order or under conditions of labor prohibited by the order is unlawful.”

3 Claimant alleges that Employer maintained a policy and practice of not paying Claimant
4 and other aggrieved employees for all hours worked and failed to pay Claimant and other
5 aggrieved employees for all hours worked, including with all minimum wages, straight time
6 wages, overtime compensation, and double-time compensation for all the hours that they worked
7 in violation of Labor Code sections 210, 218, 510, 558, 1194, 1194.2, 1197, 1197.1, 1198, 1199,
8 and the applicable Wage Order.

9 Claimant and other aggrieved employees had their time shaved from their timecards due
10 to auto-deducting meal break practices and their timecards were rounded. Claimant and other
11 aggrieved employees were also required to work off the clock, including but not limited to before
12 and after their shifts, during temperature checks and security checks, and while waiting in long
13 lines to clock in and out for work and from meal periods, which resulted in underpayment for
14 hours worked each pay period, including overtime hours worked.

15 Also, Claimant and other aggrieved employees worked off the clock during meal periods,
16 and were not compensated for this time. For example, employee meal periods would be
17 interrupted, and the employee not compensated for work performed. As more fully set forth
18 below, Employer failed to permit Claimant and others to take timely, off-duty, first and second
19 meal breaks of “not less than 30 minutes” for each five consecutive hours of work in violation of
20 Labor Code §§226.7 and 512. Claimant was either denied required breaks, forced to work
21 through breaks, or clocked out automatically although she continued working.

22 Moreover, Employer failed to accurately calculate the regular rate of pay for overtime
23 compensation by failing to include all remuneration for employment paid to, or on behalf of, the
24 employee, including but not limited to non-discretionary bonuses, incentive pay, and
25 commissions.

26 Employer’s foregoing policies, practices, and/or procedures resulted in Employer failing
27 to pay Claimant and other current and former aggrieved employees for all hours worked, in
28 violation of Labor Code sections 510, 1194, 1197, 1198, and the applicable Wage Orders. Based
on these violations, Claimant intends to seek civil penalties on behalf of herself and other

aggrieved employees pursuant to Labor Code sections 2698, *et seq.*, and all applicable IWC Wage Orders. In addition, based on the foregoing, Employer is liable to Claimant and other current and former employees for civil penalties under Labor Code sections 210, 225.5, 558, 558.1, and 1197.1, for failure to pay all wages for all hours worked, including for all overtime hours worked.

As a derivative claim of Employer's failure to pay all wages at the correct rate for all hours worked, Claimant will also seek civil penalties for Employer's violations of Labor Code section 226(a) under Labor Code sections 226.3 and/or 2699(f)(2) because the failure to pay such wages for all hours worked rendered Claimant's and other current and former aggrieved employees' pay calculations inaccurate and resulted in their wage statements being inaccurate with respect to gross wages earned, total hours worked, net wages earned and all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate, in violation of Labor Code sections 226(a).

Failure to Pay All Wages Owed Twice Per Month

Employer was required to pay Claimant and employee all wages earned twice during each calendar month pursuant to Labor Code §204. Wages earned between the 1st and 15th days, inclusive, of any calendar month must be paid between the 16th and the 26th day of that month and wages earned between the 16th and the last day, inclusive of any calendar month must be paid between the 1st and 10th day of the following month. *Id.* Other payroll periods such as those that are weekly, biweekly, or semimonthly, must be paid within seven (7) calendar days following the close of the payroll period in which wages were earned. Labor Code §204(d). Employer failed to timely pay all wages earned to Claimant and other aggrieved employees as a result of the unlawful employment policies and practices discussed herein, in violation of Labor Code section 204. This includes, for example, failure to pay all meal and rest period premiums, and wages for all hours worked. Based on these violations, Claimant intends to seek civil penalties on behalf of herself and other aggrieved employees pursuant to PAGA, Labor Code sections 2698, *et seq.*, and all applicable IWC Wage Orders. In addition, based on the foregoing, Employer is liable to Claimant and other current and former aggrieved employees for civil penalties under Labor Code sections 210 for failure to timely pay all wages for all hours worked.

1 **Failure to Provide Timely, Uninterrupted Meal Breaks**

2 **(Cal. Labor Code §§226, 226.7, 512, 516, 1199, 2698 et seq., 8 CCR Section 11040, 11040, all**
3 **applicable Wage Orders)**

4 During Claimant’s employment, Employer failed to maintain a compliant meal period
5 policy and practice. Employer failed to provide Claimant and all aggrieved employees with their
6 right to take a timely, off-duty unpaid 30-minute meal period. Labor Code §512 provides, “[a]n
7 employer may not employ an employee for a work period of more than five hours per day
8 without providing the employee with a meal period of not less than 30 minutes...”
9 California law requires an employer to provide an employee an uninterrupted meal period of no
10 less than thirty (30) minutes in which the employee is relieved of all duties and the employer
11 relinquishes control over the employee’s activities prior to the employee’s sixth hour of work.
12 Labor Code §§226.7, 512; §11 of all applicable Wage Orders; *Brinker Rest. Corp. v. Super Ct.*
13 (*Hohnbaum*) (2012) 53 Cal.4th 1004. An employer may not employ an employee for a work
14 period of more than ten (10) hours per day without providing the employee with a second such
15 meal period of not less than thirty (30) minutes prior to the start of the eleventh hour of work. *Id.*
16 If the employer requires the employee to remain at the work site or facility during the meal
17 period, the meal period must be paid. This is true even when the employee is relieved of all work
18 duties during the meal period. *Bono Enterprises, Inc. v. Bradshaw* (1995) 32 Cal.App.4th 968. If
19 an employer fails to provide an employee a meal period in accordance with the law, the
20 employer must pay the employee one (1) hour of pay at the employee’s regular rate of pay for
21 each workday that a legally required and compliant meal period was not provided. Labor Code
22 §226.7; §11 of all applicable Wage Orders. Labor Code §1198 makes it unlawful for an
23 employer to employ an employee for longer hours than those fixed by the wage order or under
24 conditions of labor prohibited by the order.

25 Claimant alleges that Employer failed to provide Claimant and other aggrieved
26 employees with all legally required and compliant meal periods. Employer required employees
27 to work in excess of five hours without providing a 30-minute, uninterrupted meal period by the
28 end of the fifth hour of work. Employer also required employees to work in excess of ten hours
without providing a 30-minute, uninterrupted meal period by the end of the tenth hour of work.

1 Until recently, Claimant and her coworkers did not clock in and out for lunch. Rather, lunch
2 periods were automatically deducted from wages regardless of whether and when breaks were
3 taken. When breaks were taken, because the break area is a substantial distance from the work
4 area, Claimant spent a significant amount of unpaid break time walking to the break area and did
5 not have 30 minutes of uninterrupted break time. After Employer instituted a policy requiring
6 employees to clock in and out for lunch, because employees on the shift take lunch at the same
7 time, there are long lines to clock in and out. Claimant describes joining the clock in line 5
8 minutes before lunch was over to ensure she was able to clock in on time. Further, Employer did
9 not adequately inform employees of their right to take meal periods, and did not have adequate
10 written policies or practices for providing meal periods or the timing of meal periods. Employer
11 also did not have adequate policies or practices to verify employees were taking their meal
12 periods.

13 Additionally, Claimant alleges that Employer maintained a policy, practice, and/or
14 procedure whereby it failed to pay Claimant and other current and former employees a meal
15 period premium wage of one (1) additional hour of pay at their regular rate of compensation for
16 each workday that they did not receive all legally required and compliant meal periods, in
17 violation of Labor Code section 226.7 and § 11 of all applicable Wage Orders. Moreover,
18 Employer failed to accurately calculate the regular rate of pay for meal period premium wages
19 by failing to include all remuneration for employment paid to, or on behalf of, the employee,
20 including but not limited to non-discretionary bonuses, incentive pay, and commissions.

21 Employer failed to permit Claimant and others to take timely, off-duty, meal breaks of
22 “not less than 30 minutes” for each five consecutive hours of work in violation of Labor Code
23 §§226.7, 512, 1198, and the applicable Wage Orders. As a result of these violations, Employer is
24 liable for civil penalties pursuant to Cal. Labor Code §§ 210, 558 and 2698 *et. seq.*, and all
25 applicable IWC Wage Orders. Employer is also liable to Claimant and other current and former
26 aggrieved employees for civil penalties under Labor Code sections 210, 225.5, 226.6, 1174, and
27 1199 for failure to pay all meal period premium wages. As a derivative claim of Employer’s
28 failure to provide all legally required and compliant meal periods and/or failure to pay meal
period premium wages, Claimant will seek penalties under Labor Code section 226(a)(1)

1 because the failure to pay meal period premiums and/or pay meal period premiums rendered pay
2 calculations inaccurate and in violation of Labor Code section 226(e)(2)(B)(i).

3 **Failure to Provide Safe Working Conditions**

4 **(Cal. Labor Code §1198, Wage Order 1 ¶15; 8 CCR Section 11010, 11040, all applicable**
5 **Wage Orders)**

6 Employer's manufacturing facility would get unsafely hot and dusty. Employer does not
7 have proper climate control or exhaust fans to cool the facility and keep dust to safe levels.

8 Claimant and her coworkers worked in unbearable heat and dust in the facility.

9 Wage Order 1 ¶15 requires:

10 (A) The temperature maintained in each work area shall provide reasonable comfort consistent
11 with industry-wide standards for the nature of the process and the work performed.

12 (B) If excessive heat or humidity is created by the work process, the employer shall take all
13 feasible means to reduce such excessive heat or humidity to a degree providing reasonable
14 comfort.

15 Employer failed to provide safe working conditions in violation of the applicable Wage
16 Order(s). Labor Code 1198 makes it unlawful to employ employee in conditions prohibited by
17 the wage order. By violating the wage order, Employer is liable for civil penalties pursuant to
18 §2698 *et. seq.*

19 **Failure to Provide Compliant Rest Breaks and Cool-Down Recovery Periods**

20 **(Cal. Labor Code §§226, 226.7, 512, 516, 1198, 2698 et seq.,**
21 **8 CCR 3202, 8 CCR Section 11010, 11040, all applicable Wage Orders ¶12.))**

22 Employer has failed to maintain a policy and practice that authorizes or permits its
23 employees to take off-duty rest periods as required by California law. California law requires
24 that "[e]very employer shall authorize and permit all employees to take rest periods, which
25 insofar as practicable shall be in the middle of each work period. The authorized rest period time
26 shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per
27 four (4) hours or major fraction thereof...." § 12 of all applicable Wage Orders. "Employees are
28 entitled to 10 minutes' rest for shifts from three and one-half to six hours in length, 20 minutes
for shifts of more than six hours up to 10 hours, 30 minutes for shifts of more than 10 hours up to

1 14 hours, and so on.” *Brinker Restaurant Corp. v. Sup. Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004,
2 1029; Labor Code §226.7. Additionally, the rest period requirement “obligates Employer to
3 permit – and authorizes employees to take – off-duty rest periods.” *Augustus v. ABM Security*
4 *Services, Inc.* (2016) 5 Cal.5th 257, 269. That is, during rest periods an employer must relieve
5 employees of all duties and relinquish control over how employees spend their time. *Id.* If the
6 employer fails to authorize or permit a required rest period, the employer must pay the employee
7 one (1) hour of pay at the employee’s regular rate of pay for each workday the employer did not
8 authorize or permit a legally required rest period. Labor Code section 226.7; § 12 of all
9 applicable Wage Orders.

10 Claimant alleges that Employer failed to authorize and permit Claimant and other current
11 and former employees to take all legally required and compliant rest periods. Employer
12 regularly required Claimant and other employees to work in excess of four consecutive hours a
13 day without Employer authorizing and permitting them to take a 10 minute, uninterrupted rest
14 period for every four hours of work (or major fraction thereof), and without compensating them.
15 Claimant and aggrieved employees received shortened rest breaks as a result of the time it took
16 them to walk from their workstations to the breakroom. Breaks were also frequently interrupted.
17 Further, Employer did not adequately inform employees of their right to take rest periods, and
18 did not have adequate written policies or practices for providing rest periods or the timing of rest
19 periods. Employer also did not have adequate policies or practices to verify employees were
20 taking their rest periods. Employer’s practice was for employees to work through rest periods.

21 Additionally, Claimant alleges that Employer maintained a policy, practice, and/or
22 procedure whereby they failed to pay Claimant and other current and former employees a rest
23 period premium wage of one (1) additional hour of pay at their regular rate of compensation for
24 each workday that they did not receive all legally required and compliant rest periods, in
25 violation of Labor Code section 226.7 and § 12 of all applicable Wage Orders.

26 Moreover, Employer failed to accurately calculate the regular rate of pay for rest period premium
27 wages by failing to include all remuneration for employment paid to, or on behalf of, the
28 employee, including but not limited to non-discretionary bonuses, incentive pay, and
commissions.

1 Based on these violations, Claimant intends to seek civil penalties on behalf of herself
2 and other aggrieved employees pursuant to PAGA, Labor Code sections 210, 226.7, 558, 2698,
3 *et seq.*, and all applicable IWC Wage Orders. Employer is also liable to Employees and other
4 current and former aggrieved California-based hourly non-exempt employees for civil penalties
5 under Labor Code sections 210 and 225.5 for failure to pay all rest period premium wages. As a
6 derivative claim of Employer's failure to authorize or permit all legally required and compliant
7 rest periods and/or failure to pay rest period premium wages, Claimant will seek penalties under
8 Labor Code section 226(a)(1) because the failure to pay rest period premiums and/or pay rest
9 period premiums rendered Claimant's and other current and former employees' pay calculations
10 inaccurate and in violation of Labor Code section 226(e)(2)(B)(i).

11 Furthermore, California Code of Regulations, Title 8, section 3396 mandates that
12 employers implement an indoor heat illness prevention program that includes, among other
13 requirements, providing workers "preventative cool-down rest" defined as "a rest taken in a cool-
14 down area to prevent overheating" (Cal. Code Regs., tit. 8, § 3396) Under California Labor Code
15 section 226.7, if an employer fails to provide an employee a "rest or recovery period in
16 accordance with a state law," the employer shall pay the employee one additional hour of pay at
17 the employee's regular rate of compensation for each workday that the rest or recovery period is
18 not provided. (Labor Code section 226.7 (c).) Accordingly, Employer violated section 226.7 by
19 failing to provide required cool-down rest periods.

20 As mentioned above, the warehouse did not have proper ventilation and had ineffective
21 climate control. Title 8 of the California Code of Regulations cover standards for indoor heat
22 exposure. Section 3203 requires that employers take the steps necessary to protect employees'
23 health and safety when the temperature exceeds 85 degrees in the workplace. Labor Code 226.7
24 requires that breaks comply with requirements of the wage orders, OSHA, and the DOSHA.

25 Additionally, Claimant alleges that Employer maintained a policy, practice, and/or
26 procedure whereby they failed to pay Claimant and other current and former employees a
27 recovery period premium wage of one (1) additional hour of pay at their regular rate of
28 compensation for each workday that they did not receive all legally required and compliant
recovery periods, in violation of Labor Code section 226.7 and applicable Wage Orders.

Moreover, Employer failed to accurately calculate the regular rate of pay for recovery period premium wages by failing to include all remuneration for employment paid to, or on behalf of, the employee, including but not limited to non-discretionary bonuses, incentive pay, and commissions.

Based on these recovery period violations, Claimant intends to seek civil penalties on behalf of herself and other aggrieved employees pursuant to PAGA, Labor Code sections 558, 2698, *et seq.*, and all applicable IWC Wage Orders. Employer is also liable to Employees and other current and former aggrieved California-based hourly non-exempt employees for civil penalties under Labor Code sections 210 and 225.5 for failure to pay all recovery period premium wages.

Failure to Timely Pay All Wages Owed At Termination
(Cal. Lab. Code §§201-203, 1199 and 2698 *et seq.*, 8 CCR Section 11010, 11040, all
applicable Wage Orders)

Cal. Lab. Code § 200 provides that:

“As used in this article:

(d) "Wages" includes all amounts for labor performed by employees of every description, whether the amount is fixed or ascertained by the standard of time, task, piece, Commission basis, or other method of calculation.

(e) "Labor" includes labor, work, or service whether rendered or performed under contract, subcontract, partnership, station plan, or other agreement if the to be paid for is performed personally by the person demanding payment.”

Labor Code section 201(a) states that “[i]f an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately.” Labor Code section 202(a) continues, “[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....”

Cal. Lab. Code § 202 provides, in relevant part, that:

“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,

1 unless the employee has given 72 hours previous notice of his or her intention to quit, in which
2 case the employee is entitled to his or her wages at the time of quitting. Notwithstanding any
3 other provision of law, an employee who quits without providing a 72-hour notice shall be
4 entitled to receive payment by mail if he or she so requests and designates a mailing address. The
5 date of the mailing shall constitute the date of payment for purposes of the requirement to
6 provide payment within 72 hours of the notice of quitting.”

7 Finally, Labor Code section 203(a) provides, “[i]f an employer willfully fails to pay...any
8 wages of an employee who is discharged or who quits, the wages of the employee shall continue
9 as a penalty from the due date thereof at the same rate until paid or until an action therefor is
10 commenced; but the wages shall not continue for more than 30 days....” Labor Code section 256
11 states that “[t]he Labor Commissioner shall impose a civil penalty in an amount not exceeding
12 30 days pay as waiting time under the terms of Section 203.”

13 Employer knowingly and willfully failed to pay all compensation due and owing to
14 Claimant and aggrieved employees at the time employment terminated in violation of Labor
15 Code section 201 and 202, and therefore are entitled to waiting time penalties under Labor Code
16 section 203. Because of the violations of the Labor Code described herein, Claimant and
17 employees were underpaid (including regarding minimum wages, overtime wages, meal period
18 premium wages, rest period/cooldown period premium wages, reporting time pay, sick wages,
19 vacation wages) and those amounts remained due and owing when they separated from
20 Employer.

21 Employer willfully failed to pay employees who are no longer employed by it all
22 compensation due upon termination of employment within the time periods required by Cal. Lab.
23 Code §§201 and 202. Pursuant to § 203, Claimant and similarly situated individuals are now also
24 entitled to recover up to thirty (30) days of wages, at their regular hourly rate, due to Employer’s
25 “willful” failure to comply with the statutory requirements of §§ 201 and 202 of the Labor Code.
26 Moreover, because Employer violated §§201- 203, Employer is liable for civil penalties pursuant
27 to Cal. Lab. Code § 2698 et. seq., 210, and 256.
28

Failure to Provide Accurate Itemized Wage Statements and Maintain Accurate Records
(Cal. Labor Code §§ 226, 226.3, 1174, 1174.5, 1199 2699 *et seq.*, 8 CCR Section 11010,
11040, all applicable Wage Orders)

California Labor Code § 226(a) provides that “[e]very employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees...an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked..., (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions ... , (5) net wages earned, (6) the inclusive dates of period for which the employee is paid, (7) the name of the employee and his or her social security number..., (8) the name and address of the legal entity that is the employer, 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.”

Employer knowingly and intentionally failed to provide timely, accurate, itemized wage statements to Claimant and the aggrieved employees in accordance with Labor Code § 226. As a result of the unlawful employment practices discussed herein, the statements provided to Claimant and aggrieved employees have not accurately reflected the correct hourly rates, gross wages earned and net wages warned, including wages for overtime and meal/rest premiums, accrued vacation wages, and total regular and overtime hours worked. Additionally, Claimant alleges that Employer failed to include all categories of information required under Labor Code section 226.

Additionally, the total hours listed on the wage statement includes hours itemized for meal breaks and vacation hours. The manner in which Holiday Pay is listed is also confusing, as it appears to be double counted. Such failures caused injury to Claimant and others, by, among other things, impeding them from knowing the total hours worked and the amount of wages and vacation pay to which they are and were entitled. Employer’s unlawful employment practices were knowing and intentional, and thus Employer knowingly and intentionally failed to itemize the gross wages earned, net wages earned, penalty pay, and total hours worked. Based on these violations, Claimant will seek civil penalties pursuant to PAGA, Labor Code sections 2698, *et seq.*, and Labor Code section 226.3 and/or Labor Code section 2699(f)(2), and all applicable

1 IWC Wage Orders. Claimant and other aggrieved employees are also entitled to recover from
2 Employer the greater of their actual damages caused by Employer's failure to comply with Labor
3 Code section 226.3, or an aggregate penalty not exceeding \$4,000 per employee.

4 In addition, Labor Code § 1174 provides that "[e]very employer employing labor in this
5 state shall ... (c) [k]eep a record showing the names and addresses of all employees employed
6 and the ages of all minors [and] (d) [k]eep at a central location in the state or at the plants or
7 establishments at which employees are employed, payroll records showing the hours worked
8 daily by and the wages paid to, and the number of piece-rate units earned by and any applicable
9 piece rate paid to, employees employed at the respective plants or establishments. These records
10 shall be kept in accordance with rules established for this purpose by the commission, but in any
11 case shall be kept on file for not less than two years." Further, Labor Code section 1174.5 states
12 that, "[a]ny person employing labor who willfully fails to maintain the records required by
13 subdivision (c) of Section 1174 or accurate and complete records required by subdivision (d) of
14 Section 1174, or to allow any member of the commission or employees of the division to inspect
15 records pursuant to subdivision (b) of Section 1174, shall be subject to a civil penalty of five
16 hundred dollars (\$500)." Pursuant to the applicable Wage Orders, every employer shall keep
17 time records showing when the employee begins and ends each work period.

18 Employer failed to maintain accurate records, including payroll records and records of all
19 hours worked and of meal periods, in accordance with Labor Code § 1174. Employer's failure to
20 provide and maintain accurate records deprived Claimant and other aggrieved employees with
21 the ability to understand the accuracy and frequency of their hours worked and meal periods, and
22 thus rendered them unable to dispute their wages. Claimant and other aggrieved employees have
23 suffered substantial losses related to the use and enjoyment of such wages.

24 Based on these violations, Claimant intends to seek all applicable civil penalties on behalf
25 of herself and other aggrieved employees pursuant to PAGA, Labor Code sections 2698, *et seq.*,
26 Labor Code section 558.1, 226.6, 1174.5, and all applicable IWC Wage Orders.

27 **Failure to Pay Reporting Time Pay**
28 **(Cal. Labor Code §§ 1194, 1197, 1198, IWC Wage Orders)**

1 Claimant alleges that Employer failed to pay Claimant and other current and former
2 aggrieved employees accurate reporting time pay. Labor Code sections 1198, 1194, 1197 and
3 the Industrial Welfare Commission Wage Orders require an employer to pay “reporting time
4 pay” under the applicable Wage Order. The applicable Wage Order requires that when an
5 “employee is required to report for work and does report but is not put to work or is furnished
6 less than half said employee's usual or scheduled day's work, the employee shall be paid for half
7 the usual or scheduled day's work, but in no event for less than two (2) hours nor more than four
8 (4) hours, at the employee's regular rate of pay, which shall not be less than the minimum wage.”
9 §5(A) of all applicable Wage Orders.

10
11 Employer required Claimant and other current and former aggrieved employees to report
12 for work and be put to work for less than half of their usual or scheduled day’s work, but
13 Employer did not pay Claimant and other current and former aggrieved employees any reporting
14 time pay and/or reporting time pay at the correct rate. Employer failed to accurately calculate
15 the regular rate of pay for reporting time pay by failing to include all remuneration for
16 employment paid to, or on behalf of, the employee, including but not limited to non-
17 discretionary bonuses, incentive pay, and commissions.

18 Based on these violations, Claimant intends to seek civil penalties on behalf of herself
19 and other aggrieved employees pursuant to the PAGA, Labor Code §2698, et seq. and Labor
20 Code §1197.1, subds. (a)(1)-(2), and all applicable IWC Wage Orders, on behalf of the LWDA
21 against Employer. Employee will also seek statutory penalties under Labor Code 226(a)(1)
22 because the failure to pay such reporting time wages rendered Claimant’s and other current and
23 former aggrieved employees’ pay calculations inaccurate and in violation of Labor Code §
24 226(e)(2)(B)(i)). Failure to Indemnify Employees (Cal. Labor Code §§ 2802)

25 Claimant alleges that Employer failed to indemnify Claimant and other current and
26 former employees for all necessary expenditures or losses incurred by them in the discharge of
27 their duties. Labor Code section 2800 states, “An employer shall in all cases indemnify his
28 employee for losses caused by the employer’s want of ordinary care.” Labor Code section
2802(a) states, “An employer shall indemnify his or her employee for all necessary expenditures

1 or losses incurred by the employee in direct consequence of the discharge of his or her duties, or
2 of his or her obedience to the directions of the employer...”

3 Employer failed to indemnify employees for all necessary expenditures or losses incurred
4 by them in the discharge of their duties due to Employer’s policies, practices, and/or procedures
5 including, but not limited to, use of personal cellular telephones, use of personal vehicles, and
6 the purchase of various tools and other items. Employer’s aforementioned policies, practices,
7 and/or procedures resulted in employees not receiving indemnification for employment-related
8 expenditures, in violation of Labor Code sections 2800 and 2802. Based on this violation,
9 Claimant will seek both restitution for herself and other current and former aggrieved employees
10 and will seek civil penalties on behalf of herself and other aggrieved employees under PAGA,
11 Labor Code sections 2698, et seq., and all applicable IWC Wage Orders.

12 Failure to Pay All Accrued Vacation Wages at Termination
13 (Cal. Labor Code §§ 227.3)

14 Claimant alleges that Employer failed to pay all accrued vacation wages at termination.
15 Labor Code section 227.3 requires employers to pay employees for all accrued, unused, vested
16 vacation time at their final rate of pay upon termination. Employer maintained a policy and
17 practice of failing to pay the correct amount of vacation pay at termination, including failing to
18 pay at the employee’s final wage rate. Based on this violation, Claimant intends to seek civil
19 penalties on behalf of herself and other aggrieved employees under PAGA, Labor Code sections
20 2698, et seq., and all applicable IWC Wage Orders.

21 Failure to Provide All Paid Sick Leave
22 (Cal. Labor Code §§233, 246)

23 Claimant alleges that Employer failed to provide Claimant and other employees with paid
24 sick leave. Labor Code section 246, subdivision (a), states in relevant part “[a]n employee
25 who...works in California for the same employer for 30 or more days within a year from the
26 commencement of employment is entitled to paid sick days.” Additionally, an employee accrues
27 paid sick days at the rate of no less than one (1) hour per every thirty (30) hours worked,
28 beginning at the commencement of employment. Labor Code section 246(b). Labor Code
section 246, subdivision (l), provides that an employer shall calculate the paid sick time for non-

1 exempt employees in the same manner as the regular rate of pay for the workweek in which the
2 employee elected to use paid sick time. “The regular rate at which an employee is employed
3 shall be deemed to include all remuneration for employment paid to, or on behalf, of the
4 employee.” See Division of Labor Standards Enforcement – Enforcement Policies and
5 Interpretations Manual, Section 49.1.2. Pursuant to Labor Code section 233, an employer must
6 “permit an employee to use in any calendar year the employee’s accrued and available sick leave
7 entitlement.”

8 Claimant alleges that Employer failed to provide current and former aggrieved employees
9 with all proper paid sick leave as required under California law. Further, when Claimant and
10 other current and former aggrieved employees elected to use paid sick time, Employer failed to
11 pay them sick time wages at the proper sick time rate of pay due to Employer’s failure to include
12 all remuneration when calculating the sick time rate of pay. Specifically, Employer maintained a
13 policy, practice, and/or procedure of failing to include all remuneration including, but not limited
14 to, non-discretionary bonuses, incentive pay, and commissions, for example, when calculating
15 Claimant’s and other employees’ regular rate of pay for the purpose of paying sick time.

16 Claimant, on behalf of herself and all aggrieved employees, seeks all appropriate relief
17 for the above-referenced violations, including but not limited to relief under Labor Code section
18 233 and 234, which incorporates the paid sick leave requirements. Based on these violations,
19 Claimant also intend to seek civil penalties on behalf of herself and all aggrieved employees
20 pursuant to PAGA, Labor Code sections 2698, et seq., and all applicable IWC Wage Orders.

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Sincerely,

Nazo Koulloukian, Esq.

Sahag Majarian, II, Esq.

Attorney for Claimant