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11 on behalf of himself and all other aggrieved employees

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA

13 COUNTY OF LOS ANGELES

14 SERGIO MOYA LOPEZ, on behalf of himself
15 and all other aggrieved employees,

CASE NO.: 21STCV46128

16 REPRESENTATIVE ACTION

17 PLAINTIFF,

COMPLAINT FOR VIOLATION OF THE
CALIFORNIA PRIVATE ATTORNEYS
GENERAL ACT OF 2004, CALIFORNIA
LABOR CODE § 2698 *et seq.*

18 vs.

19 DAVID TEXTILES, INC., a California
20 corporation; and DOES 1 through 10, inclusive,

21 DEFENDANTS.
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1 Plaintiff SERGIO MOYA LOPEZ (“PLAINTIFF”), on behalf of himself and all other aggrieved
2 employees, alleges as follows:

3 **INTRODUCTION**

4 1. PLAINTIFF brings this action on behalf of himself and all other aggrieved employees of
5 Defendant DAVID TEXTILES, INC. and DOES 1 through 10, inclusive (collectively,
6 “DEFENDANTS”) to recover civil penalties arising from unpaid wages earned and due, including but
7 not limited to unpaid minimum wages, unlawful meal period and rest break policies and practices, failure
8 to pay all wages due to discharged or quitting employees, failure to maintain required records, failure to
9 provide accurate itemized wage statements, and failure to timely pay wages during employment.

10 **THE PARTIES**

11 2. PLAINTIFF is a resident of the State of California. At all times relevant to this action,
12 PLAINTIFF was employed by DEFENDANTS in the State of California as an hourly, non-exempt
13 employee.

14 3. PLAINTIFF is informed and believes, and thereon alleges, that Defendant DAVID
15 TEXTILES, INC. (“DAVID TEXTILES”) is, and all times relevant to this action was, a corporation
16 organized and existing under the laws of the State of California. PLAINTIFF is informed and believes,
17 and based thereon alleges, that Defendant DAVID TEXTILES is authorized to transact and conduct
18 business in the State of California and does transact and conduct business in the State of California and
19 in the County of Los Angeles.

20 4. PLAINTIFF is informed and believes that DAVID TEXTILES is engaged in the business
21 of textile distribution and manufacturing.

22 5. DAVID TEXTILES employed PLAINTIFF and other aggrieved persons in the State of
23 California.

24 6. At this time, the true names and capacities of DOES 1 through 10, inclusive, are unknown
25 to PLAINTIFF, and PLAINTIFF therefore sues such DEFENDANTS under fictitious names.
26 PLAINTIFF is informed and believes, and thereon alleges, that each defendant designated as a DOE is
27 in some manner responsible for the occurrences alleged herein, and that PLAINTIFF and other aggrieved

1 employees' injuries and damages were proximately caused by the conduct of said DOE defendants.
2 PLAINTIFF will seek leave of the court to amend this Complaint to allege the true names and capacities
3 of said DOE defendants when such information is ascertained.

4 7. PLAINTIFF is informed and believes, and based thereon alleges, that at all relevant
5 times, DEFENDANTS were joint employers of PLAINTIFF and other aggrieved employees.
6 PLAINTIFF is informed and believes, and thereon alleges, that at all times relevant to this action,
7 DEFENDANTS were the alter egos, predecessors, divisions, affiliates, integrated enterprises, joint
8 employers, subsidiaries, parents, principals, related entities, co-conspirators, authorized agents, partners,
9 joint venturers, and/or guarantors, actual or ostensible, of each other. Each defendant was dominated
10 by his, her, or its codefendants, and each was the alter ego of the other.

11 8. PLAINTIFF is informed and believes, and based thereon alleges, that in perpetrating the
12 acts and omissions alleged herein, DEFENDANTS, and each of them, acted pursuant to, and in
13 furtherance of, their policies and practices of not paying PLAINTIFF and other aggrieved employees all
14 wages earned and due, through methods and schemes which include, but are not limited to: failing to
15 pay overtime premiums; failing to provide rest and meal periods; failing to properly maintain records;
16 failing to provide accurate itemized statements for each pay period; failing to timely pay wages during
17 employment; and requiring, permitting, or suffering the employees to work off the clock, in violation of
18 the California Labor Code ("Labor Code") and applicable Industrial Welfare Commission ("IWC")
19 Wage Order(s).

20 9. PLAINTIFF is informed and believes, and thereon alleges, that each and every one of
21 the acts and omissions alleged herein were performed by, and/or attributable to, all DEFENDANTS,
22 each acting as agents and/or employees, and/or under the direction and control of, each of the other
23 DEFENDANTS, and that said acts and failures to act were within the course and scope of said agency,
24 employment, and/or direction and control.

25 10. PLAINTIFF is informed and believes, and based thereon alleges, that in accordance with
26 Labor Code Section 558.1, DEFENDANTS and any person acting on behalf of DEFENDANTS are
27 liable for violating, or causing to violate, any provision regulating minimum wages or hours and days

1 of work in any order of the Industrial Welfare Commission, or Labor Code Sections 203, , 226, 226.7,
2 1193.6 and/or 1194.

3 **JURISDICTION AND VENUE**

4 11. The Superior Court of the State of California has jurisdiction in this matter because
5 PLAINTIFF is a resident of the State of California, and DEFENDANTS are qualified to do business in
6 California and regularly conduct business in the State of California.

7 12. No federal question is at issue because the claims are based exclusively on California
8 state law.

9 13. Venue is proper in this judicial district and the County of Los Angeles, California because
10 among other things, PLAINTIFF and the other aggrieved employees performed work for
11 DEFENDANTS in the County of Los Angeles; DEFENDANTS maintain grounds, facilities, and
12 offices, and transact business in the County of Los Angeles; DEFENDANTS' unlawful policies,
13 procedures, and practices, which are the subject of this action were applied to PLAINTIFF and other
14 aggrieved employees in the County of Los Angeles; and DEFENDANTS' unlawful acts and omissions
15 occurred in the County of Los Angeles.

16 **PAGA REPRESENTATIVE ACTION ALLEGATIONS**

17 14. In accordance with Labor Code Section 2699.3, on or about August 4, 2021, PLAINTIFF
18 gave written notice to the California Labor and Workforce Development Agency ("LWDA"), by filing
19 a PAGA Notice online, a copy of which was sent by certified mail to DEFENDANTS notifying them of
20 the specific provisions of the Labor Code and applicable IWC Wage Order(s) alleged to have been
21 violated, including the facts and theories to support the alleged violations.

22 15. The LWDA did not provide notice of its intention to investigate DEFENDANTS'
23 violations within the sixty-five (65) calendar days of the August 4, 2021 date of PLAINTIFF'S PAGA
24 Notice. Since PLAINTIFF has waited more than sixty-five (65) days from the date of PLAINTIFF's
25 PAGA Notice before filing this Civil Action, PLAINTIFF has complied with all of the requirements set
26 forth in Labor Code Section 2699.3 to commence a representative action under the PAGA.

16. California Judicial Council Emergency rule 9 related to COVID-19 tolled the statute of limitations applicable to this action for five months and 25 days 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 Civil Procedure Section 340 and thus is subject to modification by the California Judicial Council.

17. Pursuant to the California Private Attorneys General Act of 2004 (“PAGA”), Labor Code Sections 2698-2699.5, PLAINTIFF brings this action on behalf of himself and all current and former non-exempt aggrieved employees of DEFENDANTS in the State of California beginning from April 6, 2020 (as tolled by Emergency Rule 9) and ending at the time this action settles or proceeds to final judgment (the “PAGA PERIOD”).

PREDICATE LABOR CODE VIOLATIONS

Failure to Pay Minimum Wages

(Labor Code §§ 1194, 1197; IWC Wage Order Nos. 1-2001, 7-2001, § 4)

18. Under Labor Code Sections 1194 and 1197 and applicable IWC Wage Order(s), including IWC Wage Order Nos. 1-2001 and 7-2001, § 4, payment to an employee of less than the applicable minimum wage for all hours worked in a payroll period is unlawful.

19. PLAINTIFF is informed and believes, and based thereon alleges, that during the PAGA PERIOD and in violation of Labor Code Sections 1194 and 1197 and the applicable IWC Wage Order(s), DEFENDANTS failed to pay PLAINTIFF and other aggrieved employees the applicable minimum wages for all hours worked in a payroll period by, among other things: requiring, suffering, or permitting PLAINTIFF and other aggrieved employees to work off the clock for COVID-19 temperature checks before the start of their shifts, and before they “clocked in.”

20. Although DEFENDANTS maintained a common policy and practice of requiring PLAINTIFF and the aggrieved employees to stand/wait in line pre-shift for COVID-19 temperature checks during the PAGA PERIOD, DEFENDANTS failed to compensate PLAINTIFF and the other aggrieved employees for such time, despite the fact that it is compensable time under state law.

1 21. PLAINTIFF is informed and believes, and based thereon alleges, that beginning around
2 May 2020 and continuing until the present, or until PLAINTIFF was terminated from his job on or about
3 March 2021, PLAINTIFF and aggrieved employees formed a line in or near DEFENDANTS' premises
4 before their shifts, were required to have their temperatures checked with a thermometer provided by
5 DEFENDANTS, all while off the clock, before being allowed to clock in for their shifts.

6 22. Through their policy and practice of requiring PLAINTIFF and the aggrieved employees
7 to undergo pre-shift COVID-19 temperature checks, DEFENDANTS violated Labor Code Section
8 1194.

9 23. Under California law, employees must be paid for all "hours worked." Hours worked
10 include "the time during which an employee is subject to the control of an employer and includes all the
11 time the employee is suffered or permitted to work, whether or not required to do so." See IWC Wage
12 Order Nos. 1-2001 and 7-2001, 2(G); see also *Mendiola v. CPS Security Solutions, Inc.*, 60 Cal. 4th 833
13 (2015). "[I]t is only necessary that the worker be subject to the control of the employer in order to be
14 entitled to compensation." *Morillion v. Royal Packing Co.*, 22 Cal. 4th 575, 584 (2000). An employee
15 is under the employer's control and entitled to compensation when the employer "'directs, commands
16 or restrains' an employee." *Id.* at 583 (citation omitted).

17 24. As the California Supreme Court made clear in *Morillion*, when determining whether an
18 employee's activity is under the employer's control entitling him or her to compensation, the import is
19 not whether the employer requires the activity and thus whether employees can avoid it, but the level of
20 control employers exert over employees during the activity: "The level of the employer's control, *rather*
21 *than the mere fact that the employer requires the employees' activity is determinative.*" *Morillion*, 22
22 Cal.4th at 587 (emphasis added).

23 25. In *Frlekin v. Apple Inc.*, the California Supreme Court reaffirmed its holding in *Morillion*
24 that "[t]he level of the employer's control over its employees, rather than the mere fact that the employer
25 requires the employees' activity, is determinative" concerning whether an activity is compensable under
26 the "hours worked" control clause. *Frlekin*, 8 Cal.5th 1038, 1051 (2020) (citing *Morillion*, 22 Cal. 4th
27 at 587). In *Frlekin*, the California Supreme Court found that time employees spent undergoing bag

1 searches for security purposes at the end of their shifts was compensable. The Court reasoned its decision
2 by analyzing the factors that determine whether an employer has exerted compensable control:

3 We also emphasize that whether an activity is required remains probative in
4 determining whether an employee is subject to the employer’s control. But,
5 at least with regard to cases involving *onsite* employer-controlled activities,
6 the mandatory nature of an activity is not the only factor to consider. We
7 conclude that courts may and should consider additional relevant factors—
8 including, but not limited to, the location of the activity, the degree of the
employer’s control, whether the activity primarily benefits the employee or
employer, and whether the activity is enforced through disciplinary
measures—when evaluating such employer-controlled conduct.

9 *Id.* at 1056. To be free of the employer’s control for purposes of “hours worked,” the employee must
10 be free to use his or her time “effectively for his or her own purposes.” *Morillion*, 22 Cal.4th at 583.

11 26. Here, as in *Frlekin*, Plaintiff and the aggrieved employees could not avoid
12 DEFENDANTS’ COVID-19 temperature checks and could not then use their time effectively for their
13 own purposes. As such, DEFENDANTS exercised compensable control over PLAINTIFF and the
14 aggrieved employees who underwent COVID-19 temperature checks, and owes wages to those
15 employees and former employees at this time. Applying these legal principles, the California
16 Department of Industrial Relations recently issued guidance that supports Plaintiff’s claim that
17 DEFENDANTS unlawfully failed to pay him and the aggrieved employees for their time spent on
18 worksite temperature checks before clocking in for their shifts. See Cal. Dept. of Industrial Relations,
19 Safe Reopening FAQs for Workers and Employers (July 8, 2021), available at
20 https://www.dir.ca.gov/covid19/FAQs_COVID-19_Safe_Reopening.htm, which provides the
21 following in regard to FAQ #10 (titled “Medical Checks, Testing, and Vaccinations”):

22 **“10. Q: Must my employer pay me for time spent at my employer’s**
23 **worksite completing certain medical checks (including temperature**
24 **checks) before beginning a shift?**

25 **A: Yes.** Employers must pay workers for all hours worked, including time
26 that a worker is under the control of the employer. Employers that require
27 their workers to complete a medical check in order to begin a shift, even if
that time worked.

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

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

15 27. Through their policy and practice of requiring PLAINTIFF and the aggrieved employees
16 to undergo pre-shift COVID-19 temperature checks, DEFENDANTS violated Labor Code section 1194.

17 28. As a result of DEFENDANTS’ policy and practices described above, DEFENDANTS
18 regularly failed to pay PLAINTIFF and all aggrieved employees for all hours worked in violation of
19 Labor Code Sections 1194 and 1197.

20 **Failure to Provide Complaint Meal Periods and Failure to Pay Premium Wages**

21 **(Labor Code §§ 226.7, 512; IWC Wage Order Nos. 1-2001, 7-2001, § 11)**

22 29. Labor Code Section 512 provides in relevant part, “An employer shall not employ an
23 employee for a work period of more than five hours per day without providing the employee with a meal
24 period of not less than 30 minutes, except that if the total work period per day of the employee is no
25 more than six hours, the meal period may be waived by mutual consent of both the employer and
26 employee. An employer shall not employ an employee for a work period of more than 10 hours per day
27 without providing the employee with a second meal period of not less than 30 minutes, except that if the
28 total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent
of the employer and the employee only if the first meal period was not waived.”

30. IWC Wage Orders 1-2001 and 7-2001, § 11 state, “(A) An employer may not employ an
employee for a work period of more than five (5) hours without providing the employee with a meal

1 period of not less than 30 minutes, except that when a work period of not more than six (6) hours will
2 complete the day's work the meal period may be waived by mutual consent of employer and employee.
3 Unless the employee is relieved of all duty during a 30-minute meal period, the meal period shall be
4 considered an "on duty" meal period and counted as time worked. An "on duty" meal period shall be
5 permitted only when the nature of the work prevents an employee from being relieved of all duty and
6 when by written agreement between the parties an on-the-job paid meal period is agreed to. (B) An
7 employer may not employ an employee for a work period of more than ten (10) hours per day without
8 providing the employee with a second meal period of not less than 30 minutes, except that if the total
9 hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of
10 the employer and the employee only if the first meal period was not waived."

11 31. Under California law, when an employee works for a work period of more than five (5)
12 hours, a meal period must be provided no later than the end of the employee's fifth hour of work, *i.e.*,
13 no later than the start of the employee's sixth hour of work. When an employee works for a period of
14 more than 10 hours, a second meal period must be provided no later than the end of the employee's tenth
15 hour of work, *i.e.*, no later than the start of the employee's eleventh hour of work. *See Brinker*
16 *Restaurant Corp. v. Superior Court*, 53 Cal.4th 1004 (2012).

17 32. Labor Code Section 226.7, subdivision (a) states, "An employer shall not require an
18 employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute,
19 or applicable regulation, standard, or order of the Industrial Welfare Commission"

20 33. During the PAGA PERIOD, as part of DEFENDANTS' policies, procedures, and
21 practices, DEFENDANTS failed to provide timely, compliant, off-duty meal periods to PLAINTIFF
22 and other aggrieved employees under Labor Code Sections 226.7 and 512 and the applicable IWC Wage
23 Order(s).

24 34. DEFENDANTS further violated Labor Code Sections 226.7 and 512 and IWC Wage
25 Order Nos. 1-2001 and 7-2001, § 11 by failing to compensate PLAINTIFF and other aggrieved
26 employees who were not provided with a meal period, in accordance with the applicable IWC Wage
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1 Order(s), one (1) additional hour of compensation at each employee's regular rate of pay for each
2 workday that a complaint meal period was not provided.

3 **Failure to Provide Compliant Rest Periods and Failure to Pay Premium Wages**
4 **(Labor Code §§ 226.7; IWC Wage Order Nos. 1-2001, 7-2001, § 12)**

5 35. At all relevant times, as part of DEFENDANTS' illegal policies, procedures, and
6 practices to deprive their current and former non-exempt employees all wages earned and due,
7 DEFENDANTS failed to provide compliant rest periods to PLAINTIFF and other aggrieved employees
8 as required pursuant to Labor Code Section 226.7, and applicable IWC Wage Order(s).

9 36. PLAINTIFF is informed and believes, and based thereon alleges, that during the PAGA
10 PERIOD, DEFENDANTS did not have any policy or practice pertaining to rest break violations.

11 37. DEFENDANTS further violated Labor Code Section 226.7 and IWC Wage Order Nos.
12 1-2001, 7-2001, § 12 by failing to pay PLAINTIFF and other aggrieved employees who were not
13 provided with a compliant rest period, in accordance with the applicable IWC Wage Order(s), one (1)
14 additional hour of compensation at each employee's regular rate of pay for each workday that a
15 compliant rest period was not provided.

16 **Failure to Timely Pay Wages During Employment**
17 **(Labor Code § 204)**

18 38. Under Labor Code Section 204, for all compensable time and labor performed between
19 the 1st and 15th days of any calendar month, DEFENDANTS are required to pay their nonexempt
20 employees between the 16th and 26th day of the month during which the labor was performed. Labor
21 Code Section 204 provides that for all labor performed between the 16th and 26th days of any calendar
22 month, DEFENDANTS are required to pay their nonexempt employees between the 1st and 10th day
23 of the following calendar month.

24 39. Labor Code Section 204 further provides that all wages earned for labor in excess of the
25 normal work period shall be paid no later than the payday of the next regular payroll period.

26 40. PLAINTIFF is informed and believes, and based thereon alleges, that during the PAGA
27 PERIOD, DEFENDANTS knowingly and willfully failed to timely pay PLAINTIFF and other

1 aggrieved employees all the wages for labor performed by the next regular payroll period as required by
2 Labor Code Section 204.

3 **Failure to Pay All Wages Due Upon Separation of Employment**

4 **(Labor Code §§ 201, 202, 203)**

5 41. Under Labor Code Sections 201, 202 and 203, DEFENDANTS are required to pay all
6 earned and unpaid wages to an employee who is discharged. Labor Code Section 201 provides that if
7 an employer discharges an employee, the employee's wages accrued and unpaid at the time of discharge
8 are due and payable immediately.

9 42. Under Labor Code Section 202, DEFENDANTS are required to pay all accrued wages
10 due to an employee no later than 72 hours after the employee quits, unless the employee provided 72
11 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or
12 wages at the time of quitting.

13 43. Labor Code Section 203 provides that if an employer willfully fails to pay, in accordance
14 with Labor Code sections 201 and 202, any wages of an employee who is discharged or who quits, the
15 employer is liable for waiting time penalties in the form of continued wages to the employee for up to
16 thirty (30) days.

17 44. PLAINTIFF is informed and believes, and based thereon alleges, that during the PAGA
18 PERIOD and in violation of Labor Code Sections 201 and 202, DEFENDANTS willfully failed to timely
19 pay accrued wages and other compensation to PLAINTIFF and other aggrieved employees who were
20 discharged or who quit.

21 **Failure to Furnish Accurate Itemized Wage Statements**

22 **(Labor Code § 226(a); IWC Wage Order Nos. 1-2001, 7-2001, § 7)**

23 45. During the PAGA PERIOD, DEFENDANTS failed and continue to fail to provide
24 PLAINTIFF and other aggrieved employees with timely and accurate itemized wage statements in
25 writing showing each employee's accurate total of gross wages earned, accurate total of hours worked,
26 and the accurate total of net wages earned, in effect during each pay period and the corresponding
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1 number of hours worked at each hourly rate, in violation of Labor Code Section 226, subdivision (a)
2 and IWC Wage Order Nos. 1-2001, 7-2001, § 7.

3 46. As alleged above, PLAINTIFF is informed and believes, and based thereon alleges, that
4 during the PAGA PERIOD, DEFENDANTS knowingly and intentionally failed to pay PLAINTIFF and
5 all aggrieved employees all minimum wages associated with time spent by them on off-the-clock
6 COVID-19 temperature checks and pre-shift COVID-19 temperature checks. Accordingly, all wage
7 statements contained inaccurate information as to hours worked and wages earned (since time spent on
8 pre-shift COVID temperature checks were never included).

9 47. As a result of DEFENDANTS' unlawful policies and practices and failure to pay all
10 earned wages, including minimum wages, DEFENDANTS knowingly and intentionally failed to
11 provide PLAINTIFF and other aggrieved employees with timely and accurate itemized wage statements
12 in accordance with Labor Code Section 226, subdivision (a).

13 48. During the PAGA PERIOD, PLAINTIFF and other aggrieved employees suffered injury
14 as a result of DEFENDANTS' failure to provide timely and accurate itemized wage statements as
15 PLAINTIFF and other aggrieved employees could not timely and easily determine from the wage
16 statements the actual and accurate total hours worked by the employees, the gross wages earned, the net
17 wages earned, since time spent on COVID-19 temperature checks, and waiting in line was always done
18 off the clock and pre-shift.

19 **FIRST CAUSE OF ACTION**

20 **VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT**

21 **(Labor Code §§ 2698 *et seq.*)**

22 **(AGAINST ALL DEFENDANTS)**

23 49. PLAINTIFF hereby incorporates by reference, as though fully set forth herein, each of
24 the allegations in paragraphs 1 through 48, above.

25 50. PLAINTIFF is an "aggrieved employee" within the meaning of Labor Code Section
26 2699, subdivision (c), and a proper representative to bring a civil action on behalf of himself and other
27 current and former non-exempt employees of DEFENDANTS under the procedures specified in Labor

Code sections 2699.3, because PLAINTIFF was employed by DEFENDANTS and one or more of the alleged Labor Code violations was committed against PLAINTIFF during the PAGA PERIOD.

51. PLAINTIFF seeks to recover civil penalties through a representative action permitted by PAGA.

52. Pursuant to Labor Code Sections 2698 through 2699.5, PLAINTIFF seeks to recover civil penalties from DEFENDANTS in a representative action for the violations set forth above which include, but are not limited to, violations of Labor Code Sections 201, 202, 203, 204, 210, 226, subdivision (a), 226.7, 1194, 1194.2, 1197, 1197.1, 1198, and 1198.

53. Under Labor Code Section 2699, subdivision (a), PLAINTIFF seeks civil penalties based on DEFENDANTS' violations of Labor Code provisions for which a civil penalty is specifically provided which include, but are not limited to, the following:

- a. Under Labor Code Section 210, DEFENDANTS are subject to a civil penalty in the amount of one hundred dollars (\$100.00) for the initial violation and two hundred dollars (\$200.00) per employee for violations in subsequent pay periods for violations of Labor Code Section 204;
- b. Under Labor Code Section 226.3, DEFENDANTS are subject to a civil penalty in the amount of two hundred and fifty dollars (\$250.00) per aggrieved employee for the initial pay period where a violation occurs and one thousand dollars (\$1,000.00) per aggrieved employee for violations in subsequent pay periods for violations of Labor Code Section 226, subdivision (a);
- c. Under Labor Code Section 558, subdivision (a), "[a]ny employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission," shall be subject to a civil penalty, in addition to any other penalty provided by law, of fifty dollars (\$50.00) for initial violations for each employee for each pay period for which the employee was underpaid and one

1 hundred dollars (\$100.00) for each subsequent violation for each employee for each
2 pay period for which the employee was underpaid; and

- 3 d. Under Labor Code Section 1197.1, an employer who pays or causes to be paid to any
4 employee a wage less than the minimum fixed by an order of the commission, shall
5 be subject to a civil penalty as follows: for any initial violation that is intentionally
6 committed, one hundred dollars (\$100.00) for each underpaid employee for each pay
7 period for which the employee is underpaid; and for each subsequent violation of the
8 same offense, two hundred fifty dollars (\$250.00) for each underpaid employee for
9 each pay period for which the employee is underpaid regardless of whether or not the
10 initial violation was intentionally committed.

11 55. PLAINTIFF further seeks civil penalties based on DEFENDANTS' violations of Labor
12 Code provisions for which a civil penalty is not specifically provided. Labor Code Section 2699,
13 subdivision (f) provides that for all Labor Code violations for which a civil penalty is not specifically
14 provided, the following civil penalties apply: one hundred dollars (\$100.00) for each aggrieved
15 employee per pay period for the initial violation and two hundred dollars (\$200.00) for each aggrieved
16 employee per pay period for each subsequent violation.

17 56. PLAINTIFF seeks such civil penalties in accordance with Labor Code Section 2699,
18 subdivision (f) based on DEFENDANTS' violations of Labor Code provisions for which a civil penalty
19 is not specifically provided, including but not limited to Labor Code Sections 201, 202, 203, 226.7,
20 1194, 1197, and 1198.

21 57. PLAINTIFF further seeks reasonable attorneys' fees and costs as allowed by law
22 including under Labor Code Section 2699, subdivision (g)(1).

23 **PRAYER FOR RELIEF**

24 **WHEREFORE**, PLAINTIFF, individually and on behalf of all other aggrieved employees,
25 prays for relief against DEFENDANTS, and each of them jointly and severally, as follows:
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27

