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County of Monterey
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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF MONTEREY**

JULIA OROS, an individual, on behalf of
herself, others similarly situated, and as a
private attorney general on behalf of the State
of California,

PLAINTIFF,

v.

R.C. FARMS, LLC, a California Limited
Liability Company, R.C. PACKING, LLC, a
California Limited Liability Company, and
DOES 1 thru 50, inclusive,

DEFENDANTS.

CASE NO.: 21CV002976

**CLASS ACTION AND
REPRESENTATIVE ACTION
COMPLAINT**

1. Failure to Pay Minimum Wages In Violation of Labor Code §§ 226.2, 1194, and 1194.2
2. Failure to Pay Overtime Wages In Violation of Labor Code § 510
3. Failure to Provide Lawful Meal Periods And Pay Meal Period Premiums Pursuant to Labor Code §§ 226.7 and 512
4. Failure to Provide Lawful Rest Periods And Pay Rest Period Premiums Pursuant to Labor Code §§ 226.2 and 226.7
5. Violations of Labor Code § 226(e)
6. Waiting Time Penalties Pursuant to Labor Code § 203
7. Violation of Business & Professions Code § 17200
8. Penalties Pursuant to Labor Code § 2699, et seq. for violations of Labor Code §§ 201, 202, 203, 204, 210, 226, 226.2, 226.3, 510, 512, 558, 1174, 1174.5, 1194, 1197, 1197.1, and 1198

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Plaintiff JULIA OROS, an individual, on behalf of herself and others similarly situated, complains of Defendants R.C. FARMS, LLC AND R.C. PACKING, LLC and the Doe Defendants (“Defendants”) and each of them, as follows:

I.

INTRODUCTION AND FACTUAL BACKGROUND

1. This is a Class Action, pursuant to Code of Civil Procedure § 382, on behalf of Plaintiff and the following classes and subclasses:

- (1) all individuals who were employed by R.C. FARMS, LLC or R.C. PACKING, LLC as a non-exempt, employee in California for one or more pay periods from March 27, 2017 and continuing into the present; (the “Non-Exempt Class”)¹
- (2) all individuals who were employed by R.C. FARMS, LLC or R.C. PACKING, LLC as a non-exempt, employee in California and who were paid, at least in part, on a piece-rate basis for one or more pay periods from March 27, 2017 and continuing into the present; (the “Piece Rate Class”)
- (3) all individuals who were employed by R.C. FARMS, LLC or R.C. PACKING, LLC or its predecessor or merged entities in California as a non-exempt employee or other similar position and who worked a shift of more than eight (8) hours in a day and/or forty (40) hours in a week during a pay period from March 27, 2017 and continuing into the present. (“Overtime Subclass”);
- (4) all individuals who were employed by R.C. FARMS, LLC or R.C. PACKING, LLC or its predecessor, merged or related entities in California who worked one or more shifts of more than six (6) hours as a non-exempt employee or other similar position from March 27, 2017 and continuing into the present. (“First Meal Period Subclass”);
- (5) all individuals who were employed by R.C. FARMS, LLC or R.C. PACKING, LLC or its predecessor, merged or related entities in California who worked one or more shifts of more than ten (10) hours as a non-exempt employee or other similar position from March 27, 2017 and continuing into the present. (“Second Meal Period Subclass”);
- (6) All individuals who were employed by R.C. FARMS, LLC or R.C. PACKING, LLC

¹ Judicial Council Emergency Rule No. 9 tolled the statute of limitations applicable to this action for 5 months and 25 days or from April 6, 2020 to October 1, 2020. “Notwithstanding any other law, the statutes of limitations and repose for civil causes of action that exceed 180 days are tolled from April 6, 2020 until October 1, 2020.”

or its predecessor, merged or related entities in California who were paid a meal and/or rest period premium within the same week that they received either an incentive payment, non-discretionary bonus, production bonus, efficiency bonus, or attendance bonus from March 27, 2017 and continuing into the present. (“Meal/Rest Period Premium Subclass”);

Collectively, subclasses four (4), five (5), and six (6) may be referred to as the “Meal Period Subclass.”

(7) all individuals who were employed by R.C. FARMS, LLC or R.C. PACKING, LLC or its predecessor, merged or related entities in California as a non-exempt employee, or other similar position, who worked one or more shifts of more than four (4) hours in length or major fraction thereof from March 27, 2017 and continuing into the present. (“Rest Period Subclass”);

(8) all individuals who were employed by R.C. FARMS, LLC or R.C. PACKING, LLC or its predecessor, merged or related entities in California as a non-exempt employee, or other similar position, who worked one or more shifts of more than ten (10) hours in length from March 27, 2017 and continuing into the present. (“Third Rest Period Subclass”);

Collectively, subclasses seven (7) and eight (8) may be referred to as the “Rest Period Subclass.”

(9) all individuals who were employed by R.C. FARMS, LLC or R.C. PACKING, LLC or its predecessor, merged or related entities in California as a non-exempt employee or other similar position for one or more pay periods from March 27, 2020 and continuing into the present (“Wage Statement Subclass”);

(10) all individuals who were employed by R.C. FARMS, LLC or R.C. PACKING, LLC or its predecessor, merged or related entities for one or more pay periods in California as a non-exempt, hourly employee and whose employment concluded at any time between March 27, 2018 and continuing into the present; (“General Late Payment Subclass”);

2. This is also a representative action brought pursuant to Labor Code § 2698, *et seq.*, on behalf of the State of California and several groups of aggrieved employees defined as follows:

(1) all individuals who were employed by R.C. Farms, LLC or its predecessor or merged entities in California as a non-exempt employee² for one or more pay periods from March 1, 2020³ and continuing into the present (“RC Farms Non-Exempt Aggrieved Employees”);

(2) all individuals who were employed by R.C. Packing, LLC or its predecessor or merged entities in California as a non-exempt employee for one or more pay periods from March 1, 2020 and continuing into the present (“RC Packing Non-Exempt Aggrieved Employees”);

Collectively, aggrieved employee groups one (1) and two (2) may be referred to as the “Overtime Aggrieved Employees.”

(3) all individuals who were employed by R.C. Farms, LLC or its predecessor or merged entities in California as a non-exempt, hourly employee or other similar position and who worked a shift of more than eight (8) hours in a day and/or forty (40) hours in a week during a pay period from March 1, 2020 and continuing into the present. (“RC Farms Overtime Aggrieved Employees”);

(4) all individuals who were employed by R.C. Packing, LLC or its predecessor or merged entities in California as a non-exempt, hourly employee or other similar position and who worked a shift of more than eight (8) hours in a day and/or forty (40) hours in a week during a pay period from March 1, 2020 and continuing into the present. (“RC Packing Overtime Aggrieved Employees”);

Collectively, aggrieved employee groups three (3) and four (4) may be referred to as the “Overtime Aggrieved Employees.”

(5) all individuals who were employed by R.C. Farms, LLC or its predecessor, merged or related entities in California who worked one or more shifts of more than six (6) hours as a non-exempt, hourly employee or other similar position from March 1, 2020 and continuing into the present. (“RC Farms First Meal Period Aggrieved Employee”);

² Non-exempt employees including the employees paid on a piece rate basis, hourly basis, and a combination thereof provided that they did not spend more than 50% of their time supervising two or more employees.

³ Judicial Council Emergency Rule No. 9 tolled the statute of limitations applicable to this action for 5 months and 25 days or from April 6, 2020 to August 3, 2020. “Notwithstanding any other law, the statutes of limitations and repose for civil causes of action that exceed 180 days are tolled from April 6, 2020 until October 1, 2020.” PAGA’s statute of limitations is governed by the Code of Civ. Proc. § 340 such that it is subject to modification by the Judicial Council.

- 1 (6) all individuals who were employed by R.C. Packing, LLC or its predecessor, merged
2 or related entities in California who worked one or more shifts of more than six (6)
3 hours as a non-exempt, hourly employee or other similar position from March 1, 2020
4 and continuing into the present. ("RC Packing First Meal Period Aggrieved
Employee");
- 5 (7) all individuals who were employed by R.C. Farms, LLC or its predecessor, merged or
6 related entities in California who worked one or more shifts of more than ten (10)
7 hours as a non-exempt hourly employee or other similar position from March 1, 2020
8 and continuing into the present. ("RC Farms Second Meal Period Aggrieved
Employees");
- 9 (8) all individuals who were employed by R.C. Packing, LLC or its predecessor, merged
10 or related entities in California who worked one or more shifts of more than ten (10)
11 hours as a non-exempt hourly employee or other similar position from March 1, 2020
12 and continuing into the present. ("RC Packing Second Meal Period Aggrieved
Employees");
- 13 (9) All individuals who were employed by R.C. Farms, LLC or its predecessor, merged
14 or related entities in California who were paid a meal and/or rest period premium
15 within the same week that they received either an incentive payment, non-
16 discretionary bonus, production bonus, efficiency bonus, or attendance bonus from
March 1, 2020 and continuing into the present. ("RC Farms Meal/Rest Period
Premium Aggrieved Employees");
- 17 (10) All individuals who were employed by R.C. Packing, LLC or its predecessor, merged
18 or related entities in California who were paid a meal and/or rest period premium
19 within the same week that they received either an incentive payment, non-
20 discretionary bonus, production bonus, efficiency bonus, or attendance bonus from
21 March 1, 2020 and continuing into the present. ("RC Packing Meal/Rest Period
Premium Aggrieved Employees");

22 Collectively, aggrieved employee groups five (5), six (6), seven (7), eight (8), nine (9),
23 and ten (10) may be referred to as the "Meal Period Aggrieved Employees."

- 24 (11) all individuals who were employed by R.C. Farms, LLC, or its predecessor, merged
25 or related entities in California as a non-exempt hourly employee, or other similar
26 position, who worked one or more shifts of more than four (4) hours in length or
27 major fraction thereof from March 1, 2020 and continuing into the present. ("Rest
28 Period Aggrieved Employee");

1 (12) all individuals who were employed by R.C. Packing, LLC, or its predecessor, merged
2 or related entities in California as a non-exempt hourly employee, or other similar
3 position, who worked one or more shifts of more than four (4) hours in length or
4 major fraction thereof from March 1, 2020 and continuing into the present. ("Rest
Period Aggrieved Employee");

5 Collectively, aggrieved employee groups eleven (11) and twelve (12) may be referred to
6 as the "Rest Period Aggrieved Employees."

7 (13) all individuals who were employed by R.C. Farms, LLC or its predecessor, merged or
8 related entities for one or more pay periods in California and whose employment
9 concluded at any time between March 1, 2020 and continuing into the present; ("Late
Payment Aggrieved Employee");

10 (14) all individuals who were employed by R.C. Packing, LLC or its predecessor, merged
11 or related entities for one or more pay periods in California and whose employment
12 concluded at any time between March 1, 2020 and continuing into the present; ("Late
Payment Aggrieved Employee");

13 Collectively, these groups may all collectively be referred to herein as aggrieved employees
14 and/or all aggrieved employees where appropriate

15 3. Plaintiff, the Classes, and the aggrieved employees were employed by Defendant
16 R.C. FARMS, LLC AND R.C. PACKING, LLC, and any subsidiaries or affiliated companies and
17 Does 1 through 50 (who include individuals acting on behalf an employer within the meaning of
18 Labor Code § 558.1) within the State of California as a non-exempt employees within four (4)
19 years, 5 months, and twenty-five days, of the filing of the Complaint and continuing into the
20 present.

21 4. Plaintiff is a former employee of Defendants R.C. FARMS, LLC AND R.C.
22 PACKING, LLC. Plaintiff worked for Defendants as a non-exempt employee during the past four
23 (4) years, and within the past year. Plaintiff, the Classes, and the aggrieved employees also
24 worked for Defendants as a non-exempt employee during the past four (4) years.

25 5. Plaintiff, the Classes, and the aggrieved employees worked shifts in excess of six
26 (6) hours in a day, worked shifts in excess of eight (8) hours in a day, worked shifts in excess of
27 ten (10) hours in a day, and twelve (12) hours a day during the past four (4) years, and within the
28 past year.

1 6. At times throughout her employment with Defendants during the past four (4)
2 years and within the past year, Plaintiff, the Classes, and the aggrieved employees worked more
3 than forty (40) hours per week.

4 7. Defendants hire employees to work within the state of California who are covered
5 by California Industrial Welfare Commission Occupational Wage Order Nos. 13-2001 and 14-
6 2001. Based upon information and belief, Defendants classified Plaintiff, the Classes, and the
7 aggrieved employees as non-exempt for the purposes of overtime, meal periods, and rest periods.

8 8. Plaintiff and the Wage Statement Class received at least one wage statement from
9 Defendants between one (1) year prior to the filing of this Complaint and continuing into the
10 present.

11 9. Defendants paid Plaintiff, the Class, and the aggrieved employees on a piece rate
12 basis for at least part of the past four (4) including within the past year.

13 10. Defendants paid Plaintiff, the Class, and the aggrieved employees on an hourly
14 basis for at least part of the past four (4) including within the past year.

15 11. Labor Code § 1197 states the California requirement that employees must be paid
16 at least the minimum wage fixed by the Commission or by any applicable state or local law, and
17 any payment of less than the minimum wage is unlawful. Similarly, Labor Code § 1194 entitles
18 “any employee receiving less than the legal minimum wage...to recover in a civil action the
19 unpaid balance of the full amount of this minimum wage.” IWC Wage Order Nos. 13-2001 and
20 14-2001 obligate employers to pay each employee minimum wages for all hours worked.

21 12. Labor Code § 226.2 requires employers who compensate employees on a piece-
22 rate basis to provide separate compensation for the non-productive time associated with their rest
23 and recovery periods at a rate that is no less than the higher of: “(i) An average hourly rate
24 determined by dividing the total compensation for the workweek, exclusive of compensation for
25 rest and recovery periods and any premium compensation for overtime, by the total hours worked
26 during the workweek, exclusive of rest and recovery periods. (ii) The applicable minimum wage.”
27 Labor Code § 226.2 also obligates employers to compensate employees at least minimum wage
28 for their other non-productive time.

1 13. In addition, Labor Code § 1198 provides that “the maximum hours of work and the
2 standard conditions of labor fixed by the commission shall be the maximum hours of work and
3 the standard conditions of labor for employees. The employment of any employee for longer
4 hours than those fixed by the order or under conditions of labor prohibited by the order is
5 unlawful.”

6 14. During the past four (4) years, including within the past year, Defendants engaged
7 in a common policy and practice of providing Plaintiff and the other aggrieved employees with a
8 set amount of non-productive time per day regardless of the amount of time spent on non-
9 productive tasks. For instance, the pay period of August 9, 2021 through August 15, 2021,
10 Defendants paid Plaintiff, the Class, and the other aggrieved employees a fixed non-productive
11 amount of .08 hours or 4.8 minutes of non-productive time per day regardless of the amount of
12 non-productive time worked by Plaintiff, the Class, and the aggrieved employees. For some, but
13 not all, such compensation, Defendants used a pay code called “N/P/ICE/Exercise,
14 Back/Forth,Set/ Up Hourly.” In other words, as evidenced by the title of the pay code, Defendants
15 expected and only paid Plaintiff, the Class, and the other aggrieved employees a paltry 4.8
16 minutes of non-rest period, non-productive time per day during which they were expected to set
17 up for their productive piece rate tasks, exercise, and walk back and forth (multiple times) among
18 other activities. The non-productive tasks that Defendants expected Plaintiff, the Class, and the
19 other aggrieved employees to complete within 4.8 minutes per day also included preparing
20 trailers, assembling boxes, and moving tractors. If such amounts were based upon estimates, such
21 estimates were not reasonable nor a good faith error within the meaning of Labor Code section
22 226.2 as no one would plausibly believe that 4.8 minutes a day was the only time spent on the
23 non-productive activities Plaintiff, the Class, and the aggrieved employees were required to
24 complete. Based upon information and belief, Defendants did not record the amount of time
25 actually associated with these non-productive tasks nor compensate Plaintiff, the Class, and the
26 aggrieved employees for all such time.

27 15. Separate and independent of the foregoing, during the past four (4) years and
28 within the past year, Defendants also required Plaintiff, the Class, and the aggrieved employees to

1 perform work off-the-clock for which they received no compensation. This includes, but is not
2 limited to, assembling boxes and attending meetings among other tasks.

3 16. During the past four (4) years and within the past year, Defendants also did not
4 actually pay the amount that it admitted was concededly owed on Plaintiff, the Class, and the
5 other aggrieved employees itemized wage statements. For instance, on 8/11/21, Plaintiff, the
6 Class, and the aggrieved employees received some piece rate pay under the pay code S-HL Wrap
7 24s – PR Overtime. Specifically, Plaintiff’s wage statement indicates that she earned .02 hours of
8 pay at the rate of \$12.675, which should’ve resulted in an earning of \$0.2535 (.02 x \$12.675).
9 However, as evidenced by the wage statement issued to Plaintiff by Defendants, Defendants only
10 paid her \$0.22. Defendants engaged in such practices with respect to both pay for regular hours
11 (resulting in a minimum wage violation) and for overtime hours. Defendant regularly and
12 consistently applied such policies and practices to Plaintiff, the Class, and the aggrieved
13 employees.

14 17. Defendants conduct in requiring Plaintiff and the other aggrieved employees to
15 work without receiving compensation for all hours worked and/or separate compensation for their
16 non-productive time violated Labor Code §§ 226.2, 1194, 1194.2, 1197, 1197.1, and 1198.

17 18. Defendants were obligated to maintain accurate time records and their failure to do
18 so resulted in the underpayment of Plaintiff, the Class, and the aggrieved employees. During the
19 past four (4) years and within the past year, Defendants failed to maintain accurate records of the
20 actual time worked by Plaintiff, the Class, and the other aggrieved employees—including but not
21 necessarily limited to—the amount of time spent on non-productive tasks.

22 19. Labor Code § 1197.1 authorizes employees who are paid less than the minimum
23 fixed by an applicable state or local law, or by an order of the commission a civil penalty,
24 restitution of wages, and liquidate damages as follows: (1) for any initial violation that is
25 intentionally committed, one hundred dollars (\$100) for each underpaid employee for each pay
26 period for which the employee is underpaid....[and] (2) [f]or each subsequent violation for the
27 same specific offense, two hundred fifty dollars (\$250) for each underpaid employee for each pay
28 period for which the employee is underpaid regardless of whether the initial violation is

intentionally committed. As set forth above, Defendants failed to compensate Plaintiff and all aggrieved employees for all overtime wages at the proper rates. Accordingly, through PAGA and to the extent permitted by law Plaintiff and all aggrieved employees are entitled to recover civil penalties for violations of Labor Code § 1197.1.

20. Labor Code § 510 requires an employer to compensate an employee who works more than eight (8) hours in one workday, forty (40) hours in a workweek, and for the first eight (8) hours worked on the seventh consecutive day no less than one and one-half times the regular rate of pay for an employee. Further, Labor Code § 510 obligates employers to compensate employees at no less than twice the regular rate of pay when an employee works more than twelve (12) hours in a day or more than eight (8) hours on the seventh consecutive day of work. In accordance with Labor Code § 1194, Plaintiff, the Class, and the other aggrieved employees could not agree to work for a lesser wage.

21. IWC Wage Order Nos. 13-2001 and 14-2001 provides:

(a) Starting January 1, 2019, an employee shall not be employed more than nine and one-half (9 1/2) hours per workday or fifty-five (55) hours per workweek unless the employee receives one and one-half (1 1/2) times such employee's regular rate of pay for all hours worked over nine and one-half (9 1/2) hours in any one workday or more than fifty-five (55) hours in any one workweek.

(b) Starting January 1, 2020, an employee shall not be employed more than nine (9) hours per workday or fifty (50) hours per workweek unless the employee receives one and one-half (1 1/2) times such employee's regular rate of pay for all hours worked over nine (9) hours in any one workday or more than fifty (50) hours in any one workweek.

(c) Starting January 1, 2021, an employee shall not be employed more than eight and one-half (8 1/2) hours per workday or forty-five (45) hours per workweek unless the employee receives one and one-half (1 1/2) times such employee's regular rate of pay for all hours worked over eight and one-half (8 1/2) hours in any one workday or more than forty-five (45) hours in any one workweek.

22. Moreover, Labor Code § 226.2 requires employers who compensate employees on a piece-rate basis to provide separate compensation for the non-productive time associated with their rest and recovery periods at a rate that is no less than the higher of: "(i) An average hourly rate determined by dividing the total compensation for the workweek, exclusive of compensation for rest and recovery periods and any premium compensation for overtime, by the total hours

1 worked during the workweek, exclusive of rest and recovery periods. (ii) The applicable
2 minimum wage.” Labor Code § 226.2 also obligates employers to compensate employees at least
3 minimum wage for their other non-productive time.

4 23. In addition, Labor Code § 1197 states the California requirement that employees
5 must be paid at least the minimum wage fixed by the Commission or by any applicable state or
6 local law, and any payment of less than the minimum wage is unlawful.

7 24. Similarly, Labor Code § 1198 provides that “the maximum hours of work and the
8 standard conditions of labor fixed by the commission shall be the maximum hours of work and
9 the standard conditions of labor for employees. The employment of any employee for longer
10 hours than those fixed by the order or under conditions of labor prohibited by the order is
11 unlawful.”

12 25. At times during the past four (4) years and within the past year, Defendants
13 engaged in a common policy and practice of providing Plaintiff, the Class, and the other
14 aggrieved employees with a set amount of non-productive time per day regardless of the amount
15 of time spent on non-productive tasks. For instance, the pay period of August 9, 2021 through
16 August 15, 2021, Defendants paid Plaintiff, the Class, and the other aggrieved employees’ a fixed
17 non-productive amount of .08 hours or 4.8 minutes of non-productive time per day regardless of
18 the amount of non-productive time worked by Plaintiff and the other aggrieved employees. For
19 some, but not all, such compensation, Defendants used a pay code called “N/P/ICE/Exercise,
20 Back/Forth,Set/ Up Hourly.” In other words, as evidenced by the title of the pay code, Defendants
21 expected and only paid Plaintiff, the Class, and the other aggrieved employees a paltry 4.8
22 minutes of non-rest period, non-productive time per day during which they were expected to set
23 up for their productive piece rate tasks, exercise, and walk back and forth (multiple times) among
24 other activities. The non-productive tasks that Defendants expected Plaintiff, the Class, and the
25 other aggrieved employees to complete within 4.8 minutes per day also included preparing
26 trailers, assembling boxes, and moving tractors. If such amounts were based upon estimates, such
27 estimates were not reasonable nor a good faith error within the meaning of Labor Code section
28 226.2 as no one would plausibly believe that 4.8 minutes a day was the only time spent on the

1 non-productive activities Plaintiff, the Class, and the other aggrieved employees were required to
2 complete. Based upon information and belief, Defendants did not record the amount of time
3 actually associated with these non-productive tasks nor compensate Plaintiff, the Class, or the
4 aggrieved employees for all such time. As a result of Defendants' failure to include compensation
5 for Plaintiff, the Class, and the other aggrieved employees' non-productive time and/or failure to
6 pay for all hours worked, Defendants failed to pay Plaintiff, the Class, and the other aggrieved
7 employees' compensation at their overtime rates when they worked sufficient hours to entitled
8 them to overtime wages. Defendants' policies and practices also caused Defendants to misclassify
9 Plaintiff, the Class, and the other aggrieved employees' overtime hours worked as regular hours
10 resulting in the underpayment of wages for such hours.

11 26. During the past four (4) years and within the past year, Defendants knew that they
12 were underpaying Plaintiff, the Class, and the aggrieved employees for their non-productive time
13 and that the estimated amounts of such payments were not sufficient to cover their non-
14 productive time.

15 27. Separate and independent of the foregoing, Defendants also required Plaintiff, the
16 Class, and the aggrieved employees to perform work off-the-clock for which they received no
17 compensation. This included assembling boxes and attending meetings among other tasks. This
18 also caused Defendants to misclassify Plaintiff, the Class, and the other aggrieved employees'
19 overtime hours worked as regular hours resulting in an underpayment of their wages. As a result,
20 Plaintiff, the Class, and the other aggrieved employees either received no compensation for
21 overtime hours worked and/or insufficient compensation for such hours.

22 28. Further, independent of the foregoing, Defendants also did not actually pay the
23 amount that it admitted was concededly owed on Plaintiff, the Class, and the other aggrieved
24 employees' itemized wage statements. For instance, on 8/11/21, Plaintiff received some piece rate
25 pay under the pay code S-HL Wrap 24s – PR Overtime. Specifically, Plaintiff's wage statement
26 indicates that she earned .02 hours of pay at the rate of \$12.675, which should've resulted in an
27 earning of \$0.2535 (.02 x \$12.675). However, as evidenced by the wage statement issued to
28 Plaintiff, the Class, and the aggrieved employees by Defendants, Defendants only paid her \$0.22.

1 Defendants engaged in such practices with respect to both pay for regular hours (resulting in a
2 minimum wage violation) and for overtime hours. Defendant regularly and consistently applied
3 such policies and practices to Plaintiff, the Class, and the aggrieved employees.

4 29. Plaintiff alleges that during the past four (4) years and within the past year
5 Defendants engaged in the same and/or similar practices described above with respect to all
6 aggrieved employees. As a result of Defendants' failure to include such compensation when
7 calculating the regular rate used for overtime purposes and paying overtime wages, Defendants
8 failed to pay Plaintiff, the Class, and all aggrieved employees overtime wages at one and one-half
9 times their regular rate and instead underpaid their overtime wages.

10 30. Based upon the foregoing, Plaintiff alleges that Defendants violated Labor Code §
11 510 with respect to Plaintiff and all aggrieved employees. Employees, including Plaintiff and the
12 other aggrieved employees who experience a violation of Labor Code § 510 may pursue PAGA
13 penalties under Labor Code § 558. Labor Code § 558 imposes a penalty upon employers "who
14 violates, or causes to be violated...any provision regulating hours and days of work in any order
15 of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any
16 initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the
17 employee was underpaid in addition to an amount sufficient to recover underpaid wages; (2) For
18 each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay
19 period for which the employee was underpaid in addition to an amount sufficient to recover
20 underpaid wages; and (3) Wages recovered pursuant to this section shall be paid to the affected
21 employee." For purposes of Labor Code § 558, Plaintiff and the aggrieved employees seek only
22 the penalties assessed as civil penalties pursuant to *ZB, N.A. v. Sup. Ct.* 8 Cal.5th 175 (2019) and
23 not any underpaid wages.

24 31. Labor Code § 1197.1 authorizes employees who are paid less than the minimum
25 fixed by an applicable state or local law, or by an order of the commission a civil penalty,
26 restitution of wages, and liquidate damages as follows: (1) for any initial violation that is
27 intentionally committed, one hundred dollars (\$100) for each underpaid employee for each pay
28 period for which the employee is underpaid....[and] (2) [f]or each subsequent violation for the

1 same specific offense, two hundred fifty dollars (\$250) for each underpaid employee for each pay
2 period for which the employee is underpaid regardless of whether the initial violation is
3 intentionally committed. As set forth above, Defendants failed to compensate Plaintiff and all
4 aggrieved employees for all overtime wages at the proper rates. Accordingly, through PAGA and
5 to the extent permitted by law Plaintiff and all aggrieved employees are entitled to recover civil
6 penalties for violations of Labor Code § 1197.1.

7 32. At times during the four (4) years prior to the filing of this Action and within the
8 past year, Defendant failed to pay Plaintiff, the Class, and all aggrieved employees overtime
9 wages at one and one-half times their regular rate and instead underpaid their overtime wages.

10 33. Labor Code § 512 requires employers to provide employees with thirty (30)
11 minute uninterrupted and duty-free meal period within the first five (5) hours of work. Moreover,
12 an employee who works more than ten (10) hours per day is entitled to receive a second thirty
13 (30) minute uninterrupted and duty-free meal period. Pursuant to Labor Code § 512, an employer
14 may not employ an employee for a work period of more than ten (10) hours, without providing
15 the employee with a second meal period of not less than thirty (30) minutes. Moreover, the
16 second meal period may not be waived if the total hours worked is more than twelve (12) hours.

17 34. Similarly, IWC Wage Order Nos. 13-2001 and 14-2001 prohibit an employer from
18 “employ[ing] any person for a work period of more than five (5) hours without a meal period of
19 not less than 30 minutes. IWC Wage Order Nos. 13-2001 and 14-2001 further obligates
20 employers to provide an employee to “pay the employee one (1) hour of pay at the employee’s
21 regular rate of compensation for each workday that the meal period is not provided. Labor Code
22 section 1198 prohibits an employer from requiring an employee to work beyond the “standard
23 conditions of labor fixed by the commission...or under conditions of labor prohibited by the
24 order.”

25 35. Labor Code § 226.7 provides “an employer shall not require an employee to work
26 during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable
27 regulation, standard, or order of the Industrial Welfare Commission (“IWC”). Similarly, IWC
28 Wage Order 14-2001 prohibits an employer from “employ[ing] any person for a work period of

1 more than five (5) hours without a meal period of not less than 30 minutes. IWC Wage Order 14-
2 2001 further obligates employers to provide an employee to “pay the employee one (1) hour of
3 pay at the employee’s regular rate of compensation for each workday that the meal period is not
4 provided. Accordingly, for each day that Plaintiff and all aggrieved employees did not receive
5 compliant meal or rest periods, they were entitled to receive meal period premiums pursuant to
6 Labor Code § 226.7 and Wage Order Nos. 13-2001 and 14-2001.

7 36. During the past four (4) years and within the past year, Defendants failed to
8 authorize and permit Plaintiff, the Class, and the other aggrieved employees to receive lawful
9 meal periods, failed to advise them of their right to such meal periods and failed to authorize and
10 permit them to take timely first meal periods.

11 37. During the past four (4) years and within the past year, Defendants also failed to
12 authorize and permit Plaintiff, the Class, the other aggrieved employees to take meal periods
13 when they were originally scheduled to work six (6) hours or more, but worked less than six (6)
14 hours due to a lack of work and/or rain.

15 38. During the past four (4) years and within the past year, Defendants also failed to
16 actually relieve Plaintiff, the Class, and the meal period aggrieved employees of all of their duties
17 during meal periods, including but not limited to, by requiring Plaintiff, the Class, and the other
18 aggrieved employees to stay on the premises during meal periods. In other words, Defendants
19 required Plaintiff, the Class, and the other aggrieved employees to take on-duty meal periods
20 despite the fact that it did not obtain any written on-duty meal period agreements from them and
21 the nature of the work did not necessitate an on-duty meal period.

22 39. During the past four (4) years and within the past year, Defendants’ meal period
23 policies and practices also disincentivized and discouraged Plaintiff, the Class, and the other
24 aggrieved employees from taking timely first meal periods within the first five (5) hours of their
25 shift. Defendants’ understaffing policies and practices also pressured, coerced, and forced
26 employees to take untimely first meal periods due to a lack of sufficient coverage.

27 40. During the past four (4) years and within the past year, Plaintiff, the Class, the
28 Meal Period Aggrieved Employees, and the Meal/Rest Period Premium Aggrieved Employees

1 were also not compensated with one (1) hours' worth of pay at their regular rate of compensation
2 when they were not provided with a compliant meal or rest period. This includes instances when
3 Plaintiff, Meal Period Aggrieved Employees, the other Meal/Rest Period Premium Aggrieved
4 Employees were not provided with lawful timely first meal periods and/or second meal periods.

5 41. During the past four (4) years and within the past year, on the rare occasion, if any,
6 that Defendants paid a meal period premium, Defendants had a common policy and practice of
7 failing to pay meal period premiums at the proper rates and underpaid such premiums.

8 42. Further, Labor Code § 558 imposes a penalty upon employers "who violates, or
9 causes to be violated...any provision regulating hours and days of work in any order of the
10 Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial
11 violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the
12 employee was underpaid in addition to an amount sufficient to recover underpaid wages; (2) For
13 each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay
14 period for which the employee was underpaid in addition to an amount sufficient to recover
15 underpaid wages; and (3) Wages recovered pursuant to this section shall be paid to the affected
16 employee." For purposes of Labor Code § 558, Plaintiff seeks only the penalties assessed as civil
17 penalties pursuant to *ZB, N.A. v. Sup. Ct.* 8 Cal.5th 175 (2019) and not any underpaid wages.

18 43. Labor Code § 226.7 provides "an employer shall not require an employee to work
19 during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable
20 regulation, standard, or order of the Industrial Welfare Commission ("IWC"). Under IWC Wage
21 Order Nos. 13-2001 and 14-2001, an employer must authorize and permit all employees to take
22 ten (10) minute duty free rest periods for every major fraction of four hours worked. *See Augustus*
23 *v. ABM Security Services, Inc.* (2016) 2 Cal. 5th 257, 269 (concluding that "during rest periods
24 employers must relieve employees of all duties and relinquish control over how employees spend
25 their time."). In *Augustus*, the court expressly rejected the employer's assertion that it could
26 provide an on-duty rest period to employees and further explained "that employers [must]
27 relinquish any control over how employees spend their break time, and relieve their employees of
28 all duties." *Id.* at 273.

1 44. In violation of Labor Code § 226.7 and IWC Wage Order Nos. 13-2001 and 14-
2 2001, Defendants failed to provide Plaintiff and all aggrieved employees with duty-free rest
3 periods of not less than ten (10) minutes for every major fraction of four (4) hours worked.
4 Instead, Defendants often required Plaintiff and the other aggrieved employees to remain on the
5 premises during rest periods in violation of Labor Code section 226.7.

6 45. In addition to failing to authorize and permit compliant rest periods, Plaintiff, the
7 Class, and the aggrieved employees were not compensated with one (1) hours' worth of pay at
8 their regular rate of compensation when they were not provided with a compliant rest period
9 and/or their rest period was interrupted in accordance with Labor Code § 226.7(b).

10 46. During the past four (4) years and within the past year on the rare occasion, if any,
11 that Defendants paid a rest period premium, Defendants had a common policy and practice of
12 failing to pay rest period premiums at the proper rates and instead paid the premiums at a lower
13 rate than that proscribed by Labor Code § 226.7.

14 47. Based upon the foregoing, Defendants violated Labor Code § 226.7 and 1198 as
15 well as IWC Wage Order Nos. 13-2001 and 14-2001 with respect to Plaintiff and all aggrieved
16 employees. Employees, including Plaintiff and the other aggrieved employees who experienced a
17 violation of Labor Code § 226.7 may pursue PAGA penalties under Labor Code § 558. Labor
18 Code § 558 imposes a penalty upon employers "who violates, or causes to be violated...any
19 provision regulating hours and days of work in any order of the Industrial Welfare Commission
20 shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for
21 each underpaid employee for each pay period for which the employee was underpaid in addition
22 to an amount sufficient to recover underpaid wages; (2) For each subsequent violation, one
23 hundred dollars (\$100) for each underpaid employee for each pay period for which the employee
24 was underpaid in addition to an amount sufficient to recover underpaid wages; and (3) Wages
25 recovered pursuant to this section shall be paid to the affected employee." For purposes of Labor
26 Code § 558, Plaintiff and the aggrieved employees seek only the penalties assessed as civil
27 penalties pursuant to *ZB, N.A. v. Sup. Ct.* 8 Cal.5th 175 (2019) and not any underpaid wages.
28

48. As to Plaintiff, the Wage Statement Class, and the aggrieved employees, Defendants also failed to provide accurate itemized wage statements in accordance with Labor Code § 226(a)(1, 2, 3, 5, and 9). Labor Code § 226 obligates employers, semi-monthly or at the time of each payment to furnish an itemized wage statement in writing showing:

- (1) gross wages earned;
- (2) total hours worked by the employee;
- (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece rate;
- (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...;
- (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...

Similarly, Labor Code § 226(e) provides:

(e) (1) 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.

(2) (A) An employee is deemed to suffer injury for purposes of this subdivision if the employer fails to provide a wage statement.

(B) An employee is deemed to suffer injury for purposes of this subdivision if the employer fails to provide accurate and complete information as required by any one or more of items (1) to (9), inclusive, of subdivision (a) and the employee cannot promptly and easily determine from the wage statement alone one or more of the following:

(i) The amount of the gross wages or net wages paid to the employee during the pay period or any of the other information required to be provided on the itemized wage statement pursuant to items (2) to (4), inclusive, (6), and (9) of subdivision (a).

(ii) Which deductions the employer made from gross wages to determine the net wages paid to the employee during the pay period. Nothing in this subdivision alters the ability of the employer to aggregate deductions consistent with the requirements of item (4) of subdivision (a).

(iii) The name and address of the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer during the pay period.

(iv) 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.

49.

50. The itemized wage statements issued to Plaintiff, the Itemized Wage Statement Class, and the aggrieved employees did not include the include the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis and/or all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee in violation of Labor Code sections 226(a)(3) and 226(a)(9). This includes, but is not limited to, listing the number of pieces under the hours categories, including hourly pay under the piece category, and including both hours and pieces under the same category with a single “rate” information even though such compensation could not be both an hourly and a piece rate. Further, neither Plaintiff, the Itemized Wage Statement Class, nor the aggrieved employees could determine their rates of pay (piece or hourly) from their wage statement alone because even where such amounts were not double counted, mislabeled, and/or omitted, the rates and relative unit (piece rate or hourly rate) when multiplied together often did not actually equal the amount of wages paid irrespective of the other violations detailed above. For instance in the wage statement embedded below, Plaintiff allegedly received .08 hours of N/PICE/Exercise,Back/Forth/Set Up Hourly Pay” on August 9, 10, 11, and 12. Despite the fact that Plaintiff allegedly worked the same amount of non-productive time each day at the same rate, the actual compensation listed for each day varied August 9 (\$1.22), August 10 (\$1.20), August 11 (\$1.20), and August 12 (\$1.20). Of course, none of these amounts are actually correct if the correct amount of hours and hourly rates associated with Plaintiff’s non-productive time are correct because .08 hours x \$14.50 = \$1.16:

Date		Type	Hours	Pieces	Rate	Deductions	Earnings
08/09/2021		Breaks Hourly	.50		23.244		11.62
08/09/2021		N/P/ice/Exercise,Back/Forth/Set Up Hourly	.08		14.50		1.22
08/09/2021		S-HL Wrap 12s PR Overtime	.05		11.415		.57
08/09/2021		S-HL Wrap 12s PR Piece Rate	2.00	53.125	.90		47.81
08/09/2021		S-HL Wrap 24s - PR Overtime	.18		11.415		2.09
08/10/2021		S-HL Wrap 24s - PR Piece Rate	5.92	81.667	1.70		138.83
08/10/2021		Breaks Hourly	.50		23.244		11.62
08/10/2021		N/P/ice/Exercise,Back/Forth/Set Up Hourly	.08		14.50		1.20
08/10/2021		S-HL Wrap 12s PR Piece Rate	.52	13.454	.90		12.11
08/11/2021		S-HL Wrap 24s - PR Piece Rate	7.38	107.829	1.70		182.97
08/11/2021		Breaks Hourly	.50		23.244		11.62
08/11/2021		N/P/ice/Exercise,Back/Forth/Set Up Hourly	.08		14.50		1.20
08/11/2021		S-HL Wrap 24s - PR Overtime	.02		12.675		.22
08/11/2021		S-HL Wrap 24s - PR Piece Rate	7.92	118.871	1.70		202.08
08/12/2021		Breaks Hourly	.50		23.244		11.62
08/12/2021		N/P/ice/Exercise,Back/Forth/Set Up Hourly	.08		14.50		1.20
08/12/2021		S-HL Wrap 12s PR Piece Rate	1.57	33.621	.90		30.26
08/12/2021		S-HL Wrap 24s - PR Piece Rate	5.33	61.034	1.70		103.78
Totals:		RC Farms, LLC, P.O. Drawer R, GONZALES, CA, 93926					772.00

1 51. Plaintiff alleges that within the past year that Defendants engaged in this same
2 policy and practice with respect to the Itemized Wage Statement Class and the aggrieved
3 employees. As a result of such practices Plaintiff, the Itemized Wage Statement Class, and the
4 aggrieved employees could not determine from their wage statements alone the number of piece-
5 rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis and/or
6 all applicable hourly rates in effect during the pay period and the corresponding number of hours
7 worked at each hourly rate by the employee. In other words, because $A \text{ (hour or piece)} \times B \text{ (rate)}$
8 does not equal $C \text{ (the total)}$, the employees cannot determine from their wage statement alone the
9 information required to be included pursuant to Labor Code section 226.

10 52. Similarly, during the past year, the amounts listed on Plaintiff, the Itemized Wage
11 Statement Class, and the other aggrieved employees wage statements at other points can also not
12 be determined from the wage statement alone. For instance, on 8/9/2021, Plaintiff allegedly
13 worked 2.00 hours at 53.125 pieces at a rate of .90 resulting in an alleged earning of \$47.81;
14 however, $2 \times 53.125 \times .9 = \95.625 .

15 53. Further, independent of the foregoing, Defendants also did not actually pay the
16 amount that it admitted was concededly owed on Plaintiff, the Itemized Wage Statement Class,
17 and the other aggrieved employees itemized wage statements. For instance, on 8/11/21, Plaintiff
18 received some piece rate pay under the pay code S-HL Wrap 24s – PR Overtime. Specifically,
19 Plaintiff's wage statement indicates that she earned .02 hours of pay at the rate of \$12.675, which
20 should've resulted in an earning of \$0.2535 ($.02 \times \12.675). However, as evidenced by the wage
21 statement issued to Plaintiff by Defendants, Defendants only paid her \$0.22. Defendants engaged
22 in such practices with respect to both pay for regular hours (resulting in a minimum wage
23 violation) and for overtime hours. As such, it was not possible for Plaintiff, the Itemized Wage
24 Statement Class, and the other aggrieved employees to determine from their wage statements
25 alone the number of piece-rate units earned and any applicable piece rate if the employee is paid
26 on a piece-rate basis and/or all applicable hourly rates in effect during the pay period and the
27 corresponding number of hours worked at each hourly rate by the employee in violation of Labor
28 Code sections 226(a)(3) and 226(a)(9).

1 54. In addition, due to the double listing of information and the inclusion of
2 extraneous information and/or the incorrect information in the wrong column as described above,
3 Plaintiff, the Itemized Wage Statement Class, and the aggrieved employees could not determine
4 from their wage statement alone and through simple arithmetic, the total hours worked.

5 55. Moreover, due to Defendants' failure to pay Plaintiff and/or all aggrieved
6 employees all minimum wages, piece rate wages, overtime wages, meal period premiums, and
7 rest period premiums as discussed above, the wage statements issued by Defendants do not
8 indicate the correct amount of gross wages earned, the total hours worked, the net wages earned,
9 all applicable hourly rates in effect during the pay period and the corresponding number of hours
10 worked at each hourly rate. Thus, Defendants have violated Labor Code §226(a)(1), (2), (5), and
11 (9) with respect to Plaintiff, the Itemized Wage Statement Class, and all aggrieved employees.

12 56. Nor did Defendants' itemized wage statements include the total hours of other
13 non-productive time or the rate of compensation for such time and/or in a manner that would
14 allow them to determine such information from the wage statement alone as required by Labor
15 Code §§ 226 or 226.2(a)(2).

16 57. Plaintiff, the Wage Statement Class, and the aggrieved employees also suffered
17 legal "injury" for purposes of Labor Code section 226(e) insofar as they were unable to readily
18 and easily determine from the wage statements themselves the information required to be set forth
19 by Section 226(a), the information provided by Defendants was confusing and inaccurate. In
20 addition, Plaintiff, the Wage Statement Class, and the aggrieved employees were unable to
21 determine at all the total hours worked by the employee, the gross wages earned, the net wages
22 earned, the number of piece-rate units earned and any applicable piece rate if the employee is
23 paid on a piece rate, and all applicable hourly rates in effect during the pay period and the
24 corresponding number of hours worked at each hourly rate by the employee for the reasons
25 discussed above.

26 58. Defendants also knowingly and intentionally failed to pay Plaintiff and the Classes
27 minimum wages, overtime wages owed, meal period premiums, rest periods premiums and to
28 issue lawful itemized wage statements.

1 59. Labor Code §§ 201-202, an employer must provide an employee wages at the time
2 or discharge or within up to seventy-two (72) hours of their resignation. Labor Code § 203
3 provides “if an employer willfully fails to pay . . . any wages of an employee who is discharged or
4 who quits, the wages of the employee shall continue as a penalty. . .” for up to 30 days.

5 60. As described in detail above, Defendant willfully failed to pay the Class, the Late
6 Payment Subclass, and Late Payment Aggrieved Employees whose employment concluded all
7 wages owed, including but not limited to minimum wages, overtime wages, meal period
8 premiums, and rest period premiums within the time constraints proscribed in Labor Code §§
9 201-202 at the time of their termination/separation. Thus, as result of Defendant’s faulty policies
10 described above, the Late Payment Aggrieved Employees left their employment with Defendant
11 without being compensated for each and every hour worked at the appropriate rate in violation of
12 Labor Code §§ 201, 202, and 203.

13 61. Defendant also failed to pay Plaintiff, the Class, and the aggrieved employees
14 whose employment concluded any wages within the time constraints provided by Labor Code §§
15 201-203. This may include but is not limited to, because of Defendants’ policy and practice of
16 processing final pay checks at the same time as all employees pay checks and refusal to provide
17 checks at the time of termination and/or mail them after advising employees they have been
18 terminated.

19 62. Labor Code § 204 expressly requires that “[a]ll wages...earned by any person in
20 any employment are due and payable twice during each calendar month, on days designated in
21 advance by the employer as the regular paydays.” Defendants pay Plaintiff and all aggrieved
22 employees on a weekly basis.

23 63. Due to Defendants’ failure to pay Plaintiff and all aggrieved employees all
24 minimum wages, piece rate wages, all overtime wages, meal period premiums, and rest period
25 premiums for the reasons discussed above, Defendants failed to timely pay Plaintiff and all
26 aggrieved employees all wages owed within seven (7) days of the close of the payroll period in
27 accordance with Labor Code § 204(d) on a regular and consistent basis. Further, Defendants also
28 withheld pay checks from Plaintiff and the other aggrieved employees on occasion.

64. Labor Code § 210 provides that “in addition to, an entirely independent and apart from, any other penalty provided in this article, every person who fails to pay the wages of each employee as provided in Sections...204...shall be subject to a civil penalty as follows: (1) For any initial violation, one hundred dollars (\$100) for each failure to pay each employee; (2) For each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for each failure to pay each employee, plus 25% of the amount unlawfully withheld.” As a result of the faulty compensation policies and practices described in detail above, Plaintiff and the other aggrieved employees are entitled to recover penalties under Labor Code § 210 through PAGA. *See Amaral v. Cintas Corp. No. 2*, 163 Cal.App.4th 1157, 1209 (2008) (affirming an award of Labor Code section 210 penalties under PAGA due to the employer’s failure to timely pay wages at the proper rate in accordance with a local wage ordinance).

65. Labor Code § 1174 provides that each employer shall keep “payroll records showing the hours worked daily by and the wages paid to...employees employed at...establishments.” An employer who fails to maintain the records proscribed by Labor Code § 1174 is subject to a civil penalty of five hundred (\$500) dollars under Labor Code § 1174.5.

66. As previously explained, Defendants failed to maintain accurate records of the total hours worked by employees and/or the non-productive time worked by aggrieved employees, including but not limited to off-the-clock work. Thus, Defendants violated Labor Code §§ 1174 and 1174.5.

II.

JURISDICTION AND VENUE

67. This Court has subject matter jurisdiction over all causes of action asserted herein pursuant to Article VI, § 10 of the California Constitution and California Code of Civil Procedure § 410.10 by virtue of the fact that this is a civil action in which the matter in controversy, exclusive of interest, exceeds \$25,000, and because each cause of action asserted arises under the laws of the State of California or is subject to adjudication in the courts of the State of California.

68. This Court has personal jurisdiction over Defendants R.C. FARMS, LLC AND R.C. PACKING, LLC have caused injuries in the County of Monterey and State of California

1 through their acts, and by their violation of the California Labor Code and California law in
2 Monterey County.

3 69. During the statutory period applicable to the claims at issue in this action,
4 Defendant R.C. FARMS, LLC principal place of business was located at 26769 El Camino Real
5 North, Gonzales, CA 93926.

6 70. During the statutory period applicable to the claims at issue in this action,
7 Defendant R.C. PACKING, LLC principal place of business was located at 26769 El Camino
8 Real North, Gonzalez, CA 93926.

9 71. Venue as to each Defendant is proper in this judicial district, pursuant to Code of
10 Civil Procedure §395. Defendants operates within California and do business within Monterey
11 County. The unlawful acts alleged herein have a direct effect on Plaintiff and the Classes within
12 the State of California and the County of Monterey.

13 72. This case should be classified as complex according to Rule 3.400 of the
14 California Rules of Court, and assigned to a complex litigation judge and department, as it will
15 involve substantial documentary evidence, and is likely to involve extensive motion practice
16 raising difficult or novel issues that will be time-consuming to resolve and would require
17 substantial post judgment judicial supervision.

18 III.

19 PARTIES

20 A. PLAINTIFF

21 73. Plaintiff JULIA OROS is a former employee of Defendants who worked for
22 Defendants in Monterey County.

23 74. Plaintiff and the Class were regularly required to:

24 a. Work hours without receiving compensation and/or minimum wages for all
25 hours worked;

26 b. Work overtime hours without receiving the proper amount of
27 compensation;

28 c. Work without being provided lawful meal periods;

d. Work without being provided lawful rest periods;

e. Work without being provided an accurate itemized wage statement that accurately indicate the gross wages earned, total hours worked by the employee, the net wages earned, as well as all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee;

f. Were deprived of wages that Defendants knew were due and owing, yet failed to pay at the time of termination and/or within 72 hours of resignation for those former employees who did not provide advance notice.

B. DEFENDANTS

75. Defendant R.C. FARMS, LLC is a California corporation, with a current principal place of business of 26769 El Camino Real North, Gonzales, CA 93926. Upon information and belief, Defendant employed Plaintiff and the Classes within California and in Monterey County, including in Gonzalez, California. Defendant has done and does business throughout the State of California and in Monterey County.

76. Defendant R.C. PACKING, LLC is a California corporation, with a current principal place of business of 26769 El Camino Real North, Gonzales, CA 93926. Upon information and belief, Defendant employed Plaintiff and the Classes within California and in Monterey County, including in Gonzalez, California. Defendant has done and does business throughout the State of California and in Monterey County.

77. The true names and capacities, whether individual, corporate, associate, or otherwise, of Defendants sued herein as DOES 1 to 50, inclusive, are currently unknown to Plaintiff, who therefore sues Defendants by such fictitious names under Code of Civil Procedure § 474. Plaintiff is informed and believes, and based thereon alleges, that each of the Defendants designated herein as a DOE is legally responsible in some manner for the unlawful acts referred to herein. Plaintiff will seek leave of court to amend this Complaint to reflect the true names and capacities of the Defendants designated hereinafter as DOES when such identities become known.

78. Plaintiff is informed and believes, and based thereon alleges, that each Defendant acted in all respects pertinent to this action as the agent of the other Defendants, carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendant are legally attributable to the other Defendants. Furthermore, Defendants in all respects acted as the employer and/or joint employer of Plaintiff and the Class and/or as alter egos of each other.

IV.

CLASS ACTION ALLEGATIONS

79. Plaintiff brings this action on behalf of herself and all others similarly situated as a Class Action pursuant to §382 of the Code of Civil Procedure. Plaintiff seeks to represent a Class and Subclasses composed of and defined as follows:

- (1) all individuals who were employed by R.C. FARMS, LLC or R.C. PACKING, LLC as a non-exempt, employee in California for one or more pay periods from March 27, 2017 and continuing into the present; (the “Non-Exempt Class”)⁴
- (2) all individuals who were employed by R.C. FARMS, LLC or R.C. PACKING, LLC as a non-exempt, employee in California and who were paid, at least in part, on a piece-rate basis for one or more pay periods from March 27, 2017 and continuing into the present; (the “Piece Rate Non-Exempt Class”)
- (3) all individuals who were employed by R.C. FARMS, LLC or R.C. PACKING, LLC or its predecessor or merged entities in California as a non-exempt employee or other similar position and who worked a shift of more than eight (8) hours in a day and/or forty (40) hours in a week during a pay period from March 27, 2017 and continuing into the present. (“Non-Exempt Overtime Subclass”);
- (4) all individuals who were employed by R.C. FARMS, LLC or R.C. PACKING, LLC or its predecessor, merged or related entities in California who worked one or more shifts of more than six (6) hours as a non-exempt employee or other similar position from March 27, 2017 and continuing into the present. (“First Meal Period Subclass”);

⁴ Judicial Council Emergency Rule No. 9 tolled the statute of limitations applicable to this action for 5 months and 25 days or from April 6, 2020 to October 1, 2020. “Notwithstanding any other law, the statutes of limitations and repose for civil causes of action that exceed 180 days are tolled from April 6, 2020 until October 1, 2020.”

1 (5) all individuals who were employed by R.C. FARMS, LLC or R.C. PACKING,
2 LLC or its predecessor, merged or related entities in California who worked one
3 or more shifts of more than ten (10) hours as a non-exempt employee or other
4 similar position from March 27, 2017 and continuing into the present. ("Second
Meal Period Subclass");

5 (6) All individuals who were employed by R.C. FARMS, LLC or R.C. PACKING, LLC
6 or its predecessor, merged or related entities in California who were paid a meal
7 and/or rest period premium within the same week that they received either an
8 incentive payment, non-discretionary bonus, production bonus, efficiency bonus, or
attendance bonus from March 27, 2017 and continuing into the present. ("Meal/Rest
Period Premium Subclass");

9
10 Collectively, subclasses four (4), five (5), and six (6) may be referred to as the "Meal
Period Subclass."

11 (7) all individuals who were employed by R.C. FARMS, LLC or R.C. PACKING, LLC
12 or its predecessor, merged or related entities in California as a non-exempt employee,
13 or other similar position, who worked one or more shifts of more than four (4) hours
14 in length or major fraction thereof from March 27, 2017 and continuing into the
present. ("Rest Period Subclass");

15 (8) all individuals who were employed by R.C. FARMS, LLC or R.C. PACKING, LLC
16 or its predecessor, merged or related entities in California as a non-exempt employee,
17 or other similar position, who worked one or more shifts of more than ten (10) hours
18 in length from March 27, 2017 and continuing into the present. ("Third Rest Period
Subclass");

19 Collectively, subclasses seven (7) and eight (8) may be referred to as the "Rest Period
20 Subclass."

21 (9) all individuals who were employed by R.C. FARMS, LLC or R.C. PACKING,
22 LLC or its predecessor, merged or related entities in California as a non-exempt
23 employee or other similar position for one or more pay periods from March 27,
2020 and continuing into the present ("Wage Statement Subclass");

24
25 (10) all individuals who were employed by R.C. FARMS, LLC or R.C. PACKING,
26 LLC or its predecessor, merged or related entities for one or more pay periods in
27 California as a non-exempt, hourly employee and whose employment concluded
28 at any time between March 27, 2018 and continuing into the present; ("General
Late Payment Subclass");

80. This is also a representative action brought pursuant to Labor Code § 2698, *et seq.*, on behalf of the State of California and several groups of aggrieved employees defined as follows:

(1) all individuals who were employed by R.C. Farms, LLC or its predecessor or merged entities in California as a non-exempt employee⁵ for one or more pay periods from March 1, 2020⁶ and continuing into the present (“RC Farms Non-Exempt Aggrieved Employees”);

(2) all individuals who were employed by R.C. Packing, LLC or its predecessor or merged entities in California as a non-exempt employee for one or more pay periods from March 1, 2020 and continuing into the present (“RC Packing Non-Exempt Aggrieved Employees”);

Collectively, aggrieved employee groups one (1) and two (2) may be referred to as the “Overtime Aggrieved Employees.”

(3) all individuals who were employed by R.C. Farms, LLC or its predecessor or merged entities in California as a non-exempt, hourly employee or other similar position and who worked a shift of more than eight (8) hours in a day and/or forty (40) hours in a week during a pay period from March 1, 2020 and continuing into the present. (“RC Farms Overtime Aggrieved Employees”);

(4) all individuals who were employed by R.C. Packing, LLC or its predecessor or merged entities in California as a non-exempt, hourly employee or other similar position and who worked a shift of more than eight (8) hours in a day and/or forty (40) hours in a week during a pay period from March 1, 2020 and continuing into the present. (“RC Packing Overtime Aggrieved Employees”);

Collectively, aggrieved employee groups three (3) and four (4) may be referred to as the “Overtime Aggrieved Employees.”

(5) all individuals who were employed by R.C. Farms, LLC or its predecessor, merged or related entities in California who worked one or more shifts of more than six (6)

⁵ Non-exempt employees including the employees paid on a piece rate basis, hourly basis, and a combination thereof provided that they did not spend more than 50% of their time supervising two or more employees.

⁶ Judicial Council Emergency Rule No. 9 tolled the statute of limitations applicable to this action for 5 months and 25 days or from April 6, 2020 to August 3, 2020. “Notwithstanding any other law, the statutes of limitations and repose for civil causes of action that exceed 180 days are tolled from April 6, 2020 until October 1, 2020.” PAGA’s statute of limitations is governed by the Code of Civ. Proc. § 340 such that it is subject to modification by the Judicial Council.

hours as a non-exempt, hourly employee or other similar position from March 1, 2020 and continuing into the present. (“RC Farms First Meal Period Aggrieved Employee”);

(6) all individuals who were employed by R.C. Packing, LLC or its predecessor, merged or related entities in California who worked one or more shifts of more than six (6) hours as a non-exempt, hourly employee or other similar position from March 1, 2020 and continuing into the present. (“RC Packing First Meal Period Aggrieved Employee”);

(7) all individuals who were employed by R.C. Farms, LLC or its predecessor, merged or related entities in California who worked one or more shifts of more than ten (10) hours as a non-exempt hourly employee or other similar position from March 1, 2020 and continuing into the present. (“RC Farms Second Meal Period Aggrieved Employees”);

(8) all individuals who were employed by R.C. Packing, LLC or its predecessor, merged or related entities in California who worked one or more shifts of more than ten (10) hours as a non-exempt hourly employee or other similar position from March 1, 2020 and continuing into the present. (“RC Packing Second Meal Period Aggrieved Employees”);

(9) All individuals who were employed by R.C. Farms, LLC or its predecessor, merged or related entities in California who were paid a meal and/or rest period premium within the same week that they received either an incentive payment, non-discretionary bonus, production bonus, efficiency bonus, or attendance bonus from March 1, 2020 and continuing into the present. (“RC Farms Meal/Rest Period Premium Aggrieved Employees”);

(10) All individuals who were employed by R.C. Packing, LLC or its predecessor, merged or related entities in California who were paid a meal and/or rest period premium within the same week that they received either an incentive payment, non-discretionary bonus, production bonus, efficiency bonus, or attendance bonus from March 1, 2020 and continuing into the present. (“RC Packing Meal/Rest Period Premium Aggrieved Employees”);

Collectively, aggrieved employee groups five (5), six (6), seven (7), eight (8), nine (9), and ten (10) may be referred to as the “Meal Period Aggrieved Employees.”

(11) all individuals who were employed by R.C. Farms, LLC, or its predecessor, merged or related entities in California as a non-exempt hourly employee, or other similar position, who worked one or more shifts of more than four (4) hours in length or

major fraction thereof from March 1, 2020 and continuing into the present. (“Rest Period Aggrieved Employee”);

(12) all individuals who were employed by R.C. Packing, LLC, or its predecessor, merged or related entities in California as a non-exempt hourly employee, or other similar position, who worked one or more shifts of more than four (4) hours in length or major fraction thereof from March 1, 2020 and continuing into the present. (“Rest Period Aggrieved Employee”);

Collectively, aggrieved employee groups eleven (11) and twelve (12) may be referred to as the “Rest Period Aggrieved Employees.”

(13) all individuals who were employed by R.C. Farms, LLC or its predecessor, merged or related entities for one or more pay periods in California and whose employment concluded at any time between March 1, 2020 and continuing into the present; (“Late Payment Aggrieved Employee”);

(14) all individuals who were employed by R.C. Packing, LLC or its predecessor, merged or related entities for one or more pay periods in California and whose employment concluded at any time between March 1, 2020 and continuing into the present; (“Late Payment Aggrieved Employee”);

Collectively, these groups may all collectively be referred to herein as aggrieved employees and/or all aggrieved employees where appropriate

81. Plaintiff reserves the right under Rule 3.765(b) of the California Rules of Court to amend or modify the class description with greater specificity, by division into subclasses, or by limitation to particular issues.

82. This action has been brought and may properly be maintained as a class action under the provisions of § 382 of the Code of Civil Procedure because there is a well-defined community of interest in the litigation and the Proposed Classes are easily ascertainable.

A. Numerosity

83. The potential members of the Proposed Classes as defined are each so numerous that joinder of all the members of the Proposed Classes is impracticable. While the precise number of proposed Class Members in each Class has not been determined at this time, Plaintiff is informed and believes that Defendants currently employ, and during the relevant time periods

1 employed to be more than 100 members or more of the Proposed Class and Subclasses at any
2 given time.

3 84. Plaintiff alleges that Defendants' employment records would provide information
4 as to the number and location of all Proposed Class members. Joinder of all members of the
5 Proposed Class and Subclasses is not practicable.

6 **B. Commonality**

7 85. There are questions of law and fact common to the Proposed Classes⁷ that
8 predominate over any questions affecting only individual Proposed Class Members. These
9 common questions of law and fact include, without limitation:

10 a. Whether Defendants failed to pay minimum wages for all hours worked as
11 required by Labor Code §§ 226.2, 1194, 1194.2, and 1197 as well as IWC Wage Order Nos. 13-
12 2001 and 14-2001 to the Class;

13 b. Whether Defendants failed to pay wages and/or overtime compensation
14 and at the correct rate as required by Labor Code § 510 to the Class;

15 c. Whether Defendants violated Labor Code §§ 226.7 and IWC Wage Order
16 Nos. 13-2001 and 14-2001, by failing to authorize and permit First Meal Period Class Members
17 to take a timely meal period within the first five (5) hours of their shift, failure to provide second
18 meal periods for shifts worked in excess of ten (10) hours to the Class, the Second Meal Period
19 Subclass as well as their failure to pay the Meal Period Classes one additional hour of pay at the
20 employees' at their regular rate of compensation when they did not receive a compliant meal
21 period;

22 d. Whether Defendants violated Labor Code § 226.7 and IWC Nos. 13-2001
23 and 14-2001, by failing to inform Plaintiff and the Proposed Rest Period Class of their right to
24 receive a ten (10) minute duty-free rest period for every four hours of work or major fraction
25 thereof, failing to authorize and permit employees' to leave the premises during rest periods
26 and/or relieve employees of all control during rest periods, and by failing to compensate said

27 _____
28 ⁷ Plaintiff reserves her right to designate subclasses within the Classes including designating an Unfair Competition subclass for each class.

employees one (1) additional hour of pay at the employee's regular rate of compensation in lieu of rest periods;

e. Whether Defendants violated Labor Code § 226(a) and (e) by failing to provide an accurate itemized wage statements that accurately indicate, the gross wages earned, all deductions from wages, the net wages earned, as well as all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate, the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece rate by the employee, and the total hours worked to the Wage Statement Class;

f. Whether Defendants violated § 17200 et seq. of the Business & Professions Code by engaging in the acts previously alleged against the Unfair Competition Class;

C. Typicality

86. The claims of Plaintiff are typical of the claims of the Proposed Class and Subclasses. Plaintiff and all members of the Proposed Class and Subclasses sustained injuries and damages arising out of and caused by Defendants' common course of conduct in violation of laws, regulations that have the force and effect of law, and statutes as alleged herein.

D. Adequacy of Representation

87. Plaintiff will fairly and adequately represent and protect the interests of the members of the proposed Classes. Counsel who represents Plaintiff and the Proposed Classes is competent and experienced in litigating large employment class actions, and have the financial resources to litigate the claims at issue.

E. Superiority of Class Action

88. A class action is superior to other available means for the fair and efficient adjudication of this controversy. Individual joinder of all Proposed Class Members is not practicable, and questions of law and fact common to the Proposed Class predominate over any questions affecting only individual members of the Proposed Class. Each member of the Proposed Class has been damaged and is entitled to recovery by reason of Defendants' illegal policy and/or practice of failing to pay all wages due (including minimum wages and overtime wages), failing to authorize and permit lawful meal periods, failing to authorize and permit lawful

rest periods, failing to provide accurate itemized wage statements, and failing to timely pay wages after employment.

89. Class action treatment will allow those similarly situated persons to litigate their claims in the manner that is most efficient and economical for the parties and the judicial system. Plaintiff is unaware of any difficulties that are likely to be encountered in the management of this action that would preclude its maintenance as a class action.

V.

FIRST CAUSE OF ACTION

**FAILURE TO PAY MINIMUM WAGES IN VIOLATION OF LABOR CODE §§
226.2, 1194, 1194.2 AND IWC WAGE ORDER NOS. 13-2001 and 14-2001
[Against All Defendants by Plaintiff, the Non-Exempt Class and the Piece Rate
Class]**

90. Plaintiff, on behalf of herself, the Non-Exempt Class, and the Piece Rate Class re-alleges and incorporates by reference all previous paragraphs.

91. Section 1194 of the Labor Code provides, in relevant part:

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

92. Section 1194.2 of the Labor Code provides, in relevant part:

In any action under...Section 1194 to recover wages because of the payment of a wage less than the minimum wage fixed by an order of the commission, an employee shall be entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

93. Labor Code § 226.2 requires employers who compensate employees on a piece-rate basis to provide separate compensation for the non-productive time associated with their rest and recovery periods at a rate that is no less than the higher of: "(i) An average hourly rate determined by dividing the total compensation for the workweek, exclusive of compensation for rest and recovery periods and any premium compensation for overtime, by the total hours worked during the workweek, exclusive of rest and recovery periods. (ii) The applicable minimum wage." Labor Code § 226.2 also obligates employers to compensate employees at least minimum wage for their other non-productive time.

95. In failing to pay Plaintiff, Plaintiff, the Non-Exempt Class, and the Piece Rate Class for all hours worked, for the reasons described above, Defendants willfully and intentionally violated Labor Code § 1194 and acted in bad faith. Accordingly, pursuant to sections 1194 and 1194.2 of the California Labor Code, Plaintiff, Plaintiff, the Non-Exempt Class, and the Piece Rate Class are entitled to recover, either their unpaid hourly wages due, or minimum wage plus interest and/or liquidated damages in an additional amount equal to the total amount of wages unlawfully withheld during the Class Period.

96. Plaintiff, on behalf of herself, the Class, the Non-Exempt Class, the Piece Rate Class, and the Overtime Subclasses realleges and incorporates by reference all previous paragraphs.

98. IWC Wage Order Nos. 13-2001 and 14-2001 provides:

1 (a) Starting January 1, 2019, an employee shall not be employed more than nine and one-
2 half (9 1/2) hours per workday or fifty-five (55) hours per workweek unless the employee
3 receives one and one-half (1 1/2) times such employee's regular rate of pay for all hours
4 worked over nine and one-half (9 1/2) hours in any one workday or more than fifty-five
(55) hours in any one workweek.

5 (b) Starting January 1, 2020, an employee shall not be employed more than nine (9) hours
6 per workday or fifty (50) hours per workweek unless the employee receives one and one-
half (1 1/2) times such employee's regular rate of pay for all hours worked over nine (9)
hours in any one workday or more than fifty (50) hours in any one workweek.

7 (c) Starting January 1, 2021, an employee shall not be employed more than eight and one-
8 half (8 1/2) hours per workday or forty-five (45) hours per workweek unless the employee
9 receives one and one-half (1 1/2) times such employee's regular rate of pay for all hours
10 worked over eight and one-half (8 1/2) hours in any one workday or more than forty-five
(45) hours in any one workweek.

11 99. In addition, Labor Code § 1197 states the California requirement that employees
12 must be paid at least the minimum wage fixed by the Commission or by any applicable state or
13 local law, and any payment of less than the minimum wage is unlawful.

14 100. Similarly, Labor Code § 1198 provides that "the maximum hours of work and the
15 standard conditions of labor fixed by the commission shall be the maximum hours of work and
16 the standard conditions of labor for employees. The employment of any employee for longer
17 hours than those fixed by the order or under conditions of labor prohibited by the order is
18 unlawful."

19 101. At times during the past four (4) years and within the past year, Defendants
20 engaged in a common policy and practice of providing Plaintiff, the Non-Exempt Class, the Piece
21 Rate Class, and the Overtime Subclass with a set amount of non-productive time per day
22 regardless of the amount of time spent on non-productive tasks. For instance, the pay period of
23 August 9, 2021 through August 15, 2021, Defendants paid Plaintiff, the Non-Exempt Class, the
24 Piece Rate Class, and the Overtime Subclass a fixed non-productive amount of .08 hours or 4.8
25 minutes of non-productive time per day regardless of the amount of non-productive time worked
26 by Plaintiff, the Non-Exempt Class, the Piece Rate Class, and the Overtime Subclass. For some,
27 but not all, such compensation, Defendants used a pay code called "N/P/ICE/Exercise,
28 Back/Forth,Set/ Up Hourly." In other words, as evidenced by the title of the pay code, Defendants

1 expected and only paid Plaintiff, the Non-Exempt Class, the Piece Rate Class, and the Overtime
2 Subclass a paltry 4.8 minutes of non-rest period, non-productive time per day during which they
3 were expected to set up for their productive piece rate tasks, exercise, and walk back and forth
4 (multiple times) among other activities. The non-productive tasks that Defendants expected
5 Plaintiff, the Class, the Non-Exempt Class, the Piece Rate Class, and the Overtime Subclass to
6 complete within 4.8 minutes per day also included preparing trailers, assembling boxes, and
7 moving tractors. If such amounts were based upon estimates, such estimates were not reasonable
8 nor a good faith error within the meaning of Labor Code section 226.2 as no one would plausibly
9 believe that 4.8 minutes a day was the only time spent on the non-productive activities Plaintiff,
10 the Class, the Non-Exempt Class, the Piece Rate Class, and the Overtime Subclass were required
11 to complete. Based upon information and belief, Defendants did not record the amount of time
12 actually associated with these non-productive tasks nor compensate Plaintiff, the Non-Exempt
13 Class, the Piece Rate Class, and the Overtime Subclass for all such time. As a result of
14 Defendants' failure to include compensation for Plaintiff, the Non-Exempt Class, the Piece Rate
15 Class, and the Overtime Subclass members' non-productive time and/or failure to pay for all
16 hours worked, Defendants failed to pay Plaintiff, the Non-Exempt Class, the Piece Rate Class,
17 and the Overtime Subclass compensation at their overtime rates when they worked sufficient
18 hours to entitled them to overtime wages. Defendants' policies and practices also caused
19 Defendants to misclassify Plaintiff, the Non-Exempt Class, the Piece Rate Class, and the
20 Overtime Subclass members' overtime hours worked as regular hours resulting in the
21 underpayment of wages for such hours.

22 102. During the past four (4) years and within the past year, Defendants knew that they
23 were underpaying Plaintiff, the Non-Exempt Class, the Piece Rate Class, and the Overtime
24 Subclass for their non-productive time and that the estimated amounts of such payments were not
25 sufficient to cover their non-productive time.

26 103. Separate and independent of the foregoing, Defendants also required Plaintiff, the
27 Class, the Non-Exempt Class, the Piece Rate Class, and the Overtime Subclass to perform work
28 off-the-clock for which they received no compensation. This included assembling boxes and

1 attending meetings among other tasks. This also caused Defendants to misclassify Plaintiff, the
2 Class, the Non-Exempt Class, the Piece Rate Class, and the Overtime Subclass members'
3 overtime hours worked as regular hours resulting in an underpayment of their wages. As a result,
4 Plaintiff, the Non-Exempt Class, the Piece Rate Class, and the Overtime Subclass members either
5 received no compensation for overtime hours worked and/or insufficient compensation for such
6 hours.

7 104. Further, independent of the foregoing, Defendants also did not actually pay the
8 amount that it admitted was concededly owed on Plaintiff, the Non-Exempt Class, the Piece Rate
9 Class, and the Overtime Subclass members' itemized wage statements. For instance, on 8/11/21,
10 Plaintiff received some piece rate pay under the pay code S-HL Wrap 24s – PR Overtime.
11 Specifically, Plaintiff's wage statement indicates that she earned .02 hours of pay at the rate of
12 \$12.675, which should've resulted in an earning of \$0.2535 (.02 x \$12.675). However, as
13 evidenced by the wage statement issued to Plaintiff, the Non-Exempt Class, the Piece Rate Class,
14 and the Overtime Subclass members by Defendants, Defendants only paid her \$0.22. Defendants
15 engaged in such practices with respect to both pay for regular hours (resulting in a minimum
16 wage violation) and for overtime hours. Defendant regularly and consistently applied such
17 policies and practices to Plaintiff, the Non-Exempt Class, the Piece Rate Class, and the Overtime
18 Subclass.

19 105. Plaintiff alleges that during the past four (4) years and within the past year
20 Defendants engaged in the same and/or similar practices described above with respect to all class
21 members. As a result of Defendants' failure to include such compensation when calculating the
22 regular rate used for overtime purposes and paying overtime wages, Defendants failed to pay
23 Plaintiff, the Non-Exempt Class, the Piece Rate Class, and the Overtime Subclass overtime wages
24 at one and one-half times their regular rate and instead underpaid their overtime wages.

25 106. At times during the four (4) years prior to the filing of this Action and within the
26 past year, Defendant failed to pay Plaintiff the Non-Exempt Class, the Piece Rate Class, and the
27 Overtime Subclass overtime wages at one and one-half times their regular rate and instead
28 underpaid their overtime wages.

107. Defendants conduct, as described above was willful.

108. As a result of the unlawful acts of Defendants, Plaintiff, the Non-Exempt Class, the Piece Rate Class, and the Overtime Subclass have been deprived of wages and/or overtime in amounts to be determined at trial, and are entitled to recovery of such amounts, plus interest and penalties thereon, attorneys' fees, and costs.

VII.

THIRD CAUSE OF ACTION

**FAILURE TO PROVIDE LAWFUL MEAL PERIODS PURSUANT TO LABOR CODE
§§ 226.7 and 512; IWC WAGE ORDER NOS. 13-2001 AND 14-2001, § 11
[Against All Defendants by Plaintiff, the Non-Exempt Class, the Piece Rate Class, and the
Meal Period Subclass]**

109. Plaintiff, on behalf of herself, the Non-Exempt Class, the Piece Rate Class, and the Meal Period Subclass, realleges and incorporates by reference all previous paragraphs.

110. Labor Code §§ 226.7 and 512 require an employer to pay an additional hour of compensation for each non-compliant meal period an employer fails to provide. Employees are entitled to a first meal period of at least thirty (30) minutes for shifts over five (5) hours, to be provided within the first five (5) hours of the shift, and a second meal period of at least thirty (30) minutes for shifts over ten (10) hours.

111. At points within the past four (4) years including within the past year, Plaintiff, the Non-Exempt Class, the Piece Rate Class, and the First Meal Period Subclass consistently worked shifts over six (6) hours and did not receive timely first meal periods within the first five (5) hours of their shifts.

112. At points within the past four (4) years including within the past year, Plaintiff, the Non-Exempt Class, the Piece Rate Class, and the Second Meal Period Subclass did not receive a second thirty (30) minute meal period when working shifts in excess of ten (10) hours in a day during the statutory period applicable to their claims.

113. During the statutory period applicable to their claims, Plaintiffs and the Proposed Meal Period were not compensated with one (1) hours' worth of pay at their regular rate of compensation when they were not provided with a compliant meal period or at the proper rate based upon Defendants' unlawful compensation policies detailed above.

114. During the past four (4) years and within the past year, Defendants failed to authorize and permit Plaintiff, the Non-Exempt Class, the Piece Rate Class, and the Meal Period Subclass to receive lawful meal periods, failed to advise them of their right to such meal periods and failed to authorize and permit them to take timely first meal periods.

115. During the past four (4) years and within the past year, Defendants also failed to authorize and permit Plaintiff, the Non-Exempt Class, the Piece Rate Class, and the Meal Period Subclass to take meal periods when they were originally scheduled to work six (6) hours or more, but worked less than six (6) hours due to a lack of work and/or rain.

116. During the past four (4) years and within the past year, Defendants also failed to actually relieve Plaintiff, the Non-Exempt Class, the Piece Rate Class, and the Meal Period Subclass of all of their duties during meal periods, including but not limited to, by requiring Plaintiff, the Class, and Meal Period Subclass to stay on the premises during meal periods. In other words, Defendants required Plaintiff, the Non-Exempt Class, the Piece Rate Class, and the Meal Period Subclass to take on-duty meal periods despite the fact that it did not obtain any written on-duty meal period agreements from them and the nature of the work did not necessitate an on-duty meal period.

117. During the past four (4) years and within the past year, Defendants' meal period policies and practices also disincentivized and discouraged Plaintiff, the Non-Exempt Class, the Piece Rate Class, and the Meal Period Subclasses from taking timely first meal periods within the first five (5) hours of their shift. Defendants' understaffing policies and practices also pressured, coerced, and forced employees to take untimely first meal periods due to a lack of sufficient coverage.

118. During the past four (4) years and within the past year, Plaintiff, the Non-Exempt Class, the Piece Rate Class, and the Meal Period Subclass were also not compensated with one (1) hours' worth of pay at their regular rate of compensation when they were not provided with a compliant meal or rest period. This includes instances when Plaintiff and the Meal Period Subclass were not provided with lawful timely first meal periods and/or second meal periods.

119. During the past four (4) years and within the past year, on the rare occasion, if any, that Defendants paid a meal period premium, Defendants had a common policy and practice of failing to pay meal period premiums at the proper rates and underpaid such premiums.

120. Pursuant to Labor Code §226.7, Plaintiff, the Non-Exempt Class, the Piece Rate Class, and the Proposed Meal Period Classes are entitled to damages in an amount equal to one (1) hour of wages per non-compliant meal break, per day in a sum to be proven at trial.

VIII.

FOURTH CAUSE OF ACTION

FAILURE TO PROVIDE LAWFUL REST PERIODS AND PAY NON-COMPLIANT REST PERIOD PREMIUMS PURSUANT TO LABOR CODE § 226.7 AND IWC WAGE ORDER NOS. 13-2001 and 14-2001, § 12

[Against All Defendants by Plaintiff, the Non-Exempt Class, the Piece Rate Class, and the Meal/Rest Period Premium Subclass]

121. Plaintiff, on behalf of herself, the Non-Exempt Class, the Piece Rate Class, the Rest Period Subclass, and the Meal/Rest Period Premium Subclass realleges and incorporates by reference all previous paragraphs.

122. Plaintiff, the Non-Exempt Class, the Piece Rate Class, the Rest Period Subclass, and the Meal/Rest Period Premium Subclass, consistently worked shifts more than four (4) hours or a major fraction thereof, including shifts of more than ten (10) hours in a day without receiving rest periods and/or the proper amount of rest periods during the statutory period applicable to their claims.

123. Labor Code § 226.7 provides “an employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission (“IWC”). Under IWC Wage Order Nos. 13-2001 and 14-2001 an employer must authorize and permit all employees to take ten (10) minute duty free rest periods for every major fraction of four hours worked.

124. In violation of Labor Code § 226.7 and IWC Wage Order Nos. 13-2001 and 14-2001, Defendants failed to provide Plaintiff and, the Non-Exempt Class, the Piece Rate Class, and the Rest Period Subclass with duty-free rest periods of not less than ten (10) minutes for every major fraction of four (4) hours worked. Instead, Defendants often required Plaintiff, the Non-

Exempt Class, the Piece Rate Class, and the Rest Period Subclass to remain on the premises during rest periods in violation of Labor Code section 226.7.

125. Moreover, as a result of its understaffing practices and policies with respect to employees, it was not possible for Plaintiff, the Non-Exempt Class, the Piece Rate Class, the Rest Period Subclass, and the Meal/Rest Period Premium Subclass to take rest periods.

126. In addition to failing to authorize and permit compliant rest periods, Plaintiff, the Class, the Non-Exempt Class, the Piece Rate Class, the Rest Period Subclass, and the Meal/Rest Period Premium Subclass were not compensated with one (1) hours' worth of pay at their regular rate of compensation when they were not provided with a compliant rest period and/or their rest period was interrupted in accordance with Labor Code § 226.7(b).

127. Further, on the rare occasion, if any, that Defendants paid a rest period premium, Defendants had a common policy and practice of failed to pay rest period premiums at the proper rates.

128. Pursuant to Labor Code § 226.7, Plaintiff the Non-Exempt Class, and the Rest Period Subclass are entitled to damages in an amount equal to one (1) hour of wages per non-compliant rest period, in a sum to be proven at trial.

IX.

FIFTH CAUSE OF ACTION

VIOLATIONS OF LABOR CODE § 226(e)

[Against all Defendants on behalf of Plaintiff and the Wage Statement Subclass]

129. Plaintiff, on behalf of herself and the Wage Statement Subclass, realleges and incorporates by reference all previous paragraphs and all subsequent paragraphs.

130. As to Plaintiff and the Wage Statement Subclass, Defendants also failed to provide accurate itemized wage statements in accordance with Labor Code § 226(a)(1, 2, 3, 5, and 9). Labor Code § 226 obligates employers, semi-monthly or at the time of each payment to furnish an itemized wage statement in writing showing:

- (1) gross wages earned;
- (2) total hours worked by the employee;
- (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece rate;
- (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...;
- (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...

Similarly, Labor Code § 226(e) provides:

(e) (1) 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.

(2) (A) An employee is deemed to suffer injury for purposes of this subdivision if the employer fails to provide a wage statement.

(B) An employee is deemed to suffer injury for purposes of this subdivision if the employer fails to provide accurate and complete information as required by any one or more of items (1) to (9), inclusive, of subdivision (a) and the employee cannot promptly and easily determine from the wage statement alone one or more of the following:

(i) The amount of the gross wages or net wages paid to the employee during the pay period or any of the other information required to be provided on the itemized wage statement pursuant to items (2) to (4), inclusive, (6), and (9) of subdivision (a).

(ii) Which deductions the employer made from gross wages to determine the net wages paid to the employee during the pay period. Nothing in this subdivision alters the ability of the employer to aggregate deductions consistent with the requirements of item (4) of subdivision (a).

(iii) The name and address of the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer during the pay period.

(iv) 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.

131. The itemized wage statements issued to Plaintiff and the Wage Statement Subclass did not include the include the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis and/or all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee in violation of Labor Code sections 226(a)(3) and 226(a)(9). This includes, but is not limited to, listing the number of pieces under the hours categories, including hourly pay under the piece category, and including both hours and pieces under the same category with a single "rate" information even though such compensation could not be both an hourly and a piece rate. Further, neither Plaintiff nor the Wage Statement Subclass could determine their rates of pay (piece or

hourly) from their wage statement alone because even where such amounts were not double counted, mislabeled, and/or omitted, the rates and relative unit (piece rate or hourly rate) when multiplied together often did not actually equal the amount of wages paid irrespective of the other violations detailed above. For instance in the wage statement embedded below, Plaintiff allegedly received .08 hours of N/P/ICE/Exercise,Back/Forth/Set Up Hourly Pay” on August 9, 10, 11, and 12. Despite the fact that Plaintiff allegedly worked the same amount of non-productive time each day at the same rate, the actual compensation listed for each day varied August 9 (\$1.22), August 10 (\$1.20), August 11 (\$1.20), and August 12 (\$1.20). Of course, none of these amounts are actually correct if the correct amount of hours and hourly rates associated with Plaintiff’s non-productive time are correct because .08 hours x \$14.50 = \$1.16:

132. From at least one (1) year prior to the filing of this action and continuing into the present, Defendants knowing and intentionally failed to provide accurate itemized wage statements to Plaintiff and the Wage Statement Subclass in accordance with Labor Code § 226(a)(1, 2, 5, and 9). Labor Code § 226 obligates employers, semi-monthly or at the time of each payment to furnish an itemized wage statement in writing showing:

Date		ARN: 77-0418965	From: 08/09/2021 Thru: 08/15/2021			
Date	Type	Hours	Pieces	Rate	Deductions	Earnings
08/09/2021	Breaks Hourly	.50		23.244		11.62
08/09/2021	N/P/ice/Exercise,Back/Forth/Set Up Hourly	.08		14.50		1.22
08/09/2021	S-HL Wrap 12s PR Overtime	.05		11.415		.57
08/09/2021	S-HL Wrap 12s PR Piece Rate	2.00	53.125	.90		47.81
08/09/2021	S-HL Wrap 24s - PR Overtime	.18		11.415		2.09
08/09/2021	S-HL Wrap 24s - PR Piece Rate	5.92	81.667	1.70		138.83
08/10/2021	Breaks Hourly	.50		23.244		11.62
08/10/2021	N/P/ice/Exercise,Back/Forth/Set Up Hourly	.08		14.50		1.20
08/10/2021	S-HL Wrap 12s PR Piece Rate	.52	13.454	.90		12.11
08/10/2021	S-HL Wrap 24s - PR Piece Rate	7.38	107.629	1.70		182.97
08/11/2021	Breaks Hourly	.50		23.244		11.62
08/11/2021	N/P/ice/Exercise,Back/Forth/Set Up Hourly	.08		14.50		1.20
08/11/2021	S-HL Wrap 24s - PR Overtime	.02		12.675		.22
08/11/2021	S-HL Wrap 24s - PR Piece Rate	7.92	118.871	1.70		202.08
08/12/2021	Breaks Hourly	.50		23.244		11.62
08/12/2021	N/P/ice/Exercise,Back/Forth/Set Up Hourly	.08		14.50		1.20
08/12/2021	S-HL Wrap 12s PR Piece Rate	1.57	33.621	.90		30.26
08/12/2021	S-HL Wrap 24s - PR Piece Rate	5.33	61.034	1.70		103.76
Totals:					00	772.00

133. Plaintiff alleges that within the past year that Defendants engaged in this same policy and practice with respect to the Itemized Wage Statement Subclass. As a result of such practices Plaintiff and the Itemized Wage Statement Subclass could not determine from their wage statements alone the number of piece-rate units earned and any applicable piece rate if the

1 employee is paid on a piece-rate basis and/or all applicable hourly rates in effect during the pay
2 period and the corresponding number of hours worked at each hourly rate by the employee. In
3 other words, because $A \text{ (hour or piece)} \times B \text{ (rate)}$ does not equal $C \text{ (the total)}$, the employees
4 cannot determine from their wage statement alone the information required to be included
5 pursuant to Labor Code section 226.

6 134. Similarly, during the past year, the amounts listed on Plaintiff and the Wage
7 Statement Subclass Members' wage statements at other points can also not be determined from
8 the wage statement alone. For instance, on 8/9/2021, Plaintiff allegedly worked 2.00 hours at
9 53.125 pieces at a rate of .90 resulting in an alleged earning of \$47.81; however, $2 \times 53.125 \times .9$
10 $= \$95.625$.

11 135. Further, independent of the foregoing, Defendants also did not actually pay the
12 amount that it admitted was concededly owed on Plaintiff and the Wage Statement Subclass
13 Members' itemized wage statements. For instance, on 8/11/21, Plaintiff received some piece rate
14 pay under the pay code S-HL Wrap 24s – PR Overtime. Specifically, Plaintiff's wage statement
15 indicates that she earned .02 hours of pay at the rate of \$12.675, which should've resulted in an
16 earning of \$0.2535 ($.02 \times \12.675). However, as evidenced by the wage statement issued to
17 Plaintiff by Defendants, Defendants only paid her \$0.22. Defendants engaged in such practices
18 with respect to both pay for regular hours (resulting in a minimum wage violation) and for
19 overtime hours. As such, it was not possible for Plaintiff and the Wage Statement Subclass to
20 determine from their wage statements alone the number of piece-rate units earned and any
21 applicable piece rate if the employee is paid on a piece-rate basis and/or all applicable hourly
22 rates in effect during the pay period and the corresponding number of hours worked at each
23 hourly rate by the employee in violation of Labor Code sections 226(a)(3) and 226(a)(9).

24 136. In addition, due to the double listing of information and the inclusion of
25 extraneous information and/or the incorrect information in the wrong column as described above,
26 Plaintiff and the Wage Statement Subclass could not determine from their wage statement alone
27 and through simple arithmetic, the total hours worked.
28

1 137. Moreover, due to Defendants' failure to pay Plaintiff and the Wage Statement
2 Subclass all minimum wages, piece rate wages, overtime wages, meal period premiums, and rest
3 period premiums as discussed above, the wage statements issued by Defendants do not indicate
4 the correct amount of gross wages earned, the total hours worked, the net wages earned, all
5 applicable hourly rates in effect during the pay period and the corresponding number of hours
6 worked at each hourly rate. Thus, Defendants have violated Labor Code §226(a)(1), (2), (5), and
7 (9) with respect to Plaintiff and the Wage Statement Subclass.

8 138. Nor did Defendants' itemized wage statements include the total hours of other
9 non-productive time or the rate of compensation for such time and/or in a manner that would
10 allow them to determine such information from the wage statement alone as required by Labor
11 Code §§ 226 or 226.2(a)(2).

12 139. Plaintiff and the Wage Statement Subclass also suffered legal "injury" for
13 purposes of Labor Code section 226(e) insofar as they were unable to readily and easily
14 determine from the wage statements themselves the information required to be set forth by
15 Section 226(a), the information provided by Defendants was confusing and inaccurate. In
16 addition, Plaintiff and the Wage Statement Subclass were unable to determine at all the total
17 hours worked by the employee, the gross wages earned, the net wages earned, the number of
18 piece-rate units earned and any applicable piece rate if the employee is paid on a piece rate, and
19 all applicable hourly rates in effect during the pay period and the corresponding number of hours
20 worked at each hourly rate by the employee for the reasons discussed above.

21 140. Defendants also knowingly and intentionally failed to pay Plaintiff and the Classes
22 minimum wages, overtime wages owed, meal period premiums, rest periods premiums and to
23 issue lawful itemized wage statements.

1
2 141. Defendants also failed to both comply with and create a policy that complied with
3 Labor Code § 226 prior to the filing of this lawsuit. Labor Code § 226(e)(3) provides that when
4 determining whether or not an employer's violation of Labor Code § 226(a) was knowing and
5 intentional, "the relevant factor [is] whether the employer, prior to an alleged violation, has
6 adopted and is in compliance with a set of policies, procedures, and practices that fully comply
7 with this section." Accordingly, Defendants' conduct was knowing and intentional within the
8 meaning of Labor Code § 226(e).

9 142. An employee suffering injury as a result of a knowing and intentional failure by an
10 employer to comply with Labor Code § 226(a) is entitled to recover the greater of all actual
11 damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one
12 hundred dollars (\$100) per employee for each violation in a subsequent pay period, not exceeding
13 an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and
14 reasonable attorneys' fees. *See* Lab. Code § 226(e). Plaintiff and the Wage Statement Class seek
15 penalties under Labor Code § 226(e) in amounts to be determined at trial, and are entitled to
16 recovery of such amounts, attorneys' fees, and costs.

17 **X.**

18 **SIXTH CAUSE OF ACTION**

19 **WAITING TIME PENALTIES PURSUANT TO LABOR CODE §§201-203**
20 **[Against all Defendants on behalf of Plaintiff and the Late Payment Subclass]**

21 143. Plaintiffs on behalf of herself and the Late Payment Subclass re-alleges and
22 incorporates by reference each and every allegation set forth in the preceding paragraphs.

23 144. Sections 201 and 202 of the California Labor Code requires Defendants to pay all
24 compensation due and owing to former employees in the Class during the actionable period for
25 this cause of action, at or around the time that their employment is terminated.

26 145. Section 203 of the California Labor Code provides that if an employer willfully
27 fails to pay compensation promptly upon discharge or resignation, as required by Sections 201
28 and 202, then the employer is liable for penalties in the form of continued compensation up to
thirty (30) workdays.

1 146. As described in detail above, Defendants failed to pay Plaintiff and the other Class
2 Members whose employment concluded all wages owed, including but not limited to minimum
3 wages, overtime wages, meal period premiums, and rest period premiums within the time
4 constraints proscribed in Labor Code §§ 201-202 at the time of their termination/separation. Thus,
5 as result of Defendants' faulty policies described above, Plaintiff and the Late Payment Subclass
6 Members' left their employment with Defendants without being compensated for each and every
7 hour worked at the appropriate rate in violation of Labor Code §§ 201, 202, and 203.

8 147. As described in detail above, Defendant willfully failed to pay Plaintiff and the
9 Late Payment Subclass Members whose employment concluded all wages owed, including but
10 not limited to minimum wages, overtime wages, meal period premiums, and rest period premiums
11 within the time constraints proscribed in Labor Code §§ 201-202 at the time of their
12 termination/separation. Thus, as result of Defendant's faulty policies described above, the
13 Plaintiff and the Late Payment Subclass Members left their employment with Defendant without
14 being compensated for each and every hour worked at the appropriate rate in violation of Labor
15 Code §§ 201, 202, and 203.

16 148. Defendant also failed to pay Plaintiff and the Late Payment Subclass Members
17 whose employment concluded any wages within the time constraints provided by Labor Code §§
18 201-203. This may include but is not limited to, because of Defendants' policy and practice of
19 processing final pay checks at the same time as all employees pay checks and refusal to provide
20 checks at the time of termination and/or mail them after advising employees they have been
21 terminated.

22 149. As a result, Defendants are liable to Plaintiff and the Late Payment Subclass
23 Members who are no longer employed by Defendants for waiting time penalties amounting to
24 thirty (30) days wages for Plaintiff and each Class Member pursuant to California Labor Code §
25 203. See, e.g., DLSE Manual, 4.3.4 (Failure to pay any sort of wages due upon termination
26 entitles an employee to recover waiting time penalties).

27 ///

28 ///

XI.
SEVENTH CAUSE OF ACTION
UNFAIR COMPETITION PURSUANT TO
BUSINESS & PROFESSIONS CODE § 17200
[Against all Defendants on behalf of Plaintiff, the Non-Exempt Class, and the Piece Rate Class]

150. Plaintiff, on behalf of herself, the Non-Exempt Class, and the Piece Rate Class realleges and incorporates by reference all previous paragraphs.

151. This is a Class Action for Unfair Business Practices. Plaintiff, on behalf of herself, on behalf of the general public, and on behalf of the Proposed Classes, bring this claim pursuant to Business & Professions Code § 17200, et seq. The conduct of Defendants as alleged in this Complaint has been and continues to be unfair, unlawful, and harmful to Plaintiff, the general public, and the Proposed Classes. Plaintiff seeks to enforce important rights affecting the public interest within the meaning of Code of Civil Procedure § 1021.5. Plaintiff is a “person” within the meaning of Business & Professions Code § 17204, and therefore has standing to bring this cause of action for injunctive relief, restitution, and other appropriate equitable relief.

152. Defendants have engaged in unlawful and unfair business practices that violate fundamental public policies of the state of California and the United States of America As a result of its unlawful and unfair business practices, Defendants have forced employees to work under substandard and unlawful conditions in an effort to gain a competitive advantage over law-abiding employers who comply with California’s Labor Code.

153. Defendants have violated statutes and public policies as alleged herein. Through the conduct alleged in this Complaint, Defendants have acted contrary to these public policies, have violated specific provisions of the Labor Code, and have engaged in other unlawful and unfair business practices in violation of Business & Profession Code § 17200, et seq., depriving Plaintiff, and all persons similarly situated, and all interested persons of rights, benefits, and privileges guaranteed to all employees under law.

154. Defendants’ conduct, as alleged hereinabove, constitutes unfair competition in violation of § 17200 et seq. of the Business & Professions Code.

155. Defendants, by engaging in the conduct herein alleged, either knew or in the exercise of reasonable care, should have known that the conduct was unlawful. As such it is a violation of § 17200 et seq. of the Business & Professions Code.

156. As a proximate result of the above-mentioned acts of Defendants, Plaintiff, the Non-Exempt Class, the Piece Rate Class, others similarly situated, other businesses, and the general public have been damaged in a sum as may be proven.

157. As part of their claims against Defendant, Plaintiffs seek not only the unpaid wages, but also the market value of the loss of the statutory protections and the cost to other employers of providing proper pay, breaks, and complying with the California Labor Code provisions identified herein. *See e.g. Safeway, Inc. v. Sup. Ct.*, 238 Cal.App.4th 1138, 1162 (2015).

158. Unless restrained, Defendants will continue to engage in the unlawful conduct as alleged above. Pursuant to the Business & Professions Code, this court should make such orders or judgments, including the appointment of a receiver, as may be necessary to prevent the use or employment by Defendants, its agents, or employees, of any unlawful or deceptive practices prohibited by the Business & Professions Code, and/or, including but not limited to, restitution and disgorgement of profits which may be necessary to restore Plaintiff and members of the Proposed Classes the money Defendants have unlawfully failed to pay.

X.

SIXTH CAUSE OF ACTION

PLAINTIFF AND ALL AGGRIEVED EMPLOYEES AGAINST ALL DEFENDANTS FOR PENALTIES PURSUANT TO LABOR CODE § 2698, ET SEQ. FOR VIOLATIONS OF LABOR CODE §§ 201, 202, 203, 204, 210, 226, 226.2, 226.3, 510, 512, 558, 1174, 1174.5, 1194, 1197, 1197.1, and 1198

159. Plaintiff, on behalf of the State of California, realleges and incorporates by reference all previous paragraphs.

160. Plaintiff filed his PAGA Notice online with the Labor Workforce Development Agency (“LWDA”) and sent a letter by certified mail to Defendants setting forth the facts and theories of the violations alleged against Defendants, as prescribed by Labor Code § 2698 *et seq.* As required by PAGA, Plaintiff submitted the \$75.00 filing fee to the LWDA. Pursuant to Labor

1 Code § 2699.3(a)(2)(A), no notice was received and/or will have been received by Plaintiff from
2 the LWDA evidencing its intention to investigate within sixty-five (65) calendar days of the
3 postmark date of the PAGA notice. Plaintiff is therefore, entitled to commence and proceed with
4 a civil action pursuant to Labor Code § 2699.

5 161. As a result of the acts alleged above, Plaintiff seeks penalties under Labor Code
6 § 2698, *et seq.* because of Defendants' violations of Labor Code §§ 201, 202, 203, 204, 210, 226,
7 226.2, 226.3, 510, 512, 558, 1174, 1174.5, 1194, 1197, 1197.1, and 1198

8 162. Under Labor Code §§ 2699(f)(2) and 2699.5, for each such violation, Plaintiff and
9 all other aggrieved employees are entitled to penalties in an amount to be shown at the time of
10 trial subject to the following formula unless a civil penalty is already proscribed under the Labor
11 Code:

12 \$100 for the initial violation per employee per pay period; and

13 \$200 for each subsequent violation per employee per pay period.

14 163. These penalties will be allocated 75% to the Labor Workforce Development
15 Agency and 25% to the affected employees.

16 164. In addition, Plaintiff and the aggrieved employees seek the default penalty
17 provided by Labor Code § 226.3. Labor Code § 226.3 provides that "[a]ny employer who violates
18 subdivision (a) of Section 226 shall be subject to a civil penalty in the amount of two hundred
19 fifty dollars (\$250) per employee per violation in an initial violation and one thousand dollars
20 (\$1,000) per employee for each violation in a subsequent citation, for which the employer fails to
21 provide the employee a wage deduction statement or fails to keep the required in subdivision (a)
22 of Section 226."

23 165. Labor Code § 210 provides that "in addition to, an entirely independent and apart
24 from, any other penalty provided in this article, every person who fails to pay the wages of each
25 employee as provided in Sections...204...shall be subject to a civil penalty as follows: (1) For
26 any initial violation, one hundred dollars (\$100) for each failure to pay each employee; (2) For
27 each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for
28 each failure to pay each employee, plus 25% of the amount unlawfully withheld."

1 166. As a result of the faulty compensation policies and practices described in detail
2 above, the State of California is entitled to recover penalties under Labor Code § 210 through
3 PAGA.

4 167. Further, Labor Code § 558 imposes a penalty upon employers “who violates, or
5 causes to be violated...any provision regulating hours and days of work in any order of the
6 Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial
7 violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the
8 employee was underpaid in addition to an amount sufficient to recover underpaid wages; (2) For
9 each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay
10 period for which the employee was underpaid...” Based upon the above factual allegations
11 related to overtime, meal period, and rest period violations, Plaintiff and the aggrieved employees
12 are entitled to recover civil penalties under Labor Code § 558 and not any underpaid wages under
13 PAGA. *ZB, N.A. v. Sup. Ct.* 8 Cal.5th 175 (2019).

14 168. Labor Code § 1174 provides that each employer shall keep “payroll records
15 showing the hours worked daily by and the wages paid to...employees employed
16 at...establishments.” An employer who fails to maintain the records proscribed by Labor Code §
17 1174 is subject to a civil penalty of five hundred (\$500) dollars under Labor Code § 1174.5.

18 169. Labor Code § 1197.1 authorizes employees who are paid less than the minimum
19 fixed by an applicable state or local law, or by an order of the commission a civil penalty,
20 restitution of wages, and liquidate damages as follows: (1) for any initial violation that is
21 intentionally committed, one hundred dollars (\$100) for each underpaid employee for each pay
22 period for which the employee is underpaid....[and] (2) [f]or each subsequent violation for the
23 same specific offense, two hundred fifty dollars (\$250) for each underpaid employee for each pay
24 period for which the employee is underpaid regardless of whether the initial violation is
25 intentionally committed. As set forth above, Defendants failed to compensate Plaintiff and all
26 aggrieved employees for all overtime wages at the proper rates. Accordingly, through PAGA and
27 to the extent permitted by law Plaintiff and all aggrieved employees are entitled to recover civil
28 penalties for violations of Labor Code § 1197.1.

RELIEF REQUESTED

WHEREFORE, Plaintiff prays for the following relief:

1. An Order that this action may proceed and be maintained as a Class Action on behalf of the Classes;
2. For compensatory damages in the amount of unpaid minimum wages not paid to Plaintiff, each Class Member from March 27, 2017 and continuing into the present as may be proven;
3. For compensatory damages in the amount of unpaid regular wages not paid to Plaintiff, each Class Member from March 27, 2017 and continuing into the present as may be proven;
4. For compensatory damages in the amount of unpaid overtime wages not paid to Plaintiff, each Class Member from March 27, 2017 and continuing into the present as may be proven;
5. For compensatory damages in the amount of Plaintiff and each Class Members unpaid meal period premiums from March 27, 2017 and continuing into the present as may be proven;
6. For compensatory damages in the amount of Plaintiff, each Class Members' unpaid rest period premiums from March 27, 2017 and continuing into the present as may be proven;
7. For penalties pursuant to Labor Code § 226(e) for violation of Labor Code § 226(a) in the amount of 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 exceeding an aggregate penalty of four thousand dollars (\$4,000) for the inaccurate itemized wage statements issued to Plaintiff and the Wage Statement Subclass from March 27, 2020 and continuing into the present as may be proven;
8. For restitution for unfair competition pursuant to Business & Professions Code § 17200 to Plaintiff and the Unfair Competition Class for actions, including disgorgement of profits, in an amount as may be proven;

14. Such other and further relief as this Court may deem proper and just.

By: David Winston
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Attorneys for Plaintiff, the Proposed
Classes, and the aggrieved employees