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 and Brian Cooley

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

SHU WU, JASON BRUNTON, and
 BRIAN COOLEY, individually, and on
 behalf of other members of the general
 public similarly situated, and as
 aggrieved employees pursuant to the

Plaintiffs,

vs.

FERROVIAL SERVICES
 INFRASTRUCTURE INC. f/k/a
 BROADSPECTRUM
 INFRASTRUCTURE INC. f/k/a
 TRANSFIELD SERVICES
 INFRASTRUCTURE INC., a Virginia
 corporation; BROADSPECTRUM
 AMERICAS, INC. f/k/a TRANSFIELD
 SERVICES AMERICAS, INC., a
 Delaware corporation; TIMEC
 SPECIALTY SERVICES, INC. f/k/a
 BROADSPECTRUM SPECIALTY
 SERVICES, INC., a Delaware
 corporation; TIMEC SERVICES, INC.
 f/k/a TIMEC COMPANY f/k/a
 BROADSPECTRUM DOWNSTREAM
 SERVICES, INC., a Delaware
 corporation, and DOES 1 through 10,
 inclusive,

Defendants.

Case No.: 3:20-cv-09447-WHO

Assigned to the Hon. William H. Orrick

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

- (1) Violation of the Fair Labor Standards Act (29 U.S.C. §§ 201, *et seq.*);
- (2) Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime);
- (3) Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 (Unpaid Minimum Wages);
- (4) Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 (Failure to Provide Meal Periods);
- (5) Violation of California Labor Code §§ 226.7, 516, and 1198 (Failure to Provide Rest Periods);
- (6) Violation of California Labor Code §§ 226(a), 1174(d), and 1198 (Non-Compliant Wage Statements and Failure to Maintain Payroll Records);
- (7) Violation of California Labor Code §§ 201 and 202 (Wages Not Timely Paid Upon Termination);
- (8) Violation of California Labor Code

- § 204 (Failure to Timely Pay Wages During Employment);
- (9) Violation of California Labor Code § 2802 (Unreimbursed Business Expenses);
- (10) Civil Penalties for Violations of California Labor Code, Pursuant to PAGA, §§ 2698, *et seq.*
- (11) Violation of California Business & Professions Code §§ 17200, *et seq.* (Unlawful Business Practices); and
- (12) Violation of California Business & Professions Code §§ 17200, *et seq.* (Unfair Business Practices)

Jury Trial Demanded

1 Plaintiffs Jason Brunton, and Brian Cooley, individually and on behalf of all other
2 members of the public similarly situated, and as aggrieved employees and on behalf of all
3 other aggrieved employees, allege as follows:

4 JURISDICTION AND VENUE

5 1. This collective and class action and state enforcement action is brought
6 pursuant to Rule 23 of the Federal Rules of Civil Procedure to recover wages and all other
7 available relief on behalf of Plaintiffs and all similarly situated current and former non-
8 exempt, hourly paid employees of Defendants, and a non-class representative enforcement
9 action brought pursuant to the Labor Code Private Attorneys General Act of 2004,
10 California Labor Code section 2698 *et seq.* (“PAGA”) to recover civil penalties and any
11 other relief recoverable by the State of California on behalf of current and former non-
12 exempt, hourly paid employees of Defendants in California, against whom one or more
13 violations of any provision in Division 2 Part 2 Chapter 1 of the Labor Code or any
14 provision regulating hours and days of work in the applicable Industrial Welfare
15 Commission (“IWC”) Wage Order were committed, as set forth in this complaint.

16 2. This Court has original jurisdiction over this action pursuant to 28 U.S.C.
17 § 1331 and based on 28 U.S.C. §§ 1441(a) and 1446.

18 3. Venue is proper in this Court because this case was originally filed in the
19 Superior Court of California for the County of San Francisco. Venue properly lies in the
20 United States District Court for the Northern District of California pursuant to 28 U.S.C.
21 §§ 84(a), 1391(b), and 1441(a).

22 4. The PAGA statute authorizes aggrieved employees to sue directly as the
23 proxy of the State of California for civil penalties for violations of various provisions in
24 the California Labor Code.

25 THE PARTIES

26 5. Defendants employed Shu Wu as a non-exempt, hourly paid Tow Truck
27 Operator from approximately July 2014 to October 2017. During his employment, Wu
28 worked for Defendants in San Francisco, California. Wu worked approximately nine (9)

1 or more hours per day, five (5) days per week, and forty (40) hours or more per week. His
2 job duties included, without limitation, remotely monitoring streets, patrolling for illegally
3 parked cars, and towing illegally parked cars.

4 6. Defendants employed Plaintiff Jason Brunton as a non-exempt, hourly paid
5 Tunnel Operator from 2014 to 2017. During his employment, Plaintiff Brunton worked
6 for Defendants in San Francisco, California. Plaintiff Brunton worked approximately
7 eight (8) to ten (10) or more hours per day, five (5) to six (6) days per week, and forty (40)
8 hours or more per week. His job duties included, without limitation, monitoring
9 surveillance cameras, assisting disabled motorists, operating the tow truck, patching the
10 roadway, cleaning tunnels, and repairing guard rails.

11 7. Defendants employed Plaintiff Brian Cooley as a non-exempt, hourly paid
12 Superintendent/Electrician from approximately April 2012 to 2016. During his
13 employment, Plaintiff Cooley worked for Defendants in San Francisco, California.
14 Plaintiff Cooley worked approximately eight (8) or more hours per day, five (5) days per
15 week, and forty (40) hours or more per week. His job duties included, without limitation,
16 road work, tunnel maintenance, and landscaping.

17 8. Defendant FERROVIAL SERVICES INFRASTRUCTURE INC. f/k/a
18 BROADSPECTRUM INFRASTRUCTURE INC. f/k/a TRANSFIELD SERVICES
19 INFRASTRUCTURE INC. was and is, upon information and belief, a Virginia
20 corporation doing business in California, and at all times hereinafter mentioned, an
21 employer whose employees are engaged throughout this county, the State of California,
22 or the various states of the United States of America.

23 9. Defendant BROADSPECTRUM AMERICAS, INC. f/k/a TRANSFIELD
24 SERVICES AMERICAS, INC. was and is, upon information and belief, a Delaware
25 corporation doing business in California, and at all times hereinafter mentioned, an
26 employer whose employees are engaged throughout this county, the State of California,
27 or the various states of the United States of America.

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1 10. Defendant TIMEC SPECIALTY SERVICES, INC. f/k/a
2 BROADSPECTRUM SPECIALTY SERVICES, INC. was and is, upon information and
3 belief, a Delaware corporation doing business in California, and at all times hereinafter
4 mentioned, an employer whose employees are engaged throughout this county, the State
5 of California, or the various states of the United States of America.

6 11. Defendant TIMEC SERVICES, INC. f/k/a TIMEC COMPANY f/k/a
7 BROADSPECTRUM DOWNSTREAM SERVICES, INC. was and is, upon information
8 and belief, a Delaware corporation doing business in California, and at all times hereinafter
9 mentioned, an employer whose employees are engaged throughout this county, the State
10 of California, or the various states of the United States of America.

11 12. Plaintiffs are unaware of the true names or capacities of the Defendants sued
12 herein under the fictitious names DOES 1 through 10, but will seek leave of this Court to
13 amend the complaint and serve such fictitiously named Defendants once their names and
14 capacities become known.

15 13. Plaintiffs are informed and believe, and thereon allege, that DOES 1 through
16 10 were the partners, agents, owners, or managers of FERROVIAL SERVICES
17 INFRASTRUCTURE INC. f/k/a BROADSPECTRUM INFRASTRUCTURE INC.
18 f/k/a TRANSFIELD SERVICES INFRASTRUCTURE INC.; BROADSPECTRUM
19 AMERICAS, INC. f/k/a TRANSFIELD SERVICES AMERICAS, INC.; TIMEC
20 SPECIALTY SERVICES, INC. f/k/a BROADSPECTRUM SPECIALTY SERVICES,
21 INC.; and/or TIMEC SERVICES, INC. f/k/a TIMEC COMPANY f/k/a
22 BROADSPECTRUM DOWNSTREAM SERVICES, INC., at all relevant times.

23 14. Plaintiffs are informed and believe, and thereon allege, that each and all of
24 the acts and omissions alleged herein was performed by, or is attributable to,
25 FERROVIAL SERVICES INFRASTRUCTURE INC. f/k/a BROADSPECTRUM
26 INFRASTRUCTURE INC. f/k/a TRANSFIELD SERVICES INFRASTRUCTURE
27 INC.; BROADSPECTRUM AMERICAS, INC. f/k/a TRANSFIELD SERVICES
28 AMERICAS, INC.; TIMEC SPECIALTY SERVICES, INC. f/k/a

1 BROADSPECTRUM SPECIALTY SERVICES, INC.; TIMEC SERVICES, INC. f/k/a
2 TIMEC COMPANY f/k/a BROADSPECTRUM DOWNSTREAM SERVICES, INC.,
3 and/or DOES 1 through 10 (collectively “Defendants” or “BROADSPECTRUM”), each
4 acting as the agent, employee, alter ego, and/or joint venturer of, or working in concert
5 with, each of the other co-Defendants and was acting within the course and scope of such
6 agency, employment, joint venture, or concerted activity with legal authority to act on the
7 others’ behalf. The acts of any and all Defendants were in accordance with, and represent,
8 the official policy of Defendants.

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

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

16 17. Under California law, Defendants are jointly and severally liable as
17 employers for the violations alleged herein because they have each exercised sufficient
18 control over the wages, hours, working conditions, and employment status of Plaintiffs
19 and class members. Each Defendant had the power to hire and fire Plaintiffs and class
20 members, supervised and controlled their work schedule and/or conditions of
21 employment, determined their rate of pay, and maintained their employment records.
22 Defendants suffered or permitted Plaintiffs and class members to work and/or “engaged”
23 Plaintiffs and class members so as to create a common-law employment relationship. As
24 joint employers of Plaintiffs and class members, Defendants are jointly and severally liable
25 for the civil penalties and all other relief available to Plaintiffs and class members under
26 the law.

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18. Plaintiffs are informed and believe, and thereon allege, that at all relevant times, Defendants, and each of them, have acted as joint employers with respect to Plaintiffs and class members because Defendants have:

- (a) jointly exercised meaningful control over the work performed by Plaintiffs and class members;
- (b) jointly exercised meaningful control over Plaintiffs' and class members' wages, hours, and working conditions, including the quantity, quality standards, speed, scheduling, and operative details of the tasks performed by Plaintiffs and class members;
- (c) jointly required that Plaintiffs and class members perform work which is an integral part of Defendants' businesses; and
- (d) jointly exercised control over Plaintiffs and class members as a matter of economic reality in that Plaintiffs and class members were dependent on Defendants, who shared the power to set the wages of Plaintiffs and class members and determine their working conditions, and who jointly reaped the benefits from the underpayment of their wages and noncompliance with other statutory provisions governing their employment.

19. Plaintiffs are informed and believe, and further allege, that at all relevant times there has existed a unity of interest and ownership between Defendants such that any individuality and separateness between the entities has ceased.

20. FERROVIAL SERVICES INFRASTRUCTURE INC. f/k/a BROADSPECTRUM INFRASTRUCTURE INC. f/k/a TRANSFIELD SERVICES INFRASTRUCTURE INC.; BROADSPECTRUM AMERICAS, INC. f/k/a TRANSFIELD SERVICES AMERICAS, INC.; TIMEC SPECIALTY SERVICES, INC. f/k/a BROADSPECTRUM SPECIALTY SERVICES, INC.; TIMEC SERVICES, INC. f/k/a TIMEC COMPANY f/k/a BROADSPECTRUM DOWNSTREAM SERVICES, INC.; and DOES 1 through 10 are therefore alter egos of each other.

21. Adherence to the fiction of the separate existence of Defendants would permit an abuse of the corporate privilege, and would promote injustice by protecting Defendants from liability for the wrongful acts committed by it under the name FERROVIAL, BROADSPECTRUM, TRANSFIELD, or TIMEC.

22. Plaintiffs further allege, upon information and belief, that Defendants FERROVIAL SERVICES INFRASTRUCTURE INC. f/k/a BROADSPECTRUM INFRASTRUCTURE INC. f/k/a TRANSFIELD SERVICES INFRASTRUCTURE INC.; BROADSPECTRUM AMERICAS, INC. f/k/a TRANSFIELD SERVICES AMERICAS, INC.; TIMEC SPECIALTY SERVICES, INC. f/k/a BROADSPECTRUM SPECIALTY SERVICES, INC.; and TIMEC SERVICES, INC. f/k/a TIMEC COMPANY f/k/a BROADSPECTRUM DOWNSTREAM SERVICES, INC. are alter egos of each other for the following reasons:

(a) The BROADSPECTRUM companies, including BROADSPECTRUM INFRASTRUCTURE INC. and BROADSPECTRUM AMERICAS, INC. (which were formerly known as Transfield Services Ltd (TSE), including TRANSFIELD SERVICES INFRASTRUCTURE INC. and TRANSFIELD SERVICES AMERICAS, INC.), are business entities headquartered in Australia;¹

(b) The Spanish company Ferrovial, including FERROVIAL SERVICES INFRASTRUCTURE INC., acquired the BROADSPECTRUM companies in June 2016;²

(c) The entity “BROADSPECTRUM DOWNSTREAM SERVICES,

¹ “BROADSPECTRUM – Wikipedia,” available at <https://en.wikipedia.org/wiki/Broadspectrum>, last accessed June 26, 2018.

² “Ferrovial completes acquisition of BROADSPECTRUM,” available at <http://www.broadspectrum.com/news-2016/ferrovial-completes-acquisition-of-broadspectrum> (“BROADSPECTRUM is now 100 per cent owned by Ferrovial Services Australia Pty Limited. . . . BROADSPECTRUM was removed from the official list of the Australian Securities Exchange (ASX) at the close of trading on Tuesday, 28 June 2016, just over 15 years since it was originally listed (as Transfield Services).”), last accessed June 26, 2018.

INC.” is listed on the California Secretary of State’s website at the address “10814 JOLLYVILLE ROAD, SUITE 160, AUSTIN TX 78759.” This is the same address listed on Plaintiffs’ W-2 form for the entity “TRANSFIELD SERVICES INFRASTRUCTURE INC.”;

(d) On information and belief, FERROVIAL SERVICES INFRASTRUCTURE INC. f/k/a BROADSPECTRUM INFRASTRUCTURE INC. f/k/a TRANSFIELD SERVICES INFRASTRUCTURE INC.; BROADSPECTRUM AMERICAS, INC. f/k/a TRANSFIELD SERVICES AMERICAS, INC.; TIMEC SPECIALTY SERVICES, INC. f/k/a BROADSPECTRUM SPECIALTY SERVICES, INC.; and TIMEC SERVICES, INC. f/k/a TIMEC COMPANY f/k/a BROADSPECTRUM DOWNSTREAM SERVICES, INC. utilize the same standardized employment forms and issue the same employment policies; and

(e) On information and belief, FERROVIAL SERVICES INFRASTRUCTURE INC. f/k/a BROADSPECTRUM INFRASTRUCTURE INC. f/k/a TRANSFIELD SERVICES INFRASTRUCTURE INC.; TIMEC SPECIALTY SERVICES, INC. f/k/a BROADSPECTRUM SPECIALTY SERVICES, INC.; and TIMEC SERVICES, INC. f/k/a TIMEC COMPANY f/k/a BROADSPECTRUM DOWNSTREAM SERVICES, INC. share the same agent for service of process, “CORPORATION SERVICE COMPANY.”

GENERAL ALLEGATIONS

23. Defendants are Virginia and Delaware corporations which provide infrastructure services in a broad range of areas, including property and facilities management, defense, transportation, utilities, and mining and chemical processing.

1 Defendants operate in 24 countries and maintain their corporate headquarters in North
2 Sydney, Australia.

3 24. Upon information and belief, Defendants maintain a single, centralized
4 Human Resources (HR) department, at their corporate headquarters in Austin, Texas,
5 which is responsible for conducting Defendants' recruiting and hiring of new employees,
6 as well as communicating and implementing Defendants' company-wide policies to
7 employees throughout California.

8 25. In particular, Plaintiffs and class members, on information and belief,
9 received the same standardized documents and/or written policies. Upon information and
10 belief, the usage of standardized documents and/or written policies, including new hire
11 documents, indicate that Defendants dictated policies at the corporate level and
12 implemented them company-wide, regardless of their employees' assigned locations or
13 positions. Upon information and belief, Defendants set forth uniform policies and
14 procedures in several documents provided at an employee's time of hire. For example, at
15 the time Plaintiffs were hired, they received documents including, but not limited to, the
16 Offer Letter and Employee Handbook.

17 26. Upon information and belief, Defendants maintain a centralized Payroll
18 department at their corporate headquarters in Austin, Texas, which processes payroll for
19 all non-exempt, hourly paid employees working for Defendants at their various locations
20 and jobsites in California, including Plaintiffs and class members. Based upon
21 information and belief, Defendants issue the same formatted wage statements to all non-
22 exempt, hourly paid employees in California, irrespective of their work locations. Upon
23 information and belief, Defendants process payroll for departing employees in the same
24 manner throughout the State of California, regardless of the manner in which each
25 employee's employment ends.

26 27. Defendants continue to employ non-exempt or hourly paid employees in
27 California.

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1 28. Plaintiffs are informed and believe, and thereon allege, that at all times
2 herein mentioned, Defendants were advised by skilled lawyers and other professionals,
3 employees and advisors knowledgeable about federal and California labor and wage law,
4 employment and personnel practices, and about the requirements of federal and California
5 law.

6 29. Plaintiffs are informed and believe, and thereon allege, that Plaintiffs and
7 class members were not paid for all hours worked because all hours worked were not
8 recorded.

9 30. Plaintiffs are informed and believe, and thereon allege, that Defendants
10 knew or should have known that Plaintiffs and class members were entitled to receive
11 certain wages for overtime compensation and that they were not receiving certain wages
12 for overtime compensation.

13 31. Plaintiffs are informed and believe, and thereon allege, that Defendants
14 knew or should have known that Plaintiffs and class members were entitled to receive at
15 least minimum wages for compensation and that they were not receiving at least minimum
16 wages for work that was required to be done off-the-clock. In violation of the Fair Labor
17 Standards Act and California Labor Code, Plaintiffs and class members were not paid at
18 least minimum wages for work done off-the-clock.

19 32. Plaintiffs are informed and believe, and thereon allege, that Defendants
20 knew or should have known that Plaintiffs and class members were entitled to meal
21 periods in accordance with the California Labor Code and applicable IWC Wage Order
22 or payment of one (1) additional hour of pay at their regular rates of pay when they were
23 not provided with timely, uninterrupted, thirty (30) minute meal periods and that Plaintiffs
24 and class members were not provided with all meal periods or payment of one (1)
25 additional hour of pay at their regular rates of pay when they did not receive a timely,
26 uninterrupted, thirty (30) minute meal period.

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1 33. Plaintiffs are informed and believe, and thereon allege, that Defendants
2 knew or should have known that Plaintiffs and class members were entitled to rest periods
3 in accordance with the California Labor Code and applicable IWC Wage Order or
4 payment of one (1) additional hour of pay at their regular rates of pay when they were not
5 authorized and permitted to take a compliant rest period. In violation of the California
6 Labor Code, Plaintiffs and class members were not authorized and permitted to take
7 compliant rest periods, nor did Defendants provide Plaintiffs and class members with
8 payment of one (1) additional hour of pay at their regular rates of pay when they were not
9 authorized and permitted to take a compliant rest period.

10 34. Plaintiffs are informed and believe, and thereon allege, that Defendants
11 knew or should have known that Plaintiffs and class members were entitled to receive
12 complete and accurate wage statements in accordance with California law. In violation of
13 the California Labor Code, Plaintiffs and class members were not provided complete and
14 accurate wage statements.

15 35. Plaintiffs are informed and believe, and thereon allege, that Defendants
16 knew or should have known that they had a duty to maintain accurate and complete payroll
17 records in accordance with the California Labor Code and applicable IWC Wage Order,
18 but willfully, knowingly, and intentionally failed to do so.

19 36. Plaintiffs are informed and believe, and thereon allege, that Defendants
20 knew or should have known that Plaintiffs and class members were entitled to timely
21 payment of all wages earned upon termination of employment. In violation of the
22 California Labor Code, Plaintiffs and class members did not receive payment of all wages
23 due, including, but not limited to, overtime wages, minimum wages, and/or meal and rest
24 period premiums, within permissible time periods.

25 37. Plaintiffs are informed and believe, and thereon allege, that Defendants
26 knew or should have known that Plaintiffs and class members were entitled to timely
27 payment of wages during their employment. In violation of the California Labor Code,
28 Plaintiffs and class members did not receive payment of all wages, including, but not

1 limited to, overtime wages, minimum wages, and/or meal and rest period premiums,
2 within permissible time periods.

3 38. Plaintiffs are informed and believe, and thereon allege, that at all times
4 herein mentioned, that Defendants knew or should have known that they had a duty to
5 cover the costs and expenses Plaintiffs and class members incurred obtaining mandatory
6 physical examinations and/or drug tests, but willfully, knowingly, and intentionally failed
7 to do so.

8 39. Plaintiffs are informed and believe, and thereon allege, that Defendants
9 knew or should have known that Plaintiffs and class members were entitled to receive full
10 reimbursement for all business-related expenses and costs they incurred during the course
11 and scope of their employment and that they did not receive full reimbursement of
12 applicable business-related expenses and costs incurred.

13 40. Plaintiffs are informed and believe, and thereon allege, that at all times
14 herein mentioned, Defendants knew or should have known that they had a duty to provide
15 Plaintiffs and class members with written notice of the material terms of their employment
16 with Defendants as required by the California Wage Theft Prevention Act, but willfully,
17 knowingly, and intentionally failed to do so.

18 41. Plaintiffs are informed and believe, and thereon allege, that at all times
19 herein mentioned, Defendants knew or should have known that they had a duty to
20 compensate Plaintiffs and class members for all hours worked, and that Defendants had
21 the financial ability to pay such compensation, but willfully, knowingly, and intentionally
22 failed to do so, and falsely represented to Plaintiffs and class members that they were
23 properly denied wages, all in order to increase Defendants' profits.

24 **PAGA REPRESENTATIVE ALLEGATIONS**

25 42. At all times herein set forth, PAGA provides that any provision of law under
26 the Labor Code and applicable IWC Wage Order that provides for a civil penalty to be
27 assessed and collected by the LWDA for violations of the California Labor Code and
28 applicable IWC Wage Order may, as an alternative, be recovered by aggrieved employees

1 in a civil action brought on behalf of themselves and other current or former employees
2 pursuant to procedures outlined in California Labor Code section 2699.3.

3 43. Plaintiffs and other current and former employees of Defendants at the
4 Presidio Project are “aggrieved employees” as defined by Labor Code section 2699(c) in
5 that they are all Defendants’ current or former employees and one or more of the alleged
6 violations were committed against them.

7 44. Pursuant to California Labor Code sections 2699.3 and 2699.5, an aggrieved
8 employee, including Plaintiffs, may pursue a civil action arising under PAGA after the
9 following requirements have been met:

- 10 (a) The aggrieved employee or representative shall give written notice
11 by online filing with the LWDA and by certified mail to the employer
12 of the specific provisions of the California Labor Code alleged to
13 have been violated (other than those listed in Section 2699.5),
14 including the facts and theories to support the alleged violation.
- 15 (b) An aggrieved employee’s notice filed with the LWDA pursuant to
16 2699.3(c) and any employer response to that notice shall be
17 accompanied by a filing fee of seventy-five dollars (\$75).
- 18 (c) The employer may cure the alleged violation within thirty-three (33)
19 calendar days of the postmark date of the notice sent by the aggrieved
20 employee or representative. The employer shall give written notice
21 within that period of time by certified mail to the aggrieved employee
22 or representative and by online filing with the LWDA if the alleged
23 violation is cured, including a description of actions taken, and no
24 civil action pursuant to Section 2699 may commence. If the alleged
25 violation is not cured within the 33-day period, the aggrieved
26 employee may commence a civil action pursuant to Section 2699.

27 45. On September 25, 2020, Wu provided written notice by online filing to the
28 LWDA and by Certified Mail to Defendants of the specific provisions of the California

1 Labor Code alleged to have been violated, including facts and theories to support the
2 alleged violations, in accordance with California Labor Code section 2699.3. Wu's
3 written notice was accompanied with the applicable filing fee of seventy-five dollars
4 (\$75). The LWDA PAGA Administrator confirmed receipt of Wu's written notice and
5 assigned Wu PAGA Case Number LWDA-CM-807727-20. A true and correct copy of
6 Wu's written notice to the LWDA and Defendants is attached hereto as "Exhibit 1."

7 46. On May 19, 2021, Plaintiff Brunton provided written notice by online filing
8 to the LWDA and by Certified Mail to Defendants of the specific provisions of the
9 California Labor Code alleged to have been violated, including facts and theories to
10 support the alleged violations, in accordance with California Labor Code section 2699.3.
11 Plaintiff Brunton's written notice was accompanied with the applicable filing fee of
12 seventy-five dollars (\$75). The LWDA PAGA Administrator confirmed receipt of
13 Plaintiff Brunton's written notice and assigned Plaintiff Brunton PAGA Case Number
14 LWDA-CM-832691-21. A true and correct copy of Plaintiff Brunton's written notice to
15 the LWDA and Defendants is attached hereto as "Exhibit 2."

16 47. On May 19, 2021, Plaintiff Cooley provided written notice by online filing
17 to the LWDA and by Certified Mail to Defendants of the specific provisions of the
18 California Labor Code alleged to have been violated, including facts and theories to
19 support the alleged violations, in accordance with California Labor Code section 2699.3.
20 Plaintiff Cooley's written notice was accompanied with the applicable filing fee of
21 seventy-five dollars (\$75). The LWDA PAGA Administrator confirmed receipt of
22 Plaintiff Cooley's written notice and assigned Plaintiff Cooley PAGA Case Number
23 LWDA-CM-832692-21. A true and correct copy of Plaintiff Cooley's written notice to
24 the LWDA and Defendants is attached hereto as "Exhibit 3."

25 48. Labor Code section 558(a) provides "[a]ny employer or other person acting
26 on behalf of an employer who violates, or causes to be violated, a section of this chapter
27 or any provision regulating hours and days of work in any order of the Industrial Welfare
28 Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty

dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid. . . . (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid. . . .” Labor Code section 558(c) provides “[t]he civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law.”

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

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

51. Pursuant to PAGA, and in particular, California Labor Code sections 2699(a), 2699.3(a), 2699.3(c), and 2699.5, and section 558, Plaintiffs, acting in the public interest as private attorneys general, seek assessment and collection of civil penalties for themselves, all other aggrieved employees, and the State of California against Defendants for violations of California Labor Code sections 201, 202, 203, 204, 222.5, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5.

CLASS ACTION ALLEGATIONS

52. Plaintiffs bring this action on their own behalf, as well as on behalf of each and all other persons similarly situated, and thus seek class certification under Rule 23 of the Federal Rules of Civil Procedure.

53. Plaintiffs bring the First Cause of Action under the Fair Labor Standards Act (29 U.S.C. §§ 201, *et seq.*) (“FLSA”) as a California “opt-in” collective action pursuant to 29 U.S.C. § 216(b), on behalf of:

All persons who worked for Defendants as non-exempt, hourly paid employees in California at the Presidio Project, within three (3) years prior to the filing of this complaint until the date of trial (“Collective Action Class”).

54. All other claims alleged herein arise under California law for which Plaintiffs seek relief authorized by California law.

55. Plaintiffs' proposed class consists of and is defined as follows:

All persons who worked for Defendants as non-exempt, hourly paid employees in California at the Presidio Project, within four years prior to the filing of this complaint until the date of trial ("Class").

56. Plaintiffs' proposed subclass consists of and is defined as follows:

All persons who worked for Defendants as non-exempt, hourly paid employees in California at the Presidio Project and who received at least one wage statement within one year prior to the filing of this complaint until the date of trial ("Subclass").

57. Members of the Class, Subclass, and Collective Action Class are referred to herein as "class members."

58. Plaintiffs reserve the right to redefine the Classes and to add subclasses as appropriate based on further investigation, discovery, and specific theories of liability.

59. This action is brought and properly may be maintained as a class action pursuant to the provisions of Federal Rules of Civil Procedure 23(a)(1)-(4) and 23(b)(1), (b)(2), or (b)(3) and satisfies the requirements thereof.

60. The membership of the entire Class is unknown to Plaintiffs at this time; however, the Class is estimated to be greater than forty (40) individuals who worked for Defendants across California during the relevant period. Thus, it is reasonable to presume that the members of the Class are so numerous that joinder of all members is impracticable. The disposition of their claims in a class action will provide substantial benefits to the parties and the Court.

61. Plaintiffs' claims are typical of those of the class members, because Plaintiffs suffered the violations set forth in this Third Amended Complaint.

62. Plaintiffs will adequately protect the interests of class members. Plaintiffs have no interests that are adverse to or conflict with class members and are committed to the vigorous prosecution of this action. To that end, Plaintiffs have retained counsel who

1 is competent and experienced in handling class actions on behalf of employees.

2 63. A class action is superior to all other available methods for the fair and
3 efficient adjudication of this controversy since joinder of all members is impracticable.
4 Furthermore, as the amount suffered by individual class members may be relatively small,
5 the expense and burden of individual litigation make it impossible for members of the
6 Class to individually redress the wrongs done to them. There will be no difficulty in the
7 management of this case as a class action.

8 64. There are common questions of law and fact as to class members that
9 predominate over questions affecting only individual members, including, but not limited
10 to:

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

- (g) Whether Defendants failed timely to pay overtime wages, minimum wages, and/or meal and rest period premiums to Plaintiffs and class members during their employment;
- (h) Whether Defendants failed to pay Plaintiffs and class members for the costs of mandatory physical examinations and/or drug testing;
- (i) Whether Defendants failed to reimburse Plaintiffs and class members for necessary and required business-related expenditures and/or losses incurred by them in the scope of their employment;
- (j) Whether Defendants failed to provide written notice of information material to Plaintiffs' and class members' employment with Defendants;
- (k) Whether Defendants engaged in unlawful and unfair business practices in violation of California Business & Professions Code sections 17200, *et seq.*; and,
- (l) The appropriate amount of damages, restitution, or monetary penalties resulting from Defendants' violations of California law.

FIRST CAUSE OF ACTION

Violation of Fair Labor Standards Act—29 U.S.C. §§ 201 *et seq.*

(On Behalf of Plaintiffs and Collective Action Class Members Against Defendants)

65. Plaintiffs incorporate by reference and re-allege as if fully stated herein each allegation set forth above.

66. Defendants are employers engaged in interstate commerce and/or the production of goods for commerce, within the meaning of the FLSA.

67. Defendants employed and/or continue to employ Plaintiffs and Collective Action Class members within the meaning of the FLSA.

68. Plaintiffs have expressly consented in writing to be a party to this action, pursuant to 29 U.S.C. § 216(b).

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69. Pursuant to the FLSA, Defendants were required to compensate Plaintiffs and Collective Action Class members an amount at least equal to the applicable minimum wage for all hours worked, and for overtime at a rate of one and one-half times the regular rate of pay for work performed in excess of 40 hours in a workweek. 29 U.S.C. §§ 206(a), 207(a).

70. During the relevant time period, Plaintiffs and Collective Action Class members worked in excess of 40 hours in a workweek.

71. As alleged in greater detail below, at all relevant times, Defendants required Plaintiffs and Collective Action Class members to regularly work off-the-clock during unpaid meal periods, before and after scheduled shifts, and for mandatory drug tests and/or physical examinations. As a result, Defendants failed to pay Plaintiffs and Collective Action Class members minimum wages for all hours worked and failed to pay overtime compensation for all hours worked in excess of 40 hours in a workweek.

72. The FLSA also imposes a record-keeping requirement on employers, including the obligation to keep accurate records of all hours worked by employees. Defendants have knowingly and willfully failed and continue to willfully fail to record, report, and/or preserve accurate records of all hours worked by Plaintiffs and Collective Action Class members. By failing to record, report, and/or preserve records of all hours worked by Plaintiffs and Collective Action Class members, Defendants have violated, and continue to violate, the FLSA, 29 U.S.C. §§ 201, *et seq.*

73. Based on the foregoing and allegations herein, Defendants have violated 29 U.S.C. §§ 201 *et seq.*, including 29 U.S.C. §§ 206(a) and 207(a).

74. Defendants' conduct, as alleged herein, constitutes a willful violation of the FLSA within the meaning of 29 U.S.C. § 255(a).

75. Plaintiffs, on behalf of themselves and Collective Action Class members, seek to recover their respective unpaid wages, overtime compensation, liquidated damages, interest, attorneys' fees and costs pursuant to 29 U.S.C. § 216(b), and any other relief the Court deems just and proper.

SECOND CAUSE OF ACTION

Violation of California Labor Code §§ 510 and 1198—Unpaid Overtime (Against All Defendants)

76. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and every allegation set forth above.

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

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

79. Specifically, the applicable IWC Wage Order provides that Defendants are and were required to pay Plaintiffs and class members working more than eight (8) hours in a day or more than forty (40) hours in a workweek, at the rate of time and one-half (1 ½) for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek.

80. The applicable IWC Wage Order further provides that Defendants are and were required to pay Plaintiffs and class members working more than twelve (12) hours in a day, overtime compensation at a rate of two (2) times their regular rate of pay, and were required to pay Plaintiffs and other class members at a rate of two (2) times their regular rate of pay for hours worked in excess of eight (8) hours on the seventh (7th) consecutive day of a work in a workweek.

81. At all relevant times, Defendants willfully failed to pay all overtime wages owed to Plaintiffs and class members. At all relevant times, Plaintiffs and class members were not paid overtime premiums for all of the hours they worked in excess of eight (8)

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

3 82. First, during the relevant time period, Defendants had company-wide
4 policies and/or practices of failing to pay Plaintiffs and class members for all hours
5 worked. Among them, Defendants required Wu and class members to wait until the next
6 shift of coverage arrived to relieve them. However, Wu and class members were not
7 compensated for the time they remained on duty following the end of their scheduled
8 shifts, which resulted in work performed off-the-clock. For example, the shift following
9 Wu's was scheduled to start at 4:30 a.m., but if the next shift's employees did not show
10 up until 5:00 a.m., he was required to stay on duty for an additional half hour until he could
11 be relieved by the next shift. Because there was no time clock on-site, everyone on a
12 particular shift denoted their hours on a shared log, which would be submitted at the end
13 of the scheduled shift. When Wu was required to stay past the end of his scheduled shift,
14 he was not able to alter the log because it had already been submitted to Defendants,
15 resulting in work for which he was not paid. Similarly, Plaintiff Cooley was paid only for
16 his scheduled shift times, even when he arrived early at the job site and began performing
17 work duties. Plaintiff Brunton was also only paid for his scheduled shift times, regardless
18 of whether he actually worked longer than the schedule provided. For example, Plaintiff
19 Brunton often stayed beyond his scheduled shift end time to assist the employees
20 beginning the next shift with specifics on the tow trucks being utilized by Defendants
21 during those shifts. Because Defendants only paid Plaintiffs and class members for the
22 times they were scheduled to work instead of their actual hours worked, Plaintiffs and
23 class members were not compensated for this additional time they were suffered or
24 permitted to work. Additionally, on information and belief, Plaintiffs and class members
25 were subject to their supervisors altering their clock-in and clock-out times in order to limit
26 the amount of overtime Plaintiffs and class members could accrue.

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83. Further, Defendants have a company-wide policy of understaffing their job sites, resulting in a lack of meal period coverage. Due to the lack of coverage caused by understaffing, Defendants forced Plaintiffs and class members to work through their meal periods by requiring them to remain on or near the premises for their meal periods, including sitting in the office or company trucks and watching security monitors during their meal periods. Because Plaintiffs and class members were restricted from leaving the premises during meal periods, they were denied the ability to use their meal periods freely for their own purposes. Thus, Defendants effectively maintained control over Plaintiffs and class members during meal periods. Additionally, Defendants required Plaintiffs and class members to respond to company-issued radio calls at all times, including during their meal periods, causing Plaintiffs and class members to have their meal periods interrupted by work.

84. As a result of Defendants' company-wide policies and/or practices, Plaintiffs and class members were not permitted and authorized to take uninterrupted 30-minute meal periods during shifts in which they were entitled to receive meal periods. Thus, Plaintiffs and class members missed meal periods and had their meal periods interrupted, but were not compensated for this time.

85. Defendants knew or should have known that, as a result of their policies and practices, Plaintiffs and class members were performing some of their assigned duties during unpaid meal periods and before and after their shifts, and were suffered or permitted to perform work for which they were not paid. Defendants also knew, or should have known, that they did not compensate Plaintiffs and class members for this off-the-clock work and unrecorded overtime hours.

86. Because Plaintiffs and class members worked shifts in excess of eight (8) hours a day or more and forty (40) hours a week or more, much of this off-the-clock work performed during unpaid meal periods qualified for overtime premium pay. Therefore, Plaintiffs and class members were not paid overtime wages for all of the overtime hours they actually worked.

87. Defendants' failure to pay Plaintiffs and class members the balance of overtime compensation, as required by California law, violates the provisions of California Labor Code sections 510 and 1198. Pursuant to California Labor Code section 1194, Plaintiffs and class members are entitled to recover their unpaid overtime compensation, as well as interest, costs, and attorneys' fees.

THIRD CAUSE OF ACTION

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

88. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and every allegation set forth above.

89. At all relevant times, California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 provide that the minimum wage for employees fixed by the IWC is the minimum wage to be paid to employees, and the payment of a wage less than the minimum so fixed is unlawful. Compensable work time is defined by the applicable wage order, IWC Wage Order 9-2001, as "the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so." Cal. Code. Regs. tit. 8, § 11090(2)(H) (defining "Hours Worked").

90. As set forth above, Defendants have, and continue to have, company-wide policies and/or practices of requiring Plaintiffs and class members to perform work off-the-clock before and after their scheduled shifts and during meal periods, including remaining on duty after their shift ended until being relieved by employees on the following shift or to discuss the trucks in operation during a given shift, performing work prior to the start time of their scheduled shifts, staying on or near the work premises during meal periods, and/or communicating with Defendants' management via radio calls, work for which they were not paid. Additionally, Defendants have, and continue to have, company-wide policies and/or practices of understaffing their job sites, which impeded

1 Plaintiffs and class members from taking full, uninterrupted meal periods to which they
2 were entitled and resulted in them working off-the-clock. In addition, as described above,
3 Defendants systematically failed to pay Plaintiffs and class members for actual hours
4 worked because these hours were not always correctly recorded or, on information and
5 belief, Defendants adjusted employee time records.

6 91. During the relevant time period, Defendants also maintained and
7 implemented a company-wide policy of requiring all employees to travel to a medical
8 clinic on their own time and using their own personal vehicles to undergo a mandatory
9 drug test and/or physical examination. At all times, Defendants were in control of
10 scheduling the time period for the testing and/or physical examinations, selecting the
11 provider or facility where the testing and/or physical examinations were to take place, and
12 determining the scope of the testing and/or physical examinations. For example,
13 Defendants gave Plaintiffs strict instructions to obtain drug testing, and Plaintiffs
14 underwent the testing for the sole benefit of Defendants. Plaintiffs followed Defendants'
15 instructions and spent several hours traveling to and from the medical facility designated
16 by Defendants, waiting at the medical facility, and undergoing the requisite testing.
17 However, Defendants did not compensate Plaintiffs and class members for the time they
18 spent traveling to and from the medical facilities or for the time they spent undergoing
19 drug testing and/or physical examinations.

20 92. Defendants did not pay minimum wages for all hours worked by Plaintiffs
21 and class members. To the extent that these off-the-clock hours did not qualify for
22 overtime premium payment, Defendants did not pay at least minimum wages for those
23 hours worked off-the-clock in violation of California Labor Code sections 1182.12, 1194,
24 1197, 1197.1, and 1198. Accordingly, Defendants failed to pay at least minimum wages
25 to Plaintiffs and class members for all of the hours they worked.

26 93. Defendants' failure to pay Plaintiffs and class members minimum wages
27 violates California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198. Pursuant
28 to California Labor Code section 1194.2, Plaintiffs and class members are entitled to

1 recover liquidated damages in an amount equal to the wages unlawfully unpaid and
2 interest thereon.

3 **FOURTH CAUSE OF ACTION**

4 **Violations of California Labor Code, §§ 226.7, 512(a), 516, and 1198—Meal Period** 5 **Violations** 6 **(Against all Defendants)**

7 94. Plaintiffs incorporate by reference and re-allege as if fully stated herein each
8 and every allegation set forth above.

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

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

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

27 98. At all relevant times, as stated above, Defendants had, and continue to have,
28 a company-wide policies and/or practices of understaffing job sites, which resulted in a

1 lack of sufficient meal period coverage and prevented Plaintiffs and class members from
2 taking all timely, uninterrupted meal periods to which they were entitled. For example,
3 there were usually only two or three people on duty during a shift. During this time,
4 Plaintiffs and class members received late, shortened, and/or interrupted meal periods.
5 Plaintiffs and class members were required to work throughout their shifts without taking
6 compliant meal periods to adhere to Defendants' policies and expectations. Further,
7 Defendants have, on a company-wide basis, failed to adhere to a schedule of meal periods
8 even though they are aware and know that employees are entitled to such meal periods,
9 resulting in Plaintiffs and class members taking their meal periods late. For example, Wu
10 would only receive his meal periods 5.5 or 6.5 hours after the start of his shift. Plaintiff
11 Cooley was often pressured to miss his meal periods entirely due to the workload at the
12 job sites. Plaintiff Brunton rarely, if ever, received a full, uninterrupted meal period due
13 to the fact that he had to remain on duty in order to immediately respond to calls coming
14 in over the radios at all times regarding incidents.

15 99. Additionally, Defendants discouraged and impeded Plaintiffs and class
16 members from taking compliant periods by failing to provide them with an accurate clock-
17 in and clock-out mechanism at job sites. Instead, as stated, Wu and class members were
18 expected to note their clock-in and clock-out times in a logbook at the end of their shifts,
19 which, on information and belief, was subject to falsification, as Defendants' management
20 could adjust time records to reflect compliant meal periods if Plaintiffs and class members
21 failed to denote them. Thus, Plaintiffs and class members missed their meal periods
22 altogether, had their meal periods interrupted to return to work, or waited extended periods
23 of time before taking meal periods, but these violations were not reflected in Plaintiffs'
24 and class members' time records.

25 100. Moreover, Defendants did not provide Plaintiff Cooley and class members
26 with second 30-minute meal periods on days that they worked in excess of ten (10) hours
27 in one day. Plaintiff Cooley and class members worked shifts in excess of ten (10) hours
28 without receiving an uninterrupted second 30-minute meal period.

1 101. At all times herein mentioned, Defendants knew or should have known that,
2 as a result of their policies, including understaffing, failure to adhere to a schedule of meal
3 periods, and requirement of answering radio calls and remaining on or near the work
4 premises, Plaintiffs and class members have been required to perform some of their
5 assigned duties during meal periods. As a result, Plaintiffs and class members had to work
6 through part or all of their meal periods. For example, Wu and Plaintiff Brunton often had
7 to eat meals while staying in the office or truck or watching monitors, per Defendants'
8 instructions.

9 102. Defendants further knew or should have known that Defendants did not pay
10 Plaintiffs and class members meal period premiums when meal periods were interrupted
11 or missed because, on information and belief, Defendants adjusted employee time records
12 to reflect compliant meal periods, even if none were taken. Plaintiffs and class members
13 did not sign valid meal period waivers on days that they were entitled to meal periods and
14 were not relieved of all duties. Moreover, if Defendants paid meal period premiums, they
15 were not paid at the regular rate of pay.

16 103. Moreover, upon information and belief, Defendants engaged in a
17 systematic, company-wide practice and/or policy of not paying meal period premiums for
18 Plaintiffs and class members, regardless of whether they were able to take a compliant
19 meal period, in violation of the applicable IWC Wage Order and Labor Code sections
20 226.7 and 512(a). As a result, Defendants failed to provide Plaintiffs and class members
21 compliant meal periods in violation of California Labor Code sections 226.7, 512, and 516
22 and failed to pay the full meal period premiums due.

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

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FIFTH CAUSE OF ACTION

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

105. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and every allegation set forth above.

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

107. At all relevant times, the applicable IWC Wage Order provides that “[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period” and that the “rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof” unless the total daily work time is less than three and one-half (3 ½) hours.

108. At all relevant times, California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC. To comply with its obligation to authorize and permit rest periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer must “relinquish any control over how employees spend their break time, and relieve their employees of all duties—including the obligation that an employee remain on call. A rest period, in short, must be a period of rest.” *Augustus v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 269-270 (2016). Pursuant to the applicable IWC Wage Order and California Labor Code section 226.7(c), Plaintiffs and class members are entitled to recover from Defendants one (1) additional hour of pay at their regular rates of pay for each work day that a required rest period was not authorized and permitted.

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1 109. During the relevant time period, Defendants regularly failed to authorize and
2 permit Plaintiffs and class members to take a ten (10) minute rest period per each four (4)
3 hour period worked or major fraction thereof. Defendants' company-wide policy and
4 practice of requiring Plaintiffs and class members to carry and respond to radio calls
5 prevented them from being relieved of all duty to take compliant rest periods.
6 Furthermore, Defendants had a uniform policy of failing to schedule or provide rest
7 periods. As a result, Defendants failed to provide a mechanism for Plaintiffs and class
8 members to take compliant rest periods.

9 110. Additionally, upon information and belief, during the relevant time period,
10 Defendants maintained and implemented a company-wide on-premises rest period policy,
11 which mandated that Plaintiffs and class members remain on the work premises during
12 their rest periods. Upon information and belief, Defendants' company-wide on-premises
13 rest period policy prevented Plaintiffs and class members from being relieved of all duties
14 for rest periods and caused them to perform work during rest periods.

15 111. As a result of Defendants' practices and policies, Plaintiffs and class
16 members worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10
17 hours, without receiving all uninterrupted ten (10) minute rest periods to which they were
18 entitled. Throughout their employment, Plaintiffs were not permitted to take full and
19 complete ten (10) minute rest periods, and instead would have their rest periods interrupted
20 by calls on their radios, which they were required to answer.

21 112. Defendants have also engaged in a systematic, company-wide practice
22 and/or policy of not paying rest period premiums owed when rest periods are not
23 authorized and permitted. As a result, Defendants denied Plaintiffs and class members
24 rest periods and failed to pay them rest period premiums due, in violation of Labor Code
25 section 226.7, 516, and the applicable IWC Wage Order. Moreover, if Defendants paid
26 meal period premiums, they were not paid at the regular rate of pay.

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

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

SIXTH CAUSE OF ACTION

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

114. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and every allegation set forth above.

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

116. At all relevant times, Defendants have knowingly and intentionally provided Plaintiffs and Subclass members with uniform, incomplete, and inaccurate wage statements. For example, Defendants issued uniform wage statements to Plaintiffs and Subclass members that failed to correctly list: gross wages earned; total hours worked; net wages earned; the name and address of the legal entity that is the employer; and all applicable hourly rates in effect during the pay period, including overtime rates of pay, the corresponding number of hours worked at each hourly rate. Specifically, Defendants violated sections 226(a)(1), 226(a)(2), 226(a)(5), 226(a)(8), and 226(a)(9).

Defendants failed to list all applicable hourly rates in effect during the pay period, namely, rates of pay for overtime, in violation of section 226(a)(9). For example, on some of Plaintiffs' paystubs, no overtime or holiday pay rate is listed. Additionally, because Defendants did not record the time Plaintiffs and Subclass members spent working off the clock and deducted time from their records for meal periods that were interrupted and/or missed (and therefore time for which they should have been paid), Defendants did not list

1 the correct amount of gross wages and net wages earned by Plaintiffs and Subclass
2 members in compliance with section 226(a)(1) and section 226(a)(5), respectively. For
3 the same reason, Defendants failed to accurately list the total number of hours worked by
4 Plaintiffs and Subclass members, in violation of section 226(a)(2), and failed to list the
5 applicable hourly rates of pay in effect during the pay period and the corresponding
6 accurate number of hours worked at each hourly rate, in violation of section 226(a)(9).

7 117. Separate from these violations, Defendants issued uniform wage statements
8 to Plaintiffs and Subclass members that failed to list the correct name and address of the
9 legal entity of the actual employer in violation of Labor Code section 226(a)(8). The
10 purpose of section 226(a)(8) is to provide California employees with transparency as to
11 the true identity of their employer, to allow the employee to contact their employer during
12 employment in the future for various reasons, including, filing an administrative claim,
13 judicial claim, or other action to seek relief against their employer, to obtain
14 unemployment benefits, etc.

15 118. During the relevant time period, Defendants systematically, and on a
16 company-wide basis, issued wage statements to Plaintiffs and Subclass members that list
17 the employing entity's name as "Broadspectrum Infrastructure" with the address "1330
18 Post Oak Blvd Suite 1250, Houston, TX 77056," which is not the correct name or address
19 of the legal entity that employed Plaintiffs and Subclass members. According to the
20 California Secretary of State's website, there is no such entity named "Broadspectrum
21 Infrastructure" registered to do business in California. However, a similarly named entity,
22 "BROADSPECTRUM DOWNSTREAM SERVICES, INC.," is listed on the California
23 Secretary of State's website at the address "10814 JOLLYVILLE ROAD, SUITE 160,
24 AUSTIN TX 78759." Further adding to the confusion, Plaintiffs also received W-2
25 statements that name their employer as "TRANSFIELD SERVICES
26 INFRASTRUCTURE INC." which does not appear on their paystubs, further muddling
27 Plaintiffs' efforts to identify their correct employer and the address at which the employer
28 can be contacted.

119. The wage statement deficiencies also include, without limitation, failing to list the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; failing to list all deductions; failing to list the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number; failing to list the inclusive dates of the period for which employees were paid; and/or failing to state all hours worked as a result of not recording or stating hours worked off-the-clock.

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

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

1 Plaintiffs and Subclass members showing the daily hours they worked and the wages paid
2 thereto as a result of failing to record the off-the-clock hours that they worked.

3 122. Plaintiffs and Subclass members are entitled to recover from Defendants the
4 greater of their actual damages caused by Defendants' failure to comply with California
5 Labor Code section 226(a), or an aggregate penalty not exceeding four thousand dollars
6 (\$4,000) per employee.

7 SEVENTH CAUSE OF ACTION

8 **Violation of California Labor Code §§ 201 and 202 – Wages Not Timely Paid Upon** 9 **Termination** 10 **(Against all Defendants)**

11 123. Plaintiffs incorporate by reference and re-allege as if fully stated herein each
12 and every allegation set forth above.

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

20 125. During the relevant time period, Defendants willfully failed to pay Plaintiffs
21 their final wages within the statutory time limits. On information and belief, Defendants
22 had a company-wide practice or policy of paying departing employees their final wages
23 on the next regular pay cycle, instead of adhering to the time requirements set forth in
24 Labor Code sections 201 and 202. For example, Defendants terminated Wu in person at
25 Defendants' San Francisco office on or around October 11, 2017, but failed to tender him
26 his final paycheck immediately. Instead, Defendants did not provide Wu with a final
27 paycheck until the next regularly scheduled payday approximately two (2) weeks later
28 when he received it in the mail. Similarly, Plaintiff Brunton did not receive his final

1 paycheck immediately after he was terminated, but had to wait until the next regularly
 2 scheduled payday. Thus, Defendants failed to pay Wu and Brunton their full final wages
 3 immediately, in violation of Labor Code section 201.

4 126. Additionally, Defendants willfully failed to pay Plaintiffs and class
 5 members who are no longer employed by Defendants the earned and unpaid wages set
 6 forth above, including but not limited to, overtime wages, minimum wages, and/or meal
 7 and rest period premiums, either at the time of discharge, or within seventy-two (72) hours
 8 of their leaving Defendants' employ.

9 127. Defendants' failure to pay Plaintiffs and those class members who are no
 10 longer employed by Defendants their wages earned and unpaid at the time of discharge,
 11 or within seventy-two (72) hours of their leaving Defendants' employ, violates Labor
 12 Code sections 201 and 202. Plaintiffs and class members are therefore entitled to recover
 13 from Defendants the statutory penalty wages for each day they were not paid, at their
 14 regular rate of pay, up to a thirty (30) day maximum pursuant to California Labor Code
 15 section 203.

16 EIGHTH CAUSE OF ACTION

17 Violation of California Labor Code § 204—Failure to Timely Pay Wages During 18 Employment 19 (Against all Defendants)

20 128. Plaintiffs incorporate by reference and re-allege as if fully stated herein each
 21 and every allegation set forth above.

22 129. This cause of action is dependent upon, and wholly derivative of, the
 23 overtime wages, minimum wages, and/or meal and rest period premiums that were not
 24 timely paid to Plaintiffs and those class members by Defendants during their employment.

25 130. At all times relevant herein set forth, Labor Code section 204 provides that
 26 all wages earned by any person in any employment between the first (1st) and the fifteenth
 27 (15th) days, inclusive, of any calendar month, other than those wages due upon
 28 termination of an employee, are due and payable between the sixteenth (16th) and the

1 twenty-sixth (26th) day of the month during which the labor was performed.

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

7 132. At all times relevant herein, Labor Code section 204 provides that all wages
8 earned for labor in excess of the normal work period shall be paid no later than the payday
9 for the next regular payroll period. Alternatively, at all times relevant herein, Labor Code
10 section 204 provides that the requirements of this section are deemed satisfied by the
11 payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not
12 more than seven (7) calendar days following the close of the payroll period.

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

17 134. Defendants' failure to pay Plaintiffs and class members all wages due
18 violates Labor Code section 204. Plaintiffs and class members are therefore entitled to
19 recover from Defendants the statutory penalty wages pursuant to California Labor Code
20 section 210.

21 **NINTH CAUSE OF ACTION**

22 **Violation of California Labor Code § 2802 – Unpaid Business-Related Expenses** 23 **(Against all Defendants)**

24 135. Plaintiffs incorporate by reference and re-allege as if fully stated herein each
25 and every allegation set forth above.

26 136. At all times herein set forth, California Labor Code section 2802 provides
27 that an employer must reimburse employees for all necessary expenditures and losses
28 incurred by the employee in the performance of his or her job. The purpose of Labor Code

1 section 2802 is to prevent employers from passing off their cost of doing business and
2 operating expenses on to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228
3 Cal. App. 4th 1137, 1144 (2014). The applicable wage order, IWC Wage Order 9-2001,
4 provides that: “[w]hen the employer requires the use of tools or equipment or they are
5 necessary to the performance of a job, such tools and equipment shall be provided and
6 maintained by the employer, except that an employee whose wages are at least two (2)
7 times the minimum wage may provide and maintain hand tools and equipment
8 customarily required by the particular trade or craft.”

9 137. First, Defendants required Wu and Plaintiff Cooley and class members to
10 utilize their own personal cellular phones to carry out their job duties and communicate
11 with other employees, but Defendants failed to reimburse them for the costs of their
12 cellular phone plans and/or data plans. Although they were provided company-issued
13 radios, there were occasions when the radios did not work or were out of range. Since Wu
14 and Plaintiff Cooley and class members did not work in an office setting, they had no
15 access to phones other than their own, and they frequently had to communicate with each
16 other to coordinate work-related responsibilities. Although Defendants required Wu and
17 Plaintiff Cooley and class members to utilize their personal cellular phones to carry out
18 work-related responsibilities, Defendants failed to reimburse them for these expenses.

19 138. Second, during the relevant time period, Defendants had a company-wide
20 policy of requiring Plaintiffs and class members to travel in their own personal vehicles to
21 obtain mandatory drug testing and/or physical examinations, but did not reimburse them
22 for their travel expenses, including mileage. Defendants maintained and implemented a
23 company-wide policy of requiring employees to travel to a medical facility on their own
24 time and using their own personal vehicles to undergo mandatory drug testing and/or
25 physical examinations. At all times, Defendants were in control of scheduling the date
26 and time for the testing and/or physical examinations, selecting the provider or facility
27 where the testing and/or physical examinations were to take place, and determining the
28 scope of the testing and/or physical examinations. Defendants gave Plaintiffs and class

1 members strict instructions to obtain drug testing, and Plaintiffs and class members
2 underwent the testing and physical examinations for the sole benefit of Defendants. For
3 example, as described above, Plaintiffs followed Defendants' instructions and spent
4 several hours traveling in their personal vehicles to Defendants' designated medical
5 facility and undergoing Defendants' drug testing, but were not reimbursed for their
6 mileage to and from the medical facility. Although Defendants required Plaintiffs and
7 class members to undergo drug testing and/or physical examinations, Defendants failed to
8 reimburse them for their travel expenses.

9 139. Defendants could have provided Plaintiffs and class members with the
10 actual tools required for use on the job, including company phones, company vehicles, or
11 company-provided transportation to medical or physical examinations, or provided
12 reimbursement for their cellular phone, mileage, and travel expenses. Instead, Defendants
13 passed these costs on to Plaintiffs and class members. Defendants have, and continue to
14 have, a company-wide policy and/or practice of not reimbursing employees for expenses
15 necessarily incurred.

16 140. Defendants' company-wide policy and/or practice of passing on their
17 operating costs to Plaintiffs and class members by requiring that they use their personal
18 cellular phones and vehicles for business and failing to reimburse cellular phone and travel
19 expenses, violates California Labor Code section 2802. Defendants have intentionally
20 and willfully failed to fully reimburse Plaintiffs and other class members for these
21 necessary business-related expenses and costs, as well as for other items that were
22 necessary for Plaintiffs and class members to perform their job duties.

23 141. Plaintiffs and class members are entitled to recover from Defendants their
24 business-related expenses incurred during the course and scope of their employment, plus
25 interest.

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TENTH CAUSE OF ACTION

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

(Against all Defendants)

142. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and every allegation set forth above.

143. California Labor Code §§ 2698, *et seq.* (“PAGA”) permits Plaintiffs to recover civil penalties for the violation(s) of the Labor Code sections enumerated in Labor Code section 2699.5. Section 2699.5 enumerates Labor Code sections 201, 202, 203, 204, 222.5, 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, and 2802. Labor Code section 2699.3(c) permits aggrieved employees, including Plaintiffs, to recover civil penalties for violations of those Labor Code sections not found in section 2699.5, including sections 516, 1182.12, and 2810.5.

144. Defendants’ conduct, as alleged herein, violates numerous sections of the California Labor Code, including, but not limited to, the following:

- (a) Violation of Labor Code sections 510, 1198, and the applicable IWC Wage Order for Defendants’ failure to compensate Plaintiffs and other aggrieved employees with all required overtime pay, as alleged herein;
- (b) Violation of Labor Code sections 1182.12, 1194, 1197, 1197.1, 1198, and the applicable IWC Wage Order for Defendants’ failure to compensate Plaintiffs and other aggrieved employees with at least minimum wages for all hours worked, as alleged herein;
- (c) Violation of Labor Code sections 226.7, 512, 516, 1198, and the applicable IWC Wage Order for Defendants’ failure to provide Plaintiffs and other aggrieved employees with meal periods, as alleged herein;
- (d) Violation of Labor Code sections 226.7, 516, 1198, and the applicable IWC Wage Order for Defendants’ failure to authorize and

1 permit Plaintiffs and other aggrieved employees to take rest periods,
2 as alleged herein;

3 (e) Violation of Labor Code sections 226(a), 1198, and the applicable
4 IWC Wage Order for failure to provide accurate and complete wage
5 statements to Plaintiffs and other aggrieved employees, as alleged
6 herein;

7 (f) Violations of Labor Code sections 1174(d), 1198, and the applicable
8 IWC Wage Order for failure to maintain payroll records, as alleged
9 herein;

10 (g) Violation of Labor Code section 204 for failure to pay all earned
11 wages during employment, as alleged herein;

12 (h) Violation of Labor Code sections 201, 202, and 203 for failure to pay
13 all earned wages upon termination, as alleged herein;

14 (i) Violation of Labor Code section 222.5 for failing to pay the costs of
15 mandatory drug tests and/or physical examinations, as set forth
16 below;

17 (j) Violation of Labor Code section 2802 for failure to reimburse
18 Plaintiffs and other aggrieved employees for all business expenses
19 necessarily incurred, as alleged herein; and

20 (k) Violation of Labor Code section 2810.5(a)(1)(A)-(C) for failure to
21 provide written notice of information material to Plaintiffs' and other
22 aggrieved employees' employment with Defendants, as set forth
23 below.

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

27 146. During the relevant time period, Defendants implemented, on a company-
28 wide basis, an employer-imposed requirement that Plaintiffs and other aggrieved

1 employees undergo mandatory drug tests and/or physical examinations, but required them
2 to do so at their own expense. As stated, Defendants had a company-wide policy requiring
3 that all employees, including Plaintiffs and other aggrieved employees, travel to a
4 specified medical facility using their own personal vehicles to undergo drug testing and/or
5 physical examinations. At all times, Defendants were in control of scheduling the date
6 and time for the examination and/or testing, selecting the provider/facility where the
7 examination and/or testing was to take place, and determining the scope of the
8 examination and/or testing.

9 147. During the relevant time period, Plaintiffs were instructed by Defendants to
10 travel to Defendants' designated medical facility, and obtain drug tests. Plaintiffs followed
11 Defendants' instructions, traveled to the facility Defendants selected, and underwent the
12 testing. Plaintiffs spent up to several hours driving roundtrip to and from medical facilities
13 selected by Defendants using their own vehicles, waiting at the medical facility, and
14 undergoing the requisite testing.

15 148. However, Defendants did not compensate Plaintiffs and other aggrieved
16 employees for the time they spent traveling to and from the medical facilities; for the time
17 they spent undergoing the testing and/or examinations; or reimburse them for the travel
18 expenses they incurred getting to and from the medical facilities. Defendants' policy
19 and/or practice of not paying for all costs Plaintiffs and other aggrieved employees
20 incurred obtaining mandatory drug testing and/or physical examinations violates
21 California Labor Code section 222.5. Plaintiffs and other aggrieved employees are
22 therefore entitled to recover civil penalties pursuant to Labor Code sections 2699(a), (f),
23 and (g).

24 149. At all times herein set forth, California's Wage Theft Prevention Act was
25 enacted to ensure that employers provide employees with basic information material to
26 their employment relationship at the time of hiring, and to ensure that employees are given
27 written and timely notice of any changes to basic information material to their
28 employment. Codified at California Labor Code section 2810.5, the Wage Theft

Prevention Act provides that at the time of hiring, an employer must provide written notice to employees containing basic and material payroll information, including, among other things, the rate(s) of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, the regular payday designated by the employer, and any allowances claims as part of the minimum wage, including meal or lodging allowances. Labor Code § 2810.5(a)(1)(A)-(C).

150. During the relevant time period, Defendants failed to provide Plaintiffs and other aggrieved employees written notice that lists all the requisite information set forth in California Labor Code section 2810.5(a)(1)(A)-(C). Defendants' failure to provide Plaintiffs and other aggrieved employees with written notice of basic information regarding their employment with Defendants is in violation of California Labor Code section 2810.5. Plaintiffs and other aggrieved employees are therefore entitled to recover civil penalties pursuant to Labor Code sections 2699(a), (f), and (g).

ELEVENTH CAUSE OF ACTION

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

Unlawful Business Practices

(Against all Defendants)

151. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and every allegation set forth above.

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

153. Defendants' conduct, as alleged herein, has been, and continues to be, unfair, unlawful and harmful to Plaintiffs, class members, and to the general public. Plaintiffs have suffered injury in fact and has lost money as a result of Defendants' unlawful business practices. Plaintiffs seek to enforce important rights affecting the public interest within the meaning of Code of Civil Procedure section 1021.5.

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

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

- (a) Requiring non-exempt, hourly paid employees, including Plaintiffs and class members, to work overtime without paying them proper compensation in violation of California Labor Code sections 510 and 1198 and the applicable IWC Wage Order, as alleged herein;
- (b) Failing to pay at least minimum wage to Plaintiffs and class members in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 and the applicable IWC Wage Order, as alleged herein;
- (c) Failing to provide uninterrupted meal periods to Plaintiffs and class members in violation of California Labor Code sections 226.7, 512(a), 516, and 1198 and the applicable IWC Wage Order, as alleged herein;
- (d) Failing to authorize and permit Plaintiffs and class members to take uninterrupted rest periods in violation of California Labor Code sections 226.7, 516, and 1198 and the applicable IWC Wage Order, as alleged herein;
- (e) Failing to provide Plaintiffs and class members with accurate wage statements and failing to maintain accurate payroll records in violation of California Labor Code sections 226(a), 1174(d), and 1198 and the applicable IWC Wage Order, as alleged herein;
- (f) Failing timely to pay all earned wages to Plaintiffs and class members in violation of California Labor Code section 204, as alleged herein;

- (g) Failing to pay the costs of mandatory physical examinations and/or drug testing in violation of California Labor Code section 222.5, as set forth below;
- (h) Failing to reimburse Plaintiffs and class members for all business expenses necessarily incurred in violation of California Labor Code sections 2802, as alleged herein; and
- (i) Failing to provide written notice of information material to Plaintiffs' and class members' employment with Defendants in violation of Labor Code section 2810.5(a)(1)(A)-(C), as set forth below.

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

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

158. During the relevant time period, Plaintiffs were instructed by Defendants to travel to Defendants' designated medical facility, and obtain a drug test. Plaintiffs followed Defendants' instructions, traveled to the facility Defendants selected, and underwent the testing. Plaintiffs spent up to several hours driving roundtrip to and from a medical facilities selected by Defendants using their own vehicles, waiting at the medical facilities, and undergoing the requisite testing.

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159. However, Defendants did not compensate Plaintiffs and class members for the time they spent traveling to and from the medical facilities; for the time they spent undergoing the drug testing and/or physical examinations; or reimburse them for the travel expenses they incurred getting to and from the medical facilities. Defendants' policy and/or not paying for all costs Plaintiffs and class members incurred obtaining mandatory physical examinations and/or drug testing is in violation of California Labor Code section 222.5.

160. At all relevant times herein, California's Wage Theft Prevention Act was enacted to ensure that employers provide employees with basic information material to their employment relationship at the time of hiring, and to ensure that employees are given written and timely notice of any changes to basic information material to their employment. Codified at California Labor Code section 2810.5, the Wage Theft Prevention Act provides that at the time of hiring, an employer must provide written notice to employees containing basic and material payroll information, including, among other things, the rate(s) of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, the regular payday designated by the employer, and any allowances claims as part of the minimum wage, including meal or lodging allowances. Labor Code § 2810.5(a)(1)(A)-(C).

161. At all relevant times, on information and belief, Defendants failed to provide written notice to Plaintiffs and class members that lists the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C) on a company-wide basis.

162. Defendants' failure to provide Plaintiffs and class members with written notice of basic information regarding their employment with Defendants is in violation of Labor Code section 2810.5.

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

164. Pursuant to California Business & Professions Code sections 17200, *et seq.*, Plaintiffs and class members are entitled to restitution of the wages withheld and retained by Defendants during a period that commences four years prior to the filing of this complaint; a permanent injunction requiring Defendants to pay all outstanding wages due to Plaintiffs and class members; and an award of attorneys' fees pursuant to California Code of Civil Procedure section 1021.5 and other applicable laws; and an award of costs.

TWELFTH CAUSE OF ACTION

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

Unfair Business Practices

(Against all Defendants)

165. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and every allegation set forth above.

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

167. Defendants’ conduct, as alleged herein, has been, and continues to be, unfair, and harmful to Plaintiffs, class members, and to the general public. Plaintiffs have suffered injury in fact and have lost money as a result of Defendants’ unfair business practices. Plaintiffs seek to enforce important rights affecting the public interest within the meaning of Code of Civil Procedure section 1021.5.

168. Defendants’ activities, namely Defendants’ company-wide practice and/or policy of not paying Plaintiffs and class members all meal and rest period premiums due to them under Labor Code section 226.7, deprived Plaintiffs and class members of the compensation guarantee and enhanced enforcement implemented by section 226.7. The statutory remedy provided by section 226.7 is a “‘dual-purpose’ remedy intended primarily to compensate employees, and secondarily to shape employer conduct.” *Safeway, Inc. v. Superior Court*, 238 Cal. App. 4th 1138, 1149 (2015). The statutory benefits of section 226.7 were guaranteed to Plaintiffs and class members as part of their

employment with Defendants, and thus Defendants' practice and/or policy of denying these statutory benefits constitutes an unfair business practice in violation of California Business & Professions Code sections 17200, *et seq.* (*Id.*)

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

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

REQUEST FOR JURY TRIAL

Plaintiffs request a trial by jury.

PRAYER FOR RELIEF

Plaintiffs, on behalf of all others similarly situated, pray for relief and judgment against Defendants, jointly and severally, as follows:

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

Class Certification

2. That this case be certified as a class action;

3. That Plaintiffs be appointed as the representatives of the Classes and Subclass; and

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1 4. That counsel for Plaintiffs be appointed as class counsel.

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

3 5. That the Court declare, adjudge, and decree that Defendants willfully
4 violated the FLSA by failing to pay all wages due to Plaintiffs and Collective Action Class
5 members;

6 6. An order that notice be sent to all Collective Action Class members
7 employed by Defendants within three (3) years of the filing of this complaint giving them
8 notice of the opportunity to join this case pursuant to 29 U.S.C. § 216(b);

9 7. Certification of the Collective Action Class as a collective action;

10 8. For an award of unpaid wages, including liquidated damages and interest
11 due under the FLSA to Plaintiffs and Collective Action Class members;

12 9. For reasonable attorneys' fees and for costs of suit incurred herein pursuant
13 to 29 U.S.C. § 216(b); and

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

16 **As to the Second Cause of Action**

17 11. That the Court declare, adjudge, and decree that Defendants violated
18 California Labor Code sections 510 and 1198 and the applicable IWC Wage Order by
19 willfully failing to pay all overtime wages due to Plaintiffs and class members;

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

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

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

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

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As to the Third Cause of Action

16. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 and the applicable IWC Wage Order by willfully failing to pay minimum wages to Plaintiffs and class members;

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

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

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

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

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

As to the Fourth Cause of Action

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

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

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

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

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

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

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

As to the Fifth Cause of Action

29. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 226.7, 516, and 1198 and the applicable IWC Wage Order by willfully failing to authorize and permit Plaintiffs and class members to take all rest periods;

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

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

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

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

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

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

As to the Sixth Cause of Action

36. That the Court declare, adjudge and decree that Defendants violated the recordkeeping provisions of California Labor Code section 226(a) and the applicable IWC Wage Order as to Plaintiffs and Subclass members, and willfully failed to provide accurate itemized wage statements thereto;

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

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

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

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

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

As to the Seventh Cause of Action

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

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

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

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

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

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

As to the Eighth Cause of Action

48. That the Court declare, adjudge and decree that Defendants violated California Labor Code section 204 by willfully failing to timely pay Plaintiffs and class members overtime wages, minimum wages, and/or meal and rest period premiums during their employment;

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

1 50. For statutory penalties according to proof pursuant to California Labor Code
2 section 210;

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

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

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

9 **As to the Ninth Cause of Action**

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

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

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

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

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

21 59. For such other and further relief as the Court may deem equitable and
22 appropriate.

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

24 60. That the Court declare, adjudge and decree that Defendants violated the
25 following California Labor Code provisions as to Plaintiffs and/or other aggrieved
26 employees: 510 and 1198 (by failing to pay all overtime compensation); 1182.12, 1194,
27 1197, 1197.1, and 1198 (by failing to pay at least minimum wages for all hours worked);
28 226.7, 512, 516, and 1198 (by failing to provide all meal periods); 226.7, 516, and 1198

(by failing to authorize and permit all rest periods); 226(a), 1174(d), and 1198 (by failing to provide accurate wage statements and maintain accurate payroll records); 201, 202, and 203 (by failing to timely pay all earned wages upon termination); 204 (by failing to timely pay all earned wages during employment); 222.5 (by failing to pay the costs of mandatory drug testing and/or physical examinations); 2802 (by failing to reimburse business expenses); and 2810.5 (by failing to provide written notice of material terms of employment);

61. For civil penalties pursuant to California Labor Code sections 210, 226.3, 256, 558, 1174.5, 1197.1, and/or 2699(a), (f) and (g), for violations of California Labor Code sections 201, 202, 203, 204, 222.5, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5;

62. For attorneys' fees and costs pursuant to California Labor Code section 2699(g)(1), and any and all other relevant statutes, for Defendant's violations of California Labor Code sections 201, 202, 203, 204, 222.5, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5;

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

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

As to the Eleventh Cause of Action

65. That the Court declare, adjudge and decree that Defendants conduct of failing to provide Plaintiffs and class members all overtime wages due to them, failing to provide Plaintiffs and class members all minimum wages due to them, failing to provide Plaintiffs and class members all meal periods, failing to authorize and permit Plaintiffs and class members to take all rest periods, failing to provide Plaintiffs and class members accurate and complete wage statements, failing to maintain accurate payroll records for Plaintiffs and class members, failing to timely pay Plaintiffs and class members all earned wages during employment, failing to reimburse Plaintiffs and class members for the costs of mandatory drug testing, failing to reimburse Plaintiffs and class members for business-

1 related expenses, and failing to provide written notice of information material to
2 employment, constitutes an unlawful business practice in violation of California Business
3 and Professions Code sections 17200, *et seq.*;

4 66. For restitution of unpaid wages to Plaintiffs and all class members and
5 prejudgment interest from the day such amounts were due and payable;

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

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

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

14 **As to the Twelfth Cause of Action**

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

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

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

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

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

1 75. For such other and further relief as the Court may deem equitable and
2 appropriate.

3
4 Dated: November 8, 2021

Respectfully submitted,

5 Capstone Law APC

6
7 By: /s/ Bevin Allen Pike

8 Bevin Allen Pike

Daniel Jonathan

Trisha K. Monesi

9 Attorneys for Plaintiffs Jason Brunton,
10 and Brian Cooley
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EXHIBIT “1”



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September 25, 2020

VIA ONLINE SUBMISSION

California Labor & Workforce Development Agency
ATTN: PAGA Administrator
(<https://dir.tfaforms.net/266>)

Subject: *Shu Wu v. Ferroviaal Services Infrastructure Inc., et al.*

Dear PAGA Administrator:

This office represents Shu Wu in connection with his claims under the California Labor Code. Mr. Wu was an employee of FERROVIAL SERVICES INFRASTRUCTURE INC.; BROADSPECTRUM AMERICAS, INC.; TIMEC SPECIALTY SERVICES, INC. and/or BROADSPECTRUM DOWNSTREAM SERVICES, INC. For the purpose of this letter, Mr. Wu collectively refers to these entities as "FERROVIAL."

The employer may be contacted directly at the address below:

FERROVIAL SERVICES
INFRASTRUCTURE INC.
10814 JOLLYVILLE ROAD, SUITE 160
AUSTIN TX 78759

BROADSPECTRUM AMERICAS, INC.
10814 JOLLYVILLE ROAD, SUITE 160
AUSTIN TX 78759

TIMEC SPECIALTY SERVICES, INC.
16941 KEEGAN AVENUE
CARSON CA 90746

BROADSPECTRUM DOWNSTREAM
SERVICES, INC.
10814 JOLLYVILLE ROAD, SUITE 160
AUSTIN TX 78759

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

FERROVIAL employed Mr. Wu as an hourly paid, non-exempt employee from approximately July 2014 to October 2017. Mr. Wu worked for FERROVIAL as a Tow Truck Operator in San Francisco,

California. During his employment, Mr. Wu typically worked nine (9) or more hours per day, five (5) days per week, and forty (40) hours or more per week. His job duties included, without limitation, remotely monitoring streets, patrolling for illegally parked cars, and towing illegally parked cars.

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

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

FERROVIAL SERVICES INFRASTRUCTURE INC.; BROADSPECTRUM AMERICAS, INC.; TIMEC SPECIALTY SERVICES, INC. and/or BROADSPECTRUM DOWNSTREAM SERVICES, INC. are Virginia and Delaware corporations which provide infrastructure services in a broad range of areas, including property and facilities management, defense, transportation, utilities, and mining and chemical processing. FERROVIAL operates in 24 countries and maintains its corporate headquarters in North Sydney, Australia. Upon information and belief, FERROVIAL maintains a single, centralized Human Resources (HR) department at its corporate headquarters in Austin, Texas, for all non-exempt, hourly paid employees working for FERROVIAL in California, including Mr. Wu and other aggrieved employees. At all relevant times, FERROVIAL issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in California, including Mr. Wu and other aggrieved employees, regardless of its location or position.

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

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

California Labor Code sections 510 and 1198 and the applicable Industrial Welfare Commission (“IWC”) Wage Order require employers to pay employees working more than eight (8) hours in a day or more than forty (40) hours in a workweek at the rate of time-and-one-half (1½) times the regular rate of pay for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek. The applicable IWC Wage Order further provides that employers are required to pay employees working more than twelve (12) hours in a day overtime compensation at a rate of

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

two (2) times their regular rate of pay. An employee's regular rate of pay includes all remuneration for employment paid to, or on behalf of, the employee, including nondiscretionary bonuses and incentive pay.

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

During the relevant period, FERROVIAL had, and continues to have, a company-wide policy and/or practice of requiring Mr. Wu and other aggrieved employees to wait until the next shift of coverage arrived to relieve them. However, Mr. Wu and other aggrieved employees were not compensated for the time they remained on duty following the end of their scheduled shifts, which resulted in work performed off-the-clock. For example, the shift following Mr. Wu's was scheduled to start at 4:30 a.m., but if the next shift's employees did not show up until 5:00 a.m., he was required to stay on duty for an additional half hour until he could be relieved by the next shift. Because there was no timeclock on-site, everyone on a particular shift denoted their hours on a shared log, which would be submitted at the end of the scheduled shift. When Mr. Wu was required to stay past the end of his scheduled shift, he was not able to alter the log because it had already been submitted to FERROVIAL, resulting in work for which he was not paid. Additionally, on information and belief, Mr. Wu and other aggrieved employees were subject to their supervisors altering their clock-in and clock-out times in order to limit the amount of overtime Mr. Wu and other aggrieved employees could accrue. Thus, FERROVIAL failed to track this time spent working before or after scheduled shifts, and Mr. Wu and other aggrieved employees received no compensation for this time.

Further, FERROVIAL had a company-wide policy of understaffing its job sites, resulting in a lack of meal period coverage. Due to the lack of coverage caused by understaffing, FERROVIAL forced Mr. Wu and other aggrieved employees to work through their meal periods by requiring them to remain on or near the premises for their meal periods, including sitting in the office and watching security monitors during their meal periods. Because Mr. Wu and other aggrieved employees were restricted from leaving the premises during meal periods, they were denied the ability to use their meal periods freely for their own purposes. Thus, FERROVIAL effectively maintained control over Mr. Wu and other aggrieved employees during meal periods. Additionally, FERROVIAL required Mr. Wu and other aggrieved employees to respond to company-issued radio calls at all times, including during their meal periods, causing Mr. Wu and other aggrieved employees to have their meal periods interrupted by work. As a result of FERROVIAL's company-wide policies and/or practices, including but not necessarily limited to understaffing and a lack of meal period coverage, Mr. Wu and other aggrieved employees were not provided with uninterrupted 30-minute meal periods during shifts in which they were entitled to receive meal periods. Thus, Mr. Wu and other aggrieved employees missed meal periods and had their meal periods interrupted, but were not compensated for this time.

FERROVIAL knew or should have known that, as a result of these company-wide practices and/or policies, Mr. Wu and other aggrieved employees were performing their assigned duties during meal periods and while off-the-clock, and were suffered or permitted to perform work for which they were not paid. FERROVIAL also knew, or should have known, that it did not compensate Mr. Wu and other aggrieved employees applicable overtime rates of pay for overtime hours that they worked.

Because Mr. Wu and/or other aggrieved employees occasionally worked shifts of eight (8) hours a day or more or forty (40) hours a week or more, some of this off-the-clock work qualified for overtime premium pay. Therefore, Mr. Wu and other aggrieved employees were not paid overtime wages for all of the overtime hours they actually worked. FERROVIAL's failure to pay Mr. Wu and other aggrieved employees the balance of overtime compensation, as required by California law, violates the provisions of California Labor Code sections 510 and 1198.

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

Mr. Wu and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

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

California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 require employers to pay employees the minimum wage fixed by the IWC. The payment of a lesser wage than the minimum so fixed is unlawful. Compensable work time is defined in Wage Order No. 9 as "the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so." Cal. Code. Regs. tit. 8, § 11090(2)(H) (defining "Hours Worked").

As set forth above, during the relevant time period, FERROVIAL had, and continues to have, a company-wide policy and/or practice of requiring Mr. Wu and other aggrieved employees to perform work off-the-clock after their scheduled shifts and during meal periods, including remaining on duty until being relieved by employees on the following shift, staying on or near the work premises during meal periods, and/or communicating with FERROVIAL's management via radio calls, work for which they were not paid. Additionally, FERROVIAL had, and continues to have, company-wide policies and/or practices of understaffing its job sites, which impeded Mr. Wu and other aggrieved employees from taking full, uninterrupted meal periods to which they were entitled and resulted in them working off-the-clock. In addition, as described above, FERROVIAL systematically failed to pay Mr. Wu and other aggrieved employees for actual hours worked because these hours were not always correctly recorded or, on information and belief, FERROVIAL adjusted employee time records.

Moreover, FERROVIAL maintained and implemented a company-wide policy of requiring employees to travel to a medical facility on their own time and using their own personal vehicles or alternate transportation to undergo mandatory drug testing and/or physical examinations. At all times, FERROVIAL was in control of scheduling the date and time for the testing and/or physical examinations, selecting the provider or facility where the testing and/or physical examinations were to take place, and determining the scope of the testing and/or physical examinations. FERROVIAL

gave Mr. Wu and other aggrieved employees strict instructions to undergo drug testing and/or physical examinations, and Mr. Wu and other aggrieved employees underwent the testing and/or examinations for the sole benefit of FERROVIAL. Mr. Wu and other aggrieved employees were required to travel in their own personal vehicles or obtain alternate transportation and spend time undergoing FERROVIAL's mandatory drug tests and/or physical examinations. However, FERROVIAL did not compensate Mr. Wu and other aggrieved employees for the time they spent traveling to and from the medical facilities and undergoing the mandatory drug testing and/or physical examinations.

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

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

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

California Labor Code sections 226.7, 512(a), 516, 1198, and the applicable IWC Wage Order require employers to provide meal periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. Pursuant to Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order, an employer may not require, cause or permit an employee to work for a period of more than five (5) hours per day without providing the employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee. Under California law, first meal periods must start after no more than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (Cal. 2012). Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order also require employers to provide a second meal period of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an employee one (1) additional hour of pay at the employee's regular rate, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

As stated, FERROVIAL had, and continues to have, a uniform policy and/or practice of understaffing its job sites, which resulted in a lack of meal period coverage and prevented Mr. Wu and other aggrieved employees from taking all timely, uninterrupted meal periods to which they were entitled. For example, there were usually only two or three people on duty during a shift. During this time, Mr. Wu and other aggrieved employees received late, shortened, and/or interrupted meal periods. Mr. Wu and other aggrieved employees were required to work throughout their shifts without taking compliant meal periods to adhere to FERROVIAL's policies and expectations. Further, FERROVIAL has, on a company-wide basis, failed to adhere to a schedule of meal periods even though it was aware and knew that employees are entitled to such meal periods, resulting in Mr. Wu and other aggrieved employees taking their meal periods late. For example, Mr. Wu would only

receive his meal periods 5.5 or 6.5 hours after the start of his shift. In addition, as mentioned above, FERROVIAL had a practice of requiring that Mr. Wu and other aggrieved employees remain on or near the job site premises during unpaid meal periods, including sitting in the office and watching security monitors, which further caused Mr. Wu and other aggrieved employees to not be relieved of their duties for compliant meal periods.

Moreover, FERROVIAL did not provide other aggrieved employees with second 30-minute meal periods on days that they worked in excess of ten (10) hours in one day. Other aggrieved employees worked shifts in excess of ten (10) hours without receiving an uninterrupted second 30-minute meal period. Mr. Wu and other aggrieved employees did not sign valid meal period waivers on days that they were entitled to meal periods and were not relieved of all duties.

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

Furthermore, FERROVIAL engaged in a company-wide practice and/or policy of not paying all meal period premiums owed when compliant meal periods are not provided. Because of this practice and/or policy, Mr. Wu and other aggrieved employees have not received premium pay for missed, interrupted, or late meal periods. Alternatively, to the extent that FERROVIAL did pay meal period premium wages to other aggrieved employees, it did so at the incorrect rates. Because FERROVIAL did not properly calculate other aggrieved employees' regular rates of pay by including all remunerations, such as incentive pay and/or nondiscretionary bonuses, any premiums paid for meal period violations were also paid at an incorrect rate and resulted in an underpayment of meal period premium wages.

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

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

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

To comply with its obligation to authorize and permit rest periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer must "relinquish any control over

how employees spend their break time, and relieve their employees of all duties — including the obligation that an employee remain on call. A rest period, in short, must be a period of rest.” *Augustus, et al. v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 269-270 (2016).

During the relevant time period, FERROVIAL regularly failed to authorize and permit Mr. Wu and other aggrieved employees to take a ten (10) minute rest period per each four (4) hour period worked or major fraction thereof. As with meal periods, FERROVIAL’s company-wide policy and practice of requiring Mr. Wu and other aggrieved employees to carry and respond to radio calls prevented them from being relieved of all duty to take their rest periods. FERROVIAL also failed to schedule rest periods, which further led to Mr. Wu and other aggrieved employees not being authorized and permitted to take compliant rest periods.

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

As a result of FERROVIAL’s practices and policies, Mr. Wu and other aggrieved employees worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without receiving all uninterrupted 10-minute rest periods to which they were entitled. For example, throughout his employment, Mr. Wu was not permitted to take full and complete ten (10) minute rest periods, and instead would experience interrupted rest periods due to calls on his radio which he was required to answer.

FERROVIAL also has engaged in a company-wide practice and/or policy of not paying all rest period premiums owed when compliant rest periods are not authorized and permitted. Because of this practice and/or policy, Mr. Wu and other aggrieved employees have not received premium pay for all missed rest periods. Alternatively, to the extent that FERROVIAL did pay rest period premium wages to other aggrieved employees, it did so at the incorrect rates. Because FERROVIAL did not properly calculate other aggrieved employees’ regular rates of pay by including all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, any premiums paid for rest period violations were also paid at an incorrect rate and resulted in an underpayment of rest period premium wages.

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

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

California Labor Code section 226(a) requires employers to make, keep and provide true, accurate, and complete employment records. FERROVIAL has not provided Mr. Wu and other aggrieved employees with properly itemized wage statements. Labor Code section 226(e) provides that if an employer fails to comply with providing an employee with properly itemized wages statements as set forth in 226(a), then the employee is entitled to recover the greater of all actual damages or \$50.00

for the initial pay period in which a violation occurs and \$100 per employee for each violation in a subsequent pay period, not to exceed \$4,000. Further, Labor Code section 226.3 provides that any employer who violates section 226(a) shall be subject to a civil penalty in the amount of \$250 per employee per violation in an initial citation and \$1,000 per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage statement or fails to keep the required records pursuant to Section 226(a).

During the relevant time period, FERROVIAL has knowingly and intentionally provided Mr. Wu and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. For example, FERROVIAL issued uniform wage statements to Mr. Wu and other aggrieved employees that fail to correctly list: gross wages earned; total hours worked; net wages earned; name and address of the legal entity that is the employer; and all applicable hourly rates in effect during the pay period, including overtime rates of pay, and the corresponding number of hours worked at each hourly rate. Specifically, FERROVIAL violated sections 226(a)(1), 226(a)(2), 226(a)(5), 226(a)(8), and 226(a)(9).

First, FERROVIAL failed to list all applicable hourly rates in effect during the pay period, namely, rates of pay for overtime, in violation of section 226(a)(9). For example, on some of Mr. Wu's paystubs, no overtime or holiday pay rate is listed. Further, because FERROVIAL did not record the time Mr. Wu and other aggrieved employees spent working off-the-clock and deducted time from their records for meal periods that were interrupted and/or missed (and therefore time for which they should have been paid), FERROVIAL did not list the correct amount of gross wages and net wages earned by Mr. Wu and other aggrieved employees in compliance with section 226(a)(1) and section 226(a)(5), respectively. For the same reason, FERROVIAL failed to accurately list the total number of hours worked by Mr. Wu and other aggrieved employees, in violation of section 226(a)(2), and failed to list the applicable hourly rates of pay in effect during the pay period and the corresponding accurate number of hours worked at each hourly rate, in violation of section 226(a)(9).

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

Third, and separate from these violations, FERROVIAL issued uniform wage statements to Mr. Wu and other aggrieved employees that failed to list the correct name and address of the legal entity of the actual employer in violation of Labor Code section 226(a)(8). The purpose of section 226(a)(8) is to provide California employees with transparency as to the true identity of their employer, to allow the employee to contact their employer during employment in the future for various reasons, including, filing an administrative claim, judicial claim, or other action to seek relief against their employer, to obtain unemployment benefits, etc.

During the relevant time period, FERROVIAL systematically, and on a company-wide basis, issued wage statements to Mr. Wu and other aggrieved employees that list the employing entity's name as "Broadspectrum Infrastructure" with the address "1330 Post Oak Blvd Suite 1250, Houston, TX 77056," which is not the correct name or address of the legal entity that employs Mr. Wu and other aggrieved employees. According to the California Secretary of State's website, there is no such

entity named “Broadspectrum Infrastructure” registered to do business in California. However, a similarly named entity named “BROADSPECTRUM DOWNSTREAM SERVICES, INC.” is listed on the California Secretary of State’s website at the address “10814 JOLLYVILLE ROAD, SUITE 160, AUSTIN TX 78759.” Further adding to the confusion, Mr. Wu also received a W-2 statement that names his employer as “TRANSFIELD SERVICES INFRASTRUCTURE INC.” which does not appear on his paystub, further muddling Mr. Wu’s efforts to identify his correct employer and the address at which they can be contacted.

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

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

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

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

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

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

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. Alternatively, California Labor Code section 204 provides that the requirements of this section are deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of the payroll period.

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

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

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

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

On information and belief, FERROVIAL has a company-wide practice or policy of paying departing employees their final wages on the next regular pay cycle, instead of adhering to the time requirements set forth in Labor Code sections 201 and 202. For example, FERROVIAL terminated Mr. Wu in person at FERROVIAL's San Francisco office on or around October 11, 2017, but failed to tender him his final paycheck immediately. Instead, FERROVIAL did not provide Mr. Wu with a final paycheck until the next regularly scheduled payday approximately two (2) weeks later when he received it in the mail. Thus, FERROVIAL failed to pay Mr. Wu his full final wages immediately, in violation of Labor Code section 201.

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

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

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

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

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

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

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

Violation of California Labor Code § 2802 – Unreimbursed Business Expenses

California Labor Code section 2802 requires employers to pay for all necessary expenditures and losses incurred by the employee in the performance of his or her job. The purpose of Labor Code section 2802 is to prevent employers from passing off their cost of doing business and operating expenses on to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144 (2014). The applicable wage order, IWC Wage Order 9-2001, provides that: "[w]hen tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft."

During the relevant time period, FERROVIAL required Mr. Wu and other aggrieved employees to use their own personal cellular phones and/or cellular data to carry out their job duties, but failed to reimburse them for the costs of their work-related cellular phone expenses. Although Mr. Wu and other aggrieved employees were provided company-issued radios, there were occasions when the radios did not work or were out of range. Since Mr. Wu and other aggrieved employees did not work in an office setting, they had no access to phones other than their own, and they frequently had to communicate with each other to coordinate work-related responsibilities. Although FERROVIAL

required Mr. Wu and other aggrieved employees to utilize their personal cellular phones to carry out their work-related responsibilities, FERROVIAL failed to fully reimburse them for this cost.

Furthermore, during the relevant time period, FERROVIAL had a company-wide policy of requiring Mr. Wu and other aggrieved employees to travel to medical facilities on their own time and using their personal vehicles to obtain mandatory drug testing and/or physical examinations, but did not reimburse them for their travel expenses, including mileage. At all times, FERROVIAL was in control of scheduling the date and time for the testing and/or physical examinations, selecting the provider or facility where the testing and/or physical examinations were to take place, and determining the scope of the testing and/or physical examinations. FERROVIAL gave Mr. Wu and other aggrieved employees strict instructions to obtain drug testing and/or physical examinations, and Mr. Wu and other aggrieved employees underwent the testing and/or physical examinations for the sole benefit of FERROVIAL. Although FERROVIAL required Mr. Wu and other aggrieved employees to use their own vehicles or obtain alternate transportation to undergo drug testing and/or physical examinations, FERROVIAL never reimbursed them for their travel expenses.

FERROVIAL could have provided Mr. Wu and other aggrieved employees with the actual tools for use on the job, such as company phones, company vehicles, or company-provided transportation to medical or physical examinations, or could have reimbursed employees for their cellular phone, mileage, and travel expenses. Instead, FERROVIAL passed these operating costs off onto Mr. Wu and other aggrieved employees.

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

Violation of California Labor Code § 2810.5(a)(1)(A)-(C) – Failure to Provide Notice of Material Terms of Employment

California's Wage Theft Prevention Act was enacted to ensure that employers provide employees with basic information material to their employment relationship at the time of hiring, and to ensure that employees are given written and timely notice of any changes to basic information material to their employment. Codified at California Labor Code section 2810.5, the Wage Theft Prevention Act provides that at the time of hiring, an employer must provide written notice to employees of the rate(s) of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, the regular payday designated by the employer, and any allowances claims as part of the minimum wage, including meal or lodging allowances. Effective January 1, 2015, an employer's written notice pursuant to section 2810.5 must also include a statement that the employee may accrue and use sick leave; has a right to request and use accrued paid sick leave; may not be terminated or retaliated against for using or requesting the use of accrued paid sick leave; and has the right to file a complaint against an employer who retaliates.

FERROVIAL failed to provide Mr. Wu and other aggrieved employees written notice that lists all the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C). FERROVIAL's failure to provide Mr. Wu and other aggrieved employees with written notice of basic information regarding their employment with FERROVIAL is in violation of Labor Code section 2810.5.

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

California Labor Code § 558(a)

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

Accordingly, Mr. Wu seeks the remedies set forth in Labor Code section 558 for himself, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 2699(a), 2699.3(a) and 2699.3(c), 2699.5, and 558, Mr. Wu, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for himself, all other aggrieved employees, and the State of California against FERROVIAL for violations of California Labor Code sections 201, 202, 203, 204, 222.5, 226(a), 226.7, 510, 512(a), 516, 558(a), 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5.

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

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

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

Best Regards,



Mao Shiokura

Copy: FERROVIAL SERVICES INFRASTRUCTURE INC. (via U.S. Certified Mail); BROADSPECTRUM AMERICAS, INC. (via U.S. Certified Mail); TIMEC SPECIALTY SERVICES, INC. (via U.S. Certified Mail); BROADSPECTRUM DOWNSTREAM SERVICES, INC. (via U.S. Certified Mail); Dina S. Glucksman, Esq., Gordon Rees Scully Mansukhani, 633 West Fifth Street, 52nd Floor, Los Angeles, CA 90071 (via U.S. Certified Mail)



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☐ Adult Signature Required \$
☐ Adult Signature Restricted Delivery \$

Postage
\$ **1.63**

Total Postage and Fees
\$ **7.93**

Sent To
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AUSTIN TX 78759

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Wm V. Broad Spectrum Downstream Service Inc.

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TIMEC SPECIALTY SERVICES, INC.
16941 KEEGAN AVENUE
CARSON CA 90746



9590 9403 0424 5163 3661 40

2. Article Number (Transfer from service label)

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☐ Addressee

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Total Postage and Fees

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TIMEC SPECIALTY SERVICES, INC.

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CARSON CA 90746

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160
AUSTIN TX 78759



9590 9402 4882 9032 7434 37

2. Article Number (Transfer from service label)

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☐ Agent☐ Addressee

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Wm. Broad Spectrum
Americas, Inc.

tone

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es, CA 90067



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1. Article Addressed to:

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 INFRASTRUCTURE INC.
 10814 JOLLYVILLE ROAD, SUITE
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 AUSTIN TX 78759



9590 9403 0424 5163 3610 53

2. Article Number (Transfer from service label)

7019 2280 0000 7398 6954

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A. Signature

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☐ Agent☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

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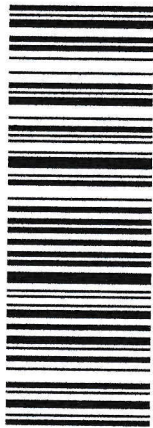
3. Service Type

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☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery
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Wu v. Ferrovia
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 Inc.

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1. Article Addressed to:

Dina S. Glucksman
Gordon Rees Scully Mansukhani
633 West Fifth Street, 52nd Floor
Los Angeles, CA 90071



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2. Article Number (Transfer from service label)

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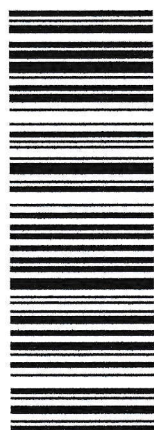
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Gordon Rees Scully Mansukhani

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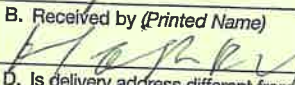
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Wu v. Ferroval
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2. Article Number (Transfer from service label) 7019 2280 0000 7398 6916		3. Service Type ☐ Adult Signature ☐ Priority Mail Express® ☐ Adult Signature Restricted Delivery ☐ Registered Mail™ ☒ Certified Mail® ☐ Registered Mail Restricted Delivery ☐ Certified Mail Restricted Delivery ☐ Return Receipt for Merchandise ☐ Collect on Delivery ☐ Signature Confirmation™ ☐ Collect on Delivery Restricted Delivery ☐ Signature Confirmation Restricted Delivery ☐ Insured Mail ☐ Registered Mail Restricted Delivery (over \$500)	
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10814 JOLLYVILLE ROAD, SUITE
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AUSTIN TX 78759



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☐ Addressee

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Wavie

C. Date of Delivery

7/10/20

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☐ Collect on Delivery Restricted Delivery
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AUSTIN TX 78759



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2. Article Number (Transfer from service label)

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COMPLETE THIS SECTION ON DELIVERY

A. Signature

X Covid 19

- ☐ Agent
☐ Addressee

B. Received by (Printed Name)

Wavie

C. Date of Delivery

7/10/20

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

3. Service Type

- ☐ Adult Signature
☐ Adult Signature Restricted Delivery
☒ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery
☐ Insured Mail
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☐ Signature Confirmation™
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1. Article Addressed to:

BROADSPECTRUM DOWNSTREAM
SERVICES, INC.
10814 JOLLYVILLE ROAD, SUITE
160
AUSTIN TX 78759



9590 9403 0424 5163 3661 33

2. Article Number (Transfer from service label)

7019 2280 0000 7398 6985

PS Form 3811, April 2015 PSN 7530-02-000-9053

Domestic Return Receipt

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X Covid 19

- ☐ Agent
☐ Addressee

B. Received by (Printed Name)

Wavie

C. Date of Delivery

7/10/20

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

3. Service Type

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

EXHIBIT “2”



1875 Century Park East, Suite 1000
Los Angeles, California 90067
310.556.4811 Main | 310.943.0396 Fax

MAO SHIOKURA
310.712.8030 Direct
Mao.Shiokura@capstonelawyers.com

May 19, 2021

VIA ONLINE SUBMISSION

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

Subject: *Jason Brunton v. Ferrovia Services Infrastructure Inc., et al.*

Dear PAGA Administrator:

This office represents Jason Brunton in connection with his claims under the California Labor Code. Mr. Brunton was an employee of FERROVIAL SERVICES INFRASTRUCTURE INC.; BROADSPECTRUM AMERICAS, INC.; TIMEC SPECIALTY SERVICES, INC.; and/or BROADSPECTRUM DOWNSTREAM SERVICES, INC. For the purpose of this letter, Mr. Brunton collectively refers to these entities as "FERROVIAL."

The employers may be contacted directly at the addresses below:

FERROVIAL SERVICES
INFRASTRUCTURE INC.
10814 JOLLYVILLE ROAD, SUITE 160
AUSTIN TX 78759

BROADSPECTRUM AMERICAS, INC.
10814 JOLLYVILLE ROAD, SUITE 160
AUSTIN TX 78759

TIMEC SPECIALTY SERVICES, INC.
16941 KEEGAN AVENUE
CARSON CA 90746

BROADSPECTRUM DOWNSTREAM
SERVICES, INC.
10814 JOLLYVILLE ROAD, SUITE 160
AUSTIN TX 78759

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

FERROVIAL employed Mr. Brunton as an hourly paid, non-exempt employee from approximately 2014 to 2017. Mr. Brunton worked for FERROVIAL as a Tunnel Operator in San Francisco,

California. During his employment, Mr. Brunton typically worked approximately eight (8) to ten (10) or more hours per day, five (5) to six (6) days per week, and forty (40) hours or more per week. His job duties included, without limitation, monitoring surveillance cameras, assisting disabled motorists, operating the tow truck, patching the roadway, cleaning tunnels, and repairing guard rails.

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

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

FERROVIAL SERVICES INFRASTRUCTURE INC.; BROADSPECTRUM AMERICAS, INC.; TIMEC SPECIALTY SERVICES, INC.; and/or BROADSPECTRUM DOWNSTREAM SERVICES, INC. are Virginia and Delaware corporations which provide infrastructure services in a broad range of areas, including property and facilities management, defense, transportation, utilities, and mining and chemical processing. FERROVIAL operates in 24 countries and maintains its corporate headquarters in North Sydney, Australia. Upon information and belief, FERROVIAL maintains a single, centralized Human Resources (HR) department at its corporate headquarters in Austin, Texas, for all non-exempt, hourly paid employees working for FERROVIAL in California, including Mr. Brunton and other aggrieved employees. At all relevant times, FERROVIAL issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in California, including Mr. Brunton and other aggrieved employees, regardless of its location or position.

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

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

California Labor Code sections 510 and 1198 and the applicable Industrial Welfare Commission (“IWC”) Wage Order require employers to pay employees working more than eight (8) hours in a day or more than forty (40) hours in a workweek at the rate of time-and-one-half (1 ½) times the regular rate of pay for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek. The applicable IWC Wage Order further provides that employers are required to pay employees working more than twelve (12) hours in a day overtime compensation at a rate of

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

two (2) times their regular rate of pay. An employee's regular rate of pay includes all remuneration for employment paid to, or on behalf of, the employee, including nondiscretionary bonuses and incentive pay.

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

During the relevant period, FERROVIAL had, and continues to have, a company-wide policy and/or practice of requiring Mr. Brunton and other aggrieved employees to wait until the next shift of coverage arrived to relieve them. However, Mr. Brunton and other aggrieved employees were not compensated for the time they remained on duty following the end of their scheduled shifts, which resulted in work performed off-the-clock. For example, Mr. Brunton often stayed beyond his scheduled shift end time to assist the employees beginning the next shift with specifics on the tow trucks being utilized by FERROVIAL during those shifts. Similarly, other aggrieved employees were required to remain on duty after their scheduled shift ended for an additional half hour until they were relieved by employees on the following shift. Also, other aggrieved employees often arrived at their job site before their scheduled shift start times to begin their work duties. Because FERROVIAL only paid Mr. Brunton and other aggrieved employees for the times they were scheduled to work instead of their actual hours worked, Mr. Brunton and other aggrieved employees were not compensated for this additional time they were suffered or permitted to work. Additionally, on information and belief, Mr. Brunton and other aggrieved employees were subject to their supervisors altering their clock-in and clock-out times in order to limit the amount of overtime Mr. Brunton and other aggrieved employees could accrue. Thus, FERROVIAL failed to track this time spent working before or after scheduled shifts, and Mr. Brunton and other aggrieved employees received no compensation for this time.

Further, FERROVIAL had a company-wide policy of understaffing its job sites, resulting in a lack of meal period coverage. Due to the lack of coverage caused by understaffing, FERROVIAL forced Mr. Brunton and other aggrieved employees to work through their meal periods by requiring them to remain on or near the premises for their meal periods, including sitting in the office or company trucks and watching security monitors during their meal periods. Because Mr. Brunton and other aggrieved employees were restricted from leaving the premises during meal periods, they were denied the ability to use their meal periods freely for their own purposes. Thus, FERROVIAL effectively maintained control over Mr. Brunton and other aggrieved employees during meal periods. Additionally, FERROVIAL required Mr. Brunton and other aggrieved employees to respond to company-issued radio calls at all times, including during their meal periods, causing Mr. Brunton and other aggrieved employees to have their meal periods interrupted by work. As a result of FERROVIAL's company-wide policies and/or practices, including but not necessarily limited to understaffing and a lack of meal period coverage, Mr. Brunton and other aggrieved employees were not provided with uninterrupted 30-minute meal periods during shifts in which they were entitled to receive meal periods. Thus, Mr. Brunton and other aggrieved employees missed meal periods and had their meal periods interrupted, but were not compensated for this time.

FERROVIAL knew or should have known that, as a result of these company-wide practices and/or policies, Mr. Brunton and other aggrieved employees were performing their assigned duties during meal periods and while off-the-clock, and were suffered or permitted to perform work for which they

were not paid. FERROVIAL also knew, or should have known, that it did not compensate Mr. Brunton and other aggrieved employees applicable overtime rates of pay for overtime hours that they worked.

Because Mr. Brunton and/or other aggrieved employees occasionally worked shifts of eight (8) hours a day or more or forty (40) hours a week or more, some of this off-the-clock work qualified for overtime premium pay. Therefore, Mr. Brunton and other aggrieved employees were not paid overtime wages for all of the overtime hours they actually worked. FERROVIAL's failure to pay Mr. Brunton and other aggrieved employees the balance of overtime compensation, as required by California law, violates the provisions of California Labor Code sections 510 and 1198.

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

Mr. Brunton and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

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

California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 and the applicable IWC Wage Order require employers to pay employees the minimum wage fixed by the IWC. The payment of a lesser wage than the minimum so fixed is unlawful. Compensable work time is defined in Wage Order No. 9-2001 as "the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so." Cal. Code. Regs. tit. 8, § 11090(2)(H) (defining "Hours Worked").

As set forth above, during the relevant time period, FERROVIAL had, and continues to have, company-wide policies and/or practices of requiring Mr. Brunton and other aggrieved employees to perform work off-the-clock before and after their scheduled shifts and during meal periods, including remaining on duty after their shift ended to discuss the trucks in operation during a given shift, performing work prior to the start time of their scheduled shifts, staying on or near the work premises during meal periods, and/or communicating with FERROVIAL's management via radio calls, work for which they were not paid. Additionally, FERROVIAL had, and continues to have, company-wide policies and/or practices of understaffing its job sites, which impeded Mr. Brunton and other aggrieved employees from taking full, uninterrupted meal periods to which they were entitled and resulted in them working off-the-clock. In addition, as described above, FERROVIAL systematically failed to pay Mr. Brunton and other aggrieved employees for actual hours worked because these hours were not always correctly recorded or, on information and belief, FERROVIAL adjusted employee time records.

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

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

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

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

California Labor Code sections 226.7, 512(a), 516, 1198, and the applicable IWC Wage Order require employers to provide meal periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. Pursuant to Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order, an employer may not require, cause or permit an employee to work for a period of more than five (5) hours per day without providing the employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee. Under California law, first meal periods must start after no more than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (2012). Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order also require employers to provide a second meal period of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an employee one (1) additional hour of pay at the employee's regular rate, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

As stated, FERROVIAL had, and continues to have, a uniform policy and/or practice of understaffing its job sites, which resulted in a lack of meal period coverage and prevented Mr. Brunton and other aggrieved employees from taking all timely, uninterrupted meal periods to which they were entitled. For example, Mr. Brunton and other aggrieved employees were required to work

throughout their shifts without taking compliant meal periods to adhere to FERROVIAL's policies and expectations. Further, FERROVIAL has, on a company-wide basis, failed to adhere to a schedule of meal periods even though it was aware and knew that employees are entitled to such meal periods, resulting in Mr. Brunton and other aggrieved employees taking their meal periods late. For example, Mr. Brunton never received uninterrupted thirty-minute meal periods because he was required to remain on duty to respond to calls coming in over the radios at all times. In addition, as mentioned above, FERROVIAL had a practice of requiring that Mr. Brunton and other aggrieved employees remain on or near the job site premises during unpaid meal periods, including sitting in the office or truck and watching security monitors, which further caused Mr. Brunton and other aggrieved employees to not be relieved of their duties for compliant meal periods.

Additionally, FERROVIAL discouraged and impeded Mr. Brunton and other aggrieved employees from taking compliant periods by failing to provide them with an accurate clock-in and clock-out mechanism at job sites. Instead, other aggrieved employees were expected to note their clock-in and clock-out times in a logbook at the end of their shifts, which, on information and belief, was subject to falsification, as FERROVIAL's management could adjust time records to reflect compliant meal periods if Mr. Brunton and other aggrieved employees failed to denote them. Thus, Mr. Brunton and other aggrieved employees missed their meal periods altogether, had their meal periods interrupted to return to work, or waited extended periods of time before taking meal periods, but these violations were not reflected in Mr. Brunton's and other aggrieved employees' time records.

Moreover, FERROVIAL did not provide other aggrieved employees with second 30-minute meal periods on days that they worked in excess of ten (10) hours in one day. Other aggrieved employees worked shifts in excess of ten (10) hours without receiving an uninterrupted second 30-minute meal period. Mr. Brunton and other aggrieved employees did not sign valid meal period waivers on days that they were entitled to meal periods and were not relieved of all duties.

FERROVIAL knew or should have known that as a result of its company-wide policies and/or practices, that Mr. Brunton and other aggrieved employees were not actually relieved of all duties to take timely, uninterrupted meal periods. FERROVIAL further knew or should have known that it did not pay Mr. Brunton and other aggrieved employees meal period premiums when meal periods were missed, late, short, and/or interrupted because, on information and belief, FERROVIAL adjusted employee time records to reflect compliant meal periods, even if none were taken.

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

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

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

California Labor Code sections 226.7, 516, 1198, and the applicable IWC Wage Order require employers to provide rest periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC. The applicable IWC Wage Order provides that "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period" and that the "rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof" unless the total daily work time is less than three and one-half (3 ½) hours.

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

During the relevant time period, FERROVIAL regularly failed to authorize and permit Mr. Brunton and other aggrieved employees to take a ten (10) minute rest period per each four (4) hour period worked or major fraction thereof. As with meal periods, FERROVIAL's company-wide policy and practice of requiring Mr. Brunton and other aggrieved employees to carry and respond to radio calls prevented them from being relieved of all duty to take their rest periods. FERROVIAL also failed to schedule rest periods, which further led to Mr. Brunton and other aggrieved employees not being authorized and permitted to take compliant rest periods.

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

As a result of FERROVIAL's practices and policies, Mr. Brunton and other aggrieved employees worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without receiving all uninterrupted 10-minute rest periods to which they were entitled. For example, throughout his employment, Mr. Brunton was not permitted to take full and complete ten (10) minute rest periods, and instead would experience interrupted rest periods due to calls on his radio which he was required to answer.

FERROVIAL also has engaged in a company-wide practice and/or policy of not paying all rest period premiums owed when compliant rest periods are not authorized and permitted. Because of this practice and/or policy, Mr. Brunton and other aggrieved employees have not received premium pay for all missed rest periods. Alternatively, to the extent that FERROVIAL did pay other aggrieved employees one (1) additional hour of premium pay for missed rest periods, FERROVIAL did not pay other aggrieved employees at the correct rate of pay for premiums because FERROVIAL

failed to include all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.

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

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

California Labor Code section 226(a) requires employers to make, keep, and provide true, accurate, and complete employment records. FERROVIAL has not provided Mr. Brunton and other aggrieved employees with properly itemized wage statements. Labor Code section 226(e) provides that if an employer fails to comply with providing an employee with properly itemized wages statements as set forth in 226(a), then the employee is entitled to recover the greater of all actual damages or \$50 for the initial pay period in which a violation occurs and \$100 per employee for each violation in a subsequent pay period, not to exceed \$4,000. Further, Labor Code section 226.3 provides that any employer who violates section 226(a) shall be subject to a civil penalty in the amount of \$250 per employee per violation in an initial citation and \$1,000 per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage statement or fails to keep the required records pursuant to Section 226(a).

During the relevant time period, FERROVIAL has knowingly and intentionally provided Mr. Brunton and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. For example, FERROVIAL issued uniform wage statements to Mr. Brunton and other aggrieved employees that fail to correctly list: gross wages earned; total hours worked; net wages earned; name and address of the legal entity that is the employer; and all applicable hourly rates in effect during the pay period, including overtime rates of pay, and the corresponding number of hours worked at each hourly rate. Specifically, FERROVIAL violated sections 226(a)(1), 226(a)(2), 226(a)(5), 226(a)(8), and 226(a)(9).

First, FERROVIAL failed to list all applicable hourly rates in effect during the pay period, namely, rates of pay for overtime, in violation of section 226(a)(9). For example, on some of Mr. Brunton's paystubs, no overtime or holiday pay rate is listed. Further, because FERROVIAL did not record the time Mr. Brunton and other aggrieved employees spent working off-the-clock and deducted time from their records for meal periods that were interrupted and/or missed (and therefore time for which they should have been paid), FERROVIAL did not list the correct amount of gross wages and net wages earned by Mr. Brunton and other aggrieved employees in compliance with section 226(a)(1) and section 226(a)(5), respectively. For the same reason, FERROVIAL failed to accurately list the total number of hours worked by Mr. Brunton and other aggrieved employees, in violation of section 226(a)(2), and failed to list the applicable hourly rates of pay in effect during the pay period and the corresponding accurate number of hours worked at each hourly rate, in violation of section 226(a)(9).

Second, because FERROVIAL did not calculate other aggrieved employees' regular rate of pay correctly for purposes of paying overtime wages, FERROVIAL did not list the correct amount of gross wages earned by other aggrieved employees in compliance with section 226(a)(1) and did not list the correct amount of net wages earned by other aggrieved employees in violation of section

226(a)(5). FERROVIAL also failed to correctly list all applicable hourly rates in effect during the pay period, namely, correct overtime rates of pay, in violation of section 226(a)(9).

Third, and separate from these violations, FERROVIAL issued uniform wage statements to Mr. Brunton and other aggrieved employees that failed to list the correct name and address of the legal entity of the actual employer in violation of Labor Code section 226(a)(8). The purpose of section 226(a)(8) is to provide California employees with transparency as to the true identity of their employer, to allow the employee to contact their employer during employment in the future for various reasons, including, filing an administrative claim, judicial claim, or other action to seek relief against their employer, to obtain unemployment benefits, etc.

During the relevant time period, FERROVIAL systematically, and on a company-wide basis, issued wage statements to Mr. Brunton and other aggrieved employees that list the employing entity's name as "Broadspectrum Infrastructure" with the address "1330 Post Oak Blvd Suite 1250, Houston, TX 77056," which is not the correct name or address of the legal entity that employs Mr. Brunton and other aggrieved employees. According to the California Secretary of State's website, there is no such entity named "Broadspectrum Infrastructure" registered to do business in California. However, a similarly named entity, "BROADSPECTRUM DOWNSTREAM SERVICES, INC.," is listed on the California Secretary of State's website at the address "10814 JOLLYVILLE ROAD, SUITE 160, AUSTIN TX 78759." Further adding to the confusion, Mr. Brunton also received a W-2 statement that names his employer as "TRANSFIELD SERVICES INFRASTRUCTURE INC." which does not appear on his paystub, further muddling Mr. Brunton's efforts to identify his correct employer and the address at which it can be contacted.

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

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

California Labor Code section 1198 provides that the maximum hours of work and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the applicable IWC Wage Order. Section 1198 further provides that "[t]he employment of any employees for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful." Pursuant to the applicable IWC Wage Order, employers are required to keep accurate

time records showing when the employee begins and ends each work period and meal period. During the relevant time period, due to their aforementioned timekeeping practices and/or policies, FERROVIAL failed, on a company-wide basis, to keep accurate records of work period and meal period start and stop times for Mr. Brunton and other aggrieved employees, in violation of section 1198. Furthermore, in light of FERROVIAL's failure to provide other aggrieved employees with second 30-minute meal periods to which they were entitled, FERROVIAL kept no records of meal start and end times for second meal periods.

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

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

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

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. Alternatively, California Labor Code section 204 provides that the requirements of this section are deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of the payroll period.

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

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

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

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

two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

On information and belief, FERROVIAL has a company-wide practice or policy of paying departing employees their final wages on the next regular pay cycle, instead of adhering to the time requirements set forth in Labor Code sections 201 and 202. For example, FERROVIAL terminated Mr. Brunton, but he did not receive his final paycheck immediately. Instead, FERROVIAL did not provide Mr. Brunton with his final pay until the next regularly scheduled payday. Thus, FERROVIAL failed to pay Mr. Brunton his full, final wages immediately, in violation of Labor Code section 201.

Additionally, FERROVIAL willfully failed to pay Mr. Brunton and other aggrieved employees who are no longer employed by FERROVIAL all their earned wages, including, but not limited to, overtime wages, minimum wages, and/or meal and rest period premiums, either at the time of discharge, or within seventy-two (72) hours of their leaving FERROVIAL's employ.

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

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

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

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

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

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

Violation of California Labor Code § 2802 – Unreimbursed Business Expenses

California Labor Code section 2802 requires employers to pay for all necessary expenditures and losses incurred by the employee in the performance of his or her job. The purpose of Labor Code

section 2802 is to prevent employers from passing off their cost of doing business and operating expenses on to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144 (2014). The applicable wage order, IWC Wage Order 9-2001, provides that: “[w]hen tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft.”

During the relevant time period, FERROVIAL required other aggrieved employees to use their own personal cellular phones and/or cellular data to carry out their job duties, but failed to reimburse them for the costs of their work-related cellular phone expenses. Although other aggrieved employees were provided company-issued radios, there were occasions when the radios did not work or were out of range. Since other aggrieved employees did not work in an office setting, they had no access to phones other than their own, and they frequently had to communicate with each other to coordinate work-related responsibilities. Although FERROVIAL required other aggrieved employees to utilize their personal cellular phones to carry out their work-related responsibilities, FERROVIAL failed to fully reimburse them for this cost.

Furthermore, during the relevant time period, FERROVIAL had a company-wide policy of requiring Mr. Brunton and other aggrieved employees to travel to medical facilities on their own time and using their personal vehicles to obtain mandatory drug testing and/or physical examinations, but did not reimburse them for their travel expenses, including mileage. At all times, FERROVIAL was in control of scheduling the date and time for the testing and/or physical examinations, selecting the provider or facility where the testing and/or physical examinations were to take place, and determining the scope of the testing and/or physical examinations. FERROVIAL gave Mr. Brunton and other aggrieved employees strict instructions to obtain drug testing and/or physical examinations, and Mr. Brunton and other aggrieved employees underwent the testing and/or physical examinations for the sole benefit of FERROVIAL. Although FERROVIAL required Mr. Brunton and other aggrieved employees to use their own vehicles or obtain alternate transportation to undergo drug testing and/or physical examinations, FERROVIAL never reimbursed them for their travel expenses.

FERROVIAL could have provided Mr. Brunton and other aggrieved employees with the actual tools for use on the job, such as company phones, company vehicles, or company-provided transportation to medical or physical examinations, or could have reimbursed employees for their cellular phone, mileage, and travel expenses. Instead, FERROVIAL passed these operating costs off onto Mr. Brunton and other aggrieved employees.

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

Violation of California Labor Code § 2810.5(a)(1)(A)-(C) – Failure to Provide Notice of Material Terms of Employment

California’s Wage Theft Prevention Act was enacted to ensure that employers provide employees with basic information material to their employment relationship at the time of hiring, and to ensure that employees are given written and timely notice of any changes to basic information material to their employment. Codified at California Labor Code section 2810.5, the Wage Theft Prevention Act

provides that at the time of hiring, an employer must provide written notice to employees of the rate(s) of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, the regular payday designated by the employer, and any allowances claims as part of the minimum wage, including meal or lodging allowances. Effective January 1, 2015, an employer's written notice pursuant to section 2810.5 must also include a statement that the employee may accrue and use sick leave; has a right to request and use accrued paid sick leave; may not be terminated or retaliated against for using or requesting the use of accrued paid sick leave; and has the right to file a complaint against an employer who retaliates.

FERROVIAL failed to provide Mr. Brunton and other aggrieved employees written notice that lists all the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C). FERROVIAL's failure to provide Mr. Brunton and other aggrieved employees with written notice of basic information regarding their employment with FERROVIAL is in violation of Labor Code section 2810.5.

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

California Labor Code § 558(a)

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

Accordingly, Mr. Brunton seeks the remedies set forth in Labor Code section 558 for himself, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 2699(a), 2699.3(a) and 2699.3(c), 2699.5, and 558, Mr. Brunton, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for himself, all other aggrieved employees, and the State of California against FERROVIAL for violations of California Labor Code sections 201, 202, 203, 204, 222.5, 226(a), 226.7, 510, 512(a), 516, 558(a), 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5.

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

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

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

Best Regards,

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

Mao Shiokura

Copy: FERROVIAL SERVICES INFRASTRUCTURE INC. (via U.S. Certified Mail);
BROADSPECTRUM AMERICAS, INC. (via U.S. Certified Mail); TIMEC SPECIALTY
SERVICES, INC. (via U.S. Certified Mail); BROADSPECTRUM DOWNSTREAM SERVICES,
INC. (via U.S. Certified Mail); Dina S. Glucksman, Esq., Gordon Rees Scully Mansukhani, 633
West Fifth Street, 52nd Floor, Los Angeles, CA 90071 (via U.S. Certified Mail)

- Complete items 1, 2, and 3.
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- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
FERROVIAL SERVICES INFRASTRUCTURE INC.
10814 JOLLYVILLE ROAD, SUITE 160
AUSTIN TX 78759



9590 9403 0424 5163 3665 77

2. Article Number (Transfer from service label)

7020 1290 0001 8879 3641

PS Form 3811, April 2015 PSN 7530-02-000-9053

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☐ Agent
☐ Addressee

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3. Service Type

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- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail
- ☐ Insured Mail Restricted Delivery (over \$500)

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Return Receipt for Merchandise
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery



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Extra Services & Fees (check box, add fee as appropriate)

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- ☐ Adult Signature Restricted Delivery \$

Postage

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Total Postage and Fees

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City, State, ZIP+4®

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 Here
 Brunton J. Ferrovia
 Services Infrastructur
 Inc.

FERROVIAL SERVICES INFRASTRUCTURE
INC.

10814 JOLLYVILLE ROAD, SUITE 160

AUSTIN TX 78759

See Reverse for Instructions

one
 LAW APC
 1000 Park East, Ste 1000
 S. CA 90067



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BROADSPECTRUM AMERICAS, INC.
10814 JOLLYVILLE ROAD, SUITE 160
AUSTIN TX 78759



9590 9403 0424 5163 3665 84

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B. Received by (Printed Name)

C. Date of Delivery

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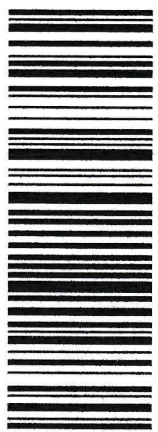
3. Service Type

☐ Adult Signature☐ Adult Signature Restricted Delivery☒ Certified Mail®☐ Certified Mail Restricted Delivery☐ Collect on Delivery☐ Collect on Delivery Restricted Delivery☐ Insured Mail☐ Insured Mail Restricted Delivery

(over \$500)

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☒ Return Receipt (hardcopy) \$ 2.85☐ Return Receipt (electronic) \$☐ Certified Mail Restricted Delivery \$☐ Adult Signature Required \$☐ Adult Signature Restricted Delivery \$

Postage

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Total Postage and Fees

\$ 8.08

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BROADSPECTRUM AMERICAS, INC.

10814 JOLLYVILLE ROAD, SUITE 160

AUSTIN TX 78759

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HereBrenton v. Broad Spectrum
Americas, Inc.

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one
_AW APC
y Park East, Ste 1000
C.A 90067



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- Print your name and address on the reverse so that we can return the card to you.
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1. Article Addressed to:

TIMEC SPECIALTY SERVICES, INC.
16941 KEEGAN AVENUE
CARSON CA 90746



9590 9403 0424 5163 3665 91

2. Article Number (Transfer from service label)

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☐ Certified Mail Restricted Delivery	☐ Return Receipt for Merchandise
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☐ Collect on Delivery Restricted Delivery	☐ Signature Confirmation Restricted Delivery
☐ Insured Mail	
☐ Insured Mail Restricted Delivery (over \$500)	

Domestic Return Receipt



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TIMEC SPECIALTY SERVICES, INC.
16941 KEEGAN AVENUE
CARSON CA 90746

one
LAW APC
y Park East, Ste 1000
CA 90067

7020 1290 0001 8879 3627

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☐ Adult Signature Required	\$
☐ Adult Signature Restricted Delivery	\$

Postage
\$ 6.63

Total Postage and Fees
\$ 8.08

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TIMEC SPECIALTY SERVICES, INC.

Street and Apt. No.
16941 KEEGAN AVENUE

City, State, ZIP+4®
CARSON CA 90746

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Brunton v. Timec Specialty Services, Inc.



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1. Article Addressed to:
BROADSPECTRUM DOWNSTREAM SERVICES, INC.
10814 JOLLYVILLE ROAD, SUITE 160
AUSTIN TX 78759



9590 9403 0424 5163 3666 07

2. Article Number (Transfer from service label)
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PS Form 3811, April 2015 PSN 7530-02-000-9053

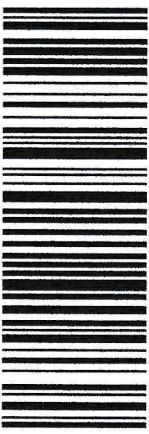
COMPLETE THIS SECTION ON DELIVERY

A. Signature
X
☐ Agent
☐ Addressee
B. Received by (Printed Name)
C. Date of Delivery

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

3. Service Type
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☐ Collect on Delivery Restricted Delivery
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☐ Insured Mail Restricted Delivery (over \$500)
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☐ Registered Mail™
☐ Registered Mail Restricted Delivery
☐ Return Receipt for Merchandise
☐ Signature Confirmation™
☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt



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BROADSPECTRUM DOWNSTREAM SERVICES, INC.
10814 JOLLYVILLE ROAD, SUITE 160
AUSTIN TX 78759

one
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1000 Park East, Ste 1000
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☐ Return Receipt (electronic) \$
☐ Certified Mail Restricted Delivery \$
☐ Adult Signature Required \$
☐ Adult Signature Restricted Delivery \$

Postage
\$ **1.03**
Total Postage and Fees
\$ **8.08**

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City, State, ZIP+4®
AUSTIN TX 78759

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**Brunton v. Broad Spectrum
Downstream Service
Inc.**



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1. Article Addressed to:

Dina S. Glucksman, Esq.,
Gordon Rees Scully Mansukhani,
633 West Fifth Street, 52nd Floor
Los Angeles, CA 90071



9590 9403 0424 5163 3671 54

2. Article Number (Transfer from service label)

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X

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☐ Adult Signature
☐ Adult Signature Restricted Delivery
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☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery
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☐ Insured Mail Restricted Delivery over \$500

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☐ Registered Mail Restricted Delivery
☐ Return Receipt for Merchandise
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Gordon Rees Scully Mansukhani,
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Extra Services & Fees (check box, add fee as appropriate)
☒ Return Receipt (hardcopy) \$ 2.85
☐ Return Receipt (electronic) \$
☐ Certified Mail Restricted Delivery \$
☐ Adult Signature Required \$
☐ Adult Signature Restricted Delivery \$

Postage
\$ 1.63

Total Postage and Fees
\$ 8.08

Sent To
Dina S. Glucksman, Esq.,
Gordon Rees Scully Mansukhani,
633 West Fifth Street, 52nd Floor
Los Angeles, CA 90071

Street and Apt. No., or PO Box No.
City, State, ZIP+4®

Postmark
Here
Brunton v. Broadspeter

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

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one
LAW APC
1000
Park East, Ste 1000
CA 90067

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2. Article Number (Transfer from service label) 7020 1290 0001 8879 3603		3. Service Type ☐ Adult Signature ☐ Adult Signature Restricted Delivery ☒ Certified Mail® ☐ Certified Mail Restricted Delivery ☐ Collect on Delivery ☐ Collect on Delivery Restricted Delivery ☐ Insured Mail ☐ Insured Mail Restricted Delivery (over \$500) ☐ Priority Mail Express® ☐ Registered Mail™ ☐ Registered Mail Restricted Delivery ☐ Return Receipt for Merchandise ☐ Signature Confirmation™ ☐ Signature Confirmation Restricted Delivery	
PS Form 3811, April 2015 PSN 7530-02-000-9053		Domestic Return Receipt	

EXHIBIT “3”



1875 Century Park East, Suite 1000
Los Angeles, California 90067
310.556.4811 Main | 310.943.0396 Fax

MAO SHIOKURA
310.712.8030 Direct
Mao.Shiokura@capstonelawyers.com

May 19, 2021

VIA ONLINE SUBMISSION

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

Subject: *Brian Cooley v. Ferroviaal Services Infrastructure Inc., et al.*

Dear PAGA Administrator:

This office represents Brian Cooley in connection with his claims under the California Labor Code. Mr. Cooley was an employee of FERROVIAL SERVICES INFRASTRUCTURE INC.; BROADSPECTRUM AMERICAS, INC.; TIMEC SPECIALTY SERVICES, INC.; and/or BROADSPECTRUM DOWNSTREAM SERVICES, INC. For the purpose of this letter, Mr. Cooley collectively refers to these entities as "FERROVIAL."

The employers may be contacted directly at the addresses below:

FERROVIAL SERVICES
INFRASTRUCTURE INC.
10814 JOLLYVILLE ROAD, SUITE 160
AUSTIN TX 78759

BROADSPECTRUM AMERICAS, INC.
10814 JOLLYVILLE ROAD, SUITE 160
AUSTIN TX 78759

TIMEC SPECIALTY SERVICES, INC.
16941 KEEGAN AVENUE
CARSON CA 90746

BROADSPECTRUM DOWNSTREAM
SERVICES, INC.
10814 JOLLYVILLE ROAD, SUITE 160
AUSTIN TX 78759

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

FERROVIAL employed Mr. Cooley as an hourly paid, non-exempt employee from approximately 2012 to 2016. Mr. Cooley worked for FERROVIAL as a Superintendent/Electrician in San

Francisco, California. During his employment, Mr. Cooley typically worked approximately eight (8) or more hours per day, five (5) days per week, and forty (40) hours or more per week. His job duties included, without limitation, road work, maintenance in the tunnels, and landscaping.

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

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

FERROVIAL SERVICES INFRASTRUCTURE INC.; BROADSPECTRUM AMERICAS, INC.; TIMEC SPECIALTY SERVICES, INC.; and/or BROADSPECTRUM DOWNSTREAM SERVICES, INC. are Virginia and Delaware corporations which provide infrastructure services in a broad range of areas, including property and facilities management, defense, transportation, utilities, and mining and chemical processing. FERROVIAL operates in 24 countries and maintains its corporate headquarters in North Sydney, Australia. Upon information and belief, FERROVIAL maintains a single, centralized Human Resources (HR) department at its corporate headquarters in Austin, Texas, for all non-exempt, hourly paid employees working for FERROVIAL in California, including Mr. Cooley and other aggrieved employees. At all relevant times, FERROVIAL issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in California, including Mr. Cooley and other aggrieved employees, regardless of its location or position.

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

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

California Labor Code sections 510 and 1198 and the applicable Industrial Welfare Commission (“IWC”) Wage Order require employers to pay employees working more than eight (8) hours in a day or more than forty (40) hours in a workweek at the rate of time-and-one-half (1 ½) times the regular rate of pay for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek. The applicable IWC Wage Order further provides that employers are required to pay employees working more than twelve (12) hours in a day overtime compensation at a rate of two (2) times their regular rate of pay. An employee’s regular rate of pay includes all remuneration

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

for employment paid to, or on behalf of, the employee, including nondiscretionary bonuses and incentive pay.

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

During the relevant period, FERROVIAL had, and continues to have, a company-wide policy and/or practice of requiring Mr. Cooley and other aggrieved employees to wait until the next shift of coverage arrived to relieve them. However, Mr. Cooley and other aggrieved employees were not compensated for the time they remained on duty following the end of their scheduled shifts, which resulted in work performed off-the-clock. For example, Mr. Cooley often arrived at the job site prior to his scheduled start time to begin his work duties. Similarly, other aggrieved employees were required to remain on duty after their scheduled shift ended for an additional half hour until they were relieved by employees on the following shift, or stayed beyond their scheduled shift end times to assist the employees beginning the next shifts with specifics on the tow trucks being utilized by FERROVIAL during those shifts. Because FERROVIAL only paid Mr. Cooley and other aggrieved employees for the times they were scheduled to work instead of their actual hours worked, Mr. Cooley and other aggrieved employees were not compensated for this additional time they were suffered or permitted to work. Additionally, on information and belief, Mr. Cooley and other aggrieved employees were subject to their supervisors altering their clock-in and clock-out times in order to limit the amount of overtime Mr. Cooley and other aggrieved employees could accrue. Thus, FERROVIAL failed to track this time spent working before or after scheduled shifts, and Mr. Cooley and other aggrieved employees received no compensation for this time.

Further, FERROVIAL had a company-wide policy of understaffing its job sites, resulting in a lack of meal period coverage. Due to the lack of coverage caused by understaffing, FERROVIAL forced Mr. Cooley and other aggrieved employees to work through their meal periods by requiring them to remain on or near the premises for their meal periods, including sitting in the office or company trucks and watching security monitors during their meal periods. Because Mr. Cooley and other aggrieved employees were restricted from leaving the premises during meal periods, they were denied the ability to use their meal periods freely for their own purposes. Thus, FERROVIAL effectively maintained control over Mr. Cooley and other aggrieved employees during meal periods. Additionally, FERROVIAL required Mr. Cooley and other aggrieved employees to respond to company-issued radio calls at all times, including during their meal periods, causing Mr. Cooley and other aggrieved employees to have their meal periods interrupted by work. As a result of FERROVIAL's company-wide policies and/or practices, including but not necessarily limited to understaffing and a lack of meal period coverage, Mr. Cooley and other aggrieved employees were not provided with uninterrupted 30-minute meal periods during shifts in which they were entitled to receive meal periods. Thus, Mr. Cooley and other aggrieved employees missed meal periods and had their meal periods interrupted, but were not compensated for this time.

FERROVIAL knew or should have known that, as a result of these company-wide practices and/or policies, Mr. Cooley and other aggrieved employees were performing their assigned duties during meal periods and while off-the-clock, and were suffered or permitted to perform work for which they were not paid. FERROVIAL also knew, or should have known, that it did not compensate Mr.

Cooley and other aggrieved employees applicable overtime rates of pay for overtime hours that they worked.

Because Mr. Cooley and/or other aggrieved employees occasionally worked shifts of eight (8) hours a day or more or forty (40) hours a week or more, some of this off-the-clock work qualified for overtime premium pay. Therefore, Mr. Cooley and other aggrieved employees were not paid overtime wages for all of the overtime hours they actually worked. FERROVIAL's failure to pay Mr. Cooley and other aggrieved employees the balance of overtime compensation, as required by California law, violates the provisions of California Labor Code sections 510 and 1198.

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

Mr. Cooley and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

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

California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 and the applicable IWC Wage Order require employers to pay employees the minimum wage fixed by the IWC. The payment of a lesser wage than the minimum so fixed is unlawful. Compensable work time is defined in Wage Order No. 9-2001 as "the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so." Cal. Code. Regs. tit. 8, § 11090(2)(H) (defining "Hours Worked").

As set forth above, during the relevant time period, FERROVIAL had, and continues to have, company-wide policies and/or practices of requiring Mr. Cooley and other aggrieved employees to perform work off-the-clock before and after their scheduled shifts and during meal periods, including performing work prior to the start time of their scheduled shifts, remaining on duty after their shift ended to discuss the trucks in operation during a given shift, staying on or near the work premises during meal periods, and/or communicating with FERROVIAL's management via radio calls, work for which they were not paid. Additionally, FERROVIAL had, and continues to have, company-wide policies and/or practices of understaffing its job sites, which impeded Mr. Cooley and other aggrieved employees from taking full, uninterrupted meal periods to which they were entitled and resulted in them working off-the-clock. In addition, as described above, FERROVIAL systematically failed to pay Mr. Cooley and other aggrieved employees for actual hours worked because these hours were not always correctly recorded or, on information and belief, FERROVIAL adjusted employee time records.

Moreover, FERROVIAL maintained and implemented a company-wide policy of requiring employees to travel to a medical facility on their own time and using their own personal vehicles or

alternate transportation to undergo mandatory drug testing and/or physical examinations. At all times, FERROVIAL was in control of scheduling the date and time for the testing and/or physical examinations, selecting the provider or facility where the testing and/or physical examinations were to take place, and determining the scope of the testing and/or physical examinations. FERROVIAL gave Mr. Cooley and other aggrieved employees strict instructions to undergo drug testing and/or physical examinations, and Mr. Cooley and other aggrieved employees underwent the testing and/or examinations for the sole benefit of FERROVIAL. Mr. Cooley and other aggrieved employees were required to travel in their own personal vehicles or obtain alternate transportation and spend time undergoing FERROVIAL's mandatory drug tests and/or physical examinations. However, FERROVIAL did not compensate Mr. Cooley and other aggrieved employees for the time they spent traveling to and from the medical facilities and undergoing the mandatory drug testing and/or physical examinations.

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

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

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

California Labor Code sections 226.7, 512(a), 516, 1198, and the applicable IWC Wage Order require employers to provide meal periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. Pursuant to Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order, an employer may not require, cause or permit an employee to work for a period of more than five (5) hours per day without providing the employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee. Under California law, first meal periods must start after no more than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (2012). Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order also require employers to provide a second meal period of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an employee one (1) additional hour of pay at the employee's regular rate, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

As stated, FERROVIAL had, and continues to have, a uniform policy and/or practice of understaffing its job sites, which resulted in a lack of meal period coverage and prevented Mr. Cooley and other aggrieved employees from taking all timely, uninterrupted meal periods to which they were entitled. For example, Mr. Cooley and other aggrieved employees were required to work throughout their shifts without taking compliant meal periods to adhere to FERROVIAL's policies and expectations. Further, FERROVIAL has, on a company-wide basis, failed to adhere to a

schedule of meal periods even though it was aware and knew that employees are entitled to such meal periods, resulting in Mr. Cooley and other aggrieved employees taking their meal periods late. For example, Mr. Cooley never received uninterrupted thirty-minute meal periods because he was required to remain on duty to respond to calls coming in over the radios at all times and was often pressured to miss his meal periods entirely due to the workload at the job sites. In addition, as mentioned above, FERROVIAL had a practice of requiring that Mr. Cooley and other aggrieved employees remain on or near the job site premises during unpaid meal periods, including sitting in the office or truck and watching security monitors, which further caused Mr. Cooley and other aggrieved employees to not be relieved of their duties for compliant meal periods.

Additionally, FERROVIAL discouraged and impeded Mr. Cooley and other aggrieved employees from taking compliant periods by failing to provide them with an accurate clock-in and clock-out mechanism at job sites. Instead, other aggrieved employees were expected to note their clock-in and clock-out times in a logbook at the end of their shifts, which, on information and belief, was subject to falsification, as FERROVIAL's management could adjust time records to reflect compliant meal periods if Mr. Cooley and other aggrieved employees failed to denote them. Thus, Mr. Cooley and other aggrieved employees missed their meal periods altogether, had their meal periods interrupted to return to work, or waited extended periods of time before taking meal periods, but these violations were not reflected in Mr. Cooley's and other aggrieved employees' time records.

Moreover, FERROVIAL did not provide Mr. Cooley and other aggrieved employees with second 30-minute meal periods on days that they worked in excess of ten (10) hours in one day. Mr. Cooley and other aggrieved employees worked shifts in excess of ten (10) hours without receiving an uninterrupted second 30-minute meal period. Mr. Cooley and other aggrieved employees did not sign valid meal period waivers on days that they were entitled to meal periods and were not relieved of all duties.

FERROVIAL knew or should have known that as a result of its company-wide policies and/or practices, that Mr. Cooley and other aggrieved employees were not actually relieved of all duties to take timely, uninterrupted meal periods. FERROVIAL further knew or should have known that it did not pay Mr. Cooley and other aggrieved employees meal period premium wages when meal periods were missed, late, short, and/or interrupted because, on information and belief, FERROVIAL adjusted employee time records to reflect compliant meal periods, even if none were taken. Mr. Cooley complained to management about not receiving meal periods or premium payment for non-compliant meal periods, but FERROVIAL's management declined to provide meal periods or pay premium payments.

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

Accordingly, FERROVIAL failed to provide all meal periods in violation of California Labor Code sections 226.7, 512(a), 516, and 1198. Mr. Cooley and other aggrieved employees are entitled to

civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

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

California Labor Code sections 226.7, 516, 1198, and the applicable IWC Wage Order require employers to provide rest periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC. The applicable IWC Wage Order provides that "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period" and that the "rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof" unless the total daily work time is less than three and one-half (3 ½) hours.

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

During the relevant time period, FERROVIAL regularly failed to authorize and permit Mr. Cooley and other aggrieved employees to take a ten (10) minute rest period per each four (4) hour period worked or major fraction thereof. As with meal periods, FERROVIAL's company-wide policy and practice of requiring Mr. Cooley and other aggrieved employees to carry and respond to radio calls prevented them from being relieved of all duty to take their rest periods. FERROVIAL also failed to schedule rest periods, which further led to Mr. Cooley and other aggrieved employees not being authorized and permitted to take compliant rest periods.

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

As a result of FERROVIAL's practices and policies, Mr. Cooley and other aggrieved employees worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without receiving all uninterrupted 10-minute rest periods to which they were entitled. For example, throughout his employment, Mr. Cooley was not permitted to take full and complete ten (10) minute rest periods, and instead would experience interrupted rest periods due to calls on his radio which he was required to answer.

FERROVIAL also has engaged in a company-wide practice and/or policy of not paying all rest period premiums owed when compliant rest periods are not authorized and permitted. Because of this practice and/or policy, Mr. Cooley and other aggrieved employees have not received premium pay for all missed rest periods. Alternatively, to the extent that FERROVIAL did pay other

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

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

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

California Labor Code section 226(a) requires employers to make, keep, and provide true, accurate, and complete employment records. FERROVIAL has not provided Mr. Cooley and other aggrieved employees with properly itemized wage statements. Labor Code section 226(e) provides that if an employer fails to comply with providing an employee with properly itemized wages statements as set forth in 226(a), then the employee is entitled to recover the greater of all actual damages or \$50 for the initial pay period in which a violation occurs and \$100 per employee for each violation in a subsequent pay period, not to exceed \$4,000. Further, Labor Code section 226.3 provides that any employer who violates section 226(a) shall be subject to a civil penalty in the amount of \$250 per employee per violation in an initial citation and \$1,000 per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage statement or fails to keep the required records pursuant to Section 226(a).

During the relevant time period, FERROVIAL has knowingly and intentionally provided Mr. Cooley and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. For example, FERROVIAL issued uniform wage statements to Mr. Cooley and other aggrieved employees that fail to correctly list: gross wages earned; total hours worked; net wages earned; name and address of the legal entity that is the employer; and all applicable hourly rates in effect during the pay period, including overtime rates of pay, and the corresponding number of hours worked at each hourly rate. Specifically, FERROVIAL violated sections 226(a)(1), 226(a)(2), 226(a)(5), 226(a)(8), and 226(a)(9).

First, FERROVIAL failed to list all applicable hourly rates in effect during the pay period, namely, rates of pay for overtime, in violation of section 226(a)(9). For example, on some of Mr. Cooley's paystubs, no overtime or holiday pay rate is listed. Further, because FERROVIAL did not record the time Mr. Cooley and other aggrieved employees spent working off-the-clock and deducted time from their records for meal periods that were interrupted and/or missed (and therefore time for which they should have been paid), FERROVIAL did not list the correct amount of gross wages and net wages earned by Mr. Cooley and other aggrieved employees in compliance with section 226(a)(1) and section 226(a)(5), respectively. For the same reason, FERROVIAL failed to accurately list the total number of hours worked by Mr. Cooley and other aggrieved employees, in violation of section 226(a)(2), and failed to list the applicable hourly rates of pay in effect during the pay period and the corresponding accurate number of hours worked at each hourly rate, in violation of section 226(a)(9).

Second, because FERROVIAL did not calculate other aggrieved employees' regular rate of pay correctly for purposes of paying overtime wages, FERROVIAL did not list the correct amount of gross wages earned by other aggrieved employees in compliance with section 226(a)(1) and did not

list the correct amount of net wages earned by other aggrieved employees in violation of section 226(a)(5). FERROVIAL also failed to correctly list all applicable hourly rates in effect during the pay period, namely, correct overtime rates of pay, in violation of section 226(a)(9).

Third, and separate from these violations, FERROVIAL issued uniform wage statements to Mr. Cooley and other aggrieved employees that failed to list the correct name and address of the legal entity of the actual employer in violation of Labor Code section 226(a)(8). The purpose of section 226(a)(8) is to provide California employees with transparency as to the true identity of their employer, to allow the employee to contact their employer during employment in the future for various reasons, including, filing an administrative claim, judicial claim, or other action to seek relief against their employer, to obtain unemployment benefits, etc.

During the relevant time period, FERROVIAL systematically, and on a company-wide basis, issued wage statements to Mr. Cooley and other aggrieved employees that list the employing entity's name as "Broadspectrum Infrastructure" with the address "1330 Post Oak Blvd Suite 1250, Houston, TX 77056," which is not the correct name or address of the legal entity that employs Mr. Cooley and other aggrieved employees. According to the California Secretary of State's website, there is no such entity named "Broadspectrum Infrastructure" registered to do business in California. However, a similarly named entity, "BROADSPECTRUM DOWNSTREAM SERVICES, INC.," is listed on the California Secretary of State's website at the address "10814 JOLLYVILLE ROAD, SUITE 160, AUSTIN TX 78759." Further adding to the confusion, Mr. Cooley also received a W-2 statement that names his employer as "TRANSFIELD SERVICES INFRASTRUCTURE INC." which does not appear on his paystub, further muddling Mr. Cooley's efforts to identify his correct employer and the address at which it can be contacted.

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

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

California Labor Code section 1198 provides that the maximum hours of work and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the applicable IWC Wage Order. Section 1198 further provides that "[t]he employment of any employees for longer hours than those fixed by the order or under conditions of labor prohibited by the order is

unlawful.” Pursuant to the applicable IWC Wage Order, employers are required to keep accurate time records showing when the employee begins and ends each work period and meal period. During the relevant time period, due to their aforementioned timekeeping practices and/or policies, FERROVIAL failed, on a company-wide basis, to keep accurate records of work period and meal period start and stop times for Mr. Cooley and other aggrieved employees, in violation of section 1198. Furthermore, in light of FERROVIAL’s failure to provide Mr. Cooley and other aggrieved employees with second 30-minute meal periods to which they were entitled, FERROVIAL kept no records of meal start and end times for second meal periods.

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

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

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

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. Alternatively, California Labor Code section 204 provides that the requirements of this section are deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of the payroll period.

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

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

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

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

two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

On information and belief, FERROVIAL has a company-wide practice or policy of paying other aggrieved departing employees their final wages on the next regular pay cycle, instead of adhering to the time requirements set forth in Labor Code sections 201 and 202.

Additionally, FERROVIAL willfully failed to pay Mr. Cooley and other aggrieved employees who are no longer employed by FERROVIAL all their earned wages, including, but not limited to, overtime wages, minimum wages, and/or meal and rest period premiums, either at the time of discharge, or within seventy-two (72) hours of their leaving FERROVIAL's employ.

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

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

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

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

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

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

Violation of California Labor Code § 2802 – Unreimbursed Business Expenses

California Labor Code section 2802 requires employers to pay for all necessary expenditures and losses incurred by the employee in the performance of his or her job. The purpose of Labor Code section 2802 is to prevent employers from passing off their cost of doing business and operating expenses on to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144 (2014). The applicable wage order, IWC Wage Order 9-2001, provides that: "[w]hen tools or equipment are required by the employer or are necessary to the performance of a job, such tools and

equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft.”

During the relevant time period, FERROVIAL required Mr. Cooley and other aggrieved employees to use their own personal cellular phones and/or cellular data to carry out their job duties, but failed to reimburse them for the costs of their work-related cellular phone expenses. Although Mr. Cooley and other aggrieved employees were provided company-issued radios, there were occasions when the radios did not work or were out of range. Since Mr. Cooley and other aggrieved employees did not work in an office setting, they had no access to phones other than their own, and they frequently had to communicate with each other to coordinate work-related responsibilities. Although FERROVIAL required Mr. Cooley and other aggrieved employees to utilize their personal cellular phones to carry out their work-related responsibilities, FERROVIAL failed to fully reimburse them for this cost.

Furthermore, during the relevant time period, FERROVIAL had a company-wide policy of requiring Mr. Cooley and other aggrieved employees to travel to medical facilities on their own time and using their personal vehicles to obtain mandatory drug testing and/or physical examinations, but did not reimburse them for their travel expenses, including mileage. At all times, FERROVIAL was in control of scheduling the date and time for the testing and/or physical examinations, selecting the provider or facility where the testing and/or physical examinations were to take place, and determining the scope of the testing and/or physical examinations. FERROVIAL gave Mr. Cooley and other aggrieved employees strict instructions to obtain drug testing and/or physical examinations, and Mr. Cooley and other aggrieved employees underwent the testing and/or physical examinations for the sole benefit of FERROVIAL. Although FERROVIAL required Mr. Cooley and other aggrieved employees to use their own vehicles or obtain alternate transportation to undergo drug testing and/or physical examinations, FERROVIAL never reimbursed them for their travel expenses.

FERROVIAL could have provided Mr. Cooley and other aggrieved employees with the actual tools for use on the job, such as company phones, company vehicles, or company-provided transportation to medical or physical examinations, or could have reimbursed employees for their cellular phone, mileage, and travel expenses. Instead, FERROVIAL passed these operating costs off onto Mr. Cooley and other aggrieved employees.

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

Violation of California Labor Code § 2810.5(a)(1)(A)-(C) – Failure to Provide Notice of Material Terms of Employment

California’s Wage Theft Prevention Act was enacted to ensure that employers provide employees with basic information material to their employment relationship at the time of hiring, and to ensure that employees are given written and timely notice of any changes to basic information material to their employment. Codified at California Labor Code section 2810.5, the Wage Theft Prevention Act provides that at the time of hiring, an employer must provide written notice to employees of the rate(s) of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, the regular payday designated by the employer, and any allowances claims as part of the minimum wage, including meal or lodging

allowances. Effective January 1, 2015, an employer's written notice pursuant to section 2810.5 must also include a statement that the employee may accrue and use sick leave; has a right to request and use accrued paid sick leave; may not be terminated or retaliated against for using or requesting the use of accrued paid sick leave; and has the right to file a complaint against an employer who retaliates.

FERROVIAL failed to provide Mr. Cooley and other aggrieved employees written notice that lists all the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C). FERROVIAL's failure to provide Mr. Cooley and other aggrieved employees with written notice of basic information regarding their employment with FERROVIAL is in violation of Labor Code section 2810.5.

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

California Labor Code § 558(a)

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

Accordingly, Mr. Cooley seeks the remedies set forth in Labor Code section 558 for himself, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 2699(a), 2699.3(a) and 2699.3(c), 2699.5, and 558, Mr. Cooley, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for himself, all other aggrieved employees, and the State of California against FERROVIAL for violations of California Labor Code sections 201, 202, 203, 204, 222.5, 226(a), 226.7, 510, 512(a), 516, 558(a), 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5.

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

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

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

Best Regards,

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

Mao Shiokura

Copy: FERROVIAL SERVICES INFRASTRUCTURE INC. (via U.S. Certified Mail);
BROADSPECTRUM AMERICAS, INC. (via U.S. Certified Mail); TIMEC SPECIALTY
SERVICES, INC. (via U.S. Certified Mail); BROADSPECTRUM DOWNSTREAM SERVICES,
INC. (via U.S. Certified Mail); Dina S. Glucksman, Esq., Gordon Rees Scully Mansukhani, 633
West Fifth Street, 52nd Floor, Los Angeles, CA 90071 (via U.S. Certified Mail)



- SENDER: COMPLETE THIS SECTION**
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 - Print your name and address on the reverse so that we can return the card to you.
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1. Article Addressed to:
FERROVIAL SERVICES INFRASTRUCTURE INC.
10814 JOLLYVILLE ROAD, SUITE 160
AUSTIN TX 78759



9590 9403 0424 5163 3671 61

2. Article Number (Transfer from service label)

7020 1290 0001 8879 3917

PS Form 3811, April 2015 PSN 7530-02-000-9053

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☐ Agent
☐ Addressee

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 If YES, enter delivery address below: ☐ No

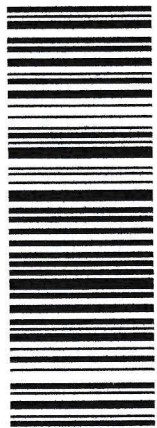
3. Service Type

- ☐ Adult Signature
☐ Adult Signature Restricted Delivery
☒ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery
☐ Insured Mail
☐ Insured Mail Restricted Delivery over \$500

- ☐ Priority Mail Express®
☐ Registered Mail™
☐ Registered Mail Restricted Delivery
☐ Return Receipt for Merchandise
☐ Signature Confirmation™
☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt

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FERROVIAL SERVICES INFRASTRUCTURE INC.
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\$ 3.60

Extra Services & Fees (check box, add fee as appropriate)

- ☒ Return Receipt (hardcopy) \$ 2.85
☐ Return Receipt (electronic) \$
☐ Certified Mail Restricted Delivery \$
☐ Adult Signature Required \$
☐ Adult Signature Restricted Delivery \$

Postage

\$ 1.63

Total Postage and Fees

\$ 8.08

Sent To

FERROVIAL SERVICES INFRASTRUCTURE INC.

Street and Apt. No., or Post Office Box

10814 JOLLYVILLE ROAD, SUITE 160

City, State, ZIP+4®

AUSTIN TX 78759

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

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one

AW APC

1000 Park East, Ste 1000
 CA 90067

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Here
 Cooley v. Ferrovia
 Services Infrastructure
 Inc.



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1. Article Addressed to:

BROADSPECTRUM AMERICAS, INC.
10814 JOLLYVILLE ROAD, SUITE 160
AUSTIN TX 78759



9590 9403 0424 5163 3671 78

2. Article Number (Transfer from service label)

7020 1290 0001 8879 3832

PS Form 3811, April 2015 PSN 7530-02-000-9053

A. Signature

X

☐ Agent☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

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

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail
- ☐ Insured Mail Restricted Delivery over \$500

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Return Receipt for Merchandise
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt



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BROADSPECTRUM AMERICAS, INC.
10814 JOLLYVILLE ROAD, SUITE 160
AUSTIN TX 78759

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- ☒ Return Receipt (hardcopy) \$ 2.05
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- ☐ Certified Mail Restricted Delivery \$
- ☐ Adult Signature Required \$
- ☐ Adult Signature Restricted Delivery \$

Postage

\$ 1.63

Total Postage and Fees

\$ 8.08

Sent To

BROADSPECTRUM AMERICAS, INC.
10814 JOLLYVILLE ROAD, SUITE 160
AUSTIN TX 78759

Postmark

Here

Coolley V. Broodspectra
Americas, Inc.

one
LAW APC
1000
Park East, Ste 1000
CA 90067



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1. Article Addressed to:

TIMEC SPECIALTY SERVICES, INC.
16941 KEEGAN AVENUE
CARSON CA 90746



9590 9403 0424 5163 3665 46

2. Article Number (Transfer from service label)

7020 1290 0001 8879 3825

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C. Date of Delivery

D. Is delivery address different from item 1? If YES, enter delivery address below:

☐ Yes☐ No

3. Service Type

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- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail
- ☐ Insured Mail Restricted Delivery (over \$500)

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Return Receipt for Merchandise
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt



7020 1290 0001 8879 3825

TIMEC SPECIALTY SERVICES, INC.
16941 KEEGAN AVENUE
CARSON CA 90746

one
AW APC
y Park East, Ste 1000
CA 90067

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Certified Mail Fee

\$ 3.60

Extra Services & Fees (check box, add fee as appropriate)

- ☒ Return Receipt (hardcopy) \$ 2.55
- ☐ Return Receipt (electronic) \$
- ☐ Certified Mail Restricted Delivery \$
- ☐ Adult Signature Required \$
- ☐ Adult Signature Restricted Delivery \$

Postage

\$ 1.63

Total Postage and Fees

\$ 8.08

Sent To

TIMEC SPECIALTY SERVICES, INC.
16941 KEEGAN AVENUE
CARSON CA 90746

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HereCooley v. Timec
Specialty Services, Inc.

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1. Article Addressed to:
BROADSPECTRUM DOWNSTREAM SERVICES, INC.
10814 JOLLYVILLE ROAD, SUITE 160
AUSTIN TX 78759



9590 9403 0424 5163 3665 53

2. Article Number (Transfer from service label)
7020 1290 0001 8879 3818

PS Form 3811, April 2015 PSN 7530-02-000-9053

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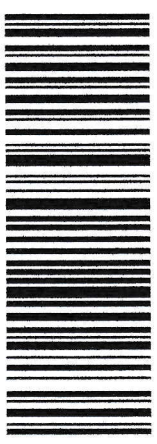
A. Signature
X
☐ Agent
☐ Addressee
B. Received by (Printed Name)
C. Date of Delivery

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

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

Domestic Return Receipt

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7020 1290 0001 8879 3818

BROADSPECTRUM DOWNSTREAM SERVICES, INC.
10814 JOLLYVILLE ROAD, SUITE 160
AUSTIN TX 78759

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y Park East, Ste 1000
CA 90067

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\$ **3.60**
Extra Services & Fees (check box, add fee as appropriate)
☒ Return Receipt (hardcopy) \$ **2.85**
☐ Return Receipt (electronic) \$
☐ Certified Mail Restricted Delivery \$
☐ Adult Signature Required \$
☐ Adult Signature Restricted Delivery \$

Postage
\$ **1.63**
Total Postage and Fees
\$ **8.08**

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BROADSPECTRUM DOWNSTREAM SERVICES, INC.
Street and Apt. No., or PO Box No.
10814 JOLLYVILLE ROAD, SUITE 160
City, State, ZIP+4®
AUSTIN TX 78759

Postmark
Here
Cooley v. Broad Spectrum
Downstream Services
Inc.



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1. Article Addressed to:

Dina S. Glucksman, Esq.,
Gordon Rees Scully Mansukhani,
633 West Fifth Street, 52nd Floor
Los Angeles, CA 90071



9590 9403 0424 5163 3665 60

2. Article Number (Transfer from service label)

7020 1290 0001 8879 3658

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A. Signature

X

☐ Agent
☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

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

3. Service Type

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

Domestic Return Receipt



7020 1290 0001 8879 3658

Dina S. Glucksman, Esq.,
Gordon Rees Scully Mansukhani,
633 West Fifth Street, 52nd Floor
Los Angeles, CA 90071

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Certified Mail Fee

\$ 3.60

Extra Services & Fees (check box, add fee as appropriate)

- | | |
|---|---------|
| ☒ Return Receipt (hardcopy) | \$ 3.55 |
| ☐ Return Receipt (electronic) | \$ |
| ☐ Certified Mail Restricted Delivery | \$ |
| ☐ Adult Signature Required | \$ |
| ☐ Adult Signature Restricted Delivery | \$ |

Postage

\$ 1.63

Total Postage and Fees

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Dina S. Glucksman, Esq.,

Gordon Rees Scully Mansukhani,

633 West Fifth Street, 52nd Floor

Los Angeles, CA 90071

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Cooley v. Broadspeter

one
LAW APC
1000
Park East, Ste 1000
CA 90067

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1. Article Addressed to: Dina S. Glucksman, Esq., Gordon Rees Scully Mansukhani, 633 West Fifth Street, 52nd Floor Los Angeles, CA 90071		B. Received by (Printed Name) <i>Art Villareal</i>	C. Date of Delivery <i>5-26-4</i>
2. Article Number (Transfer from service label) 7020 1290 0001 8879 3658		D. Is delivery address different from Item 1? ☐ Yes If YES, enter delivery address below: ☐ No	
3. Service Type ☐ Adult Signature ☐ Adult Signature Restricted Delivery ☒ Certified Mail® ☐ Certified Mail Restricted Delivery ☐ Collect on Delivery ☐ Collect on Delivery Restricted Delivery ☐ Insured Mail ☐ Insured Mail Restricted Delivery (over \$500)		☐ Priority Mail Express® ☐ Registered Mail™ ☐ Registered Mail Restricted Delivery ☐ Return Receipt for Merchandise ☐ Signature Confirmation™ ☐ Signature Confirmation Restricted Delivery	
PS Form 3811, April 2015 PSN 7530-02-000-9053		Domestic Return Receipt	