

Electronically FILED by Superior Court of California, County of Los Angeles on 08/30/2021 09:21 AM Sherri R. Carter, Executive Officer/Clerk of Court, by M. Young II, Deputy Clerk

Kevin Mahoney, Esq (SBN:
kmahoney@mahoney-law.net
MAHONEY LAW GROUP
 249 E. Ocean Blvd. Suite #814
 Long Beach, CA 90802
 Telephone: (562) 590-5550
 Facsimile: (562) 590-8400

Attorneys for Plaintiff JOSHUA RICHARD, as representative of the State of California and the Labor and Workforce Development Agency, and on behalf of himself and other current and former employees.

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

JOSHUA RICHARD, on behalf of
 himself and all other aggrieved
 employees,

Plaintiff,

v.

ST. JOSEPH CENTER; and DOES 1
 through 50, inclusive,

Defendants.

Case No.: **21SMCV01441**

REPRESENTATIVE ACTION

1. Violation of the Private Attorneys' General Act, Labor Code §2698 et seq. for Recovery of Unpaid Wages and Overtime;
2. Violation of the Private Attorneys' General Act, Labor Code §2698 et seq. for Failure to Provide Meal Periods;
3. Violation of the Private Attorneys' General Act, Labor Code §2698 et seq for Failure to Provide Rest Periods;
4. Violation of the Private Attorneys' General Act, Labor Code §2698 et seq for Failure to Keep Accurate Payroll Records and Provide Accurate Itemized Wage Statements;
5. Violation of the Private Attorneys' General Act, Labor Code §2698 et seq for Failure to Pay Wages Due Upon Termination of Employment; and
6. Violation of the Private Attorneys' General Act, Labor Code §2698 et seq for Failure to Indemnify for Expenditures or Losses in Discharge of Duties.

1 Plaintiff JOSHUA RICHARD (“Plaintiff” or “Mr. Richard”) as a representative of the State
2 of California and the Labor and Workforce Development Agency (“LWDA”), and on behalf of
3 himself and other current and former employees, complains and alleges as follows:

4 **INTRODUCTION**

5 1. This is an action brought on behalf of Plaintiff and all similarly-situated employees
6 who were subjected to one or more of the violations alleged herein (“Aggrieved Employees”) by
7 Defendant ST. JOSEPH CENTER (“Defendant”). The term “Relevant Time Period” or “Time
8 Period” is defined as one (1) year plus sixty-five (65) days prior to the filing of the complaint.
9 Plaintiff reserves the right to amend this complaint to reflect a different “Time Period” as further
10 discovery is conducted.

11 2. Plaintiff, individually and on behalf of the Aggrieved Employees, seeks relief
12 against Defendant for its: (1) failure to pay all wages due, including regular and overtime wages;
13 (2) failure to provide meal periods or premium compensation in lieu thereof; (3) failure to provide
14 rest periods or premium compensation in lieu thereof; (4) failure to keep accurate payroll records
15 and provide accurate itemized wage statements; (5) failure to pay wages due upon termination of
16 employment; and (6) failure to indemnify for expenditures or losses in discharge of duties.

17 3. At all relevant times herein, Defendant has consistently maintained and enforced
18 the following unlawful policies and practices against Plaintiff:

- 19 (a) Willfully refusing to pay all hours worked, including both regular and overtime
20 wages;
- 21 (b) Willfully refusing to permit off-duty meal periods or providing compensation in
22 lieu thereof;
- 23 (c) Willfully refusing to permit rest periods or providing compensation in lieu
24 thereof;
- 25 (d) Willfully refusing to furnish accurate itemized wage statements upon payment of
26 wages;
- 27 (e) Willfully refusing to pay all wages due upon separation of employment; and
28 (f) Willfully refusing to pay for expenditures or losses in the discharge of their duties.

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8

5. Venue is proper in the County of Los Angeles, because the Defendant maintains its location and transact business in this county, the obligations and liability arise in this county, and work performed by Plaintiff and Aggrieved Employees that form the subject of this action occurred in this county.

7. Further, there is no federal question at issue as the issues herein are based solely on California statutes and law, including the Labor Code, Code of Civil Procedure, Business and Professions Code, and California Rules of Court.

Plaintiff

///

Defendants

1 9. Plaintiff is informed and believes, and based thereon alleges that, Defendant ST.
2 JOSEPH CENTER is a California corporation, operating various institutions throughout
3 California, including the county of Los Angeles, and is and/or was the employer of the Plaintiff
4 and Aggrieved Employees during the Relevant Time Period. During the Relevant Time Period,
5 Defendant employed Plaintiff and similarly situated persons and failed to pay Plaintiff and
6 Aggrieved employees for all hours worked as a result of working off the clock before or after
7 the start of their shifts, failing to pay minimum and overtime wages, failing to provide meal
8 periods or pay a meal period penalty in lieu of, failed to provide rest periods or pay a rest period
9 penalty in lieu of; failed to reimburse employees for necessary business expenditures, failed to
10 pay all wages upon end of employment, and failed to provide accurate and itemized wage
11 statements. On information and belief, and based thereon alleges that Defendant is conducting
12 business in good standing in California.

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

18 11. Plaintiff is informed believes, and thereon alleges, that each Defendants acted in
19 all respects pertinent to this action as the agent of the other Defendants, carried out a joint scheme,
20 business plan, or policy in all respects pertinent hereto, and the acts of each Defendant are legally
21 attributable to the other Defendants. Furthermore, Defendants operate as a joint venture and/or
22 single business enterprise, integrated enterprise and/or are agents of one another, are alter egos,
23 joint employers and conspire with one another to increase profits by engaging in the conduct
24 described in this complaint.

25 12. Plaintiff is informed and believes, and based thereon alleges, that each Defendant
26 acted in all respects as the agent, servant, partner, joint venture, alter-ego, employee, proxy,
27 managing agent, and/or principal of the co-Defendants, and in performing the actions mentioned
28 below was acting, at least in part, within the course and scope of that authority as such agent,

1 proxy, servant, partner, joint venture, employee, alter-ego, managing agent, and/or principal with
2 the permission and consent of the co-Defendants. Plaintiff also alleges the acts of each Defendant
3 are legally attributable to the other Defendants.

4 **PAGA ADMINISTRATIVE PREREQUISITE**

5 13. By this complaint, Plaintiff brings this case as a representative action seeking
6 penalties for the State of California in a representative capacity, as provided by PAGA, labor
7 Code section 2698 et seq., to the extent permitted by law, as an aggrieved employee who was
8 employed by Defendant and subject to alleged violations set forth in Labor Code section 2699.5.
9 Plaintiff and other aggrieved employees are current and former employees of Defendant dating
10 from one (1) year plus sixty-five (65) days prior to the filing of this matter to the resolution of
11 this matter. Plaintiff specifically alleged the following in their notice to the Labor and Workforce
12 Development Agency (“LWDA”) and the employer violations of Labor Code sections 201, 202,
13 203, 204, 221, 206, 210, 221, 226, 226.3, 226.7, 510, 512, 1174, 1174.5, 1182.12, 1194, 1194.2,
14 1197, 1197.1, 1198, and 2802, as well as Industrial Welfare Commission (IWC) Wage Order No.
15 4-2001 (“Wage Order 4”).

16 14. Under Labor Code section 2699.3 subdivision(a), a Plaintiff may bring a cause of
17 action under PAGA only after giving notice to the LWDA and the employer of the Labor Code
18 section alleged to have been violated, and after sixty-five (65) days have passed without notice.
19 Prior to filing this complaint, on April 13, 2021, Plaintiff gave written notice by certified
20 electronic mail to the LWDA and to Defendants of the specified provisions alleged to have been
21 violated, including the facts and theories to support the alleged violation as required by Labor
22 Code section 2699.3. Plaintiff was given an LWDA case number of LWDA-CM-829174-21. A
23 true and correct copy of Plaintiff’s original letter sent to the LWDA on April 13, 2020, is attached
24 hereto as “Exhibit A.”

25 15. More than sixty-five (65) days have passed since Plaintiff submitted his April 13,
26 2021, notice to the LWDA and Defendant of the specific alleged Labor Code violations and the
27 LWDA have not provided notice to Plaintiff of its intent to investigate such alleged violations.
28 Plaintiff further has received no notice of Defendant’s intent to cure any of the alleged violations.

1 Therefore, Plaintiff has satisfied the administrative prerequisites for filing this action with regard
2 to his April 13, 2021, PAGA notice.

3 **FACTUAL ALLEGATIONS**

4 16. This lawsuit arises out of an ongoing wrongful scheme by Defendants to deny its
5 employees the benefits due under California's wage and hour laws for work performed in
6 California. Defendant wrongfully refused to pay Plaintiff and Aggrieved Employees regular
7 wages, overtime compensation, business expense reimbursements, and other statutory benefits
8 mandated by California.

9 17. Throughout the Relevant Time Period, Defendant employed Plaintiff and
10 Aggrieved Employees in non-exempt positions throughout its California locations. Accordingly,
11 these positions remain non-exempt from California's wage and hour laws, yet Defendant failed
12 to pay overtime, provide meal and rest breaks and otherwise pay all wages due to these non-
13 exempt employees as required by law.

14 18. During the Relevant Time Period, Defendant failed to compensate Plaintiff and
15 Aggrieved Employees legally mandated minimum wages and overtime rate for all work
16 performed during their shifts in violation of the Labor Code and the Labor Code and Industrial
17 Welfare Commission ("IWC") Wage Orders. During the course of Plaintiff's employment with
18 Defendants, Plaintiff and Aggrieved Employees regularly worked in excess of eight (8) hours
19 per day, but were routinely not paid for all hours worked. Plaintiff and Aggrieved Employees
20 primarily performed non-exempt work in excess of the maximum regular rate hours set by the
21 IWC in the applicable Wage Orders, regulations or statutes, and therefore entitled the Plaintiff
22 and Aggrieved Employees to overtime compensation at time and a half rate, and when
23 applicable, double time rates as set forth by the applicable Wage Orders, regulations and/or
24 statutes. Further, Plaintiff and Aggrieved Employees regularly worked through meal and rest
25 breaks, and were not paid the legally mandated regular or overtime wages for the hours they
26 worked.

27 19. During the Relevant Time Period, Defendant, failed and/or refused to schedule
28 Plaintiff and Aggrieved Employees in an overlapping manner so as to reasonably provide meal

1 and/or rest breaks and/or shift relief for Plaintiff and Aggrieved Employees, thereby causing
2 members of the Aggrieved Employees to work without being given paid ten (10) minute rest
3 periods for every four (4) hours or major fraction thereof worked and without being given a thirty
4 (30) minute meal period for shifts of at least five (5) hours and second thirty (30) minute meal
5 periods for shifts of at least ten (10) hours during which Aggrieved Employees were relieved of
6 all duties and free to leave the premises. Defendant further failed and/or refused to schedule
7 Plaintiff and Aggrieved Employees in an overlapping manner and/or provide shift relief for
8 Plaintiff and Aggrieved Employees so as to reasonably ensure meal and/or rest breaks were taken
9 within the required statutory time frame as required by law. Furthermore, Defendant failed and/or
10 refused to pay any Aggrieved Employee one (1) hour's pay at the employees' regular rate of pay
11 as premium compensation for failure to provide rest and/or meal periods or to providing such rest
12 and/or meal periods within the statutory time frame as a result of their scheduling policy.

13 20. As a result of Defendant's aforementioned failure to pay all wages to Plaintiff and
14 Aggrieved Employees, due to its unfair rounding practices, and requiring Plaintiff and Aggrieved
15 employees to work off the clock, among other things, Defendant failed to maintain accurate
16 payroll records showing the accurate number of hours worked, accurate rate of pay for each hour
17 worked, premium wages earned, and accurate gross and net wages paid in violation of Labor
18 Code sections 226, 1174, and 1174.5. Specifically, Defendant failed to provide Plaintiff and other
19 Aggrieved Employees with wage statements that include all rest and meal premiums, total number
20 of hours worked at each hourly rate, the correct overtime rate, gross and net wages earned, as well
21 as the correct legal entity address.

22 21. Plaintiff and Aggrieved Employees who ended their employment during the
23 Relevant Time Period, were not paid the above due compensation or premium compensation
24 timely upon the termination of their employment as required by Labor Code.

25 22. Defendant further failed to reimburse Plaintiff and Aggrieved Employees for any
26 necessary business expenses. Defendant had a policy and/or practice of failing to reimburse
27 Plaintiff and Aggrieved Employees for incurring necessary business expenditures as required by
28 Labor Code sections 2802. Plaintiff and other Aggrieved Employees were required by Defendant

1 to make use of their personal cellphones to carry out their duties of employment. Specifically,
2 Plaintiff and other Aggrieved Employee were required to routinely make/receive calls to/from
3 their supervisors regarding scheduling, provide supervisors with status updates, clock in and out
4 for their shifts, take photos and/or videos work related documents, and subsequently send said
5 pictures to supervisors/managers, among other things. Notwithstanding the aforementioned,
6 Defendant failed to reimburse Plaintiff and other Aggrieved Employees for their necessary
7 business expenditures. Defendant failed to reimburse Plaintiff and Aggrieved Employees for the
8 reasonable percentage of their cellphone bills in violation of the Labor Code and the IWC Wage
9 Orders.

10 23. Moreover, Defendant required Plaintiff and other aggrieved employees to
11 regularly use their personal vehicles to drive to and from various meeting locations all around
12 southern California, to meet with individuals, specifically, the homeless population at multiple
13 and various times during the day to go over and fill out documents with them. Defendant failed
14 to maintain adequate insurance coverage, reimburse Plaintiff and other aggrieved employees for
15 additional insurance premiums for the use of their personal vehicles to perform job-related tasks,
16 and pay for any deductible or costs associated with automobile accidents that arose while Plaintiff
17 and other aggrieved employees used their personal vehicles to carry out their job duties.
18 Furthermore, Plaintiff and other aggrieved employees never received mileage reimbursement,
19 compliant with the IRS standard mileage rates when they used their personal vehicles in the
20 course and scope of their employment.

21 24. Additionally, Plaintiff and other aggrieved employees predominately worked from
22 home. Plaintiff and other aggrieved employees used their home and generally dedicated a section
23 of their homes as their “office space” to perform work related tasks. For example, prepare for
24 meetings, print out the relevant documents and plan their routes to various meeting locations
25 throughout California. However, Defendant failed to provide reimbursement to Plaintiff and
26 other aggrieved employees, their homebound employees, for using their homes as their “office”.
27 Defendant further failed to reimburse Plaintiff and other aggrieved employees for using their
28 home’s internet to carry out their employment duties. An employer is required to reimburse its

employees for internet expenses if they are a foreseeable and clearly anticipated cost of doing business.” *Aguilar v. Zep Inc.*, 2014 WL 4245988, at 17 (N.D. Cal. Aug. 27, 2014). Moreover, Plaintiff and other aggrieved employees had to regularly purchase and use their own printers to print out documents, often as long as eighty (80) pages in length, prior to each work meeting with each individual. However, Plaintiff and other aggrieved employees were not reimbursed for these necessary expenditures.

25. During the Relevant Time Period, Defendant and each of them, required Plaintiff and Aggrieved Employees to work without lawful compensation, in violation of the California Labor Code, applicable Wage Orders, regulations and statutes, and Defendant: (1) willfully ailed and refused, and continue to fail and refuse to pay compensation for all hours worked for the Plaintiff and Aggrieved Employees: and (2) willfully failed and refused, and continue to fail and refuse to pay due and owing wages promptly upon termination of employment to Plaintiff and Aggrieved Employees.

FIRST CAUSE OF ACTION

VIOLATION OF PAGA FOR RECOVERY OF UNPAID MINIMUM WAGE AND OVERTIME

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

(Plaintiff Against All Defendants)

26. Plaintiff realleges and incorporate by reference the preceding paragraphs of this complaint as if fully set forth herein.

27. Plaintiff and Aggrieved Employees regularly worked over eight (8) hours per day and forty (40) hours per week. Defendant failed to pay Plaintiff and Aggrieved Employees minimum wage for all hours worked and overtime premium for hours worked in excess of over eight (8) hours per day and/or forty (40) hours per week for work performed for the Defendant. Defendant failed to pay Plaintiff and Aggrieved Employees overtime premium for hours worked in excess of eight (8) hours per day and forty (40) hours per week for work performed for Defendant. Defendant failed to schedule Plaintiff and Aggrieved Employees in such a manner that allowed Plaintiff and Aggrieved Employees to be relieved of their shift immediately, thereby

1 causing Plaintiff and Aggrieved Employees to work in excess of eight (8) hours per day and/or
2 forty (40) hours per week. Furthermore, Defendant required Plaintiff and Aggrieved Employees
3 to work off the clock. For instance, Plaintiff and Aggrieved Employees would meet with
4 individuals one (1) sometimes two (2) hours prior to the start of their shift (typically prior to 8:00
5 a.m.), if this was the only time individuals were available to meet with Plaintiff and Aggrieved
6 Employees. If such meetings took place prior to 8:00 a.m. Plaintiff and Aggrieved Employees
7 were instructed not to clock in and were only permitted to clock in at 8:00 a.m. As a result,
8 Plaintiff and Aggrieved Employees were not compensated by Defendant for time spent
9 performing their work-related duties off the clock.

10 28. Defendant willfully violated the Labor Code by failing to pay Plaintiff and
11 Aggrieved Employees all wages, including both minimum wage and overtime. Plaintiff and
12 Aggrieved Employees were denied proper wages as a result of Defendant's policy of having
13 Plaintiff and Aggrieved Employees work after clocking out for their meal periods and failing to
14 compensate Plaintiff and Aggrieved Employees for all hours worked at the proper rate of pay
15 pursuant to Labor Code section 510.

16 29. Moreover, on information and belief, during the Relevant time Period, Defendant
17 implemented an unlawful rounding policy that failed to compensate Plaintiff and Aggrieved
18 Employees for all hours worked, in violation of the applicable Wage Orders, regulations, and
19 statutes. Defendant's rounding policy illegally resulted in favor of Defendant by decreasing the
20 amount of compensation paid to Plaintiff and Aggrieved Employees.

21 30. A valid rounding policy must be applied consistently and "favors neither
22 overpayment nor underpayment." (See e.g. *See's Candy Shops, Inc. v. Superior Court*, (2012) 210
23 Cal.App.4th 889.) An employer's rounding policy violates DOL regulations when it
24 "systematically undercompensates employees, such as...polic[ies] [that] only round down." (*Id.*)
25 Defendant's "rounding" policy fails to meet the "fairness" test as set out by the appellate court that
26 provided a "rounding" legality test. Under *See's*, the rule in California is that an employer is
27 entitled to use the nearest-tenth rounding policy if the rounding policy is fair and neutral on its
28 face and "it is used in such a manner that it will not result, over a period of time, in failure to

1 compensate the employees properly for all the time they have actually worked.” (*See’s*, 210
2 Cal.App.4th at 907.)

3 31. On information and belief, Plaintiff and Aggrieved Employees were habitually
4 undercompensated for their time. Contrary to federal law (29 C.F.R. § 785.48) which permits
5 rounding time to the nearest five (5) minutes, or one tenth or quarter of an hour, Defendant here
6 had no such distinguishable pattern of rounding employees’ actual time worked. Whether
7 employees clocked in ten (10) minutes early or clocked out seven (7) minutes late, they were paid
8 for eight (8) hours. Hence, Defendant routinely rounded to the nearest hour for its own benefit.

9 32. California statutes and regulations do not specifically address rounding, but Labor
10 Code sections 510 and 1194 clearly mandate employees must be paid the legally required
11 compensation for all time worked, including overtime. Plaintiff’s preliminary analysis
12 demonstrates that the Defendant’s “rounding” policy “systematically undercompensate[s]
13 employees,” (*Id.*, citing *Alonzo v. Maximus, Inc.*, 832 F. Supp. 2d 1122, 1126-1127 (C.D. Cal.
14 2011) because it is applied in concert with Defendant’s “attendance, punctuality, and tardiness”
15 policies such that it is set up to result in Plaintiff and Aggrieved Employees being underpaid for
16 the hours worked and provides Defendants’ free labor.) Instead, Defendant consistently rounded
17 the time employees worked downward to evade their overtime obligations.

18 33. Since the LWDA has not indicated that it will be investigating more than sixty-
19 five (65) days since Plaintiff provided notice, and because Defendant took no corrective action to
20 remedy the allegations set forth above, Plaintiff, as representatives of the State of California, seek
21 any and all penalties otherwise capable of being collected by the Labor Commission, the LWDA
22 and/or the Department of Labor Standards Enforcement (“DLSE”). This includes each of the
23 following, as set forth in Labor Code section 2699.5, which provides that section 2699.3,
24 subdivision (a), applies to any alleged violation of the following provisions: 510 and 1194.

25 34. Plaintiff is informed and believes that Defendant has violated, and continues to
26 violate, provisions of the Labor Code and applicable Wage Orders related to the payment of
27 minimum wages and overtime.

28 35. Plaintiff, as a representative of the State of California, seek to recover any and all

1 penalties for each and every violation shown to exist or to have occurred during the Relevant
2 Time Period, in an amount according to proof, as to those penalties that are otherwise only
3 available to public agency enforcement actions. Funds recovered will be distributed in accordance
4 with the PAGA, with at least seventy-five percent (75%) of the penalties recovered being
5 reimbursed to the LWDA.

6 36. Additionally, Plaintiff and Aggrieved Employees are entitled to attorneys' fees and
7 costs pursuant to Labor Code sections 2699, subdivision (g)(1), 218.5, 1194, and prejudgment
8 interest.

9 **SECOND CAUSE OF ACTION**

10 **VIOLATION OF PAGA FOR FAILURE TO PROVIDE MEAL PERIODS OR**
11 **PREMIUM COMPENSATION IN LIEU THEREOF**

12 **(Labor Code Sections 226.7 and 512)**

13 **(Plaintiff against All Defendants)**

14 37. Plaintiff realleges and incorporates by reference all preceding paragraphs as if
15 fully set forth herein.

16 38. Labor Code sections 226.7 and 512 and IWC Wage Order 4-2001, Sect. 11
17 provides that no employer shall employ any person for a work period of more than five (5) hours
18 without providing a meal period uninterrupted by work duties of not less than thirty (30) minutes
19 or employ any person for a work period of more than ten (10) hours without a second meal period
20 of not less than thirty (30) minutes.

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

28 40. Industrial Welfare Commission (IWC) Wage Order No. 4-2001 (Wage Order 4)

1 section 11(A) states, “Unless the employee is relieved of all duty during a thirty (30) minute meal
2 period, the meal period shall be considered an “on duty” meal period and counted as time worked.
3 An “on duty” meal period shall be permitted only when the nature of the work prevents an
4 employee from being relieved of all duty and when by written agreement between the parties an
5 on-the-job paid meal period is agreed to. The written agreement shall state that the employee may,
6 in writing, revoke the agreement at any time.”

7 41. The burden to prove that a meal or rest period violation has occurred normally
8 rests on the Plaintiff. However, under *Safeway, Inc. v. Superior Court* (238 Cal. App. 4th 1138,
9 1159-60 (2015)), where an employer fails to keep accurate records of meal and rest periods, a
10 presumption of meal and rest period violations is created, shifting the burden to the employer to
11 prove that meal and rest period violations did not occur.

12 42. Defendant failed to schedule non-exempt employees in an adequately overlapping
13 manner so as to reasonably ensure Plaintiff and Aggrieved Employees could take and/or receive
14 such meal periods within the statutory timeframe. Further, Defendant obligated Plaintiff and
15 Aggrieved Employees to work through meal periods while off-the-clock. Defendant denied
16 Plaintiff and Aggrieved Employees duty-free meal periods, as a result, Plaintiff and Aggrieved
17 Employees were often forced to forego meal periods and/or work during their meal periods. In so
18 doing, Defendant has intentionally and improperly denied meal periods to Plaintiff and Aggrieved
19 Employees in violation of Labor Code sections 226.7 and 512 and other regulations and statutes.

20 43. Defendant failed to keep accurate records of the meal periods taken by Plaintiff
21 and Aggrieved Employees.

22 44. At all times relevant hereto, Plaintiff and Aggrieved Employees have worked more
23 than five (5) hours in a workday.

24 45. At varying times relevant hereto, Plaintiff and Aggrieved Employees at times have
25 worked more than ten (10) hours in a workday.

26 46. At all times relevant hereto, Defendant, failed offer or to schedule non-exempt
27 positions in a manner so as to reasonably provide meal and/or work free meal period as required
28 by Labor Code sections 226.7 and 512.

1 47. Defendant's failure to schedule Plaintiff and Aggrieved Employees in such a way
2 as to provide meal periods, and/or work free meal periods to Plaintiff and Aggrieved Employees,
3 and/or to provide on-duty meal periods in accordance with the applicable Wage Order, has caused
4 Plaintiff and Aggrieved Employees to suffer, and continue to suffer, injury which will be
5 ascertained according to proof at trial.

6 48. Further, Defendant's failure to maintain accurate records of the meal periods taken
7 by Plaintiff and Aggrieved Employees creates a presumption of the violations having occurred
8 and shifts the burden to Defendant to prove they did not occur.

9 49. Plaintiff individually, and the Aggrieved Employees, request recovery of any civil
10 penalties against Defendant, and each of them, in a sum as provided by the Labor Code.

11 50. Since the LWDA has not indicated that it will be investigating and sixty-five (65)
12 days have passed since Plaintiff mailed his letter, and because Defendant took no corrective action
13 to remedy the allegations set forth above, Plaintiff, as representatives of the people of the State of
14 California, seek any and all penalties otherwise capable of being collected by the Labor
15 Commission, the LWDA and/or the Department of Labor Standards Enforcement ("DLSE"). This
16 includes each of the following, as set forth in Labor Code section 2699.5, which provides that
17 section 2699.3, subdivision (a), applies to any alleged violation of the following provisions: 226.7
18 and 512.

19 51. Plaintiff are informed and believes that Defendant has violated and continues to
20 violate provisions of the Labor Code and applicable Wage orders related to the payment of
21 minimum wages, including overtime.

22 52. Plaintiff, as representatives of the State of California, seek to recover any and all
23 penalties for each and every violation shown to exist or to have occurred during the Relevant
24 Time Period, in an amount according to proof, as to those penalties that are otherwise only
25 available to public agency enforcement actions. Funds recovered will be distributed in accordance
26 with the PAGA, with at least seventy-five percent (75%) of the penalties recovered being
27 reimbursed to the LWDA.

28 53. Additionally, Plaintiff and Aggrieved Employees are entitled to attorneys' fees and

costs pursuant to Labor Code section 2699, subdivision (g)(1), and prejudgment interest.

THIRD CAUSE OF ACTION

**VIOLATION OF PAGA FOR FAILURE TO PROVIDE REST PERIODS OR
PREMIUM COMPENSATION IN LIEU THEREOF**

(Labor Code Sections 226.7 and 512)

(Plaintiff against All Defendants)

54. Plaintiff and Aggrieved Employees reallege and incorporate by reference the preceding paragraphs of this complaint as if fully set forth herein.

55. Labor Code section 226.7 provides that employers authorize and permit all employees to take rest periods at the rate of ten (10) minutes rest time per four (4) work hours.

56. Labor Code section 226.7, subdivision (b), provides that if an employer fails to provide an employee rest periods in accordance with this section, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the rest period is not provided.

57. Defendant, and each of them, failed and or refused to implement a relief system by which Plaintiff and Aggrieved Employees could receive rest periods and/or work free rest periods. Defendant denied Plaintiff and Aggrieved Employees duty free rest periods by interrupting Plaintiff and Aggrieved Employees' rest periods. By and through their actions, Defendant intentionally and improperly denied duty free rest periods to the Plaintiff and Aggrieved Employees in violation of Labor Code sections 226.7 and 512.

58. Furthermore, Defendant failed to provide Plaintiff and Aggrieved Employees with duty free rest periods or failed to provide Plaintiff and Aggrieved Employees with rest periods all together in violation of Labor Code section 226.7 and 512.

59. Defendant failed to keep accurate records of the rest periods taken by Plaintiff and Aggrieved Employees.

60. At all times relevant hereto, Plaintiff and Aggrieved Employees, have worked more than four (4) hours in a workday.

61. By virtue of the Defendant's unlawful failure to provide rest periods to Plaintiff

1 and Aggrieved Employees as a result of their scheduling and shift relief system, Plaintiff and
2 Aggrieved Employees have suffered, and will continue to suffer damages.

3 62. Plaintiff, by virtue of his employment with Defendants, and Defendant's failure to
4 provide Plaintiff and Aggrieved Employees with rest breaks, requiring Plaintiff and Aggrieved
5 Employees to work through their rest periods without receiving compensation in lieu thereof, is
6 an aggrieved employee with standing to bring an action under the PAGA. Plaintiff has satisfied
7 all prerequisites to serve as a representative of the general public to enforce California's labor
8 laws, and the penalty provisions identified in Labor Code section 2699.5.

9 63. Plaintiff individually, and the Aggrieved Employees, as a representative of the
10 State of California, seek any and all penalties otherwise capable of being collected by the Labor
11 Commission, the LWDA and/or the DLSE. This includes each of the following, as set forth in
12 Labor Code section 2699.5, which provides that section 2699.3, subdivision (a), applies to any
13 alleged violation of the following provisions: 226.7 and 512.

14 64. Plaintiff, as representative of the State of California, seek to recover any and all
15 penalties for each and every violation shown to exist or to have occurred during the Relevant
16 Time Period, in an amount according to proof, as to those penalties that are otherwise only
17 available to public agency enforcement actions. Funds recovered will be distributed in accordance
18 with the PAGA, with at least seventy-five percent (75%) of the penalties recovered being
19 reimbursed to the LWDA.

20 65. Additionally, Plaintiff and Aggrieved Employees are entitled to attorneys' fees and
21 costs pursuant to Labor Code section 2699, subdivision (g)(1), and prejudgment interest.

22 **FOURTH CAUSE OF ACTION**

23 **VIOLATION OF PAGA FOR FAILURE TO KEEP ACCURATE PAYROLL RECORDS**

24 **AND TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**

25 **(Labor Code Sections 1174 and 226, subdivision (A), (E))**

26 **(Plaintiff against All Defendants)**

27 66. Plaintiff and Aggrieved Employees reallege and incorporate by reference the
28 preceding paragraphs of this complaint as if fully set forth herein.

1 67. Labor Code section 1174, subdivision (d), requires an employer to keep at a central
2 location in California or at the plant or establishment at which the employees are employed,
3 payroll records showing the hours worked daily, and the wages paid to each employee. Plaintiff
4 is informed and believes, based thereon alleges, that Defendant willfully failed to make or keep
5 accurate records for Plaintiff and similarly-aggrieved employees.

6 68. Labor Code section 226, subdivision (a), states in pertinent part that, “every
7 employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her
8 employees, either as a detachable part of the check, draft, or voucher paying the employee’s
9 wages, or separately when wages are paid by personal check or cash, an accurate itemized
10 statement in writing showing: (1) gross wages earned; (2) total hours worked by the employee . .
11 . ; (3) the number of piece-rate units earned . . . ; (4) all deductions . . . ; (5) net wages; (6) the
12 inclusive dates of the period for which the employee is paid; (7) the name of the employee and
13 only the last four digits of his or her social security number or an employee identification number
14 other than a social security number; (8) the name and address of the legal entity that is the
15 employer . . . ; and (9) all applicable hourly rates in effect during the pay period and corresponding
16 number of hours worked at each hourly rate by the employee...” (Lab. Code, § 226.)

17 69. Defendant knowingly and intentionally failed to provide timely and accurate
18 itemized wage statements to Plaintiff and Aggrieved Employees in accordance with Labor Code
19 section 226, subdivision (a), by failing to record the accurate number of hours worked, due to its
20 rounding polices among other things, the accurate rate of pay for each hour worked, the accurate
21 amount of premiums wages earned, the accurate net pay, the accurate gross pay, as well as state
22 the legal entity’s legal address. Such failure caused injury to Plaintiff and Aggrieved Employees.

23 70. Plaintiff and Aggrieved Employees are entitled to damages under Labor Code
24 section 226, subdivision (a), and the greater of all actual damages or fifty dollars (\$50.00) for the
25 initial pay period in which a violation occurs and one-hundred (\$100.00) per employee for each
26 violation in each subsequent pay period, pursuant to Labor Code section 226, subdivision (e).

27 71. Plaintiff, as a personal representative of the general public, will and does seek to
28 recover any and all penalties for each and every violation shown to exist or to have occurred

1 during the Relevant Time Period, in an amount according to proof, as to those penalties that are
2 otherwise only available to public agency enforcement actions. Funds recovered will be
3 distributed in accordance with the PAGA, with at least seventy-five percent (75%) of the penalties
4 recovered being reimbursed to the LWDA.

5 72. Additionally, Plaintiff and Aggrieved Employees are entitled to attorneys' fees and
6 costs pursuant to Labor Code section 2699, subdivision (g)(1), and prejudgment interest.

7 **FIFTH CAUSE OF ACTION**

8 **VIOLATION OF PAGA FOR FAILURE TO PAY WAGES DUE UPON**

9 **TERMINATION OF EMPLOYMENT**

10 **(Labor Code Sections 201, 202 and 203)**

11 **(Plaintiff against All Defendants)**

12 73. Plaintiff and Aggrieved Employees reallege and incorporate by reference the
13 preceding paragraphs of this complaint as if fully set forth herein.

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

17 75. Labor Code section 202 required an employer pay to an employee who quits his
18 or her employment, all wages earned and unpaid no later than seventy-two (72) hours thereafter.

19 76. Labor Code section 203 provides that an employer who fails to pay all wages
20 earned and due to an employee who is discharged or who quits within the timeframe set forth in
21 sections 201 and 202, the wages of the employee shall continue as a penalty from the due date at
22 the same rate of pay until paid, but no more than thirty (30) days.

23 77. Plaintiff is informed and believes that certain members of the Aggrieved
24 Employees who ended their employment with Defendant during the Relevant Time Period, were
25 entitled to be promptly paid both minimum wage and lawful overtime compensation and other
26 premiums, as required by Labor Code sections 201, 202 and 203.

27 78. Defendant refused and/or failed to promptly compensate Aggrieved Employees
28 wages owed as a result of Defendant's failure to provide meal and/or rest periods as well as pay

1 both minimum and overtime compensation owed for work performed for Defendant.

2 79. Plaintiff, by virtue of his employment with Defendant, is an aggrieved employee
3 with standing to bring an action under the PAGA and has suffered injury as to one or more
4 violations committed by Defendant. Plaintiff has satisfied all prerequisites to serve as a
5 representative of the general public to enforce California's labor laws, and the penalty provisions
6 identified in Labor Code section 2699.5.

7 80. Plaintiff, as a representative of the people of the State of California, will seek any
8 and all penalties otherwise capable of being collected by the Labor Commission and/or the DLSE.
9 This includes each of the following, as set forth in Labor Code section 2699.5, which provides
10 that section 2699.3, subdivision (a), applies to any alleged violation of the following provisions:
11 201-203, 226, 226.7, 510, 512, 1174, and 1194.

12 81. Plaintiff, as a personal representative of the general public, will and does seek to
13 recover any and all penalties for each and every violation shown to exist or to have occurred
14 during the Relevant Time Period, in an amount according to proof, as to those penalties that are
15 otherwise only available to public agency enforcement actions. Funds recovered will be
16 distributed in accordance with the PAGA, with at least seventy five percent (75%) of the penalties
17 recovered being reimbursed to the LWDA.

18 82. Additionally, Plaintiff and Aggrieved Employees are entitled to attorneys' fees and
19 costs pursuant to Labor Code section 2699, subdivision (g)(1), and prejudgment interest.

20 **SIXTH CAUSE OF ACTION**

21 **VIOLATION OF PAGA FOR FAILURE TO INDEMNIFY FOR EXPENDITURES OR**
22 **LOSSES IN DISCHARGE OF DUTIES**

23 **(Labor Code Section 2802)**

24 **(Plaintiff against All Defendants)**

25 83. Plaintiff and Aggrieved Employees reallege and incorporate by reference the
26 preceding paragraphs of this complaint as if fully set forth herein.

27 84. Labor Code section 2802 states, "An employer shall indemnify his or her
28 employee for all necessary expenditures or losses incurred by the employee in direct consequence

1 of the discharge of his or her duties...”

2 85. Plaintiff and the Aggrieved Employees were not reimbursed by Defendant for
3 necessary expenditures as a direct consequence of the discharge of their duties.

4 86. Defendant knowingly, willingly and intentionally attempted to offset the cost of
5 doing business on the Plaintiff and Aggrieved Employees.

6 87. Defendant had a policy and practice of requiring Plaintiff and Aggrieved
7 Employees to shoulder the burden of Defendant’s cost of doing business by failing to reimburse
8 Plaintiff and Aggrieved Employees for necessary business expenditures. Specifically, Plaintiff
9 and other Aggrieved Employee were required to routinely use their personal cellphones to
10 make/receive calls to/from their supervisors regarding scheduling, provide supervisors with status
11 updates, take photos and/or videos work related documents, and subsequently send said pictures
12 to supervisors/managers, as well as clock in/out for their shifts. However, despite the foregoing,
13 Defendant failed to reimburse Plaintiff and Aggrieved Employees with a reasonable percentage
14 of their cellular phone bills.

15 88. Moreover, Plaintiff and Aggrieved Employees were required to use their personal
16 vehicles to carry out their employment duties. Specifically, Plaintiff and Aggrieved Employees
17 regularly used their personal vehicles to drive to and from various locations all around southern
18 California to meet with, primarily, homeless individuals to assists them in filling out certain
19 documents for Defendant. Despite the foregoing, Defendant failed to maintain adequate insurance
20 coverage, reimburse Plaintiff and other aggrieved employees for additional insurance premiums
21 for the use of their personal vehicles to perform job-related tasks, and pay for any deductible or
22 costs associated with automobile accidents that arose while Plaintiff and other aggrieved
23 employees used their personal vehicles to carry out their job duties. Moreover, Plaintiff and other
24 aggrieved employees never received a mileage reimbursement, compliant with the IRS standard
25 mileage rates when they used their personal vehicles in the course and scope of their employment.

26 89. Additionally, Plaintiff and other aggrieved employees predominately worked from
27 home. In doing so, Plaintiff and other aggrieved employees used their home and generally
28 dedicated a section of their homes as their “office space” to perform work related tasks. For

1 example, prepare for meetings, print out the relevant documents and plan their routes to various
2 meeting locations throughout California. However, Defendant failed to provide reimbursement
3 to Plaintiff and other aggrieved employees, their homebound employees, for using their homes as
4 their “office”. Defendant further failed to reimburse Plaintiff and other aggrieved employees for
5 using their home’s internet to carry out their employment duties. Moreover, Plaintiff and other
6 aggrieved employees had to regularly purchase and use their own printers to print out documents,
7 often as long as eighty (80) pages in length, prior to each work meeting with each individual.
8 However, Plaintiff and other aggrieved employees were not reimbursed for these necessary
9 expenditures.

10 90. Accordingly, Plaintiff and Aggrieved Employees are entitled to an award of
11 "necessary expenditures or losses" which shall include all reasonable costs, including, but not
12 limited to, attorney's fees and interest.

13 91. Plaintiff by virtue of his employment with Defendant and the Defendant’s policy
14 of requiring Plaintiff and Aggrieved Employees to shoulder the burden of Defendants' cost of
15 doing business by failing to reimburse Plaintiff and Aggrieved Employees for necessary
16 expenditures, is an aggrieved employee with standing to bring an action under the PAGA.
17 Plaintiff has satisfied all prerequisites to serve as a representative of the general public to enforce
18 California’s labor laws, and the penalty provisions identified in Labor Code section 2699.5.

19 92. Plaintiff, as a representative of the people of the State of California, will seek any
20 and all penalties otherwise capable of being collected by the Labor Commission and/or the DLSE.
21 This includes each of the following, as set forth in Labor Code section 2699.5, which provides
22 that section 2699.3, subdivision (a), applies to any alleged violation of the following provisions:
23 201-203, 226, 226.7, 510, 512, 1174, and 1194.

24 93. Plaintiff, as a personal representative of the general public, will and does seek to
25 recover any and all penalties for each and every violation shown to exist or to have occurred
26 during the Relevant Time Period, in an amount according to proof, as to those penalties that are
27 otherwise only available to public agency enforcement actions. Funds recovered will be
28 distributed in accordance with the PAGA, with at least seventy-five percent (75%) of the penalties

1 recovered being reimbursed to the LWDA.

2 94. Additionally, Plaintiff and Aggrieved Employees are entitled to attorneys' fees and
3 costs pursuant to Labor Code section 2699, subdivision (g)(1), and prejudgment interest.
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8

- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8

- 3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8

4
5
6
7
8
9
10
11
12
13
14
15
16
17
18

4
5
6
7
8
9
10
11
12
13
14
15
16
17
18

7
8
9
10
11
12
13
14
15
16
17
18

8
9
10
11
12
13
14
15
16
17
18

EXHIBIT A



Kevin Mahoney, Esq.
Phone : (562) 590-5550
Facsimile : (562) 590-8400
kmahoney@mahoney-law.net

April 13, 2021

Via Certified Electronic Mail

LABOR AND WORKFORCE DEVELOPMENT AGENCY
PAGAfilings@dir.ca.gov

VIA CERTIFIED MAIL# 7019 2970 0000 2983 7091

Return Receipt Requested

St. Joseph Center
204 Hampton Drive
Venice, CA 90291

Re: Joshua Richard v. St. Joseph Center

**NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO
LABOR CODE SECTION § 2698 ET SEQ.**

To: California Labor and Workforce Development Agency; St. Joseph Center

From: Joshua Richard, on behalf of himself and aggrieved employees who were subject to the employer's wage and hour policies as set forth below.

Factual Statement

Please note that this firm, Mahoney Law Group, APC, represents the interests of Mr. Joshua Richard ("Mr. Richard" or "Employee"), who intends to file a complaint alleging various Labor Code violations and seeking civil penalties under the Private Attorneys General Act of 2004, Labor Code sections 2698 et seq. ("PAGA"), on behalf of himself and all other aggrieved employees.

Please also be advised that this letter constitutes written notice required by Labor Code sections 2699.3, subdivision (a)(1), and 2699.3, subdivision (c)(1), and may lead to action against St. Joseph Center ("Employer") in a court of law and/or administrative proceedings, as well as the imposition of substantial penalties and other remedies against Employer, and any and all related parent, and/or alter ego companies, corporations, partnerships, subsidiaries, and/or business entities, as well as against any and all offices, owners, directors, managers, managing agents, or entities who are or may be liable under law for any of the violations alleged herein.

Theories of Labor Code Violations and Remedies

St. Joseph Center ("Employer") is a California corporation with facilities throughout California, including Los Angeles County. Mr. Richard was employed by Employer as an hourly, non-exempt employee.

Joshua Richard alleges Employer violated various sections of the Labor Code, including sections 201, 202, 203, 204, 206, 210, 221, 226, 226.3, 226.7, 510, 512, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198 and 2802 by failing to provide Mr. Richard and all other aggrieved employees with meal and rest periods and premium pay, failing to pay all wages owed, including minimum wage and overtime, failing to reimburse all necessary business expenditures, failing to provide accurate wage statements and maintain accurate payroll records, and failing to provide all wages earned at end of employment. Mr. Richard and similarly aggrieved employees consist of identifiable, current, and/or former similarly situated persons who worked for Employer in non-exempt positions in California during the liability period of one (1) year prior to the filing of a complaint alleging a PAGA cause of action.

A. St. Joseph Center Failed to Provide Mr. Richard and other Aggrieved Employees with Meal and Rest Periods, or Premium Compensation in lieu thereof, in accordance with California law.

Mr. Richard alleges that he and other aggrieved employees were often precluded from taking timely and uninterrupted meal and rest breaks in accordance with California law due to the nature of their shifts. Mr. Richard and other aggrieved employees allege that they did not receive at least one (1) duty-free, uninterrupted meal period within the first five (5) hours worked, and a second meal period before the start of the 11th hour of work. (*Brinker Rest. Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1041-42.) In fact, at times Employer did not have sufficient employees to provide relief for meal periods and thereby required Mr. Richard and other aggrieved employees to continue working throughout their meal periods. Further, Mr. Richard and other aggrieved regularly worked in excess of ten (10) hours, however were not provided a second timely, uninterrupted duty-free meal period. When employees were prevented from taking timely and complete meal periods, they did not receive premium pay as compensation for the missed meal period.

Mr. Richard further alleges that he and other aggrieved employees did not receive at least one duty-free, uninterrupted rest period for every four (4) hours worked, or major fraction thereof, as required by the Labor Code. Mr. Richard and other aggrieved employees were generally precluded from taking rest periods due to Employer's failure to sufficiently staff shifts to provide relief and thereby allow Mr. Richard and other aggrieved employees the opportunity to take rest breaks. When employees were prevented from taking rest breaks, they did not receive premium pay for the missed rest break.

Mr. Richard alleges he and other aggrieved employees were not compensated with premium pay for every meal period and rest period that was not provided. Employer's conduct is actionable under PAGA as violations of Labor Code sections 226.7 and 512, and Industrial

Welfare Commission 4-2001 ("Wage Order 4").

B. St. Joseph Center Failed to Pay Mr. Richard and Other Aggrieved Employees for All Hours Worked, in Accordance with California Law, Including Both Minimum Wage and Overtime

Employer failed to pay Mr. Richard and other aggrieved employees for all hours worked at the legally mandated wage rates, including minimum wage, and overtime compensation. Specifically, Mr. Richard and other aggrieved employees worked shifts in excess of eight (8) hours per day, all hours worked, but not compensated were required to be compensated at a rate of at least one-and-a-half times each employee's base rate of pay. To the extent such hours exceeded twelve (12) in one day or eight (8) on the seventh consecutive day worked, such hours were required to be compensated at a rate of at least two times each employee's base rate of pay.

Further, Employer either compensated Ms. Richard and aggrieved employees for overtime and double time hours worked at their regular rate of pay despite having worked in excess of up to and over twelve (12) hours per workday and in excess of eight (8) hours on the seventh consecutive day of work in a workweek, or would simply not compensate for hours worked in excess of ten (10) hours per workday. In addition, Employer maintained a common practice of rounding time recorded by Mr. Richard and other aggrieved employees at regular fifteen (15) minute increments to the detriment of Mr. Richard and other aggrieved employees.

Employer's failure to pay minimum wage and applicable overtime rates to Mr. Richard and other aggrieved employees, as well as rounding time recorded, as detailed above, is actionable under PAGA as a violation of Labor Code sections 221, 510, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, and the applicable IWC Wage Orders.

C. St. Joseph Center Failed to Compensate Mr. Richard and Other Aggrieved Employees for all Necessary Business Expenditures Incurred During Their Employment

Pursuant to Labor Code section 2802(a) "[a]n employer shall indemnify his or her employee for all necessary business expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer..." The purpose of this statute is to "prevent employers from passing their operating expenses on to their employee," *Gattuso v. Harte-Hanks Shoopers, Inc.*, 42 Cal 4th 554, 562 (2007) (quoting legislative history from the 2000 amendment to the statute). Under Labor Code section 2802, "necessary" is defined to include all "reasonable" expenses.

The employer's obligation to reimburse business related expense arises when the employer "knew or should have known: that its employees have incurred business related expenses. *Stuart v. RadioShack Corp.*, 641 F. Supp. 2d 901, 903 (N.D. Cal. 2009) (Hon. Edward Chen); *Wilson v. Kiewit Pacific Co.*, 2010 WL 5059522 (N.D. Cal. Dec. 6, 2010) (Hon. Susan Illston) (adopting the "knew or should have known standard" standard from RadioShack.)

i. St. Joseph Center Failed to Reimburse Mr. Richard and Other Aggrieved Employees for Using Their Personal Cellphones

Under Labor Code section 2802, employers must reimburse employees for required work-related use of personal cellphones – regardless of whether they incur any additional out of pocket expense from that work-related use. *See, Cochran v. Schwan's Home Service, Inc.* 228 Cal App. 4th 1137 (August 12, 2014) (reversing denial of class certification in cell phone reimbursement class action). *Cochran* held that “[i]f an employee is required to use personal cellphone to carry out work related duties, then he or she is incurring an expense for the purpose of section 2802. It does not matter whether the phone bill is paid for by a third person, or at all...it is irrelevant whether the employee changed plans to accommodate work related cellphone usage...To show liability under section 2802, an employee need only show that he or she was required to use a personal cellphone to carry out work related duties, and he or she was no reimbursed.” *Id.* At 1144-45 (emphasis added.)

Mr. Richard and other aggrieved employees were required to regularly use their personal cellphones to carry out their work-related duties, including, without limitation, communicate with supervisors, clock in and out for their shifts, take photos and/or videos work related documents, and subsequently send said pictures to supervisors/managers. However, despite the foregoing, Employer failed to reimburse Mr. Richard and aggrieved employees with a reasonable percentage of their cellular phone bills.

Employer’s failure to provide complete compensate for all necessary business expenditures incurred by Mr. Richard and other aggrieved employees in direct consequence of their duties to Employer is actionable under PAGA as a violation of Labor Code section 2802, and Wage Order 4.

ii. St. Joseph Center Failed to Reimburse Mr. Richard and Other Aggrieved Employees for Using Their Personal Vehicles

St. Joseph Center required Mr. Richard and other aggrieved employees to regularly use their personal vehicles to drive to and from various meeting locations all around southern California with often the homeless population at multiple and various times during the day to go over and fill out documents with them. Employer failed to maintain adequate insurance coverage, reimburse Mr. Richard and other aggrieved employees for additional insurance premiums for the use of their personal vehicles to perform job-related tasks, and pay for any deductible or costs associated with automobile accidents that arose while Mr. Richard and other aggrieved employees used their personal vehicles to carry out their job duties.

Moreover, Mr. Richard and other aggrieved employees never received a mileage reimbursement, compliant with the IRS standard mileage rates when they used their personal vehicles in the course and scope of their employment.

Employers’ failure to reimburse Mr. Richard and other aggrieved employees for these business-related expenditures is in violation of Labor Code sections 2800 and 2802 and actionable under PAGA.

iii. St. Joseph Center Failed to Reimburse Mr. Richard and Other Aggrieved Employees for Using Their Homes as their "Office", Their Personal Home Internet, As well As Other Office Supplies

Mr. Richard and other aggrieved employees predominately worked from home. Mr. Richard and other aggrieved employees used their home and generally dedicated a section of their homes as their "office space" to perform work related tasks. For example, prepare for meetings, print out the relevant documents and plan their routes to various meeting locations throughout California. However, Employers failed to provide reimbursement to Mr. Richard and other aggrieved employees, their homebound employees, of using their homes as their "office". Employers further failed to reimburse Mr. Richard and other aggrieved employees for using their home's internet to carry out their employment duties. An employer is required to reimburse its employees for internet expenses if they are a foreseeable and clearly anticipated cost of doing business." *Aguilar v. Zep Inc.*, 2014 WL 4245988, at 17 (N.D. Cal. Aug. 27, 2014). Moreover, Mr. Richard and other aggrieved employees had to regularly purchase and use their own printers to print out documents, often as long as eighty (80) pages in length, prior to each work meeting with each individual. However, Mr. Richard and other aggrieved employees were not reimbursed for these necessary expenditures.

Employers' failure to reimburse Mr. Richard and other aggrieved employees for these business-related expenditures is in violation of Labor Code sections 2800 and 2802 and actionable under PAGA.

D. St. Joseph Center Failed to Provide Mr. Richard and Other Aggrieved Employees Compliant Wage Statements, and Failed to Pay all Wages Earned at the Time Their Employment Ended

Employer further failed to maintain complete and accurate payroll records and failed to provide Mr. Richard and other aggrieved employees with complete and accurate wage statements. Specifically, Mr. Richard and other aggrieved employees received wage statements that failed to include all rest and meal break premiums earned per pay period, reimbursement for all necessary business expenditures, compensation for actual hours worked, total hours worked, number of hours worked at each hourly rate, the correct overtime rate, and gross and net wages earned. This conduct is in violation of Labor Code sections 226, 226.3, 1174 and 1174.5 and is actionable under PAGA.

As a further result of Employer's failure to pay all wages owed as described herein, Employer also violated Labor Code sections 201, 202, and 203, due to its uniform policy, practice, and procedure of failing to pay all wages earned to former employees at the time their employment ended.

E. Reservation of Rights

The facts and claims contained herein are based on the information available at the time of this writing. Therefore, if through discovery and/or expert review, Mr. Richard becomes aware of additional compensation owed or losses incurred by Mr. Richard or by any other aggrieved employee of the Employer, Mr. Richard expressly reserves the right to revise these facts and/or add any new claims by amending the claim letter or by adding applicable causes of action to the complaint which will relate back to the date of this letter.

If the Labor and Workforce Development Agency intends to investigate the allegations set forth herein, please provide notice via certified mail to:

MAHONEY LAW GROUP

Mahoney Law Group

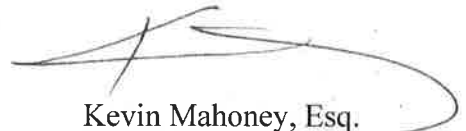
249 E. Ocean Blvd.

Telephone: (562) 590-5550

Facsimile: (562) 590-8400

Email: kmahoney@mahoney-law.net

Sincerely,



Kevin Mahoney, Esq.

MAHONEY LAW GROUP