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Attorneys for Plaintiffs Archie Shakespeare
and Troy Brown

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

Archie Shakespeare and Troy Brown, as
individuals, on behalf of themselves and all others
similarly situated and as private attorneys general
pursuant to the Private Attorneys General Act,

Plaintiffs,

vs.

Ameri-Force Craft Services, Inc., National Steel
and Shipbuilding Company, and Does 1 through
10,

Defendants.

**Case No. 37-2021-00013962-CU-OE-CTL
CLASS ACTION**

*(Assigned to the Hon. Katherine Bacal –
Dept. C-69)*

Third Amended Complaint

Demand for Jury Trial

Plaintiffs Archie Shakespeare and Troy Brown (“Plaintiffs”), individually and on behalf of all
other persons similarly situated and as private attorneys general pursuant to the Private Attorneys
General Act, allege:

1. Plaintiff Archie Shakespeare was employed in San Diego County by Defendant Ameri-Force Craft Services, Inc. (“Ameri-Force”) and Defendant National Steel and Shipbuilding Company (“NASSCO”) as a non-exempt employee.
2. Plaintiff Troy Brown was employed in San Diego County by Ameri-Force and NASSCO as a non-exempt employee.
3. Ameri-Force is a Delaware corporation. Its principal place of business as listed with the California Secretary of State is 9485 Regency Square Blvd., Suite 300, Jacksonville, FL 32225.
4. NASSCO listed itself with the California Secretary of State as a Nevada corporation with its Principal Executive Office located at 2798 East Harbor Drive, San Diego CA 92113.
5. Plaintiffs do not presently know the true names and capacities of the defendants named as Does 1 through 10 and therefore sues such defendants by these fictitious names. Plaintiffs believe that the Doe defendants are persons or entities who are involved in the acts set forth below, either as independent contractors, suppliers, agents, servants, employees, or joint employers of the known defendants, or through conspiring with the known Defendants to perform these acts for financial gain and profit in violation of Plaintiffs’ and class members’ rights. Plaintiffs will request leave of Court to amend this Complaint to set forth their true names, identities, and capacities when Plaintiffs ascertain them.
6. Each of the Defendants has been or is the principal, officer, director, agent, employee, joint employer, representative and/or co-conspirator of each of the other defendants and in such capacity or capacities participated in the acts or conduct alleged herein and incurred liability therefor. At an unknown time, some of the Defendants conspired with other Defendants to commit the wrongful acts described herein. These wrongful acts were committed in furtherance of such conspiracy. Defendants aided and abetted each other in committing the wrongful acts alleged herein. Each of the Defendants acted for personal gain or in furtherance of its own financial advantage in committing the acts alleged herein.
7. The named Defendants and the Doe defendants, excluding NASSCO, are hereinafter referred to collectively as “Defendants.”

First Cause of Action
Failure to Pay Wages for Hours Worked
(By Plaintiffs Shakespeare and Brown Against All Defendants Other than NASSCO)

8. Plaintiffs reallege all the preceding paragraphs.

CLASS ACTION ALLEGATIONS

9. The Classes on whose behalf Causes of Action 1 through 5 are being asserted are the following:

Class 1 - Unpaid Wages Class

All non-exempt employees of Ameri-Force Craft Services, Inc. who worked in California during the period beginning April 1, 2017 and ending on the date set by the Court and were not paid for time spent waiting for and going through an entrance and/or exit security process prior to, during, or after their shifts, donning or doffing personal protective equipment, having their temperatures checked, and/or traveling between security check points and the location where they worked.

Class 2 - Unpaid Overtime Class

All non-exempt employees of Ameri-Force Craft Services, Inc. who worked in California during the period beginning April 1, 2017 and ending on the date set by the Court who received per diems and worked overtime during the period for which the per diems were paid but were not paid overtime at a rate that included the per diems in the calculated overtime rate.

Class 3 - Wage Statement Sub-Class

All members of Class 1 or Class 2 who received a wage statement at any time during the period beginning April 1, 2020 and ending on the date set by the Court.

Class 4 – Section 226(a)(8) Wage Statement Class

All employees of Ameri-Force Craft Services, Inc. who worked in California during the period beginning April 1, 2020 and ending on the date set by the Court who received a wage statement at any time during such period that did not reflect “Ameri-Force Craft Services, Inc.” as the employer on the wage statement.

Class 5 - Termination Pay Sub-Class

All members of Classes 1 or 2 whose employment terminated at any time during the period beginning April 1, 2018 and ending on the date set by the Court.

10. During all the relevant class periods, Defendants employed Plaintiffs and class members in California.

11. Plaintiffs Archie Shakespeare and Troy Brown are each a member of and brings claims for himself and on behalf of the following classes: Class 1, Class 2, Class 3, Class 4, and Class 5.

12. **Numerosity.** The number of class members is so numerous that joinder of all members is impractical. The names and addresses of the class members are identifiable through documents

maintained by the Defendants, and the class members may be notified of the pendency of this action by published and/or mailed notice. Plaintiffs believe there are more than 40 class members in each class.

13. **Existence and Predominance of Common Questions of Law and Fact.** Common questions of law and fact exist as to all class members. These questions predominate over the questions affecting only individual members. These common legal and factual questions include, *inter alia*:

- a. Whether Defendants paid class members for all hours worked as required by California law for time spent waiting for and going through security processes;
- b. Whether Defendants paid class members for all hours worked as required by California law for time spent donning or doffing personal protective equipment;
- c. Whether Defendants paid class members for all hours worked as required by California law for time spent having their temperatures checked;
- d. Whether Defendants paid class members for all hours worked as required by California law for time spent traveling between the security check points and the location where they worked;
- e. Whether the per diems paid to class members were required to be included in the calculation of the overtime payable to class members;
- f. Whether Defendants paid class members for overtime at the proper overtime rate;
- g. Whether Defendants violated Labor Code Section 226(a) by failing to timely furnish Plaintiffs and class members accurate wage statements with all of the information required to be shown by Section 226(a);
- h. Whether Defendants' failure to provide the information required by Labor Code Section 226(a) was knowing and intentional;
- i. Whether Ameri-Force violated Labor Code Section 226(a)(8) by failing to accurately show Ameri-Force's legal name on class members' wage statements;
- j. Whether Ameri-Force's failure to provide the information required by Labor Code Section 226(a)(8) was knowing and intentional; and

k. Whether Defendants engaged in unfair competition as that term is defined in Business & Professions Code Section 17200 in violation of California Business & Professions Code Section 17200, *et seq.*

14. **Typicality.** Plaintiffs' class claims are typical of the class members' claims. Plaintiffs and all class members sustained injuries and damages arising out of Defendants' common course of conduct in violation of the law. Plaintiffs are entitled to the same relief under the class action causes of action as the class members.

15. **Adequacy.** Plaintiffs will adequately and fairly protect the interests of the class members. Defendants employed Plaintiffs during the class period, and each of Plaintiffs is an adequate representative for the class members because neither Plaintiff has any interest adverse to the interests of the class members and Plaintiffs have retained legal counsel with substantial experience in civil litigation, employment law, and class action litigation. Plaintiffs and Plaintiffs' counsel will fairly and adequately protect the class members' interests.

16. **Superiority.** A class action is superior to other available means of fair and efficient adjudication of the class members' claims. Joinder of all class members is impractical. Class action treatment will allow numerous similarly situated persons to prosecute their common claims in a single forum, simultaneously, efficiently, and without the unnecessary duplication of effort and expense that numerous individual actions would cause to such plaintiffs or to the court system. Further, the damages of many class members may be relatively small and the burden and expenses of individual litigation would make it difficult or impossible for individual class members to seek and obtain relief, while a class action will serve an important public interest. Furthermore, questions of law and fact common to the class members predominate over questions affecting only individual members and a class action is superior to other available methods for fair and efficient adjudication of the controversy. Individual litigation would present the potential for inconsistent or contradictory judgments. By contrast, the class action device will result in substantial benefits to the litigants and the Court by allowing the Court to resolve numerous individual claims based upon a single set of proof in one case.

- 1 17. Before being allowed to work, Plaintiffs and class members were required to stop at a security
2 check point where a guard would scan their employee badges before allowing them to enter the
3 secured site where they worked. There were lines of employees in which they were required to
4 wait to go through this security process. After going through the mandatory security entrance
5 process, they were required to have their temperatures checked, put on personal protective
6 equipment, and then travel to the location where they worked. Plaintiffs and class members were
7 not paid for all this time.
- 8 18. After Plaintiffs and class members stopped working, they had to take off all the protective gear
9 and travel from the location where they had worked to the security exit check point. There, they
10 had to wait to go through the mandatory exit process, which included waiting in line. Plaintiffs
11 and class members were not paid for all this time.
- 12 19. Defendants did not compensate Plaintiffs and other class members for such hours worked and, to
13 the extent such hours worked exceeded eight hours in a day or 40 hours in a week, Defendants
14 did not compensate Plaintiffs and other class members at the correct overtime rate.
- 15 20. Plaintiffs and class members received a daily per diem. They did not receive this per diem on
16 days they did not work. When they worked less than six hours in a day, their daily per diem was
17 reduced. On occasion, they worked and were paid overtime. The overtime rate, however, was not
18 calculated by accounting for the per diem payments as required by California law. Therefore,
19 they were not paid the correct overtime rate.
- 20 21. Plaintiffs and class members are entitled to compensation for unpaid wages and to liquidated
21 damages pursuant to Labor Code Section 1194.2.
- 22 22. Plaintiffs have incurred and are entitled to attorney's fees, costs, and interest.

23 **Second Cause of Action**
24 **Wage Statement and Record-Keeping Violations**
25 **(By Plaintiffs Against All Defendants Other than NASSCO)**

- 26 23. Plaintiffs reallege all the preceding paragraphs.
- 27 24. As a matter of uniform policy and practice, Defendants knowingly and intentionally failed to
28 maintain and furnish Plaintiffs and class members with accurate and complete wage statements
reflecting all the information required under Section 226(a) and/or Section 1174.

Third Amended Complaint

- 1 25. Defendants violated Section 226(a)(1) by knowingly and intentionally failing to provide wage
2 statements to Plaintiffs and other class members that accurately showed the gross wages earned
3 by Plaintiffs and other class members.
- 4 26. Defendants violated Section 226(a)(2) by knowingly and intentionally failing to provide
5 Plaintiffs and other class members wage statements that accurately showed the total hours
6 worked by Plaintiffs and other class members.
- 7 27. Defendants violated Section 226(a)(5) by knowingly and intentionally failing to provide
8 Plaintiffs and other class members with wage statements that accurately showed the net wages
9 earned by Plaintiffs and other class members.
- 10 28. Defendants violated Section 226(a)(9) by knowingly and intentionally failing to provide
11 Plaintiffs and other class members with wage statements that accurately showed the applicable
12 hourly rates in effect during the pay period and the corresponding number of hours worked at
13 each hourly rate by failing to accurately show the number of hours worked at the applicable
14 hourly rate at which they were to be paid.
- 15 29. Plaintiffs and class members are deemed to have suffered injury because of Defendants'
16 violations. Defendants' violation of Section 226(a) resulted in a concrete injury to Plaintiffs' and
17 the class members' statutory right to receive accurate information under Section 226(a).
18 Defendants' failure to furnish Plaintiffs and class members with complete and accurate itemized
19 wage statements resulted in actual injury because such failures led to, among other things, the
20 non-payment of all the wages due them and deprived them of the information necessary to
21 identify the discrepancies in Defendants' reported data.
- 22 30. Plaintiffs and the other class members are entitled to damages and/or penalties pursuant to Labor
23 Code Section 226(e).
- 24 31. Plaintiffs have incurred and are entitled to attorney's fees, costs, and interest.

25 **Third Cause of Action**
26 **Violation of Labor Code Section 226(a)(8)**
27 **(By Plaintiffs Against All Defendants Other than NASSCO)**

- 28 32. Plaintiffs reallege all the preceding paragraphs.

- 1 33. Defendants violated Section 226(a)(8) by knowingly and intentionally failing to provide
2 Plaintiffs and other class members with statements of wages that accurately show “Ameri-Force
3 Craft Services, Inc.” as the employer on the wage statements. Rather than showing the name
4 “Ameri-Force Craft Services, Inc.” on the wage statements, the wage statements Ameri-Force
5 provided to Plaintiffs and class members only showed the name of “Ameri-Force.” There are
6 multiple entities with the name “Ameri-Force” in their legal names, however, including Ameri-
7 Force Professional Services, Inc., Ameri-Force Industrial Services, Inc., Ameri-Force
8 Management Services, Inc., and Ameri-Force, Inc., all of which are believed to have the same
9 address as Ameri-Force Craft Services, Inc.
- 10 34. Defendants’ violation of Section 226(a) resulted in a concrete injury to Plaintiffs’ and the class
11 members’ statutory right to receive accurate information under Section 226(a).
- 12 35. Plaintiffs and the other class members are entitled to damages and/or penalties pursuant to Labor
13 Code Section 226(e).
- 14 36. Plaintiffs have incurred and are entitled to attorney’s fees, costs, and interest.

15 **Fourth Cause of Action**
16 **Violation of California Business and Professions Code Section 17200, *et seq.***
17 **(By Plaintiffs Against All Defendants Other than NASSCO)**

- 17 37. Plaintiffs reallege all the preceding paragraphs.
- 18 38. Business & Professions Code Section 17200 provides:
19 As used in this chapter, unfair competition shall mean and include any ***unlawful, unfair***
20 or fraudulent business act or practice and unfair, deceptive, untrue or misleading
21 advertising and any act prohibited by Chapter 1 (commencing with Section 17500) of
22 Part 3 of Division 7 of the Business and Professions Code. (Emphasis added.)
- 22 39. Defendants’ violations of the Labor Code and Wage Order provisions set forth above constitute
23 unlawful and/or unfair business acts or practices.
- 24 40. Business & Professions Code Section 17203 provides:
25 Any person who engages, has engaged, or proposes to engage in unfair competition may
26 be enjoined in any court of competent jurisdiction. The court may make such orders or
27 judgments, including the appointment of a receiver, as may be necessary to prevent the
28 use or employment by any person of any practice which constitutes unfair competition, as
defined in this chapter, or as may be necessary to restore to any person in interest any
money or property, real or personal, which may have been acquired by means of such
unfair competition.

41. Defendants have been unjustly enriched because of Defendants' unlawful and/or unfair business acts and/or practices.
42. Plaintiffs and the class members are entitled to restitution of the money and/or property by which Defendants were unjustly enriched.
43. Plaintiffs are entitled to an award of attorney's fees pursuant to California Code of Civil Procedure Section 1021.5.

Fifth Cause of Action
For Recovery of Civil Penalties under the California Private Attorney General Act,
Labor Code Section 2698, *et seq.*
(By Plaintiffs Against All Defendants Other than NASSCO)

44. Plaintiffs reallege all the preceding paragraphs.
45. One or more of the alleged violations set forth below was committed against Plaintiffs and Plaintiffs are therefore "aggrieved employees" under Labor Code Section 2699(c).
46. Pursuant to the Private Attorneys General Act of 2004, Labor Code Sections 2698, *et seq.*, (the "PAGA"), Plaintiffs are entitled to recover civil penalties on behalf of persons who are or were employed by the alleged violator and against whom one or more of the alleged violations was committed ("PAGA members").
47. As alleged above, Defendants have committed Labor Code violations against Plaintiffs and other PAGA members.
48. Plaintiffs seek to recover all civil penalties recoverable under the PAGA against Defendants, including without limitation penalties pursuant to Labor Code Sections 210, 226.3, 256, 558, 1174.5, 1197.1, and 2699(f).
49. Plaintiffs' attorney gave written notice to the Labor and Workforce Development Agency and to Defendant Ameri-Force by certified mail identifying violations set forth in this complaint. 65 days have passed from the date of the mailing of the notice.
50. Plaintiffs have incurred and are entitled to attorney's fees and costs in pursuing this claim.

Sixth Cause of Action
Failure to Pay Wages for Hours Worked
(By Plaintiffs Against NASSCO)

51. Plaintiffs reallege all the preceding paragraphs.

Third Amended Complaint

CLASS ACTION ALLEGATIONS

52. Plaintiffs are each a member of and brings the sixth through ninth causes of action for themselves and on behalf of the following classes:

Class 6 - Unpaid Wages Class

All non-exempt employees of National Steel and Shipbuilding Company, including those employees who were assigned to work at National Steel and Shipbuilding Company by Ameri-Force Craft Services, Inc. or any other staffing agency and those employees who National Steel and Shipbuilding Company treated as its direct employees who worked in California during the period beginning April 1, 2017 and ending on the date set by the Court and were not paid for time spent waiting for and going through an entrance and/or exit security process prior to, during, or after their shifts, donning or doffing personal protective equipment, having their temperatures checked, and/or traveling between security check points and the location where they worked.

Class 7 - Unpaid Overtime Class

All non-exempt employees of National Steel and Shipbuilding Company, including those employees who were assigned to work at National Steel and Shipbuilding Company by Ameri-Force Craft Services, Inc. or any other staffing agency and those employees who National Steel and Shipbuilding Company treated as its direct employees who worked in California during the period beginning April 1, 2017 four years prior to April 1, 2021 and ending on the date set by the Court who received per diems and worked overtime during the period for which the per diems were paid but were not paid overtime at a rate that included the per diems in the calculated overtime rate.

Class 8 - Termination Pay Sub-Class

All members of Classes 6 or 7 whose employment terminated at any time within the period beginning April 1, 2018 and ending on the date set by the Court.

Class 9 - Wage Statement Sub-Class

All members of Classes 6, 7 or 8 who received a wage statement from National Steel and Shipbuilding Company at any time within the period beginning April 1, 2020 and ending on the date set by the Court and all persons who were assigned to work at National Steel and Shipbuilding Company by Ameri-Force Craft Services, Inc. or any other staffing agency who did not receive any wage statements from National Steel and Shipbuilding Company at any time within the period beginning April 1, 2020 and ending on the date set by the Court.

53. During all the relevant class periods, NASSCO employed Plaintiffs and class members in California.

54. **Numerosity.** The number of class members is so numerous that joinder of all members is impractical. The names and addresses of the class members are identifiable through documents maintained by NASSCO , and the class members may be notified of the pendency of this action

by published and/or mailed notice. Plaintiffs believe there are more than 40 class members in each class.

55. **Existence and Predominance of Common Questions of Law and Fact.** Common questions of law and fact exist as to all class members. These questions predominate over the questions affecting only individual members. These common legal and factual questions include, *inter alia*:

- a. Whether NASSCO paid class members for all hours worked as required by California law for time spent waiting for and going through security processes;
- b. Whether NASSCO paid class members for all hours worked as required by California law for time spent donning or doffing personal protective equipment;
- c. Whether NASSCO paid class members for all hours worked as required by California law for time spent having their temperatures checked;
- d. Whether NASSCO paid class members for all hours worked as required by California law for time spent traveling between the security check points and the location where they worked;
- e. Whether the per diems paid to class members were required to be included in the calculation of the overtime payable to class members;
- f. Whether NASSCO paid class members for overtime at the proper overtime rate;
- g. Whether NASSCO violated Labor Code Sections 201 or 202 by willfully failing to pay the wages earned and unpaid that were due them in the time required by Sections 201 or 202.
- h. Whether NASSCO violated Labor Code Section 226(a) by failing to timely furnish Plaintiffs and class members accurate wage statements with all of the information required to be shown by Section 226(a);
- i. Whether NASSCO's failure to provide the information required by Labor Code Section 226(a) was knowing and intentional; and
- j. Whether NASSCO engaged in unfair competition as that term is defined in Business & Professions Code Section 17200 in violation of California Business & Professions Code Section 17200, *et seq.*

1 56. **Typicality.** Plaintiffs' class claims are typical of the class members' claims. Plaintiffs and all
2 class members sustained injuries and damages arising out of NASSCO's common course of
3 conduct in violation of the law. Plaintiffs are entitled to the same relief under the class action
4 causes of action as the class members.

5 57. **Adequacy.** Plaintiffs will adequately and fairly protect the interests of the class members.
6 NASSCO employed Plaintiffs during the class period, and each of Plaintiffs is an adequate
7 representative for the class members because neither Plaintiff has any interest adverse to the
8 interests of the class members and Plaintiffs have retained legal counsel with substantial
9 experience in civil litigation, employment law, and class action litigation. Plaintiffs and
10 Plaintiffs' counsel will fairly and adequately protect the class members' interests.

11 58. **Superiority.** A class action is superior to other available means of fair and efficient adjudication
12 of the class members' claims. Joinder of all class members is impractical. Class action treatment
13 will allow numerous similarly situated persons to prosecute their common claims in a single
14 forum, simultaneously, efficiently, and without the unnecessary duplication of effort and expense
15 that numerous individual actions would cause to such plaintiffs or to the court system. Further,
16 the damages of many class members may be relatively small and the burden and expenses of
17 individual litigation would make it difficult or impossible for individual class members to seek
18 and obtain relief, while a class action will serve an important public interest. Furthermore,
19 questions of law and fact common to the class members predominate over questions affecting
20 only individual members and a class action is superior to other available methods for fair and
21 efficient adjudication of the controversy. Individual litigation would present the potential for
22 inconsistent or contradictory judgments. By contrast, the class action device will result in
23 substantial benefits to the litigants and the Court by allowing the Court to resolve numerous
24 individual claims based upon a single set of proof in one case.

25 59. Before being allowed to work, Plaintiff and class members were required to stop at a security
26 check point where a guard would scan their employee badges before allowing them to enter the
27 secured site where they worked. There were lines of employees in which they were required to
28 wait to go through this security process. After going through the mandatory security entrance

process, they were required to have their temperatures checked, put on personal protective equipment, and then travel to the location where they worked. Plaintiffs and class members were not paid for all this time.

60. After Plaintiff and class members stopped working for the day, they had to take off all the protective gear and had to travel from the location where they had worked to the security exit check point. There, they had to wait to go through the mandatory exit process, which included waiting in line. Plaintiff and class members were not paid for all this time.

61. NASSCO did not compensate Plaintiff and other class members for such hours worked and, to the extent such hours worked exceeded eight hours in a day or 40 hours in a week, NASSCO did not compensate Plaintiff and other class members at the correct overtime rate.

62. Plaintiff and class members are entitled to compensation for unpaid wages and to liquidated damages pursuant to Labor Code Section 1194.2.

63. Plaintiff has incurred and is entitled to attorney's fees, costs, and interest.

**Seventh Cause of Action
Failure to Pay Wages Due on Termination
(By Plaintiffs Against NASSCO)**

64. Plaintiffs reallege all the preceding paragraphs.

65. The employment of Plaintiffs and certain class members with NASSCO terminated.

66. When the employment of Plaintiffs and certain class members terminated, NASSCO violated Labor Code Sections 201 or 202 by willfully failing to pay the wages earned and unpaid that were due them, including wages due for regular hours worked, wages for overtime hours worked in the time required by Sections 201 or 202.

67. Plaintiffs have incurred and is entitled to attorney's fees, costs, and interest.

**Eighth Cause of Action
Wage Statement and Record-Keeping Violations
(By Plaintiff Brown Against NASSCO)**

68. Plaintiffs reallege all the preceding paragraphs.

69. As a matter of uniform policy and practice, NASSCO knowingly and intentionally failed to maintain and furnish Plaintiffs and class members with accurate and complete wage statements reflecting all the information required under Section 226(a) and/or Section 1174.
70. NASSCO violated Section 226(a)(1) as to Plaintiffs and other class members by knowingly and intentionally failing to provide them wage statements that accurately showed the gross wages earned by Plaintiffs and other class members.
71. NASSCO violated Section 226(a)(2) by knowingly and intentionally failing to provide Plaintiffs and other class members wage statements that accurately showed the total hours worked by Plaintiffs and other class members.
72. NASSCO violated Section 226(a)(5) by knowingly and intentionally failing to provide Plaintiffs and other class members with wage statements that accurately showed the net wages earned by Plaintiffs and other class members.
73. NASSCO violated Section 226(a)(8) by knowingly and intentionally failing to provide Plaintiffs and other class members with wage statements that accurately showed as the employer on the wage statements.
74. NASSCO violated Section 226(a)(8) by knowingly and intentionally failing to provide Plaintiffs and other class members with statements of wages that accurately show “National Steel and Shipbuilding Company” and its legal address on the wage statements.
75. NASSCO violated Section 226(a)(9) by knowingly and intentionally failing to provide Plaintiffs and other class members with wage statements that accurately showed the applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by failing accurately to show the actual number of hours worked at the applicable hourly rate at which they were to be paid.
76. NASSCO’s violation of Section 226(a) resulted in a concrete injury to Plaintiff’s and the class members’ statutory right to receive accurate information under Section 226(a). NASSCO’s failure to furnish Plaintiff and class members with complete and accurate itemized wage statements resulted in actual injury because such failures led to, among other things, the non-

1 payment of all the wages due them and deprived them of the information necessary to identify
2 the discrepancies in the reported data.

3 77. Plaintiff and the other class members are entitled to damages and/or penalties pursuant to Labor
4 Code Section 226(e).

5 78. Plaintiffs have incurred and is entitled to attorney's fees, costs, and interest.

6 **Ninth Cause of Action**
7 **Violation of California Business and Professions Code Section 17200, *et seq.***
8 **(By Plaintiff Brown Against NASSCO)**

9 79. Plaintiffs reallege all the preceding paragraphs.

10 80. Business & Professions Code Section 17200 provides:

11 As used in this chapter, unfair competition shall mean and include any ***unlawful, unfair***
12 or fraudulent business act or practice and unfair, deceptive, untrue or misleading
advertising and any act prohibited by Chapter 1 (commencing with Section 17500) of
Part 3 of Division 7 of the Business and Professions Code.) (Emphasis added.)

13 81. NASSCO's violations of the Labor Code and Wage Order provisions set forth above constitute
14 unlawful and/or unfair business acts or practices.

15 82. Business & Professions Code Section 17203 provides:

16 Any person who engages, has engaged, or proposes to engage in unfair competition may
17 be enjoined in any court of competent jurisdiction. The court may make such orders or
18 judgments, including the appointment of a receiver, as may be necessary to prevent the
19 use or employment by any person of any practice which constitutes unfair competition, as
20 defined in this chapter, or as may be necessary to restore to any person in interest any
21 money or property, real or personal, which may have been acquired by means of such
22 unfair competition.

23 83. NASSCO has been unjustly enriched because of NASSCO's unlawful and/or unfair business acts
24 and/or practices.

25 84. Plaintiffs and the class members are entitled to restitution of the money and/or property by which
26 NASSCO was unjustly enriched.

27 85. Plaintiffs have incurred and is entitled to an award of attorney's fees pursuant to California Code
28 of Civil Procedure Section 1021.5.

Tenth Cause of Action
For Recovery of Civil Penalties under the California Private Attorney General Act,
Labor Code Section 2698, *et seq.*
(By Plaintiff Brown Against NASSCO)

86. Plaintiff Brown realleges all the preceding paragraphs.

87. One or more of the alleged violations set forth below was committed against Plaintiff and Plaintiff is therefore an “aggrieved employee” under Labor Code Section 2699(c).

88. Pursuant to the Private Attorneys General Act of 2004, Labor Code Sections 2698, *et seq.*, (the “PAGA”), Plaintiff is entitled to recover civil penalties on behalf of persons who are or were employed by the alleged violator and against whom one or more of the alleged violations was committed (“PAGA members”).

89. As alleged above, NASSCO has committed Labor Code violations against Plaintiff and other PAGA members.

90. Plaintiff seeks to recover all civil penalties recoverable under PAGA against NASSCO, including without limitation penalties pursuant to Labor Code Sections 210, 226.3, 256, 558, 1174.5, 1197.1, and 2699(f).

91. Plaintiff’s attorney gave written notice to the Labor and Workforce Development Agency (“LWDA”) and to NASSCO by certified mail identifying violations set forth in this complaint. 65 days have passed from the date of the mailing of the notice.

92. Plaintiff has incurred and is entitled to attorney’s fees and costs in pursuing this claim.

WHEREFORE, Plaintiffs demand a jury trial and requests that judgment be entered against all Defendants and NASSCO as follows:

1. Certification of this action as a class action and the appointment of Plaintiffs as the representatives of the classes and Plaintiffs’ counsel as lead counsel for the classes;
2. Damages for unpaid wages;
3. Liquidated damages;
4. Compensatory damages according to proof;
5. Statutory penalties pursuant to Labor Code Section 226(e);
6. Restitution pursuant to Business & Professions Code Sections 17200, *et seq.*;

- 1 7. Penalties pursuant to the PAGA;
2 8. Prejudgment interest;
3 9. Attorney's fees;
4 10. Costs as allowed by law;
5 11. A declaratory judgment that the practices complained of herein are unlawful and/or unfair under
6 the Labor Code and/or the Unfair Competition Law;
7 12. Such other relief as this Court shall deem just and proper.

8 Dated: March 25, 2022

THE DION-KINDEM LAW FIRM

9
10 BY: 

PETER R. DION-KINDEM, P.C.

PETER R. DION-KINDEM

Attorney for Plaintiffs Archie Shakespeare
and Troy Brown

14 **Demand for Jury Trial**

15 Plaintiffs demand a jury trial.

16 Dated: March 25, 2022

THE DION-KINDEM LAW FIRM

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18 BY: 

PETER R. DION-KINDEM, P.C.

PETER R. DION-KINDEM

Attorney for Plaintiffs Archie Shakespeare
and Troy Brown

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on interested parties in this action addressed as follows:

on interested parties in this action addressed as follows:

Attorneys for Defendant NASSCO
Telephone: 619-237-5200
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Kale M. Eaton

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