

1 Carolyn H. Cottrell (SBN 166977)
 2 Ori Edelstein (SBN 268145)
 3 Eugene Zinovyev (SBN 267245)
 4 Philippe M.J. Gaudard (SBN 331744)
SCHNEIDER WALLACE
COTTRELL KONECKY LLP
 2000 Powell Street, Suite 1400
 Emeryville, California 94608
 Tel: (415) 421-7100
 Fax: (415) 421-7105
 ccottrell@schneiderwallace.com
 oriedelstein@schneiderwallace.com
 ezinovyev@schneiderwallace.com
 pgaudard@schneiderwallace.com

*Attorneys for Plaintiff, on behalf of
 the putative Class Members, the State
 of California and the Aggrieved Employees*

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
 IN AND FOR THE COUNTY OF ALAMEDA**

DONNY SHELDON, on behalf of himself,
 the putative Class Members, the State of
 California and the Aggrieved Employees,

Plaintiff,

vs.

U-HAUL CO. OF CALIFORNIA, a
 California corporation;

Defendant.

Case No.: 23CV035675

**FIRST AMENDED CLASS ACTION
 COMPLAINT FOR VIOLATIONS OF:**

- (1) **Failure to Reimburse for Necessary Business Expenses (Labor Code §§ 2800 and 2802);**
- (2) **Unlawful Business Practices (Cal. Bus. & Prof. Code §§ 17200, *et seq.*);**
- (3) **Penalties Pursuant to Cal. Lab. Code § 2699(f) (Violations of Cal. Lab. Code §§ 204, 1194, and 1198);**
- (4) **Penalties Pursuant to Cal. Lab. Code § 2699(f) (Violations of Cal. Lab. Code §§ 1182.12, 1194 and 1197);**
- (5) **Penalties Pursuant to Cal. Lab. Code § 2699(f) (Violations of Cal. Lab. Code §§ 510 and 1194);**
- (6) **Penalties Pursuant to Cal. Lab. Code § 2699(f) (Violations of Cal. Lab. Code §§ 226.7 and 512);**
- (7) **Penalties Pursuant to Cal. Lab. Code § 2699(f) (Violations of Cal. Lab. Code § 226.7);**
- (8) **Penalties Pursuant to Cal. Lab. Code § 2699(a) (Violations of Cal. Lab. Code § 226);**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- (9) Penalties Pursuant to Cal. Lab. Code § 2699(f) (Violations of Cal. Lab. Code § 2802);
- (10) Penalties Pursuant to Cal. Lab. Code § 2699(a) (Violations of Cal. Lab. Code §§ 201-203)

DEMAND FOR JURY TRIAL

INTRODUCTION

1. Plaintiff DONNY SHELDON (“Plaintiff”), brings this class and Private Attorney General Act of 2004 (“PAGA”) action on behalf of himself and other similarly situated individuals who have worked for Defendant U-HAUL CO. OF CALIFORNIA, a California corporation (“Defendant”) as exempt and non-exempt employees, including, but not limited to, general managers, customer service representatives, assistant managers, truck drivers, facility maintenance supervisors, transfer drivers, resident managers, facility housekeepers and other position with similar job duties throughout California¹, to challenge Defendant’s violations of California labor laws.

2. This is a class and representative action against Defendant to challenge its policies and practices of: (1) failing to compensate Aggrieved Employees for all hours worked; (2) failing to pay Aggrieved Employees minimum wages for all hours worked as required by California law; (3) failing to pay Aggrieved Employees overtime wages as required by California law; (4) failing to authorize and permit Aggrieved Employees to take meal breaks as required under California law; (5) failing to authorize and permit Aggrieved Employees to take rest breaks as required under California law; (6) failing to reimburse Plaintiff, putative Class Members, and Aggrieved Employees for business expenditures as required under California law; (7) failing to provide Aggrieved Employees accurate, itemized wage statements; (8) failing to timely pay Aggrieved Employees all wages owed upon separation from employment; and (9) and unfair business practices.

3. As a result of these violations, Plaintiff seeks full compensation on behalf of himself and all others similarly situated for all damages, penalties, restitution, and interest to the full extent permitted by the California Labor Code and Industrial Welfare Commission (“IWC”) Wage Orders.

4. Defendant is also liable for violation of the Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200, *et seq.* (“UCL”).

5. Plaintiff, on behalf of the State of California, also seeks to recover penalties and reasonable attorneys’ fees for these violations pursuant to Sections 2699(a) and (f) of the California Labor Code Private Attorneys General Act (“PAGA”).

¹ Although Plaintiff is a former employee, Class Members included current and former employees. For ease of discussion, the allegations herein are made in the present tense.

1 **SUBJECT MATTER JURISDICTION AND VENUE**

2 6. This Court has jurisdiction over Plaintiff's claims pursuant to the Cal. Lab. Code and
3 Cal. Bus. & Prof. Code. This Court has jurisdiction over Plaintiff's claims for penalties pursuant to
4 the PAGA. The Court also has jurisdiction over Defendant because Defendant is authorized to do
5 business in California, in fact does business in the State of California, and employs workers in the
6 State of California.

7 7. Venue is proper in this judicial district pursuant to Cal. Code Civ. Proc. §395 because
8 Defendant's principal place of business is located in this County.

9 **THE PARTIES**

10 8. Plaintiff, the putative Class Members and Aggrieved Employees are current and former
11 exempt and non-exempt workers employed by Defendant as, without limitations, general managers,
12 customer service representatives, assistant managers, truck drivers, facility maintenance supervisors,
13 transfer drivers, resident managers, facility housekeepers and other position with similar job duties
14 throughout California.

15 9. Plaintiff is an individual over the age of eighteen, and at all times relevant to this
16 Complaint was a resident of the State of California. Plaintiff was employed by Defendant as both a
17 non-exempt and exempt worker employed by Defendant in Santa Rosa, California as a non-exempt
18 customer service representative and an exempt general manager. He worked for Defendant from
19 approximately 2015 until October 2022.

20 10. Defendant U-Haul is a corporation organized under the laws of California, and
21 qualified to conduct business in the State of California with its principal California office located at
22 44511 Grimmer Boulevard, in Fremont, California. U-Haul provides a portfolio of services, including
23 transportation and moving services across the nation. Defendant employs and/or employed Plaintiff,
24 putative Class Members and Aggrieved Employees because Defendant, directly or indirectly, controls
25 the employment terms, pay practices, timekeeping practices, and daily work of Plaintiff, putative Class
26 Members and Aggrieved Employees.

27 11. Plaintiff is informed and believes that each and every one of the acts and omissions
28 alleged herein were performed by, and/or attributable to, Defendant, acting as agent and/or employees,

1 and/or under the direction and control, and that said acts and failures to act were within the course and
2 scope of said agency, employment and/or direction and control.

3 12. At all material times, Defendant has done business under the laws of California, and
4 had places of business in California, including in this county. Defendant is a “person” as defined in
5 Cal. Lab. Code § 18 and an “employer” as that term is used in the Cal. Lab. Code, the IWC Wage
6 Orders regulating wages, hours, and working conditions.

7 **FACTUAL ALLEGATIONS**

8 13. At all relevant times herein, Defendant provides a portfolio of services throughout the
9 State of California, including transportation, vehicle rental, and moving services. Defendant is
10 registered to do business in the State of California. Defendant employs thousands of workers and
11 conducts extensive activities in the State of California.

12 14. Plaintiff, putative Class Members and Aggrieved Employees are current and former
13 non-exempt and exempt employees of Defendant who worked at Defendant’s California facility
14 locations in California. Plaintiff is informed, believes, and thereon alleges that the putative Class
15 Members and Aggrieved Employees perform work similar to Plaintiff, in that they support the daily
16 functions of running Defendant’s business activities.

17 15. Plaintiff is informed, believes, and thereon alleges that Defendant employs, and has
18 employed, hundreds of exempt and non-exempt workers in the State of California, including but not
19 limited to general managers, customer service representatives, assistant managers, truck drivers,
20 facility maintenance supervisors, transfer drivers, resident managers, facility housekeepers and other
21 position with similar job duties throughout California.

22 16. Plaintiff is informed, believes, and based thereon, alleges that putative Class Members
23 and Aggrieved Employees are employed by Defendant in a similar manner throughout this County
24 and State.

25 17. Putative Class Members and Aggrieved Employees perform their jobs under
26 Defendant’s supervision using materials and technology approved and supplied by Defendant.

27 18. Putative Class Members and Aggrieved Employees are required to follow and abide by
28 Defendant’s common work, time, and pay policies and procedures in the performance of their job

1 duties.

2 13. Plaintiff is informed, believes, and thereon alleges that Defendant's policies and
3 practices have at all relevant times been similar for Plaintiff, putative Class Members and Aggrieved
4 Employees.

5 14. Defendant regularly fails to compensate Aggrieved Employees for all hours worked,
6 including minimum wage and overtime. As a matter of practice, Defendant routinely requires that
7 Aggrieved Employees perform uncompensated and unrecorded work outside of their scheduled shifts,
8 *i.e.*, "off-the-clock." For example, Defendant requires that Aggrieved Employees continue to assist
9 customers and communicate with supervisors via phone calls and text messages when they are not
10 clocked in for work, *i.e.*, after clocking out at the end of their shift and during clocked out meal breaks.
11 Aggrieved Employees regularly clock out of work and come across customers during their meal breaks
12 and/or after the end of their shift. Under these circumstances, and despite being off-the-clock,
13 Defendant instructs them to assist these customers. Similarly, Aggrieved Employees must
14 communicate with supervisors, managers, and customers via text and telephone regarding the status
15 of truck rentals while off-the-clock after business hours and during their days off. Defendant also
16 requires Aggrieved Employees holding a resident manager position or similar positions to move and
17 park vehicles and trailers in outside parking lots, and commute to the bank to make deposits on its
18 behalf after they clocked out for the end of their shifts. As a result, Aggrieved Employees worked up
19 to several hours each day while off-the-clock and therefore without compensation.

20 15. Aggrieved Employees are prohibited from reporting this additional off-the-clock work
21 due to Defendant's strict overtime authorization policy. Defendant's overtime policy subjects
22 Aggrieved Employees to discipline if they work overtime without pre-authorization. As a result, and
23 in order to avoid running afoul of Defendant's strict overtime policy, Aggrieved Employees do not
24 report their off-the-clock work and instead are required to clock out on time for scheduled meal breaks
25 and at the end of each shift even when they continue working.

26 16. Moreover, Defendant does not compensate those Aggrieved Employees who are
27 Defendant's part-time employees at their overtime rate of one time and one half time their regular rate
28 of pay when working over eight hours per day.

1 17. Further, Defendant's electronic timeclocks fail frequently, preventing Aggrieved
2 Employees from clocking in at the start of their shift. Aggrieved Employees are required to either
3 return to the timeclock machine to clock in once fixed, often as much as 30-minutes after starting to
4 work or more, or Aggrieved Employees' supervisors enter their time manually based on pre-scheduled
5 shifts and rough estimates. When returning to the timeclock machine, Aggrieved Employees are only
6 able to record the then current time as their start time and are unable to record the actual start time of
7 their shifts. When Aggrieved Employees' supervisors manually enter their time, it is often inaccurate
8 and accounts for less time than actually worked. As a result, Aggrieved Employees often perform up
9 to 30 more minutes of off-the-clock work per shift.

10 18. For those Aggrieved Employees holding positions requiring them to work outside of
11 Defendant's locations, they are instructed to download and use the "Workday" app on their personal
12 cell phones to clock in and out of work instead of using Defendant's electronic timeclock. However,
13 because those Aggrieved Employees work from remote locations often lacking cellphone service, they
14 are frequently unable to use the "Workday" app when initially attempting to clock in and are therefore
15 forced to drive around in the area in search for sufficient cellphone service allowing them to use the
16 app and clock in. It takes up to 10 minutes each day for those Aggrieved Employees to find cell phone
17 service allowing them to clock in via the "Workday" app. However, Defendant does not record or
18 compensate those Aggrieved Employees for this time.

19 19. Aggrieved Employees consistently work eight (8) or more hours per day and forty (40)
20 or more hours per week. Therefore, this time spent working while off-the-clock and during unpaid
21 meal periods, goes unrecorded and uncompensated when it should be paid at overtime rates as required
22 by California law.

23 20. Aggrieved Employees are also systematically denied compliant meal and rest periods.
24 Defendant instructs Aggrieved Employees to clock out for their meal breaks, but—as mentioned
25 above—requires that they remain available, and that they continue working throughout each break to
26 answer questions from managers, supervisors, and customers. Finally, Defendant instructed Aggrieved
27 Employees who are U-Haul drivers to eat while driving their truck instead of stopping for a 30-minute
28 meal break.

1 21. When Aggrieved Employees do attempt a meal period it is often interrupted, untimely,
2 and/or short. As a result, Aggrieved Employees do not receive duty-free, uninterrupted, and timely 30-
3 minute meal periods during which they should be completely relieved of any duty, by the end of the
4 fifth hour of work.

5 22. When Aggrieved Employees are required to work longer shifts lasting ten hours or
6 more, Plaintiff and Aggrieved Employees are systematically denied a second meal break by the end of
7 the tenth hour of work.

8 23. For the same or similar reasons, Aggrieved Employees also do not receive compliant
9 ten minute off-duty rest breaks before the fourth hour of work and again, before the eighth hour of
10 work. In the rare instance when Aggrieved Employees attempt a rest break, such is routinely untimely,
11 shortened, and/or interrupted.

12 24. Despite failing to provide Aggrieved Employees compliant meal and rest periods,
13 Defendant does not pay requisite premiums to Aggrieved Employees for these non-compliant meal
14 and rest periods.

15 25. Plaintiff is informed, believes, and thereon alleges that all non-exempt hourly
16 employees of Defendant are subject to the same or similar unlawful timekeeping and compensation
17 policies and practices.

18 26. In addition, Defendant fails to reimburse Plaintiff, putative Class Members and
19 Aggrieved Employees for all necessary business expenditures. Although Defendant provides in store
20 pocket tablets to Plaintiff, putative Class Members and Aggrieved Employees, these are frequently
21 broken and there are never enough for all Plaintiff, putative Class Members and Aggrieved Employees,
22 therefore Defendant requires Plaintiff, putative Class Members and Aggrieved Employees to
23 constantly use their cell phones to communicate with their supervisors regarding their work duties.
24 Plaintiff, putative Class Members and Aggrieved Employees receive multiple phone calls, text
25 messages, and emails each day on their personal cell phones regarding damages to U-Haul vehicles,
26 requests for assistance on electricity and plumbing issues, and instructions for work related tasks.
27 Plaintiff, putative Class Members and Aggrieved Employees are also required to use the GPS on their
28 personal cell phones to navigate between store locations, and supervisors called and texted them on

1 their personal cell phones to inquire about job status. Defendant also requires Plaintiff, putative Class
2 Members and Aggrieved Employees to download and use the “Workday” app on their personal cell
3 phones. Those Aggrieved Employees holding positions requiring them to work outside of the store use
4 the “Workday” app for timekeeping purposes, *i.e.*, to clock in and out of work. Defendant also required
5 Plaintiff, putative Class Members and Aggrieved Employees to use their personal cell phones to check
6 in U-Haul trucks, process rentals of U-Haul trucks, and conduct inventory on storage units. Although
7 Defendant had some scanners available for Plaintiff, putative Class Members and Aggrieved
8 Employees to use and perform these tasks, Defendant encourages them to use their personal cell
9 phones instead. In addition, those putative Class Members and Aggrieved Employees with job
10 positions that require them to perform maintenance and deal directly with the U-Haul trucks and
11 trailers, are required to purchase tools such as, *inter alia*, gloves, screw drivers, and rubber mallets, in
12 order to perform their daily job duties. Defendant does not reimburse Plaintiff, putative Class Members
13 and Aggrieved Employees for any of these business expenditures, even though it should be fully
14 reimbursed under California law.

15 27. Plaintiff is informed, believes, and thereon alleges that all exempt and non-exempt
16 employees of Defendant are subject to the same or similar unlawful business expenditures policies
17 and practices.

18 28. Defendant’s common course of wage-and-hour abuse also includes routinely failing to
19 maintain true and accurate records of the hours worked by Aggrieved Employees.

20 29. As a result of the aforementioned violations, Aggrieved Employees are provided with
21 untrue and inaccurate wage statements as such statement do not reflect the correct amount of gross
22 and net wages earned, including overtime compensations and premium pay for non-complaint meal
23 and/or rest periods, nor the correct total hours worked by Aggrieved Employees.

24 30. Additionally, Aggrieved Employees do not receive all wages owed during employment
25 and following separation from employment, including minimum wage and overtime compensation for
26 time spent working while off-the-clock and above eight hours per day and/or 40 hours per week, as
27 well as requisite premium payments for non-compliant meal and/or rest periods, giving rise to waiting
28 time penalties.

31. Plaintiff is informed, believes, and thereon alleges that Defendant's unlawful conduct has been widespread, repeated, and consistent as to all Aggrieved Employees and throughout Defendant's operations in the State of California.

CAL. CODE CIV. PROC. § 382 CLASS ACTION ALLEGATIONS

32. Plaintiff realleges and incorporates the foregoing paragraphs as though fully set forth herein.

33. Plaintiff brings causes of action as a class action on behalf of himself and all others similarly situated pursuant to Civil Code of Procedure § 382. The Class that Plaintiff seeks to represent is defined as follows:

All current and former exempt and non-exempt workers employed by U-Haul Co. of California throughout California any time starting four years prior to the filing of this Complaint until resolution of this action.

34. This action has been brought and may properly be maintained as a class action under Cal. Code Civ. Proc. § 382 there is a well-defined community of interest in the litigation and the proposed putative class is easily ascertainable.

35. **Numerosity:** The potential Members of the Class as defined are so numerous that joinder of all the Members of the class is impracticable. Plaintiff is informed and believes that the number of Class Members exceeds 100. This volume makes bringing the claims of each individual member of the Class before this Court impracticable. Likewise, joining each individual member of the Class as a plaintiff in this action is impracticable. Furthermore, the identities of the Class will be determined from Defendant's records, as will the compensation paid to each of them. As such, a class action is a reasonable and practical means of resolving these claims. To require individual actions would prejudice the Class and Defendant.

36. **Commonality:** There are questions of law and fact common to Plaintiff and the Class that predominate over any questions affecting only individual Members of the Class. These common questions of law and fact include, but are not limited to:

- (1) Whether Defendant fails to reimburse Plaintiff and Class Members for all necessary expenditures and losses incurred by Plaintiff and Class Members in

1 direct consequence of the discharge of their work duties in violation of the Cal.
2 Lab. Code and Wage Orders; and

3 (2) The proper formula for calculating restitution, damages and penalties owed to
4 Plaintiff and the Class as alleged herein.

5 37. **Typicality:** Plaintiff's claims are typical of the claims of the Class. Defendant's
6 common course of conduct in violation of law as alleged herein caused Plaintiff to sustain the same or
7 similar injuries and damages. Plaintiff's claims are thereby representative of and co-extensive with the
8 claims of the Class.

9 38. **Adequacy of Representation:** Plaintiff seeks relief for state law violations perpetrated
10 by Defendant. In that sense, Plaintiff does not have any conflicts of interest with other Class Members
11 and will prosecute the case vigorously on behalf of the Class. Counsel representing Plaintiff is
12 competent and experienced in litigating complex cases and large class actions, including wage and
13 hour cases. Plaintiff will fairly and adequately represent and protect the interests of the Class Members.

14 39. **Superiority of Class Action:** A class action is superior to other available means for
15 the fair and efficient adjudication of this controversy. Individual joinder of all proposed Class
16 Members is not practicable, and questions of law and fact common to the Class predominate over any
17 questions affecting only individual Members of the Class. Each proposed Class Member has been
18 damaged and is entitled to recovery by reason of Defendant's illegal policies and/or practices. Class
19 action treatment will allow those similarly situated persons to litigate their claims in the manner that
20 is most efficient and economical for the parties and the judicial system.

21 40. In the alternative, the Class may be certified because the prosecution of separate actions
22 by the individual Members of the Class would create a risk of inconsistent or varying adjudication
23 with respect to individual Members of the Class which would establish incompatible standards of
24 conduct for Defendant.

25 41. If each individual Class Member was required to file an individual lawsuit, Defendant
26 would necessarily gain an unconscionable advantage because Defendant would be able to exploit and
27 overwhelm the limited resources of each member of the Class with Defendant's vastly superior
28 financial and legal resources.

42. Requiring each individual Class Member to pursue an individual remedy would also discourage the assertion of lawful claims by the Class Members who would be disinclined to pursue these claims against Defendant because of an appreciable and justifiable fear of retaliation and permanent damage to their lives, careers and well-being.

FIRST CAUSE OF ACTION

Failure to Reimburse for Necessary Business Expenses

Pursuant to Cal. Lab. Code §§ 2800, 2802

(On Behalf of Plaintiff and the Class)

43. Plaintiff realleges and incorporates the foregoing paragraphs as though fully set forth herein.

44. Defendant did not reimburse Plaintiff and Class Members for all necessary expenditures and losses incurred by Plaintiff and Class Members in direct consequence of the discharge of their work duties.

45. Cal. Lab. Code § 2802 provides, in relevant part:

An employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful. ... For the purposes of this section, the term “necessary expenditures or losses” shall include all reasonable costs, including, but not limited to, attorney’s fees incurred by the employee enforcing the rights granted by this section.

46. Defendant regularly requires Plaintiff and Class Members to use their personal cellphones for work-related communications. Defendant, however, does not reimburse Plaintiff and Class Members for these expenditures.

47. Defendant has knowingly and willfully refused to reimburse Plaintiff and Class Members for their necessarily incurred business expenses. These expenses include, but are not limited to, Plaintiff and Class Members’ requisite usage of their personal cellphones and personal internet, to perform their daily work duties. For example, Plaintiff and Class Members are required to use their personal cellular phones for work-related purposes, as described above. However, Defendant does not reimburse these workers for these expenditures. Defendant requires that Plaintiff and Aggrieved Employees constantly use their personal cellphone in the performance of their work duties. Plaintiff,

1 putative Class Members and Aggrieved Employees receive multiple phone calls, text messages, and
2 emails each day on their personal cell phones regarding damages to U-Haul vehicles, requests for
3 assistance on electricity and plumbing issues, and instructions for work related tasks. Plaintiff, putative
4 Class Members and Aggrieved Employees are also required to use the GPS on their personal cell
5 phones to navigate between store locations, and supervisors called and texted them on their personal
6 cell phones to inquire about job status. Defendant also requires Plaintiff, putative Class Members and
7 Aggrieved Employees to download and use the “Workday” app on their personal cell phones. Those
8 Aggrieved Employees holding positions requiring them to work outside of the store use the “Workday”
9 app for timekeeping purposes, *i.e.*, to clock in and out of work. Defendant also required Plaintiff,
10 putative Class Members and Aggrieved Employees to use their personal cell phones to check in U-
11 Haul trucks, process rentals of U-Haul trucks, and conduct inventory on storage units. Although
12 Defendant had some scanners available for Plaintiff, putative Class Members and Aggrieved
13 Employees to use and perform these tasks, Defendant encourages them to use their personal cell
14 phones instead. In addition, those putative Class Members and Aggrieved Employees with job
15 positions that require them to perform maintenance and deal directly with the U-Haul trucks and
16 trailers, are required to purchase tools such as, *inter alia*, gloves, screw drivers, and rubber mallets, in
17 order to perform their daily job duties. As employees of Defendant, Plaintiff and Class Members
18 reasonably and necessarily incurred these expenses. As a proximate result of the aforementioned
19 violations, Defendant has damaged Plaintiff and Class Members in an amount to be determined at trial.

20 48. Defendant is liable to Plaintiff and Class Members for the unreimbursed expenses and
21 civil penalties, with interest thereon. Plaintiff and Class Members are entitled to an award of attorney’s
22 fees and costs as set forth below.

23 49. Wherefore, Plaintiff and the putative Class require relief as hereinafter provided.

24 **SECOND CAUSE OF ACTION**

25 **Violation of Cal. Bus. & Prof. Code §§ 17200, *et seq.***

26 **(On Behalf of Plaintiff and the Class)**

27 50. Plaintiff realleges and incorporates the foregoing paragraphs as though fully set forth
28 herein.

1 51. The UCL prohibits unfair competition in the form of any unlawful, unfair, or fraudulent
2 business acts or practices.

3 52. Cal. Bus. & Prof. Code § 17204 allows a person injured by the unfair business acts or
4 practices to prosecute a civil action for violation of the UCL.

5 53. Cal. Lab. Code § 90.5(a) states it is the public policy of California to vigorously enforce
6 minimum labor standards in order to ensure employees are not required to work under substandard
7 and unlawful conditions, and to protect employers who comply with the law from those who attempt
8 to gain competitive advantage at the expense of their workers by failing to comply with minimum
9 labor standards.

10 54. Beginning at an exact date unknown to Plaintiff, but at least since the date four years
11 prior to the filing of this lawsuit, Defendant has committed acts of unfair competition as defined by
12 the UCL, by engaging in the unlawful, unfair, and fraudulent business acts and practices described in
13 this Complaint, including, but not limited to:

14 a. violations of Cal. Lab. Code §2802 for failure to reimburse for necessary
15 business expenses.

16 55. The violations of these laws and regulations, as well as of the fundamental California
17 public policies protecting wages, serve as unlawful predicate acts and practices for purposes of Cal.
18 Bus. & Prof. Code §§ 17200, *et seq.*

19 56. The acts and practices described above constitute unfair, unlawful, and fraudulent
20 business practices, and unfair competition, within the meaning of Cal. Bus. & Prof. Code §§ 17200,
21 *et seq.* Among other things, the acts and practices have failed to reimburse Plaintiff and Class Members
22 for business expenses he incurred that were necessary to perform their job duties, while enabling
23 Defendant to gain an unfair competitive advantage over law-abiding employers and competitors.

24 57. As a direct and proximate result of the aforementioned acts and practices, Plaintiff and
25 Class Members have suffered a loss of money and property, which are due and payable to them.

26 58. Cal. Bus. & Prof. Code § 17203 provides that the Court may restore to any person in
27 interest any money or property which may have been acquired by means of such unfair competition.
28 Plaintiff and Class Members are entitled to restitution pursuant to Cal. Bus. & Prof. Code § 17203 for

1 all payments unlawfully withheld from them during the four-year period prior to the filing of this
2 Complaint. Plaintiff and the Class Members' success in this action will enforce important rights
3 affecting the public interest. Plaintiff and Class Members seek and are entitled to reimbursement,
4 declaratory relief and all other equitable remedies owing to them.

5 59. Plaintiff herein takes upon himself enforcement of these laws and lawful claims. There
6 is a financial burden involved in pursuing this action, the action is seeking to vindicate a public right,
7 and it would be against the interests of justice to penalize Plaintiff by forcing him to pay attorneys'
8 fees from the recovery in this action. Attorneys' fees are appropriate pursuant to Cal. Code Civ. Proc.
9 § 1021.5 and otherwise.

10 60. Wherefore, Plaintiff and Class Members request relief as hereinafter provided.

11 **THIRD CAUSE OF ACTION**

12 **Penalties Pursuant to Cal. Lab. Code § 2699(f)**

13 **for Violations of Cal. Lab. Code §§ 204, 1194, and 1198**

14 **(On Behalf of the Aggrieved Employees)**

15 61. Plaintiff realleges and incorporates the foregoing paragraphs as though fully set forth
16 herein.

17 62. Plaintiff alleges that Defendant engages in a policy and practice of not compensating
18 Aggrieved Employees for all hours worked or spent in their control. Defendant regularly requires
19 Aggrieved Employees to perform uncompensated off-the-clock work.

20 63. Cal. Lab. Code § 200 defines wages as "all amounts for labor performed by employees
21 of every description, whether the amount is fixed or ascertained by the standard of time, task, piece,
22 commission basis or method of calculation."

23 64. Cal. Lab. Code § 204(a) provides that "[a]ll wages ... earned by any person in any
24 employment are due and payable twice during each calendar month...."

25 65. Cal. Lab. Code § 1194(a) provides as follows:

26 Notwithstanding any agreement to work for a lesser wage, any employee receiving less
27 than the legal minimum wage or the legal overtime compensation applicable to the
28 employee is entitled to recover in a civil action the unpaid balance of the full amount
of this minimum wage or overtime compensation, including interest thereon,
reasonable attorneys' fees, and costs of suit.

1 66. IWC Wage Orders, 4-2001(2)(G) and 9-2001(2)(H), defines hours worked as “the time
2 during which an employee is subject to the control of an employer, and includes all the time the
3 employee is suffered or permitted to work, whether or not required to do so.”

4 67. Cal. Lab. Code § 1198 makes it unlawful for employers to employ employees under
5 conditions that violate the Wage Order.

6 68. As alleged above, in violation of California law, Defendant refuses to provide
7 Aggrieved Employees with compensation for all time worked. Defendant requires Aggrieved
8 Employees to perform numerous tasks while off-the-clock outside of their scheduled shifts and to
9 remain on duty while clocked out for meal periods, time which Defendant neither record nor
10 compensate them for, resulting in widespread under-compensation of Aggrieved Employees.

11 69. Therefore, Defendant committed, and continues to commit, the acts alleged herein in
12 conscious disregard of the Aggrieved Employees’ rights.

13 70. Cal. Lab. Code § 2699(f)(2) provides a civil penalty of one hundred dollars (\$100) for
14 each Aggrieved Employee per pay period for the initial violation of a Cal. Lab. Code provision that
15 does not provide a civil penalty if, at the time of the violation, the employer employs one or more
16 employees. Cal. Lab. Code § 2699(f)(2) provides a civil penalty of two hundred dollars (\$200) for
17 each Aggrieved Employee per pay period for each subsequent violation of a Cal. Lab. Code provision
18 that does not provide a civil penalty if, at the time of the violation, the employer employs one or more
19 employees.

20 71. Plaintiff seeks to recover civil penalties on behalf of Aggrieved Employees from
21 Defendant for their failure to pay for all hours worked in violation of Cal. Lab. Code §§ 204, 1194,
22 and 1198 throughout California on behalf of himself, the State of California, and other Aggrieved
23 Employees pursuant to Cal. Lab. Code § 2699(f).

24 72. Plaintiff also seeks civil penalties on behalf of Aggrieved Employees pursuant to Cal.
25 Lab. Code § 2699(a) for the unlawful conduct alleged herein, on behalf of the State, other Aggrieved
26 Employees, and himself, for Defendant’s violations of Cal. Lab. Code provisions including but not
27 limited to Cal. Lab. Code § 558(a).

28 73. Pursuant to Cal. Lab. Code §§ 2699.3(a)(1) and (2), on January 4, 2023, Donny Sheldon

provided the Labor and Workforce Development Agency (“LWDA”) with notice of his intention to file this claim. At least sixty-five calendar days have passed without a response from the LWDA. Plaintiff satisfied the administrative prerequisites to commence this civil action in compliance with Cal. Lab. Code § 2699.3(a).

74. Defendant is liable to Plaintiff, the State of California, and Aggrieved Employees for the civil penalties set forth in this Complaint, with interest thereon. Plaintiff is also entitled to an award of attorneys’ fees and costs as set forth below.

75. Wherefore, Plaintiff requests relief as hereinafter provided.

FOURTH CAUSE OF ACTION

Penalties Pursuant to Cal. Lab. Code § 2699(f)

for Violations of Cal. Lab. Code §§ 1182.12, 1194, and 1197

(On Behalf of the Aggrieved Employees)

76. Plaintiff realleges and incorporates the foregoing paragraphs as though fully set forth herein.

77. During the applicable statutory period, Cal. Lab. Code §§ 1182.12 and 1197, and the Minimum Wage Order were in full force and effect, and required that Defendant’s hourly employees receive the minimum wage for all hours worked irrespective of whether nominally paid on a piece rate, or any other basis, at the rate of thirteen dollars (\$13.00) commencing January 1, 2020, at the rate of fourteen dollars (\$14.00) commencing January 1, 2021; at the rate of fifteen dollars (\$15.00) commencing January 1, 2022; and at the rate of fifteen dollars and fifteen cents (\$15.50) commencing January 1, 2023.

78. IWC Wage Orders 4-2001(2)(G) and 9-2001(2)(H) defines hours worked 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.”

79. Cal. Lab. Code § 1194 provides as follows:

Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorneys’ fees, and costs of suit.

1 80. Cal. Lab. Code § 1198 makes it unlawful for employers to employ employees under
2 conditions that violate the Wage Orders.

3 81. Defendant's policies and practices with regard to compensating Aggrieved Employees,
4 as alleged herein, have resulted in Aggrieved Employees frequently performing work while off-the-
5 clock for which Defendant compensates them below the statutory minimum wage.

6 82. Cal. Lab. Code § 2699(f)(2) provides a civil penalty of one hundred dollars (\$100) for
7 each Aggrieved Employee per pay period for the initial violation of a Cal. Lab. Code provision that
8 does not provide a civil penalty if, at the time of the violation, the employer employs one or more
9 employees. Cal. Lab. Code § 2699(f)(2) provides a civil penalty of two hundred dollars (\$200) for
10 each Aggrieved Employee per pay period for each subsequent violation of a Cal. Lab. Code provision
11 that does not provide a civil penalty if, at the time of the violation, the employer employs one or more
12 employees.

13 83. Plaintiff seeks to recover civil penalties on behalf of Aggrieved Employees from
14 Defendant for their failure to pay minimum wages in violation of Cal. Lab. Code §§ 1182.12, 1194,
15 and 1197 throughout California on behalf of himself, the State of California, and other Aggrieved
16 Employees pursuant to Cal. Lab. Code § 2699(f).

17 84. Pursuant to Cal. Lab. Code §§ 2699.3(a)(1) and (2), on January 4, 2023, Donny Sheldon
18 provided the Labor and Workforce Development Agency ("LWDA") with notice of his intention to
19 file this claim. At least Sixty-five calendar days have passed without a response from the LWDA.
20 Plaintiff satisfied the administrative prerequisites to commence this civil action in compliance with
21 Cal. Lab. Code § 2699.3(a).

22 85. Defendant is liable to Plaintiff, the State of California, and Aggrieved Employees for
23 the civil penalties set forth in this Complaint, with interest thereon. Plaintiff is also entitled to an award
24 of attorneys' fees and costs as set forth below.

25 86. Wherefore, Plaintiff requests relief as hereinafter provided.
26
27
28

FIFTH CAUSE OF ACTION

**Penalties Pursuant to Cal. Lab. Code § 2699(f)
for Violations of Cal. Lab. Code §§ 510 and 1194
(On Behalf of the Aggrieved Employees)**

87. Plaintiff realleges and incorporates the foregoing paragraphs as though fully set forth herein.

88. Defendant does not properly compensate Aggrieved Employees with appropriate overtime premiums, as required by California law.

89. Cal. Lab. Code § 510(a) provides as follows:

Eight hours of labor constitutes a day's work. Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee.

90. Cal. Lab. Code § 1194(a) provides as follows:

Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorneys' fees, and costs of suit.

91. Cal. Lab. Code § 200 defines wages as "all amounts of labor performed by employees of every description, whether the amount is fixed or ascertained by the standard of time, task, piece, commission basis or other method of calculation." All such wages are subject to California's overtime requirements, including those set forth above.

92. As a result of Defendant's unlawful overtime policies and practices, as alleged herein, Aggrieved Employees have worked overtime hours for Defendant without being paid overtime premiums in violation of the Cal. Lab. Code, the applicable IWC Wage Orders, and other applicable law.

93. Cal. Lab. Code § 2699(f)(2) provides a civil penalty of one hundred dollars (\$100) for each Aggrieved Employee per pay period for the initial violation of a Cal. Lab. Code provision that does not provide a civil penalty if, at the time of the violation, the employer employs one or more

employees. Cal. Lab. Code § 2699(f)(2) provides a civil penalty of two hundred dollars (\$200) for each Aggrieved Employee per pay period for each subsequent violation of a Cal. Lab. Code provision that does not provide a civil penalty if, at the time of the violation, the employer employs one or more employees.

94. Plaintiff seeks to recover civil penalties on behalf of Aggrieved Employees from Defendant for its failure to pay overtime wages in violation of Cal. Lab. Code §§ 510 and 1194 and the applicable Wage Orders throughout California on behalf of himself, the State of California, and other Aggrieved Employees pursuant to Cal. Lab. Code § 2699(f).

95. Pursuant to Cal. Lab. Code §§ 2699.3(a)(1) and (2), on January 4, 2023, Donny Sheldon provided the Labor and Workforce Development Agency (“LWDA”) with notice of his intention to file this claim. At least sixty-five calendar days have passed without a response from the LWDA. Plaintiff satisfied the administrative prerequisites to commence this civil action in compliance with Cal. Lab. Code § 2699.3(a).

96. Defendant is liable to Plaintiff, the State of California, and Aggrieved Employees for the civil penalties set forth in this Complaint, with interest thereon. Plaintiff is also entitled to an award of attorneys’ fees and costs as set forth below.

97. Wherefore, Plaintiff requests relief as hereinafter provided.

SIXTH CAUSE OF ACTION

Penalties Pursuant to Cal. Lab. Code § 2699(f) for Violations of Cal. Lab. Code §§ 226.7 and 512 (On Behalf of the Aggrieved Employees)

98. Plaintiff realleges and incorporates the foregoing paragraphs as though fully set forth herein.

99. Cal. Lab. Code §§ 226.7 and 512 and the applicable Wage Orders require Defendant to authorize and permit meal periods to their employees. Cal. Lab. Code §§ 226.7 and 512 and the applicable Wage Orders prohibit employers from employing an employee for more than five hours without a meal period of not less than thirty minutes. Unless the employee is relieved of all duty during the thirty-minute meal period, the employee is considered “on duty” and the meal period is counted as

1 time worked under the applicable Wage Orders.

2 100. Cal. Lab. Code § 512(a) provides:

3 An employer shall not employ an employee for a work period of more than five hours
4 per day without providing the employee with a meal period of not less than 30 minutes,
5 except that if the total work period per day of the employee is no more than six hours,
6 the meal period may be waived by mutual consent of both the employer and employee.
7 An employer shall not employ an employee for a work period of more than 10 hours
per day without providing the employee with a second meal period of not less than 30
minutes, except that if the total hours worked is no more than 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.

8 101. Under Cal. Lab. Code § 226.7(b) and the applicable Wage Orders, an employer who
9 fails to authorize, permit, and/or make available a required meal period must, as compensation, pay
10 the employee one hour of pay at the employee's regular rate of compensation for each workday that
11 the meal period was not authorized and permitted.

12 102. Despite these requirements, Defendant refuses to perform their obligation to authorize
13 and permit and/or make available to Aggrieved Employees the ability to take the off-duty meal periods
14 to which they are entitled.

15 103. Defendant also fails to pay Aggrieved Employees one hour of pay for each off-duty
16 meal period that they are denied. Defendant's conduct described herein violates Cal. Lab. Code §§
17 226.7 and 512.

18 104. Cal. Lab. Code § 2699(f)(2) provides a civil penalty of one hundred dollars (\$100) for
19 each Aggrieved Employee per pay period for the initial violation of a Cal. Lab. Code provision that
20 does not provide a civil penalty if, at the time of the violation, the employer employs one or more
21 employees. Cal. Lab. Code § 2699(f)(2) provides a civil penalty of two hundred dollars (\$200) for
22 each Aggrieved Employee per pay period for each subsequent violation of a Cal. Lab. Code provision
23 that does not provide a civil penalty if, at the time of the violation, the employer employs one or more
24 employees.

25 105. Plaintiff seeks to recover civil penalties on behalf of Aggrieved Employees from
26 Defendant for their violations of the meal period requirements of Cal. Lab. Code §§ 226.7 and 512
27 throughout California on behalf of himself, the State of California, and other Aggrieved Employees
28 pursuant to Cal. Lab. Code § 2699(f).

1 106. Plaintiff also seek civil penalties pursuant to Cal. Lab. Code § 2699(f) for the unlawful
2 conduct alleged herein, on behalf of the State, other Aggrieved Employees, and himself, for
3 Defendant’s violations of Cal. Lab. Code provisions including but not limited to Cal. Lab. Code §§
4 512.

5 107. Pursuant to Cal. Lab. Code §§ 2699.3(a)(1) and (2), on January 4, 2023, Donny Sheldon
6 provided the Labor and Workforce Development Agency (“LWDA”) with notice of his intention to
7 file this claim. At least Sixty-five calendar days have passed without a response from the LWDA.
8 Plaintiff satisfied the administrative prerequisites to commence this civil action in compliance with
9 Cal. Lab. Code § 2699.3(a).

10 108. Defendant is liable to Plaintiff, the State of California, and Aggrieved Employees for
11 the civil penalties set forth in this Complaint, with interest thereon. Plaintiff is also entitled to an award
12 of attorneys’ fees and costs as set forth below.

13 109. Wherefore, Plaintiff requests relief as hereinafter provided.

14 **SEVENTH CAUSE OF ACTION**

15 **Penalties Pursuant to Cal. Lab. Code § 2699(f)**

16 **for Violations of Cal. Lab. Code § 226.7**

17 **(On Behalf of the Aggrieved Employees)**

18 110. Plaintiff realleges and incorporates the foregoing paragraphs as though fully set forth
19 herein.

20 111. Cal. Lab. Code § 226.7 and the applicable Wage Orders require Defendant to authorize
21 and permit rest periods to their employees. Cal. Lab. Code § 226.7 and the applicable Wage Orders
22 require employers to authorize and permit employees to take ten minutes of net rest time per four hours
23 or major fraction thereof of work, and to pay employees their full wages during those rest periods.
24 Unless the employee is relieved of all duty during the ten-minute rest period, the employee is
25 considered “on duty” and the rest period is counted as time worked under the applicable Wage Orders.

26 112. Under Cal. Lab. Code § 226.7(b) and the applicable Wage Orders, an employer must
27 pay an employee denied a required rest period one hour of pay at the employee’s regular rate of
28 compensation for each workday that the rest period was not authorized and permitted and/or not made

1 available.

2 113. Despite these requirements, Defendant refuses to perform their obligation to authorize
3 and permit and/or make available to Aggrieved Employees the ability to take the off-duty rest periods
4 to which they are entitled.

5 114. Defendant also fails to pay Aggrieved Employees one hour of pay for each off-duty rest
6 period that they are denied. Defendant's conduct described herein violates Cal. Lab. Code § 226.7.

7 115. Cal. Lab. Code § 2699(f)(2) provides a civil penalty of one hundred dollars (\$100) for
8 each Aggrieved Employee per pay period for the initial violation of a Cal. Lab. Code provision that
9 does not provide a civil penalty if, at the time of the violation, the employer employs one or more
10 employees. Cal. Lab. Code § 2699(f)(2) provides a civil penalty of two hundred dollars (\$200) for
11 each Aggrieved Employee per pay period for each subsequent violation of a Cal. Lab. Code provision
12 that does not provide a civil penalty if, at the time of the violation, the employer employs one or more
13 employees.

14 116. Plaintiff seeks to recover civil penalties on behalf of Aggrieved Employees from
15 Defendant for their violations of the rest period requirements of Cal. Lab. Code § 226.7 throughout
16 California on behalf of himself, the State of California, and other Aggrieved Employees pursuant to
17 Cal. Lab. Code § 2699(f).

18 117. Plaintiff also seek civil penalties pursuant to Cal. Lab. Code § 2699(a) for the unlawful
19 conduct alleged herein, on behalf of the State, other Aggrieved Employees, and himself, for
20 Defendant's violations of Cal. Lab. Code provisions including but not limited to Cal. Lab. Code §
21 558(a).

22 118. Pursuant to Cal. Lab. Code §§ 2699.3(a)(1) and (2), on January 4, 2023, Donny Sheldon
23 provided the Labor and Workforce Development Agency ("LWDA") with notice of his intention to
24 file this claim. At least sixty-five calendar days have passed without a response from the LWDA.
25 Plaintiff satisfied the administrative prerequisites to commence this civil action in compliance with
26 Cal. Lab. Code § 2699.3(a).

27 119. Defendant is liable to Plaintiff, the State of California, and Aggrieved Employees for
28 the civil penalties set forth in this Complaint, with interest thereon. Plaintiff is also entitled to an award

of attorneys' fees and costs as set forth below.

120. Wherefore, Plaintiff requests relief as hereinafter provided.

EIGHTH CAUSE OF ACTION

Penalties Pursuant to Cal. Lab. Code § 2699(a)

for Violations of Cal. Lab. Code § 226

(On Behalf of the Aggrieved Employees)

121. Plaintiff realleges and incorporates the foregoing paragraphs as though fully set forth herein.

122. Defendant does not provide Aggrieved Employees with accurate itemized wage statements as required by California law, as a result of the meal and rest period, minimum wage overtime violations set forth above.

123. Cal. Lab. Code § 226(a) provides:

An employer, semimonthly or at the time of each payment of wages, shall furnish to his or her employee, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately if wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except as provided in subdivision (j), (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) 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, (8) the name and address of the legal entity that is the employer ... and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee ... The deductions made from payment of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement and the record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California.

124. The IWC Wage Orders also establish this requirement. (*See* IWC Wage Orders 4-2001 and 9-2001).

125. Cal. Lab. Code § 226(e)(1) provides:

An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney's fees.

1 126. The wage statements Defendant provides its employees, including the Aggrieved
2 Employees, do not reflect the actual gross wages earned, actual net wages earned, and actual hours
3 worked. Accordingly, Defendant has failed to provide timely, accurate itemized wage statements to
4 Aggrieved Employees in accordance with Cal. Lab. Code § 226 and the IWC Wage Orders.

5 127. Cal. Lab. Code § 2699(a) permits an Aggrieved Employee to recover any civil penalty
6 to be assessed and collected by the LWDA for a violation of the Cal. Lab. Code on behalf of himself
7 and other current or former employees pursuant to the procedures set forth in Cal. Lab. Code § 2699.3.

8 128. Cal. Lab. Code § 2699(a) provides:

9 Notwithstanding any other provision of law, any provision of this code that provides
10 for a civil penalty to be assessed and collected by the Labor and Workforce
11 Development Agency or any of its departments, divisions, commissions, boards,
12 agencies or employees, for a violation of this code, may, as an alternative, be recovered
13 through a civil action brought by an Aggrieved Employee on behalf of himself or
14 herself and other current or former employees.

15 129. Plaintiff seeks to recover civil penalties on behalf of Aggrieved Employees from
16 Defendant pursuant to Cal. Lab. Code § 2699(a) for each failure by Defendant, alleged above, to
17 provide Aggrieved Employees an accurate, itemized wage statement in compliance with Cal. Lab.
18 Code § 226(a) in the amounts established by Cal. Lab. Code § 226(e). Plaintiff seeks such penalties
19 on behalf of Aggrieved Employees as an alternative to the penalties available under Cal. Lab. Code §
20 226(e), as prayed for herein.

21 130. Plaintiff also seeks civil penalties on behalf of Aggrieved Employees pursuant to Cal.
22 Lab. Code § 2699(a) for each failure by Defendant, alleged above, to provide Aggrieved Employees
23 an accurate, itemized wage statement in compliance with Cal. Lab. Code § 226(a) in the amounts
24 established by Cal. Lab. Code § 226.3. In addition, Plaintiff seeks on behalf of Aggrieved Employees
25 penalties in the amount established by Cal. Lab. Code § 226(e)(1).

26 131. Pursuant to Cal. Lab. Code §§ 2699.3(a)(1) and (2), on January 4, 2023, Donny Sheldon
27 provided the Labor and Workforce Development Agency (“LWDA”) with notice of his intention to
28 file this claim. At least Sixty-five calendar days have passed without a response from the LWDA.
Plaintiff satisfied the administrative prerequisites to commence this civil action in compliance with
Cal. Lab. Code § 2699.3(a).

132. Defendant is liable to Plaintiff, the State of California, and Aggrieved Employees for the civil penalties set forth in this Complaint, with interest thereon. Plaintiff is also entitled to an award of attorneys' fees and costs as set forth below.

39. Wherefore, Plaintiff requests relief as hereinafter provided.

NINTH CAUSE OF ACTION

Penalties Pursuant to Cal. Lab. Code § 2699(f)

for Violations of Cal. Lab. Code § 2802

(On Behalf of the Aggrieved Employees)

40. Plaintiff realleges and incorporates the foregoing paragraphs as though fully set forth herein.

41. Defendant fails to reimburse Plaintiff and Aggrieved Employees for all business expenses incurred while on the job. As alleged herein, Defendant requires that Plaintiff and Aggrieved Employees constantly use their personal cellphone in the performance of their work duties. Moreover, Defendant instructs those Plaintiff and Aggrieved Employees with job positions requiring them to perform maintenance on U-Haul trucks and trailers to purchase and provide their own tools such as, *inter alia*, gloves, screw drivers, and rubber mallets. However, Defendant does not reimburse them for these expenditures.

42. Cal. Lab. Code § 2802(a) provides as follows:

An employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful.

43. Cal. Lab. Code § 2699(f)(2) provides a civil penalty of one hundred dollars (\$100) for each Aggrieved Employee per pay period for the initial violation of a Cal. Lab. Code provision that does not provide a civil penalty if, at the time of the violation, the employer employs one or more employees. Cal. Lab. Code § 2699(f)(2) provides a civil penalty of two hundred dollars (\$200) for each Aggrieved Employee per pay period for each subsequent violation of a Cal. Lab. Code provision that does not provide a civil penalty if, at the time of the violation, the employer employs one or more employees.

44. Plaintiff seeks to recover civil penalties on behalf of himself and on behalf of Aggrieved Employees from Defendant for their failure to reimburse necessary business expenses in violation of Cal. Lab. Code § 2802 and the applicable Wage Orders throughout California on behalf of the State of California and the Aggrieved Employees pursuant to Cal. Lab. Code § 2699(f).

45. Pursuant to Cal. Lab. Code §§ 2699.3(a)(1) and (2), on January 4, 2023, Donny Sheldon provided the Labor and Workforce Development Agency (“LWDA”) with notice of his intention to file this claim. At least Sixty-five calendar days have passed without a response from the LWDA. Plaintiff satisfied the administrative prerequisites to commence this civil action in compliance with Cal. Lab. Code § 2699.3(a).

46. Defendant is liable to the State of California and Aggrieved Employees for the civil penalties set forth in this Complaint, with interest thereon. Plaintiff is also entitled to an award of attorneys' fees and costs as set forth below.

47. Wherefore, Plaintiff requests relief as hereinafter provided.

TENTH CAUSE OF ACTION

Penalties Pursuant to Cal. Lab. Code § 2699(a)

for Violations of Cal. Lab. Code §§ 201-203

(On Behalf of the Aggrieved Employees)

48. Plaintiff realleges and incorporates the foregoing paragraphs as though fully set forth herein.

49. Defendant does not provide Aggrieved Employees with their full wages upon separation from employment in violation of California law.

50. Cal. Lab. Code §§ 201 and 202 require employers to immediately pay wages earned and unpaid to an employee that is discharged, and to pay an employee who quits within 72 hours after he or she quits, at the latest.

51. Cal. Lab. Code § 203 provides, in relevant part:

If an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.3, 201.5, 201.9, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days.

52. Cal. Lab. Code § 256 provides: “The Labor Commissioner shall impose a civil penalty in an amount not exceeding 30 days pay as waiting time under the terms of Section 203.”

53. Cal. Lab. Code § 2699(a) permits an Aggrieved Employee to recover any civil penalty to be assessed and collected by the LWDA for a violation of the Cal. Lab. Code on behalf of himself or herself and other current or former employees pursuant to the procedures set forth in Cal. Lab. Code § 2699.3.

54. Cal. Lab. Code § 2699(a) provides:

Notwithstanding any other provision of law, any provision of this code that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency or any of its departments, divisions, commissions, boards, agencies or employees, for a violation of this code, may, as an alternative, be recovered through a civil action brought by an Aggrieved Employee on behalf of himself or herself and other current or former employees.

55. Plaintiff seeks civil penalties on behalf of Aggrieved Employees pursuant to Cal. Lab. Code § 2699(a) for each failure by Defendant, as alleged above, to timely pay all wages owed to Aggrieved Employees in compliance with Cal. Lab. Code §§ 201-202 and in the amounts established by Cal. Lab. Code § 203.

56. Pursuant to Cal. Lab. Code §§ 2699.3(a)(1) and (2), on January 4, 2023, Donny Sheldon provided the Labor and Workforce Development Agency (“LWDA”) with notice of his intention to file this claim. At least sixty-five calendar days have passed without a response from the LWDA. Plaintiff satisfied the administrative prerequisites to commence this civil action in compliance with Cal. Lab. Code § 2699.3(a).

57. Defendant is liable to Plaintiff, the State of California, and Aggrieved Employees for the civil penalties set forth in this Complaint, with interest thereon. Plaintiff is also entitled to an award of attorneys' fees and costs as set forth below.

58. Wherefore, Plaintiff request relief as hereinafter provided.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for relief as follows:

1. Damages and restitution according to proof at trial for all unpaid expense reimbursements and other injuries, as provided by the Cal. Lab. Code and Cal. Bus. &

1 Prof. Code;

2 2. For a declaratory judgment that Defendant has violated the California Labor Code and
3 public policy as alleged herein;

4 3. For an equitable accounting to identify, locate, and restore to all current and former
5 employees the expense reimbursements they are due, with interest thereon;

6 4. For a declaratory judgment that Defendant has violated Cal. Bus. & Prof. Code §§
7 17200, *et seq.*, as a result of the aforementioned violations of the California Labor Code
8 and of California public policy protecting wages;

9 5. For an order awarding Plaintiff and Class Members compensatory damages, restitution,
10 recovery of all money, actual damages, and all other sums of money owed to Plaintiff
11 and Class Members, together with interest on these amounts, according to proof;

12 6. For an order awarding civil penalties to the full extent provided for by the PAGA;

13 7. For an order awarding Plaintiff and Class Members civil penalties pursuant to the Cal.
14 Lab. Code, and provisions cited herein, with interest thereon;

15 8. For an award of reasonable attorneys' fees as provided by the California Labor Code,
16 including Cal. Lab. Code §§ 2699(g)(1) and 2802, Cal. Code Civ. Proc. § 1021.5, the
17 laws of the State of California, and/or other applicable law;

18 9. For all costs of suit;

19 10. For interest on any damages and/or penalties awarded, as provided by applicable law;
20 and

21 11. For such other and further relief as this Court deems just and proper.

22
23 Dated: June 27, 2023

Respectfully Submitted,

24
25 

26 Carolyn H. Cottrell

Ori Edelstein

Eugene Zinovyev

27 Philippe M.J. Gaudard

SCHNEIDER WALLACE

COTTRELL KONECKY LLP
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

*Attorneys for Plaintiff, on behalf of the putative Class,
the State of California and the Aggrieved Employees*

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

JURY DEMAND

Plaintiff hereby demands a jury trial on all claims and issues for which Plaintiff is entitled to a jury.

Dated: June 27, 2023

Respectfully Submitted,



Carolyn H. Cottrell
Ori Edelstein
Eugene Zinovyev
Philippe M.J. Gaudard
**SCHNEIDER WALLACE
COTTRELL KONECKY LLP**

*Attorneys for Plaintiff, on behalf of the putative Class,
the State of California and the Aggrieved Employees*