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individually, and on behalf of all others similarly situated.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN FRANCISCO

TATTIANA BENNETT WILLIAMS,
individually and on behalf of all others
similarly situated,

Plaintiff,

vs.

TREGO/DUGAN AVIATION OF GRAND
ISLAND, INC.; and DOES 1 through 20,
inclusive,

Defendants.

Case No. CGC-21-590239

*Assigned for All Purposes to:
Judge Samuel K. Feng; Dept. 610*

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR:**

1. Failure to Pay Minimum Wages;
2. Failure to Pay Overtime Wages;
3. Failure to Provide Meal Periods;
4. Failure to Permit Rest Breaks;
5. Failure to Provide Accurate Itemized Wage Statements;
6. Failure to Pay All Wages Due Upon Separation of Employment;
7. Failure to Reimburse Necessary Business Expenses; and
8. Violation of Business and Professions Code §§ 17200, *et seq.*
9. Enforcement of Labor Code § 2698 *et seq.* ("PAGA")

1 Plaintiff Tattiana Bennett Williams and Janira Pelmore, individually, and on behalf of
2 others similarly situated, alleges as follows:

3 **NATURE OF ACTION AND INTRODUCTORY STATEMENT**

4 1. Plaintiff Tattiana Bennett Williams and Janira Pelmore (collectively,
5 “Plaintiffs”) brings this putative class and representative action pursuant to the Private
6 Attorneys General Act of 2004, Cal. Lab. Code. § 2698 *et seq.*, against defendants
7 Trego/Dugan Aviation of Grand Island, Inc., a California corporation, and DOES 1 through 20,
8 inclusive (collectively, “Defendants”), on behalf of themselves individually, the State of
9 California, and California citizens who are and were employed by Defendants as non-exempt
10 employees throughout California.

11 2. Defendants are in the business of providing aviation services.

12 3. Through this action, Plaintiffs allege that Defendants have engaged in a
13 systematic pattern of wage and hour violations under the California Labor Code and Industrial
14 Welfare Commission (“IWC”) Wage Orders, all of which contribute to Defendants’ deliberate
15 unfair competition.

16 4. Plaintiffs are informed and believe, and thereon allege, that Defendants have
17 increased their profits by violating state wage and hour laws by, among other things:

- 18 (a) failing to pay all wages (including minimum wages and overtime
19 wages);
- 20 (b) failing to provide lawful meal periods or compensation in lieu thereof;
- 21 (c) failing to authorize or permit lawful rest breaks or provide compensation
22 in lieu thereof;
- 23 (d) failing to provide accurate itemized wage statements;
- 24 (e) failing to reimburse necessary business expenses; and
- 25 (f) failing to pay all wages due upon separation of employment.

26 5. Plaintiffs seek monetary relief against Defendants on behalf of themselves and
27 all others similarly situated in California to recover, among other things, unpaid wages and
28 benefits, interest, attorneys’ fees, costs and expenses, and penalties pursuant to Labor Code §§

201, 202, 203, 204, 210, 226, 226.3, 226.7, 510, 512, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1198, 2800, 2802, and Code of California Civil Procedure § 1021.5. Plaintiff also seeks civil penalties pursuant to PAGA.

JURISDICTION AND VENUE

6. This is a class action pursuant to California Code of Civil Procedure § 382. The monetary damages and restitution sought by Plaintiffs exceed the minimal jurisdictional limits of the Superior Court and will be established according to proof at trial.

7. This Court has jurisdiction over this action pursuant to the California Constitution, Article VI, § 10, which grants the Superior Court original jurisdiction in all causes, except those given by statutes to other courts. The statutes under which this action is brought do not specify any other basis for jurisdiction.

8. This Court has jurisdiction over all Defendants because, upon information and belief, they are citizens of California, have sufficient minimum contacts in California, or otherwise intentionally avail themselves of the California market so as to render the exercise of jurisdiction over them by the California courts consistent with traditional notions of fair play and substantial justice.

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

THE PARTIES

10. Plaintiffs are residents of California and worked for Defendants in California during the relevant time periods as alleged herein.

11. Plaintiffs are informed and believe, and thereon allege that at all times hereinafter mentioned, Defendants were and are subject to the Labor Code and IWC Wage Orders as employers, whose employees were and are engaged throughout this county and the State of California.

12. Plaintiffs are unaware of the true names or capacities of the defendants sued herein under the fictitious names DOES 1 through 20, but will seek leave of this Court to

1 amend this Complaint and serve such fictitiously named defendants once their names and
2 capacities become known. Plaintiffs are informed and believe, and thereon allege, that DOES 1
3 through 20 are or were the partners, agents, owners, shareholders, managers, or employees of
4 Defendants at all relevant times.

5 13. Plaintiffs are informed and believe, and thereon allege, that each defendant acted
6 in all respects pertinent to this action as the agent of the other defendant, carried out a joint
7 scheme, business plan, or policy in all respects pertinent hereto, and the acts of each defendant
8 are legally attributable to the other defendant. Furthermore, defendants in all respects acted as
9 the employer and/or joint employer of Plaintiff and the class members.

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

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

19 16. Plaintiffs are informed and believe, and thereon allege, that each of said
20 Defendants is in some manner intentionally, negligently, or otherwise responsible for the acts,
21 omissions, occurrences, and transactions alleged herein.

22 **CLASS ACTION ALLEGATIONS**

23 17. Plaintiffs bring this action under Code of Civil Procedure § 382 on behalf of
24 themselves and all others similarly situated who were affected by Defendants' Labor Code,
25 Business and Professions Code §§ 17200, and IWC Wage Order violations.

26 18. All claims alleged herein arise under California law for which Plaintiffs seek
27 relief authorized by California law.

28 19. Plaintiffs proposed class consists of and is defined as follows:

1 Class

2 All California citizens currently or formerly employed by Defendants as non-
3 exempt in the State of California at any time between September 20, 2016¹ and
4 the date the class is certified (“Class”).

5 20. Plaintiffs also seeks to certify the following subclass of employees:

6 Waiting Time Subclass

7 All Class Members who separated their employment with Defendants at any time
8 between September 20, 2017 and the date the class is certified (“Subclass” or
9 “Waiting Time Subclass”).

10 21. Plaintiffs reserve the right to modify or re-define the Class, establish additional
11 subclasses, or modify or re-define any class or subclass definition as appropriate based on
12 investigation, discovery, and specific theories of liability.

13 22. Members of the Class and the Subclass described above will be collectively
14 referred to as “Class Members.”

15 23. There are common questions of law and fact as to the Class Members that
16 predominate over any questions affecting only individual members including, but not limited to,
17 the following:

18 (a) Whether Defendants failed to pay Plaintiffs and Class Members all
19 wages (including minimum wages and overtime wages) for all hours
20 worked by Plaintiffs and Class Members.

21 (b) Whether Defendants required Plaintiffs and Class Members to work over
22 eight (8) hours per day, over twelve (12) hours per day, over forty (40)
23 hours per week, and/or seven (7) consecutive days and failed to pay them
24 overtime compensation at the proper rate.

25
26
27 _____
28 ¹ The statute of limitations for this matter was tolled between April 6, 2020 and October 1, 2020,
 pursuant to Cal. Rules of Court, Appendix I, Emergency Rule No. 9.

- 1 (c) Whether Defendants deprived Plaintiffs and Class Members of timely
2 meal periods or required Plaintiffs and Class Members to work through
3 meal periods without proper compensation.
- 4 (d) Whether Defendants deprived Plaintiffs and Class Members of rest
5 breaks or required Plaintiffs and Class Members to work through rest
6 breaks without proper compensation.
- 7 (e) Whether Defendants failed to provide Plaintiffs and Class Members
8 accurate itemized wage statements.
- 9 (f) Whether Defendants failed to timely pay the Waiting Time Subclass all
10 wages due upon termination or within seventy-two (72) hours of
11 resignation.
- 12 (g) Whether Defendants required Plaintiffs and Class Members to incur
13 business expenses without reimbursing them.
- 14 (h) Whether Defendants' conduct was willful or reckless.
- 15 (i) Whether Defendants engaged in unfair business practices in violation of
16 Business and Professions Code §§ 17200, *et seq.*

17 24. There is a well-defined community of interest in this litigation and the proposed
18 Class and Subclass are readily ascertainable:

19 (a) Numerosity: The Class Members are so numerous that joinder of all
20 members is impractical. Although the members of the entire Class and Subclass are unknown
21 to Plaintiffs at this time, on information and belief, the class is estimated to be greater than
22 twenty-five (25) individuals. The identities of the Class Members are readily ascertainable by
23 inspection of Defendants' employment and payroll records.

24 (b) Typicality: The claims (or defenses, if any) of Plaintiffs are typical of the
25 claims (or defenses, if any) of the Class Members because Defendants' failure to comply with
26 the provisions of California's wage and hour laws entitled each Class Member to similar pay,
27 benefits, and other relief. The injuries sustained by Plaintiffs are also typical of the injuries
28

1 sustained by the Class Members because they arise out of and are caused by Defendants'
2 common course of conduct as alleged herein.

3 (c) Adequacy: Plaintiffs will fairly and adequately represent and protect the
4 interests of all Class Members because it is in their best interest to prosecute the claims alleged
5 herein to obtain full compensation and penalties due to them and the Class Members. Plaintiffs'
6 attorneys, as proposed class counsel, are competent and experienced in litigating large
7 employment class actions and versed in the rules governing class action discovery,
8 certification, and settlement. Plaintiffs have incurred and, throughout the duration of this action,
9 will continue to incur attorneys' fees and costs that have been and will be necessarily expended
10 for the prosecution of this action for the substantial benefit of the Class Members.

11 (d) Superiority: The nature of this action makes use of class action
12 adjudication superior to other methods. A class action will achieve economies of time, effort,
13 and expense as compared with separate lawsuits and will avoid inconsistent outcomes because
14 the same issues can be adjudicated in the same manner for the entire Class and Subclass at the
15 same time. If appropriate, this Court can, and is empowered to, fashion methods to efficiently
16 manage this case as a class action.

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

24 **GENERAL ALLEGATIONS**

25 25. At all relevant times mentioned herein, Defendants employed Plaintiffs and
26 other California residents as non-exempt employees at Defendants' California business
27 location(s).
28

1 26. Defendant employed Plaintiff as a non-exempt employee at Defendants'
2 California business location.

3 27. Defendants continue to employ non-exempt employees within California.

4 28. Plaintiffs are informed and believe, and thereon allege, that at all times herein
5 mentioned, Defendants were advised by skilled lawyers, employees, and other professionals
6 who were knowledgeable about California's wage and hour laws, employment and personnel
7 practices, and the requirements of California law.

8 29. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
9 should have known that Plaintiffs and Class Members were entitled to receive wages for all
10 time worked (including minimum wages and overtime wages) and that they were not receiving
11 all wages earned for work that was required to be performed. In violation of the Labor Code
12 and IWC Wage Orders, Plaintiffs and Class Members were not paid all wages (including
13 minimum wages and overtime wages) for all hours worked.

14 30. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
15 should have known that Plaintiffs and Class Members were entitled to receive all required meal
16 periods or payment of one (1) additional hour of pay at Plaintiffs' and Class Members' regular
17 rate of pay when they did not receive a timely, uninterrupted meal period. In violation of the
18 Labor Code and IWC Wage Orders, Plaintiffs and Class Members did not receive all meal
19 periods or payment of one (1) additional hour of pay at Plaintiffs' and Class Members' regular
20 rate of pay when they did not receive a timely, uninterrupted meal period.

21 31. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
22 should have known that Plaintiffs and Class Members were entitled to receive all rest breaks or
23 payment of one (1) additional hour of pay at Plaintiffs' and Class Members' regular rate of pay
24 when a rest break was missed. In violation of the Labor Code and IWC Wage Orders, Plaintiffs
25 and Class Members did not receive all rest breaks or payment of one (1) additional hour of pay
26 at Plaintiffs' and Class Members' regular rate of pay when a rest break was missed.

27 32. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
28 should have known that Plaintiffs and Class Members were entitled to receive itemized wage

1 statements that accurately showed the following information pursuant to the Labor Code: (1)
2 gross wages earned; (2) total hours worked by the employee; (3) the number of piece-rate units
3 earned and any applicable piece rate if the employee is paid on a piece-rate basis; (4) all
4 deductions, provided that all deductions made on written orders of the employee may be
5 aggregated and shown as one item; (5) net wages earned; (6) the inclusive dates of the period
6 for which the employee is paid; (7) the name of the employee and only the last four digits of his
7 or her social security number or an employee identification number other than a social security
8 number; (8) the name and address of the legal entity that is the employer; and (9) all applicable
9 hourly rates in effect during the pay period and the corresponding number of hours worked at
10 each hourly rate by the employee. In violation of the Labor Code, Plaintiffs and Class Members
11 were not provided with accurate itemized wage statements.

12 33. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
13 should have known that the Waiting Time Subclass was entitled to timely payment of wages
14 due upon separation of employment. In violation of the Labor Code, the Waiting Time Subclass
15 did not receive payment of all wages within permissible time periods.

16 34. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
17 should have known that Plaintiffs and class members were entitled to reimbursement for
18 necessary expenditures incurred in connection with the performance and execution of their job
19 duties. In violation of the California Labor Code, Plaintiffs and Class Members did not receive
20 adequate reimbursement for necessary business expenses, including but not limited to
21 reimbursement for personal cell phone use.

22 35. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
23 should have known they had a duty to compensate Plaintiffs and Class Members, and
24 Defendants had the financial ability to pay such compensation but willfully, knowingly, and
25 intentionally failed to do so in order to increase Defendants' profits.

26 36. Therefore, Plaintiffs bring this lawsuit seeking monetary and injunctive relief
27 against Defendants on behalf of themselves and all Class Members to recover, among other
28 things, unpaid wages (including minimum wages and overtime wages), unpaid meal period

1 premium payments, unpaid rest period premium payments, interest, attorneys' fees, penalties,
2 costs, and expenses.

3 **FIRST CAUSE OF ACTION**

4 **FAILURE TO PAY MINIMUM WAGES**

5 (Violation of Labor Code §§ 1182.12, 1194, 1194.2, and 1197;

6 Violation of IWC Wage Order §3-4)

7 37. Plaintiffs hereby re-allege and incorporate by reference all paragraphs above as
8 though fully set forth herein.

9 38. Labor Code §§ 1194 and 1197 provide that the minimum wage for employees
10 fixed by the IWC is the minimum wage to be paid to employees, and the payment of a lesser
11 wage than the minimum so fixed is unlawful.

12 39. During the relevant time period, Defendants paid Plaintiffs and Class Members
13 less than minimum wages when they failed to pay proper compensation for all hours worked,
14 including time worked during missed and/or interrupted meal periods as herein alleged. To the
15 extent these hours do not qualify for the payment of overtime, Plaintiffs and Class Members
16 were not being paid at least the lawful minimum wage for their work.

17 40. During the relevant time period, Defendants regularly failed to pay at least
18 minimum wage to Plaintiffs and Class Members for all hours worked pursuant to Labor Code
19 §§ 1194 and 1197.

20 41. Defendants' failure to pay Plaintiffs and Class Members the required minimum
21 wage violates Labor Code §§ 1194 and 1197. Pursuant to these sections, Plaintiffs and Class
22 Members are entitled to recover the unpaid balance of their minimum wage compensation as
23 well as interest, costs, and attorneys' fees.

24 42. Pursuant to Labor Code § 1194.2, Plaintiffs and Class Members are entitled to
25 recover liquidated damages in an amount equal to the wages unlawfully unpaid and the accrued
26 interest thereon.

27 **SECOND CAUSE OF ACTION**

28 **FAILURE TO PAY OVERTIME**

(Violation of Labor Code §§ 510, 1194, and 1198; Violation of IWC Wage Order § 3)

43. Plaintiffs hereby re-allege and incorporate by reference all paragraphs above as though fully set forth herein.

44. Labor Code § 1198 and the applicable IWC Wage Order provide that it is unlawful to employ persons without compensating them at a rate of pay either one and one-half ($1\frac{1}{2}$) or two (2) times the person's regular rate of pay, depending on the number of hours or days worked by the person on a daily or weekly basis.

45. Specifically, the applicable IWC Wage Orders provide that Defendants are and were required to pay overtime compensation to Plaintiffs and Class Members at the rate of one and one-half times ($1\frac{1}{2}$) their regular rate of pay when working and for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek and for the first eight (8) hours of work on the seventh day of work in a workweek.

46. The applicable IWC Wage Orders further provide that Defendants are and were required to pay overtime compensation to Plaintiffs and Class Members at a rate of two times their regular rate of pay when working and for all hours worked in excess of twelve (12) hours in a day or in excess of eight (8) hours on the seventh day of work in a workweek.

47. California Labor Code § 510 codifies the right to overtime compensation at one and one-half ($1\frac{1}{2}$) times the regular hourly rate for hours worked in excess of eight (8) hours in a day or forty (40) hours in a week and for the first eight (8) hours worked on the seventh consecutive day of work, and overtime compensation at twice the regular hourly rate for hours worked in excess of twelve (12) hours in a day or in excess of eight (8) hours in a day on the seventh day of work in a workweek.

48. Labor Code § 510 and the applicable IWC Wage Orders provide that employment of more than six days in a workweek is only permissible if the employer pays proper overtime compensation as set forth herein.

49. Plaintiffs and Class Members were non-exempt employees entitled to the protections of California Labor Code §§ 510 and 1194.

50. During the relevant time period, Defendants required Plaintiffs and Class Members to work in excess of eight (8) hours in a day, forty (40) hours in a week, and/or for a seventh consecutive day in a workweek without paying Plaintiffs and Class Members proper overtime wages for their work.

51. During the relevant time period, Defendants failed to pay Plaintiffs and Class Members overtime wages for all overtime hours worked when Plaintiffs and Class Members worked in excess of eight (8) hours in a day, forty (40) hours in a week and/or for a seventh consecutive day of work in a workweek, or when Plaintiffs and Class Members worked in excess of twelve (12) hours in a day and/or in excess of eight (8) hours on the seventh day of work in a work week. Plaintiffs and Class Members were required to work off-the-clock, which caused Plaintiffs and Class Members to not be paid the correct amount of overtime wages. Further, Defendant failed to include bonuses in the overtime rate paid to Plaintiffs and Class Members.

52. In violation of state law, Defendants knowingly and willfully refused to perform their obligations and compensate Plaintiffs and Class Members for all wages earned and all hours worked.

53. Defendants' failure to pay Plaintiffs and Class Members the unpaid balance of overtime and double time compensation, as required by California law, violates the provisions of Labor Code §§ 510 and 1198, and is therefore unlawful.

54. Pursuant to Labor Code § 1194, Plaintiffs and Class Members are entitled to recover their unpaid overtime and double time compensation as well as interest, costs, and attorneys' fees.

THIRD CAUSE OF ACTION

FAILURE TO PROVIDE MEAL PERIODS

(Violation of Labor Code §§ 226.7 and 512; Violation of IWC Wage Order § 11)

55. Plaintiffs hereby re-allege and incorporate by reference all paragraphs above as though fully set forth herein

1 56. Labor Code § 226.7 provides that no employer shall require an employee to work
2 during any meal period mandated by the IWC Wage Orders.

3 57. Section 11 of the applicable IWC Wage Order states, “[n]o employer shall
4 employ any person for a work period of more than five (5) hours without a meal period of not
5 less than 30 minutes, except that when a work period of not more than six (6) hours will
6 complete the day’s work the meal period may be waived by mutual consent of the employer and
7 the employee.”

8 58. Labor Code § 512(a) provides that an employer may not require, cause, or permit
9 an employee to work for a period of more than five (5) hours per day without providing the
10 employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if
11 the total work period per day of the employee is not more than six (6) hours, the meal period
12 may be waived by mutual consent of both the employer and the employee.

13 59. Labor Code § 512(a) also provides that an employer may not employ an
14 employee for a work period of more than ten (10) hours per day without providing the employee
15 with a second meal period of not less than thirty (30) minutes, except that if the total hours
16 worked is no more than twelve (12) hours, the second meal period may be waived by mutual
17 consent of the employer and the employee only if the first meal period was not waived.

18 60. During the relevant time period, Plaintiffs and Class Members did not receive
19 compliant meal periods for working more than five (5) and/or ten (10) hours per day because
20 their meal periods were missed, late, short, interrupted, and/or they were not permitted to take a
21 second meal period.

22 61. Labor Code § 226.7(b) and section 11 of the applicable IWC Wage Order
23 requires an employer to pay an employee one (1) additional hour of pay at the employee’s
24 regular rate of compensation for each work day that a compliant meal period is not provided.

25 62. At all relevant times, Defendants failed to pay Plaintiffs and Class Members
26 meal period premiums for missed, late, short, and/or interrupted meal periods pursuant to Labor
27 Code § 226.7(b) and section 11 of the applicable IWC Wage Order.

28

63. As a result of Defendants' failure to pay Plaintiffs and Class Members an additional hour of pay for each day a compliant meal period was not provided, Plaintiffs and Class Members suffered and continue to suffer a loss of wages and compensation.

FOURTH CAUSE OF ACTION

FAILURE TO PERMIT REST BREAKS

(Violation of Labor Code §§ 226.7; Violation of IWC Wage Order § 12)

64. Plaintiffs hereby re-allege and incorporate by reference all paragraphs above as though fully set forth herein.

65. Labor Code § 226.7(a) provides that no employer shall require an employee to work during any rest period mandated by the IWC Wage Orders.

66. Section 12 of the applicable IWC Wage Order states "[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 the "[a]uthorized 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.

67. During the relevant time period, Plaintiffs and Class Members did not receive a ten (10) minute rest period for every four (4) hours or major fraction thereof worked because they were required to work through their daily rest periods, were not permitted to take timely rest periods, and/or were not authorized to take their rest periods.

68. Labor Code § 226.7(b) and section 12 of the applicable IWC Wage Order requires an employer to pay an employee one (1) additional hour of pay at the employee's regular rate of compensation for each work day that a compliant rest period is not provided.

69. At all relevant times, Defendants failed to pay Plaintiffs and Class Members rest period premiums for missed, late, and/or interrupted rest periods pursuant to Labor Code § 226.7(b) and section 12 of the applicable IWC Wage Order.

70. As a result of Defendants' failure to pay Plaintiffs and Class Members an additional hour of pay for each day a compliant rest period was not provided, Plaintiffs and Class Members suffered and continue to suffer a loss of wages and compensation.

1 **FIFTH CAUSE OF ACTION**

2 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**

3 (Violation of Labor Code § 226)

4 71. Plaintiffs hereby re-allege and incorporate by reference all paragraphs above as
5 though fully set forth herein.

6 72. Labor Code § 226(a) requires Defendants to provide each employee with an
7 accurate wage statement in writing showing nine pieces of information, including, the
8 following: (1) gross wages earned, (2) total hours worked by the employee, (3) the number of
9 piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate
10 basis, (4) all deductions, provided that all deductions made on written orders of the employee
11 may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the
12 period for which the employee is paid, (7) the name of the employee and the last four digits of
13 his or her social security number or an employee identification number other than a social
14 security number, (8) the name and address of the legal entity that is the employer, and (9) all
15 applicable hourly rates in effect during the pay period and the corresponding number of hours
16 worked at each hourly rate by the employee.

17 73. During the relevant time period, Defendants have knowingly and intentionally
18 failed to comply with Labor Code § 226(a) on wage statements that were provided to Plaintiffs
19 and Class Members. Defendants provided Plaintiffs and Class Members with wage statements
20 that were missing or inaccurately stated one or more of the following items: (1) gross wages
21 earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and
22 any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions,
23 provided that all deductions made on written orders of the employee may be aggregated and
24 shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the
25 employee is paid, (7) the name of the employee and the last four digits of his or her social
26 security number or an employee identification number other than a social security number, (8)
27 the name and address of the legal entity that is the employer, and/or (9) all applicable hourly
28

1 rates in effect during the pay period and the corresponding number of hours worked at each
2 hourly rate by the employee.

3 74. As a result of Defendants' knowing and intentional failure to comply with Labor
4 Code § 226(a), Plaintiffs and Class Members have suffered injury and damage to their
5 statutorily-protected rights. Specifically, Plaintiffs and Class Members are deemed to suffer an
6 injury pursuant to Labor Code § 226(e) where, as here, Defendants intentionally violated Labor
7 Code § 226(a). Plaintiffs and Class Members were denied both their legal right to receive, and
8 their protected interest in receiving, accurate itemized wage statements under Labor Code
9 § 226(a). In addition, because Defendants failed to provide the accurate rates of pay on wage
10 statements, Defendants prevented Plaintiffs and Class Members from determining if all hours
11 worked were paid at the appropriate rate and the extent of the underpayment. Plaintiffs had to
12 file this lawsuit in order to analyze the extent of the underpayment, thereby causing Plaintiffs to
13 incur expenses and lost time. Plaintiffs would not have had to engage in these efforts and incur
14 these costs had Defendants provided the accurate hours worked, wages earned, and rates of
15 pay. This has also delayed Plaintiffs' ability to demand and recover the underpayment of wages
16 from Defendants.

17 75. Plaintiffs and Class Members are entitled to recover from Defendants the greater
18 of all actual damages caused by Defendants' failure to comply with Labor Code § 226(a) or
19 fifty dollars (\$50.00) for the initial pay period in which a violation occurred and one hundred
20 dollars (\$100.00) per employee for each violation in subsequent pay periods in an amount not
21 exceeding four thousand dollars (\$4,000.00) per employee, plus attorneys' fees and costs.

22 76. Defendants' violations of California Labor Code § 226(a) prevented Plaintiffs
23 and Class Members from knowing, understanding, and disputing the wages paid to them and
24 resulted in an unjustified economic enrichment to Defendants. As a result of Defendants'
25 knowing and intentional failure to comply with California Labor Code § 226(a), Plaintiffs and
26 Class Members have suffered an injury, in the exact amount of damages and/or penalties to be
27 shown according to proof at trial.
28

77. Class Members that are still employed by Defendants are also entitled to injunctive relief under California Labor Code § 226(h), compelling Defendants to comply with California Labor Code § 226. Accordingly, affected Class Members seek the recovery of attorneys' fees and costs incurred in obtaining this injunctive relief.

SIXTH CAUSE OF ACTION

FAILURE TO PAY ALL WAGES DUE UPON SEPARATION OF EMPLOYMENT

(Violation of Labor Code §§ 201, 202, and 203)

78. Plaintiffs hereby re-allege and incorporate by reference all paragraphs above as though fully set forth herein.

79. Labor Code §§ 201 and 202 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 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 an intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

80. During the relevant time period, Defendants willfully failed to pay the Waiting Time Subclass all their earned wages upon termination, including, but not limited to, proper minimum wage and overtime compensation, meal period premiums, and rest period premiums either at the time of discharge or within seventy-two (72) hours of their leaving Defendants' employ.

81. Defendants' failure to pay the Waiting Time Subclass all their earned wages at the time of discharge or within seventy-two (72) hours of their leaving Defendants' employ is in violation of Labor Code §§ 201 and 202.

82. Labor Code § 203 provides that if an employer willfully fails to pay wages owed immediately upon discharge or resignation in accordance with Labor Code §§ 201 and 202, then the wages of the employee shall continue as a penalty from the due date at the same rate until paid or until an action is commenced; but the wages shall not continue for more than thirty (30) days.

83. Pursuant to Labor Code § 203, the Waiting Time Subclass is entitled to recover from Defendants the statutory penalty, which is defined as the Waiting Time Subclass members' regular daily wages at their regular hourly rate of pay for each day they were not paid, up to a maximum of thirty (30) days.

SEVENTH CAUSE OF ACTION

FAILURE TO REIMBURSE ALL BUSINESS EXPENSES

(Violation of Labor Code §§ 2800, 2802)

84. Plaintiffs hereby re-allege and incorporate by reference all paragraphs above as though fully set forth herein.

85. Labor Code § 2800 states that an employer shall in all cases indemnify his employee for losses.

86. Labor Code § 2802 requires employers to indemnify their employees for all necessary expenditures or losses incurred by employees in direct consequence of the discharge of their duties.

87. Section 9 of the applicable IWC Wage Order states that when 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.

88. During the relevant time period, Defendants required Plaintiffs and class members to use their personal cell phones for work purposes, without reimbursing Plaintiffs and class members for these expenses.

89. In violation of Labor Code §§ 2800 and 2802, Defendants failed to indemnify Plaintiffs and class members for these expenses.

90. In committing the violations as herein alleged, Defendants have intentionally and willfully failed to fully reimburse Plaintiffs and class members for necessary business-related costs and expenses. As a direct result, Plaintiffs and class members have suffered and continue to suffer substantial losses relating to the use and enjoyment of such compensation, wages, expenses, and attorney's fees.

EIGHTH CAUSE OF ACTION

1 **VIOLATION OF BUSINESS AND PROFESSIONS CODE §§ 17200, ET SEQ.**

2 (Violation of Business and Professions Code §§ 17200, *et seq.*)

3 91. Plaintiffs hereby re-allege and incorporate by reference all paragraphs above as
4 though fully set forth herein.

5 92. California Business and Professions Code §§ 17200, *et seq.*, prohibits acts of
6 unfair competition, which includes any “unlawful, unfair or fraudulent business act or practice .
7 ...”

8 93. A violation of California Business and Professions Code §§ 17200, *et seq.*, may
9 be predicated on a violation of any state or federal law. In the instant case, Defendants’ policies
10 and practices violated state law, causing Plaintiffs and Class Members to suffer and continue to
11 suffer injuries-in-fact.

12 94. Defendants’ policies and practices violated state law in at least the following
13 respects:

14 (a) Failing to pay all wages earned (including minimum wage and overtime
15 wages) to Plaintiffs and Class Members in violation of Labor Code §§
16 510, 1182.12, 1194, 1194.2, 1197, and 1198.

17 (b) Failing to provide compliant meal periods without paying Plaintiffs and
18 Class Members premium wages for every day said meal periods were not
19 provided in violation of Labor Code §§ 226.7 and 512.

20 (c) Failing to authorize or permit compliant rest breaks without paying
21 Plaintiffs and Class Members premium wages for every day said rest
22 breaks were not authorized or permitted in violation of Labor Code §
23 226.7.

24 (d) Failing to provide Plaintiffs and Class Members with accurate itemized
25 wage statements in violation of Labor Code § 226.

26 (e) Failing to timely pay all earned wages to the members of the Waiting
27 Time Subclass upon separation of employment in violation of Labor
28 Code §§ 201, 202, 203, and 204.

1 (f) Failing to provide Plaintiffs and Class Members with reimbursements for
2 necessary business expenses in violation of Labor Code § 2802.

3 95. As alleged herein, Defendants systematically engaged in unlawful conduct in
4 violation of the California Labor Code and IWC Wage Orders, such as failing to pay all wages
5 (minimum and overtime wages), failing to provide meal periods and rest breaks or
6 compensation in lieu thereof, failing to furnish accurate wage statements, failing to pay all
7 wages due and owing upon separation of employment in a timely manner, and failing to
8 reimburse business expenses, all in order to decrease their costs of doing business and increase
9 their profits.

10 96. At all relevant times herein, Defendants held themselves out to Plaintiffs and
11 Class Members as being knowledgeable concerning the labor and employment laws of
12 California.

13 97. At all times relevant herein, Defendants intentionally avoided paying Plaintiffs
14 and Class Members wages and monies, thereby creating for Defendants an artificially lower
15 cost of doing business in order to undercut their competitors and establish and/or gain a greater
16 foothold in the marketplace.

17 98. As a result of Defendants' intentional, willful, purposeful, and wrongful
18 misrepresentation of their conformance with the California Labor Code and IWC Wage Orders,
19 Plaintiffs and Class Members suffered a loss of wages and monies, all in an amount to be
20 shown according to proof at trial.

21 99. By violating the foregoing statutes and regulations as herein alleged,
22 Defendants' acts constitute unfair and unlawful business practices under California Business
23 and Professions Code §§ 17200, *et seq.*

24 100. As a result of the unfair and unlawful business practices of Defendants, as
25 alleged herein, Plaintiffs and Class Members are entitled to injunctive relief, disgorgement, and
26 restitution in an amount to be shown according to proof at trial.

27 101. Plaintiffs seek to enforce important rights affecting the public interest within the
28 meaning of California Code of Civil Procedure § 1021.5. Defendants' conduct, as alleged

1 herein, has been and continues to be unfair, unlawful, and harmful to Plaintiffs, Class
2 Members, and the general public. Based on Defendants' conduct as alleged herein, Plaintiffs
3 and Class Members are entitled to an award of attorneys' fees pursuant to California Code of
4 Civil Procedure § 1021.5.

5 **NINTH CAUSE OF ACTION**

6 **ENFORCEMENT OF LABOR CODE §§ 2698 ET SEQ. ("PAGA")**

7 102. Plaintiffs hereby re-allege and incorporate by reference the previous paragraphs as
8 though fully set forth herein.

9 103. Pursuant to Labor Code § 2699(a), any provision of the Labor Code that provides
10 for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency
11 ("LWDA") or any of its departments, divisions, commissions, boards, agencies, or employees for
12 violation of the Labor Code may, as an alternative, be recovered through a civil action brought by
13 an aggrieved employee on behalf of himself or herself and other current or former employees
14 pursuant to the procedures specified in Labor Code § 2699.3.

15 104. Defendants' conduct violates the following Wage Order and Labor Code sections:

- 16 a. violation of Labor Code §§ 201-203, 204, 210, 510, 1182.12, 1194,
17 1194.2, 1197, and 1198 for failure to timely pay all earned wages
18 (including minimum wage and overtime wages) owed to Plaintiffs and
19 other aggrieved employees during employment and upon separation of
20 employment as herein alleged;
- 21 b. violation of Labor Code §§ 226.7 and 512 for failure to provide meal
22 periods to Plaintiffs and other aggrieved employees and failure to pay
23 premium wages for missed meal periods as herein alleged;
- 24 c. violation of Labor Code § 226.7 for failure to permit rest breaks to
25 Plaintiffs and other aggrieved employees and failure to pay premium
26 wages for missed rest periods as herein alleged;
- 27
28

- 1 d. violation of Labor Code § 226 for failure to provide accurate itemized
2 wage statements to Plaintiffs and other aggrieved employees as herein
3 alleged;
- 4 e. violation of Labor Code §§ 1174 and 1174.5 for failure to maintain
5 accurate and complete records showing, among other things, the hours
6 worked daily by and the wages paid to aggrieved employees; and
- 7 f. violation of Labor Code §§ 2800 and 2802 for failure to reimburse
8 Plaintiffs and other aggrieved employees for all necessary business
9 expenses as herein alleged.

10 105. Plaintiffs are “aggrieved employees” because they were employed by the alleged
11 violator and had one or more of the violations committed against them, and therefore are
12 properly suited to represent the interests of all other aggrieved employees.

13 106. Plaintiffs have exhausted the procedural requirements under Labor Code § 2699.3
14 as to Defendants and is therefore able to pursue a claim for penalties on behalf of themselves and
15 all other aggrieved employees under PAGA.

16 107. Pursuant to Labor Code §§ 2699(a), 2699.3 and 2699.5, Plaintiffs are entitled to
17 recover civil penalties for violations of the Labor Code sections cited above.

18 108. For bringing this action, Plaintiffs are entitled to attorney’s fees and costs incurred
19 herein.

20 **PRAYER FOR RELIEF**

21 Plaintiffs, on their own behalf and on behalf of all others similarly situated, prays for
22 relief and judgment against Defendants, jointly and severally, as follows:

- 23 1. For certification under California Code of Civil Procedure § 382 of the proposed
24 Class, Waiting Time Subclass, and any other appropriate subclasses;
- 25 2. For appointment of Tattiana Bennett Williams and Janira Pelmore as the class
26 representatives;
- 27 3. For appointment of Aegis Law Firm, PC, as class counsel for all purposes;
- 28 4. For compensatory damages in an amount according to proof at trial;

1 5. For an award of damages in the amount of unpaid compensation including, but
2 not limited to, unpaid wages, benefits, and penalties;

3 6. For economic and/or special damages in an amount according to proof at trial;

4 7. For liquidated damages pursuant to Labor Code § 1194.2;

5 8. For statutory penalties to the extent permitted by law, including those pursuant
6 to the Labor Code and IWC Wage Orders;

7 9. For injunctive relief as provided by the California Labor Code and California
8 Business and Professions Code §§ 17200, *et seq.*;

9 10. For restitution as provided by Business and Professions Code §§ 17200, *et seq.*;

10 11. For an order requiring Defendants to restore and disgorge all funds to each
11 employee acquired by means of any act or practice declared by this Court to be unlawful,
12 unfair, or fraudulent and, therefore, constituting unfair competition under Business and
13 Professions Code §§ 17200, *et seq.*;

14 12. For pre-judgment interest;

15 13. For civil penalties;

16 14. For reasonable attorneys' fees, costs of suit, and interest to the extent permitted
17 by law, including, but not limited to, Code of Civil Procedure § 1021.5 and Labor Code §§
18 226(e), 1194, and 2698 *et seq.*; and

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

20
21 Dated: September 2, 2022

AEGIS LAW FIRM, PC

22
23 By: _____
24 Carolyn M. Bell
25 Attorneys for Plaintiffs Tattiana Bennett
26 Williams and Janira Pelmore
27
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