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10 Attorneys for Plaintiff SANTIAGO GARCIA, as representative of the State of California and the
11 Labor and Workforce Development Agency, and on behalf of himself and other similarly-
12 situated current and former employees,

13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

14 **THE COUNTY OF SOLANO**

15 SANTIAGO GARCIA,

16 Plaintiff,

17 v.

18 T.R.S.C., INC., TIMEC SERVICES
19 COMPANY, INC., and DOES 1 through 50,
20 inclusive,

21 Defendants.

22 **ASSIGNED TO**
23 **JUDGE E. Bradley Nelson**
24 **FOR ALL PURPOSES**

FILED/ENDORSED
Clerk of the Superior Court

JUL 27 2021

By **K. SHRONTZ**
DEPUTY CLERK

Case No.: **FCS056871**

COMPLAINT FOR CIVIL PENALTIES

1. Violation of the Private Attorneys General Act, Labor Code §2698 et seq. for Failure to Properly Adopt and Alternative Workweek Schedule;
2. Violation of the Private Attorneys General Act, Labor Code §2698 et seq. for Failure to Provide Meal Periods;
3. Violation of the Private Attorneys General Act, Labor Code §2698 et seq. for Failure to Provide Rest Periods;
4. Violation of the Private Attorneys General Act, Labor Code §2698 et seq. for Recovery of Unpaid Wages and Overtime;
5. Violation of the Private Attorneys General Act, Labor Code §2698 et seq. for Failure to Provide Accurate Itemized Wage Statements;
6. Violation of the Private Attorneys General Act, Labor Code §2698 et seq. for Failure to Reimburse for Necessary Business Expenditures; and
7. Violation of the Private Attorneys General Act, Labor Code § 2698 et seq. for Failure to Pay Wages Due Upon Termination of Employment.

1 Plaintiff SANTIAGO GARCIA (“Plaintiff”) complains and alleges as follows:

2 **INTRODUCTION**

3 1. This is a representative action brought pursuant to the Private Attorneys General
4 Act, Labor Code section 2698, *et seq.* (“PAGA”) on behalf of Plaintiff and all similarly aggrieved
5 employees who were subjected to one or more of the violations alleged herein (“Aggrieved
6 Employees”) by T.R.S.C., Inc., and TIMEC Services Company, Inc. (“Defendants”).

7 2. The term “PAGA Period” is defined as one (1) year and sixty-five (65) days prior
8 to the filing of this complaint. Plaintiff reserves the right to amend this complaint to reflect a
9 different PAGA Period as further discovery is conducted.

10 3. “Aggrieved Employee(s)” is defined as non-exempt hourly-paid employees
11 throughout California employed by Defendants during the PAGA Period.

12 4. Plaintiff, individually and on behalf of the Aggrieved Employees, seeks relief from
13 Defendants for violations of numerous Labor Code provisions, including, but not limited to,
14 sections 201, 203, 204, 226, 226.7, 500, 510, 511, 512, 1174, 1194, 1197, and 2802 for: (1) failure
15 to properly adopt an alternative workweek schedule, (2) failure to provide meal periods or
16 premium compensation in lieu thereof, (3) failure to provide rest periods or premium
17 compensation in lieu thereof, (4) failure to pay all regular and overtime wages due, (5) failure to
18 provide accurate itemized wage statements, (6) failure to reimburse for necessary business
19 expenditures, and (7) failure to pay all wages due upon termination of employment.

20 5. At all relevant times herein, Defendants have consistently maintained and enforced
21 the following unlawful policies and practices against Plaintiff:

- 22 a. Willfully refusing to properly adopt and implement an alternative workweek
23 schedule;
- 24 b. Willfully refusing to permit off-duty meal periods or provide premium
25 compensation in lieu thereof;
- 26 c. Willfully refusing to permit rest periods or provide premium compensation in
27 lieu thereof;

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- 1 d. Willfully refusing to pay for all hours worked, including both regular and
2 overtime wages;
3 e. Willfully refusing to furnish accurate itemized wage statements;
4 f. Willfully refusing to reimburse for necessary business expenditures; and
5 g. Willfully refusing to pay all wages due upon separation of employment.

6 **JURISDICTION AND VENUE**

7 6. This Court has subject matter jurisdiction over the causes of action alleged in this
8 complaint as a Court of general subject matter jurisdiction and is not otherwise excluded from
9 exercising subject matter jurisdiction over said causes of action. The penalties recoverable for
10 Plaintiff individually do not exceed seventy-five thousand dollars (\$75,000.00), and collectively
11 amongst all Aggrieved Employees do not exceed five million dollars (\$5,000,000.00.)

12 7. Defendant T.R.S.C., Inc., is a Delaware Corporation that has its principal place of
13 business and principal executive office in California as provided in its California Secretary of
14 State, Statement of Information, Entity File Number C4049571. Defendant TIMEC Services
15 Company, Inc. is a Delaware corporation that conducts business in California. There is no federal
16 question at issue, as the issues herein are based solely on California statutes and law, including
17 the Labor Code, Industrial Welfare Commission (“IWC”) Wage Orders, Code of Civil Procedure,
18 Business and Professions Code, and Rules of Court. By doing business in the state of California,
19 Defendants have purposefully availed themselves of the state’s jurisdiction. Accordingly, as
20 personal jurisdiction over Defendants would be constitutional, California’s long-arm statute
21 provides that California courts may exercise personal jurisdiction over Defendants. (Code Civ.
22 Proc., § 410.10.)

23 8. Venue is proper in the County of Los Angeles because Defendants transact
24 substantial business in this County, and the acts or omissions giving rise to the causes of action
25 in this complaint occurred in this County.

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THE PARTIES

Plaintiff

9. Plaintiff was employed by Defendants from in or around the middle of 2016, until on or about September 21, 2020, at Defendants' Rancho Dominguez, California location. Throughout the PAGA Period, Plaintiff was employed by Defendants in a non-exempt, hourly position. Plaintiff and Aggrieved Employees consist of identifiable, current, and/or former similarly situated persons who worked for Defendants as hourly-paid non-exempt employees during the PAGA Period.

Defendants

10. Plaintiff is informed and believes, and based thereon alleges, that Defendants own and operate an industrial maintenance company and maintain its headquarters in Vallejo, California, and were the employers of Plaintiff and Aggrieved Employees during the PAGA Period.

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

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

13. Plaintiff is informed and believes, and based thereon alleges, that each Defendant acted in all respects as the agent, servant, partner, joint venture, alter-ego, employee, proxy, managing agent, and/or principal of the co-Defendants, and in performing the actions mentioned

below was acting, at least in part, within the course and scope of that authority as such agent, proxy, servant, partner, joint venture, employee, alter-ego, managing agent, and/or principal with the permission and consent of the co-Defendants. Plaintiff also alleges the acts of each Defendant are legally attributable to the other Defendants.

PAGA ADMINISTRATIVE PREREQUISITE

14. Plaintiff brings this case as a representative action seeking penalties for the State of California in a representative capacity, as provided for under PAGA, Labor Code section 2698 *et seq.*, to the extent permitted by law, as an aggrieved employee who was employed by Defendants and did not receive all regular and overtime wages due, was not provided compliant meal or rest periods or premium compensation in lieu thereof, was not provided accurate itemized wage statements, was not reimbursed for necessary business expenditures, and did not receive all wages owed upon termination of employment.

15. Pursuant to Labor Code section 2699.3, subdivision (a), a plaintiff may bring a cause of action under PAGA only after giving the Labor Workforce Development Agency (LWDA) and the employer notice of the Labor Code sections alleged to have been violated, and after receiving notice from the LWDA of its intention not to investigate, or after 65 days have passed without notice from the LWDA.

16. On May 19, 2021, prior to the filing of this complaint, Plaintiff gave written notice of the specified provisions alleged to have been violated, including the facts and theories to support the alleged violations, as required by Labor Code section 2699.3. This written notice was given via certified mail to Defendants, and to the LWDA by electronically filing the notice via the Department of Industrial Relations website. Plaintiff was given an LWDA case number of LWDA-CM-832641-21. Attached herein as **Exhibit A** is a true and correct copy of Plaintiff's original letter sent to the LWDA on May 19, 2021.

17. More than 65 days have elapsed since Plaintiff submitted his May 19, 2021 notice to the LWDA and Defendants of the specific alleged Labor Code violations, and the LWDA has not provided notice to Plaintiff of its intent to investigate such alleged violations. Also, Plaintiff has not received notice of Defendants' intent to cure any of the alleged violations. Accordingly,

1 Plaintiff has satisfied the administrative prerequisites for filing this action.

2 **FACTUAL ALLEGATIONS**

3 18. Plaintiff and Aggrieved Employees are, and at all times during the PAGA Period
4 were, non-exempt employees within the meaning of the California Labor Code, and California
5 Wage Order 4–2001 of the Industrial Welfare Commission (“IWC Wage Order”). Defendants are,
6 and at all times during the PAGA Period were, “employers” within the meaning of state law and
7 IWC Wage Order 4–2001.

8 19. Defendants own and/or operate an industrial maintenance company in Rancho
9 Dominguez, California. During all, or a portion of the PAGA Period, Plaintiff and Aggrieved
10 Employees were employed by Defendants in the State of California.

11 20. Defendants required Plaintiff and Aggrieved Employees to work four (4) ten (10)
12 hour shifts every week without overtime compensation for hours worked in excess of eight (8)
13 each day. In order to adopt an Alternative Workweek Schedule pursuant to Labor Code section
14 511, Defendants were required to receive approval in a secret ballot election by at least two-thirds
15 of the affected employees and report the results of said election to the Division of Labor Standards
16 Enforcement (DLSE) within thirty (30) days. However, Defendants never published the
17 Alternative Workweek Schedule with the Department of Industrial Relations, and thus failed to
18 meet the requirements set forth under Labor Code section 511 and are therefore subject to
19 penalties under PAGA.

20 21. During the PAGA Period, Defendants were required to permit Plaintiff and
21 Aggrieved Employees to take one (1) uninterrupted thirty (30) minute meal period prior to the
22 sixth (6th) hour of work. Defendants were also required to permit Plaintiff and Aggrieved
23 Employees to take one (1) ten (10) minute rest period for every four (4) hours, or major fraction
24 thereof worked. However, due to the nature of their work, combined with the requirements and
25 demands of Defendants, Plaintiff and Aggrieved Employees were unable to take the meal and rest
26 periods to which they were entitled. Defendants scheduled Plaintiff and Aggrieved Employees in
27 such a manner that they were precluded from taking one duty-free uninterrupted meal period
28 before the sixth (6th) hour of work, and at least one (1) ten (10) minute rest period for every four

1 (4) hours or major fraction thereof worked. Defendants prioritized work responsibilities over
2 providing meal and rest breaks and failed to schedule enough employees to provide relief for
3 Plaintiff and Aggrieved Employees to take their requisite meal and rest periods.

4 22. Further, when Plaintiff and Aggrieved Employees were prevented from taking the
5 required meal and rest periods, Defendants failed to compensate them with a premium pay for
6 every missed meal period and failed to compensate with a premium pay on all workdays on which
7 at least one rest period was missed. Not only did Defendants fail to compensate Plaintiff and
8 Aggrieved Employees for missed meal and rest periods, Defendants automatically deducted thirty
9 (30) minutes of pay every shift, notwithstanding the fact that Plaintiff and Aggrieved Employees
10 were working continuously throughout the shift without a meal period.

11 23. As a result of Defendants' policies and practices of failing to provide Plaintiff and
12 Aggrieved Employees with meal or rest breaks, or premium pay in lieu therefrom, Defendants
13 violated Labor Code sections 226.7, 512, 1194, 1197, and IWC Wage Order 4-2001, and are
14 subject to penalties under PAGA.

15 24. Further, Plaintiff and Aggrieved Employees were required to arrive at work early
16 and perform duties in preparation for the workday prior to the start of their shift. Thus, Defendants
17 did not compensate Plaintiff and Aggrieved Employees for the time spent performing their initial
18 duties for the day. Consequently, Plaintiff and Aggrieved Employees were frequently required to
19 work in excess of ten (10) hours per day and forty (40) hours per week. However, Defendants
20 only compensated Plaintiff and Aggrieved Employees for forty (40) hours every week regardless
21 of the actual number of hours worked.

22 25. Because Defendants failed to properly report and implement an alternative
23 workweek schedule pursuant to Labor Code section 511, Defendants were required to pay
24 Plaintiff and Aggrieved Employees overtime compensation for any and all hours worked in excess
25 of eight (8) in one (1) day and/or forty (40) in one (1) week, and double time wages for any and
26 all hours worked in excess of twelve (12) hours in one (1) day during the PAGA Period, pursuant
27 to Labor Code section 510. However, Defendants compensated Plaintiff and Aggrieved
28 Employees at only their regular rate of pay for all ten (10) hours worked each day despite failing

1 to properly implement an alternative workweek schedule in violation of Labor Code section 511.
2 Defendants' failure to pay all wages owed, including overtime, in violation of Labor Code section
3 510 is subject to penalties under PAGA.

4 26. During the PAGA Period, Defendants were required to provide Plaintiff and
5 Aggrieved Employees with complete and accurate wage statements. Defendants provided
6 Plaintiff and Aggrieved Employees with wage statements that were incomplete and inaccurate as
7 they were not compensated for all hours worked, not compensated at the correct applicable rates,
8 and were not provided premium pay for missed rest and meal periods.

9 27. By virtue of Defendant's failure to pay Plaintiff and Aggrieved Employees the
10 appropriate overtime rate, deducting thirty (30) minutes from their pay despite not providing them
11 with timely, uninterrupted meal breaks, and failing to provide them with premium pay in lieu
12 therefrom, Defendants also failed to provide Plaintiff and Aggrieved Employees with accurate
13 itemized wage statements in violation of Labor Code sections 226 and 1174. Defendants failed to
14 provide Plaintiff and Aggrieved Employees with accurate itemized wage statements that reflect,
15 among other things, the gross wages earned and all applicable hourly rates in effect during the
16 pay period and corresponding number of hours worked at each hourly rate by the employee.

17 28. Additionally, Plaintiff and Aggrieved Employees were provided wage statements
18 bearing "T.R.S.C., Inc." as the employer's name. However, Plaintiff is informed and believes that
19 Defendant TIMEC Services Company, Inc. ("TIMEC") exercised control over their wages, hours,
20 and working conditions and is Plaintiff's and the Aggrieved Employees' joint employer. Plaintiff
21 and Aggrieved Employees were also required to wear uniforms bearing the name and logo for
22 TIMEC. Nevertheless, Defendant TIMEC or its correct address do not appear in Plaintiff and
23 Aggrieved Employees' wage statements.

24 29. These blatant inaccuracies in Plaintiff and Aggrieved Employees' wage statements,
25 including Defendants' failure to include the correct name and/or address of the employer, is in
26 violation of Labor Code sections 226 and 1174, and is subject to penalties under PAGA.

27 30. During the PAGA Period, Defendants were required to reimburse Plaintiff and
28 Aggrieved Employees for any and all necessary business expenditures. Plaintiff and Aggrieved

1 Employees were required to wear uniforms bearing Defendants' name and logo and were required
2 to wash and maintain said uniforms at their own expense and on their own time. Plaintiff and
3 Aggrieved Employees were also required to use their personal cellular devices for business
4 purposes and were not reimbursed for the costs thereof. Defendants' failure to provide full and
5 complete reimbursement for all necessary business expenditures incurred by Plaintiff and
6 Aggrieved Employees is in violation of Labor Code section 2802, and is subject to penalties under
7 PAGA.

8 31. At the time that Plaintiff and any of the Aggrieved Employees' employment ended,
9 Defendants were required to compensate them for all wages owed. However, Defendants failed
10 to compensate Plaintiff and any of the Aggrieved Employees whose employment ended during
11 the PAGA Period for all wages owed at the time their employment ended for all hours worked or
12 at the applicable overtime and double time rates. Additionally, Plaintiff and Aggrieved
13 Employees had thirty (30) minutes of pay deducted from their wages each day and were entitled
14 to compensation for those thirty (30) minutes in which they were not provided timely and
15 uninterrupted meal periods. Finally, Plaintiff and Aggrieved Employees were also owed
16 compensation in the form of premium pay for the times they worked during meal and rest periods
17 which were not paid at the time their employment ended. Defendants' failure to pay Plaintiff and
18 Aggrieved Employees timely upon termination of their employment is in violation of Labor Code
19 sections 201–203 and is subject to penalties under PAGA.

20 32. Plaintiff, by virtue of his employment with Defendants, is an aggrieved employee
21 with standing to bring an action under the PAGA. Plaintiff has satisfied all prerequisites to serve
22 as a representative of the general public to enforce California's labor laws, and the penalty
23 provisions identified in Labor Code section 2699.5.

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FIRST CAUSE OF ACTION
VIOLATION OF PAGA FOR FAILURE TO PROPERLY IMPLEMENT AN
ALTERNATIVE WORKWEEK SCHEDULE
(Lab. Code, §§ 500, 510, and 511)
(Plaintiff Against All Defendants)

33. Plaintiff realleges and incorporates by reference all preceding paragraphs above, as if fully set forth herein.

34. Pursuant to Labor Code section 500, “Alternative workweek schedule” means any regularly scheduled workweek requiring an employee to work more than eight hours in a 24-hour period.”

35. Labor Code section 510, subdivision (a), provides that “[a]ny work in excess of eight hours in one workday ... shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee.” The code goes on to hold that this provision does not apply to “[a]n alternative workweek schedule adopted pursuant to Section 511.”

36. Labor Code section 511, subdivision (a) allows an employer to adopt an alternative workweek in which employees work “for no longer than 10 hours per day within a 40-hour workweek without the payment to the affected employees of an overtime rate of compensation.” However, “[a] proposal to adopt an alternative workweek schedule shall be deemed adopted only if it receives approval in a secret ballot election by at least two-thirds of affected employees in a readily identifiable work unit.” (Lab. Code, § 511(a)). Further, “[t]he results of any election conducted pursuant to this section *shall* be reported by an employer to the Division of Labor Standards Enforcement within 30 days after the results are final.” (Lab. Code, § 511(e) (emphasis added)).

37. Defendants required Plaintiff and Aggrieved Employees to work four (4) ten (10) hour shifts every week without overtime compensation for hours worked in excess of eight (8) in one day. However, Defendants failed to properly adopt an alternative workweek schedule in compliance with Labor Code section 511 as no alternative workweek schedule is published with the Department of Industrial Relations. Defendant’s violation of Labor Code section 511 is

1 subject to penalties under PAGA. (Lab. Code §§ 2699.3, 2699).

2 38. By virtue of the Defendants' violation of the provisions of Labor Code section 511,
3 Plaintiff and Aggrieved Employees suffered, and continue to be subject to ongoing violations
4 incurring civil penalties, the amount of which are presently unknown, but will be ascertained
5 according to proof at trial.

6 39. Labor Code section 558, subdivision (a), imposes civil penalties on employers for
7 violating "any provision regulating hours and days of work" of fifty dollars (\$50) for the initial
8 violation and one hundred dollars (\$100.00) for each subsequent violation "for each underpaid
9 employee for each pay period for which the employee was underpaid in addition to an amount
10 sufficient to recover underpaid wages."

11 40. Labor Code section 1197.1 provides that "[a]ny employer ... who pays or causes
12 to be paid to any employee a wage less than the minimum fixed by an applicable state or local
13 law, or by an order of the commission shall be subject to a civil penalty ... as follows: (1) For any
14 initial violation that is intentionally committed, one hundred dollars (\$100.00) for each underpaid
15 employee for each pay period for which the employee is underpaid ... (2) For each subsequent
16 violation for the same specific offense, two hundred fifty dollars (\$250.00) for each underpaid
17 employee for each pay period for which the employee is underpaid regardless of whether the
18 initial violation is intentionally committed."

19 41. More than sixty-five (65) days have elapsed since Plaintiff provided notice to the
20 LWDA, and the LWDA has indicated no intention to investigate. Further, Defendants have
21 provided no cure notice, and have not taken any steps of corrective action to remedy the
22 allegations set forth above. Accordingly, pursuant to Labor Code sections 2699 and 2699.3,
23 Plaintiff, individually and on behalf of the Aggrieved Employees and the State of California,
24 seeks penalties for violations of Labor Code section 511 during the PAGA Period, in an amount
25 according to proof, that would otherwise only be collected through public agency enforcement
26 actions by the Labor Commission, the LWDA and/or the DLSE.

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1 42. Plaintiff, as a personal representative of the general public, will and does seek to
2 recover any and all penalties for each and every violation shown to exist or to have occurred
3 during the PAGA Period, in an amount according to proof, as to those penalties that are otherwise
4 only available to public agency enforcement actions. Funds recovered will be distributed in
5 accordance with the PAGA, with at least seventy-five percent (75%) of the penalties recovered
6 being reimbursed to the LWDA and twenty-five percent (25%) to be paid to Plaintiff and all
7 Aggrieved Employees.

8 43. Additionally, Plaintiff and Aggrieved Employees are entitled to attorneys' fees
9 and costs pursuant to Labor Code section 2699, subdivision (g), and any other statutory basis.

10 **SECOND CAUSE OF ACTION**

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

13 **(Lab. Code, §§ 226.7 and 512)**

14 **(Plaintiff Against All Defendants)**

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

17 45. Labor Code sections 226.7 and 512 and Industrial Welfare Commission (IWC)
18 Wage Order No. 4-2001, section 11, provide that no employer shall employ any person for a
19 work period of more than five (5) hours without providing an uninterrupted meal period of at least
20 thirty (30) minutes, or employ any person for a work period of more than ten (10) hours without
21 a second uninterrupted meal period of at least thirty (30) minutes.

22 46. Labor Code section 226.7 provides that if an employer fails to provide an
23 employee a meal period in accordance with this section, the employer shall pay the employee one
24 (1) hour of pay at the employee's regular rate of compensation for each workday that the meal
25 period is not provided in accordance with this section.

26 47. At all times relevant hereto, Plaintiff and Aggrieved Employees have worked more
27 than five (5) hours in a workday.

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1 48. Plaintiff alleges that Defendants failed or refused to provide legally compliant
2 meal periods by failing to relieve Plaintiff and Aggrieved Employees from all work duties to
3 allow for timely and uninterrupted meal periods. Defendants' intentional conduct denied Plaintiff
4 and Aggrieved Employees their lawfully required meal periods. Moreover, Defendants did not
5 compensate Plaintiff and Aggrieved Employees for their missed meal periods with one hour of
6 regular pay as required by law.

7 49. IWC Wage Order No. 4–2001, section 11(A), provides that if an employee is not
8 relieved of all duties during a thirty (30) minute meal period, the meal period is considered “on
9 duty” and counts as time worked. “On duty” meal periods are only permitted when the nature of
10 the work prevents an employee from being relieved of all duties, in which case a written
11 agreement between the employer and employee for an on duty paid meal period is required.

12 50. Here, neither of those requirements are met. The nature of Plaintiff and Aggrieved
13 Employees work duties prevented them from being relieved from their duties in order to take
14 timely and uninterrupted meal breaks. Plaintiff's and Aggrieved Employees' job duties could be
15 paused for thirty (30) minutes or could be performed by another employee during their meal
16 breaks, but Defendants failed to implement a work schedule that would allow Plaintiffs and
17 Aggrieved Employees to take their meal periods, and prioritized work tasks over meal period
18 compliance. Plaintiff and Aggrieved Employees never agreed to waive their meal periods, nor
19 were asked by Defendants to sign a waiver. Further, Defendants had a practice of deducting thirty
20 (30) minutes pay from Plaintiff and Aggrieved Employees hours presumably for a meal period,
21 though none were had, proving Plaintiff and Aggrieved Employees never received on duty paid
22 meal periods.

23 51. During the PAGA Period, Defendants failed to schedule Plaintiff and Aggrieved
24 Employees in such a manner as to ensure that they could take proper meal periods as required by
25 law. Defendants therefore denied Plaintiff and Aggrieved Employees uninterrupted duty-free
26 meal periods resulting in Plaintiff and Aggrieved Employees being forced to work during meal
27 periods or forego them altogether. Further, Defendants failed to provide premium compensation
28 to Plaintiff and Aggrieved Employees in lieu of their meal periods. As such, Defendants

1 intentionally and improperly denied meal periods to Plaintiff and Aggrieved Employees in
2 violation of Labor Code sections 226.7 and 512 and IWC Wage Order No. 4–2001, and are subject
3 to penalties under PAGA.

4 52. By virtue of the Defendants’ violation of the provisions of Labor Code sections
5 226.7 and 512, Plaintiff and Aggrieved Employees suffered, and continue to be subject to ongoing
6 violations incurring civil penalties, the amount of which are presently unknown, but will be
7 ascertained according to proof at trial.

8 53. Pursuant to Labor Code section 2699, subdivision (f)(2), Plaintiff and Aggrieved
9 Employees are entitled to civil penalties in the amount of one hundred dollars (\$100.00) for the
10 initial violations and two hundred dollars (\$200.00) per pay period for each subsequent violation.

11 54. More than sixty-five (65) days have elapsed since Plaintiff provided notice to the
12 LWDA, and the LWDA has indicated no intention to investigate. Further, Defendants have
13 provided no cure notice, and have not taken any steps of corrective action to remedy the
14 allegations set forth above. Accordingly, pursuant to Labor Code sections 2699 and 2699.3,
15 Plaintiff, individually and on behalf of the Aggrieved Employees and the State of California,
16 seeks penalties for violations of Labor Code sections 226.7 and 512 during the PAGA Period, in
17 an amount according to proof, that would otherwise only be collected through public agency
18 enforcement actions by the Labor Commission, the LWDA and/or the DLSE.

19 55. Plaintiff, as a personal representative of the general public, will and does seek to
20 recover any and all penalties for each and every violation shown to exist or to have occurred
21 during the PAGA Period, in an amount according to proof, as to those penalties that are otherwise
22 only available to public agency enforcement actions. Funds recovered will be distributed in
23 accordance with the PAGA, with at least seventy-five percent (75%) of the penalties recovered
24 being reimbursed to the LWDA and twenty-five percent (25%) to be paid to Plaintiff and all
25 Aggrieved Employees.

26 56. Additionally, Plaintiff and Aggrieved Employees are entitled to attorneys’ fees
27 and costs pursuant to Labor Code section 2699, subdivision (g), and any other statutory basis.

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THIRD CAUSE OF ACTION
VIOLATION OF PAGA FOR FAILURE TO PROVIDE REST PERIODS OR
PREMIUM COMPENSATION IN LIEU THEREOF

(Lab. Code, § 226.7)

(Plaintiff Against All Defendants)

57. Plaintiff and Aggrieved Employees reallege and incorporate by reference all preceding paragraphs as if fully set forth herein.

58. Labor Code section 226.7 and IWC Wage Order No. 4–2001, section 12, require that employers permit all employees to take a ten (10) minute rest period for every four (4) hours worked, or major fraction thereof. Further, when an employer fails to provide an employee with required rest periods, the employer must pay the employee one (1) hour of pay at the employee’s regular rate of pay for each workday that at a required rest period is not provided.

59. Plaintiff alleges that Defendants failed or refused to provide legally compliant rest periods by failing to relieve Plaintiff and Aggrieved Employees from all work duties to allow for timely and uninterrupted rest periods. Defendants’ intentional conduct denied Plaintiff and Aggrieved Employees their lawfully required rest periods. Moreover, Defendants did not compensate Plaintiff and Aggrieved Employees for their missed rest periods with one hour of regular pay as required by law.

60. During the PAGA Period, Plaintiff and Aggrieved Employees worked more than four (4) hours in a workday and Defendants failed to schedule Plaintiff and Aggrieved Employees in such a manner as to ensure that they could take proper rest periods as required by law. Defendants therefore denied Plaintiff and Aggrieved Employees rest periods resulting in Plaintiff and Aggrieved Employees being forced to work during rest periods or forego them altogether. Further, Defendants failed to provide premium compensation to Plaintiff and Aggrieved Employees in lieu of their rest periods. As such, Defendants intentionally and improperly denied rest periods to Plaintiff and Aggrieved Employees in violation of Labor Code section 226.7 and IWC Wage Order No. 4–2001, and are subject to penalties under PAGA.

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1 61. By virtue of Defendants' violation of the provisions of Labor Code section 226.7,
2 Plaintiff and Aggrieved Employees suffered, and continue to be subject to ongoing violations
3 incurring civil penalties, the amount of which are presently unknown, but will be ascertained
4 according to proof at trial.

5 62. Pursuant to Labor Code section 2699, subdivision (f)(2), Plaintiff and Aggrieved
6 Employees are entitled to civil penalties in the amount of one hundred dollars (\$100.00) for the
7 initial violations and two hundred dollars (\$200.00) per pay period for each subsequent violation.

8 63. More than sixty-five (65) days have elapsed since Plaintiff provided notice to the
9 LWDA, and the LWDA has indicated no intention to investigate. Further, Defendants have
10 provided no cure notice, and have not taken any steps of corrective action to remedy the
11 allegations set forth above. Accordingly, pursuant to Labor Code sections 2699 and 2699.3,
12 Plaintiff, individually and on behalf of the Aggrieved Employees and the State of California,
13 seeks penalties for violations of Labor Code section 226.7 during the PAGA Period, in an amount
14 according to proof, that would otherwise only be collected through public agency enforcement
15 actions by the Labor Commission, the LWDA and/or the DLSE.

16 64. Plaintiff, as a personal representative of the general public, will and does seek to
17 recover any and all penalties for each and every violation shown to exist or to have occurred
18 during the PAGA Period, in an amount according to proof, as to those penalties that are otherwise
19 only available to public agency enforcement actions. Funds recovered will be distributed in
20 accordance with the PAGA, with at least seventy-five percent (75%) of the penalties recovered
21 being reimbursed to the LWDA and twenty-five percent (25%) to be paid to Plaintiff and all
22 Aggrieved Employees.

23 65. Additionally, Plaintiff and Aggrieved Employees are entitled to attorneys' fees
24 and costs pursuant to Labor Code section 2699, subdivision (g), and any other statutory basis.

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1 **FOURTH CAUSE OF ACTION**

2 **VIOLATION OF PAGA FOR FAILURE TO PAY ALL WAGES**

3 **(Lab. Code, §§ 204, 510, 1194, and 1197)**

4 **(Plaintiff Against All Defendants)**

5 66. Plaintiff and Aggrieved Employees reallege and incorporate by reference all
6 preceding paragraphs as if fully set forth herein.

7 67. Pursuant to Labor Code section 204, subdivision (a), “[a]ll wages ... earned by
8 any person in any employment are due and payable twice during each calendar month.”

9 68. Labor Code section 1194 mandates that employers pay employees no less than the
10 minimum wage for each hour worked, and Labor Code section 1197 holds that “the payment of
11 a lower wage than the minimum so fixed is unlawful.”

12 69. Pursuant to Labor Code section 510, subdivision (a), “[a]ny work in excess of eight
13 hours in one workday and any work in excess of 40 hours in any one workweek ... shall be
14 compensated at the rate of no less than one and one-half times the regular rate of pay for an
15 employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less
16 than twice the regular rate of pay for an employee.” The code goes on to hold that this provision
17 does not apply to “[a]n alternative workweek schedule adopted pursuant to Section 511.”

18 70. Labor Code section 511, subdivision (a), allows and employer to adopt an
19 alternative workweek in which employees work “for no longer than 10 hours per day within a 40-
20 hour workweek without the payment to the affected employees of an overtime rate of
21 compensation.” However, “[a] proposal to adopt an alternative workweek schedule shall be
22 deemed adopted only if it receives approval in a secret ballot election by at least two-thirds of
23 affected employees in a readily identifiable work unit.” (Lab. Code, § 511(a)). Further, “[t]he
24 results of any election conducted pursuant to this section shall be reported by an employer to the
25 Division of Labor Standards Enforcement within 30 days after the results are final.” (Lab. Code,
26 § 511(e)).

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1 71. Defendants failed to pay Plaintiff and Aggrieved Employees the legally mandated
2 regular rates for all work performed during their shifts in violation of Labor Code section 510.
3 Defendants required Plaintiff and Aggrieved Employees to work four (4) ten (10) hour shifts each
4 week without overtime compensation pursuant to Labor Code section 510 for hours worked in
5 excess of eight (8) in one day. Defendants failed to properly adopt an alternative workweek
6 schedule in compliance with Labor Code section 511 as no alternative workweek schedule is
7 published with the Department of Industrial Relations in violation of Labor Code section 511. As
8 such, Plaintiff and Aggrieved Employees were owed wages for hours worked pursuant to the
9 provisions of Labor Code section 510.

10 72. Additionally, Plaintiff and Aggrieved Employees were required to arrive for work
11 early and perform preparatory duties prior to the start of their shift. Thus, Defendants failed to
12 compensate Plaintiff and Aggrieved Employees for all hours worked in violation of Labor Code
13 sections 226 and 1174, and are subject to penalties under PAGA. The time worked off the clock
14 by Plaintiff and Aggrieved Employees caused the total number of hours worked each week to
15 exceed forty (40), yet Defendants only paid Plaintiff and Aggrieved Employees for exactly forty
16 (40) hours each workweek. Defendants also automatically deducted thirty (30) minutes of pay
17 each workday even though Plaintiff and Aggrieved Employees worked continuously throughout
18 the shift without any meal or rest periods.

19 73. By virtue of the Defendants' failure to pay Plaintiff and Aggrieved Employees all
20 wages due, Plaintiff and Aggrieved Employees suffered, and continue to be subject to ongoing
21 violations incurring civil penalties, the amount of which are presently unknown, but will be
22 ascertained according to proof at trial.

23 74. Labor Code section 558, subdivision (a), imposes civil penalties on employers for
24 violating "any provision regulating hours and days of work" of fifty dollars (\$50) for the initial
25 violation and one hundred dollars (\$100) for each subsequent violation "for each underpaid
26 employee for each pay period for which the employee was underpaid in addition to an amount
27 sufficient to recover underpaid wages."

28 ///

1 75. Labor Code section 1197.1 provides that “[a]ny employer ... who pays or causes
2 to be paid to any employee a wage less than the minimum fixed by an applicable state or local
3 law, or by an order of the commission shall be subject to a civil penalty ... as follows: (1) For any
4 initial violation that is intentionally committed, one hundred dollars (\$100.00) for each underpaid
5 employee for each pay period for which the employee is underpaid ... (2) For each subsequent
6 violation for the same specific offense, two hundred fifty dollars (\$250.00) for each underpaid
7 employee for each pay period for which the employee is underpaid regardless of whether the
8 initial violation is intentionally committed.”

9 76. Since the LWDA has not indicated that it will be investigating more than sixty-
10 five (65) days since Plaintiff provided notice, and because Defendants took no corrective action
11 to remedy the allegations set forth above, Plaintiff, as a representative of the people of the State
12 of California, will seek any and all penalties otherwise capable of being collected by the Labor
13 Commission, the LWDA and/or the DLSE. This includes each of the following, as set forth in
14 Labor Code section 2699.5, which provides that section 2699.3, subdivision (a), applies to any
15 alleged violation of the following provisions: Labor Code sections 204, 510, 1194, and 1197.

16 77. Plaintiff is informed and believes that Defendants have violated, and continue to
17 violate, provisions of the Labor Code and applicable Wage Orders related to the payment of
18 minimum wages.

19 78. Plaintiff, as a personal representative of the general public, will and does seek to
20 recover any and all penalties for each and every violation shown to exist or to have occurred
21 during the PAGA Period, in an amount according to proof, as to those penalties that are otherwise
22 only available to public agency enforcement actions. Funds recovered will be distributed in
23 accordance with the PAGA, with at least seventy-five percent (75%) of the penalties recovered
24 being reimbursed to the LWDA and twenty-five percent (25%) to be paid to Plaintiff and all
25 Aggrieved Employees.

26 79. Additionally, Plaintiff and Aggrieved Employees are entitled to attorneys’ fees
27 and costs pursuant to Labor Code section 2699, subdivision (g), and any other statutory basis.

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1 **FIFTH CAUSE OF ACTION**

2 **VIOLATION OF PAGA FOR FAILURE TO PROVIDE ACCURATE ITEMIZED**
3 **WAGE STATEMENTS**

4 **(Lab. Code, §§ 226 and 1174)**

5 **(Plaintiff Against All Defendants)**

6 80. Plaintiff and Aggrieved Employees reallege and incorporate by reference all
7 preceding paragraphs as if fully set forth herein.

8 81. Labor Code section 1174 requires employers to keep accurate payroll records.

9 82. Labor Code section 226, subdivision (a), requires that “at the time of each payment
10 of wages,” employers furnish employees with “an accurate itemized statement” that includes,
11 *inter alia*, gross wages earned, total hours worked, net wages earned, the name and address of the
12 legal entity that is the employer, and all applicable hourly rates in effect during the pay period
13 and the corresponding number of hours worked at each hourly rate.

14 83. An employee is deemed to suffer injury if the employer fails to provide a wage
15 statement containing all of the required information set forth in Labor Code section 226,
16 subdivision (a). (Lab. Code § 226, subd. (e)(2)). Plaintiff alleges that Defendants knowingly and
17 intentionally failed to provide Plaintiff and Aggrieved Employees wage statements in compliance
18 with Labor Code section 226, because said statements contained inaccurate gross wages earned,
19 an inaccurate total number of hours worked, inaccurate net wages earned, inaccurate applicable
20 hourly rates in effect during the pay period, and an inaccurate number of hours worked at each
21 hourly rate.

22 84. In particular, Defendants failed to include the appropriate hours, wages, and
23 remuneration for its failure to provide Plaintiff and Aggrieved Employees with compliant meal
24 and rest periods or premium compensation in lieu thereof, overtime compensation pursuant to the
25 provisions of Labor Code section 510, and for any hours and wages for work Plaintiff and
26 Aggrieved Employees were required to perform prior to the start of their shifts. To the extent that
27 Plaintiff and Aggrieved Employees worked more than twelve (12) hours in a workday, they were
28 entitled to double time wages that were never included on their wage statements. Plaintiff and

1 Aggrieved Employees also had thirty (30) minutes deducted from their total hours worked each
2 workday even though they worked continuously throughout the workday with no meal or rest
3 period. Additionally, the only hourly rate listed on Plaintiff and Aggrieved Employees' wage
4 statements is their regular hourly rate. Thus, the overtime and double time rates, as well as the
5 hours worked at those rates, are missing which makes said wage statements inaccurate.

6 85. Consequently, Plaintiff and Aggrieved Employees' wage statements reflected an
7 inaccurate total number of hours worked, and inaccurate gross and net wages earned in violation
8 of Labor Code sections 226 and 1174, and Defendants are therefore subject to penalties under
9 PAGA.

10 86. Additionally, Plaintiff and Aggrieved Employees were provided wage statements
11 bearing "T.R.S.C., Inc." as the employer's name. However, Plaintiff is informed and believes that
12 Defendant TIMEC Services Company, Inc. ("TIMEC") exercised control over their wages, hours,
13 and working conditions and is Plaintiff's and the Aggrieved Employees' joint employer. Plaintiff
14 and Aggrieved Employees were also required to wear uniforms bearing the name and logo for
15 TIMEC. Nevertheless, Defendant TIMEC or its correct address do not appear on Plaintiff and
16 Aggrieved Employees' wage statements.

17 87. Pursuant to Labor Code section 226.3, any employer who violates subdivision (a)
18 of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250)
19 per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee
20 for each violation in a subsequent citation for which the employer fails to provide the employee
21 a wage deduction statement or fails to keep the records required in subdivision (a) of Section 226.
22 The civil penalties provided for in this section are in addition to any other penalty provided by
23 law.

24 88. Since the LWDA has not indicated that it will be investigating more than sixty-
25 five (65) days since Plaintiff provided notice, and because Defendants took no corrective action
26 to remedy the allegations set forth above, Plaintiff, as a representative of the people of the State
27 of California, will seek any and all penalties otherwise capable of being collected by the Labor
28 Commission, the LWDA and/or the DLSE. This includes each of the following, as set forth in

1 Labor Code section 2699.5, which provides that section 2699.3, subdivision (a), applies to any
2 alleged violation of the following provisions: Labor Code sections 226 and 1174.

3 89. Plaintiff is informed and believes that Defendants have violated, and continue to
4 violate, provisions of the Labor Code and applicable Wage Orders related to the provision of
5 accurate itemized wage statements.

6 90. Plaintiff, as a personal representative of the general public, will and does seek to
7 recover any and all penalties for each and every violation shown to exist or to have occurred
8 during the PAGA Period, in an amount according to proof, as to those penalties that are otherwise
9 only available to public agency enforcement actions. Funds recovered will be distributed in
10 accordance with the PAGA, with at least seventy-five percent (75%) of the penalties recovered
11 being reimbursed to the LWDA and twenty-five percent (25%) to be paid to Plaintiff and all
12 Aggrieved Employees.

13 91. Additionally, Plaintiff and Aggrieved Employees are entitled to attorneys' fees
14 and costs pursuant to Labor Code section 2699, subdivision (g), and any other statutory basis.

15 **SIXTH CAUSE OF ACTION**

16 **VIOLATION OF PAGA FOR FAILURE TO REIMBURSE FOR NECESSARY**
17 **BUSINESS EXPENDITURES**

18 **(Lab. Code, § 2802)**

19 **(Plaintiff Against All Defendants)**

20 92. Plaintiff and Aggrieved Employees reallege and incorporate by reference all
21 preceding paragraphs as if fully set forth herein.

22 93. Labor Code section 2802, subdivision (a), provides that "[a]n employer shall
23 indemnify his or her employee for all necessary expenditures or losses incurred by the employee
24 in direct consequence of the discharge of his or her duties, or of his or her obedience to the
25 directions of the employer."

26 94. Defendants provided Plaintiff and Aggrieved Employees with uniforms bearing
27 Defendant TIMEC's logo which they were required to wear during their employment with
28 Defendants. However, Plaintiff and Aggrieved Employees were required to wash and maintain

1 these uniforms at their own expense and without reimbursement from Defendants. Furthermore,
2 Plaintiff and Aggrieved Employees were required to use their personal cellphones in direct
3 consequence of the discharge of their job duties, but were not reimbursed by Defendants for the
4 costs thereof. Defendants' failure to reimburse Plaintiff and Aggrieved Employees for
5 maintaining their uniforms and for use of their personal cellphones is in violation of Labor Code
6 section 2802, and is subject to penalties under PAGA.

7 95. By virtue of the Defendants' violation of the provisions of Labor Code section
8 2802, Plaintiff and Aggrieved Employees suffered, and continue to be subject to ongoing
9 violations incurring civil penalties, the amount of which are presently unknown, but will be
10 ascertained according to proof at trial.

11 96. Pursuant to Labor Code section 2699, subdivision (f)(2), Plaintiff and Aggrieved
12 Employees are entitled to civil penalties in the amount of one hundred dollars (\$100.00) for the
13 initial violations and two hundred dollars (\$200.00) per pay period for each subsequent violation.

14 97. More than sixty-five (65) days have elapsed since Plaintiff provided notice to the
15 LWDA, and the LWDA has indicated no intention to investigate. Further, Defendants have
16 provided no cure notice, and have not taken any steps of corrective action to remedy the
17 allegations set forth above. Accordingly, pursuant to Labor Code sections 2699 and 2699.3,
18 Plaintiff, individually and on behalf of the Aggrieved Employees and the State of California,
19 seeks penalties for violations of Labor Code section 2802 during the PAGA Period, in an amount
20 according to proof, that would otherwise only be collected through public agency enforcement
21 actions by the Labor Commission, the LWDA and/or the DLSE.

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

1 99. Additionally, Plaintiff and Aggrieved Employees are entitled to attorneys' fees
2 and costs pursuant to Labor Code section 2699, subdivision (g), and any other statutory basis.

3 **SEVENTH CAUSE OF ACTION**

4 **VIOLATION OF PAGA FOR FAILURE TO PAY ALL WAGES DUE UPON**
5 **TERMINATION OF EMPLOYMENT**

6 **(Lab. Code, §§ 201 and 203)**

7 **(Plaintiff Against All Defendants)**

8 100. Plaintiff and Aggrieved Employees reallege and incorporate by reference all
9 preceding paragraphs as if fully set forth herein.

10 101. Labor Code section 201, subdivision (a), states that "[i]f an employer discharges
11 an employee, the wages earned and unpaid at the time of discharge are due and payable
12 immediately."

13 102. At the time that Plaintiff and any of the Aggrieved Employees' employment ended,
14 they were entitled to timely compensation of regular, overtime, and double time wages for all
15 hours worked, premium compensation for all missed meal and rest periods, and reimbursement
16 for necessary business expenditures.

17 103. Defendants failed or refused to compensate Plaintiff and Aggrieved Employees
18 for all hours worked, any missed meal or rest periods, and necessary business expenditures. As a
19 result of Defendants' failure to do so, Plaintiff and Aggrieved Employees have suffered, and
20 continue to suffer, injury which will be ascertained according to proof at trial.

21 104. Plaintiff is informed and believes that Defendants have violated, and continue to
22 violate, provisions of the Labor Code related to the requirement to pay all wages due upon
23 termination of employment.

24 105. Pursuant to Labor Code section 2699, subdivision (f)(2), Plaintiff and Aggrieved
25 Employees are entitled to civil penalties in the amount of one hundred dollars (\$100.00) for the
26 initial violations and two hundred dollars (\$200.00) per pay period for each subsequent violation.

27 106. Pursuant to Labor Code section 203, subdivision (a), "[i]f an employer willfully
28 fails to pay ... any wages of any employee who is discharged or who quits, the wages of the

1 employee shall continue as a penalty from the due date thereof at the same rate until paid or until
2 an action therefor is commenced; but the wages shall not continue for more than 30 days.” Labor
3 Code section 256 provides for civil penalties not exceeding 30 days’ pay at the employees’ same
4 rate of pay.

5 107. Since the LWDA has not indicated that it will be investigating more than sixty-
6 five (65) days since Plaintiff provided notice, and because Defendants took no corrective action
7 to remedy the allegations set forth above, Plaintiff, as a representative of the people of the State
8 of California, will seek any and all penalties otherwise capable of being collected by the Labor
9 Commission, the LWDA and/or the DLSE. This includes each of the following, as set forth in
10 Labor Code section 2699.5, which provides that section 2699.3, subdivision (a), applies to any
11 alleged violation of the following provisions: Labor Code sections 201 and 203.

12 108. Plaintiff, as a personal representative of the general public, will and does seek to
13 recover any and all penalties for each and every violation shown to exist or to have occurred
14 during the PAGA Period, in an amount according to proof, as to those penalties that are otherwise
15 only available to public agency enforcement actions. Funds recovered will be distributed in
16 accordance with the PAGA, with at least seventy-five percent (75%) of the penalties recovered
17 being reimbursed to the LWDA and twenty-five percent (25%) to be paid to Plaintiff and all
18 Aggrieved Employees.

19 109. Additionally, Plaintiff and Aggrieved Employees are entitled to attorneys’ fees
20 and costs pursuant to Labor Code section 2699, subdivision (g), and any other statutory basis.

21 **PRAYER FOR RELIEF**

22 **WHEREFORE,** Plaintiff and Aggrieved Employees pray for judgment as follows:

- 23 1. For civil penalties for each violation for Plaintiff and each Aggrieved Employee as
24 provided by law, including, but not limited to, those civil penalties provided by statute
25 and provided by PAGA, and for unpaid wages;
- 26 2. For costs of suit and expenses incurred herein pursuant to Labor Code section 2699,
27 subdivision (g), and any other statutory basis or pursuant to the California Rules of
28 Court;

- 1 3. For reasonable attorneys' fees pursuant to Labor Code section 2699, subdivision (g),
2 and any other statutory basis; and
3 4. For all such other and further relief as the Court may deem just and proper.
4

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6 Dated: July 26, 2021

MAHONEY LAW GROUP, APC

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10 Katherine J. Odenbreit, Esq.
11 Kate Blanco, Esq.
12 Attorneys for Plaintiff SANTIAGO GARCIA
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EXHIBIT A



Joshua D. Klein, Esq.
(562) 590-5550 phone
(562) 590-8400 facsimile
jklein@mahoney-law.net

May 19, 2021

Via Certified Electronic Mail

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

VIA CERTIFIED MAIL# 7019 2280 0002 0214 3296

Return Receipt Requested

T.R.S.C., Inc.
155 Corporate Place
Vallejo, CA 94590

VIA CERTIFIED MAIL# 7019 2280 0002 0214 3302

Return Receipt Requested

TIMEC Services Company, Inc.
10814 Jollyville Road, Suite 160
Austin, TX 78759

Re: Santiago Garcia v. T.R.S.C., Inc., et al.

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

To: California Labor and Workforce Development Agency; Genuine Parts Company
From: Santiago Garcia, on behalf of himself and aggrieved employees who were subject to the employer's wage and hour policies as set forth below.

Factual Statement

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

Theories of Labor Code Violations and Remedies

T.R.S.C., Inc. and TIMEC Services Company, Inc. (collectively, "Employer") are Delaware corporations headquartered in California and Texas, respectively, which own and

operate petroleum operations in the State of California. Mr. Garcia was employed by Employer in a non-exempt position during the time period of on or around mid-2016 through on or around September 21, 2020.

Mr. Garcia alleges Employer violated various sections of the Labor Code, including sections 201, 202, 203, 226, 226.7, 227.3, 510, 512, 1174, 1194, and 2802, by failing to provide Mr. Garcia and all other aggrieved employees with meal and rest periods and premium pay, failing to pay all wages owed, including minimum wage and overtime, failing to reimburse all necessary business expenditures, failing to provide accurate wage statements and maintain accurate payroll records, and failing to provide all wages earned at end of employment. Mr. Garcia and similarly aggrieved employees consist of identifiable, current, and/or former similarly situated persons who worked for Employer in non-exempt positions in California during the liability period of one year and sixty-five days prior to the filing of a complaint alleging a PAGA cause of action.

Employer failed to provide Mr. Garcia and other aggrieved employees with meal and rest periods, or premium compensation in lieu thereof, in accordance with California law.

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

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

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

Employer failed to implement an Alternative Workweek Schedule for Mr. Garcia and other aggrieved employees

Mr. Garcia alleges that he and other aggrieved employees were required to work an Alternative Workweek Schedule ("AWS") of 4/10, i.e., four days a week, ten hours per day.

However, neither T.R.S.C., Inc., nor TIMEC Services Company, Inc., has published an Alternative Workweek Schedule with the Department of Industrial Relations. Employer's failure to properly implement and publish an Alternative Workweek Schedule is actionable under PAGA as a violation of Labor Code 511.

Employer failed to pay Mr. Garcia and other aggrieved employees for all hours worked, in accordance with California law, including both minimum wage and overtime

Employer failed to pay Mr. Garcia and other aggrieved employees at the legally mandated wage rates for all hours worked in violation of California law. Mr. Garcia alleges that he and other aggrieved employees were required to show up early and begin initial duties prior to clocking in, and therefore worked "off-the-clock" hours which were not compensated by Employer. Further, as above, Employer required Mr. Garcia and other aggrieved employees to work an AWS of 4/10, i.e., four days a week, ten hours per day. In addition to the fact that this AWS was not properly implemented, Mr. Garcia and other employees were frequently required to work in excess of ten hours per day and forty hours per week, but Employer only compensated Mr. Garcia and other employees for a flat forty (40) hours per week, regardless of the true hours worked. In doing so, Employer failed to provide compensation at least at a minimum wage rate for all hours worked as required by the Labor Code. Employer's failure to provide Mr. Garcia and other aggrieved employees pay for all hours worked is a violation of California's minimum wage laws, as Mr. Garcia and other aggrieved employees should have been provided at least the applicable minimum wage for all hours worked.

Further, because Employer failed to properly implement an AWS, all hours in excess of eight (8) per day, and/or forty (40) per week, were required to be compensated at a rate of at least one-and-a-half times each employee's base rate of pay. Even assuming *arguendo* that Employer properly implemented an AWS, all hours in excess of ten (10) per day, and/or forty (40) per week, were required to be compensated at a rate of at least one-and-a-half times each employee's base rate of pay. In either event, to the extent such hours exceeded twelve (12) in one day or eight (8) on the seventh consecutive day worked, such hours were required to be compensated at a rate of at least two times each employee's base rate of pay. Employer's failure to provide Mr. Garcia and other aggrieved employees *any* pay whatsoever for off-the-clock hours worked therefore necessarily resulted in overtime violations and minimum wage violations as well.

Employer's failure to pay minimum wage and applicable overtime rates to Mr. Garcia and other aggrieved employees as detailed above is actionable under PAGA as a violation of Labor Code sections 227.3, 510 and 1194.

Employer failed to compensate Mr. Garcia and other aggrieved employees for all necessary business expenditures incurred during their employment

Mr. Garcia and other aggrieved employees were provided uniforms bearing Employer's logo; however, Mr. Garcia and other aggrieved employees were required to wash and maintain these uniforms at each employee's own expense. Furthermore, Mr. Garcia and other aggrieved employees were required to utilize personal cell phones for business purposes; however, Mr.

Garcia and other aggrieved employees did not receive reimbursement for this from Employer.

Employer's failure to provide complete compensation for all necessary business expenditures incurred by Mr. Garcia and other aggrieved employees in direct consequence of their duties to Employer is actionable under PAGA as a violation of Labor Code section 2802.

Employer failed to provide Mr. Garcia and other aggrieved employees compliant wage statements, and failed to pay all wages earned at the time their employment ended

Mr. Garcia and other aggrieved employees received wage statements bearing the employer's name "T.R.S.C., Inc." However, it is unclear whether T.R.S.C., Inc., TIMEC Services Company, Inc., or another entity is "the legal entity that is the employer..." (Lab. Code, § 226(a)(8).)

Moreover, by failing to include on Mr. Garcia's and other aggrieved employees' pay stubs all rest and meal break premium wages, reimbursement for all necessary business expenditures, and full compensation for all hours worked, Employer failed to keep accurate payroll records and failed to provide Mr. Garcia and other aggrieved employees with complete and accurate wage statements. This conduct is in violation of Labor Code sections 226 and 1174 and is actionable under PAGA.

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

Reservation of Rights

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

Continued on Next Page

LABOR AND WORKFORCE DEVELOPMENT AGENCY

May 19, 2021

Page 5 of 5

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

Mahoney Law Group, APC
Joshua D. Klein
249 E. Ocean Blvd., Suite 814
Long Beach, CA 90802
Tel: (562) 590-5550
Email: jklein@mahoney-law.net

Sincerely,

A handwritten signature in cursive script, appearing to read "J.D. Klein".

Joshua D. Klein, Esq.

MAHONEY LAW GROUP, APC