

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

APR 06 2021

BY *Gloria M. Portillo*
GLORIA M. PORTILLO, DEPUTY

BY FAX

HAIG B. KAZANDJIAN LAWYERS, APC
Haig B. Kazandjian, Esq. Bar No.: 278622
haig@hbklawyers.com
Cathy Gonzalez, Esq., Bar No.: 310625
cathy@hbklawyers.com
Kevin Crough, Esq., Bar No.: 323904
kevin@hbklawyers.com
801 North Brand Boulevard, Suite 970
Glendale, California 91203
Telephone: 1-818-696-2306
Facsimile: 1-818-696-2307

Attorneys for Plaintiff NATY TORRES
individually and on behalf of all other AGGRIEVED EMPLOYEES

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO**

NATY TORRES, an individual, on behalf of)
herself and all other AGGRIEVED)
EMPLOYEES)

Plaintiff,

vs.

KULS LLC, a California Limited Liability)
Company; ACS STAFFING, INC., a California)
Corporation, and DOES 1 through 100,)
inclusive,)

Defendants.

Case No. **CIV SB 2110092**

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

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

Plaintiff NATY TORRES (hereinafter referred to as "REPRESENTATIVE PLAINTIFF")
alleges as follows:

PARTIES

1. REPRESENTATIVE PLAINTIFF is an individual who resides in California and
was employed, jointly and severally, by KULS LLC and ACS STAFFING, INC. from on or about

1 August 2019 until on or about April 11, 2020.

2 2. REPRESENTATIVE PLAINTIFF is informed and believes, and based on such
3 information and belief, alleges that at all times mentioned herein, KULS LLC is a California
4 Limited Liability Company, licensed to do business and actually doing business in the State of
5 California.

6 3. REPRESENTATIVE PLAINTIFF is informed and believes, and based on such
7 information and belief, alleges that at all times mentioned herein, ACS STAFFING, INC. is a
8 California Corporation, licensed to do business and actually doing business in the State of
9 California.

10 4. REPRESENTATIVE PLAINTIFF is informed and believes, and based on such
11 information and belief, alleges that DEFENDANTS operate and staff a shipping storage facility,
12 and have numerous locations throughout California. Thus, DEFENDANTS are subject to the
13 applicable California laws as alleged throughout this Complaint.

14 5. REPRESENTATIVE PLAINTIFF is unaware of the true names and capacities,
15 whether corporate, individual, or otherwise, of DEFENDANTS named as DOES 1 through 100,
16 inclusive. Pursuant to California Code of Civil Procedure section 474, REPRESENTATIVE
17 PLAINTIFF will seek leave of court to amend this complaint to state said DEFENDANTS' true
18 names and capacities when the same have been ascertained. REPRESENTATIVE PLAINTIFF is
19 informed and believes, and based thereon alleges, that said fictitiously-named DEFENDANTS are
20 responsible in some manner for the injuries and damages to REPRESENTATIVE PLAINTIFF and
21 the other AGGRIEVED EMPLOYEES as further alleged herein.

22 6. The AGGRIEVED EMPLOYEES worked for all of the DEFENDANTS or for
23 either of the DEFENDANTS as non-exempt, hourly-paid employees. Nothing in this Complaint
24 should be interpreted as limiting the AGGRIEVED EMPLOYEES to non-exempt, hourly-paid
25 employees who worked for all DEFENDANTS only.

26 7. The definition of "employer" for purposes of the California Labor Code includes
27 irregular working arrangements, and was specifically drafted in order to prevent evasion and
28 subterfuge of California's labor laws. To that end, REPRESENTATIVE PLAINTIFF is informed

1 and believes, and based thereon alleges, that DEFENDANTS, including any as of now unknown
2 entities, must be classified as joint-employers for purposes of liability for civil penalties under the
3 Private Attorneys General Act ("PAGA"). As such, DEFENDANTS are each liable for civil
4 penalties for violation of the California Labor Code as to REPRESENTATIVE PLAINTIFF and
5 the other AGGRIEVED EMPLOYEES.

6 8. The term "DEFENDANTS" used throughout this Complaint includes all named
7 DEFENDANTS whether corporate, individual, or otherwise, and all unnamed DEFENDANTS
8 whether corporate, individual, or otherwise, that are now unknown but are referred to throughout
9 this Complaint as DOES 1 through 100, inclusive.

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

14 (i) Failure to provide employment records in violation of Labor Code sections 226,
15 432, and 1198.5;

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

18 (iii) failure to provide rest and meal periods in violation of Labor Code sections 226.7,
19 512(a), and the applicable Wage Orders;

20 (iv) failure to pay minimum wage in violation of Labor Code sections 1182.2, 1194,
21 1197, 1197.1, and the applicable Wage Orders;

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

24 (vi) failure to pay all wages earned on time in violation of Labor Code sections 201.3,
25 and 204;

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

28 (viii) failure to provide basic information at the time of hiring and when employment

1 changes occur in violation of Labor Code section 2810.5(a)(1)(A)-(C) (Wage Theft Prevention
2 Act).

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

5 (x) failure to provide notice of paid sick time and accrual in violation of Labor Code
6 section 246;

7 VENUE AND JURISDICTION

8 10. Venue is proper under California Code of Civil Procedure section 395 and under
9 California Government Code section 12965(b), in that REPRESENTATIVE PLAINTIFFS'
10 injuries were incurred within the County of San Bernardino, the actions giving rise to
11 REPRESENTATIVE PLAINTIFFS' Complaint arose within the County of San Bernardino, and
12 DEFENDANTS are located in the County of San Bernardino.

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

15 SCOPE

16 12. The "AGGRIEVED EMPLOYEES" are DEFENDANTS current and former hourly-
17 paid, non-exempt employees, who either were or are employed in the State of California from
18 December 18, 2019 through the date of judgment in this action.

19 STATEMENT OF FACTS

20 13. REPRESENTATIVE PLAINTIFF was hired by DEFENDANTS as a Forklift
21 Driver on or about August 2019. DEFENDANTS operate and staff storage and shipping facilities.
22 REPRESENTATIVE PLAINTIFF worked for DEFENDANTS up until on or about April 11, 2020
23 and received a final pay check on or about April 24, 2020.

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

28 15. REPRESENTATIVE PLAINTIFF filed a PAGA Notice on December 18, 2020 by

1 serving a PAGA Notice to all named DEFENDANTS and to the LWDA in compliance with Labor
2 Code section 2699.3. As of February 21, 2021, 65 Days after REPRESENTATIVE PLAINTIFF's
3 PAGA Notice, REPRESENTATIVE PLAINTIFF has not received correspondence from the
4 LWDA regarding its intent to investigate PLAINTIFF's claims.

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

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

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

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

20 20. The time periods provided to DEFENDANTS by Labor Code Sections 226, 432,
21 1198.5 and any other relevant statutes have elapsed since DEFENDANTS received
22 REPRESENTATIVE PLAINTIFF's correspondence requesting documents pursuant to Labor Code
23 Sections 226, 432, and 1198.5, and a copy of REPRESENTATIVE PLAINTIFF's personnel
24 records pursuant to Labor Code Section 1198.5. However, DEFENDANTS failed to provide
25 REPRESENTATIVE PLAINTIFF with any of the employment documents to which he is entitled.

26 21. REPRESENTATIVE PLAINTIFF is informed and believes, and based thereon
27 alleges, that DEFENDANTS failed to provide records in compliance with Labor Code Sections
28 226, 432, and 1198.5 to other AGGRIEVED EMPLOYEES in response to their requests.

1 22. California Labor Code sections 510 and the applicable Wage Orders require
2 employers to pay employees working more than eight (8) hours in a day or more than 40 hours in a
3 week at the rate of at least time-and-one-half (1.5) times their regular rate of pay ("overtime") for
4 time such worked, and two (2) times their regular rate of pay ("double time") for such hours
5 worked in excess of 12 hours in a day. "Regular rate" includes all remuneration, including non-
6 discretionary bonuses and incentives.

7 23. During the relevant time period, REPRESENTATIVE PLAINTIFF and other
8 AGGRIEVED EMPLOYEES regularly worked in excess of eight (8), and in excess of 12, hours in
9 a workday and/or 40 hours in a workweek.

10 24. DEFENDANTS routinely required REPRESENTATIVE PLAINTIFF and the other
11 AGGRIEVED EMPLOYEES to perform work tasks before and/or after their scheduled shifts,
12 and/or during off-the-clock meal breaks, and/or during rest breaks. As a consequence,
13 DEFENDANTS willfully failed to pay REPRESENTATIVE PLAINTIFF and the other
14 AGGRIEVED EMPLOYEES all of the wages to which they were entitled.

15 25. California Labor Code sections 226.7, 512(a), and the applicable Wage Orders
16 require employers to pay employees one (1) additional hour of pay at the employees' regular rate
17 for each work day that a legally compliant meal and/or rest break was not provided. Employers
18 cannot require, cause, or permit an employee to work more than five (5) hours per day without
19 providing an uninterrupted meal break. If an employee works over ten (10) hours in a workday,
20 employers are required to either provide a second, uninterrupted 30-minute meal break or pay
21 employees an additional one (1) hour of pay at the employees' regular rate. If the employer fails to
22 properly record a valid meal period, it is presumed that no meal period was provided. Furthermore,
23 no employer shall require an employee to work during any rest period. Rest periods requirements
24 are based on the total hours worked; employees are legally entitled to ten (10) minutes per four (4)
25 hours, or major fraction thereof, that employee worked.

26 26. DEFENDANTS failed to provide REPRESENTATIVE PLAINTIFF and other
27 AGGRIEVED EMPLOYEES with the required rest and meal break periods. REPRESENTATIVE
28 PLAINTIFF and other AGGRIEVED EMPLOYEES were routinely required to work through these

1 periods instead, because of understaffing, inadequate coverage, unreasonably high workload and
2 expectations, and/or other actions, inactions, or decisions made by and within the sole control and
3 discretion of DEFENDANTS.

4 27. REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES worked
5 shifts in excess of five (5) hours without a meal break, and worked shifts of ten (10) hours or more
6 without a second meal break, due to understaffing, inadequate coverage, unreasonably high
7 workload and expectations, and/or other actions, inactions, or decisions made by and within the
8 sole control and discretion of DEFENDANTS.

9 28. REPRESENTATIVE PLAINTIFF is informed and believes, and based thereon
10 alleges, that any purported appearance of meal and rest break compliance is because
11 DEFENDANTS systematically and routinely clocked out for and/or otherwise altered the
12 timekeeping records of REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES
13 in an attempt to hide the aforementioned infractions. DEFENDANTS, knowingly and contrary to
14 law and public policy, employed a tactic of clocking-out employees for rest and/or meal periods
15 that were never taken and/or were legally non-compliant, and/or otherwise falsified or altered
16 timekeeping records.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 32. As alleged throughout this Complaint, due to the company-wide failures of
15 DEFENDANTS, REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES were
16 forced to work off-the-clock before and/or after their scheduled work shifts, and/or during rest
17 breaks, and/or during meal breaks. DEFENDANTS failed to pay REPRESENTATIVE
18 PLAINTIFF and other AGGRIEVED EMPLOYEES minimum wage for this time and/or falsified
19 timekeeping records to hide this fact.

20 33. California Labor Code 226(a) requires employers to create and provide to
21 employees true and accurate employment records. California Labor Code section 226(e) provides
22 that if an employer fails to furnish an employee with same, the employee is entitled to recover the
23 greater of all actual damages, or \$50.00 for an initial infraction, and \$100 per employee for each
24 subsequent violation in any pay period. California Labor Code 226.3 imposes civil penalties on any
25 employer in violation of section 226(a) at \$250 per employee violation in an initial citation, and
26 \$1,000 per employee for each subsequent violation.

27 34. California Labor Code 1174(d) requires employers to keep payroll records showing
28 hours worked, and wages paid to and/or number of piece-rate units earned, for all employees.

1 California Labor Code section 1174.5 subjects employers to a \$500 penalty for failing to maintain
2 same.

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

7 36. DEFENDANTS knowingly provided employees with records that do not meet the
8 statutory requirements of truth and accuracy, because DEFENDANTS failed to truthfully and
9 accurately document, among other things, employees off-the-clock work. As a result,
10 DEFENDANTS failed to accurately list the correct amount of gross and/or net wages earned by
11 REPRESENTATIVE PLAINTIFF and the other AGGRIEVED EMPLOYEES.

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

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

26 39. California Labor Code section 204 requires that all wages earned, other than those
27 due upon termination, be paid on time as defined by the statute.

28 40. California Labor Code section 201.3(b)(1)(A) requires "temporary service
8.

1 employers" to pay their employee's no less frequently than weekly. "Temporary service employer"
2 is defined within the relevant statute to be an employing unit that contracts with clients or
3 customers to supply workers to perform services for the clients or customers.

4 41. DEFENDANT ACS STAFFING, INC. contracted with clients and/or customers to
5 supply EMPLOYEE and other AGGRIEVED EMPLOYEES to perform services for clients and/or
6 customers.

7 42. As a result of the numerous company-wide failures of DEFENDANTS as described
8 throughout this Complaint, DEFENDANTS failed to pay REPRESENTATIVE PLAINTIFF and
9 other AGGRIEVED EMPLOYEES all wages due to them, including, but not limited to: minimum
10 wages, overtime wages, and/or double time wages within the statutorily required time period.

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

16 44. DEFENDANTS terminated their employment relationship with
17 REPRESENTATIVE PLAINTIFF on April 11, 2020. Accordingly, REPRESENTATIVE
18 PLAINTIFF was due all wages earned immediately.

19 45. When REPRESENTATIVE PLAINTIFF finally received EMPLOYEE's final
20 paycheck on April 24, 2020, that final paycheck was legally deficient in that it did not account for
21 all wages earned despite DEFENDANTS knowing that such wages were due to
22 REPRESENTATIVE PLAINTIFF. Due to the company-wide failures of DEFENDANTS as
23 described throughout this Complaint, DEFENDANTS similarly failed to pay other AGGRIEVED
24 EMPLOYEES timely wages upon their discharge or resignation.

25 46. Codified in California Labor Code section 2810.5, California's Wage Theft
26 Protection Act requires employers to provide employees with basic information at the time of
27 hiring and when changes occur to their employment. The Wage Theft Protection Act provides that
28 an employee must be furnished with written notice of, at the time of hiring; rate of pay (including

1 overtime), whether paid by hour, salary, piece-rate, shift, day, week, commission, or otherwise, and
2 allowances claimed such as meal or lodging. This notice must include a statement that the
3 employee can accrue and use sick leave, has the right to request and use paid sick leave, may not
4 be terminated or retaliated against for requesting or using paid sick leave, and has the right to file a
5 complaint against any employer who does so retaliate.

6 47. DEFENDANTS hired REPRESENTATIVE PLAINTIFF on or about August 2019,
7 and REPRESENTATIVE PLAINTIFF continued to work for DEFENDANTS until on or about
8 April 11, 2020. During that time, changes, including, but not limited to, raises, promotions, title
9 changes, relocations, and new and additional assignments were earned by and/or assigned to
10 REPRESENTATIVE PLAINTIFF. As a result of each of these, changes occurred to
11 REPRESENTATIVE PLAINTIFF's employment as defined by Labor Code 2810.5(a)(1)(A)-(C)
12 and the Wage Theft Prevention Act.

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

21 49. California Labor Code Sections 2800 and 2802 require that an employer indemnify
22 employees for all necessary expenditures or losses incurred by the employee in direct consequence
23 of the discharge of their duties.

24 50. REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES were
25 directed and expected to incur personal expenses on behalf of DEFENDANTS while performing
26 their job duties. Such personal expenses include, but are not limited to: use of personal cell phone,
27 travel expenses, and parking expenses. REPRESENTATIVE PLAINTIFF and the other
28 AGGRIEVED EMPLOYEES would not have been able to successfully accomplish their job duties

1 absent incurring these personal expenses. DEFENDANTS failed to indemnify
2 REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES for all necessary
3 expenditures or losses accordingly.

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

11 52. REPRESENTATIVE PLAINTIFF was hired by DEFENDANTS on or about
12 August 2019 and worked for DEFENDANTS until on or about April 11, 2020.
13 REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES worked for
14 DEFENDANT for more than 30 days, triggering the protections of Labor Code section 246 as
15 described above. Nevertheless, DEFENDANTS failed to furnish upon REPRESENTATIVE
16 PLAINTIFF and other AGGRIEVED EMPLOYEES, either on itemized wage statements or in a
17 separate writing accompanying such wage statements, the amount of sick leave available to
18 REPRESENTATIVE PLAINTIFF and other AGGRIEVED EMPLOYEES.

19 53. As such, DEFENDANTS unlawfully retained and continue to retain paid sick leave
20 that should have been paid to REPRESENTATIVE PLAINTIFF and other AGGRIEVED
21 EMPLOYEES but for DEFENDANTS failure to properly institute and/or adhere to a legally
22 compliant paid sick leave program. REPRESENTATIVE EMPLOYEE is informed and believes,
23 and based thereon alleges, that these practices were experienced and continue to be experienced by
24 the other AGGRIEVED EMPLOYEES.

25 ///

26 ///

27 ///

28 ///

FIRST CAUSE OF ACTION

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

(By REPRESENTATIVE PLAINTIFF Against DEFENDANT(S) and Does 1 through 10, inclusive)

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

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

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

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

Failure to Provide Employment Records

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

Failure to Pay Overtime / Double Time

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

1 sections 510 and 1198.

2 **Failure to Provide Meal and Rest Periods**

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

7 **Failure to Pay Minimum Wages**

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

12 **Failure to Keep Accurate and Provide Itemized Wage Statements**

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

16 **Failure to Timely Pay Wages During Employment**

17 63. DEFENDANTS failure to timely pay wages to REPRESENTATIVE PLAINTIFF
18 and other AGGRIEVED EMPLOYEES during their employment constitutes unlawful and/or
19 unfair activity prohibited by California Labor Code sections 201.3, and 204.

20 **Failure to Timely Pay Wages Upon Termination**

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

24 **Failure to Provide Information Required by the Wage Theft Prevention Act**

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

Failure to Reimburse Necessary Business-Related Expenses and Costs

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

Failure to Provide Notice of Paid Sick Time and Accrual

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

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

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

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

c. Penalties under California Labor Code section 210 in addition to, and entirely independent and apart from, any other penalties provided in the California Labor Code in the amount of a hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation, and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation; and

d. Any and all additional penalties and sums as provided by the California Labor Code and/or other statutes, including, but not limited to, penalties pursuant to California Labor Code 558(a).

69. Pursuant to California Labor Code section 2699(i), civil penalties recovered shall be distributed as follows: seventy-five percent (75%) to the Labor and Workforce Development Agency for the enforcement of labor laws and education of employers and employees about their rights and responsibilities and twenty-five percent (25%) to the AGGRIEVED EMPLOYEES.

70. Further, REPRESENTATIVE PLAINTIFF is entitled to seek and recover reasonable attorneys' fees and costs pursuant to California Labor Code sections 210, 218.5 and 2699 and any other applicable statute.

THEREFORE, REPRESENTATIVE PLAINTIFF and the individuals he seeks to represent request relief as described below:

PRAYER

THEREFORE, REPRESENTATIVE PLAINTIFF prays for judgment against DEFENDANTS, and Does 1 through 100, and each of them, as follows:

1. Statutory attorneys' fees and costs under PAGA and California Code of Civil Procedure Section 1021.5;
2. Statutory penalties under PAGA;
3. Costs of suit; and
4. Such further relief as the Court deems just and proper.

Dated: April 5, 2021

HAIG B. KAZANDJIAN LAWYERS, APC.

By: /s/ Haig Kazandjian
Haig B. Kazandjian, Esq.,
Cathy Gonzalez, Esq.,
Kevin Crough, Esq.,
Attorneys for Plaintiff NATY TORRES
Individually and on behalf of other
AGGRIEVED EMPLOYEES