

**COPY**

**WINSTON LAW GROUP, P.C.**

David S. Winston, Esq. CA Bar No. 301667

david@employmentlitigators.com

Christian H. Na, Esq. CA Bar No. 283758

christian@employmentlitigators.com

1880 Century Park East, Suite 511

Los Angeles, California 90067

Phone: (424) 288-4568

Fax: (424) 532-4062

Attorneys for Plaintiff Rodolfo Puga Rodriguez

**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN BERNARDINO  
SAN BERNARDINO DISTRICT

**SEP 15 2021**

BY   
**JACQUELINE HARNESS, DEPUTY**

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**FOR THE COUNTY OF SAN BERNARDINO**

RODOLFO PUGA RODRIGUEZ, an  
individual, on behalf of the State of  
California, as a private attorney general,

PLAINTIFF,

v.

CHANGING LIVES STAFFING, a  
California Corporation; NONGSHIM  
AMERICA, INC., and DOES 1 to 50,  
inclusive,

DEFENDANTS.

CASE NO.

**CIV SB 2126671**

**REPRESENTATIVE ACTION  
COMPLAINT FOR:**

1. Penalties Pursuant to Labor Code § 2699,  
*et seq.* for violations of Labor Code  
§§ 201, 202, 203, 226, 226.3, 226.7, 510,  
558, 1174, 1174.5, 1194, 1197, 1197.1,  
1198, and 2802

1. Plaintiff RODOLFO PUGA RODRIGUEZ, on behalf of the State of California and as an “aggrieved employee” acting as a private attorney general under the Labor Code Private Attorneys General Act of 2004, § 2698, *et seq.* (“PAGA”) complains of Defendant CHANGING LIVES STAFFING aka Changing Lives Staffing, Inc. and Samuel Hale, LLC<sup>1</sup> (Changing Lives) and NONGSHIM AMERICA, INC. (“Nongshim”) (collectively “Defendants”) and the Doe Defendants and each of them, as follows:

## I.

## INTRODUCTION

2. This is 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 non-exempt, hourly employees who were employed by Changing Lives Staffing or its predecessor, merged or related entities in California at any point from February 22, 2020 and continuing into the present. (“Changing Lives Non-Exempt Aggrieved Employees”);<sup>2</sup>
- (2) all non-exempt, hourly employees who were employed by Nongshim America, Inc. or its predecessor, merged or related entities in California at any point from February 22, 2020 and continuing into the present. (“Nongshim Non-Exempt Aggrieved Employees”);

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

- (3) all individuals who were employed by Changing Lives Staffing or its predecessor, merged or related entities in California as a non-exempt, hourly employee or other similar position who made less than 130% of the state minimum wage 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 February 22, 2020 and continuing into the present. (“Changing Lives Overtime Aggrieved Employees”);

<sup>1</sup> Changing Lives Staffing is an alter ego for and of Samuel Hale, LLC and vice versa.

2 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.” 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 (4) all individuals who were employed by Nongshim America, Inc. or its predecessor,  
2 merged or related entities in California as a non-exempt, hourly employee or other  
3 similar position who made less than 130% of the state minimum wage and who  
4 worked a shift of more than eight (8) hours in a day and/or forty (40) hours in a week  
5 during a pay period from February 22, 2020 and continuing into the present.  
6 (“Nongshim Overtime Aggrieved Employees”);
- 7 (5) all individuals who were employed by Changing Lives Staffing or its predecessor,  
8 merged or related entities for one or more pay periods in California as a non-exempt,  
9 hourly employee who made less than 130% of the state minimum wage and who  
10 worked a shift of more than eight (8) hours in a day and/or forty (40) hours in a week  
11 during a period where they also received a non-discretionary bonus, incentive  
12 payment/pay, shift differential, and/or a payment under the SHSI pay code from  
13 February 22, 2020 and continuing into the present; (“Changing Lives Incentive Pay  
14 Overtime Aggrieved Employees”);
- 15 (6) all individuals who were employed by Nongshim America, Inc. or its predecessor,  
16 merged or related entities for one or more pay periods in California as a non-exempt,  
17 hourly employee who made less than 130% of the state minimum wage and who  
18 worked a shift of more than eight (8) hours in a day and/or forty (40) hours in a week  
19 during a period where they also received a non-discretionary bonus, incentive  
20 payment/pay, shift differential, and/or a payment under the SHSI pay code from  
21 February 22, 2020 and continuing into the present; (“Nongshim Incentive Pay  
22 Overtime Aggrieved Employees”);

23 Collectively, aggrieved employee groups three (3), four (4), five (5), and six (6) may be  
24 referred to as the “Overtime Aggrieved Employees.”

- 25 (7) All individuals who were employed by Changing Lives Staffing or its predecessor,  
26 merged or related entities in California who were paid a premium within the meaning  
27 of Labor Code section 226.7 within the same week that they also received a non-  
28 discretionary bonus, incentive payment/pay, and/or a payment under the SHSI pay  
code from February 22, 2020 and continuing into the present. (“Changing Lives 226.7  
Premium Aggrieved Employees”);
- (8) All individuals who were employed by Nongshim America, Inc. or its predecessor,  
merged or related entities in California who were paid a premium within the meaning  
of Labor Code section 226.7 within the same week that they also received a non-  
discretionary bonus, incentive payment/pay, and/or a payment under the SHSI pay  
code from February 22, 2020 and continuing into the present. (“Nongshim 226.7  
Premium Aggrieved Employees”);

1 Collectively, aggrieved employee groups seven (7) and eight (8) may be referred to as the  
2 “226.7 Premium Aggrieved Employees.”

3 (9) all individuals who were employed by Changing Lives Staffing or its predecessor,  
4 merged or related entities in California as a non-exempt hourly employee, or other  
5 similar position, who worked one or more shifts of more than four (4) hours in length  
6 or major fraction thereof from February 22, 2020 and continuing into the present.  
7 (“Changing Lives Rest Period Aggrieved Employee”);

8 (10) all individuals who were employed by Nongshim America, Inc. or its predecessor,  
9 merged or related entities in California as a non-exempt hourly employee, or other  
10 similar position, who worked one or more shifts of more than four (4) hours in length  
11 or major fraction thereof from February 22, 2020 and continuing into the present.  
12 (“Nongshim Rest Period Aggrieved Employee”);

13 Collectively, aggrieved employee groups nine (9) and ten (10) may be referred to as the  
14 “Rest Period Aggrieved Employees.”

15 (11) all individuals who were employed by Changing Lives Staffing or its predecessor,  
16 merged or related entities for one or more pay periods in California as a non-exempt,  
17 hourly employee and whose employment concluded at any time between February  
18 22, 2020 and continuing into the present. (“Changing Lives Late Payment Aggrieved  
19 Employees”);

20 (12) all individuals who were employed by Nongshim America, Inc. or its predecessor,  
21 merged or related entities for one or more pay periods in California as a non-exempt,  
22 hourly employee and whose employment concluded at any time between February  
23 22, 2020 and continuing into the present. (“Nongshim Late Payment Aggrieved  
24 Employees”);

25 Collectively, aggrieved employee groups eleven (11), and twelve (12) may be referred to  
26 as the “Late Payment Aggrieved Employees.”

27 3. The groups referenced in paragraph 2 may also all collectively be referred to  
28 herein as aggrieved employees, other aggrieved employees, and/or all aggrieved employees where  
appropriate. However, none of the overtime related claims shall apply to any employee who made  
30% more than the state minimum wage (*i.e.* 130% of the state minimum wage) despite any  
inadvertent typos made herein.

4. Plaintiff, on behalf of the State of California as a private attorney general brings claims for alleged Labor Code violations committed against himself and all aggrieved employees presently or formerly employed by Defendants during the liability period pursuant to Labor Code § 2698, *et seq.* seeking penalties for Defendants' violations of California Labor Code §§ 201, 202, 203, 226, 226.3, 226.7, 510, 558, 1174, 1174.5, 1194, 1197, 1197.1, 1198, and 2802. Based upon the allegations herein, Plaintiff and all aggrieved employees are aggrieved employees within the meaning of Labor Code § 2698, *et seq.*

5. Plaintiff does not allege any individual claims and is only pursuing claims for PAGA penalties that arise exclusively out of state law. Further, Plaintiff only seeks and intends to pursue non-arbitrable PAGA claims. *See e.g. Iskanian v. CLS Transp. Los Angeles, LLC*, 59 Cal. 4th 348, 383 (2014) (holding “a PAGA claim lies outside the FAA’s coverage because it is not a dispute between an employer and an employee arising out of their contractual relationship. It is a dispute between an employer and the state”); *Herrera v. Doctors Medical Center of Modesto, Inc.*, 67 Cal.App.5th 538, 549 (2021) (explaining that unless the LWDA itself entered into an arbitration agreement, any arbitration agreement cannot be used to compel arbitration); *Winns v. Postmates Inc.*, 66 Cal.App.5th 803, 815 (2021); *Collie v. The Icee Co.*, 52 Cal.App.5th 477, 483 (2020); *Correia v. NB Baker Electric, Inc.* 32 Cal.App.5th 602 (2019); *Tanguilig v. Bloomingdale's, Inc.*, 5 Cal. App. 5th 665, 677 (2016) (holding that a PAGA claim can never be compelled to arbitration “because the real party in interest in a PAGA suit, the state, has not agreed to arbitrate the claim.”).

6. Plaintiff and all aggrieved employees worked for Defendant at one or more of its locations in California during the statutory period applicable to the claims. Plaintiff worked for Defendants within the past year.

## II.

## FACTUAL BACKGROUND

7. Plaintiff and the aggrieved employees were at all times relevant hereto were employed by Changing Lives and Nongshim and the Doe Defendants. Plaintiff and the aggrieved employees were at all times pertinent hereto, non-exempt employees for the purposes of overtime

1 and rest periods. Plaintiff and all aggrieved employees were employed by Defendants within the  
2 statutory PAGA period.

3 8. At all times relevant hereto, Defendants have operated as a single entity and/or  
4 enterprise that either directly and/or jointly employed some of the aggrieved employees. Notably,  
5 regardless of any agreement that might exist between Changing Lives and Nongshim and/or any  
6 of Changing Lives other clients, the Labor Code provides for express vicarious liability for  
7 customers of staffing agencies who are defined as Client Employers. Lab. Code § 2810.3 (“A  
8 client employer shall share with a labor contractor all civil and legal responsibility and civil  
9 liability for all workers supplied...for both of the following: 1) the payment of wages...” Notably,  
10 the bill itself expressly prohibits the shifting of legal duties and/or responsibilities to the labor  
11 contractor and that the waiver of this section is void and unenforceable. AB 1897 (2014), Senate  
12 Analysis for Third Reading (Aug. 25, 2014).

13 9. Moreover, the Defendants and the Doe Defendants had the right to exercise control  
14 over the wages, hours and/or working conditions over Plaintiff and all aggrieved employees at all  
15 relevant times herein, including day-to-day conditions, so as to be considered the joint employers  
16 of all of the aggrieved employees. By reason of their status as joint employers, they are each  
17 liable for civil penalties for violation of the California Labor Code as to Complainant and other  
18 aggrieved employees as set forth herein.

19 10. Upon information and belief, Plaintiff and the other aggrieved employees were  
20 covered by California Industrial Welfare Commission Occupational Wage Order No. 1-2001  
21 and/or other applicable wage orders.

22 11. Labor Code § 1197 states the California requirement that employees must be paid  
23 at least the minimum wage fixed by the Commission or by any applicable state or local law, and  
24 any payment of less than the minimum wage is unlawful. Similarly, Labor Code § 1194 entitles  
25 “any employee receiving less than the legal minimum wage...to recover in a civil action the  
26 unpaid balance of the full amount of this minimum wage.” IWC Wage Order 1-2001 and other  
27 applicable wage orders obligate employers to pay each employee minimum wages for all hours  
28 worked.

1           12.     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           13.     For at least part of the statutory period applicable to the claims, including within  
7 the past year, Defendants engaged in a common policy and practice of requiring Plaintiff and the  
8 aggrieved employees to undergo temperature checks and/or other medical screenings prior to the  
9 start of their shift while off-the-clock for which they did not receive compensation in violation of  
10 Labor Code §§ 1194 and 510. This includes, but is not limited, to requiring Plaintiff and the other  
11 aggrieved employees to undergo temperature checks before the start of their shifts for which they  
12 did not receive compensation. The temperature checks typically lasted between 3-5 minutes per  
13 day, but could also take longer. In order to have their temperature’s checked, Plaintiff and the  
14 other aggrieved employees were regularly required to wait in lines and were not paid for either  
15 the time waiting to have their temperature check or the time associated with temperature checks.

16           14.     For at least part of the statutory period applicable to the claims, including within  
17 the past year, Plaintiff and the other aggrieved employees as part of this off-the-clock procedures  
18 and process were also required to sign a sheet indicating what type of mask they were wearing  
19 that day since Defendants did not provide employees with masks. Unless Defendants discarded  
20 such sheets in violation of their duty to preserve evidence, these sheets will also provide clear  
21 evidence of Defendants’ violation of Labor Code § 2802 related to masks.

22           15.     Defendants’ conduct in failing to pay Plaintiff and the aggrieved employees for  
23 such time was willful. The Department of Industrial Relations issued guidance on July 28, 2020  
24 advising that employers that they must compensate employees for the time associated with  
25 medical checks before shifts (including temperature checks):

26           **Medical Checks**

27           **9. Q: Must my employer pay me for time spent at my employer’s worksite completing**  
28           **certain medical checks (including temperature checks) before beginning a shift?**

1 A: Yes. Employers must pay workers for all “hours worked,” including time that a worker is  
2 under the control of the employer. Employers that require their workers to complete a  
3 medical check in order to begin a shift, even if it is recommended under public health  
orders, must compensate workers for that time worked.

4 The term “hours worked” means the time during which a worker is subject to the control of  
5 an employer, and includes all the time the worker is suffered or permitted to work,  
6 whether or not required to do so. Under this definition, one way to determine whether  
7 time a worker spends performing a task is compensable—that is, whether it is time  
“worked”—is whether the employer exercised control over the worker by requiring the  
worker to perform that task.

8 If an employer requires that all workers perform a medical check (such as a temperature  
9 check) onsite before beginning a shift, the time completing the medical check, including  
any time waiting in line, would constitute time worked. This requirement applies even if  
10 such tasks were performed pursuant to a state or local public health guideline, because  
the check is done at the request, and thus under the control, of the employer.

11 **10. Q: Is my employer required to pay workers for required medical checks (including**  
12 **temperature checks) at the employer’s worksite, even if the medical checks take very**  
13 **little time?**

14 A: Yes, an employer is required to compensate for all hours worked in California even if a  
15 required task takes only a small amount of time. There is no “de minimis” rule under  
16 California law. Therefore, if an employer requires medical checks (such as a temperature  
17 check) at the employer’s worksite, the employer must compensate a worker for that time  
worked, even if the temperature check takes only a small amount of time to complete and  
record.

18 16. Defendants’ conduct in requiring Plaintiff and the other aggrieved employees to  
19 undergo temperature checks and wellness screening prior to the start of their shifts violated Labor  
20 Code §§ 1194, 1197, 1197.1, and 1198.

21 17. Defendants are also legally responsible for ensuring the accuracy of its time  
22 records and cannot rely upon time records that it knew were false and/or statements by employees  
23 as the California Supreme Court explained. *Donohue v. Amn Servs.*, 11 Cal.5th 58, 81 (2021) (“It  
24 is the employer's duty to maintain accurate time records” and that the employer could not rely  
25 upon certifications from employees where the information provided to the employees was  
26 inaccurate and/or incomplete); accord *Feaver v. Kaiser Found. Health Plan, Inc.*, No. 15-cv-  
27 00890-EMC, 2016 U.S. Dist. LEXIS 9778, at \*8 (N.D. Cal. Jan. 27, 2016) (conditionally  
28 certifying a class under the Fair Labor Standards Act where the employees could show that they

1 received and/or sent emails off-the-clock despite the fact that the employer had a policy requiring  
2 all time to be recorded.); *Troester v. Starbucks Corp.*, 5 Cal.5th 829 (2018). As such Defendants  
3 were obligated to maintain accurate time records of the time spent waiting in line for temperature  
4 checks, the time associated with temperature checks, and their failure to do so resulted in the  
5 underpayment of Plaintiff and the Non-Exempt Aggrieved Employees.

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

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

25 20. Labor Code section 514 states that “Sections 510 and 511 do not apply to an  
26 employee covered by a valid collective bargaining agreement if the agreement expressly provides  
27 for the wages, hours of work, and working conditions of the employees, and if the agreement  
28 provides premium wage rates for all overtime hours worked and a regular hourly rate of pay for

1 those employees of not less than 30 percent more than the state minimum wage.” This Complaint  
2 does not seek any overtime related PAGA penalties for employees making less than 30% more  
3 than state minimum wage.

4 21. Based upon information and belief, at no point during his employment did Plaintiff  
5 receive a regular hourly rate of pay that was more than 30% percent more than the state minimum  
6 wage. Based upon information and belief, Plaintiff only received \$16.50 per hour, which is  
7 significantly less than 30% more than the state minimum wage ( $\$14.00 \times 1.30 = \$18.20$ ).

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

13 23. At times during the statutory period and within the past year, Defendants paid  
14 Plaintiff and the Overtime Aggrieved Employees—who all made less than 30% more than the  
15 state minimum wage—with non-discretionary bonuses, safety bonuses, incentive payments, and  
16 other compensation that was required to be included within the regular rate (including but not  
17 limited to compensation under they pay code SHSI). For instance, for the pay period of July 12,  
18 2021 to July 18, 2021, Plaintiff earned \$16.50 in “REGULAR PAY”, an SHSI payment of \$5.10  
19 for 1 hour, and worked 1.36 overtime hours. However, when calculating and paying Plaintiff for  
20 his overtime wages, Defendants failed to pay Plaintiff at one and one-half times his regular rate  
21 and instead paid him at one and one-half his hourly base rate without taking into account all  
22 compensation necessary—including the shift differentials, non-discretionary bonuses, incentive  
23 payments, and pay under the pay code SHSI—when calculating and paying overtime wages.  
24 Defendants engaged in this same practice with respect to the other aggrieved employees including  
25 the Overtime Aggrieved Employees.

26 24. Further, as discussed in detail above, at times during the statutory period and  
27 within the past year, Defendants engaged in a common policy and practice for at least part of the  
28 time since the onset of the COVID-19 pandemic of requiring Plaintiff and the Overtime

1 Aggrieved Employees-- who all made less than 30% more than the state minimum wage—to  
2 undergo temperature checks and/or other medical screenings prior to the start of their shift while  
3 off-the-clock for which they did not receive compensation in violation of Labor Code §§ 1194  
4 and 510. This includes, but is not limited, to requiring Plaintiff and the other Overtime Aggrieved  
5 Employees to undergo temperature checks before the start of their shifts for which they did not  
6 receive compensation. The temperature checks typically lasted between 3-5 minutes per day, but  
7 could also take longer. In order to have their temperature's checked, Plaintiff and the other  
8 Overtime Aggrieved Employees were regularly required to wait in lines and were not paid for  
9 either the time waiting to have their temperature check or the time associated with temperature  
10 checks.

11 25. Since Plaintiff and many of the Overtime Aggrieved Employees worked eight (8)  
12 hours aside from the off-the-clock time associated with temperature checks, many of the hours  
13 worked by Plaintiff and the other Overtime Aggrieved Employees were misclassified as regular  
14 hours instead of overtime hours resulting in the underpayment of overtime wages in addition to  
15 the failure to pay for all hours worked. Such conduct violated Labor Code § 510.

16 26. Based upon the foregoing, Defendants violated Labor Code § 510 with respect to  
17 Plaintiff and all Overtime Aggrieved Employees. Employees, including Plaintiff and the other  
18 Overtime Aggrieved Employees—who all made less than 30% more than the State Minimum  
19 Wage—who experienced a violation of Labor Code § 510 may pursue PAGA penalties under  
20 Labor Code § 558. Labor Code § 558 imposes a penalty upon employers “who violates, or causes  
21 to be violated...any provision regulating hours and days of work in any order of the Industrial  
22 Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation,  
23 fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was  
24 underpaid in addition to an amount sufficient to recover underpaid wages; (2) For each  
25 subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay  
26 period for which the employee was underpaid in addition to an amount sufficient to recover  
27 underpaid wages; and (3) Wages recovered pursuant to this section shall be paid to the affected  
28 employee.” For purposes of Labor Code § 558, Plaintiff and the Overtime Aggrieved Employees

1 seek only the PAGA penalties assessed as civil penalties pursuant to *ZB, N.A. v. Sup. Ct.* 8  
2 Cal.5th 175 (2019) and not any underpaid wages.

3 27. On the rare occasion if any that Defendants paid premiums within the meaning of  
4 Labor Code section 226.7 to the aggrieved employees, Defendants improperly paid the premium  
5 at the employee's hourly base rate instead of at their regular rate resulting in the underpayment of  
6 the Labor Code section 226.7 premiums. Plaintiff contends that Defendants' policies and  
7 practices as alleged above violated Labor Code § 226.7 and seeks penalties pursuant to PAGA  
8 related thereto consistent with the California Supreme Court's decision in *Ferra v. Loews*  
9 *Hollywood Hotel, LLC*, No. S259172) \_\_\_Cal.5th\_\_\_ 2021 Cal. LEXIS 4877 (July 15, 2021)  
10 ("we hold that the term 'regular rate of compensation' in section 226.7(c) has the same meaning  
11 of regular rate of pay' in section 510(a) and encompasses not only hourly wages, but all  
12 nondiscretionary payments for work performed by the employee.").

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

26 29. Labor Code § 226.7 provides "an employer shall not require an employee to work  
27 during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable  
28 regulation, standard, or order of the Industrial Welfare Commission ("IWC"). Under IWC Wage

1 Order Nos. 1-2001 and 7-2001, an employer must authorize and permit all employees to take ten  
2 (10) minute duty free rest periods for every major fraction of four hours worked. *See Augustus v.*  
3 *ABM Security Services, Inc.* (2016) 2 Cal. 5th 257, 269 (concluding that “during rest periods  
4 employers must relieve employees of all duties and relinquish control over how employees spend  
5 their time.”).

6 30. Pursuant to Labor Code § 226.7 and IWC Wage Order No. 1-2001 and other  
7 applicable wage orders, Defendants failed to provide Rest Period Aggrieved Employees with rest  
8 periods of not less than ten (10) minutes for every major fraction of four (4) hours worked.  
9 Instead, Defendants regularly and consistently required Rest Period Aggrieved Employees to  
10 forgo rest periods and/or required them to remain on the premises and failed to relieve them of all  
11 duties.

12 31. Defendants’ failure to comply with California’s rest period laws also includes, but  
13 is not limited to requiring employees to remain on the premises during rest periods and not  
14 permitting second rest period on fractional shifts where the employee works more than six (6)  
15 hours, but less than eight (8) hours. Defendants Nongshim and Changing Lives made these  
16 decisions jointly as did the other Doe Defendants.

17 32. Moreover, the aggrieved employees were denied rest periods as a result of  
18 Defendants’ understaffing practices and policies. Notably, although Defendants’ rest period  
19 policies and practices are not compliant, they also pressured and coerced employees to forgo rest  
20 periods and made it difficult for employees to take lawful duty-free rest periods both due to their  
21 understaffing policies and practices and otherwise.

22 33. Based upon the foregoing, Defendants violated Labor Code §§ 226.7 and 558, and  
23 other applicable wage orders with respect to Plaintiff and the aggrieved employees. As such,  
24 Plaintiff and the aggrieved employees are entitled to penalties under Labor Code § 558. Labor  
25 Code § 558 imposes a penalty upon employers “who violates, or causes to be violated...any  
26 provision regulating hours and days of work in any order of the Industrial Welfare Commission  
27 shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for  
28 each underpaid employee for each pay period for which the employee was underpaid in addition

1 to an amount sufficient to recover underpaid wages; (2) For each subsequent violation, one  
2 hundred dollars (\$100) for each underpaid employee for each pay period for which the employee  
3 was underpaid in addition to an amount sufficient to recover underpaid wages; and (3) Wages  
4 recovered pursuant to this section shall be paid to the affected employee.” For purposes of Labor  
5 Code § 558, Plaintiff and the aggrieved employees seek only the PAGA penalties assessed as  
6 civil penalties pursuant to *ZB, N.A. v. Sup. Ct.* 8 Cal.5th 175 (2019) and not any underpaid wages.

7 34. Labor Code § 226 obligates employers, semi-monthly or at the time of each  
8 payment to furnish an itemized wage statement in writing showing:

- 9 (1) gross wages earned;  
10 (2) total hours worked by the employee;  
11 (3) the number of piece-rate units earned and any applicable piece rate if the  
12 employee is paid on a piece rate;  
13 (4) all deductions, provided that all deductions made on written orders of the employee  
14 may be aggregated and shown as one item;  
15 (5) net wages earned;  
16 (6) the inclusive dates of the period for which the employee is paid;  
17 (7) the name of the employee and only the last four digits of his or her social security  
18 number or an employee identification number other than a social security number;  
19 (8) the name and address of the legal entity that is the employer...;  
20 (9) all applicable hourly rates in effect during the pay period and the corresponding  
21 number of hours worked at each hourly rate by the employee...

22 35. Labor Code § 226(a)(1), (2), (5), and (9) require employers semimonthly or at the  
23 time or each payment of wages, furnish each of his or her employees, an accurate itemized  
24 statement in writing showing the gross wages earned, the total hours worked by the employee, all  
25 deductions, the net wages earned, as well as all applicable hourly rates in effect during the pay  
26 period and the corresponding number of hours worked at each hourly rate by the employee.

27 36. During the statutory period applicable to the claims and within the past year, due  
28 to Defendants’ failure to pay Plaintiff and all aggrieved employees all minimum wages, overtime  
wages, and Labor Code section 226.7 premiums, the wage statements issued by Defendants do  
not indicate the correct amount of gross wages earned, the total hours worked, the net wages  
earned, all applicable hourly rates in effect during the pay period and the corresponding number  
of hours worked at each hourly rate. Thus, Plaintiff is an aggrieved employee within the meaning  
of PAGA and Defendants have violated Labor Code §226(a)(1), (2), (5), and (9) with respect to  
Plaintiff and all aggrieved employees.

1           37.     Separate and independent from the foregoing, to the extent that SHSI pay turns out  
2 not to be based upon hours worked—such as if it is a safety bonus—Plaintiff contends that  
3 Defendants included an hours’ worth of time associated with this pay regardless of whether or not  
4 an hour or more was spent on it or any time for that matter. As a result, the total hours on Plaintiff  
5 and the other aggrieved employees’ wage statements did not include the total hours worked as  
6 required by Labor Code section 226(a)(2) and instead overstate the actual number of hours  
7 worked.

8           38.     Labor Code § 226.3 provides that “[a]ny employer who violates subdivision (a) of  
9 Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250)  
10 per employee per violation in an initial violation and one thousand dollars (\$1,000) per employee  
11 for each violation in a subsequent citation, for which the employer fails to provide the employee a  
12 wage deduction statement or fails to keep the required in subdivision (a) of Section 226.” As  
13 explained in detail above, Defendants failed to provide Plaintiff and the other aggrieved  
14 employees with accurate itemized wage statements. Accordingly, Plaintiff and the other  
15 aggrieved employees may also recover Labor Code § 226.3 penalties for Defendants’ violations  
16 of Labor Code § 226(a).

17           39.     Labor Code § 204 expressly requires that “[a]ll wages...earned by any person in  
18 any employment are due and payable twice during each calendar month, on days designated in  
19 advance by the employer as the regular paydays.”

20           40.     During the statutory period applicable to the claims and within the past year,  
21 Defendant paid Plaintiff and all aggrieved employees on a weekly basis.

22           41.     Due to Defendants’ failure to pay Plaintiff and all aggrieved employees all  
23 minimum wages, all overtime wages, and all Labor Code section 226.7 premiums for the reasons  
24 discussed above, Defendants failed to timely pay Plaintiff and all aggrieved employees all wages  
25 owed within seven (7) days of the close of the payroll period in accordance with Labor Code §  
26 204(d) on a regular and consistent basis.

27           42.     Labor Code § 210 provides that “in addition to, an entirely independent and apart  
28 from, any other penalty provided in this article, every person who fails to pay the wages of each

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

10 43. Under Labor Code §§ 201-202, an employer must provide an employee wages at  
11 the time of discharge or within up to seventy-two (72) hours of their resignation. Labor Code §  
12 203 provides “if an employer willfully fails to pay . . . any wages of an employee who is  
13 discharged or who quits, the wages of the employee shall continue as a penalty. . .” for up to 30  
14 days. Lab. Code § 203.

15 44. As described in detail above, Defendants failed to pay aggrieved employees whose  
16 employment concluded all wages owed, including but not limited to minimum wages, overtime  
17 wages, and Labor Code section 226.7 premiums within the time constraints proscribed in Labor  
18 Code §§ 201-202 at the time of their termination/separation. Thus, as result of Defendants’ faulty  
19 policies described above, the Late Payment Aggrieved Employees left their employment with  
20 Defendant without being compensated for each and every hour worked at the appropriate rate in  
21 violation of Labor Code §§ 201, 202, and 203.

22 45. Labor Code § 1174 provides that each employer shall keep “payroll records  
23 showing the hours worked daily by and the wages paid to...employees employed  
24 at...establishments.” An employer who fails to maintain the records proscribed by Labor Code §  
25 1174 is subject to a civil penalty of five hundred (\$500) dollars under Labor Code § 1174.5.

26 46. During the statutory period applicable to their claims and within the past year,  
27 Defendant failed to maintain accurate records of the total hours worked by employees or of the  
28 time associated with temperature checks and medical screenings and the actual punches (it

1 rounded punches) on a regular and consistent basis in express violation of Section 7(A)(3) of  
2 IWC Wage Order Nos. 1-2001 and 7-2001 which requires employers to record “when the  
3 employee begins and ends each work period.”

4 47. Further, due to Defendants’ regular and consistent practice of not recording all  
5 hours worked, including the time associated with temperature checks, medical screenings, and  
6 keeping records of masks worn by employees, both the time records maintained by Defendant and  
7 its payroll records do not show the actual hours worked daily by Plaintiff and the aggrieved  
8 employees. This caused Plaintiff and the other aggrieved employees time records not to actually  
9 show the total hours worked daily by each of them throughout the PAGA period in violation of  
10 Labor Code §§ 1174 and 1174.5.

11 48. Plaintiff fully and completely exhausted his administrative remedies under PAGA  
12 prior to proceeding with this action. Plaintiff filed his PAGA Notice online with the Labor  
13 Workforce Development Agency (“LWDA”) and sent a letter by certified mail to Defendants  
14 setting forth the facts and theories of the violations alleged against Defendants, as prescribed by  
15 Labor Code § 2698 *et seq.* As required by PAGA, Plaintiff submitted the \$75.00 filing fee to the  
16 LWDA. Pursuant to Labor Code § 2699.3(a)(2)(A), no notice was received and/or will have been  
17 received by Plaintiff from the LWDA evidencing its intention to investigate within sixty-five (65)  
18 calendar days of the postmark date of the PAGA notice. Plaintiff is therefore, entitled to  
19 commence and proceed with a civil action pursuant to Labor Code § 2699.

### 20 III.

#### 21 JURISDICTION AND VENUE

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

50. Venue is proper in this Court, because Plaintiff worked for Defendants in San Bernardino County at 12155 6th St, Rancho Cucamonga, CA 91730 and Defendant Changing Lives Staffing's principal place of business is located in San Bernardino County. As such, Defendants do business in San Bernardino County including, based upon information and belief, at 12155 6th St, Rancho Cucamonga, CA 91730.

51. Venue as to each Defendant is proper in this judicial district, pursuant to Code of Civil Procedure § 395. Defendants operate within California and does business within San Bernardino County, California. The unlawful acts alleged herein have a direct effect employees within the State of California and San Bernardino County.

#### IV.

**PARTIES**

### A. PLAINTIFF

52. Plaintiff Rodolfo Puga Rodriguez is a resident of California worked for Defendants in California within the past year and brings this case as a deputized aggrieved employee on behalf of the state of California.

53. Plaintiff and all aggrieved employees are, and at all times pertinent hereto, have been classified as employees by Defendants. Defendants hires employees to work in California.

54. Upon information and belief, Plaintiff and all aggrieved employees are covered by California Industrial Welfare Commission Occupational Wage Orders Nos. 1-200, 7-2001, or other applicable wage orders.

55. Plaintiff represents the state of California in prosecuting claims against Defendants on behalf of several groups of employees defined as:

- (1) all non-exempt, hourly employees who were employed by Changing Lives Staffing or its predecessor, merged or related entities in California at any point from February 22, 2020 and continuing into the present. (“Changing Lives Non-Exempt Aggrieved Employees”);<sup>3</sup>

<sup>3</sup> 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.” 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  
2 (2) all non-exempt, hourly employees who were employed by Nongshim America, Inc.  
3 or its predecessor, merged or related entities in California at any point from February  
4 22, 2020 and continuing into the present. (“Nongshim Non-Exempt Aggrieved  
Employees”);

5 Collectively, aggrieved employee groups one (1) and (2) may be referred to as the “Non-  
6 Exempt Aggrieved Employees.”

- 7 (3) all individuals who were employed by Changing Lives Staffing or its predecessor,  
8 merged or related entities in California as a non-exempt, hourly employee or other  
9 similar position who made less than 130% of the state minimum wage and who  
10 worked a shift of more than eight (8) hours in a day and/or forty (40) hours in a week  
11 during a pay period from February 22, 2020 and continuing into the present.  
12 (“Changing Lives Overtime Aggrieved Employees”);

- 13 (4) all individuals who were employed by Nongshim America, Inc. or its predecessor,  
14 merged or related entities in California as a non-exempt, hourly employee or other  
15 similar position who made less than 130% of the state minimum wage and who  
16 worked a shift of more than eight (8) hours in a day and/or forty (40) hours in a week  
17 during a pay period from February 22, 2020 and continuing into the present.  
18 (“Nongshim Overtime Aggrieved Employees”);

- 19 (5) all individuals who were employed by Changing Lives Staffing or its predecessor,  
20 merged or related entities for one or more pay periods in California as a non-exempt,  
21 hourly employee who made less than 130% of the state minimum wage and who  
22 worked a shift of more than eight (8) hours in a day and/or forty (40) hours in a week  
23 during a period where they also received a non-discretionary bonus, incentive  
24 payment/pay, shift differential, and/or a payment under the SHSI pay code from  
25 February 22, 2020 and continuing into the present; (“Changing Lives Incentive Pay  
26 Overtime Aggrieved Employees”);

- 27 (6) all individuals who were employed by Nongshim America, Inc. or its predecessor,  
28 merged or related entities for one or more pay periods in California as a non-exempt,  
hourly employee who made less than 130% of the state minimum wage and who  
worked a shift of more than eight (8) hours in a day and/or forty (40) hours in a week  
during a period where they also received a non-discretionary bonus, incentive  
payment/pay, shift differential, and/or a payment under the SHSI pay code from  
February 22, 2020 and continuing into the present; (“Nongshim Incentive Pay  
Overtime Aggrieved Employees”);

1 Collectively, aggrieved employee groups three (3), four (4), five (5), and six (6) may be  
2 referred to as the “Overtime Aggrieved Employees.”

3 (7) All individuals who were employed by Changing Lives Staffing or its predecessor,  
4 merged or related entities in California who were paid a premium within the meaning  
5 of Labor Code section 226.7 within the same week that they also received a non-  
6 discretionary bonus, incentive payment/pay, and/or a payment under the SHSI pay  
7 code from February 22, 2020 and continuing into the present. (“Changing Lives 226.7  
8 Premium Aggrieved Employees”);

9 (8) All individuals who were employed by Nongshim America, Inc. or its predecessor,  
10 merged or related entities in California who were paid a premium within the meaning  
11 of Labor Code section 226.7 within the same week that they also received a non-  
12 discretionary bonus, incentive payment/pay, and/or a payment under the SHSI pay  
13 code from February 22, 2020 and continuing into the present. (“Nongshim 226.7  
14 Premium Aggrieved Employees”);

15 Collectively, aggrieved employee groups seven (7) and eight (8) may be referred to as the  
16 “226.7 Premium Aggrieved Employees.”

17 (9) all individuals who were employed by Changing Lives Staffing or its predecessor,  
18 merged or related entities in California as a non-exempt hourly employee, or other  
19 similar position, who worked one or more shifts of more than four (4) hours in length  
20 or major fraction thereof from February 22, 2020 and continuing into the present.  
21 (“Changing Lives Rest Period Aggrieved Employee”);

22 (10) all individuals who were employed by Nongshim America, Inc. or its predecessor,  
23 merged or related entities in California as a non-exempt hourly employee, or other  
24 similar position, who worked one or more shifts of more than four (4) hours in length  
25 or major fraction thereof from February 22, 2020 and continuing into the present.  
26 (“Nongshim Rest Period Aggrieved Employee”);

27 Collectively, aggrieved employee groups nine (9) and ten (10) may be referred to as the  
28 “Rest Period Aggrieved Employees.”

(11) all individuals who were employed by Changing Lives Staffing 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 February  
22, 2020 and continuing into the present. (“Changing Lives Late Payment Aggrieved  
Employees”);

(12) all individuals who were employed by Nongshim America, Inc. or its predecessor,

1 merged or related entities for one or more pay periods in California as a non-exempt,  
2 hourly employee and whose employment concluded at any time between February  
3 22, 2020 and continuing into the present. (“Nongshim Late Payment Aggrieved  
Employees”);

4 Collectively, aggrieved employee groups eleven (11), and twelve (12) may be referred to  
5 as the “Late Payment Aggrieved Employees.”

6 56. The groups referenced in paragraph 55 may also all collectively be referred to  
7 herein as aggrieved employees, other aggrieved employees, and/or all aggrieved employees where  
8 appropriate. However, none of the overtime related claims shall apply to any employee who made  
9 30% more than the state minimum wage (*i.e.* 130% of the state minimum wage) despite any  
10 inadvertent typos made herein.

11 **B. DEFENDANTS**

12 57. Defendant CHANGING LIVES STAFFING aka Changing Lives Staffing, Inc. is  
13 believed to be a California Corporation operating within the State of California including within  
14 San Bernardino County. Defendant’s principal place of business is believed to be 13135 Central  
15 Ave, Chino, CA 91710. Changing Lives Staffing is an alter ego for and of Samuel Hale, LLC and  
16 vice versa.

17 58. Defendant NONGSHIM AMERICA, INC. is believed to be a California  
18 Corporation operating within the State of California including within San Bernardino County.  
19 Defendant’s principal place of business is believed to be 12155 6th Street, Rancho Cucamonga,  
20 CA 91730.

21 59. Based upon information and belief, Defendants and the Doe Defendants operate as  
22 joint employers and/or as a single enterprise or alter egos of each other. Throughout his  
23 employment, Plaintiff and the aggrieved employees were regularly and consistently subject to the  
24 common policies and practices utilized by Defendants.

25 60. The true names and capacities, whether individual, corporate, associate, or  
26 otherwise, of Defendants sued herein as DOES 1 to 50, inclusive, are currently unknown to  
27 Plaintiff, who therefore sues Defendants by such fictitious names under Code of Civil Procedure  
28 § 474. Plaintiff is informed and believes, and based thereon alleges, that each of the Defendants

1 designated herein as a DOE is legally responsible in some manner for the unlawful acts referred  
2 to herein. Plaintiff will seek leave of court to amend this Complaint to reflect the true names and  
3 capacities of the Defendants designated hereinafter as DOES when such identities become  
4 known.

5 61. Plaintiff is informed and believes, and based thereon alleges, that each Defendants  
6 acted in all respects pertinent to this action as the agent of the other Defendants, carried out a joint  
7 scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendant are  
8 legally attributable to the other Defendants. Furthermore, Defendants in all respects acted as the  
9 employer and/or joint employer of Plaintiff and the other aggrieved employees.

10 **V.**

11 **FIRST CAUSE OF ACTION**

12 **PLAINTIFF AND ALL AGGRIEVED EMPLOYEES AGAINST ALL DEFENDANTS**  
13 **FOR PENALTIES PURSUANT TO LABOR CODE § 2698, ET SEQ. FOR VIOLATIONS**  
14 **OF LABOR CODE §§ 201, 202, 203, 226, 226.3, 226.7, 510, 558, 1174, 1174.5, 1194, 1197,**  
15 **1197.1, 1198, and 2802**

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

18 63. As a result of the acts alleged above, Plaintiff seeks penalties under Labor Code  
19 § 2698, *et seq.* because of Defendants' violations of Labor Code §§ 201, 202, 203, 226, 226.3,  
20 226.7, 510, 558, 1174, 1174.5, 1194, 1197, 1197.1, 1198, and 2802.

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

25 \$100 for the initial violation per employee per pay period; and

26 \$200 for each subsequent violation per employee per pay period.

27 65. These penalties will be allocated 75% to the Labor Workforce Development  
28 Agency and 25% to the affected employees.

66. In addition, Plaintiff and the aggrieved employees seek the default penalty  
provided by Labor Code § 226.3. Labor Code § 226.3 provides that "[a]ny employer who violates

1 subdivision (a) of Section 226 shall be subject to a civil penalty in the amount of two hundred  
2 fifty dollars (\$250) per employee per violation in an initial violation and one thousand dollars  
3 (\$1,000) per employee for each violation in a subsequent citation, for which the employer fails to  
4 provide the employee a wage deduction statement or fails to keep the required in subdivision (a)  
5 of Section 226.”

6 67. Labor Code § 210 provides that “in addition to, an entirely independent and apart  
7 from, any other penalty provided in this article, every person who fails to pay the wages of each  
8 employee as provided in Sections...204...shall be subject to a civil penalty as follows: (1) For  
9 any initial violation, one hundred dollars (\$100) for each failure to pay each employee; (2) For  
10 each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for  
11 each failure to pay each employee, plus 25% of the amount unlawfully withheld.” Pursuant to  
12 Labor Code § 210, “[t]welve and one-half percent of the penalty recovered shall be paid into a  
13 fund within the Labor and Workforce Development Agency dedicated to educating employers  
14 about state labor laws, and the remainder shall be paid into the State Treasury to the credit of the  
15 General Fund.” As a result of the faulty compensation policies and practices described in detail  
16 above, the State of California is entitled to recover penalties under Labor Code § 210 through  
17 PAGA.

18 68. Further, Labor Code § 558 imposes a penalty upon employers “who violates, or  
19 causes to be violated...any provision regulating hours and days of work in any order of the  
20 Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial  
21 violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the  
22 employee was underpaid in addition to an amount sufficient to recover underpaid wages; (2) For  
23 each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay  
24 period for which the employee was underpaid...” Based upon the above factual allegations  
25 related to overtime and rest period violations, Plaintiff and the aggrieved employees seek only the  
26 PAGA penalties assessed as civil penalties pursuant to *ZB, N.A. v. Sup. Ct.* 8 Cal.5th 175 (2019)  
27 and not any underpaid wages.

28 ///

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

2

- 3  
4  
5  
6  
7

9

10

11  
12  
13