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Individually and on behalf of all aggrieved employees

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

Thomas Pangelinan, individually and on
behalf of all aggrieved employees,

Plaintiff,

vs.

Worldwide Flight Services, Inc.; and Does 1
through 20, inclusive,

Defendants.

CASE NO.: 21STCV18452

**REPRESENTATIVE ACTION
COMPLAINT PURSUANT TO THE
PRIVATE ATTORNEYS GENERAL ACT
OF 2004 ("PAGA")**

**(1) PAGA Civil Penalties for Violations
of Labor Code §§ 1194, 1197.1 and the
Applicable Wage Order for Failure to Pay
All Minimum Wages;**

**(2) PAGA Civil Penalties for Violations
of Labor Code §§ 510, 1194, 1198 and the
Applicable Wage Order for Failure to Pay
All Overtime Wages;**

**(3) PAGA Civil Penalties for Violations
of Labor Code §§ 204, 210 and the
Applicable Wage Order for Failure to Pay
All Wages;**

**(4) PAGA Civil Penalties for Violations
of Labor Code §§ 226.7 and 512 and the
Applicable Wage Order for Failure to
Provide Timely and Compliant Meal
Periods;**

**(5) PAGA Civil Penalties for Violations
of Labor Code § 226.7 and the Applicable
Wage Order for Failure to Provide Timely
and Compliant Rest Periods;**

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(6) PAGA Civil Penalties for Violations of Labor Code §§ 226(a) and 226.3 and the Applicable Wage Order for Failure to Provide Accurate and Itemized Wage Statements;

(7) PAGA Civil Penalties for Violations of Labor Code §§ 2802 and 2804 and the Applicable Wage Order for Failure to Reimburse All Reasonable and Necessary Business Related Expenses; And

(8) PAGA Civil Penalties for Violations of Labor Code §§ 201-203 for Failure to Timely Pay All Wages Due to Terminated/Separated Employees.

DEMAND FOR JURY TRIAL

1 Plaintiff Thomas Pangelinan (“Plaintiff”), on behalf of himself and all others similarly
2 aggrieved alleges as follows:

3 **INTRODUCTION**

4 1. Plaintiff brings this representative action against Defendant Worldwide Flight
5 Services, Inc., and DOES 1 through 20, inclusive (collectively, “Defendants”), on behalf of
6 himself individually and all other aggrieved employees by Defendants throughout California.
7 Plaintiff was employed by Defendants as a non-exempt hourly employee. Plaintiff seeks to
8 recover civil penalties for all California-based “aggrieved employees” during the “Relevant Time
9 Period” (defined as one year and 179 days¹ before the filing of this action until the date of
10 commencement of trial) who incurred wage and hour violations and losses as hereinafter
11 described.

12 2. On February 23, 2021, Plaintiff gave notice of these claims to the California
13 Labor and Workforce Development Agency (“LWDA”) and to the agent for service of process
14 for each Defendant. Plaintiff has not received any response from the LWDA indicating that it
15 intends to investigate these claims. Accordingly, Plaintiff has exhausted all notice requirements
16 under the PAGA.

17 3. Plaintiff asserts claims for civil penalties as a representative of the State of
18 California, as authorized by the Private Attorneys General Act of 2004 (“PAGA”), and to the extent
19 permitted by law, on behalf of aggrieved employees who held the positions identified herein and
20 suffered one or more of the violations alleged. Labor Code §§ 2698, *et seq.*

21 **JURISDICTION AND VENUE**

22 4. The relief sought by Plaintiff on behalf of himself and the aggrieved employees
23 below exceeds the minimal jurisdictional limits of the Superior Court and will be established
24 according to proof at trial. The Court has personal jurisdiction over each of the parties because
25 they are either citizens of this State, doing business in this State or otherwise have minimum
26 contacts with this State.

27 ¹ The statute of limitations for this matter was tolled pursuant to Cal. Rules of Court, Appendix I,
28 Emergency Rule No. 9.

5. Based on information and belief, Plaintiff alleges that this entire action arises solely under the laws of the State of California and applicable regulations of the health, safety and wages of the employees residing in the State of California. Plaintiff alleges, on information and belief, that no federal question is raised. Moreover, PAGA civil penalty actions are not subject to federal jurisdiction.

6. Venue is proper in this Court because, upon information and belief, Defendants transact business or have offices in this county, and the acts and omissions alleged herein took place in this country.

PARTIES

Plaintiff

7. Plaintiff Thomas Pangelinan is a citizen of California. He worked for Defendants as a non-exempt employee during the Relevant Time Period.

Defendants

8. Worldwide Flight Services, Inc. is a corporation organized under the laws of the state of Delaware. Worldwide Flight Services, Inc. is headquartered in Jamaica, New York.

9. Plaintiff is unaware of the true names or capacities of the defendants sued as DOES 1 through 20 but will seek leave of this Court to amend this Complaint and serve such fictitiously named defendants once their names and capacities become known.

10. Plaintiff is informed and believes, and thereon alleges, that each Defendant acted in all respects pertinent to this action as the agent of the other defendant, carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each defendant are legally attributable to the other defendant. Furthermore, Defendants in all respects acted as the employer and/or joint employer of Plaintiff and other aggrieved employees.

11. Plaintiff is informed and believes, and thereon alleges, that each and all of the acts and omissions alleged herein were performed by, or are attributable to, Defendants and/or DOES 1 through 20, acting as the agent or alter ego for the other, with legal authority to act on the other's behalf. The acts of any and all Defendants were in accordance with, and represent, the official policy of Defendants.

12. At all relevant times, Defendants, and each of them, acted within the scope of such agency or employment, or ratified each and every act or omission complained of herein. At all relevant times, Defendants, and each of them, aided and abetted the acts and omissions of each and all the other Defendants in proximately causing the damages herein alleged.

13. Plaintiff is informed and believes, and thereon alleges, that each of said Defendants is in some manner intentionally, negligently or otherwise responsible for the acts, omissions, occurrences and transactions alleged herein.

GENERAL ALLEGATIONS

14. At all relevant times mentioned herein, Defendants employed Plaintiff and other persons as non-exempt employees.

15. Defendants employed Plaintiff during the Relevant Time Period.

16. Plaintiff is informed and believes, and thereon alleges, that at all times mentioned herein, Defendants were advised by skilled lawyers, employees, and other professionals who were knowledgeable about California's wage and hour laws, employment and personnel practices, and the requirements of California law.

17. Plaintiff is informed and believes, and thereon alleges that Defendants have maintained a consistent policy of failing to pay Plaintiff and other aggrieved employees for all hours worked, including minimum, regular and overtime wages, by requiring Plaintiff and other aggrieved employees to work off-the-clock at the beginning and end of their shifts. Also, Defendants conducted uncompensated COVID-19 health screenings of Plaintiff and other aggrieved employees. As a result, Defendants failed to pay Plaintiff and other aggrieved employees all their earned wages engaged in a systematic pattern of wage and hour violations under the California Labor Code and IWC Wage Orders.

18. Plaintiff is informed and believes, and thereon alleges that Defendants failed to provide Plaintiff and other aggrieved employees timely, uninterrupted, off-duty meal periods of no less than thirty minutes before their fifth hour of work and failed to provide a second meal period on shifts of more than ten hours. Defendants required Plaintiff and other aggrieved employees to sign purported meal period waivers at the beginning of employment. These

1 waivers are invalid because Defendants did not sign said waivers and the waivers were not
2 signed voluntarily because they were a condition of employment. Defendants required Plaintiff
3 and other aggrieved employees to be “on duty” during meal periods, requiring Plaintiff and other
4 aggrieved employees to be responsive to cellular telephones on any purported breaks. As a result,
5 when Plaintiff and other aggrieved employees took meal periods, they were regularly interrupted,
6 less than thirty minutes, or on duty, and failed to compensate Plaintiff and other aggrieved
7 employees for these missed meal periods.

8 19. Plaintiff is informed and believes, and thereon alleges that Defendants employed
9 Plaintiff and other aggrieved employees for work periods of four hours or major fraction thereof
10 without rest periods of ten minutes’ net rest time and failed to compensate Plaintiff and other
11 aggrieved employees for these missed rest periods. Defendants required Plaintiff and other
12 aggrieved employees to be “on duty” during rest periods or otherwise be responsive to cellular
13 telephones during any purported breaks. As a result, when Plaintiff and other aggrieved
14 employees took rest breaks, they were regularly interrupted, less than ten minutes, or on duty.

15 20. Plaintiff is informed and believes, and thereon alleges that Defendants have
16 intentionally and willfully failed to provide Plaintiff and other aggrieved employees with
17 complete and accurate wage statements. The deficiencies include, among other things, the
18 failure to provide the inclusive dates of the accurate pay period for “retroactive pay,” the
19 accurate employer’s name and address, and the accurate hours worked and pay earned.

20 21. Plaintiff is informed and believes, and thereon alleges that Defendants had a
21 consistent policy of failing to reimburse Plaintiff and other aggrieved employees for all
22 necessary and reasonable business expenses incurred, in violation of California state wage and
23 hour laws. For example, Defendants failed to reimburse Plaintiff and other aggrieved employees
24 for their work-related use of their personal cellular telephone for business purposes and purchase
25 of masks, gloves, and other personal protective equipment (“PPE”).

26 22. Plaintiff is informed and believes, and thereon alleges, that Defendants have
27 intentionally and willfully failed to provide Plaintiff and other aggrieved employees with timely
28 payment of wages upon separation of employment. In violation of the California Labor Code,

1 Plaintiff and these aggrieved employees did not receive payment of all wages including, but not
2 limited to, unpaid minimum and overtime wages, meal periods premiums, and rest break
3 premiums within permissible time periods.

4 23. Plaintiff suffered losses as detailed above as a result of these practices and is
5 therefore an aggrieved employee under Labor Code section 2699(c). Plaintiff is informed and
6 believe that because the Defendants used identical procedures for all employees, there are many
7 other aggrieved employees who suffered the above violations including underpayment of wages,
8 non-compliant meal periods and rest breaks, failure to reimburse all reasonable and necessary
9 business expenses, and derivative violations for inaccurate pay and wage statements, and failure
10 to timely pay all wages due to employees who were separated or were terminated from
11 employment during the applicable limitations period, and for which recovery under PAGA is
12 owed.

13 **FIRST CAUSE OF ACTION**

14 **PAGA CIVIL PENALTIES FOR VIOLATIONS OF LABOR CODE §§ 1194,**
15 **1197.1 AND THE APPLICABLE WAGE ORDER FOR FAILURE TO PAY ALL**
16 **MINIMUM WAGES**

17 **(By Plaintiff on behalf of all similarly aggrieved employees against each Defendant)**

18 24. Plaintiff incorporates the preceding paragraphs of this Complaint expressly herein
19 by this reference as if all prior paragraphs were set forth in full, including the Notice to the
20 LWDA dated February 23, 2021.

21 25. The Labor Code and the Wage Order provide that in the State of California an
22 employer must pay a minimum wage to an employee, which is eight dollars (\$8.00) per hour for
23 all hours worked effective January 1, 2008, nine dollars (\$9.00) per hour for all hours worked
24 effective July 1, 2014, ten dollars (\$10.00) per hour for all hours worked effective January 1,
25 2016, ten dollars and fifty cents (\$10.50) per hour for all hours worked effective January 1, 2017,
26 eleven dollars (\$11.00) per hour for all hours worked effective January 1, 2018, twelve dollars
27 (\$12.00) per hour for all hours worked effective January 1, 2019, thirteen dollars (\$13.00) per
28 hour for all hours worked effective January 1, 2020, and fourteen dollars (\$14.00) per hour for

1 all hours worked effective January 1, 2021.

2 26. Labor Code section 1194 states: “Notwithstanding any agreement to work for a
3 lesser wage, any employee receiving less than the legal minimum wage or the legal overtime
4 compensation applicable to the employee is entitled to recover in a civil action the unpaid
5 balance of the full amount of this minimum wage or overtime compensation, including interest
6 thereon, reasonable attorney’s fees, and costs of suit.”

7 27. Here, based on the foregoing, Defendants deprived Plaintiff and similarly
8 aggrieved employees of their rightfully earned minimum wage compensation, including overtime
9 compensation at the minimum wage rate, as a direct and proximate result of Defendants’ failure
10 to pay said compensation. Consequently, Plaintiff, on behalf of himself and other aggrieved
11 employees, intends to seek civil penalties pursuant to the PAGA for the alleged violations.

12 28. Labor Code section 1197.1(a)(1) provides that: “For any initial violation that is
13 intentionally committed, one hundred dollars (\$100) for each underpaid employee for each pay
14 period for which the employee is underpaid. This amount shall be in addition to an amount
15 sufficient to recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any
16 applicable penalties imposed pursuant to Section 203.”

17 29. Labor Code section 1191.1(a)(2) provides that: “For each subsequent violation for
18 the same specific offense, two hundred fifty dollars (\$250) for each underpaid employee for each
19 pay period for which the employee is underpaid regardless of whether the initial violation is
20 intentionally committed. This amount shall be in addition to an amount sufficient to recover
21 underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable penalties
22 imposed pursuant to Section 203.

23 30. Violations of the Wage Orders are governed by the civil penalty provisions of
24 Labor Code section 558: “(a) Any employer or other person acting on behalf of an employer who
25 violates, or causes to be violated, a section of this chapter or any provision regulating hours and
26 days of work in any order of the Industrial Welfare Commission shall be subject to a civil
27 penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee
28 for each pay period for which the employee was underpaid; (2) For each subsequent violation,

1 one hundred dollars (\$100) for each underpaid employee for each pay period for which the
2 employee was underpaid.”

3 31. Accordingly, the Defendants are subject to assessment of civil penalties pursuant
4 to Labor Code section 1197.1(a) for violations of statutes and subject to civil penalties for
5 violations of the applicable Wage Order as provided by Labor Code section 558(a) in an amount
6 according to proof.

7 32. Plaintiff will seek recovery of attorneys’ fees pursuant to Labor Code section
8 2699(g) and/or Code of Civil Procedure section 1021.5 to the extent enforcement of California
9 labor laws and applicable regulations is determined to be in the public interest and consistent
10 with the Legislative intent stated in Labor Code section 90.5, in an amount according to proof
11 and subject to Court approval.

12 **SECOND CAUSE OF ACTION**

13 **PAGA CIVIL PENALTIES FOR VIOLATIONS OF LABOR CODE §§ 510,** 14 **1194, 1198 AND THE APPLICABLE WAGE ORDER FOR FAILURE TO PAY ALL** 15 **OVERTIME WAGES**

16 **(By Plaintiff on behalf of all similarly aggrieved employees against each Defendant)**

17 33. Plaintiff incorporates the preceding paragraphs of this Complaint expressly herein
18 by this reference as if all prior paragraphs were set forth in full, including the Notice to the
19 LWDA dated February 23, 2021.

20 34. Labor Code section 510(a) states in pertinent part that: “Eight hours of labor
21 constitutes a day’s work. Any work in excess of eight hours in one workday and any work in
22 excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of
23 work in any one workweek shall be compensated at the rate of no less than one and one-half
24 times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall
25 be compensated at the rate of no less than twice the regular rate of pay for an employee.”

26 35. Labor Code section 1194 states: “Notwithstanding any agreement to work for a
27 lesser wage, any employee receiving less than the legal minimum wage or the legal overtime
28 compensation applicable to the employee is entitled to recover in a civil action the unpaid

1 balance of the full amount of this minimum wage or overtime compensation, including interest
2 thereon, reasonable attorney's fees, and costs of suit."

3 36. Each of these statutes is listed in Labor Code section 2699.5 as a statute for which
4 violation of has been established to be subject to the default civil penalty provisions in Labor
5 Code section 2699(f)(2). That section provides: "(f) For all provisions of this code except those
6 for which a civil penalty is specifically provided, there is established a civil penalty for a
7 violation of these provisions, as follows: ... (2) If, at the time of the alleged violation, the person
8 employs one or more employees, the civil penalty is one hundred dollars (\$100) for each
9 aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for
10 each aggrieved employee per pay period for each subsequent violation."

11 37. Here, based on the foregoing, Defendants deprived Plaintiff and similarly
12 aggrieved employees of their rightfully earned overtime compensation as a direct and proximate
13 result of Defendants' failure to pay said compensation. Consequently, Plaintiff, on behalf of
14 himself and other aggrieved employees, intends to seek civil penalties pursuant to the PAGA for
15 the alleged violations.

16 38. Violations of the Wage Orders are governed by the civil penalty provisions of
17 Labor Code section 558: "(a) Any employer or other person acting on behalf of an employer who
18 violates, or causes to be violated, a section of this chapter or any provision regulating hours and
19 days of work in any order of the Industrial Welfare Commission shall be subject to a civil
20 penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee
21 for each pay period for which the employee was underpaid; (2) For each subsequent violation,
22 one hundred dollars (\$100) for each underpaid employee for each pay period for which the
23 employee was underpaid."

24 39. Accordingly, the Defendants are subject to assessment of civil penalties pursuant
25 to Labor Code section 2699.5 for violations of statutes and subject to civil penalties for
26 violations of the applicable Wage Order as provided by Labor Code section 558(a) in an amount
27 according to proof.

28 40. Plaintiff will seek recovery of attorneys' fees pursuant to Labor Code section

1 2699(g) and/or Code of Civil Procedure section 1021.5 to the extent enforcement of California
2 labor laws and applicable regulations is determined to be in the public interest and consistent
3 with the Legislative intent stated in Labor Code section 90.5, in an amount according to proof
4 and subject to Court approval.

5 **THIRD CAUSE OF ACTION**

6 **PAGA CIVIL PENALTIES FOR VIOLATIONS OF LABOR CODE §§ 204, 210 AND**
7 **THE APPLICABLE WAGE ORDER FOR FAILURE TO PAY ALL WAGES**

8 **(By Plaintiff on behalf of all similarly aggrieved employees against each Defendant)**

9 41. Plaintiff incorporates the preceding paragraphs of this Complaint expressly herein
10 by this reference as if all prior paragraphs were set forth in full, including the Notice to the
11 LWDA dated February 23, 2021.

12 42. Labor Code section 204(a) provides: “All wages, other than those mentioned in
13 Section 201, 201.3, 202, 204.1, or 204.2, earned by any person in any employment are due and
14 payable twice during each calendar month, on days designated in advance by the Employers as
15 the regular paydays. Labor performed between the 1st and 15th days, inclusive, of any calendar
16 month shall be paid for between the 16th and the 26th day of the month during which the labor
17 was performed, and labor performed between the 16th and the last day, inclusive, of any calendar
18 month, shall be paid for between the 1st and 10th day of the following month.”

19 43. Labor Code section 210(a) provides: “(a) **In addition to, and entirely**
20 **independent and apart from, any other penalty provided in this article**, every person who
21 fails to pay the wages of each employee as provided in Sections 201.3, 204, 204b, 204.1, 204.2,
22 205, 205.5, and 1197.5, shall be subject to a civil penalty as follows: (1) For any initial violation,
23 one hundred dollars (\$100) for each failure to pay each employee. (2) For each subsequent
24 violation, or any willful or intentional violation, two hundred dollars (\$200) for each failure to
25 pay each employee, plus 25 percent of the amount unlawfully withheld.” [Emphasis added.]

26 44. This statute is listed in Labor Code section 2699.5 as a statute for which violation
27 of has been established to be subject to the default civil penalty provisions in Labor Code section
28 2699(f)(2). That section provides: “(f) For all provisions of this code except those for which a

1 civil penalty is specifically provided, there is established a civil penalty for a violation of these
2 provisions, as follows: ... (2) If, at the time of the alleged violation, the person employs one or
3 more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved employee per
4 pay period for the initial violation and two hundred dollars (\$200) for each aggrieved employee
5 per pay period for each subsequent violation.”

6 45. Here, based on the foregoing, Defendants deprived Plaintiff and similarly
7 aggrieved employees of their rightfully earned compensation, including overtime compensation
8 and hours at the minimum wage rate, as a direct and proximate result of Defendants’ failure to
9 pay said compensation. Consequently, Plaintiff, on behalf of himself and other aggrieved
10 employees, intends to seek civil penalties pursuant to the PAGA for the alleged violations.

11 46. Violations of the Wage Orders are governed by the civil penalty provisions of
12 Labor Code section 558: “(a) Any Employers or other person acting on behalf of an Employers
13 who violates, or causes to be violated, a section of this chapter or any provision regulating hours
14 and days of work in any order of the Industrial Welfare Commission shall be subject to a civil
15 penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee
16 for each pay period for which the employee was underpaid; (2) For each subsequent violation,
17 one hundred dollars (\$100) for each underpaid employee for each pay period for which the
18 employee was underpaid.”

19 47. Accordingly, the Defendants are subject to assessment of civil penalties pursuant
20 to Labor Code section 2699.5 for violations of statutes and subject to civil penalties for
21 violations of the applicable Wage Order as provided by Labor Code section 558(a) in an amount
22 according to proof.

23 48. Plaintiff will seek recovery of attorneys’ fees pursuant to Labor Code section
24 2699(g) and/or Code of Civil Procedure section 1021.5 to the extent enforcement of California
25 labor laws and applicable regulations is determined to be in the public interest and consistent
26 with the Legislative intent stated in Labor Code section 90.5, in an amount according to proof
27 and subject to Court approval.

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FOURTH CAUSE OF ACTION

**PAGA CIVIL PENALTIES FOR VIOLATIONS OF LABOR CODE §§ 226.7, 512,
AND THE APPLICABLE WAGE ORDER FOR FAILURE TO PROVIDE
TIMELY AND COMPLIANT MEAL PERIODS**

(By Plaintiff on behalf of all similarly aggrieved employees against each Defendant)

49. Plaintiff incorporates the preceding paragraphs of this Complaint expressly herein by this reference as if all prior paragraphs were set forth in full, including the Notice to the LWDA dated February 23, 2021.

50. Labor Code section 226.7(b) provides that: “An employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health.”

51. Labor Code section 226.7(c) provides: “If an employer fails to provide an employee a meal or rest or recovery period in accordance with a state law, including, but not limited to, an applicable statute or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health, the Employers shall pay the employee one additional hour of pay at the employee’s regular rate of compensation for each workday that the meal or rest or recovery period is not provided.”

52. Labor Code section 512(a) states in pertinent part: “(a) An employer shall not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes, except that if the total work period per day of the employee is no more than six hours, the meal period may be waived by mutual consent of both the Employers and employee. An Employers shall not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of the Employers and the employee

1 only if the first meal period was not waived.”

2 53. Here, based on the foregoing, Defendants employed Plaintiffs and aggrieved
3 employees for work periods of more than five hours without a timely meal period of not less than
4 thirty minutes, where they were free from employer control, and failed to compensate them for
5 such meal periods, as required by Labor Code § 226.7 and the applicable Wage Order.

6 54. Labor Code sections 226.7 and 512 are statutes specifically listed in Labor Code
7 section 2699.5 as statutes for which violations of have been established to be subject to the
8 default civil penalty provisions in Labor Code section 2699(f)(2). That section provides: “(f) For
9 all provisions of this code except those for which a civil penalty is specifically provided, there is
10 established a civil penalty for a violation of these provisions, as follows: ... (2) If, at the time of
11 the alleged violation, the person employs one or more employees, the civil penalty is one
12 hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and
13 two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent
14 violation.”

15 55. Violations of the Wage Orders are governed by the civil penalty provisions of
16 Labor Code section 558: “(a) Any employer or other person acting on behalf of an employer who
17 violates, or causes to be violated, a section of this chapter or any provision regulating hours and
18 days of work in any order of the Industrial Welfare Commission shall be subject to a civil
19 penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee
20 for each pay period for which the employee was underpaid; (2) For each subsequent violation,
21 one hundred dollars (\$100) for each underpaid employee for each pay period for which the
22 employee was underpaid.”

23 56. Accordingly, the Defendants are subject to assessment of civil penalties pursuant
24 to Labor Code section 2699(f)(2) for violations of statutes and subject to civil penalties for
25 violations of the applicable Wage Order as provided by Labor Code section 558(a) in an amount
26 according to proof.

27 57. Plaintiff will seek recovery of attorneys’ fees pursuant to Labor Code section
28 2699(g) and/or Code of Civil Procedure section 1021.5 to the extent enforcement of California

labor laws and applicable regulations is determined to be in the public interest and consistent with the Legislative intent stated in Labor Code section 90.5, in an amount according to proof and subject to Court approval.

FIFTH CAUSE OF ACTION

**PAGA CIVIL PENALTIES FOR VIOLATIONS OF LABOR CODE § 226.7 AND THE
APPLICABLE WAGE ORDER FOR FAILURE TO PROVIDE TIMELY
AND COMPLIANT REST PERIODS**

(By Plaintiff on behalf of all similarly aggrieved employees against each Defendant)

58. Plaintiff incorporates the preceding paragraphs of this Complaint expressly herein by this reference as if all prior paragraphs were set forth in full, including the Notice to the LWDA dated February 23, 2021.

59. Labor Code section 226.7(b) provides: “An employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health.”

60. Labor Code section 226.7(c) provides: “If an employer fails to provide an employee a meal or rest or recovery period in accordance with a state law, including, but not limited to, an applicable statute or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health, the Employers shall pay the employee one additional hour of pay at the employee’s regular rate of compensation for each workday that the meal or rest or recovery period is not provided.”

61. Here, based on the foregoing, Defendants employed Plaintiff and aggrieved employees for work periods of four hours or major fraction thereof without timely rest periods of ten minutes where they were free of employer control, and failed to compensate them for such rest periods, as required by Labor Code section 226.7 and the applicable Wage Order.

62. Labor Code sections 226.7 is a statute specifically listed in Labor Code section

1 2699.5 as statutes for which violations of have been established to be subject to the default civil
2 penalty provisions in Labor Code section 2699(f)(2). That section provides: “(f) For all
3 provisions of this code except those for which a civil penalty is specifically provided, there is
4 established a civil penalty for a violation of these provisions, as follows: ... (2) If, at the time of
5 the alleged violation, the person employs one or more employees, the civil penalty is one
6 hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and
7 two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent
8 violation.”

9 63. Violations of the Wage Orders are governed by the civil penalty provisions of
10 Labor Code section 558: “(a) Any employer or other person acting on behalf of an employer who
11 violates, or causes to be violated, a section of this chapter or any provision regulating hours and
12 days of work in any order of the Industrial Welfare Commission shall be subject to a civil
13 penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee
14 for each pay period for which the employee was underpaid; (2) For each subsequent violation,
15 one hundred dollars (\$100) for each underpaid employee for each pay period for which the
16 employee was underpaid.”

17 64. Accordingly, Defendants are subject to assessment of civil penalties pursuant to
18 Labor Code section 2699(f)(2) for violations of statutes and subject to civil penalties for
19 violations of the applicable Wage Order as provided by Labor Code section 558(a) in an amount
20 according to proof.

21 65. Plaintiff will seek recovery of attorneys’ fees pursuant to Labor Code section
22 2699(g) and/or Code of Civil Procedure section 1021.5 to the extent enforcement of California
23 labor laws and applicable regulations is determined to be in the public interest and consistent
24 with the Legislative intent stated in Labor Code section 90.5, in an amount according to proof
25 and subject to Court approval.

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1 **SIXTH CAUSE OF ACTION**

2 **PAGA CIVIL PENALTIES FOR LABOR CODE §§ 226(a), 226.3 AND**
3 **THE APPLICABLE WAGE ORDER FOR FAILURE TO PROVIDE ACCURATE AND**
4 **ITEMIZED WAGE STATEMENTS**

5 **(By Plaintiff on behalf of all similarly aggrieved employees and against each Defendant)**

6 66. Plaintiff incorporates the preceding paragraphs of this Complaint expressly herein
7 by this reference as if all prior paragraphs were set forth in full, including the Notice to the
8 LWDA dated February 23, 2021.

9 67. Labor Code section 226(a) provides in pertinent part: “(a) An employer,
10 semimonthly or at the time of each payment of wages, shall furnish to his or her employee, either
11 as a detachable part of the check, draft, or voucher paying the employee’s wages, or separately if
12 wages are paid by personal check or cash, an accurate itemized statement in writing showing (1)
13 gross wages earned, (2) total hours worked by the employee. . . (3) the number of piece-rate units
14 earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all
15 deductions, provided that all deductions made on written orders of the employee may be
16 aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for
17 which the employee is paid, . . . (8) the name and address of the legal entity that is the employer .
18 . . and (9) all applicable hourly rates in effect during the pay period and the corresponding
19 number of hours worked at each hourly rate by the employee...”

20 68. Labor Code section 226.3 provides in pertinent part: “Any employer who violates
21 subdivision (a) of Section 226 shall be subject to a civil penalty in the amount of two hundred
22 fifty dollars (\$250) per employee per violation in an initial citation and one thousand dollars
23 (\$1,000) per employee for each violation in a subsequent citation, for which the employer fails to
24 provide the employee a wage deduction statement or fails to keep the records required in
25 subdivision (a) of Section 226. The civil penalties provided for in this section are in addition to
26 any other penalty provided by law...”

27 69. Here, during Plaintiff and aggrieved employees’ employment with Defendants,
28 Defendants intentionally and knowingly failed to provide Plaintiff and aggrieved employees with

1 timely and accurate wage and hour statements showing, among other things, the actual hours
2 worked at each applicable hourly rate, the inclusive dates of the accurate pay periods for
3 “retroactive pay,” the accurate employer’s name and address, the accurate hours worked and pay
4 earned, and the other items required by law.

5 70. Defendants systemically failed to provide such wage statements with accurate
6 information and engaged in a policy of failing to pay for all hours actually worked.

7 71. The aforementioned conduct violated Labor Code section 226(a). It also violated
8 the applicable Wage Order on required recordkeeping. Finally, the practices described herein
9 violate Labor Code section 226.3, which assigns a specific civil penalty scheme for enforcement
10 actions by the Department of Labor Standards and Enforcement (“DLSE”) or the LWDA.

11 72. Labor Code section 226(a) is a statute listed under Labor Code section 2699.5 for
12 which civil penalties may be recovered under the default civil penalty scheme outlined in Labor
13 Code section 2699(f)(2), cited above.

14 73. Labor Code section 226.3 provides an additional recoverable penalty “in the
15 amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and
16 one thousand dollars (\$1,000) per employee for each violation in a subsequent citation...” The
17 civil penalty assessments under Section 226.3 “are **in addition** to any other penalty provided by
18 law.” [Emphasis added.]

19 74. Consequently, Plaintiff, on behalf of himself and other aggrieved employees,
20 seeks to recover civil penalties pursuant to the PAGA for the alleged violations in an amount
21 according to proof and subject to Court approval.

22 75. Plaintiff will also seek recovery of attorneys’ fees and litigation expenses
23 pursuant to Labor Code section 2699(g) and/or Code of Civil Procedure section 1021.5 to the
24 extent enforcement of California labor laws and applicable regulations is determined to be in the
25 public interest and consistent with the Legislative intent stated in Labor Code section 90.5, in an
26 amount according to proof and subject to Court approval.

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1 **SEVENTH CAUSE OF ACTION**

2 **PAGA CIVIL PENALTIES FOR VIOLATIONS OF LABOR CODE §§ 2802, 2804 AND**
3 **THE APPLICABLE WAGE ORDER FOR FAILURE TO REIMBURSE ALL**
4 **REASONABLE AND NECESSARY BUSINESS EXPENSES**

5 **(By Plaintiff on behalf of all similarly aggrieved employees against each Defendant)**

6 76. Plaintiff incorporates the preceding paragraphs of this Complaint expressly herein
7 by this reference as if all prior paragraphs were set forth in full, including the Notice to the
8 LWDA dated February 23, 2021.

9 77. California Labor Code section 2802(a) provides: "An employer shall indemnify
10 his or her employee for all necessary expenditures or losses incurred by the employee in direct
11 consequence of the discharge of his or her duties, or of his or her obedience to the directions of
12 the employer, even though unlawful, unless the employee, at the time of obeying the directions,
13 believed them to be unlawful."

14 78. California Labor Code section 2802(b) provides: "All awards made by a court or
15 by the Division of Labor Standards Enforcement for reimbursement of necessary expenditures
16 under this section shall carry interest at the same rate as judgments in civil actions. Interest shall
17 accrue from the date on which the employee incurred the necessary expenditure or loss."

18 79. California Labor Code section 2802(c) provides: "For purposes of this section, the
19 term 'necessary expenditures or losses shall include all reasonable costs, including, but not
20 limited to, attorney's fees incurred by the employee enforcing the rights granted by this section."

21 80. California Labor Code section 2802(d) provides: "In addition to recovery of
22 penalties under this section in a court action or proceedings pursuant to Section 98, the
23 commissioner may issue a citation against an employer or other person acting on behalf of the
24 employer who violates reimbursement obligations for an amount determined to be due to an
25 employee under this section. The procedures for issuing, contesting, and enforcing judgments for
26 citations or civil penalties issued by the commissioner shall be the same as those set forth in
27 Section 1197.1. Amounts recovered pursuant to this section shall be paid to the affected
28 employee."

1 81. California Labor Code section 1197.1 provides: “(1) For any initial violation that
2 is intentionally committed, one hundred dollars (\$100) for each underpaid employee for each pay
3 period for which the employee is underpaid. This amount shall be in addition to an amount
4 sufficient to recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any
5 applicable penalties imposed pursuant to Section 203. (2) For each subsequent violation for the
6 same specific offense, two hundred fifty dollars (\$250) for each underpaid employee for each
7 pay period for which the employee is underpaid regardless of whether the initial violation is
8 intentionally committed. This amount shall be in addition to liquidated damages pursuant to
9 Section 1194.2, and any applicable penalties imposed pursuant to Section 203.

10 82. Business expenses incurred by employees for work are not waivable, and
11 Defendants are liable if the expenses were required in order to perform work. Here, Plaintiff and
12 other aggrieved employees did not receive adequate reimbursement for necessary business
13 expenses, including but not limited to reimbursement for use of their personal cellular telephones
14 for business purposes and purchase of masks, gloves, and other personal protective equipment
15 (“PPE”).

16 83. As a result of Defendants’ conduct, Plaintiff, on behalf of himself and other
17 aggrieved employees, seeks to recover civil penalties pursuant to the PAGA for the alleged
18 failure to pay business-related expenses, in an amount according to proof and subject to Court
19 approval.

20 84. Plaintiff will also seek recovery of attorneys’ fees and litigation expenses
21 pursuant to Labor Code section 2699(g) and/or Code of Civil Procedure section 1021.5 to the
22 extent enforcement of California labor laws and applicable regulations is determined to be in the
23 public interest and consistent with the Legislative intent stated in Labor Code section 90.5, in an
24 amount according to proof and subject to Court approval.

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EIGHTH CAUSE OF ACTION

**PAGA CIVIL PENALTIES FOR VIOLATIONS OF LABOR CODE §§ 201-203 FOR
FAILURE TO TIMELY PAY ALL WAGES DUE TO
TERMINATED/SEPARATED EMPLOYEES**

(By Plaintiff on behalf of all similarly aggrieved employees against each Defendant)

85. Plaintiff incorporates the preceding paragraphs of this Complaint expressly herein by this reference as if all prior paragraphs were set forth in full, including the Notice to the LWDA dated February 23, 2021.

86. Labor Code section 201 provides in part: "If an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately."

87. Labor Code section 202 provides in part: "If an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

88. Labor Code section 203 provides: "If an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.3, 201.5, 201.9, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days. An employee who secretes or absents themselves or themselves to avoid payment to him or her, or who refuses to receive the payment when fully tendered to him or her, including any penalty then accrued under this section, is not entitled to any benefit under this section for the time during which he or she so avoids payment."

89. Labor Code section 203 is a statute listed under Labor Code section 2699.5 for which civil penalties may be recovered under the default civil penalty scheme outlined in Labor Code section 2699(f)(2), cited above.

90. Here, Plaintiff and other aggrieved employees who were separated or were terminated from their employment within the applicable limitations period were not paid all wages due in a timely manner including as detailed above.

91. Consequently, Plaintiff, on behalf of himself and other aggrieved employees, seeks to recover civil penalties pursuant to the PAGA for the alleged violations per pay period in an amount according to proof and subject to Court approval.

92. Plaintiff will also seek recovery of attorneys' fees and litigation expenses pursuant to Labor Code section 2699(g) and/or Code of Civil Procedure section 1021.5 to the extent enforcement of California labor laws and applicable regulations is determined to be in the public interest and consistent with the Legislative intent stated in Labor Code section 90.5, in an amount according to proof and subject to Court approval.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, on behalf of all other similarly situated, prays for judgment against Defendants as follows:

1. For civil penalties pursuant to PAGA, 75% of which will be paid to the Labor Workforce Development Agency and 25% of which will be distributed to the aggrieved employees;

2. For pre- and post-judgment interest at the prevailing statutory rate;

3. For reasonable attorney's fees and costs of suit to the extent permitted by law, including pursuant to California Labor Code § 2699(g) and California Code of Civil Procedure § 1021.5;

4. For such equitable relief as the Court may deem just and proper; and

5. For such other relief as the Court deems just and proper.

DATED: May 17, 2021

Lebe Law, APLC

By:

Jonathan M. Lebe

Attorney for Plaintiff Thomas Pangelinan,
Individually and on behalf of all other aggrieved
employees

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DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury on all claims so triable.

DATED: May 17, 2021

LEBE LAW, APLC

By:  _____
Jonathan M. Lebe

Attorney for Plaintiff Thomas Pangelinan,
Individually and on behalf of all other aggrieved
employees