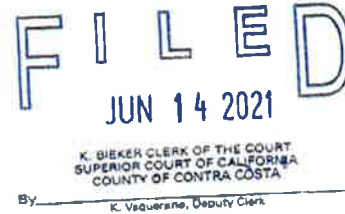


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Attorneys for Plaintiff MANDISA AIN LYONS, as representative of the State of California and the Labor and Workforce Development Agency ("LDWA"), and on behalf of herself and other current and former employees

SUMMONS ISSUED

PER LOCAL RULE, THIS
CASE IS ASSIGNED TO
DEPT. 07, FOR ALL
PURPOSES.

SUPERIOR COURT OF THE STATE OF CALIFORNIA
THE COUNTY OF CONTRA COSTA

MANDISA AIN LYONS,

Plaintiff,

v.

PALECEK IMPORTS, INC., and DOES 1
through 50, inclusive,

Defendants.

Case No.:

C21-01222

REPRESENTATIVE ACTION COMPLAINT
FOR CIVIL PENALTIES

1. Violation of PAGA for Failure to Pay Minimum Wage and Overtime pursuant to Labor Code §§ 510, 1194, 1197.2, 1197, 1197.1);
2. Violation of PAGA for Failure to Provide Meal Period Violations pursuant to Code §§ 226.7, 512;
3. Violation of PAGA for Failure to Provide Rest Period pursuant to Labor Code §§ 226.7)
4. Violation of PAGA for Failure to Pay Wages Due at Separation of Employment pursuant to Labor Code §§ 201, 202, 203, 204);
5. Violation of PAGA for Failure to Issue Accurate Itemized Wage Statements pursuant to Labor Code §§ 226, subds. (a) and (e); and
6. Violation of PAGA for Failure to Indemnify for Expenditures or Losses in Discharge of Duties pursuant to Labor Code §2802.

1 Plaintiff MANDISA AIN LYONS (“Plaintiff” or Ms. Lyons”), as a representative of the
2 State of California and the Labor and Workforce Development Agency (“LDWA”), and on behalf
3 of herself and other current and former employees, complains and alleges as follows:

4 **INTRODUCTION**

5 1. This is an action brought on behalf of Plaintiff and all similarly-situated employees
6 who were subjected to one or more of the violations alleged herein by Defendant PALECEK
7 IMPORTS, INC. The terms “Relevant Time Period” or “Time Period are defined as April 6, 2020
8 through date of entry of judgment. Plaintiff reserves the right to amend this complaint to reflect a
9 different “Time Period” as further discovery is conducted.

10 2. Plaintiff and similarly-aggrieved employees seek civil penalties from Defendant
11 for violations of numerous Labor Code provisions, including, but not limited to, sections 201,
12 202, 203, 204, 226, 226.7, 227.3, 510, 1194, and 2802.

13 **JURISDICTION AND VENUE**

14 3. This Court has subject matter jurisdiction over the causes of action alleged in this
15 complaint because the Court is a court of general subject matter jurisdiction and is not otherwise
16 excluded from exercising subject matter jurisdiction over said causes of action. The penalties
17 recoverable for Plaintiff do not exceed seventy-five thousand dollars (\$75,000.00), and
18 collectively amongst all aggrieved employees do not exceed five million dollars (\$5,000,000.00).

19 4. All named Defendants are California corporations doing business throughout
20 the State of California, and specifically, in Contra Costa County. Plaintiff was employed by all
21 named Defendants in Alameda County. There is no federal question at issue, as the issues herein
22 are based solely on California statutes and law, including the California Labor Code, Industrial
23 Welfare Commission (“IWC”) Wage Orders, California Code of Civil Procedure, California
24 Business and Professions Code, and California Rules of Court. By doing business in the state of
25 California, Defendants have purposefully availed themselves of the state’s jurisdiction.
26 Accordingly, as personal jurisdiction over Defendant would be constitutional, California’s long-
27 arm statute provides that California courts may exercise personal jurisdiction over Defendants.
28 (Code Civ. Pro. § 410.10.)

5. Venue is proper in Contra Costa County, because Defendants perform business in Contra Costa County, and the acts set forth herein occurred in Contra Costa County.

THE PARTIES

A. Plaintiff

6. Plaintiff was employed by Defendant from in around June 2019 through on or in or around January 2021, at Defendant's Richmond, California location. Throughout her employment, Defendant controlled Plaintiff's schedule and directed her duties each day, preventing Plaintiff from exercising any reasonable degree of discretion or independent judgment. Plaintiff is accordingly non-exempt under California labor laws and thereby entitled to civil penalties and all other rights accruing from the alleged violations described herein.

B. Defendant(s)

7. Plaintiff is informed and believes, and based thereon alleges, that Defendant Palecek Imports, Inc. is a California corporation and is and/or was the employer of Plaintiff and similarly situated employees during the Relevant Time Period. On information and belief, and based thereon, Plaintiff alleges that Defendant is conducting business in good standing in California, and at all time herein mentioned has regularly conducted business throughout the State of California.

8. Plaintiff is ignorant of the true names, capacities, relationships and extent of participation in the conduct herein alleged of Defendants sued herein as DOES 1 through 50, inclusive, but on information and belief, alleges that said Defendants are legally responsible for the violations alleged herein. Plaintiff will amend this complaint to allege the true names and capacities of the DOE Defendants when that information is ascertained.

9. Plaintiff is informed and believes, and based thereon alleges, that each Defendant acted in all respects pertinent to this action as the agent of the other Defendants, carried out a joint scheme, business plan, or policy in all respects pertinent hereto, and the acts of each Defendant are legally attributable to the other Defendants. Furthermore, Defendant operates as a joint venture and/or single business enterprise, integrated enterprise, and/or are agents of one another, are alter egos, joint employers, and conspire with one another to increase profits by engaging in

1 the conduct described in this complaint.

2 10. Plaintiff is informed and believes, and based thereon alleges, that each Defendant
3 acted in all respects as the agent, servant, partner, joint venture, alter-ego, employee, proxy,
4 managing agent, and/or principal of the co-Defendants, and in performing the actions mentioned
5 below was acting, at least in part, within the course and scope of that authority as such agent,
6 proxy, servant, partner, joint venture, employee, alter-ego, managing agent, and/or principal with
7 the permission and consent of the co-Defendants. Plaintiff also alleges the acts of each Defendant
8 are legally attributable to the other Defendants.

9 **PAGA ADMINISTRATIVE PREREQUISITES**

10 11. By this complaint, Plaintiff also brings this case as a representative action seeking
11 penalties for the State of California in a representative capacity, as provided for by the Private
12 Attorneys General Act ("PAGA"), Labor Code section 2698 et seq., to the extent permitted by
13 law, as an aggrieved employee who was employed by Defendant and subject to alleged violations
14 set forth in Labor Code section 2699.5. Plaintiff specifically alleged the following in his/her notice
15 to the Labor Workforce Development Agency ("LWDA") and the employer: sections 201, 202,
16 203, 204, 226, 226.7, 227.3, 510, 1174, 1194, and 2802.

17 12. Under Labor Code section 2699.3(a), a plaintiff may bring a cause of action
18 under PAGA only after giving the Labor Workforce Development Agency ("LWDA") and the
19 employer notice of the Labor Code sections alleged to have been violated, and after receiving
20 notice from the LWDA of its intention not to investigate, or after 65 days have passed without
21 notice from the LWDA.

22 13. On March 15, 2021 prior to the filing of this complaint, Plaintiff gave written
23 notice of the specified provisions alleged to have been violated, including the facts and theories
24 to support the alleged violations, as required by Labor Code section 2699.3. This written notice
25 was given via certified mail to Defendant(s), and to the LWDA by electronically filing the notice
26 via the Department of Industrial Relations website. Plaintiff was given a LWDA case number of
27 LWDA-CM-825890-21 A true and correct copy of Plaintiff's notice to the LWDA and
28 Defendant(s), dated March 15, 2021, is attached hereto as Exhibit A.

///

FACTUAL ALLEGATIONS

14. Plaintiff and similarly-aggrieved employees are, and all times relevant herein, have been non-exempt employees within the meaning the California Labor Code, and the implementing rules of the IWC California Wage Orders.

15. Plaintiff was employed by Defendant in a non-exempt, hourly position as a Claims Resolution/ Customer Service Representative from in or on or around June 2019 through in or on or around January 2021.

16. Plaintiff is informed and believes, and based thereon alleges, that Defendant's policies and practices described herein are common across each of Defendant's locations within the State of California.

17. Ms. Lyons alleges that Defendant failed to pay Ms. Lyons and other aggrieved employees for all hours worked in violation of California law, including both minimum wage and overtime compensation. Specifically, Ms. Lyons and other aggrieved employees were not paid non-discretionary bonuses for purposes of paying legally mandated overtime when she worked over eight (8) hours in a day or forty (40) hours in a week.

18. Further Ms. Lyons and other aggrieved employees were required to work in excess of eight (8) hours per day, by having them clock out at the end of their shift, but continue to perform work duties.

19. Ms. Lyons further alleges that Defendant had a policy and/or practice of rounding the hours worked by Ms. Lyons and other aggrieved employee, which systematically undercompensated Ms. Lyons and other aggrieved employees.

20. Ms. Lyons alleges that she and other aggrieved employees were often precluded from taking timely and uninterrupted meal and rest breaks in accordance with California law due to the nature of their work. Ms. Lyons and other aggrieved employees often did not receive at least one duty-free, uninterrupted meal period with the first five (5) hours worked, and a second meal period before the start of the 11th hour of work. When employees were prevented from taking timely and complete meal periods, they did not receive premium pay for the missed rest break.

21. Ms. Lyons further alleges that she and other aggrieved employees often had to

miss rest periods for every four (4) hours worked, or a major fraction thereof, as required by the Labor Code. When employees were prevented from taking rest breaks, they did not receive premium pay for the missed rest break.

22. Ms. Lyons alleges that Defendant failed to provide her and other aggrieved employees with complete and accurate wage statements for all regular hours and overtime hours worked. Ms. Lyon further alleges that Defendant failed to include her legal employer on the wage statements. This conduct is in violation of Labor Code sections 226 and 1174.

23. Ms. Lyons alleges that Defendant failed to pay all wages earned at the time their employment ended to her and other aggrieved employees. At the time of Ms. Lyons and other aggrieved employees' termination, they were entitled to receive back wages that are owed as a result of Defendant's failure to include non-discretionary bonuses in Ms. Lyons and other aggrieved employees' regular rate for purposes of paying overtime as well as wages for the time worked during the meal breaks or the premiums paid in lieu of missed breaks. This conduct is in violation of Labor Code sections 201, 202, 203, and 204.

24. Ms. Lyon alleges Defendant failed to reimburse her and other aggrieved employees for necessary business expenditures. Ms. Lyons and other aggrieved employees were not reimbursed for use of their cellular phones in performing their job duties and for use of their home as an office to perform their job duties.

FIRST CAUSE OF ACTION

**VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT FOR FAILURE TO
PAY ALL WAGES**

(Labor Code §§ 510, 1194, 1194.2, 1197, and 1197.1)

(By Plaintiff against All Defendant(s))

25. Plaintiff realleges and incorporates by reference all preceding paragraphs herein, as if fully alleged.

26. Any employee receiving less than the legal minimum wage or legal overtime compensation is entitled to recover in a civil action the amount of unpaid wages, attorneys' fees, and costs of suit. (Lab. Code, § 1194, subd. (a).)

1 27. Labor Code section 1182.12 provides that on and after July 1, 2014, the minimum
2 wage for all industries shall not be less than nine dollars (\$9.00) per hour, and on and after January
3 1, 2016, the minimum wage for all industries shall not be less than ten (\$10.00) per hour. For
4 employers who employed 26 or more people from January 1, 2017 to December 31, 2017, the
5 minimum wage rate in California was ten dollars and fifty cents (\$10.50) per hour. From January
6 18, 2018 to December 31, 2018, the minimum wage rate in California was eleven dollars (\$11.00)
7 per hour. Plaintiff is informed and believes Defendant employed more than 26 employees.

8 28. Notwithstanding any other provision of the Labor Code, hourly minimum wage
9 rates are set for all industries according to statute. (Lab. Code, § 1182.12.) Employers must pay
10 employees no less than minimum wage for each hour worked. (Lab. Code, § 1194.)

11 29. In any action to recover payment of wages less than the minimum wage an
12 employee shall be entitled to recover liquidated damages in an amount equal to the wages
13 unlawfully unpaid and interest thereon. (Lab. Code, § 1194.2.)

14 30. Any work in excess of eight (8) hours in any workday and any work in excess of
15 forty (40) hours in a workweek, shall be compensated at a rate of no less than one and one-half
16 times the regular rate of pay for an employee. (Lab. Code, § 510, subd. (a).) Any work in excess
17 of twelve (12) hours in a workday shall be compensated at the rate of twice the regular rate of pay
18 for an employee. (Lab. Code, § 510, subd. (a).)

19 31. All wages earned in employment are due and payable twice during each calendar
20 month on dates designated in advance by the employer. (Lab. Code, § 204.)

21 32. In case of a dispute over wages, the employer shall pay, without condition and
22 promptly under the Labor Code all wages conceded due, leaving to the employee all remedies
23 he/she is otherwise entitled to as to any balance claimed. (Lab. Code, § 206.)

24 33. Notwithstanding any other provision of the Labor Code, hourly minimum wage
25 rates are set for all industries according to statute. (Lab. Code, § 1182.12.) Employers must pay
26 an employee no less than the minimum wage for each hour worked. (Lab. Code, § 1194.)

27 34. In any action to recover payment of wages less than the minimum wage, an
28 employee shall be entitled to recover liquidated damages in an amount equal to the wages

1 unlawfully unpaid and interest thereon. (Lab. Code, § 1194.2.)

2 35. Plaintiff and the aggrieved employees regularly worked over eight (8) hours per
3 day and forty (40) hours per week. Defendant failed to pay Plaintiff, and the aggrieved employees
4 all minimum wage, overtime premiums, and/or double-time premiums for all hours worked in
5 excess of over eight (8) hours per day and/or forty (40) hours per week for work performed for
6 Defendant. Plaintiff and the aggrieved employees were not paid all wages earned.

7 36. Further, Defendant regularly violated the Labor Code with respect to meeting the
8 requirements of paying wages earned, by failing to include all remuneration when calculating the
9 Plaintiff and the aggrieved employees' regular rate of pay for purposes of paying overtime and/or
10 double time.

11 37. Plaintiff seeks recovery of civil penalties individually, on behalf of the aggrieved
12 employees and the State of California for violations of Labor Code sections 204, 510, 1194, 1197,
13 1198 and pursuant to Labor Code section 1197.1 during the PAGA period, in a sum as provided
14 by the Labor Code and/or other statutes

15 38. Plaintiff, individually and on behalf of the aggrieved employees and the State of
16 California also seeks attorneys' fees and costs pursuant to Labor Code section 2699(g) and Code
17 of Civil Procedure section 1021.5.

18 **SECOND CAUSE OF ACTION**

19 **VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT FOR FAILURE TO**
20 **PROVIDE MEAL PERIODS OR PREMIUM COMPENSATION IN LIEU THEREOF**

21 **(Labor Code §§ 226.7 and 512)**

22 **(By Plaintiff against All Defendant(s))**

23 39. Plaintiff realleges and incorporates by reference all preceding paragraphs herein,
24 as if fully alleged.

25 40. Labor Code sections 226.7 and 512 provide that no employer shall employ any
26 person for a work period of more than five (5) hours without providing a meal period
27 uninterrupted by work duties of not less than thirty (30) minutes, or employ any person for a work
28 period of more than ten (10) hours without a second meal period of not less than thirty (30)

1 minutes.

2 41. Labor Code section 226.7 provides that if an employer fails to provide an
3 employee a meal period in accordance with this section, the employer shall pay the employee one
4 (1) hour of pay at the employee's regular rate of compensation for each workday that the meal
5 period is not provided in accordance with this section. Plaintiff alleges Defendant failed to provide
6 legally compliant meal periods, in addition to impeding, discouraging, dissuading, and/or not
7 relieving employees from all work duties during meal periods thereby preventing employees from
8 taking legally compliant meal periods.

9 42. At all times relevant hereto, Plaintiff and the aggrieved employees have worked
10 shifts of more than five (5) hours in a workday. Defendant failed to provide legal compliant meal
11 periods to Plaintiff and the aggrieved employees, by failing to provide meal periods before the
12 fifth (5th) hour of work due to its meal period scheduling policy and practice. Despite failing to
13 provide timely meal periods, Defendant failed to pay one additional hour of pay at Plaintiff and
14 aggrieved employees' regular rate of pay for each workday that a meal period violation occurred.

15 43. At varying times relevant hereto, Plaintiff and the aggrieved employees have
16 worked shifts more than ten (10) hours in a workday.

17 44. By and through their actions, Defendant has intentionally and improperly denied
18 compliant meal periods or compensation in lieu thereof to Plaintiff and the aggrieved employees
19 in violation of Labor Code sections 226.7 and 512 and/or other statutes.

20 45. Defendant's Labor Code violations have caused Plaintiff and the aggrieved
21 employees to suffer, and continue to suffer, damages in amounts which are presently unknown,
22 but will be ascertained according to proof at trial.

23 46. Plaintiff, individually and on behalf of the aggrieved employees and the state of
24 California request recovery of civil penalties for violations of Labor Code sections 226.7 and 512
25 during the PAGA period, in a sum as provided by the Labor Code and/or other statutes.

26 47. Plaintiff also seeks attorneys' fees and costs pursuant to Labor Code section 2699,
27 subdivision (g) and Code of Civil Procedure section 1021.5.

28 ///

**VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT FOR FAILURE TO
PROVIDE REST PERIODS OR COMPENSATION IN LIEU THEREOF**

(By Plaintiff against All Defendant(s))

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FOURTH CAUSE OF ACTION

**VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT FOR FAILURE TO
PAY WAGES OF TERMINATED OR RESIGNED EMPLOYEES**

(Labor Code §§ 201, 202, 203, 204)

(By Plaintiff against All Defendant(s))

55. Plaintiff realleges and incorporates by reference all preceding paragraphs herein, as if fully alleged herein.

56. Plaintiff is informed and believes, and thereon alleges, that as part of Defendant's ongoing unfair business practices, Defendant failed to pay all employees all wages earned during their employment at the time of their separation in violation of Labor Code sections 200 and 201.

57. Labor Code section 201 provides that an employer is required to pay an employee whose employment is terminated by the employer all wages earned and unpaid immediately upon termination.

58. Labor Code section 202 requires an employer pay to an employee who quits his or her employment, all wages earned and unpaid no later than 72 hours thereafter.

59. Labor Code section 203 provides that an employer who fails to pay all wages earned and due an employee who is discharged or who quits within the timeframe set forth in sections 201 and 202, the wages of the employee shall continue as a penalty from the due date at the same rate of pay until paid, but not more than 30 days.

60. In violation of the Labor Code and IWC Wage Orders, Defendant failed to timely pay all wages due to Plaintiff and the aggrieved employees upon separation of employment. Specifically, Defendant failed to pay Plaintiff and the aggrieved employees all minimum, regular, and overtime wages owed immediately upon termination or within 72 hours of resignation as a result of their unfair rounding practices, among other things.

61. By virtue of Defendant's unlawful actions, Plaintiff and the aggrieved employees have suffered, and will continue to suffer, damages in amounts which are presently unknown, but will be ascertained according to proof at trial.

62. Plaintiff seeks recovery of civil penalties individually, on behalf of the aggrieved

1 employees and the State of California for violations of Labor Code sections 201, 202, and 203
2 during the PAGA period, in a sum as provided by the Labor Code and/or other statutes.

3 63. Plaintiff, individually and on behalf of the aggrieved employees and the State of
4 California also seeks attorneys' fees and costs pursuant to Labor Code section 2699, subdivision
5 (g) and Code of Civil Procedure section 1021.5.

6 **FIFTH CAUSE OF ACTION**

7 **VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT FOR FAILURE TO**
8 **ISSUE ITEMIZED WAGE STATEMENTS AND MAINTAIN RECORDS**

9 **(Labor Code §§ 226, 1174)**

10 **(By Plaintiff against All Defendant(s))**

11 64. Plaintiff realleges and incorporates by reference all preceding paragraphs herein,
12 as if fully alleged herein.

13 65. Labor Code sections 226, 226.3, 1174, and 1174.5, and applicable IWC Wage
14 Orders provide that employers must keep records and provide employees with itemized wage
15 statements showing all hours worked and each applicable rate of pay in effect during the pay
16 period with the corresponding number of hours worked at each hourly rate.

17 66. Labor Code section 1174, subdivision (d), requires an employer to keep at a central
18 location in California or at the plant or establishment at which the employee is employed, payroll
19 records showing the hours worked daily, and the wages paid to each employee. Labor Code
20 section 226, subdivision (a) requires an employer to provide employees—either as a detachable
21 part of the check, draft, or voucher paying the employee's wages, or separately when wages are
22 paid by personal check or cash—an accurate itemized wage statement in writing, including
23 specified information, including, but not limited to: (1) gross wages earned; and (2) total hours
24 worked by the employee; (3). Labor Code section 226, subdivision (e) provides that if an
25 employer knowingly and intentionally fails to provide a statement itemizing, inter alia, the gross
26 and net wages earned, the total hours worked by the employee and the applicable hourly overtime
27 rates, causing the employee injury, then the employee is entitled to recover the greater of all actual
28 damages or fifty dollars (\$50.00) for the initial violation and one hundred dollars (\$100.00) for

1 each subsequent violation, up to four thousand dollars (\$4,000.00). Plaintiff is informed and
2 believes that Defendant willfully failed to make or keep accurate records for Plaintiff and the
3 aggrieved employees.

4 67. The IWC Wage Orders require that every employer shall keep accurate
5 information with respect to each employee, including time records showing when each employee
6 begins and ends each work period, the total daily hours worked by each employee, and the total
7 hours worked in each payroll period, and applicable rates of pay. Plaintiff is informed and
8 believes that Defendant willfully and intentionally failed to make and/or keep records which
9 accurately reflect the hours worked by Plaintiff and the aggrieved employees. Specifically,
10 Plaintiff believes that Defendant's records: (1) were inaccurate and incomplete.

11 68. An employee is deemed to suffer injury if the employer fails to provide an accurate
12 wage statement containing all of the required information set forth in Labor Code section 226,
13 subdivision (a). (Lab. Code, § 226, subd. (e)(2).) In addition, the omission of time worked, proper
14 rates of pay, records of missed meal and rest breaks, and/or premium pay make it difficult for
15 employees to determine whether they were paid all wages due without complicated calculations
16 and/or reconstruction of records required to be maintained by the employer.

17 69. Labor Code 226.3 provides that any employer who violates subdivision (a) of
18 Labor Code section 226 shall be subject to a civil penalty in the amount of two hundred fifty
19 dollars (\$250) per employee per initial violation and one thousand dollars (\$1,000) per employee
20 for each subsequent violation, for which the employer fails to provide the employee a wage
21 deduction statement or fails to keep the records required in subdivision (a) of Labor Code section
22 226. The civil penalties provided for in this section are in addition to any other penalty provided
23 by law.

24 70. An employee is deemed to suffer injury if the employer fails to provide an accurate
25 wage statement containing all of the required information set forth in Labor Code section 226,
26 subdivision (a). (Lab. Code, § 226, subd. (e)(2).)

27 71. 60. Labor Code section 1174, subdivision (d), requires an employer to keep at
28 a central location in California or at the plant or establishment at which the employees are

1 employed, payroll records showing the hours worked daily and the wages paid to each employee.

2 72. Labor Code section 1174.5 imposes a civil penalty of \$500 for an employer's
3 failure to maintain accurate and complete records. This civil penalty is in addition to the civil
4 penalty of \$100 per initial violation and \$200 per subsequent violation per pay period, per
5 aggrieved employee that would be imposed pursuant to Labor Code section 2699 for a violation
6 of section 1174, subdivision (d).

7 73. The IWC Wage Orders require that every employer shall keep accurate
8 information with respect to each employee, including, but not limited to, time records showing
9 the total daily hours worked by each employee, the total hours worked in each payroll period, and
10 applicable rates of pay.

11 74. Plaintiff is informed and believes that Defendant willfully and intentionally failed
12 to make and/or keep records which accurately reflect the hours worked by Plaintiff and aggrieved
13 employees. Specifically, Plaintiff believes that Defendants' records fail to include, *inter alia*: (1)
14 actual hours worked; (2) total hours worked; and (3) number of hours worked at each hourly rate.

15 75. In addition, the omission of time worked make it difficult for employees to
16 determine whether they were paid all wages due without complicated calculations and/or
17 reconstruction of records required to be maintained by the employer.

18 76. Plaintiff is informed and believes, and based thereon alleges, that Defendant
19 willfully failed to maintain accurate payroll records for Plaintiff and the aggrieved employees by
20 failing to accurately reflect the hours worked by and wages paid to Plaintiff and the aggrieved
21 employees. Specifically, Defendant's records do not accurately reflect Plaintiff's and the
22 aggrieved employees' hours worked due to its failure to include time spent driving to Plaintiff
23 and the aggrieved employees first location of their day and driving from their last location of the
24 day, among other things.

25 77. By virtue of Defendant's unlawful actions, Plaintiff and the aggrieved employees
26 have suffered, and will continue to suffer, damages in amounts which are presently unknown, but
27 will be ascertained according to proof at trial.

28 78. Plaintiff seeks recovery of civil penalties individually, on behalf of the aggrieved

1 employees and the State of California for violations of Labor Code sections 226, 1174, and
2 pursuant to Labor Code sections 226.3 and 1174.5 during the PAGA period, in a sum as provided
3 by the Labor Code and/or other statutes.

4 79. Plaintiff, individually and on behalf of the aggrieved employees and the State of
5 California also seeks attorneys' fees and costs pursuant to Labor Code section 2699, subdivision
6 (g) and Code of Civil Procedure section 1021.5.

7 **SIXTH CAUSE OF ACTION**

8 **VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT FOR**
9 **INDEMNIFICATION FOR EXPENDITURES OR LOSSES IN DISCHARGE OF**
10 **DUTIES**

11 **(Labor Code § 2802)**

12 **(By Plaintiff against All Defendant(s))**

13 80. Plaintiff realleges and incorporates by reference all preceding paragraphs herein,
14 as if fully alleged herein.

15 81. Defendant failed to indemnify Plaintiff and the aggrieved employees for all
16 necessary expenditures or losses incurred by Plaintiff and the aggrieved employees in direct
17 consequence of the discharge of their duties. Specifically, Defendant failed to indemnify Plaintiff
18 and the aggrieved employees for expenditures they incurred on their behalf, including, but not
19 limited to: (1) use of their cellular phones and (2) use of their homes as an office, in direct
20 consequence of the discharge of their duties to Defendant.

21 82. By virtue of Defendant's unlawful actions, Plaintiff and the aggrieved employees
22 have suffered, and will continue to suffer, damages in amounts which are presently unknown, but
23 will be ascertained according to proof at trial. Plaintiff seeks recovery of civil penalties
24 individually, on behalf of the aggrieved employees and the State of California for violations of
25 Labor Code section 2802 during the PAGA period, in a sum as provided by the Labor Code and/or
26 other statutes.

27 83. Plaintiff, individually and on behalf of the aggrieved employees and the State of
28 California also seeks attorneys' fees and costs pursuant to Labor Code section 2699, subdivision

1 (g) and Code of Civil Procedure section 1021.5.

2 **PRAYER FOR RELIEF**

3 **WHEREFORE**, Plaintiff prays for judgment as follows:

4 1. For civil penalties pursuant to the PAGA in an amount according to proof;

5 2. For reasonable attorney's fees and costs, pursuant to the PAGA and California

6 Code of Civil Procedure section 1021.5; and

7 3. That the Court award such other and further relief as this Court may deem
8 appropriate.

9 Dated: June 11, 2021

MAHONEY LAW GROUP, APC

10
11 By:



Kevin Mahoney, Esq.
Attorney for Plaintiff MANDISA AIN
LYONS, as an individual, and on behalf of
all similarly situated employees.