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Attorneys for Plaintiff WILLIAM MYRICK,
on behalf of the general public as private attorney general

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

WILLIAM MYRICK, individually and on
behalf of all others similarly situated,

Plaintiffs,

v.

THE GREEN EARTH FARMACIE, INC., dba,
EMBERZ., dba ARTIFACTZ, a California
Corporation; and DOES 1-50, inclusive,

Defendants.

Case No.
ASSIGNED FOR ALL PURPOSES TO:
JUDGE:
DEPT:

**PAGA REPRESENTATIVE ACTION
COMPLAINT PURSUANT TO THE
PRIVATE ATTORNEYS GENERAL ACT
(Labor Code §§ 2698 *et seq*).**

COMES NOW Plaintiff WILLIAM MYRICK (“Plaintiff”), on behalf the general public and all non-exempt aggrieved employees, acting on behalf of the California Attorney General as private attorney general, asserts claims against Defendants THE GREEN EARTH FARMACIE, INC., dba, EMBERZ., dba ARTIFACTZ; and DOES 1-50, inclusive (collectively “Defendants”) as follows:

I. INTRODUCTION

1. This is a representative action for recovery of penalties under the Private Attorneys General Act of 2004 (“PAGA”), Cal. Lab. Code sections 2698 *et seq.* PAGA permits “aggrieved employees” to bring a lawsuit as a representative action on behalf of the general public as private attorney general and all other current and former aggrieved employees, to recover civil penalties and address an employer’s violations of the California Labor Code.

2. In this case, Defendants violated various provisions of the California Labor Code. As set forth below, Defendants implemented policies and practices which led to unpaid wages resulting from Defendant’s: (a) failure to pay wages including overtime, (b) failure to provide meal periods for every work period exceeding more than ten (10) hours per day and failure to pay an additional hour’s of pay or accurately pay an additional hour’s of pay in lieu of providing a meal period; (c) failure to provide rest breaks for every four hours or major fraction thereof worked and failure to pay an additional hour’s of pay or accurately pay an additional hour’s of pay in lieu of providing a rest period; (d) failing to pay all wages earned and owed upon separation from Defendant’s employ, (e) failing to provide accurate itemized wage statements, and (f) failure to indemnify necessary business expenses. As a result Plaintiff seeks penalties under Labor Code 2698, *et. seq.* on behalf of the general public as private attorney general and all other aggrieved employees.

II. JURISDICTION AND VENUE

3. The California Superior Court has jurisdiction over this action pursuant to California Constitution Article VI, Section 10, which grants the Superior Court “original jurisdiction in all cases except those given by statute to other trial courts.” The statutes under which

1 this action is brought do not give jurisdiction to any other court.

2 4. This Court has jurisdiction over Defendants because, upon information and belief,
3 each Defendant either has sufficient minimum contacts in California, or otherwise intentionally
4 avails itself of the California market so as to render the exercise of jurisdiction over it by the
5 California Courts consistent with traditional notions of fair play and substantial justice.

6 5. Venue as to each Defendant is proper in this judicial district pursuant to Code of
7 Civil Procedure section 395. Defendants are doing business throughout California, including but
8 not limited to Los Angeles County, and each Defendant is within the jurisdiction of this Court for
9 service of process purposes. The unlawful acts alleged herein have a direct effect on Plaintiff and
10 all other aggrieved employees within the State of California. Defendants employ numerous
11 aggrieved employees in in the State of California.

12 6. On information and belief, Defendants have conducted business within the State of
13 California during the purported liability period and continue to conduct business throughout the
14 State of California. The unlawful acts alleged herein have had a direct effect on Plaintiff, and the
15 similarly situated non-exempt aggrieved employees within California.

16 7. The California Superior Court also has jurisdiction in this matter because on
17 information and belief there are no federal questions at issue, as the issues herein are based solely
18 on California statutes and law, including the California Labor Code, the IWC Wage Orders, the
19 California Code of Civil Procedure, the California Civil Code, and the California Business and
20 Professions Code.

21 8. On information and belief, during the statutory liability period and continuing to
22 the present ("liability period"), Defendant consistently maintained and enforced against
23 Defendant's Non-Exempt Aggrieved Employees, among others, the following unlawful practices
24 and policies, in violation of California state wage and hour laws: (a) failure to pay wages including
25 overtime, (b) failure to provide meal periods for every work period exceeding more than ten (10)
26 hours per day and failure to pay an additional hour's of pay or accurately pay an additional hour's
27 of pay in lieu of providing a meal period; (c) failure to provide rest breaks for every four hours or
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1 major fraction thereof worked and failure to pay an additional hour's of pay or accurately pay an
2 additional hour's of pay in lieu of providing a rest period; (d) failing to pay all wages earned and
3 owed upon separation from Defendant's employ, (e) failing to provide accurate itemized wage
4 statements, and (f) failure to indemnify necessary business expenses.

5 9. On information and belief, during the statutory liability period and continuing to
6 the present, Defendants have had a consistent policy of failing to provide its Non-Exempt
7 Employees within the State of California, including Plaintiff, unfettered, uninterrupted, duty free
8 rest periods of at least (10) minutes per four (4) hours worked or major fraction thereof and failing
9 to pay such employees one (1) hour of pay at the employees regular rate of compensation for each
10 workday that the rest period is not provided, as required by California state wage and hour laws.

11 10. On information and belief, during the statutory liability period and continuing to
12 the present, Defendants have had a consistent policy of failing to pay wages including overtime
13 wages for hours worked while subject to the control of Defendants.

14 11. On information and belief, during the statutory liability period and continuing to
15 the present (rest and meal period liability period), Defendants have had a consistent policy of
16 requiring its Non-Exempt Employees within the State of California, including Plaintiff, to work at
17 least five (5) and or ten (10) hours without a meal period and failing to pay or accurately pay such
18 employees one (1) hour of pay at the employees regular rate of compensation for each workday
19 that the meal period is not provided, as required by California state wage and hour laws.

20 12. On information and belief, during the statutory liability period and continuing to
21 the present (rest and meal period liability period), Defendants have had a consistent policy of
22 requiring its Non-Exempt Employees within the State of California, including Plaintiff, to work in
23 excess of four hours and or ten (10) hours without authorizing and permitting a rest period and
24 failing to pay or accurately pay such employees one (1) hour of pay at the employees regular rate
25 of compensation for each workday that the rest period is not authorized and permitted, as required
26 by California state wage and hour laws.

27 13. On information and belief, during the statutory liability period and continuing to
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1 the present, Defendants have had a consistent policy of failing to timely pay wages upon
2 separation.

3 14. On information and belief, during the statutory liability period and continuing to
4 the present, Defendants have failed to provide Plaintiff and aggrieved employees accurate itemized
5 wage statements.

6 15. During the liability period, Defendants failed to reimburse necessary business
7 expenses incurred by Plaintiff and Aggrieved Employees as a result of the discharge of their
8 duties.

9 16. Plaintiff on behalf of the general public as private attorney general and all other
10 aggrieved employees bring this action pursuant to Labor Code 2698, et. seq. for violations
11 enumerated under 2699.5 as follows: sections 201-203, 510, 512, 558, 226, 226.3, 226.7, 226.3,
12 1174, 1174.5, 1175, 1194, 1197, 1197.1, 1198, 2802 and seeking penalties, interest, attorneys' fees
13 and costs.

14 **III. PARTIES**

15 **A. Plaintiff**

16 17. Plaintiff, WILLIAM MYRICK, was at all times relevant to this action, a resident
17 of California. Plaintiff was employed by Defendants during the liability period as a Non-Exempt
18 Employee and worked during the liability period for Defendants as a driver.

19 18. As Defendants' employee, Plaintiff, and all other aggrieved employees were
20 regularly required to and subsequently suffered:

- 21
- 22 a) perform work subject to the control of the employer without being compensated all
23 wages including overtime, all in violation of California labor laws, regulations, and the
24 Industrial Welfare Commission Wage Order ("IWC");
 - 25 b) work without being permitted or authorized a minimum ten-minute rest period for
26 every four hours or major fraction thereof worked and not compensated one (1) hour of
27 pay at his regular rate of compensation for each workday that a rest period was not
28 provided, all in violation of California labor laws, regulations, and the Industrial

1 Welfare Commission Wage Orders (“IWC”);

- 2 c) work in excess of six and ten hours per day without being provided meal periods and
3 not compensated one (1) hour of pay at the regular rate of compensation for each
4 workday that a meal period was not provided, all in violation of California labor laws,
5 regulations, and the Industrial Welfare Commission Wage Orders (“IWC”);
6 d) not provided accurate itemized wage statements; and
7 e) not reimbursed for business expenses incurred.

8 19. On information and belief, Defendants willfully failed to pay all earned wages in
9 the form regular wages and overtime wages, and meal and rest period premium wages, to its
10 Non-Exempt Employees and members of the Representative Group; nor have Defendants
11 returned to Plaintiff or members of the Representative Group, upon or after separation from
12 employment with Defendants, all wages earned and owing. Plaintiff seeks penalties under Labor
13 Code 2698, *et. seq.* on behalf of the general public as private attorney general and all other
14 aggrieved employees.

15 **B. Defendants**

16 20. Defendants THE GREEN EARTH FARMACIE, INC., dba, EMBERZ., dba
17 ARTIFACTZ operates as a cannabis dispensary in California. Plaintiff estimates there are in
18 excess of 100 Non-Exempt Employees who work or have worked for Defendants over the last
19 year.
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21 21. Other than identified herein, Plaintiff is unaware of the true names, capacities,
22 relationships and extent of participation in the conduct alleged herein, of the defendants sued as
23 DOES 1 through 50, but is informed and believes and thereon alleges that said defendants are
24 legally responsible for the wrongful conduct alleged herein and therefore sues these defendants by
25 such fictitious names. Plaintiff will amend this complaint when their true names and capabilities
26 are ascertained.

27 22. Plaintiff is informed and believes and thereon alleges that each Defendant, directly
28 or indirectly, or through agents or other persons, employed Plaintiff and other members of the

1 Representative Group , and exercised control over their wages, hours, and working conditions.
2 Plaintiff is informed and believes and thereon alleges that each defendant acted in all respects
3 pertinent to this action as the agent of the other defendants, carried out a joint scheme, business
4 plan or policy in all respects pertinent hereto, and the acts of each defendant are legally attributable
5 to the other defendants.

6 **IV. GENERAL ALLEGATIONS**

7 23. At all times set forth herein, Defendants employed Plaintiff and other persons in
8 the capacity of non-exempt positions, however titled, throughout the state of California.

9 24. Plaintiff is informed and believes Aggrieved Employees have at all times pertinent
10 hereto been Non-Exempt within the meaning of the California Labor Code and the implementing
11 rules and regulations of the IWC California Wage Orders.

12 25. Plaintiff is informed and believes that all Aggrieved Employees are citizens of the
13 state of California.

14 26. Defendants employed Plaintiff and Aggrieved Employees as a Non-Exempt hourly
15 paid employees during the liability period.

16 27. Defendants continue to employ Non-Exempt Employees, however titled, in
17 California and implement a uniform set of policies and practices to all non-exempt employees, as
18 they were all engaged in the generic job duties of providing cannabis services to Defendants'
19 various customers.

20 28. Plaintiff is informed and believes, and thereon alleges, that Defendants are and were
21 advised by skilled lawyers and other professionals, employees, and advisors with knowledge of
22 the requirements of California's wage and employment laws.

23 29. On information and belief, during the relevant time frame, Plaintiff and Aggrieved
24 Employees frequently worked well over eight (8) hours in a day and forty (40) hours in a work
25 week and worked approximately four (4) to six (6) days a week.

26 30. Plaintiff and Aggrieved Employees would works shifts of approximately six (6) to
27 twelve (12) hours a day.
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1 31. Plaintiff is informed and believes that Plaintiff and Aggrieved Employees were not
2 compensated for all time worked as Plaintiff and Aggrieved Employees as a result of off-the-clock
3 work performed. For instance, Plaintiff and Aggrieved Employees often had to work through meal
4 periods, but were automatically deducted a full 30 minutes of time as if a meal period was properly
5 taken. Plaintiff is also informed and believes that Defendants would round the start times and end
6 times of employees to reflect only the scheduled start and end times of their shifts. Therefore, if
7 Plaintiff and Aggrieved Employees clocked in a few minutes early or a few minutes after their
8 scheduled start and end times, Defendants would not account for such time. Ultimately, Plaintiff
9 and Aggrieved Employees were not compensated for this time and resulted in a disproportionate
10 underpayment of minimum and overtime wages.

11 32. Plaintiff and the Aggrieved Employees were regularly required to work shifts in
12 excess of five hours without being provided a lawful meal period and over ten hours in a day
13 without being provided a second lawful meal period as required by law.

14 33. Indeed, during the relevant time, as a consequence of Defendants' staffing and
15 scheduling practices, lack of coverage, work demands, and Defendants' policies and practices,
16 Defendants frequently failed to provide Plaintiff and the Aggrieved Employees timely, legally
17 compliant uninterrupted 30-minute meal periods on shifts over five hours as required by law.

18 34. Similarly, as a consequence of Defendants' staffing and scheduling practices, lack
19 of coverage, work demands, and Defendants' policies and practices, Defendants frequently failed
20 to provide Plaintiff and the Aggrieved Employees legally compliant second meal periods on shifts
21 over ten hours as required by law.

22 35. On information and belief, Plaintiff and Aggrieved Employees did not waive their
23 rights to meal periods under the law.

24 36. Plaintiff and the Aggrieved Employees were not provided with valid lawful on-
25 duty meal periods.

26 37. Despite the above-mentioned meal period violations, Defendants failed to
27 compensate Plaintiff, and on information and belief, failed to compensate Aggrieved Employees ,
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one additional hour of pay at their regular rate as required by California law when meal periods were not timely or lawfully provided in a compliant manner.

38. Plaintiff are informed and believe, and thereon alleges, that Defendants know, should know, knew, and/or should have known that Plaintiff and the other Aggrieved Employees were entitled to receive premium wages based on their regular rate of pay under Labor Code §226.7 but were not receiving such compensation.

39. In addition, during the relevant time frame, Plaintiff and the Non-Exempt Employees were systematically not authorized and permitted to take one net ten-minute paid, rest period for every four hours worked or major fraction thereof, which is a violation of the Labor Code and IWC wage order.

40. Defendants maintained and enforced scheduling practices, policies, and imposed work demands that frequently required Plaintiff and Aggrieved Employees to forego their lawful, paid rest periods of a net ten minutes for every four hours worked or major fraction thereof. Such requisite rest periods were not timely authorized and permitted as a result of Defendants' failure to provide relief for Plaintiff and Aggrieved Employees to take their lawfully required breaks.

41. Despite the above-mentioned rest period violations, Defendants did not compensate Plaintiff, and on information and belief, did not pay Aggrieved Employees one additional hour of pay at their regular rate as required by California law, including Labor Code section 226.7 and the applicable IWC wage order, for each day on which lawful rest periods were not authorized and permitted.

42. Defendants also failed to provide accurate, lawful itemized wage statements to Plaintiff and the Aggrieved Employees in part because of the above specified violations. In addition, upon information and belief, Defendants omitted an accurate itemization of total hours worked, including premiums due and owing for meal and rest period violations, gross pay and net pay figures from Plaintiff and the Aggrieved Employees' wage statements.

43. Plaintiff is informed and believes, and thereon alleges, that at all times herein mentioned, Defendants knew that at the time of termination of employment (or within 72 hours

1 thereof for resignations without prior notice as the case may be) they had a duty to accurately
2 compensate Plaintiff and Aggrieved Employees for all wages owed including minimum wages,
3 meal and rest period premiums, and that Defendants had the financial ability to pay such
4 compensation, but willfully, knowingly, recklessly, and/or intentionally failed to do so in part
5 because of the above-specified violations.

6 44. During the relevant time frame, Defendants also failed to reimburse necessary
7 business expenses incurred by Plaintiff and Aggrieved Employees . For instance, Plaintiff and
8 Aggrieved Employees had to use their own personal vehicles to make deliveries to customers.
9 Plaintiff and Aggrieved Employees also had to use their personal cellphones on every shift to
10 speak with customers and relay information back to operations and Defendants' order team. Lastly,
11 Plaintiff and Aggrieved Employees were responsible for covering shorted payments, as a result
12 of miscommunications between the customer and Defendants' order team. Therefore, if a customer
13 refused to pay more than what they expected to pay, Plaintiff and Aggrieved Employees would
14 pay out of pocket for the short-changed transaction.

15 45. Despite these realities, Defendants failed to reimburse and indemnify Plaintiff and
16 Aggrieved Employees for the use of the personal vehicles, the use of their personal cellphones,
17 and for any short-changed transactions that Plaintiff and Aggrieved Employees covered out-of-
18 pocket in direct violation of Labor Code section 2802.

19 46. Upon information and belief, Defendants knew and or should have known that it is
20 improper to implement policies and commit unlawful acts such as:

21 (a) requiring employees to work four (4) hours or a major fraction thereof without
22 being provided a minimum ten (10) minute rest period and without compensating the employees
23 with one (1) hour of pay at the employees' regular rate of compensation for each workday that a
24 rest period was not provided;

25 (b) requiring employees to work in excess of five (5) hours or ten (10) hours per day
26 without being provided an uninterrupted thirty minute meal period and/or a second meal period,
27 and without compensating employees with one (1) hour of pay at the regular rate of compensation
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1 for each workday that such a meal period was not provided;

2 (c) failing to pay Plaintiff and Aggrieved Employees for all wages including overtime
3 wages owed;

4 (d) failing to timely pay Plaintiff and Aggrieved Employees ;

5 (e) failing to provide accurate itemized wage statements;

6 (f) failing to reimburse business expenses; and

7 47. In. addition to the violations above, and on information and belief, Defendants
8 knew they had a duty to compensate Plaintiff and aggrieved employees for the allegations asserted
9 herein, and that Defendants had the financial ability to pay such compensation, but willfully,
10 knowingly, recklessly, and/or intentionally failed to do so.

11 48. Plaintiff and Aggrieved Employees they seek to represent are covered by, and
12 Defendants are required to comply with, applicable California Labor Codes, Industrial Welfare
13 Commission Occupational Wage Orders (hereinafter "IWC Wage Orders") and corresponding
14 applicable provisions of California Code of Regulations, Title 8, section 11000 *et seq.*

15 **V. REPRESENTATIVE CLAIMS**

16 **THE PRIVATE ATTORNEYS GENERAL ACT- LABOR CODE §§ 2698 *et seq.***

17 49. Plaintiff incorporates by reference and re-alleges each and every allegation
18 contained above, as though fully set forth herein.

19 50. On March 25, 2021 Plaintiff complied with notice requirements pursuant to Labor
20 Code section 2699.3. A copy of the letter sent to the LWDA is attached hereto as **Exhibit A**,
21 indicating that the LWDA and Defendants were put on notice of the claims alleged here and that
22 the notice requirement has been satisfied. Sixty five days have passed and the LWDA has not
23 indicated intent to investigate the claims. Therefore, Plaintiff may proceed with this action in a
24 representative capacity. The substance and violations set forth in this Complaint of which the
25 LWDA was provided timely notice, Plaintiff has also sent a copy of this PAGA Representative
26 Action Complaint to the LWDA.

27 51. Plaintiff is an aggrieved employee as defined in Labor Code Section 2699(a).
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1 Plaintiff brings this cause of action on behalf of all current and former California Non-Exempt
2 Employees of Defendants.

3 52. Pursuant to Labor Code section 2699(a) Plaintiff seek to recover civil penalties for
4 which Defendants are liable due to numerous Labor Code violations as set forth in this Complaint,
5 including without limitation Labor Code section 201-203, 226, 226.3, 226.7, 510, 558, 512, 1174,
6 1174.5, 1175, 1194, 1197, 1197.1, and, 2698 *et seq.*, applicable IWC Wage Orders and California
7 Code of Regulations, Title 8, section 11000 *et. seq.*

8 53. At all times relevant, Plaintiff and all other aggrieved employees regularly
9 performed non-exempt work in excess of 50% of the time, and thus, were subject to the meal and
10 rest break requirements of the applicable IWC wage order and the Labor Code.

11 54. Defendants violated Labor Code section 510, and 1194 by failing to accurately pay
12 overtime wages owed as discussed above for as a result of the off-the-clock performed and due to
13 Defendants' unlawful rounding of employee time as described above. Therefore, Defendants
14 violated section 510, and 1194 by not compensating its Non-Exempt Employees for work
15 performed in excess of eight hours (8) in a day or forty hours in a work week (40). Section 510 of
16 the Labor Code codifies the right to overtime compensation at the rate of one and one-half times
17 the regular rate of pay for all hours worked in excess of eight (8) hours in a day or forty (40) hours
18 in a work week and to overtime compensation twice the regular rate of pay for hours worked in
19 excess of twelve (12) hours in a day or in excess of eight (8) hours in a day on the seventh day of
20 work in a particular work week

21 55. Defendants violated Labor Code section 200, 558, 1194, 1197, by failing to
22 accurately pay at least minimum wages due as a result of the off-the-clock performed and due to
23 Defendants' unlawful rounding of employee time as described above.

24 56. Defendants violated Labor Code sections 512 and 226.7 for failing to provide
25 timely, uninterrupted first and second meal periods and requiring unlawful on duty meal periods,
26 or compensation in lieu thereof. Pursuant to Labor Code section 512, no employer shall employ
27 an employee for a work period of more than five (5) hours without providing a meal break of not
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1 less than thirty (30) minutes in which the employee is relieved of all of his or her duties. An
2 employer may not employ an employee for a work period of more than ten (10) hours per day
3 without providing the employee with a second meal period of not less than thirty (30) minutes,
4 except that if the total hours worked is no more than twelve (12) hours, the second meal period
5 may be waived by mutual consent of the employer and the employee only if the first meal period
6 was not waived.

7 57. Defendants failed to provide Plaintiff and all other aggrieved employees
8 uninterrupted duty free meal periods of not less than thirty (30) minutes. Defendants implemented
9 and enforced policies of on duty meal period practices which required employees to work during
10 their meal periods, to forego their meal periods, and/or to return to work from meal periods prior
11 to thirty (30) uninterrupted minutes. As a proximate result of the aforementioned violations,
12 Plaintiff and all other aggrieved employees have been damaged in an amount according to proof
13 at time of trial.

14 58. Plaintiff, and on information and belief, all aggrieved employees, were
15 systematically not permitted or authorized to take ten minute rest periods for every four hours
16 worked or major fraction thereof, which is a violation of the Labor Code and IWC wage order.
17 Plaintiff and on information and belief, aggrieved employees, were not compensated with one hour
18 of wages for every day in which a rest period was missed or untimely as a result of Defendants'
19 policies, practices, or work demands. By failing to authorize and permit a ten-minute rest period
20 for every four hours or major fraction thereof worked per day by its Non-Exempt Employees, and
21 by failing to provide compensation for such non-provided or shortened rest periods, as alleged
22 above, Defendants willfully violated the provisions of Labor Code sections 226.7, 512 and the
23 applicable IWC Wage Order.

24 59. Defendants also willfully violated Labor Code sections 201-203 by failing to
25 provide all owed wages at separation from employment. Labor Code sections 201 and 202 require
26 Defendants to pay their employees all wages due either at time of firing, or within seventy-two
27 (72) hours of voluntary separation, if not sooner. Section 203 of the Labor Code provides that if
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1 an employer willfully fails to timely pay such wages the employer must, as a penalty, continue to
2 pay the subject employee's wages until the back wages are paid in full or an action is commenced.
3 The penalty cannot exceed 30 days of wages.

4 60. Plaintiff and all other aggrieved employees who were separated from employment
5 are entitled to compensation for all forms of wages earned, including but not limited to
6 compensation regular and overtime wages, and for non-provided meal and rest periods, but to date
7 have not received such compensation, therefore entitling them to penalties under PAGA for
8 violations of Labor Code sections 201-203.

9 61. On information and belief, Defendants willfully failed to pay all wages due and
10 owing upon separation from employment. These wages include regular and overtime wages, and
11 meal and rest period premiums.

12 62. On information and belief, Defendants failed to provide accurate itemized wage
13 statements which failed to include all hours worked, including overtime, accurate accounting of,
14 the lawful meal and rest period premiums due and owing to Plaintiff and the aggrieved employees,
15 and the address of the legal entity that is the employer pursuant to Labor Code section 226(a).

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

21 64. Additionally, Defendants have no accurate records relating to aggrieved
22 employees' work periods, meal periods, total daily hours worked, total hours worked per payroll
23 period and applicable pay rates, in violation of applicable Wage Orders. Similarly, Defendants
24 failed to maintain accurate records relating to hours worked daily in violation of Labor Code
25 sections 1174(d), 1174.5.

26 65. Wage Order 5-2001 states "All working employees shall be provided with suitable
27 seats when Labor Code § 2802 requires Defendants to indemnify Plaintiff and Class Members for
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1 necessary expenditures incurred in direct consequences of the discharge of his or her duties. As a
2 necessary part of employment, Plaintiff and on information and belief Class Members, were not
3 adequately reimbursed by Defendants for expenses related to all expenses incurred as results of
4 personal vehicle and cell phone usage, and for short-changed transaction for which they covered
5 out-of-pocket as described above, and for which were incurred as a direct consequence of the
6 discharge of duties by Plaintiff and Class Members. Despite these realities of the job, Defendants
7 failed to provide reimbursements for these expenses necessary to carry out their job duties.

8 66. Labor Code §2804 states in pertinent part: “Any contract or agreement, express or
9 implied, made by any employee to waive the benefits of this article or any part thereof is null and
10 void, and this article shall not deprive any employee or his or her personal representative of any
11 right or remedy to which he is entitled under the laws of this State.

12 67. As a result of the unlawful acts of Defendants, Plaintiffs and the Class Members
13 have been deprived of un-reimbursed expense amounts to be determined at trial, and are entitled
14 to the recovery of such amounts, plus interest and penalties thereon, attorneys’ fees, and costs,
15 pursuant to Labor Code § 2802.

16 68. As a result of Defendants' unlawful conduct, Plaintiff and Aggrieved employees
17 are entitled to penalties to the extent they were not paid at the prevailing wage rate for all hours
18 worked.

19 69. Plaintiff and the Representative Aggrieved Employees are entitled to recover
20 Penalties and attorneys’ fees and costs sunder Labor Code section 2698, et. seq.
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22 **PRAYER FOR RELIEF**

23 WHEREFORE, Plaintiff prays for judgment against Defendants, as follows:

- 24 1. For penalties according to proof, pursuant to Labor Code §§ 2698 et seq.;
- 25 2. For reasonable attorneys’ fees and costs; and
- 26 3. For such other and further relief as the Court deems proper.

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Dated: July 14, 2021

JAMES HAWKINS APLC

By: _____
JAMES R. HAWKINS, ESQ.
GREGORY MAURO, ESQ.
MICHAEL CALVO, ESQ.
Attorneys for Plaintiff WILLIAM MYRICK
on behalf of the general public as private
attorney general