

FILED
Superior Court Of California,
Sacramento
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rsannmiguel
By _____, Deputy
Case Number:
34-2021-00293414

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
 FOR THE COUNTY OF SACRAMENTO

MICHAEL VEGA, individually, and on
 behalf of other members of the general
 public similarly situated,

Plaintiff,

vs.

RIEBE'S AUTO PARTS, LLC, a Georgia
 limited liability company; RIEBE'S
 AUTOMOTIVE SUPPLY, INC., a
 California corporation; BI
 WAREHOUSING, INC., a California
 corporation; and DOES 1 through 10,
 inclusive,

Defendants.

Case No.: 34-2021-00293414

**FIRST AMENDED CLASS ACTION
 COMPLAINT & ENFORCEMENT
 ACTION UNDER THE PRIVATE
 ATTORNEYS GENERAL ACT,
 CALIFORNIA LABOR CODE §§ 2698, ET
 SEQ.**

- (1) Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime);
- (2) Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 (Unpaid Minimum Wages);
- (3) Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 (Failure to Provide Meal Periods);
- (4) Violation of California Labor Code §§ 226.7, 516, and 1198 (Failure to Authorize and Permit Rest Periods);
- (5) Violation of California Labor Code §§ 226(a), 1174(d), and 1198 (Non-Compliant Wage Statements and Failure to Maintain Payroll Records);
- (6) Violation of California Labor Code §§ 201 and 202 (Wages Not Timely Paid Upon Termination);
- (7) Violation of California Labor Code § 204 (Failure to Timely Pay Wages During Employment);
- (8) Violation of California Labor Code § 2802 (Unreimbursed Business Expenses);

BY FAX

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- (9) Civil Penalties for Violations of California Labor Code, Pursuant to PAGA, §§ 2698, *et seq.*;
- (10) Violation of California Business & Professions Code §§ 17200, *et seq.* (Unlawful Business Practices); and
- (11) Violation of California Business & Professions Code §§ 17200, *et seq.* (Unfair Business Practices)

Jury Trial Demanded

1 Plaintiff Michael Vega, individually and on behalf of all other members of the public
2 similarly situated and as an aggrieved employee and on behalf of all other aggrieved
3 employees, alleges as follows:

4 JURISDICTION AND VENUE

5 1. This class action is brought pursuant to California Code of Civil Procedure
6 section 382 and California Labor Code sections 2698, *et seq.* (“PAGA”) to recover civil
7 penalties and any other available relief on behalf of Plaintiff, the State of California, and other
8 current and former employees who worked for Defendants in California as non-exempt,
9 hourly paid employees and received at least one wage statement and against whom one or
10 more violations of any provision in Division 2 Part 2 Chapter 1 of the Labor Code or any
11 provision regulating hours and days of work in the applicable Industrial Welfare Commission
12 (“IWC”) Wage Order were committed, as set forth in this complaint. The monetary damages,
13 penalties, and restitution sought by Plaintiff exceed the minimal jurisdiction limits of the
14 Superior Court and will be established according to proof at trial. This Court has jurisdiction
15 over this action pursuant to the California Constitution, Article VI, section 10. The statutes
16 under which this action is brought do not specify any other basis for jurisdiction. Plaintiff’s
17 share of damages, penalties, and other relief sought in this action does not exceed \$75,000.

18 2. This Court has jurisdiction over Defendants because Defendants are either
19 citizens of California, have sufficient minimum contacts in California, or otherwise
20 intentionally avail themselves of the California market so as to render the exercise of
21 jurisdiction over them by the California courts consistent with traditional notions of fair play
22 and substantial justice. There is no basis for federal diversity jurisdiction in this action
23 because there is no complete diversity, and this case falls within the statutory exceptions to
24 “minimal diversity” jurisdiction under the Class Action Fairness Act, 28 U.S.C. § 1332(d)(4).
25 Upon information and belief, two-thirds or more of the class members and Defendants are
26 citizens of California and/or (a) two-thirds of the class members and Defendants are citizens
27 of California; (b) the alleged wage and hour violations occurred in California; (c) significant
28 relief is being sought against Defendants whose violations of California wage and hour laws

1 form a significant basis for Plaintiff's claims; and (d) no other class action has been filed
2 within the past three (3) years on behalf of the same proposed class against Defendants
3 asserting the same or similar factual allegations.

4 3. Venue is proper in this Court, because Defendants employ persons in this
5 county, and employed Plaintiff in this county, and thus a substantial portion of the transactions
6 and occurrences related to this action occurred in this county.

7 **THE PARTIES**

8 4. Plaintiff MICHAEL VEGA is a resident of Sacramento, in Sacramento County,
9 California. Defendants employed Plaintiff as an hourly paid, non-exempt
10 Dispatcher/Puller/Warehouse employee from approximately August 2007 to September 2020.
11 Plaintiff worked for Defendants at their store in Citrus Heights, California. During his
12 employment, Plaintiff typically worked eight (8) hours per day, and five (5) days per week.
13 Plaintiff's primary job duties included, without limitation, locating and retrieving parts from
14 within the store, compiling parts for shipment, and processing order payments.

15 5. RIEBE'S AUTO PARTS, LLC was and is, upon information and belief, a
16 Georgia limited liability company, and at all times hereinafter mentioned, an employer whose
17 employees are engaged throughout this county, the State of California, or the various states of
18 the United States of America.

19 6. RIEBE'S AUTOMOTIVE SUPPLY, INC. was and is, upon information and
20 belief, a California corporation, and at all times hereinafter mentioned, an employer whose
21 employees are engaged throughout this county, the State of California, or the various states of
22 the United States of America.

23 7. BI WAREHOUSING, INC. was and is, upon information and belief, a
24 California corporation, and at all times hereinafter mentioned, an employer whose employees
25 are engaged throughout this county, the State of California, or the various states of the United
26 States of America.

27 8. Plaintiff is unaware of the true names or capacities of the Defendants sued
28 herein under the fictitious names DOES 1 through 10, but will seek leave of this Court to

1 amend the complaint and serve such fictitiously named Defendants once their names and
2 capacities become known.

3 9. Plaintiff is informed and believes, and thereon alleges, that DOES 1 through 10
4 were the partners, agents, owners, or managers of RIEBE'S AUTO PARTS, LLC; RIEBE'S
5 AUTOMOTIVE SUPPLY, INC.; and BI WAREHOUSING, INC., at all relevant times.

6 10. Plaintiff is informed and believes, and thereon alleges, that each and all of the
7 acts and omissions alleged herein was performed by, or is attributable to, RIEBE'S AUTO
8 PARTS, LLC; RIEBE'S AUTOMOTIVE SUPPLY, INC.; BI WAREHOUSING, INC.; and/or
9 DOES 1 through 10 (collectively, "Defendants" or "RIEBE'S"), each acting as the agent,
10 employee, alter ego, and/or joint venturer of, or working in concert with, each of the other co-
11 Defendants and was acting within the course and scope of such agency, employment, joint
12 venture, or concerted activity with legal authority to act on the others' behalf. The acts of any
13 and all Defendants were in accordance with, and represent, the official policy of Defendants.

14 11. At all relevant times, Defendants, and each of them, ratified each and every act
15 or omission complained of herein. At all relevant times, Defendants, and each of them, aided
16 and abetted the acts and omissions of each and all the other Defendants in proximately causing
17 the damages herein alleged.

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

21 13. Under California law, Defendants are jointly and severally liable as employers
22 for the violations alleged herein because they have each exercised sufficient control over the
23 wages, hours, working conditions, and employment status of Plaintiff and class members.
24 Each Defendant had the power to hire and fire Plaintiff and class members, supervised and
25 controlled their work schedule and/or conditions of employment, determined their rate of pay,
26 and maintained their employment records. Defendants suffered or permitted Plaintiff and
27 class members to work and/or "engaged" Plaintiff and class members so as to create a
28 common-law employment relationship. As joint employers of Plaintiff and class members,

1 Defendants are jointly and severally liable for the civil penalties and all other relief available
2 to Plaintiff and class members under the law.

3 14. Plaintiff is informed and believes, and thereon alleges, that at all relevant times,
4 Defendants, and each of them, have acted as joint employers with respect to Plaintiff and class
5 members because Defendants have:

- 6 (a) jointly exercised meaningful control over the work performed by
7 Plaintiff and class members;
- 8 (b) jointly exercised meaningful control over Plaintiff's and class members'
9 wages, hours, and working conditions, including the quantity, quality
10 standards, speed, scheduling, and operative details of the tasks
11 performed by Plaintiff and class members;
- 12 (c) jointly required that Plaintiff and class members perform work which is
13 an integral part of Defendants' businesses; and
- 14 (d) jointly exercised control over Plaintiff and class members as a matter of
15 economic reality in that Plaintiff and class members were dependent on
16 Defendants, who shared the power to set the wages of Plaintiff and class
17 members and determined their working conditions, and who jointly
18 reaped the benefits from the underpayment of their wages and
19 noncompliance with other statutory provisions governing their
20 employment.

21 15. Plaintiff is informed and believes, and thereon alleges, that at all relevant times
22 there has existed a unity of interest and ownership between Defendants such that any
23 individuality and separateness between the entities has ceased.

24 16. RIEBE'S AUTO PARTS, LLC; RIEBE'S AUTOMOTIVE SUPPLY, INC.; BI
25 WAREHOUSING, INC.; and/or DOES 1 through 10 are therefore alter egos of each other.

26 17. Adherence to the fiction of the separate existence of Defendants would permit
27 an abuse of the corporate privilege, and would promote injustice by protecting Defendants
28 from liability for the wrongful acts committed by them under the name RIEBE'S.

1 18. Plaintiff further alleges, upon information and belief, that Defendants RIEBE'S
2 AUTO PARTS, LLC; RIEBE'S AUTOMOTIVE SUPPLY, INC.; and BI WAREHOUSING,
3 INC. are alter egos of each other for the following reasons:

4 (a) Based on the Statement of Information forms filed with the California
5 Secretary of State's website (<https://businesssearch.sos.ca.gov/>), "BART
6 RIEBE" serves as Chief Executive Officer of RIEBE'S AUTO PARTS,
7 LLC; RIEBE'S AUTOMOTIVE SUPPLY, INC.; and BI
8 WAREHOUSING, INC., and also serves as Chief Financial Officer and
9 Secretary of RIEBE'S AUTOMOTIVE SUPPLY, INC. and BI
10 WAREHOUSING, INC.;

11 (b) According to the California Secretary of State's website, RIEBE'S
12 AUTO PARTS, LLC; RIEBE'S AUTOMOTIVE SUPPLY, INC.; and
13 BI WAREHOUSING, INC. share the same agent for service of process,
14 "BART RIEBE;"

15 (c) On the California Secretary of State's website
16 (<https://businesssearch.sos.ca.gov/>), RIEBE'S AUTO PARTS, LLC and
17 BI WAREHOUSING, INC. share the same entity address, "5404
18 PACIFIC STREET, ROCKLIN, CA 95677;" and

19 (e) On information and belief, RIEBE'S AUTO PARTS, LLC; RIEBE'S
20 AUTOMOTIVE SUPPLY, INC.; and BI WAREHOUSING, INC.
21 utilize the same standardized employment forms and issue the same
22 employment policies.

23 **GENERAL ALLEGATIONS**

24 19. Defendants own and operate at least 22 automotive part stores throughout
25 Northern California. Upon information and belief, Defendants maintain a single, centralized
26 Human Resources ("HR") department at their company headquarters in Rocklin or Grass
27 Valley, California, which is responsible for the recruiting and hiring of new employees, and
28 communicating and implementing Defendants' company-wide policies, including timekeeping

1 policies and meal and rest period policies, to employees throughout California.

2 20. In particular, Plaintiff and class members, on information and belief, received
3 the same standardized documents and/or written policies. Upon information and belief, the
4 usage of standardized documents and/or written policies, including new-hire documents,
5 indicate that Defendants dictated policies at the corporate level and implemented them
6 company-wide, regardless of their employees' assigned locations or positions. Upon
7 information and belief, Defendants set forth uniform policies and procedures in several
8 documents provided at an employee's time of hire.

9 21. Upon information and belief, Defendants maintain a centralized Payroll
10 department at their company headquarters in Rocklin or Grass Valley, California which
11 processes payroll for all non-exempt, hourly paid employees working for Defendants at their
12 various locations and jobsites in California, including Plaintiff and class members. Based
13 upon information and belief, Defendants issue the same formatted wage statements to all non-
14 exempt, hourly paid employees in California, irrespective of their work locations. Upon
15 information and belief, Defendants process payroll for departing employees in the same
16 manner throughout the State of California, regardless of the manner in which each employee's
17 employment ends.

18 22. Defendants continue to employ non-exempt or hourly paid employees in
19 California.

20 23. Plaintiff is informed and believes, and thereon alleges, that at all times herein
21 mentioned, Defendants were advised by skilled lawyers and other professionals, employees
22 and advisors knowledgeable about California labor and wage law, employment and personnel
23 practices, and about the requirements of California law.

24 24. Plaintiff is informed and believes, and thereon alleges, that Plaintiff and class
25 members were not paid for all hours worked because all hours worked were not recorded.

26 25. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
27 should have known that Plaintiff and class members were entitled to receive certain wages for
28 overtime compensation and that they were not receiving certain wages for overtime

1 compensation.

2 26. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
3 should have known that Plaintiff and class members were entitled to receive at least minimum
4 wages for compensation and that they were not receiving at least minimum wages for work
5 that was required to be done off-the-clock. In violation of the California Labor Code, Plaintiff
6 and class members were not paid at least minimum wages for work done off-the-clock.

7 27. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
8 should have known that Plaintiff and class members were entitled to meal periods in
9 accordance with the Labor Code or payment of one (1) additional hour of pay at their regular
10 rates of pay when they were not provided with timely, uninterrupted, thirty (30) minute meal
11 periods and that Plaintiff and class members were not provided with all meal periods or
12 payment of one (1) additional hour of pay at their regular rates of pay when they did not
13 receive a timely, uninterrupted, thirty (30) minute meal period.

14 28. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
15 should have known that Plaintiff and class members were entitled to rest periods in
16 accordance with the Labor Code and applicable IWC Wage Order or payment of one (1)
17 additional hour of pay at their regular rates of pay when they were not authorized and
18 permitted to take a compliant rest period. In violation of the California Labor Code, Plaintiff
19 and class members were not authorized and permitted to take compliant rest periods, nor did
20 Defendants provide Plaintiff and class members with payment of one (1) additional hour of
21 pay at their regular rates of pay when they were not authorized and permitted to take a
22 compliant rest period.

23 29. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
24 should have known that Plaintiff and class members were entitled to receive complete and
25 accurate wage statements in accordance with California law. In violation of the California
26 Labor Code, Plaintiff and class members were not provided complete and accurate wage
27 statements.

28 30. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or

1 should have known that they had a duty to maintain accurate and complete payroll records in
2 accordance with the Labor Code and applicable IWC Wage Order, but willfully, knowingly,
3 and intentionally failed to do so.

4 31. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
5 should have known that Plaintiff and class members were entitled to timely payment of all
6 wages earned upon termination of employment. In violation of the California Labor Code,
7 Plaintiff and class members did not receive payment of all wages due, including, but not
8 limited to, overtime wages, minimum wages, and/or meal and rest period premiums, within
9 permissible time periods.

10 32. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
11 should have known that Plaintiff and class members were entitled to timely payment of wages
12 during their employment. In violation of the California Labor Code, Plaintiff and class
13 members did not receive payment of all wages, including, but not limited to, overtime wages,
14 minimum wages, and/or meal and rest period premiums, within permissible time periods.

15 33. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
16 should have known that they had a duty to cover the costs and expenses of Plaintiff and/or
17 class members incurred in the course of obtaining mandatory examinations and/or drug tests,
18 but willfully, knowingly, and intentionally failed to do so.

19 34. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
20 should have known that Plaintiff and/or class members were entitled to one day's rest in seven.
21 In violation of the California Labor Code, Defendants required Plaintiff and/or class members to
22 work more than six consecutive days without a day of rest, where the total hours worked
23 exceeded 30 hours in any week or six hours in any one day thereof.

24 35. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
25 should have known that Plaintiff and/or class members were entitled to suitable seating and/or
26 were entitled to sit when it did not interfere with the performance of their duties and also have
27 seats nearby to use during a lull in tasks that do require moving about or standing.

28 36. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or

1 should have known that Plaintiff and class members were entitled to receive full
2 reimbursement for all business-related expenses and costs they incurred during the course and
3 scope of their employment and that they did not receive full reimbursement of applicable
4 business-related expenses and costs incurred.

5 37. Plaintiff is informed and believes, and thereon alleges, that at all times herein
6 mentioned, Defendants knew or should have known that they had a duty to compensate
7 Plaintiff and class members for all hours worked, and that Defendants had the financial ability
8 to pay such compensation, but willfully, knowingly, and intentionally failed to do so, and
9 falsely represented to Plaintiff and class members that they were properly denied wages, all in
10 order to increase Defendants' profits.

11 **PAGA REPRESENTATIVE ALLEGATIONS**

12 38. At all times herein set forth, PAGA provides that any provision of law under
13 the Labor Code and applicable IWC Wage Order that provides for a civil penalty to be
14 assessed and collected by the LWDA for violations of the California Labor Code and
15 applicable IWC Wage Order may, as an alternative, be recovered by aggrieved employees in a
16 civil action brought on behalf of themselves and other current or former employees pursuant
17 to procedures outlined in California Labor Code section 2699.3.

18 39. PAGA defines an "aggrieved employee" in Labor Code section 2699(c) as "any
19 person who was employed by the alleged violator and against whom one or more of the
20 alleged violations was committed."

21 40. Plaintiff and other current and former employees of Defendants are "aggrieved
22 employees" as defined by Labor Code section 2699(c) in that they are all Defendants' current
23 or former employees and one or more of the alleged violations were committed against them.

24 41. Pursuant to California Labor Code sections 2699.3 and 2699.5, an aggrieved
25 employee, including Plaintiff, may pursue a civil action arising under PAGA after the
26 following requirements have been met:

- 27 (a) The aggrieved employee or representative shall give written notice by
28 online filing with the LWDA and by certified mail to the employer of

1 the specific provisions of the California Labor Code alleged to have
2 been violated, including the facts and theories to support the alleged
3 violation.

4 (b) An aggrieved employee's notice filed with the LWDA pursuant to
5 2699.3(a) and any employer response to that notice shall be
6 accompanied by a filing fee of seventy-five dollars (\$75).

7 (c) The LWDA shall notify the employer and the aggrieved employee or
8 representative by certified mail that it does not intend to investigate the
9 alleged violation ("LWDA's Notice") within sixty (60) calendar days of
10 the postmark date of the aggrieved employee's notice. Upon receipt of
11 the LWDA Notice, or if no LWDA Notice is provided within sixty-five
12 (65) calendar days of the postmark date of the aggrieved employee's
13 notice, the aggrieved employee may commence a civil action pursuant
14 to California Labor Code section 2699 to recover civil penalties.

15 42. Pursuant to California Labor Code sections 2699.3(c), aggrieved employees,
16 through Plaintiff, may pursue a civil action arising under PAGA for violations of any
17 provision other than those listed in Section 2699.5 after the following requirements have been
18 met:

19 (a) The aggrieved employee or representative shall give written notice by
20 online filing with the LWDA and by certified mail to the employer of
21 the specific provisions of the California Labor Code alleged to have
22 been violated (other than those listed in Section 2699.5), including the
23 facts and theories to support the alleged violation.

24 (b) An aggrieved employee's notice filed with the LWDA pursuant to
25 2699.3(c) and any employer response to that notice shall be
26 accompanied by a filing fee of seventy-five dollars (\$75).

27 (c) The employer may cure the alleged violation within thirty-three (33)
28 calendar days of the postmark date of the notice sent by the aggrieved

1 employee or representative. The employer shall give written notice
2 within that period of time by certified mail to the aggrieved employee or
3 representative and by online filing with the LWDA if the alleged
4 violation is cured, including a description of actions taken, and no civil
5 action pursuant to Section 2699 may commence. If the alleged violation
6 is not cured within the 33-day period, the aggrieved employee may
7 commence a civil action pursuant to Section 2699.

8 43. On March 2, 2021, Plaintiff provided written notice by online filing to the
9 LWDA and by Certified Mail to Defendants of the specific provisions of the California Labor
10 Code alleged to have been violated, including facts and theories to support the alleged
11 violations, in accordance with California Labor Code section 2699.3. Plaintiff's written
12 notice was accompanied with the applicable filing fee of seventy-five dollars (\$75). The
13 LWDA PAGA Administrator confirmed receipt of Plaintiff's written notice and assigned
14 Plaintiff PAGA Case Number LWDA-CM-823241-21. A true and correct copy of Plaintiff's
15 written notice to the LWDA and Defendants is attached hereto as "Exhibit 1."

16 44. As of the filing date of this complaint, over 65 days have passed since Plaintiff
17 sent the notice described above to the LWDA, and the LWDA has not responded that it
18 intends to investigate Plaintiff's claims and Defendants have not cured the violations.

19 45. Thus, Plaintiff has satisfied the administrative prerequisites under California
20 Labor Code section 2699.3(a) and 2699.3(c) to recover civil penalties against Defendants for
21 violations of California Labor Code sections 201, 202, 203, 204, 222.5, 226(a), 226.7, 510,
22 512(a), 516, 551, 552, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, and 2802.

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

1 underpaid employee for each pay period for which the employee was underpaid. . . .” Labor
2 Code section 558(c) provides “[t]he civil penalties provided for in this section are in addition
3 to any other civil or criminal penalty provided by law.”

4 47. Defendants, at all times relevant to this complaint, were employers or persons
5 acting on behalf of an employer(s) who violated Plaintiff’s and other aggrieved employees’
6 rights by violating various sections of the California Labor Code as set forth above.

7 48. As set forth below, Defendants have violated numerous provisions of both the
8 Labor Code sections regulating hours and days of work as well as the applicable IWC Wage
9 Order.

10 49. Pursuant to PAGA, and in particular, California Labor Code sections 2699(a),
11 2699.3(a), 2699.3(c), and 2699.5, and section 558, Plaintiff, acting in the public interest as a
12 private attorney general, seeks assessment and collection of civil penalties for himself, all
13 other aggrieved employees, and the State of California against Defendants for violations of
14 California Labor Code sections 201, 202, 203, 204, 222.5, 226(a), 226.7, 510, 512(a), 516,
15 551, 552, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, and 2802.

16 **CLASS ACTION ALLEGATIONS**

17 50. Plaintiff brings this action on his own behalf, as well as on behalf of each and
18 all other persons similarly situated, and thus seeks class certification under California Code of
19 Civil Procedure section 382.

20 51. All claims alleged herein arise under California law for which Plaintiff seeks
21 relief authorized by California law.

22 52. Plaintiff’s proposed class consists of and is defined as follows:

23 All persons who worked for Defendants as non-exempt, hourly
24 paid employees in California, within four years prior to the filing
of the initial complaint until the date of trial (“Class”).

25 53. Plaintiff’s proposed subclass consists of and is defined as follows:

26 All persons who worked for Defendants as non-exempt, hourly
27 paid employees in California and who received at least one wage
28 statement within one (1) year prior to the filing of the initial
complaint until the date of trial (“Subclass”).

1 54. Members of the Class and Subclass are referred to herein as “class members.”

2 55. Plaintiff reserves the right to redefine the Class and Subclass and to add
3 additional subclasses as appropriate based on further investigation, discovery, and specific
4 theories of liability.

5 56. There are common questions of law and fact as to class members that
6 predominate over questions affecting only individual members, including, but not limited to:

- 7 (a) Whether Defendants required Plaintiff and class members to work over
8 eight (8) hours per day, over twelve (12) hours per day, or over forty
9 (40) hours per week and failed to pay all legally required overtime
10 compensation to Plaintiff and class members;
- 11 (b) Whether Defendants failed to pay Plaintiff and class members at least
12 minimum wages for all hours worked;
- 13 (c) Whether Defendants failed to provide Plaintiff and class members with
14 meal periods;
- 15 (d) Whether Defendants failed to authorize and permit Plaintiff and class
16 members to take rest periods;
- 17 (e) Whether Defendants provided Plaintiff and class members with
18 complete and accurate wage statements as required by California Labor
19 Code section 226(a);
- 20 (f) Whether Defendants maintained accurate payroll records as required by
21 California Labor Code section 1174(d);
- 22 (g) Whether Defendants failed to pay earned overtime wages, minimum
23 wages, and/or meal and rest period premiums due to Plaintiff and class
24 members upon their discharge;
- 25 (h) Whether Defendants failed timely to pay overtime wages, minimum
26 wages, and/or meal and rest period premiums due to Plaintiff and class
27 members during their employment;
- 28 (i) Whether Defendants failed to compensate Plaintiff and/or class

- 1 members for mandatory physical examinations and/or drug testing;
- 2 (j) Whether Defendants failed to provide Plaintiff and/or class members
- 3 one day's rest in seven;
- 4 (k) Whether Defendants failed to provide Plaintiff and/or class members
- 5 suitable seating;
- 6 (l) Whether Defendants failed to reimburse Plaintiff and class members for
- 7 necessary and required business-related expenditures and/or losses
- 8 incurred by them in the scope of their employment;
- 9 (m) Whether Defendants engaged in unlawful and unfair business practices
- 10 in violation of California Business & Professions Code sections 17200,
- 11 *et seq.*; and
- 12 (n) The appropriate amount of damages, restitution, or monetary penalties
- 13 resulting from Defendants' violations of California law.

14 57. There is a well-defined community of interest in the litigation and the class

15 members are readily ascertainable:

- 16 (a) Numerosity: The class members are so numerous that joinder of all
- 17 members would be unfeasible and impractical. The membership of the
- 18 entire class is unknown to Plaintiff at this time; however, the class is
- 19 estimated to be greater than one hundred (100) individuals and the
- 20 identity of such membership is readily ascertainable by inspection of
- 21 Defendants' employment records.
- 22 (b) Typicality: Plaintiff is qualified to, and will, fairly and adequately
- 23 protect the interests of each class member with whom he has a well-
- 24 defined community of interest, and Plaintiff's claims (or defenses, if
- 25 any) are typical of all class members as demonstrated herein.
- 26 (c) Adequacy: Plaintiff is qualified to, and will, fairly and adequately
- 27 protect the interests of each class member with whom he has a well-
- 28 defined community of interest and typicality of claims, as demonstrated

herein. Plaintiff acknowledges that he has an obligation to make known to the Court any relationship, conflicts or differences with any class member. Plaintiff's attorneys, the proposed class counsel, are versed in the rules governing class action discovery, certification, and settlement. Plaintiff has incurred, and throughout the duration of this action, will continue to incur costs and attorneys' fees that have been, are, and will be necessarily expended for the prosecution of this action for the substantial benefit of each class member.

(d) Superiority: The nature of this action makes the use of class action adjudication superior to other methods. A class action will achieve economies of time, effort, and expense as compared with separate lawsuits, and will avoid inconsistent outcomes because the same issues can be adjudicated in the same manner and at the same time for the entire class.

(e) Public Policy Considerations: Employers in the State of California violate employment and labor laws every day. Current employees are often afraid to assert their rights out of fear of direct or indirect retaliation. Former employees are fearful of bringing actions because they believe their former employers might damage their future endeavors through negative references and/or other means. Class actions provide the class members who are not named in the complaint with a type of anonymity that allows for the vindication of their rights while simultaneously protecting their privacy.

FIRST CAUSE OF ACTION

Violation of California Labor Code §§ 510 and 1198—Unpaid Overtime

(Against all Defendants)

58. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every allegation set forth above.

1 59. Labor Code section 1198 makes it illegal to employ an employee under
2 conditions of labor that are prohibited by the applicable wage order. California Labor Code
3 section 1198 requires that “. . . the standard conditions of labor fixed by the commission shall
4 be the . . . standard conditions of labor for employees. The employment of any employee . . .
5 under conditions of labor prohibited by the order is unlawful.”

6 60. California Labor Code section 1198 and the applicable IWC Wage Order
7 provide that it is unlawful to employ persons without compensating them at a rate of pay
8 either time-and-one-half or two-times that person’s regular rate of pay, depending on the
9 number of hours worked by the person on a daily or weekly basis.

10 61. Specifically, the applicable IWC Wage Order provides that Defendants are and
11 were required to pay Plaintiff and class members working more than eight (8) hours in a day
12 or more than forty (40) hours in a workweek, at the rate of time and one-half (1½) for all
13 hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a
14 workweek.

15 62. The applicable IWC Wage Order further provides that Defendants are and were
16 required to pay Plaintiff and class members working more than twelve (12) hours in a day,
17 overtime compensation at a rate of two (2) times their regular rate of pay. An employee’s
18 regular rate of pay includes all remuneration for employment paid to, or on behalf of, the
19 employee, including nondiscretionary bonuses and incentive pay.

20 63. California Labor Code section 510 codifies the right to overtime compensation
21 at one and one-half (1½) times the regular rate of pay for hours worked in excess of eight (8)
22 hours in a day or forty (40) hours in a week or for the first eight (8) hours worked on the
23 seventh (7th) day of work, and to overtime compensation at twice the employee’s regular rate
24 of pay for hours worked in excess of twelve (12) hours in a day or in excess of eight (8) hours
25 in a day on the seventh (7th) day of work.

26 64. During the relevant time period, Defendants willfully failed to pay all overtime
27 wages owed to Plaintiff and class members. During the relevant time period, Plaintiff and
28 class members were not paid overtime premiums for all of the hours they worked in excess of

1 eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty (40)
2 hours in a week, because all hours worked were not recorded.

3 65. Upon information and belief, Defendants had, and continue to have, a
4 company-wide policy and/or practice of requiring employees to complete work-related duties
5 while off-the-clock due to the understaffing of their store locations. Upon information and
6 belief, Defendants required Plaintiff and class members to complete their work-related duties
7 outside of their scheduled shifts, but did not compensate them for this time. For example, two
8 (2) times per week, Plaintiff spent 15-20 minutes before the start of his scheduled shift
9 preparing orders that had already started coming into the store. Defendants did not
10 compensate Plaintiff and class members for this time spent working off-the-clock.

11 66. Additionally, as stated, Defendants' policy and/or practice of understaffing
12 their store locations while also requiring employees to meet strict deadlines for fulfilling
13 customer orders, resulted in a failure to provide Plaintiff and class members with adequate
14 meal period coverage. Defendants also had a practice of failing to schedule meal periods,
15 which further caused Plaintiff and class members to not be relieved of their duties for
16 compliant meal periods. As a result of this lack of meal period coverage, on information and
17 belief, Plaintiff and class members were not always afforded uninterrupted 30-minute meal
18 periods during shifts when they were entitled to receive a meal period.

19 67. Defendants knew or should have known that as a result of these company-wide
20 practices and/or policies, Plaintiff and class members were performing their assigned duties
21 off-the-clock before and after their shifts and during meal periods, and were suffered or
22 permitted to perform work for which they were not paid. Because Plaintiff and class members
23 worked shifts of eight (8) hours a day or more or forty (40) hours a week or more, some of
24 this off-the-clock work qualified for overtime premium pay. Therefore, Plaintiff and class
25 members were not paid overtime wages for all of the overtime hours they actually worked.

26 68. Defendants' failure to pay Plaintiff and class members the balance of overtime
27 compensation as required by California law, violates the provisions of California Labor Code
28 sections 510 and 1198. Pursuant to California Labor Code section 1194, Plaintiff and class

1 members are entitled to recover their unpaid overtime compensation, as well as interest, costs,
2 and attorneys' fees.

3 **SECOND CAUSE OF ACTION**

4 **Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198—Unpaid** 5 **Minimum Wages** 6 **(Against all Defendants)**

7 69. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
8 and every allegation set forth above.

9 70. At all relevant times, California Labor Code sections 1182.12, 1194, 1197,
10 1197.1, and 1198 provide that the minimum wage for employees fixed by the IWC is the
11 minimum wage to be paid to employees, and the payment of a wage less than the minimum so
12 fixed is unlawful. Compensable work time is defined in Wage Order No. 7-2001 as "the time
13 during which an employee is subject to the control of an employer, and includes all the time
14 the employee is suffered or permitted to work, whether or not required to do so." Cal. Code.
15 Regs. tit. 8, § 11070(2)(G) (defining "Hours Worked").

16 71. As set forth above, on information and belief, Defendants required Plaintiff and
17 class members to complete work-related duties while off-the-clock, but did not compensate
18 them for this time. Furthermore, on information and belief, due to Defendants' company-wide
19 practice of understaffing and enforcing strict order deadlines, failure to schedule meal periods,
20 and subsequent lack of meal period coverage, Plaintiff and class members were impeded from
21 taking all uninterrupted meal periods to which they were entitled and were required to work
22 off-the-clock.

23 72. Thus, Defendants did not pay minimum wages for all hours worked by Plaintiff
24 and class members. To the extent that these off-the-clock hours did not qualify for overtime
25 premium payment, Defendants did not pay at least minimum wages for those hours worked
26 off-the-clock in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and
27 1198.

28 73. Defendants' failure to pay Plaintiff and class members minimum wages violates

1 California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198. Pursuant to
2 California Labor Code section 1194.2, Plaintiff and class members are entitled to recover
3 liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

4 **THIRD CAUSE OF ACTION**

5 **Violations of California Labor Code, §§ 226.7, 512(a), 516, and 1198—Meal Period**

6 **Violations**

7 **(Against all Defendants)**

8 74. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
9 and every allegation set forth above.

10 75. At all relevant times herein set forth, California Labor Code section 512(a)
11 provides that an employer may not require, cause, or permit an employee to work for a period
12 of more than five (5) hours per day without providing the employee with a meal period of not
13 less than thirty (30) minutes, except that if the total work period per day of the employee is
14 not more than six (6) hours, the meal period may be waived by mutual consent of both the
15 employer and the employee. Under California law, first meal periods must start after no more
16 than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (Cal.
17 2012).

18 76. At all relevant times herein set forth, California Labor Code sections 226.7,
19 512(a), 516, and 1198 provide that no employer shall require an employee to work during any
20 meal period mandated by an applicable order of the IWC.

21 77. At all relevant times herein set forth, Labor Code sections 226.7 and 512(a) and
22 the applicable IWC Wage Order also require employers to provide a second meal period of
23 not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an
24 employee one (1) additional hour of pay at the employee's regular rate, except that if the total
25 hours worked is no more than twelve (12) hours, the second meal period may be waived by
26 mutual consent of the employer and the employee only if the first meal period was not waived.

27 78. As stated, upon information and belief, Defendants had, and continue to have, a
28 company-wide policy and/or practice of understaffing their store locations while assigning

1 strict order deadlines. Specifically, Defendants required Plaintiff and class members to
2 prepare and ship customer stock orders within 1-2 days of receiving them. Adherence to these
3 strict order deadlines resulted in Plaintiff and class members having missed, late, and/or
4 interrupted meal periods. These company-wide practices, combined with the failure to
5 schedule meal periods, has resulted in a lack of meal period coverage and prevented Plaintiff
6 and class members from taking all timely, uninterrupted meal periods to which they were
7 entitled.

8 79. Defendants' practices and policies prevented Plaintiff and class members from
9 taking all compliant meal periods to which they were entitled. As a result, Plaintiff and class
10 members would be forced to work in excess of five (5) hours before taking a meal period and,
11 at times, had their meal periods interrupted and/or had to forgo their meal periods altogether.
12 For example, at least once per month, Plaintiff was required to wait to take his meal period
13 until his sixth hour of work, in order to complete all of the work-related duties assigned to him
14 and meet the order deadlines. Specifically, Plaintiff's timepunch records reflect that on
15 February 2, February 9, February 16, and February 23, 2019, Plaintiff took his meal periods
16 after his fifth hour of work, but Defendants did not pay him any meal period premiums.

17 80. At all times herein mentioned, Defendants knew or should have known that, as
18 a result of these policies, Plaintiff and class members were prevented from being relieved of
19 all duties and required to perform some of their assigned duties during meal periods.
20 Defendants further knew or should have known that Defendants did not pay Plaintiff and class
21 members meal period premiums when meal periods were late, interrupted, shortened, or
22 missed.

23 81. Furthermore, Defendants engaged in a company-wide practice and/or policy of
24 not paying all meal period premiums owed when compliant meal periods are not provided.
25 Because of this practice and/or policy, Plaintiff and class members have not received premium
26 pay for missed, late, and interrupted meal periods. As a result, Defendants failed to provide
27 Plaintiff and class members compliant meal periods in violation of California Labor Code
28 sections 226.7, 512, and 516 and failed to pay the full meal period premiums due.

82. Defendants’ conduct violates the applicable IWC Wage Order, and California Labor Code sections 226.7, 512(a), 516, and 1198. Plaintiff and class members are therefore entitled to recover from Defendants one (1) additional hour of pay at the employee’s regular rate of compensation for each work day that the meal period was not provided.

FOURTH CAUSE OF ACTION

Violation of California Labor Code §§ 226.7, 516, and 1198—Rest Period Violations (Against all Defendants)

83. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every allegation set forth above.

84. At all relevant times herein set forth, the applicable IWC Wage Order and California Labor Code sections 226.7, 516, and 1198 were applicable to Plaintiff and class members’ employment by Defendants.

85. At all relevant times, the applicable IWC Wage Order provides that “[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period” and that the “rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof” unless the total daily work time is less than three and one-half (3½) hours.

86. At all relevant times, California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC. To comply with its obligation to authorize and permit rest periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer must “relinquish any control over how employees spend their break time, and relieve their employees of all duties—including the obligation that an employee remain on call. A rest period, in short, must be a period of rest.” *Augustus v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 269-270 (2016). Pursuant to the applicable IWC Wage Order and California Labor Code section 226.7(b), Plaintiff and class members are entitled to recover from Defendants one (1) additional hour of pay at their regular rates of pay for each work day

1 that a required rest period was not authorized and permitted.

2 87. During the relevant time period, Defendants regularly failed to authorize and
3 permit Plaintiff and class members to take a ten (10) minute rest period per each four (4) hour
4 period worked or major fraction thereof. As with meal periods, Defendants' company-wide
5 practices, including understaffing and enforcement of order deadlines, prevented Plaintiff and
6 class members from being relieved of all duty to take rest periods. Additionally, Defendants
7 failed to schedule rest periods, which, coupled with Defendants' failure to provide adequate
8 rest period coverage, further led to Plaintiff and class members not being authorized and
9 permitted to take compliant rest periods.

10 88. Furthermore, upon information and belief, Defendants maintained and
11 implemented a company-wide on-premises rest period policy, which mandated that Plaintiff
12 and class members remain on the work premises during their rest periods. Because Plaintiff
13 and class members were restricted from leaving Defendants' premises during rest periods,
14 they were denied the ability to use their rest periods freely for their own purposes. Thus,
15 Defendants effectively maintained control over Plaintiff and class members during rest
16 periods.

17 89. As a result of Defendants' practices and policies, Plaintiff and class members
18 worked shifts in excess of 3.5 hours, in excess of 6 hours, and in excess of 10 hours without
19 receiving all uninterrupted 10-minute rest periods to which they were entitled. For example,
20 Plaintiff had to forego his rest periods altogether due to a lack of rest period coverage and to
21 complete all the duties Defendants assigned to him.

22 90. Defendants have also engaged in a company-wide practice and/or policy of not
23 paying all rest period premiums owed when compliant rest periods are not authorized and
24 permitted. As a result, Defendants denied Plaintiff and class members rest periods and failed
25 to pay them rest period premiums due, in violation of Labor Code section 226.7, 516, and the
26 applicable IWC Wage Order.

27 91. Defendants' conduct violates the applicable IWC Wage Order and California
28 Labor Code sections 226.7, 516, and 1198. Plaintiff and class members are therefore entitled

1 to recover from Defendants one (1) additional hour of pay at the employee's regular rate of
2 compensation for each work day that a compliant rest period was not authorized and
3 permitted.

4 **FIFTH CAUSE OF ACTION**

5 **Violation of California Labor Code §§ 226(a), 1174(d), and 1198—Non-Compliant Wage** 6 **Statements and Failure to Maintain Accurate Payroll Records** 7 **(Against all Defendants)**

8 92. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
9 and every allegation set forth above.

10 93. At all relevant times herein set forth, California Labor Code section 226(a)
11 provides that every employer shall furnish each of his or her employees an accurate and
12 complete itemized wage statement in writing, including, but not limited to, the name and
13 address of the legal entity that is the employer, the inclusive dates of the pay period, total
14 hours worked, and all applicable rates of pay.

15 94. At all relevant times, Defendants have knowingly and intentionally provided
16 Plaintiff and Subclass members with uniform, incomplete, and inaccurate wage statements.
17 For example, Defendants issued uniform wage statements to Plaintiff and Subclass members
18 that fail to correctly list: gross wages earned; total hours worked; net wages earned; and all
19 applicable hourly rates in effect during the pay period, including overtime rates of pay, and
20 the corresponding number of hours worked at each hourly rate. Specifically, Defendants
21 violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

22 95. Because Defendants did not record the time Plaintiff and Subclass members
23 spent working off-the-clock, Defendants did not list the correct amount of gross wages and net
24 wages earned by Plaintiff and Subclass members in compliance with section 226(a)(1) and
25 section 226(a)(5), respectively. For the same reason, Defendants failed to accurately list the
26 total number of hours worked by Plaintiff and Subclass members, in violation of section
27 226(a)(2), and failed to list the applicable hourly rates of pay in effect during the pay period
28 and the corresponding accurate number of hours worked at each hourly rate, in violation of

1 section 226(a)(9)).

2 96. The wage statement deficiencies also include, among other things, failing to list
3 the number of piece-rate units earned and any applicable piece rate if the employee is paid on
4 a piece-rate basis; failing to list all deductions; failing to list the name of the employee and
5 only the last four digits of his or her social security number or an employee identification
6 number other than a social security number; failing to list the name and address of the legal
7 entity that is the employer; failing to list the inclusive dates of the period for which employees
8 were paid; and/or failing to state all hours worked as a result of not recording or stating the
9 hours they worked off-the-clock.

10 97. California Labor Code section 1198 provides that the maximum hours of work
11 and the standard conditions of labor shall be those fixed by the Labor Commissioner and as
12 set forth in the applicable IWC Wage Orders. Section 1198 further provides that “[t]he
13 employment of any employees for longer hours than those fixed by the order or under
14 conditions of labor prohibited by the order is unlawful.” Pursuant to the applicable IWC
15 Wage Order, employers are required to keep accurate time records showing when the
16 employee begins and ends each work period and meal period. During the relevant time
17 period, Defendants failed, on a company-wide basis, to keep accurate records of work period
18 and meal period start and stop times for Plaintiff and Subclass members, in violation of
19 section 1198.

20 98. California Labor Code section 1174(d) provides that “[e]very person employing
21 labor in this state shall . . . [k]eep a record showing the names and addresses of all employees
22 employed and the ages of all minors” and “[k]eep, at a central location in the state or at the
23 plants or establishments at which employees are employed, payroll records showing the hours
24 worked daily by and the wages paid to, and the number of piece-rate units earned by and any
25 applicable piece rate paid to, employees employed at the respective plants or
26 establishments” At all relevant times, and in violation of Labor Code section 1174(d),
27 Defendants willfully failed to maintain accurate payroll records for Plaintiff and Subclass
28 members showing the daily hours they worked and the wages paid thereto as a result of failing

1 to record the off-the-clock hours that they worked.

2 99. Plaintiff and Subclass members are entitled to recover from Defendants the
3 greater of their actual damages caused by Defendants' failure to comply with California Labor
4 Code section 226(a), or an aggregate penalty not exceeding four thousand dollars (\$4,000) per
5 employee.

6 **SIXTH CAUSE OF ACTION**

7 **Violation of California Labor Code §§ 201 and 202—Wages Not Timely Paid**

8 **Upon Termination**

9 **(Against all Defendants)**

10 100. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
11 and every allegation set forth above.

12 101. This cause of action is dependent upon, and wholly derivative of, the overtime
13 wages, minimum wages, and/or meal and rest period premiums that were not timely paid to
14 Plaintiff and those class members no longer employed by Defendants upon their termination.

15 102. At all times relevant herein set forth, Labor Code sections 201 and 202 provide
16 that if an employer discharges an employee, the wages earned and unpaid at the time of
17 discharge are due and payable immediately, and that if an employee voluntarily leaves his or
18 her employment, his or her wages shall become due and payable not later than seventy-two
19 (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of
20 his or her intention to quit, in which case the employee is entitled to his or her wages at the
21 time of quitting.

22 103. Defendants willfully failed to pay Plaintiff and class members who are no
23 longer employed by Defendants the earned and unpaid wages set forth above, including but
24 not limited to, overtime wages, minimum wages, and/or meal and rest period premiums, either
25 at the time of discharge, or within seventy-two (72) hours of their leaving Defendants'
26 employ.

27 104. Defendants' failure to pay Plaintiff and class members who are no longer
28 employed by Defendants their wages earned and unpaid at the time of discharge, or within

seventy-two (72) hours of their leaving Defendants' employ, violates Labor Code sections 201 and 202. Plaintiff and class members are therefore entitled to recover from Defendants the statutory penalty wages for each day they were not paid, at their regular rate of pay, up to a thirty (30) day maximum pursuant to California Labor Code section 203.

SEVENTH CAUSE OF ACTION

Violation of California Labor Code § 204—Failure to Timely Pay Wages During Employment (Against all Defendants)

105. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every allegation set forth above.

106. This cause of action is dependent upon, and wholly derivative of, the overtime wages, minimum wages, and/or meal and rest period premiums that were not timely paid to Plaintiff and those class members.

107. At all times relevant herein set forth, Labor Code section 204 provides that all wages earned by any person in any employment between the first (1st) and the fifteenth (15th) days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the sixteenth (16th) and the twenty-sixth (26th) day of the month during which the labor was performed.

108. At all times relevant herein, Labor Code section 204 provides that all wages earned by any person in any employment between the sixteenth (16th) and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the first (1st) and the tenth (10th) day of the following month.

109. At all times relevant herein, Labor Code section 204 provides that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. Alternatively, at all times relevant herein, Labor Code section 204 provides that the requirements of this section are deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than

seven (7) calendar days following the close of the payroll period.

110. During the relevant time period, Defendants willfully failed to pay Plaintiff and class members all wages due including, but not limited to, overtime wages, minimum wages, and/or meal and rest period premiums, within the time periods specified by California Labor Code section 204.

111. Defendants' failure to pay Plaintiff and class members all wages due violates Labor Code section 204. Plaintiff and class members are therefore entitled to recover from Defendants the statutory penalty wages pursuant to California Labor Code section 210.

EIGHTH CAUSE OF ACTION

Violation of California Labor Code § 2802—Unpaid Business-Related Expenses (Against all Defendants)

112. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every allegation set forth above.

113. At all times herein set forth, California Labor Code section 2802 provides that an employer must reimburse employees for all necessary expenditures and losses incurred by the employee in the performance of his or her job. The purpose of Labor Code section 2802 is to prevent employers from passing off their cost of doing business and operating expenses on to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144 (2014). The applicable wage order, IWC Wage Order 7-2001, provides that: "[w]hen tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft."

114. During the relevant time period, Defendants, on a company-wide basis, expected Plaintiff and class members to report to work wearing clean uniforms, including uniform shirts emblazoned with Defendants' logo. This forced Plaintiff and class members to frequently wash their uniforms, and incur expenses for doing so. Due to the nature of his

1 work, Plaintiff's uniform would become stained with grease and/or acquire an unpleasant
2 odor, and Plaintiff would be required to wash these uniform shirts after almost every shift.

3 115. Defendants could have provided Plaintiff and class members with the actual
4 tools for use on the job, such as laundering services. Or, Defendants could have reimbursed
5 employees for the costs of their laundering expenses. Instead, Defendants passed these
6 operating costs off onto Plaintiff and class members. At all relevant times, Plaintiff did not
7 earn at least two (2) times the minimum wage.

8 116. Defendants' company-wide policy and/or practice of passing on their operating
9 costs to Plaintiff and class members violates California Labor Code section 2802. Defendants
10 have intentionally and willfully failed to reimburse Plaintiff and other class members for
11 necessary business-related expenses and costs.

12 117. Plaintiff and class members are entitled to recover from Defendants their
13 business-related expenses incurred during the course and scope of their employment, plus
14 interest.

15 **NINTH CAUSE OF ACTION**

16 **For Civil Penalties Pursuant to California Labor Code §§ 2698, *et seq.***

17 **(Against all Defendants)**

18 118. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
19 and every allegation set forth above.

20 119. California Labor Code §§ 2698, *et seq.* ("PAGA") permits Plaintiff to recover
21 civil penalties for the violation(s) of the Labor Code sections enumerated in Labor Code
22 section 2699.5. Section 2699.5 enumerates Labor Code sections 201, 202, 203, 204, 222.5,
23 226(a), 226.7, 510, 512(a), 551, 552, 1174(d), 1194, 1197, 1197.1, 1198, and 2802. Labor
24 Code section 2699.3(c) permits aggrieved employees, including Plaintiff, to recover civil
25 penalties for violations of those Labor Code sections not found in section 2699.5, including
26 sections 516 and 1182.12.

27 120. Defendants' conduct, as alleged herein, violates numerous sections of the
28 California Labor Code, including, but not limited to, the following:

- 1 (f) Violation of Labor Code sections 510, 1198, and the applicable IWC
2 wage order for Defendants' failure to compensate Plaintiff and other
3 aggrieved employees with all required overtime pay, as alleged herein;
- 4 (g) Violation of Labor Code sections 1182.12, 1194, 1197, 1197.1, 1198,
5 and the applicable IWC wage order for Defendants' failure to
6 compensate Plaintiff and other aggrieved employees with at least
7 minimum wages for all hours worked, as alleged herein;
- 8 (h) Violation of Labor Code sections 226.7, 512(a), 516, 1198, and the
9 applicable IWC Wage Order for Defendants' failure to provide Plaintiff
10 and other aggrieved employees with meal periods, as alleged herein;
- 11 (i) Violation of Labor Code sections 226.7, 516, 1198, and the applicable
12 IWC Wage Order for Defendants' failure to authorize and permit
13 Plaintiff and other aggrieved employees to take rest periods, as alleged
14 herein;
- 15 (j) Violation of Labor Code sections 226(a), 1198, and the applicable IWC
16 wage order for failure to provide accurate and complete wage statements
17 to Plaintiff and other aggrieved employees, as alleged herein;
- 18 (k) Violation of Labor Code sections 1174(d), 1198, and the applicable
19 IWC wage order for failure to maintain payroll records as alleged
20 herein;
- 21 (l) Violation of Labor Code sections 201, 202, and 203 for failure to pay
22 Plaintiff and other aggrieved employees all earned wages upon
23 termination, as alleged herein;
- 24 (m) Violation of Labor Code section 204 for failure to pay all earned wages
25 during employment to Plaintiff and other aggrieved employees, as
26 alleged herein;
- 27 (n) Violation of Labor Code section 222.5 for failing to compensate other
28 aggrieved employees for mandatory physical examinations and/or drug

testing, as set forth below;

(o) Violation of Labor Code section 551 and 552 for failure to provide other aggrieved employees one day's rest in seven, as set forth below;

(p) Violation of Labor Code section 1198 for failing to provide suitable seating to other aggrieved employees, as set forth below; and

(q) Violation of Labor Code section 2802 for failure to reimburse Plaintiff and other aggrieved employees for all business expenses necessarily incurred, as alleged herein.

121. At all relevant times herein, California Labor Code section 222.5 requires employers to pay for the costs an employee incurs for obtaining any required medical or physical examination.

122. During the relevant time period, Defendants implemented, on a company-wide basis, an employer-imposed requirement that other aggrieved employees undergo a mandatory physical examination and/or drug test, but required them to do so at their own expense. Upon information and belief, Defendants had a company-wide policy requiring that all employees travel to a specified medical facility using their own personal vehicles to undergo physical examinations and/or drug testing. At all times, Defendants were in control of scheduling the date and time for the examination and/or testing, selecting the provider/facility where the examination and/or testing was to take place, and determining the scope of the examination and/or testing.

123. However, Defendants did not compensate other aggrieved employees for the time they spent traveling to and from their drug tests and/or physical examinations, or for the time they spent undergoing the testing and/or examinations, or reimburse them for the travel expenses they incurred getting to and from the medical and/or testing facilities. Defendants' policy and/or practice of not paying for all costs other aggrieved employees incurred obtaining mandatory physical examinations and/or drug testing is in violation of California Labor Code section 222.5. Other aggrieved employees are therefore entitled to recover civil penalties pursuant to Labor Code sections 2699(a), (f), and (g).

1 124. At all relevant times herein, California Labor Code section 551 provides that
2 every person employed in any occupation of labor is entitled to one day's rest in seven.
3 Additionally, California Labor Code section 552 prohibits employers from requiring
4 employees to work more than six consecutive days without a day of rest.

5 125. At all relevant times herein, California Labor Code section 556 exempts an
6 employer from the day-of-rest requirement when the total hours worked by an employee do
7 not exceed 30 hours in any week or six hours in any one day thereof.

8 126. During the relevant time period, Defendants sometimes scheduled other
9 aggrieved employees to work eight (8) or more hours per day and seven (7) consecutive days
10 in a workweek. Because other aggrieved employees worked over 30 hours per week and over
11 six (6) hours per day in a workweek, they were not exempt from the day-of-rest requirement.
12 To the extent that other aggrieved employees may have signed purported waivers of their right
13 to a day's rest in seven, such waivers are invalid. Thus, during the relevant time period, and
14 in violation of Labor Code sections 551 and 552, Defendants willfully caused other aggrieved
15 employees to work more than six days in seven. Other aggrieved employees are therefore
16 entitled to recover civil penalties pursuant to Labor Code sections 2699(a), (f), and (g).

17 127. At all relevant times herein, California Labor Code section 1198 makes it
18 illegal to employ an employee under conditions of labor that are prohibited by the applicable
19 wage order. California Labor Code section 1198 requires that "... the standard conditions of
20 labor fixed by the commission shall be the ... standard conditions of labor for employees.
21 The employment of any employee ... under conditions of labor prohibited by the order is
22 unlawful."

23 128. California Code of Regulations, Title 8, section 11070(14)(A) provides that
24 "[a]ll working employees shall be provided with suitable seats when the nature of the work
25 reasonably permits the use of seats."

26 129. Defendants' California stores are generally similar in their layout and design
27 and there was, and continues to be, space behind cash wraps/counters to allow for the presence
28 and use of a seat or stool by other aggrieved employees (with reasonable or no modification to

1 these work areas) during the performance of their work duties. Defendants could provide
2 other aggrieved employees with a seat or stool at their cash wraps/counters, but instead denied
3 employees seating and forced other aggrieved employees to stand throughout the day.

4 130. Other aggrieved employees spent a substantial portion of their day at their
5 workstations. The nature of the work of other aggrieved employees performing
6 cashier/counter-cashier duties can reasonably be accomplished from a seated position.
7 However, as set forth herein, Defendants systematically, and on a company-wide basis, does
8 not provide seats or stools at or near cash wraps/counters, forcing other aggrieved employees
9 to stand throughout their work shifts.

10 131. During the relevant time period, Defendants violated California Labor Code
11 section 1198 and California Code of Regulations, Title 8, section 11070(14)(A) because other
12 aggrieved employees were not allowed to sit, even when it would not have interfered with the
13 performance of their duties, nor were they provided with suitable seats. Defendants'
14 management did not inform other aggrieved employees that they were allowed to sit down,
15 provide any means for them to sit down, or mention any policy regarding sitting.

16 132. As a result of Defendants' company-wide policy and/or practice of prohibiting
17 employees from sitting during their shifts and company-wide failure to provide suitable
18 seating, other aggrieved employees were forced to stand during shifts and denied seats.
19 Defendants' failure to provide suitable seating to other aggrieved employees violates
20 California Labor Code section 1198 and IWC Wage Order 7-2001, subdivision 14(A). Other
21 aggrieved employees are therefore entitled to recover civil penalties pursuant to Labor Code
22 sections 2699(a), (f), and (g).

23 133. At all relevant times herein, California Labor Code section 1198 makes it
24 illegal to employ an employee under conditions of labor that are prohibited by the applicable
25 wage order. California Labor Code section 1198 requires that "... the standard conditions of
26 labor fixed by the commission shall be the ... standard conditions of labor for employees.
27 The employment of any employee ... under conditions of labor prohibited by the order is
28 unlawful."

1 134. California Code of Regulations, Title 8, section 11070(14)(B) provides that
2 “[w]hen employees are not engaged in the active duties of their employment and the nature of
3 the work requires standing, an adequate number of suitable seats shall be placed in reasonable
4 proximity to the work area and employees shall be permitted to use such seats when it does
5 not interfere with the performance of their duties.”

6 135. During the relevant time period, Defendants violated California Labor Code
7 section 1198 and California Code of Regulations, Title 8, section 11070(14)(B), because
8 Plaintiff and other aggrieved employees were not provided with suitable seats in reasonable
9 proximity to their work areas and, therefore, effectively not allowed to sit, even during lulls in
10 their work duties.

11 136. As stated, Defendants’ California stores are generally similar in their layout and
12 design and there was, and continues to be, space near work areas (with reasonable or no
13 modification to these work areas) to allow for the presence and use of a seat or stool by
14 Plaintiff and other aggrieved employees during lulls in operation. Defendants could have
15 provided Plaintiff and other aggrieved employees with a seat or stool in their work areas, but
16 instead denied employees seating and forced Plaintiff and other aggrieved employees to stand
17 throughout the day.

18 137. Defendants did not provide Plaintiff and other aggrieved employees with seats
19 or stools in reasonable proximity to their work areas to allow them to use seats when it would
20 not interfere with the performance of their duties for times when they were not engaged in
21 active duties that require standing. In other words, to the extent Plaintiff and other aggrieved
22 employees engaged in duties in which the nature of the work required standing, Defendants
23 denied them the use of seats nearby during lulls in their work duties. Moreover, Defendants
24 did not inform Plaintiff and other aggrieved employees of their rights to a seat or stool under
25 California law.

26 138. As a result of Defendants’ company-wide policy and/or practice of prohibiting
27 employees from sitting at any time, even when they were not engaged in active duties
28 requiring standing, and company-wide failure to provide seats in reasonable proximity to their

1 work areas, Plaintiff and other aggrieved employees were forced to stand during shifts and
2 denied seats. Defendants' failure to provide suitable seating to Plaintiff and other aggrieved
3 employees violates California Labor Code section 1198 and IWC Wage Order 7-2001,
4 subdivision 14(B). Plaintiff and other aggrieved employees are therefore entitled to recover
5 civil penalties pursuant to Labor Code sections 2699(a), (f), and (g).

6 **TENTH CAUSE OF ACTION**

7 **Violation of California Business & Professions Code §§ 17200, *et seq.* –**

8 **Unlawful Business Practices**

9 **(Against all Defendants)**

10 139. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
11 and every allegation set forth above.

12 140. Defendants are "persons" as defined by California Business & Professions
13 Code sections 17201, as they are corporations, firms, partnerships, joint stock companies,
14 and/or associations.

15 141. Defendants' conduct, as alleged herein, has been, and continues to be, unfair,
16 unlawful and harmful to Plaintiff, class members, and to the general public. Plaintiff has
17 suffered injury in fact and has lost money as a result of Defendants' unlawful business
18 practices. Plaintiff seeks to enforce important rights affecting the public interest within the
19 meaning of Code of Civil Procedure section 1021.5.

20 142. Defendants' activities, as alleged herein, are violations of California law, and
21 constitute unlawful business acts and practices in violation of California Business &
22 Professions Code sections 17200, *et seq.*

23 143. A violation of California Business & Professions Code sections 17200, *et seq.*
24 may be predicated on the violation of any state or federal law. In the instant case, Defendants'
25 policies and practices have violated state law in at least the following respects:

- 26 (a) Requiring non-exempt, hourly paid employees, including Plaintiff and
27 class members, to work overtime without paying them proper
28 compensation in violation of California Labor Code sections 510 and

- 1198 and the applicable IWC Wage Order, as alleged herein;
- (b) Failing to pay at least minimum wage to Plaintiff and class members in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 and the applicable IWC Wage Order, as alleged herein;
- (c) Failing to provide uninterrupted meal periods to Plaintiff and class members in violation of California Labor Code sections 226.7, 512(a), 516, 1198, and the applicable IWC Wage Order, as alleged herein;
- (d) Failing to authorize and permit Plaintiff and class members to take uninterrupted rest periods in violation of California Labor Code sections 226.7, 516, 1198, and the applicable IWC Wage Order, as alleged herein;
- (e) Failing to provide Plaintiff and class members with accurate wage statements and failing to maintain accurate payroll records in violation of California Labor Code sections 226(a), 1174(d), 1198, and the applicable IWC Wage Order, as alleged herein;
- (f) Failing timely to pay all earned wages to Plaintiff and class members in violation of California Labor Code section 204 and the applicable IWC Wage Order, as alleged herein; and
- (g) Failing to reimburse Plaintiff and class members for all business expenses necessarily incurred in violation of California Labor Code sections 2802, as alleged herein.

144. As a result of the violations of California law herein described, Defendants unlawfully gained an unfair advantage over other businesses. Plaintiff and class members have suffered pecuniary loss by Defendants' unlawful business acts and practices alleged herein.

145. Pursuant to California Business & Professions Code sections 17200, *et seq.*, Plaintiff and class members are entitled to restitution of the wages withheld and retained by

1 Defendants during a period that commences four years prior to the filing of this complaint; a
2 permanent injunction requiring Defendants to pay all outstanding wages due to Plaintiff and
3 class members; and an award of attorneys' fees pursuant to California Code of Civil
4 Procedure section 1021.5 and other applicable laws; and an award of costs.

5 **ELEVENTH CAUSE OF ACTION**

6 **Violation of California Business & Professions Code §§ 17200, et seq. –**

7 **Unfair Business Practices**

8 **(Against all Defendants)**

9 146. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
10 and every allegation set forth above.

11 147. Defendants are “persons” as defined by California Business & Professions
12 Code sections 17201, as they are corporations, firms, partnerships, joint stock companies,
13 and/or associations.

14 148. Defendants’ conduct, as alleged herein, has been, and continues to be, unfair,
15 and harmful to Plaintiff, class members, and to the general public. Plaintiff has suffered
16 injury in fact and has lost money as a result of Defendants’ unfair business practices. Plaintiff
17 seeks to enforce important rights affecting the public interest within the meaning of Code of
18 Civil Procedure section 1021.5.

19 149. Defendants’ activities, namely Defendants’ company-wide practice and/or
20 policy of not paying Plaintiff and class members meal and rest period premiums due to them
21 under Labor Code section 226.7, deprived Plaintiff and class members of the compensation
22 guarantee and enhanced enforcement implemented by section 226.7. The statutory remedy
23 provided by section 226.7 is a “‘dual-purpose’ remedy intended primarily to compensate
24 employees, and secondarily to shape employer conduct.” *Safeway, Inc. v. Superior Court*, 238
25 Cal. App. 4th 1138, 1149 (2015). The statutory benefits of section 226.7 were guaranteed to
26 Plaintiff and class members as part of their employment with Defendants, and thus
27 Defendants’ practice and/or policy of denying these statutory benefits constitutes an unfair
28 business practice in violation of California Business & Professions Code sections 17200, *et*

1 *seq. (Id.)*

2 150. A violation of California Business & Professions Code sections 17200, *et seq.*
3 may be predicated on any unfair business practice. In the instant case, Defendants' policies
4 and practices have violated the spirit of California's meal and rest period laws and constitute
5 acts against the public policy behind these laws.

6 151. Pursuant to California Business & Professions Code sections 17200, *et seq.*,
7 Plaintiff and class members are entitled to restitution for the class-wide loss of the statutory
8 benefits implemented by section 226.7 withheld and retained by Defendants during a period
9 that commences four years prior to the filing of this complaint; a permanent injunction
10 requiring Defendants to pay all statutory benefits implemented by section 226.7 due to
11 Plaintiff and class members; an award of attorneys' fees pursuant to California Code of Civil
12 Procedure section 1021.5 and other applicable laws; and an award of costs.

13 **REQUEST FOR JURY TRIAL**

14 Plaintiff requests a trial by jury.

15 **PRAYER FOR RELIEF**

16 Plaintiff, on behalf of all others similarly situated, prays for relief and judgment
17 against Defendants, jointly and severally, as follows:

18 1. For damages, unpaid wages, penalties, injunctive relief, and attorneys' fees in
19 excess of twenty-five thousand dollars (\$25,000), exclusive of interest and costs. Plaintiff
20 reserves the right to amend his prayer for relief to seek a different amount.

21 **Class Certification**

- 22 2. That this case be certified as a class action;
23 3. That Plaintiff be appointed as the representative of the Class and Subclass;
24 4. That counsel for Plaintiff be appointed as class counsel.

25 **As to the First Cause of Action**

26 5. That the Court declare, adjudge, and decree that Defendants violated California
27 Labor Code sections 510 and 1198 and applicable IWC Wage Orders by willfully failing to
28 pay all overtime wages due to Plaintiff and class members;

6. For general unpaid wages at overtime wage rates and such general and special damages as may be appropriate;

7. For pre-judgment interest on any unpaid overtime compensation commencing from the date such amounts were due, or as otherwise provided by law;

8. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to California Labor Code section 1194(a); and

9. For such other and further relief as the Court may deem equitable and appropriate.

As to the Second Cause of Action

10. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 by willfully failing to pay minimum wages to Plaintiff and class members;

11. For general unpaid wages and such general and special damages as may be appropriate;

12. For pre-judgment interest on any unpaid compensation from the date such amounts were due, or as otherwise provided by law;

13. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to California Labor Code section 1194(a);

14. For liquidated damages pursuant to California Labor Code section 1194.2; and

15. For such other and further relief as the Court may deem equitable and appropriate.

As to the Third Cause of Action

16. That the Court declare, adjudge, and decree that Defendants violated California Labor Code sections 226.7, 512(a), 516, and 1198 and applicable IWC Wage Order(s) by willfully failing to provide all meal periods to Plaintiff and class members;

17. That the Court make an award to the Plaintiff and class members of one (1) hour of pay at each employee's regular rate of pay for each workday that a meal period was not provided;

1 18. For all actual, consequential, and incidental losses and damages, according to
2 proof;

3 19. For premiums pursuant to California Labor Code section 226.7(c);

4 20. For pre-judgment interest on any unpaid meal period premiums from the date
5 such amounts were due, or as otherwise provided by law;

6 21. For attorneys' fees pursuant to California Code of Civil Procedure section
7 1021.5, or as otherwise provided by law; and

8 22. For such other and further relief as the Court may deem equitable and
9 appropriate.

10 **As to the Fourth Cause of Action**

11 23. That the Court declare, adjudge and decree that Defendants violated California
12 Labor Code sections 226.7, 516, and 1198 and applicable IWC Wage Orders by willfully
13 failing to authorize and permit Plaintiff and class members to take all rest periods;

14 24. That the Court make an award to the Plaintiff and class members of one (1) hour
15 of pay at each employee's regular rate of pay for each workday that a rest period was not
16 authorized and permitted;

17 25. For all actual, consequential, and incidental losses and damages, according to
18 proof;

19 26. For premiums pursuant to California Labor Code section 226.7(c);

20 27. For pre-judgment interest on any unpaid rest period premiums from the date
21 such amounts were due, or as otherwise provided by law;

22 28. For attorneys' fees pursuant to California Code of Civil Procedure section
23 1021.5, or as otherwise provided by law; and

24 29. For such other and further relief as the Court may deem equitable and
25 appropriate.

26 **As to the Fifth Cause of Action**

27 30. That the Court declare, adjudge and decree that Defendants violated the
28 recordkeeping provisions of California Labor Code section 226(a) and applicable IWC Wage

1 Orders as to Plaintiff and Subclass members, and willfully failed to provide accurate itemized
2 wage statements thereto;

3 31. For all actual, consequential, and incidental losses and damages, according to
4 proof;

5 32. For injunctive relief pursuant to California Labor Code section 226(h);

6 33. For statutory penalties pursuant to California Labor Code section 226(e);

7 34. For attorneys' fees and costs pursuant to California Labor Code section
8 226(e)(1); and

9 35. For such other and further relief as the Court may deem equitable and
10 appropriate.

11 **As to the Sixth Cause of Action**

12 36. That the Court declare, adjudge and decree that Defendants violated California
13 Labor Code sections 201 and 202 by willfully failing to pay overtime wages, minimum wages,
14 and/or meal and rest period premiums, owed at the time of termination of the employment of
15 Plaintiff and other terminated class members;

16 37. For all actual, consequential and incidental losses and damages, according to
17 proof;

18 38. For waiting time penalties according to proof pursuant to California Labor
19 Code section 203 for all employees who have left Defendants' employ;

20 39. For pre-judgment interest on any unpaid wages from the date such amounts
21 were due, or as otherwise provided by law;

22 40. For attorneys' fees pursuant to California Code of Civil Procedure section
23 1021.5, or as otherwise provided by law; and

24 41. For such other and further relief as the Court may deem equitable and
25 appropriate.

26 **As to the Seventh Cause of Action**

27 42. That the Court declare, adjudge and decree that Defendants violated California
28 Labor Code section 204 by willfully failing to timely pay Plaintiff and class members

overtime wages, minimum wages, and/or meal and rest period premiums, during their employment;

43. For all actual, consequential and incidental losses and damages, according to proof;

44. For statutory penalties according to proof pursuant to California Labor Code section 210;

45. For pre-judgment interest on any unpaid wages from the date such amounts were due, or as otherwise provided by law;

46. For attorneys' fees pursuant to California Code of Civil Procedure section 1021.5, or as otherwise provided by law; and

47. For such other and further relief as the Court may deem equitable and appropriate.

As to the Eighth Cause of Action

48. That the Court declare, adjudge and decree that Defendants violated California Labor Code section 2802 by willfully failing to reimburse and/or indemnify all business-related expenses and costs incurred by Plaintiff and class members;

49. For unpaid business-related expenses and such general and special damages as may be appropriate;

50. For pre-judgment interest on any unpaid business-related expenses from the date such amounts were due, or as otherwise provided by law;

51. For all actual, consequential, and incidental losses and damages, according to proof;

52. For attorneys' fees and costs pursuant to California Labor Code section 2802(c), or as otherwise provided by law; and

53. For such other and further relief as the Court may deem equitable and appropriate.

As to the Ninth Cause of Action

54. That the Court declare, adjudge and decree that Defendants violated the

1 following California Labor Code provisions as to Plaintiff and/or other aggrieved employees:
2 510 and 1198 (by failing to pay all overtime compensation); 1182.12, 1194, 1197, 1197.1, and
3 1198 (by failing to pay at least minimum wages for all hours worked); 226.7, 512, 516, and
4 1198 (by failing to provide all meal periods); 226.7, 516, and 1198 (by failing to authorize and
5 permit all rest periods); 226(a), 1174(d), and 1198 (by failing to provide accurate wage
6 statements and maintain accurate payroll records); 201, 202, and 203 (by failing to timely pay
7 all earned wages upon termination); 204 (by failing to timely pay all earned wages during
8 employment); 222.5 (by failing to pay the cost of mandatory drug testing and/or physical
9 examinations); 551 and 552 (by failing to provide one day's rest in seven); 1198 (by failing to
10 provide suitable seating); and 2802 (by failing to reimburse business expenses);

11 55. For civil penalties pursuant to California Labor Code sections 210, 226.3, 256,
12 558, 1174.5, 1197.1, and/or 2699(a), (f) and (g), for violations of California Labor Code
13 sections 201, 202, 203, 204, 222.5, 226(a), 226.7, 510, 512(a), 516, 551, 552, 1174(d),
14 1182.12, 1194, 1197, 1197.1, 1198, and 2802;

15 56. For attorneys' fees and costs pursuant to California Labor Code section
16 2699(g)(1), and any and all other relevant statutes, for Defendant's violations of California
17 Labor Code sections 201, 202, 203, 204, 222.5, 226(a), 226.7, 510, 512(a), 516, 551, 552,
18 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, and 2802;

19 57. For pre-judgment and post-judgment interest as provided by law; and

20 58. For such other and further relief as the Court may deem equitable and
21 appropriate.

22 **As to the Tenth Cause of Action**

23 59. That the Court declare, adjudge and decree that Defendants' conduct of failing
24 to provide Plaintiff and class members all overtime wages due to them, failing to provide
25 Plaintiff and class members all minimum wages due to them, failing to provide Plaintiff and
26 class members all meal periods, failing to authorize and permit Plaintiff and class members to
27 take all rest periods, failing to provide Plaintiff and class members accurate and complete
28 wage statements, failing to maintain accurate payroll records for Plaintiff and class members,

1 failing to timely pay Plaintiff and class members all earned wages during employment, and
2 failing to reimburse Plaintiff and class members for business-related expenses, constitutes an
3 unlawful business practice in violation of California Business and Professions Code sections
4 17200, *et seq.*;

5 60. For restitution of unpaid wages to Plaintiff and all class members and
6 prejudgment interest from the day such amounts were due and payable;

7 61. For the appointment of a receiver to receive, manage and distribute any and all
8 funds disgorged from Defendants and determined to have been wrongfully acquired by
9 Defendants as a result of violations of California Business & Professions Code sections
10 17200, *et seq.*;

11 62. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
12 California Code of Civil Procedure section 1021.5; and

13 63. For such other and further relief as the Court may deem equitable and
14 appropriate.

15 **As to the Eleventh Cause of Action**

16 64. That the Court declare, adjudge and decree that Defendants' conduct of denying
17 Plaintiff and class members the statutory benefits guaranteed under section 226.7 constitutes
18 an unfair business practice in violation of California Business and Professions Code sections
19 17200, *et seq.*;

20 65. For restitution of the statutory benefits under section 226.7 unfairly withheld
21 from Plaintiff and class members and prejudgment interest from the day such amounts were
22 due and payable;

23 66. For the appointment of a receiver to receive, manage and distribute any and all
24 funds disgorged from Defendants and determined to have been wrongfully acquired by
25 Defendants as a result of violations of California Business & Professions Code sections
26 17200, *et seq.*;

27 67. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
28 California Code of Civil Procedure section 1021.5;

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68. For pre-judgment and post-judgment interest as provided by law; and

69. For such other and further relief as the Court may deem equitable and appropriate.

Dated: May 10, 2021

Respectfully submitted,

Capstone Law APC

Roxanna Tabatabaeepour

By: _____

Bevin Allen Pike
Orlando Villalba
Helga Hakimi
Roxanna Tabatabaeepour
Attorneys for Plaintiff Michael Vega

EXHIBIT 1

MAO SHIOKURA
310.712.8030 Direct
Mao.Shiokura@capstonelawyers.com

March 2, 2021

VIA ONLINE SUBMISSION

California Labor & Workforce Development Agency
ATTN: PAGA Administrator
(<https://dir.tfaforms.net/308>)

Subject: *Michael Vega v. Riebe's Auto Parts, LLC, et al.*

Dear PAGA Administrator:

This office represents Michael Vega in connection with his claims under the California Labor Code. Mr. Vega was an employee of RIEBE'S AUTO PARTS, LLC; RIEBE'S AUTOMOTIVE SUPPLY, INC.; and/or BI WAREHOUSING, INC. For the purpose of this letter, Mr. Vega collectively refers to these entities as "RIEBES."

The employers may be contacted directly at the addresses below:

RIEBE'S AUTO PARTS, LLC
5404 PACIFIC STREET
ROCKLIN CA 95677

RIEBE'S AUTOMOTIVE SUPPLY, INC.
126 IDAHO-MARYLAND RD
GRASS VALLEY CA 95945

BI WAREHOUSING, INC.
5404 PACIFIC ST
ROCKLIN CA 95677

Mr. Vega intends to seek civil penalties, attorney's fees, costs, and other available relief for violations of the California Labor Code, which are recoverable under sections 2698, *et seq.*, the Labor Code Private Attorneys General Act of 2004 ("PAGA"). Mr. Vega seeks relief on behalf of himself, the State of California, and other persons who are or were employed by RIEBES as a non-exempt, hourly paid employee in California and who received at least one wage statement ("aggrieved employees"). This letter is sent in compliance with the notice and reporting requirements of California Labor Code section 2699.3.

RIEBES employed Mr. Vega as an hourly paid, non-exempt employee from approximately August 2007 to September 2020. Mr. Vega worked for RIEBES as a Dispatcher/Puller/Warehouse employee at its store located in Citrus Heights, California. During his employment, Mr. Vega typically worked eight (8) hours per day, and five (5) days per week. At the time Mr. Vega's employment with RIEBES ended, he earned approximately \$13.00 per hour. His job duties included, without

limitation, locating and retrieving parts from within the store, compiling parts for shipment, and processing order payments.

RIEBES committed one or more of the following Labor Code violations against Mr. Vega, the facts and theories of which follow, making him an “aggrieved employee” pursuant to California Labor Code section 2699(c):¹

RIEBES’s Company-Wide and Uniform Payroll and HR Practices

RIEBE’S AUTO PARTS, LLC is a Georgia limited liability company, while RIEBE’S AUTOMOTIVE SUPPLY, INC. and BI WAREHOUSING, INC. are California corporations. Together, RIEBES owns and operates at least 22 automotive part stores throughout Northern California. Upon information and belief, RIEBES maintains a single, centralized Human Resources (HR) department at its corporate headquarters in Rocklin or Grass Valley, California, for all non-exempt, hourly paid employees working for RIEBES in California, including Mr. Vega and other aggrieved employees. At all relevant times, RIEBES issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in California, including Mr. Vega and other aggrieved employees, regardless of its location or position.

Upon information and belief, RIEBES maintains a centralized Payroll department at its corporate headquarters in Rocklin or Grass Valley, California, which processes payroll for all non-exempt, hourly paid employees working for RIEBES in California, including Mr. Vega and other aggrieved employees. Further, RIEBES issues the same formatted wage statements in the same manner for all non-exempt, hourly paid employees working in California, including Mr. Vega and other aggrieved employees, irrespective of their location, position, or manner in which each employee’s employment ended. In other words, RIEBES utilized the same methods and formulas when calculating wages due to Mr. Vega and other aggrieved employees in California.

Violation of California Labor Code §§ 510 and 1198 – Unpaid Overtime

California Labor Code sections 510 and 1198 and the applicable Industrial Welfare Commission (“IWC”) Wage Order require employers to pay employees working more than eight (8) hours in a day or more than forty (40) hours in a workweek at the rate of time-and-one-half (1½) times the regular rate of pay for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek. The applicable IWC Wage Order further provides that employers are required to pay employees working more than twelve (12) hours in a day overtime compensation at a rate of two (2) times their regular rate of pay. An employee’s regular rate of pay includes all remuneration for employment paid to, or on behalf of, the employee, including nondiscretionary bonuses and incentive pay.

¹ These facts, theories, and claims are based on Mr. Vega’s experience and counsel’s review of those records currently available relating to Mr. Vega’s employment. Discovery conducted in litigation of wage and hour claims such as these often reveals additional claims that the aggrieved employee was not initially aware of (because the aggrieved employee was not aware of the law’s requirements, the employer misinformed its employee of the law’s requirements, or because the employer effectively hid the violations). Thus, Mr. Vega reserves the right to supplement this letter with additional facts, theories, and claims if he becomes aware of them subsequent to the submission of this letter.

RIEBES willfully failed to pay all overtime wages owed to Mr. Vega and other aggrieved employees. During the relevant time period, Mr. Vega and other aggrieved employees were not paid overtime premiums for all of the hours they worked in excess of eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty (40) hours in a week, because all hours that they worked were not recorded.

Upon information and belief, RIEBES had, and continues to have, a company-wide policy and/or practice of requiring employees to complete work-related duties while off-the-clock due to the understaffing of its store locations. Upon information and belief, RIEBES required Mr. Vega and other aggrieved employees to complete their work-related duties outside of their scheduled shifts, but did not compensate them for this time. For example, two (2) times per week, Mr. Vega spent 15-20 minutes before the start of his scheduled shift preparing orders that had already started coming into the store. RIEBES did not compensate Mr. Vega and other aggrieved employees for this time spent working off-the-clock.

Additionally, as stated, RIEBES's policy and/or practice of understaffing its store locations while also requiring employees to meet strict deadlines for fulfilling customer orders, resulted in a failure to provide Mr. Vega and other aggrieved employees with adequate meal period coverage. RIEBES also had a practice of failing to schedule meal periods, which further caused Mr. Vega and other aggrieved employees to not be relieved of their duties for compliant meal periods. As a result of this lack of meal period coverage, on information and belief, Mr. Vega and other aggrieved employees were not always afforded uninterrupted 30-minute meal periods during shifts when they were entitled to receive a meal period.

RIEBES knew or should have known that as a result of these company-wide practices and/or policies, Mr. Vega and other aggrieved employees were performing their assigned duties before and after their shifts and during their meal periods, and were suffered or permitted to perform work for which they were not paid. Because Mr. Vega and other aggrieved employees worked shifts of eight (8) hours a day or more or forty (40) hours a week or more, some of this off-the-clock work qualified for overtime premium pay.

Furthermore, RIEBES did not pay other aggrieved employees the correct overtime rate for the recorded overtime hours that they generated. In addition to an hourly wage, RIEBES paid other aggrieved employees incentive pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the California Labor Code, RIEBES failed to incorporate all compensation, including incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, into the calculation of the regular rate of pay for purposes of calculating the overtime wage rate. Therefore, during times when other aggrieved employees worked overtime and received these other forms of pay, RIEBES failed to pay all overtime wages by paying a lower overtime rate than required.

Therefore, Mr. Vega and other aggrieved employees were not paid overtime wages for all of the overtime hours they actually worked, in violation of California Labor Code sections 510 and 1198. Mr. Vega and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 – Unpaid Minimum Wages

California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 require employers to pay employees the minimum wage fixed by the IWC. The payment of a lesser wage than the minimum so fixed is unlawful. Compensable work time is defined in Wage Order No. 7 as “the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.” Cal. Code. Regs. tit. 8, § 11070(2)(G) (defining “Hours Worked”).

As stated above, on information and belief, RIEBES required Mr. Vega and other aggrieved employees to complete work-related duties while off-the-clock, but did not compensate them for this time. Furthermore, on information and belief, due to RIEBES’s company-wide practice of understaffing and enforcing strict order deadlines, failure to schedule meal periods, and subsequent lack of meal period coverage, Mr. Vega and other aggrieved employees were impeded from taking all uninterrupted meal periods to which they were entitled and were required to work off-the-clock.

Moreover, RIEBES maintained and implemented a company-wide policy of requiring employees to travel to a medical facility on their own time and using their own personal vehicles or alternate transportation to undergo mandatory drug testing and/or physical examinations. At all times, RIEBES was in control of scheduling the date and time for the testing and/or physical examinations, selecting the provider or facility where the testing and/or physical examinations were to take place, and determining the scope of the testing and/or physical examinations. RIEBES gave other aggrieved employees strict instructions to undergo drug testing and/or physical examinations, and other aggrieved employees underwent the testing and/or examinations for the sole benefit of RIEBES. Other aggrieved employees were required to travel in their own personal vehicles or obtain alternate transportation and spend time undergoing RIEBES’s mandatory drug tests and/or physical examinations. However, RIEBES did not compensate other aggrieved employees for the time they spent traveling to and from the medical facilities and undergoing the mandatory drug testing and/or physical examinations.

Thus, RIEBES did not pay for all hours worked by Mr. Vega and other aggrieved employees. To the extent that these off-the-clock hours did not qualify for overtime premium payment, RIEBES did not pay at least minimum wages for those hours worked off-the-clock in violation of California Labor Code sections 1182.12, 1194, 1197, and 1197.1. Accordingly, RIEBES regularly failed to pay at least minimum wages to Mr. Vega and other aggrieved employees for all of the hours they worked in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1 and 1198.

Mr. Vega and other aggrieved employees are therefore entitled to recover civil penalties, attorney’s fees, costs, and interest thereon, pursuant to Labor Code sections 1197.1 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 – Failure to Provide Meal Periods

California Labor Code sections 226.7, 512(a), 516, 1198 and the applicable IWC Wage Order require employers to provide meal periods and to pay an employee one (1) additional hour of pay at the employee’s regular rate for each work day that a meal or rest period is not provided. Pursuant to Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order, an employer may not require, cause or permit an employee to work for a period of more than five (5) hours per day without

providing the employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee. Under California law, first meal periods must start after no more than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (Cal. 2012). Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order also require employers to provide a second meal period of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an employee one (1) additional hour of pay at the employee's regular rate, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

As set forth above, upon information and belief, RIEBES had, and continues to have, a company-wide policy and/or practice of understaffing its store locations while assigning strict order deadlines. Specifically, RIEBES required Mr. Vega and other aggrieved employees to prepare and ship customer stock orders within 1-2 days of receiving them. Adherence to these strict order deadlines resulted in Mr. Vega and other aggrieved employees having missed, late, and/or interrupted meal periods. These company-wide practices, combined with the failure to schedule meal periods, has resulted in a lack of meal period coverage and prevented Mr. Vega and other aggrieved employees from taking all timely, uninterrupted meal periods to which they were entitled.

RIEBES's practices and policies prevented Mr. Vega and other aggrieved employees from taking all compliant meal periods to which they were entitled. As a result, Mr. Vega and other aggrieved employees would be forced to work in excess of five (5) hours before taking a meal period and, at times, had their meal periods interrupted and/or had to forgo their meal periods altogether. For example, at least once per month, Mr. Vega was required to wait to take his meal period until his sixth hour of work, in order to complete all of the work-related duties assigned to him and meet the order deadlines. Specifically, Mr. Vega's timepunch records reflect that on February 2, February 9, February 16, and February 23, 2019, Mr. Vega took his meal periods after his fifth hour of work, but RIEBES did not pay him any meal period premiums.

In addition, during the relevant time period, other aggrieved employees worked shifts in excess of ten (10) hours without receiving an uninterrupted second 30-minute meal period. Mr. Vega and other aggrieved employees did not sign valid meal period waivers on days that they were entitled to meal periods and were not relieved of all duties.

RIEBES knew or should have known that as a result of its policies and practices, that Mr. Vega and other aggrieved employees were not actually relieved of all duties to take timely, uninterrupted meal periods. RIEBES further knew or should have known that it did not pay Mr. Vega and other aggrieved employees meal period premiums when meal periods were missed, late, short, and/or interrupted.

Furthermore, RIEBES engaged in a company-wide practice and/or policy of not paying all meal period premiums owed when compliant meal periods are not provided. Because of this practice and/or policy, Mr. Vega and other aggrieved employees have not received premium pay for missed, interrupted, or late meal periods. Alternatively, to the extent that RIEBES did pay other aggrieved employees premium pay for missed, late, and interrupted meal periods, RIEBES did not pay other aggrieved employees at the correct rate of pay for premiums because RIEBES systematically failed to include all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.

Accordingly, RIEBES failed to provide all meal periods in violation of California Labor Code sections 226.7, 512(a), 516, and 1198. Mr. Vega and other aggrieved employees are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 516, and 1198 – Failure to Authorize and Permit Rest Periods

California Labor Code sections 226.7, 516, 1198 and the applicable IWC Wage Order require employers to provide rest periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC. The applicable IWC Wage Order provides that "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period" and that the "rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof" unless the total daily work time is less than three and one-half (3½) hours.

To comply with its obligation to authorize and permit rest periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer must "relinquish any control over how employees spend their break time, and relieve their employees of all duties—including the obligation that an employee remain on call. A rest period, in short, must be a period of rest." *Augustus, et al. v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 269-270 (2016).

During the relevant time period, RIEBES regularly failed to authorize and permit Mr. Vega and other aggrieved employees to take a ten (10) minute rest period per each four (4) hour period worked or major fraction thereof. As with meal periods, RIEBES's company-wide practices, including understaffing and enforcement of order deadlines, prevented Mr. Vega and other aggrieved employees from being relieved of all duty in order to take compliant rest periods. RIEBES also failed to schedule rest periods, which, coupled with RIEBES's failure to provide adequate rest period coverage, further led to Mr. Vega and other aggrieved employees not being authorized and permitted to take rest periods.

Furthermore, upon information and belief, during the relevant time period, RIEBES maintained and implemented a company-wide on-premises rest period policy, which mandated that Mr. Vega and other aggrieved employees remain on the work premises during their rest periods. Upon information and belief, RIEBES's company-wide on-premises rest period policy prevented Mr. Vega and other aggrieved employees from being relieved of all duties for rest periods and caused them to perform work during rest periods.

As a result, Mr. Vega and other aggrieved employees would work shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without being permitted and authorized to take all ten (10) minute rest periods to which they were entitled. For example, Mr. Vega had to forego his rest periods altogether due to a lack of rest period coverage and to complete all the duties RIEBES assigned to him.

RIEBES also has engaged in a company-wide practice and/or policy of not paying all rest period premiums owed when compliant rest periods are not authorized and permitted. Alternatively, to the

extent that RIEBES did pay other aggrieved employees one (1) additional hour of premium pay for missed rest periods, RIEBES did not pay other aggrieved employees at the correct rate of pay for premiums because RIEBES failed to include all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.

Accordingly, RIEBES failed to authorize and permit all rest periods in violation of California Labor Code sections 226.7, 516, and 1198. Mr. Vega and other aggrieved employees are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226(a), 1174(d), and 1198 – Non-Compliant Wage Statements and Failure to Maintain Accurate Payroll Records

California Labor Code section 226(a) requires employers to make, keep and provide true, accurate, and complete employment records. RIEBES has not provided Mr. Vega and other aggrieved employees with properly itemized wage statements. Labor Code section 226(e) provides that if an employer fails to comply with providing an employee with properly itemized wages statements as set forth in 226(a), then the employee is entitled to recover the greater of all actual damages or \$50.00 for the initial pay period in which a violation occurs and \$100 per employee for each violation in a subsequent pay period, not to exceed \$4,000. Further, Labor Code section 226.3 provides that any employer who violates section 226(a) shall be subject to a civil penalty in the amount of \$250 per employee per violation in an initial citation and \$1,000 per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage statement or fails to keep the required records pursuant to Section 226(a).

During the relevant time period, RIEBES has knowingly and intentionally provided Mr. Vega and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. For example, RIEBES issued uniform wage statements to Mr. Vega and other aggrieved employees that fail to correctly list: gross wages earned; total hours worked; net wages earned; and all applicable hourly rates in effect during the pay period, including overtime rates of pay, and the corresponding number of hours worked at each hourly rate. Specifically, RIEBES violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

Because RIEBES did not record the time Mr. Vega and other aggrieved employees spent working off-the-clock, RIEBES did not list the correct amount of gross wages and net wages earned by Mr. Vega and other aggrieved employees in compliance with section 226(a)(1) and section 226(a)(5), respectively. For the same reason, RIEBES failed to accurately list the total number of hours worked by Mr. Vega and other aggrieved employees, in violation of section 226(a)(2), and failed to list the applicable hourly rates of pay in effect during the pay period and the corresponding accurate number of hours worked at each hourly rate, in violation of section 226(a)(9).

Furthermore, because RIEBES did not calculate other aggrieved employees' regular rate of pay correctly for purposes of paying overtime, RIEBES did not list the correct amount of gross wages in compliance with section 226(a)(1). For the same reason, RIEBES also failed to list the correct amount of net wages in violation of section 226(a)(5). RIEBES also failed to correctly list all applicable hourly rates in effect during the pay period, namely, correct overtime rates of pay and correct rates of pay for meal and rest premium wages, in violation of section 226(a)(9).

The wage statement deficiencies also include, among other things, failing to list the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; failing to

list all deductions; failing to list the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number; failing to list the name and address of the legal entity that is the employer; failing to list the inclusive dates of the period for which aggrieved employees were paid; and/or failing to state all hours worked as a result of not recording or stating the hours they worked off-the-clock.

California Labor Code section 1174(d) provides that “[e]very person employing labor in this state shall . . . [k]eep a record showing the names and addresses of all employees employed and the ages of all minors” and “[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. . . .” Labor Code section 1174.5 provides that employers are subject to a \$500 civil penalty if they fail to maintain accurate and complete records as required by section 1174(d). During the relevant time period, and in violation of Labor Code section 1174(d), RIEBES willfully failed to maintain accurate payroll records for Mr. Vega and other aggrieved employees showing the daily hours they worked and the wages paid thereto as a result of failing to record the off-the-clock hours that they worked.

California Labor Code section 1198 provides that the maximum hours of work and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the applicable IWC Wage Orders. Section 1198 further provides that “[t]he employment of any employees for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.” Pursuant to the applicable IWC Wage Order, employers are required to keep accurate time records showing when the employee begins and ends each work period and meal period. During the relevant time period, RIEBES failed, on a company-wide basis, to keep accurate records of work and meal period start and stop times for Mr. Vega and other aggrieved employees, in violation of section 1198. Furthermore, in light of RIEBES’s failure to provide other aggrieved employees with second 30-minute meal periods to which they were entitled, RIEBES kept no records of meal start and end times for second meal periods.

Because RIEBES failed to provide the correct net and gross wages earned, applicable rates of pay, and number of total hours worked on wage statements, Mr. Vega and other aggrieved employees have been prevented from verifying, solely from information on the wage statements themselves, that they were paid correctly and in full. Instead, Mr. Vega and other aggrieved employees have had to look to sources outside of the wage statements themselves and reconstruct time records to determine whether in fact they were paid correctly and the extent of underpayment, thereby causing them injury.

Mr. Vega and other aggrieved employees are entitled to recover civil penalties, attorney’s fees, costs, and interest thereon pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f)-(g).

Violation of California Labor Code § 204 – Failure to Timely Pay Wages During Employment

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following

month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. Alternatively, California Labor Code section 204 provides that the requirements of this section are deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of the payroll period.

During the relevant time period, RIEBES failed to pay Mr. Vega and other aggrieved employees all wages due to them, including, but not limited to, overtime wages, minimum wages, and/or meal and rest period premiums, within any time period specified by California Labor Code section 204.

Mr. Vega and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 210 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 201, 202, and 203 – Failure to Timely Pay Final Wages Upon Termination

California Labor Code sections 201, 202, and 203 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (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.

RIEBES willfully failed to pay Mr. Vega and other aggrieved employees who are no longer employed by RIEBES all their earned wages, including, but not limited to, overtime wages, minimum wages, and/or meal and rest period premiums, either at the time of discharge, or within seventy-two (72) hours of their leaving RIEBES's employ in violation of California Labor Code sections 201, 202, and 203.

Mr. Vega and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 256 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 222.5 – Failure to Pay for Costs of Mandatory Physical Exams and/or Drug Testing

At all times herein set forth, California Labor Code section 222.5 requires employers to pay for the costs an employee incurs for obtaining any required medical or physical examination.

During the relevant time period, RIEBES implemented, on a company-wide basis, an employer-imposed requirement that other aggrieved employees undergo mandatory drug testing and/or physical examinations, but required them to do so at their own expense. As stated, RIEBES had a company-wide policy requiring that other aggrieved employees travel to a specified medical facility on their own time and use their own means of transportation to undergo drug testing and/or physical examinations. At all times, RIEBES was in control of scheduling the date and time for the testing and/or examinations, selecting the provider/facility where the testing and/or examinations were to take place, and determining the scope of the testing and/or examinations.

However, RIEBES did not compensate other aggrieved employees for the time they spent traveling to and from the medical facilities, for the time they spent undergoing the drug testing and/or physical

examinations, or reimburse them for the travel expenses they incurred getting to and from the medical facilities. RIEBES's policy and/or practice of not paying for all costs other aggrieved employees incurred obtaining mandatory drug testing and/or physical examinations is in violation of California Labor Code section 222.5.

Other aggrieved employees are therefore entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

Violation of California Labor Code §§ 551 and 552 – Failure to Provide One Day's Rest in Seven

California Labor Code section 551 provides that every person employed in any occupation of labor is entitled to one day's rest in seven. California Labor Code section 552 prohibits employers from requiring employees to work more than six consecutive days without a day of rest. California Labor Code section 556 exempts an employer from the day-of-rest requirement when the total hours worked by an employee do not exceed 30 hours in any week or six hours in any one day thereof.

During the relevant time period, on information and belief, RIEBES scheduled other aggrieved employees to work eight (8) or more hours per day and more than seven (7) consecutive days in a workweek. Because other aggrieved employees worked over thirty (30) hours per week and over six (6) hours per day in a workweek, they were not exempt from the day-of-rest requirement. To the extent that other aggrieved employees signed purported waivers of their right to a day's rest in seven, such waivers are invalid.

Thus, RIEBES caused other aggrieved employees to work more than six days in seven, in violation of Labor Code sections 551 and 552. Other aggrieved employees are therefore entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 1198 and California Code of Regulations Title 8, Section 11070 Subdivision 14(A) – Failure to Provide Suitable Seating

California Labor Code section 1198 makes it illegal to employ an employee under conditions of labor that are prohibited by the applicable wage order. California Labor Code section 1198 requires that "... the standard conditions of labor fixed by the commission shall be the . . . standard conditions of labor for employees. The employment of any employee . . . under conditions of labor prohibited by the order is unlawful." California Code of Regulations, Title 8, section 11070(14)(A) provides that "[a]ll working employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats."

"The 'nature of the work' refers to an employee's tasks performed at a given location for which a right to a suitable seat is claimed, rather than a 'holistic' consideration of the entire range of an employee's duties anywhere on the jobsite during a complete shift. If the tasks being performed at a given location reasonably permit sitting, and provision of a seat would not interfere with performance of any other tasks that may require standing, a seat is called for." *Kilby v. CVS Pharmacy, Inc.*, 368 P.3d 554, 558 (Cal. 2016). "Whether the nature of the work reasonably permits sitting is a question to be determined objectively based on the totality of the circumstances. An employer's business judgment and the physical layout of the workplace are relevant but not dispositive factors. The inquiry focuses on the nature of the work, not an individual employee's characteristics." *Id.* The

burden of proof to show suitable seating is not available is on the employer. *Id.* at 568. In other words, the employer must show that compliance is “infeasible because no suitable seating exists.” *See id.*

RIEBES’s California stores are generally similar in their layout and design and there was, and continues to be, space behind cash wraps/counters to allow for the presence and use of a seat or stool by other aggrieved employees (with reasonable or no modification to these work areas) during the performance of their work duties. RIEBES could provide other aggrieved employees with a seat or stool at its cash wraps/counters, but instead denies employees seating and forces other aggrieved employees to stand throughout the day.

Other aggrieved employees spent a substantial portion of their day behind or at these cash wraps/counters. The nature of the work of an employee performing cashier/counter-cashier duties can reasonably be accomplished from a seated position. However, as set forth herein, RIEBES systematically, and on a company-wide basis, does not provide seats or stools at or near cash wraps/counters, forcing other aggrieved employees to stand throughout their work shifts.

RIEBES violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11070(14)(A) because other aggrieved employees were not allowed to sit, even when it would not have interfered with the performance of their duties, nor were they provided with suitable seats. RIEBES’s management did not inform other aggrieved employees that they were allowed to sit down, provide any means for them to sit down, or mention any policy regarding sitting.

As a result of RIEBES’s company-wide policy and/or practice of prohibiting employees from sitting during their shifts and company-wide failure to provide suitable seating, other aggrieved employees were forced to stand during shifts and denied seats. RIEBES’s failure to provide suitable seating to other aggrieved employees violates California Labor Code section 1198 and IWC Wage Order 7-2001, Section 14(A).

Other aggrieved employees are therefore entitled to recover civil penalties, attorney’s fees, costs, and interest thereon, and seek injunctive relief to bring RIEBES into compliance with California’s seating requirements, pursuant to Labor Code sections 1194.5 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 1198 and California Code of Regulations Title 8, Section 11070 Subdivision 14(B) – Failure to Provide Suitable Seating

California Labor Code section 1198 makes it illegal to employ an employee under conditions of labor that are prohibited by the applicable wage order. California Labor Code section 1198 requires that “. . . the standard conditions of labor fixed by the commission shall be the . . . standard conditions of labor for employees. The employment of any employee . . . under conditions of labor prohibited by the order is unlawful.” California Code of Regulations, Title 8, section 11070(14)(B) provides that “[w]hen employees are not engaged in the active duties of their employment and the nature of the work requires standing, an adequate number of suitable seats shall be placed in reasonable proximity to the work area and employees shall be permitted to use such seats when it does not interfere with the performance of their duties.”

The IWC states that section 14(B) applies during “lulls in operation” when an employee, while still on the job, is not then actively engaged in any duties. *Kilby v. CVS Pharmacy, Inc.*, 368 P.3d 554, 565 (Cal. 2016), citing IWC, 1976 Wage Orders, Summary of Basic Provisions, Seats. When taken

together, an employee is entitled to a seat under section 14(A) if his or her actual tasks at a discrete location make seated work feasible, while working there. *Id.* However, if other job duties take the employee to a different location where he or she must perform tasks requiring standing, the employee would be entitled to a seat under section 14(B) during “lulls in operation.” *Id.*

As stated, RIEBES’s California stores are generally similar in their layout and design and there was, and continues to be, space near their work areas (with reasonable or no modification to these work areas) to allow for the presence and use of a seat or stool by Mr. Vega and other aggrieved employees during lulls in operation. RIEBES could provide Mr. Vega and other aggrieved employees with a seat or stool in its work areas, but instead denies employees seating and forces Mr. Vega and other aggrieved employees to stand throughout the day.

RIEBES did not provide Mr. Vega and other aggrieved employees with seats or stools in reasonable proximity to their work areas to allow them to use seats when it would not interfere with the performance of their duties for times when they were not engaged in active duties that require standing. In other words, to the extent Mr. Vega and other aggrieved employees engaged in duties in which the nature of the work required standing, RIEBES denied them the use of seats nearby during lulls in their work duties. Moreover, RIEBES did not inform Mr. Vega and other aggrieved employees of their rights to a seat or stool under California law.

As a result of RIEBES’s company-wide policy and/or practice of prohibiting employees from sitting at any time, even when they were not engaged in active duties requiring standing, and company-wide failure to provide seats in reasonable proximity to their work areas, and Mr. Vega and other aggrieved employees were forced to stand during shifts and denied seats. RIEBES’s failure to provide suitable seating to Mr. Vega and other aggrieved employees violates California Labor Code section 1198 and IWC Wage Order 7-2001, Section 14(B).

Mr. Vega and other aggrieved employees are therefore entitled to recover civil penalties, attorney’s fees, costs, and interest thereon, and seek injunctive relief to bring RIEBES into compliance with California’s seating requirements, pursuant to Labor Code sections 1194.5 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 2802 – Unreimbursed Business Expenses

California Labor Code section 2802 requires employers to pay for all necessary expenditures and losses incurred by the employee in the performance of his or her job. The purpose of Labor Code section 2802 is to prevent employers from passing off their cost of doing business and operating expenses on to their employees. *Cochran v. Schwan’s Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144 (2014). The applicable wage order, IWC Wage Order 7-2001, provides that: “[w]hen tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft.”

During the relevant time period, RIEBES, on a company-wide basis, expected Mr. Vega and other aggrieved employees to report to work wearing clean uniforms, including uniform shirts emblazoned with RIEBES’s logo. This forced Mr. Vega and other aggrieved employees to wash their uniforms frequently and incur expenses for doing so. Due to the nature of his work, Mr. Vega’s uniform would become stained with grease and/or acquire an unpleasant odor, and Mr. Vega would be required to wash these uniform shirts after almost every shift.

Also, as stated, RIEBES had a company-wide policy of requiring other aggrieved employees to travel to utilize their own personal vehicles for work purposes, but failed to reimburse them for all costs of travel, including mileage. RIEBES required other aggrieved employees to utilize their own vehicles to travel to and from other RIEBES store locations in order to provide coverage for shifts or to attend trainings, but did not reimburse them for all of their travel expenses. Pursuant to RIEBES's written policy, other aggrieved employees are required to uniformly deduct 15 miles from their mileage totals that they report to RIEBES for mileage reimbursement, in order to account for their commutes to and from their home or base store, regardless of what their actual commuting distances are. Additionally, as stated, RIEBES had a company-wide policy of requiring other aggrieved employees to travel in their own personal vehicles to obtain mandatory drug testing and/or physical examinations, but did not reimburse them for their travel expenses, including mileage. At all times, RIEBES was in control of scheduling the date and time for the testing and/or physical examinations, selecting the provider or facility where the testing and/or physical examinations were to take place, and determining the scope of the testing and/or physical examinations. RIEBES gave other aggrieved employees strict instructions to obtain drug testing and/or physical examinations, and other aggrieved employees underwent the testing and/or physical examinations for the sole benefit of RIEBES. Although RIEBES required other aggrieved employees to use their own vehicles or obtain alternate transportation to carry out their work-related responsibilities, RIEBES failed to reimburse them for their travel expenses.

RIEBES could have provided Mr. Vega and other aggrieved employees with the actual tools required for use on the job, including company vehicles and access to laundering services. Or, RIEBES could have reimbursed employees for their mileage, travel, and laundering costs. Instead, RIEBES passed these operating costs off onto Mr. Vega and other aggrieved employees. At all relevant times, Mr. Vega and other aggrieved employees did not earn at least two (2) times the minimum wage.

Thus, RIEBES had, and continues to have, a company-wide policy and/or practice of not reimbursing employees for expenses necessarily incurred in violation of California Labor Code section 2802. Mr. Vega and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code section 2699(a), (f)-(g).

California Labor Code § 558(a)

California Labor Code section 558(a) provides "[a]ny employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid. . . . (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid. . . ." Labor Code section 558(c) provides that "[t]he civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law." RIEBES, at all relevant times, was an employer or person acting on behalf of an employer(s) who violated Mr. Vega's and other aggrieved employees' rights by violating various sections of the California Labor Code.

Accordingly, Mr. Vega seeks the remedies set forth in Labor Code section 558 for himself, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 1194.5, 2699(a), 2699.3(a) and 2699.3(c), 2699.5, and 558, Mr.

Vega, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties and injunctive relief for himself, all other aggrieved employees, and the State of California against RIEBES for violations of California Labor Code sections 201, 202, 203, 204, 222.5, 226(a), 226.7, 510, 512(a), 516, 551, 552, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, and 2802.

Therefore, on behalf of all aggrieved employees, Mr. Vega seeks all applicable civil penalties related to these violations of the California Labor Code pursuant to PAGA.

Thank you for your attention to this matter. If you have any questions, please contact me at the phone number or address below:

Mao Shiokura
Capstone Law APC
1875 Century Park East, Suite 1000
Los Angeles, CA 90067
(310) 556-4811

Best Regards,

A handwritten signature in black ink, appearing to read "Mao Shiokura", with a stylized flourish at the end.

Mao Shiokura

Copy: RIEBE'S AUTO PARTS, LLC (via U.S. Certified Mail); RIEBE'S AUTOMOTIVE SUPPLY, INC. (via U.S. Certified Mail); BI WAREHOUSING, INC. (via U.S. Certified Mail)



one
LAW APC
ry Park East, Ste 1000
s, CA 90067



7020 1290 0001 8879 1579

RIEBE'S AUTO PARTS, LLC
5404 PACIFIC STREET
ROCKLIN CA 95677

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RIEBE'S AUTO PARTS, LLC
5404 PACIFIC STREET
ROCKLIN CA 95677



9590 9402 1512 5362 2718 41

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- ☐ Adult Signature Restricted Delivery \$

Postage

\$ 1.63

Total Postage and Fees

\$ 7.93

Sent To

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5404 PACIFIC STREET
ROCKLIN CA 95677

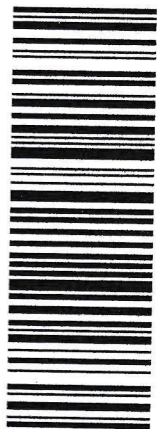
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Vega v. Riebe's Auto
Parts, LLC

PS Form 3800, April 2015 PSN 7530-02-000-9047

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CERTIFIED MAIL



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tone

LAW APC

1000
Park East, Ste 1000
S. CA 90067

RIEBE'S AUTOMOTIVE SUPPLY, INC.
126 IDAHO-MARYLAND RD
GRASS VALLEY CA 95945



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1. Article Addressed to:

RIEBE'S AUTOMOTIVE SUPPLY, INC.
126 IDAHO-MARYLAND RD
GRASS VALLEY CA 95945



9590 9402 1512 5362 2718 34

2. Article Number (Transfer from service label)

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- ☐ Agent
- ☐ Addressee

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C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
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3. Service Type

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- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail
- ☐ Insured Mail Restricted Delivery (over \$500)

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- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
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Extra Services & Fees (check box, add fee as appropriate)

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- ☐ Return Receipt (electronic) \$
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- ☐ Adult Signature Required \$
- ☐ Adult Signature Restricted Delivery \$

Postage

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Total Postage and Fees

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RIEBE'S AUTOMOTIVE SUPPLY, INC.

Street and Apt. No., 126 IDAHO-MARYLAND RD

City, State, ZIP+4® GRASS VALLEY CA 95945

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Vega V. Riebers
Automotive Supply
Inc.

PS Form 3800, April 2015 PSN 7530-02-000-9047

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BI WAREHOUSING, INC.
5404 PACIFIC ST
ROCKLIN CA 95677



9590 9402 1512 5362 2718 27

2. Article Number (Transfer from service label)

7020 1290 0001 8879 1562

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Domestic Return Receipt

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BI WAREHOUSING, INC.
5404 PACIFIC ST
ROCKLIN CA 95677

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Park East, Ste 1000
CA 90067

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☒ Return Receipt (hardcopy) \$ 2.80☐ Return Receipt (electronic) \$☐ Certified Mail Restricted Delivery \$☐ Adult Signature Required \$☐ Adult Signature Restricted Delivery \$

Postage

\$ 1.63

Total Postage and Fees

\$ 7.93

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BI WAREHOUSING, INC.

Street and Apt. No., 5404 PACIFIC ST

City, State, ZIP+4® ROCKLIN CA 95677

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Vega v. BI Warehouse
Inc.

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BI WAREHOUSING, INC.
5404 PACIFIC ST
ROCKLIN CA 95677



9590 9402 1512 5362 2718 27

2. Article Number (Transfer from service label)

7020 1290 0001 8879 1562

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A. Signature

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☐ Agent☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

Sams G. G. G. G.

3/5/21

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- | | |
|--|---|
| ☐ Adult Signature | ☐ Priority Mail Express® |
| ☐ Adult Signature Restricted Delivery | ☐ Registered Mail™ |
| ☒ Certified Mail® | ☐ Registered Mail Restricted Delivery |
| ☐ Certified Mail Restricted Delivery | ☐ Return Receipt for Merchandise |
| ☐ Collect on Delivery | ☐ Signature Confirmation™ |
| ☐ Collect on Delivery Restricted Delivery | ☐ Signature Confirmation Restricted Delivery |
| ☐ Insured Mail | |
| ☐ Insured Mail Restricted Delivery (over \$500) | |

Domestic Return Receipt

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1. Article Addressed to:

RIEBE'S AUTO PARTS, LLC
5404 PACIFIC STREET
ROCKLIN CA 95677



9590 9402 1512 5362 2718 41

2. Article Number (Transfer from service label)

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A. Signature

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☐ Agent☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

Sams G. G. G. G.

3/5/21

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

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|--|---|
| ☐ Adult Signature | ☐ Priority Mail Express® |
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| ☐ Insured Mail | |
| ☐ Insured Mail Restricted Delivery (over \$500) | |

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1. Article Addressed to:

RIEBE'S AUTOMOTIVE SUPPLY, INC.
126 IDAHO-MARYLAND RD
GRASS VALLEY CA 95945



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COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *[Signature]* CI

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☐ Addressee

B. Received by (Printed Name)

[Signature]

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D. Is delivery address different from item 1? ☐ Yes
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1 **PROOF OF SERVICE**

2 I am employed in the State of California, County of Los Angeles. I am over the age of 18
3 and not a party to the within suit; my business address is 1875 Century Park East, Suite 1000, Los Angeles, California 90067.

4 On **June 10, 2021** I served the document(s) described as: **FIRST AMENDED CLASS**
5 **ACTION COMPLAINT & ENFORCEMENT ACTION UNDER THE PRIVATE**
6 **ATTORNEYS GENERAL ACT, CALIFORNIA LABOR CODE §§ 2698, ET SEQ.** on the
interested parties in this action by sending [] the original [✓] a true copy thereof [✓] to
interested parties as follows [or] [] as stated on the attached service list:

7 Khaled Taqi-Eddin, (SBN: 220923)

8 Ktaqi-eddin@hpylaw.com

9 Solomon Pantuch, (SBN: 309458)

10 spantuch@hpylaw.com

11 HAWKINS PARNELL & YOUNG, LLP

12 1 Post Street, Suite 2400

San Francisco, CA 94104

Tel.: (415) 766-3200

Fax.: (415) 766-3250

Attorneys for Defendant

RIEBE'S AUTO PARTS, LLC,

RIEBE'S AUTOMOTIVE SUPPLY, INC,

AND BI WAREHOUSING, INC.

13 (X) **BY MAIL (ENCLOSED IN A SEALED ENVELOPE):** I deposited the envelope(s) for
14 mailing in the ordinary course of business at Los Angeles, California. I am "readily
15 familiar" with this firm's practice of collection and processing correspondence for mailing.
16 Under that practice, sealed envelopes are deposited with the U.S. Postal Service that same
day in the ordinary course of business with postage thereon fully prepaid at Los Angeles,
California.

17 () **BY ELECTRONIC SERVICE:** I caused the document(s) to be transmitted electronically
18 via One Legal eService to the individuals listed above, as they exist on that database. This
will constitute service of the documents(s)

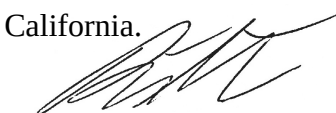
19 () **BY OVERNIGHT DELIVERY:** I am "readily familiar" with this firm's practice of
20 collection and processing correspondence for overnight delivery. Under that practice,
21 overnight packages are enclosed in a sealed envelope with a packing slip attached thereto
22 fully prepaid. The packages are picked up by the carrier at our offices or delivered by our
office to a designated collection site.

23 () **BY E-MAIL:** I hereby certify that this document was served from Los Angeles, California,
24 by e-mail delivery on the parties listed herein at their most recent known e-mail address or
e-mail of record in this action.

25 Executed on **June 10, 2021** at Los Angeles, California.

26 Riley McIntire

27 Type or Print Name



Signature