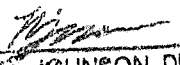


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BY 
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Attorney for Plaintiff JahVena Ann Lanier, on behalf of
herself and all other aggrieved employees

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

JAHVENA ANN LANIER, on behalf of
herself and all other aggrieved employees,

Plaintiff,

vs.

AEROTEK, INC.; MONSTER BEVERAGE
CORPORATION; and DOES 1-10, inclusive,

Defendants.

CASE NO.:

CIV SB 2114735
**COMPLAINT FOR RECOVERY OF
CIVIL PENALTIES PURSUANT TO
THE PRIVATE ATTORNEYS
GENERAL ACT ("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 Timely Pay All Wages;

(4) 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;

(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;

(6) PAGA Civil Penalties for
Violations of Labor Code §§ 226(a),

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 §§ 201-203 for Failure to Timely Pay All Wages Due to Terminated/Separated Employees; and

(8) PAGA Civil Penalties for Violations of Labor Code §§ 2802 and the Applicable Wage Order for Failure to Reimburse All Reasonable and Necessary Business Expenses.

DEMAND FOR JURY TRIAL

Plaintiff JahVena Ann Lanier (“Plaintiff”), on behalf of herself and all others similarly aggrieved alleges as follows:

INTRODUCTION

1. Plaintiff is an individual who worked as a temporary worker for Defendants Aerotek, Inc., Monster Beverage Corporation Inc. and Does 1 through 10, inclusive (“Defendants”). Plaintiff seeks to recover civil penalties for all California-based “aggrieved employees” during the “Relevant Time Period” (defined as one year and 179 days before Plaintiff gave notice of these claims to the California Labor and Workforce Development Agency (“LWDA”) up to and including the date of commencement of trial) who incurred wage and hour violations and losses as hereinafter described.

2. On March 2, 2021, Plaintiff gave notice of these claims to the (“LWDA”) and to the agent for service of process for each Defendant. Plaintiff has not received any response from the LWDA indicating that it intends to investigate these claims. Accordingly, Plaintiff has exhausted all notice requirements under the PAGA.

JURISDICTION AND VENUE

3. The relief sought by Plaintiff on behalf of herself and the aggrieved employees below exceeds the minimal jurisdictional limits of the Superior Court and will be established according to proof at trial. The Court has personal jurisdiction over each of the parties because

1 they are either citizens of this State, doing business in this State or otherwise have minimum
2 contacts with this State.

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

8 5. Venue is proper in this Court because, upon information and belief, Plaintiff
9 worked for Defendants in this county, Defendants transact business or have offices in this county,
10 and the acts and omissions alleged herein took place in this county.

11 **PARTIES**

12 **Plaintiff**

13 6. Plaintiff JahVena Ann Lanier is a citizen of California who worked for Defendants
14 within the past year. Details regarding Plaintiff's precise hours, pay, and revenue generated for
15 Defendant are available by reference to Defendant's records. Throughout Plaintiff's employment,
16 she and her co-workers were subjected to wage theft.

17 **Defendants**

18 7. Defendant Aerotek Inc. is a Maryland corporation doing business in the state of
19 California that supplies employees/workers to Monster Beverage Company and other entities.

20 8. Defendant Monster Beverage Corporation manufactures beverages in various
21 locations in the United States and California.

22 9. Plaintiff is unaware of the true names or capacities of the Defendants sued herein
23 under the fictitious names DOES 1 through 10 but will seek leave of this Court to amend this
24 Complaint and serve such fictitiously named Defendants once their names and capacities become
25 known.

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

1 attributable to the other defendant. Furthermore, Defendants in all respects acted as the employer
2 and/or joint employer of Plaintiff and the aggrieved employees.

3 11. Plaintiff is informed and believes, and thereon alleges, that each and all of the acts
4 and omissions alleged herein were performed by, or are attributable to, Defendants and/or DOES
5 1 through 10, acting as the agent or alter ego for the other, with legal authority to act on the other's
6 behalf. The acts of any and all Defendants were in accordance with, and represent, the official
7 policy of Defendants.

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

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

15 **FIRST CAUSE OF ACTION**

16 **PAGA CIVIL PENALTIES FOR VIOLATIONS OF LABOR CODE §§ 1194,**

17 **1197.1 AND THE APPLICABLE WAGE ORDER FOR**

18 **FAILURE TO PAY ALL MINIMUM WAGES**

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

20 14. Plaintiff incorporates the preceding paragraphs of this Complaint expressly herein
21 by this reference as if all prior paragraphs were set forth in full, including the Notice to the LWDA
22 dated March 2, 2021.

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

1 per hour for all hours worked effective January 1, 2019, and thirteen dollars (\$13.00) per hour for
2 all hours worked effective January 1, 2020.

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

8 17. Here, based on the foregoing, Defendants deprived Plaintiff and similarly aggrieved
9 employees of their rightfully earned minimum wage compensation, including overtime
10 compensation at the minimum wage rate, as a direct and proximate result of Defendants’ failure
11 to pay said compensation. During the relevant time period, Defendants paid Plaintiff and the
12 aggrieved employees less than minimum wages when, for example, Defendants required Plaintiff
13 and aggrieved employees to work off-the-clock while donning and doffing personal protective
14 equipment and during mandatory drug tests when Plaintiff and aggrieved employees were under
15 Defendants’ control. To the extent these hours do not qualify for the payment of overtime or
16 doubletime, Plaintiff and aggrieved employees were not being paid at least minimum wage for
17 their work. Consequently, Plaintiff, on behalf of herself and other aggrieved employees, intends
18 to seek civil penalties pursuant to the PAGA for the alleged violations.

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

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

1 imposed pursuant to Section 203.

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

10 21. Accordingly, the Defendants are subject to assessment of civil penalties pursuant
11 to Labor Code section 1197.1(a) for violations of statutes and subject to civil penalties for
12 violations of the applicable Wage Order as provided by Labor Code section 558(a) in an amount
13 according to proof.

14 22. Plaintiff will seek recovery of attorneys’ fees pursuant to Labor Code section
15 2699(g) and/or Code of Civil Procedure section 1021.5 to the extent enforcement of California
16 labor laws and applicable regulations is determined to be in the public interest and consistent with
17 the Legislative intent stated in Labor Code section 90.5, in an amount according to proof and
18 subject to Court approval.

19 **SECOND CAUSE OF ACTION**

20 **PAGA CIVIL PENALTIES FOR VIOLATIONS OF LABOR CODE §§ 510,**
21 **1194, 1198 AND THE APPLICABLE WAGE ORDER FOR**
22 **FAILURE TO PAY ALL OVERTIME WAGES**

23 23. Plaintiff incorporates the preceding paragraphs of this Complaint expressly herein
24 by this reference as if all prior paragraphs were set forth in full, including the Notice to the LWDA
25 dated March 2, 2021.

26 24. Labor Code section 510(a) states in pertinent part that: “Eight hours of labor
27 constitutes a day’s work. Any work in excess of eight hours in one workday and any work in excess
28 of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in

1 any one workweek shall be compensated at the rate of no less than one and one-half times the
2 regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be
3 compensated at the rate of no less than twice the regular rate of pay for an employee.”

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

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

17 27. Here, based on the foregoing, Defendants deprived Plaintiff and similarly aggrieved
18 employees of their rightfully earned overtime compensation as a direct and proximate result of
19 Defendants’ failure to pay said compensation. Consequently, Plaintiff, on behalf of herself and
20 other aggrieved employees, intends to seek civil penalties pursuant to the PAGA for the alleged
21 violations.

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

1 underpaid.”

2 29. Accordingly, the Defendants are subject to assessment of civil penalties pursuant
3 to Labor Code section 2699.5 for violations of statutes and subject to civil penalties for violations
4 of the applicable Wage Order as provided by Labor Code section 558(a) in an amount according
5 to proof.

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

11 **THIRD CAUSE OF ACTION**

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

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

15 31. Plaintiff incorporates the preceding paragraphs of this Complaint expressly herein
16 by this reference as if all prior paragraphs were set forth in full, including the Notice to the LWDA
17 dated March 2, 2021.

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

25 33. Labor Code section 210(a) provides: “(a) **In addition to, and entirely**
26 **independent and apart from, any other penalty provided in this article**, every person who fails
27 to pay the wages of each employee as provided in Sections 201.3, 204, 204b, 204.1, 204.2, 205,
28 205.5, and 1197.5, shall be subject to a civil penalty as follows: (1) For any initial violation, one

1 hundred dollars (\$100) for each failure to pay each employee. (2) For each subsequent violation,
2 or any willful or intentional violation, two hundred dollars (\$200) for each failure to pay each
3 employee, plus 25 percent of the amount unlawfully withheld.” [Emphasis added.]

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

12 35. Here, based on the foregoing, Defendants deprived Plaintiff and similarly aggrieved
13 employees of their rightfully earned compensation, including overtime compensation and hours at
14 the minimum wage rate, as a direct and proximate result of Defendants’ failure to pay said
15 compensation.

16 36. Consequently, Plaintiff, on behalf of herself and other aggrieved employees,
17 intends to seek civil penalties pursuant to the PAGA for the alleged violations.

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

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

1 to proof.

2 39. Plaintiff will seek recovery of attorneys' fees pursuant to Labor Code section
3 2699(g) and/or Code of Civil Procedure section 1021.5 to the extent enforcement of California
4 labor laws and applicable regulations is determined to be in the public interest and consistent with
5 the Legislative intent stated in Labor Code section 90.5, in an amount according to proof and
6 subject to Court approval.

7 **FOURTH CAUSE OF ACTION**

8 **PAGA CIVIL PENALTIES FOR VIOLATIONS OF LABOR CODE §§ 226.7, 512**

9 **AND THE APPLICABLE WAGE ORDER FOR FAILURE TO PROVIDE**

10 **TIMELY AND COMPLIANT MEAL PERIODS**

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

12 40. Plaintiff incorporates the preceding paragraphs of this Complaint expressly herein
13 by this reference as if all prior paragraphs were set forth in full, including the Notice to the LWDA
14 dated March 2, 2021.

15 41. Defendants were required to comply with Labor Code sections 226.7 and 512, and
16 the applicable Wage Order.

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

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

28 44. Labor Code section 512(a) provides: "(a) An Employers shall not employ an

1 employee for a work period of more than five hours per day without providing the employee with
2 a meal period of not less than 30 minutes, except that if the total work period per day of the
3 employee is no more than six hours, the meal period may be waived by mutual consent of both the
4 Employers and employee. An Employers shall not employ an employee for a work period of more
5 than 10 hours per day without providing the employee with a second meal period of not less than
6 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period
7 may be waived by mutual consent of the Employers and the employee only if the first meal period
8 was not waived.”

9 45. Here, based on the foregoing, Defendants employed Plaintiff and aggrieved
10 employees for work periods of more than five hours without a timely, uninterrupted, off-the-clock
11 meal period of not less than thirty minutes for each five-hour period worked, where they were free
12 from employer control, and failed to compensate them for such missed meal periods as required
13 by Labor Code § 226.7 and the applicable Wage Order. Further, Defendants required Plaintiff
14 and, on information and belief, other aggrieved employees to sign purported meal period waivers
15 at the beginning of their employment. These waivers, however, are invalid because Defendants
16 did not sign said waivers, they were not signed voluntarily, and signing was a condition of
17 employment. See *Faulkinbury v. Boyd & Associates, Inc.* (2013) 216 Cal. App. 4th 220, 234.
18 These policies, among others, have resulted in a denial of these employees’ rights to 30-minute
19 meal periods in violation of California law.

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

28 47. Violations of the Wage Orders are governed by the civil penalty provisions of Labor

1 Code section 558: “(a) Any Employers or other person acting on behalf of an Employers who
2 violates, or causes to be violated, a section of this chapter or any provision regulating hours and
3 days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty
4 as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each
5 pay period for which the employee was underpaid; (2) For each subsequent violation, one hundred
6 dollars (\$100) for each underpaid employee for each pay period for which the employee was
7 underpaid.”

8 48. Accordingly, the Defendants are subject to assessment of civil penalties pursuant
9 to Labor Code section 2699(f)(2) for violations of statutes and subject to civil penalties for
10 violations of the applicable Wage Order as provided by Labor Code section 558(a) in an amount
11 according to proof.

12 49. Plaintiff will seek recovery of attorneys’ fees pursuant to Labor Code section
13 2699(g) and/or Code of Civil Procedure section 1021.5 to the extent enforcement of California
14 labor laws and applicable regulations is determined to be in the public interest and consistent with
15 the Legislative intent stated in Labor Code section 90.5, in an amount according to proof and
16 subject to Court approval.

17 **FIFTH CAUSE OF ACTION**

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

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

22 50. Plaintiff incorporates the preceding paragraphs of this Complaint expressly herein
23 by this reference as if all prior paragraphs were set forth in full, including the Notice to the LWDA
24 dated March 2, 2021.

25 51. Labor Code section 226.7(b) provides: “No employer shall not require an employee
26 to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or
27 applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational
28 Safety and Health Standards Board, or the Division of Occupational Safety and Health.”

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

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

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

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

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

57. Plaintiff will seek recovery of attorneys' fees 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.

SIXTH CAUSE OF ACTION

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

(By Plaintiff on behalf of all similarly aggrieved employees and 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 March 2, 2021.

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

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

8 61. Here, during Plaintiff and aggrieved employees’ employment with Defendants,
9 Defendants intentionally and knowingly failed to provide Plaintiff and aggrieved employees with
10 timely and accurate wage and hour statements showing, among other things, gross and net wages
11 earned.

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

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

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

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

26 66. Consequently, Plaintiff, on behalf of herself and other aggrieved employees, seeks
27 to recover civil penalties pursuant to the PAGA for the alleged violations in an amount according
28 to proof and subject to Court approval.

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

6 **SEVENTH CAUSE OF ACTION**

7 **PAGA CIVIL PENALTIES FOR VIOLATIONS OF LABOR CODE §§ 201-203**

8 **FOR FAILURE TO TIMELY PAY ALL WAGES DUE TO**

9 **TERMINATED/SEPARATED EMPLOYEES**

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

11 68. Plaintiff incorporates the preceding paragraphs of this Complaint expressly herein
12 by this reference as if all prior paragraphs were set forth in full, including the Notice to the LWDA
13 dated March 2, 2021.

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

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

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

1 payment.”

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

5 73. Here, Plaintiff and other aggrieved employees who were separated or were
6 terminated from their employment within the applicable limitations period were not paid all wages,
7 including meal and rest period premiums, and regular, minimum and overtime wages, due in a
8 timely manner including as detailed above.

9 74. Further, as a separate and a non-derivative claim, and upon information and belief,
10 Defendants failed to pay final wages upon termination. For example, Plaintiff’s termination
11 effective date according to Defendants’ record was April 28, 2020; however, her last wage
12 statement is dated April 30, 2020 and her wages were not received by her until days later.

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

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

21 **EIGHTH CAUSE OF ACTION**

22 **PAGA CIVIL PENALTIES FOR VIOLATIONS OF LABOR CODE §§ 2800, 2802 AND**
23 **THE APPLICABLE WAGE ORDER FOR FAILURE TO REIMBURSE ALL**
24 **REASONABLE AND NECESSARY BUSINESS EXPENSES**

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

26 77. Plaintiff incorporates the preceding paragraphs of this Complaint expressly herein
27 by this reference as if all prior paragraphs were set forth in full, including the Notice to the LWDA
28 dated March 2, 2021.

1 78. California Labor Code section 2802(a) provides: “An employer shall indemnify his
2 or her employee for all necessary expenditures or losses incurred by the employee in direct
3 consequence of the discharge of his or her duties, or of his or her obedience to the directions of the
4 employer, even though unlawful, unless the employee, at the time of obeying the directions,
5 believed them to be unlawful.”

6 79. California Labor Code section 2802(b) provides: “All awards made by a court or
7 by the Division of Labor Standards Enforcement for reimbursement of necessary expenditures
8 under this section shall carry interest at the same rate as judgments in civil actions. Interest shall
9 accrue from the date on which the employee incurred the necessary expenditure or loss.”

10 80. California Labor Code section 2802(c) provides: “For purposes of this section, the
11 term ‘necessary expenditures or losses shall include all reasonable costs, including, but not limited
12 to, attorney’s fees incurred by the employee enforcing the rights granted by this section.”

13 81. California Labor Code section 2802(d) provides: “In addition to recovery of
14 penalties under this section in a court action or proceedings pursuant to Section 98, the
15 commissioner may issue a citation against an employer or other person acting on behalf of the
16 employer who violates reimbursement obligations for an amount determined to be due to an
17 employee under this section. The procedures for issuing, contesting, and enforcing judgments for
18 citations or civil penalties issued by the commissioner shall be the same as those set forth in Section
19 1197.1. Amounts recovered pursuant to this section shall be paid to the affected employee.”

20 82. California Labor Code section 1197.1 provides: “(1) For any initial violation that
21 is intentionally committed, one hundred dollars (\$100) for each underpaid employee for each pay
22 period for which the employee is underpaid. This amount shall be in addition to an amount
23 sufficient to recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any
24 applicable penalties imposed pursuant to Section 203. (2) For each subsequent violation for the
25 same specific offense, two hundred fifty dollars (\$250) for each underpaid employee for each pay
26 period for which the employee is underpaid regardless of whether the initial violation is
27 intentionally committed. This amount shall be in addition to liquidated damages pursuant to
28 Section 1194.2, and any applicable penalties imposed pursuant to Section 203.

83. Business expenses incurred by employees for work are not waivable, and Defendants are liable if the expenses were required in order to perform work. Here, Plaintiff and other aggrieved employees did not receive adequate reimbursement for necessary business expenses, including but not limited to reimbursement for mileage, as well as masks, gloves, steel-toed boots, and any other Personal Protective Equipment (“PPE”).

84. As a result of Defendants' conduct, Plaintiff, on behalf of herself and other aggrieved employees, seeks to recover civil penalties pursuant to the PAGA for the alleged failure to pay business-related expenses, in an amount according to proof and subject to Court approval.

85. 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 prays for relief as follows:

1. On the First Cause of Action, Plaintiff individually and on behalf of all aggrieved employees against all Defendants, Plaintiff seeks:
 - a. Civil Penalties pursuant to Labor Code § 1197.1:
 - i. \$100 for each aggrieved employee per pay period for the initial violation; and
 - ii. \$250 for each aggrieved employee per pay period for each subsequent violation; and
 - b. Civil Penalties pursuant to Labor Code § 558:
 - i. \$50 for each underpaid employee for each pay period; and
 - ii. \$100 per employee per pay period for subsequent violations.
2. On the Second Cause of Action, by Plaintiff individually and on behalf of all aggrieved employees against all Defendants, Plaintiff seeks:
 - a. Civil penalties pursuant to Labor Code § 2699(f):

- 1 i. \$100 for each aggrieved employee per pay period for the initial violation;
2 and
3 ii. \$200 for each aggrieved employee per pay period for each subsequent
4 violation; and
5 b. Civil penalties pursuant to Labor Code § 558:
6 i. \$50 for each underpaid employee for each pay period; and
7 ii. \$100 per employee per pay period for subsequent violations.
- 8 3. On the Third Cause of Action, by Plaintiff individually and on behalf of all
9 aggrieved employees against all Defendants, Plaintiff seeks:
10 a. Civil penalties pursuant to Labor Code § 2699(f):
11 i. \$100 for each aggrieved employee per pay period for the initial violation;
12 and
13 ii. \$200 for each aggrieved employee per pay period for each subsequent
14 violation; and
15 b. Civil penalties pursuant to Labor Code § 558:
16 i. \$50 for each underpaid employee for each pay period; and
17 ii. \$100 per employee per pay period for subsequent violations.
- 18 4. On the Fourth Cause of Action, by Plaintiff individually and on behalf of all
19 aggrieved employees against all Defendants, Plaintiff seeks:
20 a. Civil penalties pursuant to Labor Code § 2699(f):
21 i. \$100 for each aggrieved employee per pay period for the initial violation;
22 and
23 ii. \$200 for each aggrieved employee per pay period for each subsequent
24 violation; and
25 b. Civil penalties pursuant to Labor Code § 558:
26 i. \$50 for each underpaid employee for each pay period; and
27 ii. \$100 per employee per pay period for subsequent violations.
28

- 1 5. On the Fifth Cause of Action, by Plaintiff individually and on behalf of all
2 aggrieved employees against all Defendants, Plaintiff seeks:
- 3 a. Civil penalties pursuant to Labor Code § 2699(f):
- 4 i. \$100 for each aggrieved employee per pay period for the initial violation
5 and \$200 for each aggrieved employee per pay period for each subsequent
6 violation; and
- 7 b. Civil penalties pursuant to Labor Code § 558:
- 8 i. \$50 for each underpaid employee for each pay period; and
9 ii. \$100 per employee per pay period for subsequent violations.
- 10 6. On the Sixth Cause of Action, by Plaintiff individually and on behalf of all
11 aggrieved employees against all Defendants, Plaintiff seeks:
- 12 a. Civil penalties pursuant to Labor Code § 226:
- 13 i. \$50 per employee per violation for an initial citation and \$100 per employee
14 for each violation for subsequent citations, not to exceed \$4,000 per
15 employee; and
- 16 b. Civil penalties pursuant to Labor Code § 226.3:
- 17 i. \$250 per employee per violation for an initial citation; and
18 ii. \$1,000 per employee for each violation for subsequent citation;
- 19 7. On the Seventh Cause of Action, by Plaintiff individually and on behalf of all
20 aggrieved employees against all Defendants, Plaintiff seeks:
- 21 a. Civil penalties pursuant to Labor Code § 2699(f):
- 22 i. \$100 for each aggrieved employee per pay period for the initial violation;
23 and
- 24 ii. \$200 for each aggrieved employee per pay period for each subsequent
25 violation.
- 26 8. On the Eighth Cause of Action, by Plaintiff individually and on behalf of all
27 aggrieved employees against all Defendants, Plaintiff seeks:
- 28 a. Civil penalties pursuant to Labor Code § 1197.1:

1 i. \$100 for each aggrieved employee per pay period for the initial violation;
2 and

3 ii. \$250 for each aggrieved employee per pay period for each subsequent
4 violation; and

5 b. Civil penalties pursuant to Labor Code § 2699(f):

6 i. \$100 for each aggrieved employee per pay period for the initial violation;
7 and

8 ii. \$200 for each aggrieved employee per pay period for each subsequent
9 violation.

10 9. For reasonable attorneys' fees under the California Labor Code and any other
11 statutes, including California Labor Code of Civil Procedure § 1021.5 and/or California Labor
12 Code § 2699(g);

13 10. For costs of the suit incurred herein;

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

15 12. For civil penalties as described above pursuant to PAGA, 75% of which will be
16 paid to the Labor Workforce Development Agency and 25% of which will be distributed to the
17 aggrieved employees;

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

19 14. For such other relief as the Court may deem proper.

20 DATED: May 21, 2021

LEBE LAW, APLC

21
22 By: _____

Jonathan M. Lebe

23
24 Attorney for Plaintiff JahVena Ann Lanier,
25 individually and on behalf of all others similarly
26 situated
27
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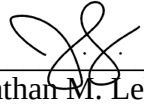
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DEMAND FOR JURY TRIAL

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

DATED: May 21, 2021

LEBE LAW, APLC

By:  _____
Jonathan M. Lebe

Attorney for Plaintiff JahVena Ann Lanier,
individually and on behalf of all others similarly
situated