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14 Attorneys for Plaintiff,
15 MANH NGUYEN

Assigned for all Purposes
Judge Randall J. Sherman

CX-105

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 COUNTY OF ORANGE

14 MANH NGUYEN, an individual, on behalf
15 of himself and all others similarly situated
16 and aggrieved,

16 Plaintiff,

18 vs.

20 ROBINSON PHARMA, INC., a California
21 corporation; and DOES 1 to 50, inclusive,

22 Defendants.

Case No.: 30-2021-01224817-CU-OE-CXC

CLASS AND REPRESENTATIVE ACTION
COMPLAINT FOR:

1. Recovery of Unpaid Minimum Wages and Liquidated Damages
2. Recovery of Unpaid Overtime
3. Failure to Provide Meal Periods or Compensation in Lieu Thereof
4. Failure to Provide Rest Periods or Compensation in Lieu Thereof
5. Failure to Furnish Accurate Itemized Wage Statements
6. Failure to Timely Pay All Wages Due Upon Separation of Employment;
7. Failure to Timely Produce Employment Records;
8. Unfair Competition; and
9. Violation of the Private Attorneys General Act of 2004

JURY TRIAL DEMANDED

1 **INTRODUCTION**

2 Plaintiff, MANH NGUYEN, an individual, on behalf of himself and all other employees
3 similarly situated and aggrieved, hereby files this Complaint against Defendant, ROBINSON
4 PHARMA, INC., a California corporation. Plaintiff is informed and believes, and on the basis of
5 that information and belief, alleges as follows:

6 **JURISDICTION AND VENUE**

7 1. This court possesses original subject matter jurisdiction over this matter. Venue is
8 proper in Orange County, California, because Defendant ROBINSON PHARMA, INC. maintains
9 its principal place of business in Orange County, and some of the complained of conduct occurred
10 in this judicial district.

11 **THE PARTIES**

12 2. Plaintiff resides in the State of California. Plaintiff worked for Defendant
13 ROBINSON PHARMA, INC. in the State of California as a non-exempt, hourly-paid employee
14 during the relevant time period.

15 3. Defendant ROBINSON PHARMA, INC. (hereinafter “Defendant” or “ROBINSON
16 PHARMA”) is a California corporation that, at all relevant times, was authorized to do business
17 within the State of California and is doing business in the State of California. ROBINSON
18 PHARMA is a manufacturer and distributor of nutritional and dietary products.

19 4. The true names and capacities of the DOE Defendants sued herein as DOES 1
20 through 50, inclusive, are currently unknown to Plaintiff, who therefore sues each such Defendant
21 by said fictitious names. Each of the Defendants designated herein as a DOE is legally responsible
22 for the unlawful acts alleged herein. Plaintiff will seek leave of Court to amend this Complaint to
23 reflect the true names and capacities of the DOE Defendants when such identities become known.

24 5. Plaintiff is informed and believes, and based thereon alleges, that at all relevant
25 times, each Defendant was the principal, agent, partner, joint venturer, joint employer, officer,
26 director, controlling shareholder, subsidiary, affiliate, parent corporation, successor in interest
27 and/or predecessor in interest of some or all of the other Defendants, and was engaged with some
28 or all of the other defendants in a joint enterprise for profit, and bore such other relationships to

some or all of the other Defendants so as to be liable for their conduct with respect to the matters alleged in this complaint. Plaintiff is further informed and believes, and based thereon alleges, that each Defendant acted pursuant to and within the scope of the relationships alleged above, and that at all relevant times, each Defendant knew, or should have known about, authorized, ratified, adopted, approved, controlled, or aided and abetted the conduct of all other Defendants.

6. Whenever and wherever reference is made in this complaint to any act or failure to act by a Defendants or co-Defendant, such allegations and references shall also be deemed to mean the acts and/or failures to act by each Defendants acting individually, jointly and severally.

CLASS ALLEGATIONS

7. Plaintiff brings this action on behalf of Plaintiff and all others similarly situated as a class action pursuant to Code of Civil Procedure section 382. The class Plaintiff seeks to represent is defined as: “All non-exempt workers who were employed by ROBINSON PHARMA in California at any time within the four years prior to the filing of the initial complaint” (the “Class Members”).

a. Numerosity: While the exact number of Class Members is unknown to Plaintiff currently, the class is so numerous that the individual joinder of all members is impractical under the circumstances of this case. Plaintiff believes there are more than 100 potential Class Members.

b. Common Questions of Law and Fact. This lawsuit is suitable for class treatment because common questions of law and fact predominate over individual issues. Common questions include, but are not limited to, the following: (1) whether Defendant understated hours worked and failed to pay all amounts due to Plaintiff and the Class Members for wages earned, including minimum and overtime wages; (2) whether Defendant provided Plaintiff and the Class Members with all meal periods or premium payments in lieu thereof in compliance with California law; (3) whether Defendant provided Plaintiff and the Class members with all rest periods or premium payments in lieu thereof, in compliance with California law; (4) whether Defendant provided Plaintiff and the Class Members with accurate, itemized wage statements in compliance with

1 California law; (5) whether Defendant timely paid Plaintiff and the Class Members all
2 wages due upon separation of employment; (6) whether Defendant failed to produce
3 employment records within the time limits mandated by California Labor Code section
4 226; (7) whether Defendant violated California Business and Professions Code sections
5 17200, et seq.

- 6 c. Ascertainable Class. The proposed class is ascertainable as its members can be identified
7 and located using information in Defendant's business, payroll and personnel records.
- 8 d. Typicality. Plaintiff's claims are typical of the claims of the Class Members. Plaintiff
9 suffered a similar injury as the other Class Members as a result of Defendant's common
10 practices regarding, among other things, failure to calculate and pay all owed minimum
11 and overtime wages, failure to provide proper meal and rest periods or premium
12 compensation in lieu thereof, and payment of wages due upon termination.
- 13 e. Adequacy of Representation: Plaintiff is a member of the Class that he seeks to represent,
14 and will fairly and adequately represent and protect the interests of the Class Members.
15 Counsel representing Plaintiff are competent and experienced in litigating wage and hour
16 class actions.
- 17 f. Superiority. A class action is superior to other available means for the fair and efficient
18 adjudication of this controversy. Individual joinder of all Class Members is not
19 practicable, and questions of law and fact common to the Class predominate over any
20 questions affecting only individual members of the Class. Each Class Member has
21 suffered injury and is entitled to recover by reason of Defendant's illegal policies and/or
22 practices as alleged herein. Class action treatment will allow those similarly situated
23 persons to litigate their claims in the manner that is most efficient and economical for
24 the parties and the judicial system. Further, the prosecution of separate actions against
25 Defendant by individual Class Members would create a risk of inconsistent or varying
26 adjudications that would establish incompatible standards of conduct for Defendant.
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1 **FACTUAL ALLEGATIONS**

2 8. During the four-year period preceding filing of this complaint, Plaintiff, and each of
3 the Class Members, were employed by Defendant in the State of California as non-exempt, hourly-
4 paid workers. At all times referenced herein, Defendant exercised control over Plaintiff and each of
5 the Class Members and suffered and/or permitted them to work.

6 9. Plaintiff was employed by Defendant as a non-exempt, hourly-paid employee from
7 in or about November 2019 until in or about March 2021. Plaintiff worked as a blending technician
8 in Defendant's tablet blending department. Plaintiff was typically scheduled to work eight (8) to
9 nine (9) hours per day, five (5) days a week.

10 10. Plaintiff was not paid for all hours worked because of Defendant's automatic
11 deduction policy and practice for meal periods described in further detail below. Additionally,
12 Defendant implemented a time-shaving/time-rounding system that, as applied, systematically
13 deprived Plaintiff of compensable time. Defendant had a practice of paying Plaintiff for scheduled
14 hours instead of actual time worked, resulting in Plaintiff not being paid for all time worked.
15 Defendant also rounded the start and end times of employee meal periods resulting in Plaintiff not
16 being paid for all time worked.

17 11. Defendant failed to compensate Plaintiff for time spent having to don and doff safety
18 equipment and clothing. Defendant required Plaintiff to don safety equipment and clothing before
19 clocking in for Plaintiff's shifts and doff safety equipment and clothing after having clocked out for
20 the end of Plaintiff's shifts. Moreover, Plaintiff was required to don and doff his safety equipment
21 and clothing during any allotted meal periods. Such deducted time expended by Plaintiff qualified
22 as "hours worked" within the meaning of the California Labor Code and Industrial Wage
23 Commission ("IWC") Wage Orders, for which Defendant failed to compensate Plaintiff, resulting
24 in violations of California's minimum and overtime wage laws.

25 12. Plaintiff regularly worked more than five (5) hours per day without receiving a
26 timely meal period of at least thirty (30) minutes during which he was relieved of all duties. Plaintiff
27 was often forced to take late meal periods and/or work through part or all of Plaintiff's meal periods
28 due to the nature and constraints of Plaintiff's job duties and or commentary from Defendant

1 pressuring Plaintiff to take non-compliant breaks or skip breaks completely to meet deadlines and
2 or tend to running machinery Plaintiff operated. Per Defendant's policy and practice, a team leader
3 would simply tell Plaintiff to take his lunch when time permitted. Accordingly, Plaintiff's meal
4 periods were often untimely, on-duty, interrupted and/or cut short. Nevertheless, Defendant
5 implemented a policy and practice of automatically deducting thirty minutes per shift for these
6 missed/improper meal periods, despite having actual and/or constructive knowledge that Plaintiff
7 did not receive compliant meal periods. Defendant did not provide Plaintiff one (1) additional hour
8 of pay for each workday that a proper meal period was not provided.

9 13. Defendant required Plaintiff to continuously work without authorizing or providing
10 all owed paid rest periods. Plaintiff regularly worked more than three-and-one-half (3½) hours
11 without being authorized or permitted to take a paid ten (10) minute off-duty rest period. Defendant
12 employed policies and procedures that ensured Plaintiff did not receive all legally required rest
13 periods. Plaintiff was not always able to avail himself of his rest breaks for various reasons,
14 including but not limited to, pressure to meet deadlines and or the need to tend to machinery while
15 it was running. Moreover, based on information and belief, Plaintiff was required to remain on the
16 worksite premises during any purported rest periods and thus remained under employer control,
17 rendering any provided rest periods improper. Defendant did not provide Plaintiff one (1)
18 additional hour of pay for each workday that a proper rest period was not provided.

19 14. Defendant failed to furnish Plaintiff with complete and accurate wage statements in
20 compliance with Labor Code section 226. Defendant's wage statements do not accurately reflect,
21 the total gross and net wages earned, including, all earned minimum and overtime wages, all accrued
22 and owed sick leave wages, and do not accurately reflect all applicable hourly rates in effect during
23 the pay period and the corresponding number of hours worked at each hourly rate. Notably, due to
24 Defendant's unlawful automatic deduction, rounding, and other mandated off-the-clock work
25 policies and practices described herein, Defendant's wage statements fail to reflect the true total
26 hours Plaintiff worked, a requirement of Labor Code section 226.

27 15. Upon separation of employment, Plaintiff's final paycheck was not timely provided
28 to Plaintiff, and Plaintiff's final paycheck, once provided, did not include all wages owed and unpaid

1 as it was devoid of, including but not limited to, all owed minimum, overtime, and sick leave wages.

2 16. On July 9, 2021, Plaintiff's counsel sent Defendant a written letter requesting, among
3 other things, a copy of Plaintiff's payroll records and personnel file. This letter was addressed to
4 Tam Nguyen, Defendant's chief executive officer and agent for service of process, and sent via
5 certified mail to Defendant's principal place of business as listed with the California Secretary of
6 State (3330 South Harbor Boulevard, Santa Ana, CA 92704. Defendant's deadline to produce
7 Plaintiff's employment records was July 30, 2021. On August 12, 2021, Plaintiff's counsel sent
8 Defendant a follow up letter requesting Plaintiff's employment records. On August, 20, 2021,
9 Defendant confirmed it had received both of Plaintiff's requests and would comply. Plaintiff
10 received a partial production of the records on or about August 28, 2021. As a result, Defendant has
11 failed to timely provide Plaintiff with his employment records. Thus, Defendant is in violation of
12 Labor Code sections 226(b)-(c).

13 17. Plaintiff is informed and believes and allege thereon that Defendant engaged in these
14 same herein described unlawful practices with regard to all of the Class Members, and that
15 Defendant applied these same herein described unlawful practices to all of its employees that it
16 applied to Plaintiff.

17 **FIRST CAUSE OF ACTION**

18 **Recovery of Unpaid Minimum Wages and Liquidated Damages** 19 **(Against Defendant ROBINSON PHARMA, INC. and DOES 1-50)**

20 18. Plaintiff incorporates by reference all preceding paragraphs as if fully alleged herein.

21 19. Throughout the Class Period, Labor Code sections 1182.11-1182.13, 1197, and IWC
22 Wage Order No. 1 (and all applicable IWC Wage Orders) were in full force and effect and required
23 that Defendant's non-exempt employees receive at least the applicable minimum wage for all hours
24 worked.

25 20. Throughout the Class Period, as a result of the policies and practices set forth herein,
26 Defendant failed to pay Plaintiff and Class Members, and continually fails to pay them, minimum
27 wages as required by law for all of their hours worked. Specifically, Defendant failed to pay Plaintiff
28 and other Class Members for their time spent performing work during shortened, interrupted, and

1 or on-duty meal periods. Defendant also rounded and/or shaved Plaintiff's and other Class
2 Members' time worked in a manner that underpaid them for their actual time worked. Defendant
3 required Plaintiff and other Class Members to don safety equipment and clothing before clocking in
4 for their shifts and doff safety equipment and clothing after having clocked out for the end of their
5 shifts, resulting in Plaintiff and other Class Members not being compensated for all time worked, in
6 violation of California's minimum wage laws.

7 21. As a direct and proximate result of Defendant's acts and/or omissions, Plaintiff and
8 Class Members have suffered economic damages in amounts to be determined at trial.

9 22. Labor Code section 1194(a) provides that an employee who has not been paid
10 minimum wages as required by section 1197 may recover the unpaid balance of the full amount of
11 such wages, interest thereon, attorneys' fees and the costs of suit.

12 23. Labor Code section 1194.2 provides that employees who have not been paid at least
13 minimum wages for their hours worked are entitled to recover liquidated damages in an amount
14 equal to the unpaid minimum wages.

15 24. Pursuant to Labor Code sections 1194 and 1194.2, Plaintiff and the Class Members
16 are entitled to recover all unpaid minimum time wages and liquidated damages thereon, plus
17 attorney's fees and costs, in an amount to be proved at trial.

18 **SECOND CAUSE OF ACTION**

19 **Recovery of Unpaid Overtime**

20 **(Against Defendant ROBINSON PHARMA, INC. and DOES 1-50)**

21 25. Plaintiff incorporates by reference all preceding paragraphs as if fully alleged herein.

22 26. Employees in California must be paid overtime, equal to 1.5 times the employee's
23 regular rate of pay for all hours worked in excess of forty (40) hours per week or eight (8) hours per
24 day, and must be paid doubletime wages for all hours worked in excess of twelve (12) per day,
25 unless they are exempt. Plaintiff and the Class Members worked overtime hours for which they were
26 not compensated by Defendant by virtue of Defendant's meal period auto-deduction, time-
27 rounding/time-shaving and mandated pre-shift and post-shift off-the-clock work policies and
28 practices described herein.

27. Defendant's conduct described above is in violation of California Labor Code sections 510 and 1194, and IWC Wage Order No. 1 (and all applicable IWC Wage Orders).

28. Plaintiff and the Class Members are entitled to recover all unpaid overtime wages, plus attorney's fees and costs, in an amount to be proved at trial.

THIRD CAUSE OF ACTION

**Failure to Provide Meal Periods or Compensation in Lieu Thereof
(Against Defendant ROBINSON PHARMA, INC. and DOES 1-50)**

29. Plaintiff incorporates by reference all preceding paragraphs as if fully alleged herein.

30. Throughout the Class Period, California Labor Code sections 226.7 and 512, and IWC Wage Order No. 1 (and all applicable IWC Wage Orders) were in full force and effect and required Defendant to provide employees who worked in excess of five (5) hours a day at least a thirty (30) minute meal period in which they were relieved of all duties, and to pay one (1) hour of additional pay at the regular rate of compensation for each workday that the proper meal periods were not provided.

31. Plaintiff and other Class Members have regularly worked in excess of five (5) hours a day, without being provided at least a thirty (30) minute uninterrupted meal period in which they were relieved of all duties as required by Labor Code sections 226.7 and 512, and IWC Wage Order No. 1 (and all applicable IWC Wage Orders), section 11(A).

32. Because Defendant failed to provide compliant off-duty meal periods, and because Defendant automatically deducted 30 minutes from Plaintiff's and Class Members' time worked regardless of whether they received a compliant meal period, Defendant is liable to Plaintiff and other Class Members for one (1) hour of additional pay at the regular rate of compensation for each workday that the proper meal periods were not provided, pursuant to Labor Code section 226.7(b) and IWC Wage Order No. 1 (and all applicable IWC Wage Orders), section 11(D).

33. By violating Labor Code section 226.7 and IWC Wage Order No. 1 (and all applicable IWC Wage Orders), section 11, Defendant is also liable for interest under Labor Code section 218.6.

1 34. Plaintiff, on behalf of Plaintiff and the Class Members, requests restitution of unpaid
2 wages and other relief as described below.

3 **FOURTH CAUSE OF ACTION**

4 **Failure to Provide Rest Periods or Compensation in Lieu Thereof**
5 **(Against Defendant ROBINSON PHARMA, INC. and DOES 1-50)**

6 35. Plaintiff incorporates by reference all preceding paragraphs as if fully alleged herein.

7 36. Plaintiff and other Class Members have regularly worked in excess of three and one-
8 half (3½) hours a day without being permitted to take at least a ten (10) minute paid rest period for
9 every four (4) hours worked, or major fraction thereof, as required by Wage Order No. 1 (and all
10 applicable IWC Wage Orders), section 12 and Labor Code section 226.7.

11 37. Because Defendant failed to permit proper paid rest periods, Defendant is liable to
12 Plaintiff and other Class Members for one hour of additional pay at the regular rate of compensation
13 for each workday that the proper paid rest periods were not authorized, pursuant to Labor Code
14 section 226.7(b) and Wage Order No. 1 (and all applicable IWC Wage Orders), section 12(B).

15 38. By violating Labor Code section 226.7 and IWC Wage Order No. 1 (and all
16 applicable IWC Wage Orders), section 12, Defendant is also liable for interest under Labor Code
17 section 218.6.

18 39. Plaintiff, on behalf of Plaintiff and the Class Members, requests restitution of unpaid
19 wages and other relief as described below.

20 **FIFTH CAUSE OF ACTION**

21 **Failure to Furnish Accurate Itemized Wage Statements**
22 **(Against Defendant ROBINSON PHARMA, INC. and DOES 1-50)**

23 40. Plaintiff incorporates by reference all preceding paragraphs as if fully alleged herein.

24 41. Pursuant to Labor Code section 226, subdivision (a), Plaintiff and the Class Members
25 were entitled to receive, semimonthly or at the time of each payment of wages, an itemized wage
26 statement accurately stating the following:

27 (1) gross wages earned, (2) total hours worked by the employee,
28 except for any employee whose compensation is solely based on a
 salary and who is exempt from payment of overtime under
 subdivision (a) of Section 515 or any applicable order of the Industrial
 Welfare Commission, (3) the number of piece-rate units earned and
 any applicable piece rate if the employee is paid on a piece-rate basis,

1 (4) all deductions, provided that all deductions made on written orders
2 of the employee may be aggregated and shown as one item, (5) net
3 wages earned, (6) the inclusive dates of the period for which the
4 employee is paid, (7) the name of the employee and his or her social
5 security number, except that by January 1, 2008, only the last four
6 digits of his or her social security number or an employee
7 identification number other than a social security number may be
8 shown on the itemized statement, (8) the name and address of the
9 legal entity that is the employer, and (9) all applicable hourly rates in
10 effect during the pay period and the corresponding number of hours
11 worked at each hourly rate by the employee.

12 42. During the Class Period, Defendant intentionally failed to provide Plaintiff and the
13 Class Members with complete and accurate wage statements pursuant to Labor Code section 226,
14 because they do not accurately reflect the total gross and net wages earned, including, all earned
15 minimum wages, all accrued and owed sick leave wages, and do not accurately reflect all applicable
16 hourly rates in effect during the pay period and the corresponding number of hours worked at each
17 hourly rate. Notably, due to Defendant's unlawful automatic deduction, rounding, and other
18 mandated off-the-clock work policies and practices described herein, Defendant's wage statements
19 fail to reflect the true total hours Plaintiff and the Class Members worked, a requirement of Labor
20 Code section 226.

21 43. As a result of Defendant's unlawful conduct, Plaintiff and the Class Members have
22 suffered injury. The absence of accurate information on their wage statements has prevented earlier
23 challenges to Defendant's unlawful pay practices, will require discovery and mathematical
24 computations to determine the amount of wages owed, and will cause difficulty and expense in
25 attempting to reconstruct time and pay records.

26 44. Pursuant to Labor Code section 226(e), Plaintiff and the Class Members are entitled
27 to recover fifty dollars per employee for the initial pay period in which a Section 226 violation
28 occurred and one hundred dollars per employee per violation for each subsequent pay period, not to
exceed an aggregate penalty of four thousand dollars per employee.

45. Pursuant to Labor Code section 226(h), Plaintiff and the Class Members are entitled
to bring an action for injunctive relief to ensure Defendant's compliance with Labor Code section
226(a). Injunctive relief is warranted because Defendant continues to provide currently employed
Class Members with inaccurate wage statements in violation of Labor Code section 226(a) and

1 currently employed Class Members have no adequate legal remedy for the continuing injuries that
2 will be suffered as a result of Defendant's ongoing unlawful conduct. Injunctive relief is the only
3 remedy available for ensuring Defendant's compliance with Labor Code section 226(a).

4 46. Pursuant to Labor Code sections 226(e) and 226(h), Plaintiff and the Class Members
5 are entitled to recover the full amount of penalties due under Section 226(e), reasonable attorneys'
6 fees, and costs of suit.

7 **SIXTH CAUSE OF ACTION**

8 **Failure to Timely Pay All Wages Due Upon Separation of Employment**
9 **(Against Defendant ROBINSON PHARMA, INC. and DOES 1-50)**

10 47. Plaintiff incorporates by reference all preceding paragraphs as if fully alleged herein.

11 48. Labor Code section 201(a) provides, in relevant part, that "[i]f an employer
12 discharges an employee, the wages earned and unpaid at the time of discharge are due and payable
13 immediately."

14 49. Labor Code section 202(a) provides, in relevant part, that "[i]f an employee not
15 having a written contract for a definite period quits his or her employment, his or her wages shall
16 become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours
17 previous notice of his or her intention to quit, in which case the employee is entitled to his or her
18 wages at the time of quitting."

19 50. Defendant failed to timely pay Plaintiff and the Class Members all wages that were
20 due and owing upon termination or resignation. Upon separation of employment, Plaintiff and the
21 Class Members' final paychecks were not timely provided, and Plaintiff and the Class Members'
22 final paychecks, once provided, did not include all remuneration owed as the paychecks were devoid
23 of, including but not limited to, all owed minimum and overtime wages and all owed sick time
24 wages. Under Labor Code section 203, Plaintiff and the Class Members who no longer are employed
25 with Defendant is entitled to recover waiting time penalties of up to 30 days' pay, plus attorney's
26 fees and costs, in an amount to be proved at trial.

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1 but not limited to, all owed minimum, overtime, and sick time wages, and failure to timely produce
2 employment records, all in violation of the Labor Code and Wage Orders, constitutes an unlawful,
3 unfair or fraudulent business act or practice, in violation of Business & Professions Code sections
4 17200, et seq.

5 58. Pursuant to Business & Professions Code section 17203, Plaintiff and the Class
6 Members are entitled to restitution of all unpaid wages, unreimbursed expenses, and other sums
7 owed, plus attorney's fees and costs, in an amount to be proved at trial.

8 **NINTH CAUSE OF ACTION**

9 **Violation of the Private Attorneys General Act of 2004 (Against Defendant ROBINSON PHARMA, INC. and DOES 1-50)**

10 59. Plaintiff incorporates all preceding paragraphs as if fully alleged herein.

11 60. California's Private Attorneys General Act (Labor Code sections 2698, et seq.)
12 authorizes aggrieved employees to bring a civil action to recover civil penalties for violations of the
13 California Labor Code. Pursuant to Labor Code section 2699.3, an aggrieved employee must give
14 written notice by online filing with the Labor and Workforce Development Agency ("LWDA") and
15 by certified mail to the employer of the specific provisions of the Labor Code alleged to have been
16 violated, including the facts and theories to support the alleged violations.

17 61. As discussed herein, Plaintiff is an aggrieved employee who has been subject to
18 the foregoing Labor Code violations and the Labor Code violations described below. Plaintiff brings
19 this action on behalf of Plaintiff and all similarly aggrieved employees. The "Aggrieved Employees"
20 shall be defined as follows: "All non-exempt employees who were employed in California directly
21 by Defendant at any time from one year and sixty-five days prior to the filing of the initial complaint,
22 through the present."

23 62. Plaintiff provided the LWDA and Defendant with the required written notice of
24 Plaintiff's intention to pursue this Private Attorneys General Act ("PAGA") claim on June 14, 2021.
25 The LWDA has not provided notice of its intention to investigate the claims since that time.

26 63. During the approximate one year and sixty-five-day time period prior to filing this
27 Complaint, Defendant violated the California Labor Code sections discussed above. Defendant
28 further failed to maintain records as required by Labor Code section 1174 and the applicable IWC

1 Wage Order, by including but not limited to, failing to maintain records of actual hours worked and
2 the actual start and end times of all meal periods. Moreover, by virtue of its violations with respect
3 to meal period, rest period, recordkeeping provisions and minimum and overtime wage laws,
4 Defendant further violated Labor Code sections 1198 and 1199, which together make unlawful any
5 employment of any employee under conditions of labor prohibited by the Wage Orders, and any
6 violation, refusal, or neglect to comply with any provision within Part 4, Chapter 1 of the Labor
7 Code, including sections 1174, 1197, and 1198, or order or ruling of the commission.

8 64. Defendant also violated Labor Code section 216, which declares unlawful an
9 employer's refusal to pay wages due and payable and/or denial of the validity of any claim to wages
10 due by failing to pay Plaintiff and the other Aggrieved Employees for all hours worked at the proper
11 wage rate and by failing to pay Plaintiff and the other Aggrieved Employees an additional hour of
12 pay for each meal/rest period not provided/that was invalid.

13 65. In violation of California Labor Code section 223, Defendant also willfully and
14 systematically denied Plaintiff and the other Aggrieved Employees minimum and overtime wage
15 compensation for all hours worked which resulted in the payment of less than statutorily required
16 wages to them.

17 66. Throughout the relevant time period, Defendant failed to provide any sick leave pay
18 whatsoever to Plaintiff and other Aggrieved Employees and or failed to properly accrue paid sick
19 leave due to Defendant's failure to account for actual hours worked (by virtue of the auto- deduction
20 and time rounding and other mandated off-the-clock work policies and practices described herein).
21 Defendant further failed to give Aggrieved Employees notice of their paid sick leave rights. In
22 addition, Defendant failed to maintain accurate records of used sick leave and the balance of paid
23 sick leave left to the employees, which affected employees' intelligent exercise of their paid sick
24 leave. These practices violated California's sick leave law, Labor Code section 245, et seq.

25 67. In violation of Labor Code § 247.5, Defendant failed to maintain records
26 documenting the hours worked and paid sick days accrued and used by Plaintiff and other Aggrieved
27 employees, permitting the presumption that Plaintiff and other Aggrieved Employees were entitled
28 to the maximum number of hours accruable at the time of their respective terminations. Defendant

1 further failed to comply with Labor Code section 246 by failing to provide its employees with wage
2 statements or separate documents showing the amount of paid sick leave available, or paid time off
3 leave in lieu of sick leave.

4 68. Moreover, IWC Wage Order 1-2001, §14(A-B) states that employees shall be
5 provided with suitable seats when the nature of the work reasonably permits the use of seats and
6 when they are not engaged in the active work duties that would not permit them to be seated.
7 Throughout the relevant time period, based on information and belief, Defendant failed to provide
8 suitable seating for Plaintiff and other Aggrieved Employees. Based on information and belief,
9 Defendant failed to provide suitable seating for blending technicians, manufacturing associates,
10 warehouse workers, or any other non-exempt workers employed by Defendant as required per the
11 applicable IWC Wage Order.

12 69. Lastly, based on information and belief, Defendant required Plaintiff and other
13 Aggrieved Employees to submit to an unlawful criminal and/or financial background check as a
14 condition of obtaining and/or holding employment in violation of Labor Code sections 1024.5
15 and/or 432.7. Based on further information and belief, Defendant also required Plaintiff and other
16 Aggrieved Employees to agree in writing to unlawful background checks not in conformance with
17 the requirements ICRAA and/or FCRA, and Defendant also asked about arrests not resulting in
18 convictions on its employment application. These violations subject Defendant to civil penalties
19 under the Labor Code, including without limitation Labor Code sections 432.5, 432.7 and 2699.

20 70. Each violation of each Labor Code section and Wage Order provision, for each
21 Aggrieved Employee, results in a separate civil penalty.

22 71. Plaintiff seeks all available relief as a result of the Labor Code violations described
23 herein under PAGA, including PAGA penalties, and attorney's fees and costs in pursuing this
24 PAGA claim.

25 **PRAYER FOR RELIEF**

26 WHEREFORE, Plaintiff prays for relief and judgment as follows on behalf of Plaintiff, the
27 Class Members and the Aggrieved Employees:

- 28 1. For an order that the action, be certified as a class action;

2. For an order that Plaintiff, be appointed class representative;
3. For an order that counsel for Plaintiff be appointed class counsel;
4. For compensatory damages according to proof;
5. For an order requiring Defendant to make restitution of all amounts wrongfully withheld from Plaintiff and the Class Members;
6. For pre-judgment interest as permitted by law;
7. For civil penalties according to proof, including PAGA penalties;
8. Attorney's fees and costs reasonably incurred; and
9. Such other and further relief that the Court deems just and proper.

Dated: October 1, 2021

CROSNER LEGAL, PC

By:  _____
Michael Crosner
Zachary Crosner
Blake Jones
Chad Saunders

Attorneys for Plaintiff,
MANH NGUYEN

DEMAND FOR JURY TRIAL

Plaintiff, MANH NGUYEN, demands a trial by jury on all claims so triable.

Dated: October 1, 2021

CROSNER LEGAL, PC

By:  _____

Michael Crosner

Zachary Crosner

Blake Jones

Chad Saunders

Attorneys for Plaintiff,
MANH NGUYEN