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

JEROME DIVINITY, PAUL SCHWANKE,
RYAN BASAKER, MICHAEL GRAHAM,
individually and on behalf of all others similarly
situated,

Plaintiffs,

v.

PACIFIC 2.1 ENTERTAINMENT GROUP,
INC., a California Corporation; MINIM
PRODUCTIONS, INC., and ABC SIGNATURE
STUDIOS, INC,

Defendants.

Case No: 20STCV32700

[Consolidated with nos.: 20STCV40597;
21STCV41363; and 22STCV00192]

Assigned to Hon. Elihu M. Berle
Dept. 6

**CONSOLIDATED SECOND AMENDED
COMPLAINT**

1. Cal. Lab. Code §§ 201.3, 201.5, and 203
Continuing Wages
2. Cal. Lab. Code § 226(a), Failure to Provide
Compliant Wage Statements
3. Cal. Lab. Code §§ 226.7, 512 and Wage
Order No. 12, Failure to Provide Meal Breaks
4. Cal. Lab. Code § 226.7 and Wage Order
No. 12, Failure to Provide Rest Breaks
5. Cal. Lab. Code § 510, 515, and 1194
Failure to Provide Pay Proper Overtime
6. Cal. Lab. Code §§ 1194 and 1198 Failure
to Provide Pay Proper Minimum Wages
7. Cal. Lab. Code § 2802, Failure to
Reimburse Business Expenses
8. Cal. Lab. Code § 226(b), Payroll Records
9. Cal. Lab. Code § 1198.5, Personnel Records

10. Cal. Bus & Prof. Code §§ 17200 *et seq.* – Restitution

11. Cal. Lab. Code §§ 2698 *et seq.*, PAGA

12. Cal. Lab. Code §§ 204, 210, Timely Wages

JURY TRIAL DEMANDED

Plaintiffs Jerome Divinity (“Divinity”), Paul Schwanke (“Schwanke”), Ryan Basaker (“Basaker”), and Michael Graham (“Graham”) (“Plaintiffs”), by and through their undersigned attorneys, allege as follows:

JURISDICTION AND VENUE

1. This is a civil action brought under the California Labor Code, including the Labor Code Private Attorneys General Act (“PAGA”), and Wage Order No. 12, seeking unpaid wages, damages, civil penalties, statutory penalties and attorneys’ fees and costs. Plaintiffs have provided statutory notice to the California Labor and Workforce Development Agency (“LWDA”) of the claims set forth in this Complaint and to Defendants.

2. Venue as to Defendants is proper in this judicial district, pursuant to California Code of Civil Procedure sections 395(a) and 395.5. Defendants maintain an office, transact business, have an agent, or are found in the County of Los Angeles and are within the jurisdiction of this Court for purposes of service of process. The violations of the PAGA alleged herein had a direct effect on and were committed within the State of California, impacting Plaintiffs and the Aggrieved Employees.

3. Emergency Rule 9 as promulgated by the Judicial Council of California on insert date, provides: “Notwithstanding any other law, the statutes of limitations and repose for civil causes of action that exceed 180 days are tolled from April 6, 2020, until October 1, 2020.” The Advisory Committee Comment notes that: “Emergency rule 9 is intended to apply broadly to toll any statute of limitations on the filing of a pleading in court asserting a civil cause of action. The term “civil causes of action” includes special proceedings. (See Code Civ. Proc., §§ 312, 363 [“action,” as used in title 2 of the code (Of the Time of Commencing Civil Actions), is construed “as including a special proceeding of a civil nature”). . . . The rule also applies to statutes of limitations on filing of causes of action in court

found in codes other than the Code of Civil Procedure.”

THE PARTIES

4. Plaintiff Jerome Divinity is an individual, who, during the time periods relevant to this Complaint, was and is a resident of the County of Los Angeles, State of California.

5. Plaintiff Paul Schwanke is an individual, who, during the time periods relevant to this Complaint, was and is a resident of the County of Los Angeles, State of California.

6. Plaintiff Ryan Basaker is an individual, who, during the time periods relevant to this Complaint, was and is a resident of the County of Orange, State of California.

7. Plaintiff Michael Graham is an individual, who, during the time periods relevant to this Complaint, was and is a resident of the County of Los Angeles, State of California.

8. Defendant Pacific 2.1 Entertainment Group, Inc. (“PEG”) is a California Corporation, which at all times relevant herein, conducted business within the County of Los Angeles, State of California.

9. Defendant Minim Productions, Inc. (“Minim”) is a California Corporation, which at all times relevant herein, conducted business within the County of Los Angeles, State of California.

10. Defendant ABC Signature Studios, Inc. (“ABC”) is a Delaware Corporation, which at all times relevant herein, conducted business within the County of Los Angeles, State of California.

11. Plaintiffs are informed and believe and thereon allege that all defendants were at all relevant times acting as actual agents, conspirators, ostensible agents, alter egos, partners and/or joint venturers and/or employees of all other defendants, and that all acts alleged herein occurred within the course and scope of said agency, employment, partnership, and joint venture, conspiracy or enterprise, and with the express and/or implied permission, knowledge, consent authorization and ratification of their co-defendants; however, each of these allegations are deemed “alternative” theories whenever not doing so would result in a contradiction with other allegations

GENERAL ALLEGATIONS

12. Defendant PEG employed Plaintiff Divinity on the Mayans production on August 16, 2019. Plaintiff was issued a tardy check for his work on the Production. Defendant failed to properly compensate Plaintiff and other persons who performed services for Defendant.

1 13. Defendant Minim employed Plaintiff Schwanke as a crew member on the production
2 from approximately January 2019 to April 2019. Plaintiff was not paid for all hours worked and was not
3 paid for any overtime hours worked.

4 14. On or around April of 2019, Plaintiff Schwanke was laid off without a return date for any
5 further work on the television production of “Legion.” Although Plaintiff should have been paid in full
6 for his accrued overtime wages and meal and rest break wages no later than late April of 2019, he was
7 not paid the full amount of wages owing to him. The final payment did not fully compensate Plaintiff
8 for all outstanding wages.

9 15. Defendant Minim employed Plaintiff Basaker as a traffic control employee on the
10 production of a motion picture, as defined by Labor Code § 201.5, called “Snowfall” in or about October
11 of 2020. Plaintiff was not properly paid his earned wages.

12 16. Defendant ABC employed Plaintiff Graham as a crew member on a television production
13 entitled “Rebel” on or about December 15, 2020. Although Plaintiff should have been paid in full for his
14 accrued overtime wages and meal and rest break wages no later than Thursday, December 24, 2021, he
15 was not paid the full amount of wages owing to him, with partial payment being sent no earlier than on
16 January 26, 2021. In late January or early February of 2021, Plaintiff finally received a paycheck.

17 17. Plaintiffs and Class Members were also required to keep their walkie talkie radios or cell
18 phones with them at all times, including during meal and rest breaks. Some breaks were simply not
19 provided at all. This policy precluded Defendants from providing Plaintiff and others the ability to enjoy
20 legally compliant meal and rest breaks as required by California law. Augustus v. ABM Sec. Servs. Inc., 2
21 Cal. 5th 257, 260 (2016).

22 18. Plaintiffs and Class Members have as of the date of filing of this Complaint not been
23 fully compensated for work performed for the Defendants.

24 19. At all relevant times mentioned herein, Wage Order 12 of the California Industrial
25 Welfare Commission applied to Plaintiffs and Class Members. In part, the Wage Order reflects
26 employer obligations regarding hours and days of work, reporting time pay, records, meal periods and
27 rest periods (obligations which the employer, here, failed to fulfill, both with respect to Plaintiffs and
28 Class Members). The Wage Order provides, in relevant part:

1 **3. Hours and Days of Work.**

2 (A) Daily Overtime - General Provisions

3 (1) The following overtime provisions are applicable to employees 18 years of age or
4 over and to employees 16 or 17 years of age who are not required by law to attend
5 school and are not otherwise prohibited by law from engaging in the subject work. Such
6 employees shall not be employed more than eight (8) hours in any workday or more than
7 40 hours in any workweek unless the employee receives one and one-half (1.5) times
8 such employee's regular rate of pay for all hours worked over 40 hours in the workweek.
9 Eight (8) hours of labor constitutes a day's work. Employment beyond eight (8) hours in
10 any workday or more than six (6) days in any workweek is permissible provided the
11 employee is compensated for such overtime as follows:

12 (a) Employees may be employed up to a maximum of sixteen (16) hours including meal
13 periods in any one day from the time they are required and do report until dismissed,
14 provided the employee is compensated for such overtime at not less than:

15 (1) For daily employees and weekly employees, excluding weekly employees guaranteed
16 more than forty (40) hours a workweek and "on call" employees, one and one-half (1.5)
17 times the employee's regular rate of pay for all hours worked in excess of eight (8) hours
18 up to and including twelve (12) hours in any one workday, and for the first eight (8)
19 hours worked on the seventh (7th) consecutive day of work in a workweek; and

20 (2) Double the employee's regular rate of pay for all hours worked in excess of twelve
21 (12) hours in any workday, and for all hours worked in excess of eight (8) hours on the
22 seventh (7th) consecutive day of work in a workweek.

23 (3) Overtime payments shall not be compounded and all payments made by the employer
24 for daily overtime on the basis herein above specified shall be applied toward any sum
25 for weekly overtime.

26 (4) The overtime rate of compensation required to be paid to a nonexempt full-time
27 salaried employee shall be computed by using the employee's regular hourly salary as
28 one fortieth (1/40) of the employee's weekly salary. The overtime rate of compensation
 required to be paid to a nonexempt full-time salaried employee shall be computed by
 using the employee's regular hourly salary as one-fortieth (1/40) of the employee's
 weekly salary.

...

7. Records.

(A) Every employer shall keep accurate information with respect to each employee
including the following:

(1) Full name, home address, occupation and social security number.

(2) Birth date, if under 18 years, and designation as a minor.

(3) Time records showing when the employee begins and ends each work period. Meal
periods, split shift intervals and total daily hours worked shall also be recorded. Meal
periods during which operations cease and authorized rest periods need not be recorded.

(4) Total wages paid each payroll period, including value of board, lodging, or other
compensation actually furnished to the employee.

(5) Total hours worked in the payroll period and applicable rates of pay. This information
shall be made readily available to the employee upon reasonable request.

(6) When a piece rate or incentive plan is in operation, piece rates or an explanation of
the incentive plan formula shall be provided to employees. An accurate production record
shall be maintained by the employer.

(B) Every employer shall semimonthly or at the time of each payment of wages furnish each employee, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately, an itemized statement in writing showing: (1) all deductions; (2) the inclusive dates of the period for which the employee is paid; (3) the name of the employee or the employee's social security number; and (4) the name of the employer, provided all deductions made on written orders of the employee may be aggregated and shown as one item.

(C) All required records shall be in the English language and in ink or other indelible form, properly dated, showing month, day and year, and shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California. An employee's records shall be available for inspection by the employee upon reasonable request.

...

11. Meal Periods.

(A) No employer shall employ any person for a work period of more than six (6) hours without a meal period of not less than thirty (30) minutes, nor more than one (1) hour. Subsequent meal period for all employees shall be called not later than six (6) hours after the termination of the preceding meal period.

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

(C) If an employer fails to provide an employee a meal period in accordance with the applicable provisions of this Order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each work day that the meal period is not provided.

(D) In all places of employment where employees are required to eat on the premises, a suitable place for that purpose shall be designated.

12. Rest Periods.

(A) Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof. However, a rest period need not be authorized for employees whose total daily work time is less than three and one-half (3.5) hours. Authorized rest period time shall be counted as hours worked for which there shall be no deduction from wages.

(B) If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this Order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each work day that the rest period is not provided.

Cal. Code of Regs., tit. 8, § 11120 ("Wage Order 12").

20. At all times relevant herein, section 201.5 of the California Labor Code (the "Code") provided in part:

(a) For purposes of this section, the following definitions apply:

(1) “An employee engaged in the production or broadcasting of motion pictures” means an employee to whom both of the following apply:

(A) The employee’s job duties relate to or support the production or broadcasting of motion pictures or the facilities or equipment used in the production or broadcasting of motion pictures.

(B) The employee is hired for a period of limited duration to render services relating to or supporting a particular motion picture production or broadcasting project, or is hired on the basis of one or more daily or weekly calls.

(2) “Daily or weekly call” means an employment that, by its terms, will expire at the conclusion of one day or one week, unless renewed.

(3) “Next regular payday” means the day designated by the employer, pursuant to Section 204, for payment of wages earned during the payroll period in which the termination occurs.

(4) “Production or broadcasting of motion pictures” means the development, creation, presentation, or broadcasting of theatrical or televised motion pictures, television programs, commercial advertisements, music videos, or any other moving images, including, but not limited to, productions made for entertainment, commercial, religious, or educational purposes, whether these productions are presented by means of film, tape, live broadcast, cable, satellite transmission, Web cast, or any other technology that is now in use or may be adopted in the future.

(b) An employee engaged in the production or broadcasting of motion pictures whose employment terminates is entitled to receive payment of the wages earned and unpaid at the time of the termination by the next regular payday.

(c) The payment of wages to employees covered by this section may be mailed to the employee or made available to the employee at a location specified by the employer in the county where the employee was hired or performed labor. The payment shall be deemed to have been made on the date that the employee’s wages are mailed to the employee or made available to the employee at the location specified by the employer, whichever is earlier.

(d) For purposes of this section, an employment terminates when the employment relationship ends, whether by discharge, lay off, resignation, completion of employment for a specified term, or otherwise.

(e) Nothing in this section prohibits the parties to a valid collective bargaining agreement from establishing alternative provisions for final payment of wages to employees covered by this section if those provisions do not exceed the time limitation established in Section 204.

Code § 201.5.

21. Defendants employed individuals such as Plaintiffs and Class Members to work on the production on motion pictures, yet Defendants failed to timely or fully pay them, all in violation, inter alia, of Code sections 201.5 and 204.

22. At all relevant times mentioned herein, section 203 of the Code provided:

If an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.3, 201.5, 201.6, 201.8, 201.9, 202, and 205.5, any wages of an

1 employee who is discharged or who quits, the wages of the employee shall continue as a
2 penalty from the due date thereof at the same rate until paid or until an action therefor is
3 commenced; but the wages shall not continue for more than 30 days. An employee who
4 secretes or absents themselves to avoid payment to them, or who refuses to receive the
payment when fully tendered to them, including any penalty then accrued under this
section, is not entitled to any benefit under this section for the time during which the
employee so avoids payment.

5 Code § 203. By failing to pay Plaintiffs and Class Members all wages when due at termination,
6 Plaintiffs and Class Members are entitled to continuing wages pursuant to section 203 of the California
7 Labor Code.

8 23. At all times relevant herein, section 204 of the California Labor Code provided in part:

9 All wages, other than those mentioned in Section 201, 201.3, 202, 204.1, or 204.2, earned
10 by any person in any employment are due and payable twice during each calendar month,
11 on days designated in advance by the employer as the regular paydays. Labor performed
12 between the 1st and 15th days, inclusive, of any calendar month shall be paid for between
13 the 16th and the 26th day of the month during which the labor was performed, and labor
performed between the 16th and the last day, inclusive, of any calendar month, shall be
paid for between the 1st and 10th day of the following month.

14 Cal. Lab. Code § 204.

15 24. In no event should Plaintiffs or Class Members have been paid later than the time periods
16 established by sections 201.5 or 204 of the California Labor Code, but certain payments to Plaintiffs
17 were made days, weeks and months after they were due, some have yet to be made, all leading to
18 penalties and civil penalties under sections 203 and 204 of the California Labor Code.

19 25. At all times relevant herein, section 210 of the California Labor Code provided:
20 In addition to, and entirely independent and apart from, any other penalty provided in this
21 article, every person who fails to pay the wages of each employee as provided in Sections
22 204, 204b, 204.1, 204.2, 205, 205.5, and 1197.5, shall be subject to a civil penalty as
23 follows: (a) For any initial violation, one hundred dollars (\$100) for each failure to pay
each employee; (b) For each subsequent violation, or any willful or intentional violation,
two hundred dollars (\$200) for each failure to pay each employee, plus 25 percent of the
amount unlawfully withheld.

24 Cal. Lab. Code § 210. Further, the Defendants' policy has been to devote insufficient resources to the
25 payroll accounting function, with the inevitable result that employees are routinely paid in tardy fashion,
26 in violation of sections 203 and 204 of the Code, and otherwise in violation of the Code.

27 26. Labor Code sections 226.7, 512 and Section 12 of the Wage Order require an employer to
28 pay an additional hour of compensation for each meal period the employer fails to provide. Section 12

1 requires that “No employer shall employ any person for a work period of more than six (6) hours
2 without a meal period of not less than thirty (30) minutes, nor more than one (1) hour. Subsequent meal
3 period for all employees shall be called not later than six (6) hours after the termination of the preceding
4 meal period.” Defendants failed to maintain a policy informing all Class Members of these rights.

5 27. Here, Defendants failed to apprise all Class Members of their rights associated with meal
6 periods and failed to provide timely meal periods. Defendants have had a consistent policy of: (1)
7 requiring all Class Members to take late meal breaks that occurred after the first 6 hours of each shift;
8 (2) requiring Class Members to work shifts over 12 hours without providing a second meal period of 30
9 minutes in length; (3) requiring Class Members to be available or on-call during their meal periods to
10 respond to their radio or cell phone; (4) prohibiting Class Members from leaving the work premises; and
11 (5) failing to pay such employees 1 hour of pay at the employees regular rate of compensation for each
12 workday in which a proper meal break was not provided. At all relevant times mentioned herein, section
13 226.7 of the California Labor Code provided:

14 (a) As used in this section, “recovery period” means a cooldown period afforded an
15 employee to prevent heat illness.

16 (b) An employer shall not require an employee to work during a meal or rest or recovery
17 period mandated pursuant to an applicable statute, or applicable regulation, standard, or
18 order of the Industrial Welfare Commission, the Occupational Safety and Health

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

27 Cal. Lab. Code § 226.7.

28 28. At all relevant times mentioned herein, section 226 of the Code provided:

(a) Every employer shall, semimonthly or at the time of each payment of wages, furnish
each of his or her employees, either as a detachable part of the check, draft, or voucher
paying the employee's wages, or separately when wages are paid by personal check or
cash, an itemized statement in writing showing (1) gross wages earned, (2) total hours
worked by the employee, except for any employee whose compensation is solely based
on a salary and who is exempt from payment of overtime under subdivision (a) of Section
515 or any applicable order of the Industrial Welfare Commission, (3) the number of
piece rate units earned and any applicable piece rate if the employee is paid on a piece-

1 rate basis, (4) all deductions, provided, that all deductions made on written orders of the
2 employee may be aggregated and shown as one item, (5) net wages earned, (6) the
3 inclusive dates of the period for which the employee is paid, (7) the name of the
4 employee and his or her social security number, except that by January 1, 2008, only the
5 last four digits of his or her social security number or an employee identification number
6 other than a social security number may be shown on the itemized statement, (8) the
7 name and address of the legal entity that is the employer, and (9) all applicable hourly
8 rates in effect during the pay period and the corresponding number of hours worked at
9 each hourly rate by the employee. The deductions made from payments of wages shall
10 be recorded in ink or other indelible form, properly dated, showing the month, day, and
11 year, and a copy of the statement or a record of the deductions shall be kept on file by the
12 employer for at least three years at the place of employment or at a central location within
13 the State of California.

14

15 (e) An employee suffering injury as a result of a knowing and intentional failure by an
16 employer to comply with subdivision (a) is entitled to recover the greater of all actual
17 damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and
18 one hundred dollars (\$100) per employee for each violation in a subsequent pay period,
19 not exceeding an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an
20 award of costs and reasonable attorney's fees.

21

22 (g) An employee may also bring an action for injunctive relief to ensure compliance with
23 this section, and is entitled to an award of costs and reasonable attorney's fees.

24 Code § 226. Defendants employed Plaintiffs and Class Members, but, in all cases, Defendants failed to
25 provide them with the data required by section 226(a) of the Code, including failing to provide the legal
26 name and address of the employer, the total hours worked by the employee, the net wages earned, the
27 inclusive dates of the period for which the employee is paid, and all applicable hourly rates in effect
28 during the pay period and the corresponding number of hours worked at each hourly rate by the
employee.

All of the foregoing was intentional misconduct of Defendants that injured Plaintiffs and Class
Members insofar as they were subjected to confusion and deprived of information to which they were
legally entitled.

29. At all relevant times mentioned herein, section 510(a) of the California Labor Code
provided:

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 at least 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

1 compensated at the rate of no less than twice the regular rate of pay of an employee. Nothing in
2 this section requires an employer to combine more than one rate of overtime compensation in
3 order to calculate the amount to be paid to an employee for any hour of overtime work.

4 Cal. Lab. Code § 510.

5 30. Class Members were not timely paid proper overtime wages to which they were entitled
6 in violation of Code §§ 510, 515 and 1194. Both late payment and nonpayment of overtime wages for
7 all hours worked violates the overtime wage statute. Defendants are subject to the civil penalties for
8 which provision is made in Code § 558 by failing to pay each Class Member their overtime wages.

9 31. At all relevant times mentioned herein, section 1194 of the Code provided:

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

15 Code § 1194.

16 32. At all relevant times mentioned herein, section 2802 of the California Labor Code
17 provided in part:

18 (a) An employer shall indemnify his or her employee for all necessary
19 expenditures or losses incurred by the employee in direct consequence of the discharge of
20 his or duties

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

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

28 Cal. Lab. Code § 2802. Defendants failed to reimburse Plaintiffs and Class Members for
necessary business expenses incurred in the performance of their duties, such as for the use of a
personal cell phone and for motion picture production equipment and supplies.

33. At all relevant times mentioned herein, section 558 of the California Labor Code
provided:

Any employer or other person acting on behalf of an employer who violates, or causes to be
violated, a section of this chapter or any provision regulating hours and days of work in any
order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For

1 any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for
2 which the employee was underpaid in addition to an amount sufficient to recover underpaid
3 wages. (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid
4 employee for each pay period for which the employee was underpaid in addition to an amount
5 sufficient to recover underpaid wages. (3) Wages recovered pursuant to this section shall be paid
6 to the affected employee.

7 Cal. Lab. Code § 558. Defendants are the employers or other persons acting on behalf of an employer
8 who violated, or caused to be violated the relevant sections of the California Labor Code referenced
9 herein.

10 **CLASS-ACTION ALLEGATIONS**

11 37. Plaintiffs bring this action on behalf of themselves and all others similarly situated as a
12 class action pursuant to section 382 of the Code of Civil Procedure. Plaintiffs seek to represent a Class
13 composed of and defined as follows:

14 All persons who provided services as production crew members in California for one or more
15 Defendants during the period beginning no earlier than four years and 180 days prior to the filing
16 hereof to such date as may be approved by the Court (such persons are referred to as “Class
17 Members,” and such period is referred to hereafter as the “Class Period”).

18 38. This action has been brought and may be properly maintained as a class action under the
19 provisions of section 382 of the Code of Civil Procedure because there is a well-defined community of
20 interest in the litigation and the proposed Class is easily ascertainable.

21 39. Defendants, as to Plaintiffs and Class Members, failed to pay all accrued minimum wages
22 and overtime for all hours worked pursuant to sections 510, 515 and 1194 of the Code. Accordingly,
23 each Plaintiff and Class Member is entitled to payment of his or her unpaid overtime and interest as well
24 as reimbursement of their attorneys’ fees and reasonable costs.

25 40. Defendants, as to Plaintiffs and Class Members, also failed to accurately provide the data
26 required by section 226(a) of the Code and, accordingly, Defendants’ failure to provide such data
27 entitles Plaintiffs and each Class Member to either actual damages or statutory liquidated damages,
28 whichever is greater.

41. Defendants, as to Plaintiffs and Class Members, failed to timely compensate the workers
as required by sections 201.5, 203 and 204 of the Code and, accordingly, Defendants’ failure to make
timely payment entitles Plaintiffs and each Class Member to statutory damages.

42. Defendants, as to Plaintiffs and Class Members, failed to provide meal and rest breaks as required by sections 226.7, 512 of the Code and Wage Order 12, and, accordingly, Defendants' failure to provide meal and rest breaks entitles Plaintiffs and Class Members to either actual damages or statutory damages, whichever is greater.

43. Defendants, as to Plaintiffs and Class Members, failed to reimburse business expenses incurred in the performance of their duties, such as for the use of a personal cell phone and for motion picture production equipment and supplies, as required by section 2802 of the Code, and, accordingly, Defendants' failure to reimburse necessary business expenses entitles Plaintiffs and Class Members to unreimbursed business expenses.

A. Numerosity

44. The potential members of the Class as defined are so numerous that joinder of all the members of the Class is impracticable. While the precise number of Class Members has not been determined at this time, Plaintiffs are informed and believe that Defendants employed during the relevant time periods at least ninety workers in the State of California. The number of Class Members is great, but not so great as to make the class unmanageable. It therefore is impractical to join each Class Member as a named plaintiff. Accordingly, utilization of a class action is the most economically feasible means of determining the merits of this litigation.

45. Despite the size of the proposed Class, the Class Members are readily ascertainable through an examination of the records that Defendants are required by law to keep. Likewise, the dollar amount owed to each Class Member is readily ascertainable by an examination of those same records.

B. Commonality

46. There are questions of law and fact common to the Class that predominate over any questions affecting only individual Class Members. These common questions of law and fact include, without limitation:

- a. Whether Defendants failed to pay all wages in a timely fashion upon the discharge of Class Members, all in violation of sections 201.5 and 203 of the Code.
- b. Whether Defendants' failure to provide accurate itemized wage statements to Class Members violates section 226.

- c. Whether Defendants failed to provide meal breaks to Class Members.
- d. Whether Defendants failed to provide rest breaks to Class Members.
- e. Whether Defendants failed to pay proper minimum wages to Class Members under Code sections 1194 and 1194.2.
- f. Whether Defendants failed to pay proper overtime wages to Class Members under Code sections 510, 515 and 1194.
- g. Whether Defendants failed to reimburse necessary business expenses to Class Members under Code sections 2802.
- h. Whether Class Members are entitled to restitution due to Defendants' unfair or unlawful business practices under Cal. Bus & Prof. Code sections 17200 *et seq.*

C. Typicality

47. There is a well-defined community of interest in the questions of law and fact common to the Class Members.

48. The claims of the named Plaintiffs are typical of the claims of the Class, which claims all arise from the same general operative facts, namely, Defendants did not compensate its employees as required by the Code and applicable Wage Order. Plaintiffs and all members of the Class sustained injuries and damages arising out of and caused by the Defendants' common course of conduct in violation of laws, regulations that have the force and effect of law, and statutes as alleged herein. Plaintiffs have no conflict of interest with the other Class Members and are able to represent the Class Members' interests fairly and adequately.

D. Adequacy of Representation

49. Plaintiffs will fairly and adequately represent and protect the interests of the members of the Class. Counsel who represent Plaintiffs are competent and experienced in litigation large employment class actions. Neither Plaintiffs nor their counsel have any conflict with the Class.

E. Superiority of Class Action

50. A class action is superior to other available means for the fair and efficient adjudication of this controversy. Individual joinder of all Class Members is not practicable, and questions of law and fact common to the Class predominate over any questions affecting only individual members of the

1 Class. Each member of the Class has been damaged and is entitled to recovery by reason of Defendants'
2 illegal policy and/or practice of failing to pay hourly wages, failing to pay overtime wages, failing to
3 provide Class Members rest and meal periods without legal compensation. Class action treatment will
4 allow those similarly situated persons to litigate their claims in the manner that is most efficient and
5 economical for the parties and the judicial system. Plaintiffs are unaware of any difficulties that are
6 likely to be construed in the management of this action that would preclude its maintenance as a class
7 action. The disposition of all claims of the members of the Class in a class action, rather than in
8 individual actions, benefits the parties and the Court. The interest of the Class Members in controlling
9 the prosecution of separate claims against Defendants is small when compared with the efficiency of a
10 class action.

11 **FIRST CAUSE OF ACTION**

12 (Continuing Wages, California Labor Code § 201.5, 203
13 On Behalf of Plaintiffs and the Class Against All Defendants)

14 51. Plaintiffs reallege and incorporate herein by reference the allegations contained in this
15 Complaint as though fully set forth herein.

16 52. Plaintiffs were not paid all wages accrued upon separation from employment.

17 53. Defendants' failure to compensate Plaintiffs and Class Members within the time for
18 which provision is made by section 201.5 of the California Labor Code, despite their knowledge of their
19 obligation to do so, was and is "willful" as the word is used in section 203, demand for such wages
20 having been made since the Production concluded in 2019.

21 54. Pursuant to section 203 of the California Labor code, Plaintiffs and Class Members are
22 entitled to continuing wages from Defendants in an amount according to proof, and Plaintiffs are entitled
23 to penalties of at least \$20,000, each. Plaintiffs and Class Members are also entitled to recover costs and
24 reasonable attorneys' fees under section 218.5 of the California Labor Code.

25 **SECOND CAUSE OF ACTION**

26 (Failure to Provide Compliant Pay Stubs, Cal. Lab. Code § 226(a)
27 On Behalf of Plaintiffs and the Class Against Defendants)

28 55. Plaintiffs reallege and incorporate by reference each and every allegation set forth in this
Complaint as though fully set forth herein.

1 56. Defendants failed to provide Plaintiffs and Class Members with wage statements
2 conforming to the requirements of section 226(a) of the Code.

3 57. The foregoing was intentional misconduct of Defendants that injured Plaintiffs and Class
4 Members insofar as they were deprived of information to which they were legally entitled, including but
5 not limited to the name and address of the legal entity that is the employer, inclusive dates of the weekly
6 period for which the employee is paid, and all applicable rates of pay.

7 58. The failure of Defendants to provide compliant wage statements violates section 226(a)
8 of the Code. The failure caused them injury by depriving them of information to which they are legally
9 entitled. Accordingly, Plaintiffs and Class Members are entitled to damages in an amount according to
10 proof and costs and reasonable attorney's fees in accordance with the provisions of Code section 226(e),
11 all in a sum according to proof. Plaintiffs are entitled to an amount according to proof of at least \$4,000,
12 each, not including interest thereon, reasonable attorneys' fees and cost of suit

13
14 **THIRD CAUSE OF ACTION**

15 (Failure to Provide Meal Breaks, Cal. Lab. Code §§ 226.7 and 512 and Wage Order
16 On Behalf of Plaintiffs and the Class Against Defendants)

17 59. Plaintiffs reallege and incorporate by reference each and every allegation set forth in this
18 Complaint as though fully set forth herein.

19 60. At all times herein relevant, sections 226.7 and 512 of the California Labor Code and
20 IWC Wage Order 12 provided that that employees must receive meal periods of not less than thirty
21 minutes if an employee works for a period of more than six hours and a second thirty minute meal
22 period after no less than six hours after the termination of the preceding meal period. By its failure to
23 provide minimum statutory meal periods to Plaintiffs and Class Members, Defendants willfully violated the
24 provisions of Labor Code sections 226.7 and 512, and IWC Wage Order 12.

25 61. Defendants failed to apprise Plaintiffs and Class Members of their rights associated with
26 meal periods and failed to provide timely meal periods. Defendants have had a consistent policy of: (1)
27 requiring all workers to take late meal breaks that occurred after the first 6 hours of each shift; (2)
28 required Aggrieved Employees to work shifts over 12 hours without providing a second meal period of
30 minutes in length; (3) requiring Class Members to be available or on-call during their meal periods to

1 respond to their radio or cell phone; (4) prohibiting Class Members from leaving the work premises; and
2 (5) failing to pay such employees 1 hour of pay at the employees regular rate of compensation for each
3 workday in which a proper meal break was not provided. Plaintiffs and Class Members were not
4 permitted to leave the set of the Production for meal periods.

5 62. Because Defendants failed to properly provide the proper meal periods, it is liable
6 to Plaintiffs for one hour of additional pay at the regular rate of compensation for each workday that the
7 proper meal periods were not provided.

8 63. As a result of the unlawful acts of Defendants, Plaintiffs and Class Members have been
9 deprived of premium wages, and/or other compensation in amounts to be determined at trial, and are
10 entitled to recovery of such amounts, plus interest thereon, and costs.

11 **FOURTH CAUSE OF ACTION**

12 (Failure to Provide Rest Breaks, Cal. Lab. Code § 226.7 and IWC Wage Order)

13 On Behalf of Plaintiffs and the Class Against Defendants)

14 64. Plaintiffs reallege and incorporate by reference each and every allegation set forth in this
15 Complaint as though fully set forth herein.

16 65. At all times herein relevant, sections 226.7 of the California Labor Code and IWC Wage
17 Order 12 provided that employees must receive rest periods of at the rate of ten (10) minutes net rest
18 time per four (4) hours or major fraction thereof.

19 66. By its failure to provide required breaks to Plaintiffs and Class Members, Defendants
20 willfully violated the provisions of Labor Code sections 226.7 and IWC Wage Order 12.

21 67. Plaintiffs and Class Members were not permitted to leave the set of the Production for
22 any purported rest periods. They were also required to be available via radio or cell phone at all times.

23 68. Because Defendants failed to properly provide the proper rest breaks, it is liable to
24 Plaintiffs and Class Members for one hour of additional pay at the regular rate of compensation for each
25 workday that the proper rest breaks were not provided, pursuant to Labor Code section 226.7 and IWC
26 Wage Order 12.

69. As a result of the unlawful acts of Defendants, Plaintiffs and Class Members have been deprived of premium wages, and/or other compensation in amounts to be determined at trial, and are entitled to recovery of such amounts, plus interest thereon, fees, and costs.

FIFTH CAUSE OF ACTION

(Damages for Unpaid Overtime Compensation,
California Labor Code §§ 510, 515, 558.1 and 1194
On Behalf of Plaintiffs and the Class Against All Defendants)

70. Plaintiffs reallege and incorporate herein by reference the allegations contained in this Complaint as though fully set forth herein.

71. During Plaintiffs' employment by Defendants, Plaintiffs, as well as Class Members, worked many hours, including overtime, without proper compensation for work performed, as required by law.

72. Plaintiffs and Class Members are entitled to recover such unpaid overtime under section 1194 of the California Labor Code in an amount according to proof. Plaintiffs and Class Members are also entitled to recover costs and reasonable attorneys' fees under section 1194 of the California Labor Code.

SIXTH CAUSE OF ACTION

(Damages for Unpaid Minimum Wages,
California Labor Code §§ 1194, 1194.2 and 1198
On Behalf of Plaintiffs and the Class Against All Defendants)

73. Plaintiffs reallege and incorporate herein by reference the allegations contained in this Complaint as though fully set forth herein.

74. Plaintiffs and the Class Members, worked many hours for Defendants, without compensation for work performed, as required by law. Both late payment and non-payment of minimum wages violate the state statute requiring the payment of a minimum hourly wage.

75. Plaintiffs and Class Members are entitled to recover liquidated damages under section 1194.2 of the California Labor Code in an amount according to proof. Plaintiffs and Class Members are also entitled to recover costs and reasonable attorneys' fees under section 1194 of the California Labor Code.

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SEVENTH CAUSE OF ACTION

(Failure to Reimburse Necessary Expenses, Cal. Lab. Code §2802
On Behalf of Plaintiffs and the Class Against All Defendants)

76. Plaintiffs reallege and incorporate herein by reference the allegations contained in this Complaint as though fully set forth herein.

77. In discharge of their duties, Defendants required Plaintiffs and Class Members to make purchases and/or rent equipment for their work on the set of a motion picture production. Plaintiffs and Class Members were required to use their personal cellphones but were not reimbursed for such use.

78. Pursuant to section 2802 of the Labor Code, Plaintiffs and Class Members are entitled to reimbursement of their out-of-pocket expenses from Defendants and damages in addition to interest thereon, attorney's fees and costs.

EIGHTH CAUSE OF ACTION

(Failure to Provide Employment Records Upon Request Cal. Lab. Code § 226(b)
On Behalf of Plaintiffs Against All Defendants)

79. Plaintiffs reallege and incorporate herein by reference the allegations contained in this Complaint as though fully set forth herein.

80. Pursuant to Labor Code section 226(b), an employer shall afford current and former employees the right to inspect or copy the records pertaining to that current or former employee, upon reasonable request to the employer.

81. Plaintiffs have requested that Defendants permit inspection or copying of Plaintiffs' employment records pursuant to Labor Code section 226(b). Defendants failed to provide Plaintiffs employment records within 21 days of the requests.

82. Pursuant to Labor Code Section 226(b) and (f), Plaintiffs are entitled, and hereby seek to recover from Defendants a seven-hundred-fifty dollar (\$750) penalty, per Plaintiff, reasonable attorney's fees, and the costs of bringing this cause of action.

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(Failure to Provide Employment Records Upon Request Cal. Lab. Code § 1198.5
On Behalf of Plaintiffs Against All Defendants)

83. Plaintiffs reallege and incorporate herein by reference the allegations contained in this Complaint as though fully set forth herein.

84. Pursuant to Labor Code section 1198.5, an employer shall make the contents of an employee's personnel records available for inspection.

85. Plaintiffs requested that Defendants permit inspection or copying of the personnel records pursuant to Labor Code section 1198.5. Defendants have failed to provide Plaintiffs with an opportunity to inspect or copy the employment records within 30 days of the request.

86. Pursuant to Labor Code Section 1198.5(k), Plaintiffs are entitled, and hereby seeks to recover from Defendants a seven-hundred-fifty dollar (\$750) penalty, per Plaintiff, reasonable attorney's fees, and the costs of bringing this cause of action.

TENTH CAUSE OF ACTION

(Unfair Business Practices Business and Professions Code section 17200 *et seq.*
On Behalf of Plaintiffs and the Class Against Defendants)

87. Plaintiffs reallege and incorporate herein by reference the allegations contained in this Complaint as though fully set forth herein.

88. Business and Professions Code section 17200 *et seq.* prohibits acts of unfair competition, including any “unlawful, unfair, or fraudulent business act or practice.” Cal. Bus. & Prof. Code § 17200 *et seq.* Plaintiffs allege that Defendants engaged in unfair business practices in California by the above-described failure to timely pay all wages due including overtime wages.

89. Defendants' violation of California wage and hour laws as herein articulated constitutes a business practice because Defendants' aforementioned acts and omissions were done repeatedly over a significant period of time, and in a systematic manner, to the detriment of Plaintiffs.

90. As a result of Defendants' unfair and unlawful business practices, Defendants have reaped unfair and illegal profits during the relevant time period herein at the expense of Plaintiffs and the Class Members and members of the public. Defendants should be made to disgorge its ill-gotten gains and to restore them to Plaintiffs and Class Members.

91. The actions of Defendants entitle Plaintiffs to seek the remedies available under section 17200 *et seq.* Plaintiffs seek full restitution of said amounts from Defendants, as necessary and according to proof, to restore any and all amounts—including interest—withheld, acquired, or converted by Defendants by means of the unfair practices complained of herein. Plaintiffs, on behalf of themselves, as well as on behalf of the general public, further seeks attorney’s fees and costs pursuant to sections 218.5 of the Labor Code and 1021.5 of the Code of Civil Procedure. In addition, Plaintiffs seek the appointment of a receiver as necessary.

ELEVENTH CAUSE OF ACTION

(California Labor Code § 2698 et seq. Civil Penalties
On Behalf of Plaintiffs, the California Labor & Workforce Development Agency and Aggrieved
Employees Against All Defendants)

92. Plaintiffs reallege and incorporate herein by reference the allegations contained in this Complaint as though fully set forth herein.

93. Pursuant to section 2699.3(a)(1) of the Labor Code, Plaintiffs submitted their PAGA Claim Notice online to the California Labor and Workforce Development Agency (“LWDA”) and notified the LWDA of the specific provisions of the Labor Code alleged to have been violated by Defendants, including the theories set forth in the Complaint. Plaintiffs also gave written notice by certified mail to Defendants.

94. At all relevant times, California Labor Code section 2699.3(a)(2)(A) provided:

The agency shall notify the employer and the aggrieved employee or representative by certified mail that it does not intend to investigate the alleged violation within 60 calendar days of the postmark date of the notice received pursuant to Paragraph (1). Upon receipt of that notice or if no notice is provided within 65 calendar days of the postmark date of the notice given pursuant to Paragraph (1), the aggrieved employee may commence a civil action pursuant to Section 2699.

Cal. Lab. Code § 2699.3(a)(2)(A).

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

96. Plaintiffs seek to bring a representative action on behalf of themselves and the State of California as well as on behalf of a group of Aggrieved Employees defined as: Plaintiffs and/or other

persons who performed services for one or more of the Defendants on the Production or other such projects produced in California (“Aggrieved Employees”) during the period from one year prior to the filing of the PAGA Notice against each respective Defendant until such date as may be approved by the Court.

97. Plaintiffs will seek civil penalties pursuant to PAGA for violations of the following Labor Code provisions:

1. Failure to provide payroll records in violation of Code § 226(b).

Employers must afford current and former employees the right to inspect or copy the records pertaining to that current or former employee, upon reasonable request to the employer. Aggrieved Employees have requested but have not been provided with an opportunity to inspect or copy all payroll records within 21 days of request. Upon information and belief, many Aggrieved Employees have requested their payroll records but have not been given access to them pursuant to section 226(b). Code § 2699(f)(2) imposes a civil penalty of \$100 per pay period per Aggrieved Employee for initial violations, and \$200 per pay period per Aggrieved Employee for subsequent violations for all Code provisions for which a civil penalty is not specifically provided.

2. Failure to personnel records in violation of Code § 1198.5.

Employers must afford current and former employees the right to inspect or copy the personnel records pertaining to that current or former employee, upon reasonable request to the employer. Aggrieved Employees have requested have not been provided with an opportunity to inspect or copy all personnel records within 30 days of request. Upon information and belief, many Aggrieved Employees have requested their personnel records but have not been given access to them pursuant to section 1198.5. Code § 2699(f)(2) imposes a civil penalty of \$100 per pay period per Aggrieved Employee for initial violations, and \$200 per pay period per Aggrieved Employee for subsequent violations for all Code provisions for which a civil penalty is not specifically provided.

3. Failure to provide records in violation of Code § 432.

Employers are required to give a copy of any instrument relating to the obtaining or holding of employment, if signed by an employee, upon request. Plaintiffs have requested such documents but have not received them. Upon information and belief, other Aggrieved Employees have requested their signed documents but have not been provided a copy. Code § 2699(f)(2) imposes a civil penalty of \$100 per pay period per Aggrieved Employee for initial violations, and \$200 per pay period per Aggrieved Employee for subsequent violations for all Code provisions for which a civil penalty is not specifically provided.

4. Failure to timely pay wages during employment in violation of Code §§ 204 and 210.

Aggrieved Employees were not compensated during their employment by the times prescribed by section 204 due to the failure to allocate sufficient resources to the payroll function. The failure of Defendants to make timely payments within the time provided for has been and is “willful” within the meaning of such word as used in Section 210 of the Code.

Defendants failed to pay Plaintiffs and Aggrieved Employees all wages for a weekly payroll period within 7 calendar days following the close of the payroll period in violation of Code §§ 204(d) and 210. Plaintiffs and Aggrieved Employees were paid after the 7th day following the close of the payroll period in violation of these statutes.

Accordingly, each Aggrieved Employee who was not timely paid his or her timely wages during their employment is entitled to civil penalties. Code section 210 provides for a penalty of \$100 for each initial violation and \$200 for each subsequent, or willful or intentional violation plus 25 percent of the

amount unlawfully withheld.

5. Failure to pay wages and/or final wages in violation of Code §§ 201.5 and 203.

With respect to violations of Code § 201.5, the failure of Defendants to make final payments within the time provided for has been and is “willful” within the meaning of such word as used in Section 203 of the Code. Code section 203 provides that if “an employer willfully fails to pay...any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days.”

Here, Plaintiffs and Aggrieved Employees were not timely paid all wages due upon their separation from Defendants’ employ. For example, Plaintiff Basaker is still unpaid for his work on the Production despite requesting payment. As such, Defendants failed to pay Plaintiffs and Aggrieved Employees all wages due at the time of termination or within seventy-two (72) hours of their resignation, and have failed to pay those sums for thirty (30) days thereafter in violation of Code § 203.

Accordingly, each Aggrieved Employee who was not timely paid his or her final wages is entitled to civil penalties. Code § 2699(f)(2) imposes a civil penalty of \$100 per pay period per Aggrieved Employee for initial violations, and \$200 per pay period per Aggrieved Employee for subsequent violations for all Code provisions for which a civil penalty is not specifically provided.

6. Unlawful Deductions under Code § 221.

Under Code §§ 221, 222 and 223, it is “unlawful for any employer to collect or receive from an employee any part of wages theretofore paid by said employer to said employee” and it is “unlawful to secretly pay a lower wage while purporting to pay the wage designated by statute or by contract.” Section 222 states that with respect to wages agreements via a collective bargaining agreement, an employer may not wilfully, unlawfully or with “intent to defraud an employee, a competitor, or any other person, [] withhold from said employee any part of the wage agreed upon.”

Here, Defendants made improper deductions for which Aggrieved Employees did not expressly authorize in writing. Plaintiffs and Aggrieved Employees were paid less than the wages they were owed because they had to cover extra costs and expenses that were not reimbursed or otherwise were deducted from pay.

Section 225.5 provides for a civil penalty of \$100 for each failure to pay each employee in an initial violation and \$200 for each failure to pay each employee in a subsequent violation, plus 25 percent of the amount unlawfully withheld.

7. Failure to provide itemized wage statements in violation of Code § 226(a).

Aggrieved Employees have not been provided a wage statement as required by Code section 226(a). The foregoing was the intentional misconduct of Defendants that was intended to mislead and injure Aggrieved Employees insofar as they were subjected to confusion and deprived of information to which they were legally entitled.

- a. Many Aggrieved Employees did not receive a wage statement all.
- b. The wage statements failed to include, among other required information, “all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item”
- c. The wage statements failed to include, among other required information, “all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee”

Section 226(e) provides that any employee who suffers injury as a result of a knowing and intentional failure by the employer to comply with its obligation to provide wage statements containing all of the information referenced above is entitled to recover. Section 226.3 provides for a civil penalty of \$250 per employee per violation in an initial violation and \$1,000 per employee for each violation in a subsequent violation, for which the employer fails to provide the employee a wage deduction statement or fails to keep the records required in subdivision (a) of Section 226.

1 **8. Failure to provide sick leave information under Code §§ 245.5 and 246.**

2 Code sections 245.5 and 246(i) provide that “[a]n employer shall provide an employee with
3 written notice that sets forth the amount of paid sick leave available, or paid time off leave an employer
4 provides in lieu of sick leave, for use on either the employee’s itemized wage statement described in
5 Section 226 or in a separate writing provided on the designated pay date with the employee’s payment
6 of wages.” Here, Defendants have systematically and intentionally failed to set forth the amount of sick
7 leave available, or paid time off leave an employer provides in lieu of sick leave, on the itemized wage
8 statements described in Section 226. Defendants did not issue wage statements to Plaintiff Basaker and
9 many Aggrieved Employees.

10 Code § 248.5(e) provides “equitable relief on behalf of the aggrieved as may be appropriate to
11 remedy the violation, including reinstatement, backpay, the payment of sick days unlawfully withheld, .
12 . . any person or entity enforcing this article on behalf of the public as provided for under applicable
13 state law shall, upon prevailing, be entitled only to equitable, injunctive, or restitutionary relief, and
14 reasonable attorney’s fees and costs.”

15 **9. Failure to provide proper meal periods under Code § 226.7 and Wage Order § 11.**

16 Aggrieved Employees were not provided with timely meal periods in violation of Code section
17 226.7 and Applicable Wage Order section 11. For example, Plaintiffs worked over 6 or 12 hours in a
18 day but were not provided with compliant meal break(s) and were not otherwise compensated.
19 Aggrieved Employees were not permitted to leave the production set for meal periods.

20 Code §§ 226.7, 512 and Section 12 of the Applicable Wage Order require an employer to pay an
21 additional hour of compensation for each meal period the employer fails to provide. Section 12 requires
22 that “No employer shall employ any person for a work period of more than six (6) hours without a meal
23 period of not less than thirty (30) minutes, nor more than one (1) hour. Subsequent meal period for all
24 employees shall be called not later than six (6) hours after the termination of the preceding meal period.”
25 Defendants failed to maintain a policy informing all Aggrieved Employees of these rights.

26 Here, Defendants failed to apprise all Aggrieved Employees of their rights associated with meal
27 periods and failed to provide timely meal periods. Defendants have had a consistent policy of: (1)
28 requiring all Aggrieved Employees to take late meal breaks that occurred after the first 6 hours of each
29 shift; (2) required Aggrieved Employees to work shifts over 12 hours without providing a second meal
30 period of 30 minutes in length; and (3) failed to pay such employees 1 hour of pay at the employees
31 regular rate of compensation for each workday in which a proper meal break was not provided.

32 Additionally, Defendants maintained a policy of automatically deducting 30 minutes from each
33 shift that Plaintiffs and the Aggrieved Employees worked. This “auto-deduct” policy was unlawful and
34 did not account for whether the employees took their meal periods, were interrupted with work, took
35 meal periods late, and/or took meal periods of less than 30 minutes.

36 Code section 2699(f)(2) imposes a civil penalty of \$100 per pay period per Aggrieved Employee
37 for initial violations, and \$200 per pay period per Aggrieved Employee for subsequent violations for all
38 Labor Code provisions for which a civil penalty is not specifically provided.

39 **10. Failure to provide proper rest periods under Code § 226.7 and Wage Order § 12.**

40 All Aggrieved Employees were not provided with timely rest periods in violation of Code
41 section 226.7 and Applicable Wage Order section 12. Aggrieved Employees were not permitted to leave
42 the set of the Production for any purported rest periods. They were required to be available via radio or
43 cell phone at all times. Plaintiffs and Aggrieved Employees were neither informed of nor otherwise
44 provided with compliant rest breaks. Defendants failed to provide all Aggrieved Employees with rest
45 breaks of not less than 10 minutes per 4-hour work period, or major fraction thereof. On a regular and
46 consistent basis, Defendants failed to provide all Aggrieved Employees with a third rest period despite
47 regularly requiring Aggrieved Employees to work over 10 hours. As such, Defendants failed to provide
48 all Aggrieved Employees with compliant rest periods. Further, Plaintiffs and the Aggrieved Employees
49 were not compensated with 1 hour of wages for each missed rest period as required by Code § 226.7.

50 Code section 2699(f)(2) imposes a civil penalty of \$100 per pay period per Aggrieved Employee
51 for initial violations, and \$200 per pay period per Aggrieved Employee for subsequent violations for all
52 Code provisions for which a civil penalty is not specifically provided.

Failure to reimburse necessary business expenses under Code § 2802.

Aggrieved Employees were not reimbursed for necessary business expenses. Section 2802 requires that an employer 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, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful.

Defendants have failed to reimburse Plaintiffs and Aggrieved Employees the cost of using their personal cell phones for business related purposes. Defendants required that Plaintiffs and the Aggrieved Employees be available by cell phone and answer/use their cell phones while working and this was necessary to perform their job duties. These cell phones were not provided by Defendants, and Defendants failed to reimburse Aggrieved Employees for the costs associated with using these personal cell phones. They were also not reimbursed for the provision and use of personal protective equipment, traffic management and motion picture production equipment and supplies necessary to perform their job duties.

Code section 2699(f)(2) imposes a civil penalty of \$100 per pay period per Aggrieved Employee for initial violations, and \$200 per pay period per Aggrieved Employee for subsequent violations for all Labor Code provisions for which a civil penalty is not specifically provided.

11. Failure to pay minimum and overtime wages in violation of Code §§ 510, 515, 558, 1194, and 1198.

Both late payment and non-payment of minimum wages violate the state statute requiring the payment of a minimum hourly wage. The Labor Code requires an employer to compensate its employees at the minimum wage rate for all hours worked and at a rate of no less than one and one-half times the regular rate of pay for any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek.

Here, Plaintiffs and other Aggrieved Employees were not paid at the proper corresponding rate for all hours worked, including overtime as a result of the following:

1. Defendants failure to pay for all time spent driving/and or travelling from site to site.
2. Defendants' failure to calculate the correct overtime rate under Code § 515.
3. Plaintiffs and the Aggrieved Employees are routinely paid until an arbitrary time in the day and not until they have ceased working.

Code § 558 imposes a civil penalty in addition to any other penalty provided by law of \$50 for initial violations for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover unpaid wages, and \$100 for subsequent violations for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages.

12. Failure to keep complete and accurate payroll records.

Defendants failed to keep complete and accurate payroll records relating to Aggrieved Employees in accordance with Code section 1174(d). Willful failure to maintain accurate and complete records required by section 1174(d) is subject to a civil penalty of \$500. Cal. Lab. Code § 1174.5.

13. Failure to furnish reporting time pay in violation of Applicable Wage Order § 5.

Defendants failed to compensate for reporting time pay. Upon information and belief, Aggrieved Employees reported to work but were not put to work or not furnished at least half of the usual or scheduled hours. If an employee is required to report to work but is not put to work or is furnished less than half of the employee's usual or scheduled day's work, such Aggrieved Employees are entitled to be paid for half the usual or scheduled day's work. Code section 2699(f)(2) imposes a civil penalty of \$100 per pay period per Aggrieved Employee for initial violations, and \$200 per pay period per Aggrieved Employee for subsequent violations for all Labor Code provisions for which a civil penalty is not specifically provided.

TWELFTH CAUSE OF ACTION

(Untimely Wage During Employment, Cal. Lab. Code §§ 204 and 210
On Behalf of Plaintiffs and Class Members Against All Defendants)

98. Plaintiffs reallege and incorporate herein by reference the allegations contained in this Complaint as though fully set forth herein.

99. Plaintiffs were not compensated the correct amount of overtime under section 515 and not paid all of the minimum and overtime wages for Plaintiff's work.

100. Defendants failed to pay Plaintiffs and Aggrieved Employees all wages for a weekly payroll period within 7 calendar days following the close of the payroll period in violation of Code §§ 204(d) and 210. Plaintiffs and Aggrieved Employees were paid after the 7th day following the close of the payroll period in violation of these statutes.

101. Plaintiffs contend that the failure of Defendants to make timely payments within the time provided for has been and is "willful" within the meaning of such word as used in Section 210 of the California Labor Code.

102. Labor Code section 210 provides for a statutory penalty of \$100 for each initial violation and \$200 for each subsequent, or willful or intentional violation plus 25 percent of the amount unlawfully withheld.

103. Plaintiffs and Class Members are entitled to damages and statutory penalties of an amount to be proven at trial, and attorney's fees and costs pursuant to sections 218.5 of the Labor Code and 1021.5 of the Code of Civil Procedure

WHEREFORE, Plaintiffs pray judgment as follows:

1. That the Court certify a Class Action.
2. That, under the First Cause of Action, it be adjudged that the failure of Defendants to make payment of Plaintiffs' and Class Members' wages was in violation of section 201.5, and 204 of the California Labor Code, and was "willful" as that word is used in section 203 of the California Labor Code, and that the Court enter judgment against Defendants in favor of Plaintiffs and Class Members. That judgment be entered in favor of Plaintiffs, of not less than \$20,000, and Class Members in an amount prescribed by section 203 of the California Labor Code, and costs and reasonable attorneys' fees

1 in accordance with the provisions of California Labor Code section 218.5.

2 3. That, under the Second Cause of Action, this Court enter judgment in favor of Plaintiffs,
3 of at least \$4,000 each, not including interest thereon, reasonable attorneys' fees and cost of suit, and
4 enter judgment in favor of the Class Members against Defendants in the amount of damages, interest,
5 and costs, according to proof, and costs and reasonable attorneys' fees in accordance with the provisions
6 of Labor Code section 226(e).

7 4. That, under the Third Cause of Action, this Court enter judgment in favor of Plaintiffs
8 and Class Members and award them their damages, penalties, and costs of suit, all according to proof,
9 each Plaintiff, pursuant to section 218.5 and other relevant sections of the Labor Code.

10 5. That, under the Fourth Cause of Action, this Court enter judgment in favor of Plaintiffs
11 and Class Members and award them their damages, penalties, and costs of suit, all according to proof,
12 pursuant to section 218.5 and other relevant sections of the Labor Code.

13 6. That, under the Fifth Cause of Action, this Court enter judgment in favor of Plaintiffs and
14 Class Members in the amount of unpaid overtime wages according to proof, including interest thereon,
15 reasonable attorneys' fees and cost of suit, and enter judgment against Defendants in the amount of
16 damages according to proof, each Plaintiff, interest thereon, reasonable attorneys' fees and cost of suit.

17 7. That, under the Sixth Cause of Action, this Court enter judgment in favor of Plaintiffs
18 and Class Members and award them their damages, penalties, liquidated damages, reasonable attorney's
19 fees and costs of suit, all according to proof, of no less than \$400 for Plaintiffs, pursuant to section
20 218.5, 1194, 1194.2 and other relevant sections of the Labor Code.

21 8. That, with respect to the Seventh Cause of Action, this Court enter judgment in favor of
22 Plaintiffs and Class Members against all Defendants in an amount according to proof, each Plaintiff,
23 interest thereon, costs and reasonable attorney's fees in accordance California Labor Code section
24 2802(c).

25 9. That, with respect to the Eighth Cause of Action, this Court enter judgment in favor of
26 Plaintiffs against Defendants of \$750 each, reasonable attorney's fees, and the costs of bringing this
27 cause of action under Labor Code Section 226(b) and (f).

28 10. That, with respect to the Ninth Cause of Action, this Court enter judgment in favor of

1 Plaintiffs against Defendants of \$750 each, reasonable attorney's fees, and the costs of bringing this
2 cause of action pursuant to Labor Code Section 1198.5(k).

3 11. That, under the Tenth Cause of Action, it be adjudged that Defendants' violations of the
4 applicable Wage Order and above cited sections of the California Labor Code, and violated section
5 17200 *et seq.* of the California Business and Professions Code. Accordingly, Plaintiffs request that the
6 Court order Defendants to pay restitution with interest to Plaintiffs and Class Members. Finally,
7 Plaintiffs request that the Court award Plaintiffs' reasonable attorneys' fees and costs, pursuant to
8 section 218.5 of the Labor Code and section 1021.5 of the California Code of Civil Procedure.

9 12. That, with respect to the Eleventh Cause of Action this Court award Plaintiffs, the State
10 of California, and other former and current Aggrieved Employees their civil penalties, attorney's fees,
11 and costs of suit, all according to proof, pursuant to the cited sections of the Labor Code and the
12 applicable Wage Orders as heretofore articulated.

13 13. That, with respect to the Twelfth Cause of Action this Court enter judgment in favor of
14 Plaintiffs and Class Members against Defendants in an amount according to proof, interest thereon, costs
15 and reasonable attorney's fees

16 14. For such further relief as the Court may order, including attorney's fees, costs, and
17 interest pursuant to Labor Code sections 218.5 and 218.6, and Code of Civil Procedure section 1021.5,
18 in an amount according to proof.

19 DATED: October 31, 2022

HARRIS & RUBLE

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21 Alan Harris
22 Attorney for Plaintiffs
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