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11
12 **SUPERIOR COURT OF CALIFORNIA**
13 **COUNTY OF LOS ANGELES**
14

15 TRINIDAD SHEPPARD, an individual, on
16 behalf of himself, other aggrieved employees,
17 and the State of California,

17 Plaintiff,

18 vs.

19 BEKINS MOVING SOLUTIONS, INC., a
20 Nevada Corporation; BEKINS A-1 MOVERS,
21 INC., a Virginia Corporation; and DOES 1
22 through 50, inclusive,

22 Defendants.
23 ,

Case No. **21STCV44484**

**COMPLAINT FOR VIOLATION OF THE
PRIVATE ATTORNEYS GENERAL ACT
OF 2004 (CAL. LAB. CODE §§ 2698, ET
SEQ.)**

1 Plaintiff TRINIDAD SHEPPARD (“Plaintiff”), individually and on behalf of other aggrieved
2 employees, hereby brings this representative action Complaint (“Complaint”) pursuant to the Private
3 Attorneys General Act of 2004 (“PAGA”), California Labor Code Sections 2698, *et seq.*, against
4 Defendants BEKINS MOVING SOLUTIONS, INC., a Nevada Corporation; BEKINS A-1 MOVERS,
5 INC., a Virginia Corporation; and DOES 1 through 50, inclusive (collectively “Defendants”), and
6 alleges as follows:

7 **INTRODUCTION**

8 1. This representative PAGA action, pursuant to Labor Code Sections 2698, *et seq.*, is
9 brought by Plaintiff on behalf of all current and former non-exempt employees, including those that
10 were misclassified as independent contractors, that were employed by Defendants in California during
11 the PAGA Period (collectively the “Aggrieved Employees”). The term PAGA Period is defined as one
12 (1) year prior to the submission of Plaintiff’s notice of Labor Code violations to the Labor and
13 Workforce Development Agency and certified mail to Defendants until resolution.

14 2. Plaintiff is informed and believes and based thereon alleges that Defendants provide
15 packing, moving, and storage services in the State of California.

16 3. Plaintiff and Aggrieved Employees were employed by Defendants and performed work
17 for Defendants in California during the PAGA Period.

18 4. Through this action, Plaintiff is alleging that Defendants have engaged in a systematic
19 pattern of wage and hour violations under the California Labor Code (“Labor Code”).

20 5. Plaintiff is informed and believes, and thereon alleges, that during the PAGA Period,
21 Defendants had a consistent policy of violating state wage and hour laws by, among other things:
22 failing to pay all wages (including minimum, regular, overtime, and double time wages), failing to
23 provide meal and rest periods or compensation in lieu thereof, failing to timely pay all wages due upon
24 separation of employment, failing to provide accurate itemized wage statements, failing to maintain
25 accurate records of hours worked, and failing to reimburse business expenses.

26 6. Plaintiff’s representative PAGA action is brought under, *inter alia*, the California
27 Industrial Welfare Commission (“IWC”) Wage Orders and applicable provisions of the California
28 Code of Regulations, California Code of Civil Procedure Section 1021.5, and California Labor Code

1 Sections 201, 202, 203, 204, 206, 210, 226, 226.3, 226.7, 226.8, 510, 512, 558, 1174, 1174.5, 1194,
2 1197, 1197.1, 1198, 2800, and 2802.

3 7. Plaintiff brings this representative action seeking monetary relief against Defendants
4 on behalf of himself and other Aggrieved Employees to recover, among other things, penalties,
5 attorneys' fees, and costs pursuant to Labor Code Sections 2698, *et seq.*

6 **JURISDICTION AND VENUE**

7 8. This Court has jurisdiction over all causes of action asserted herein pursuant to the
8 California Constitution, Article VI, Section 10, which grants the Superior Court original jurisdiction
9 in all cases except those given to other trial courts. All claims alleged herein arise under California
10 law for which Plaintiff seeks relief authorized by California law. Further, this is a representative PAGA
11 action and the monetary damages, restitution, penalties, and other amounts sought by Plaintiff exceeds
12 the minimal jurisdictional limits of the Superior Court and will be established according to proof at
13 trial.

14 9. This Court has jurisdiction over all Defendants because each Defendant is a citizen of
15 California, a corporation or association organized under the laws of the State of California, an
16 association authorized to do business in California and registered with the California Secretary of
17 State, does sufficient business in California, has sufficient minimum contacts with California, and/or
18 intentionally avails itself of the laws and markets of California through the promotion, sale, marketing
19 and distribution of its products and/or services in California to render the exercise of jurisdiction by
20 the California courts permissible. In addition, PAGA penalties cannot be aggregated to meet the
21 jurisdictional threshold for diversity jurisdiction in federal court.

22 10. Venue in Los Angeles County is proper under California Business & Professions Code
23 Section 17203 and California Code of Civil Procedure Section 395.5 because a substantial part of
24 Defendants' unlawful conduct, acts, and omissions alleged herein occurred in this County, Defendants
25 had and have ongoing projects in this County, Defendants conduct substantial business in this County,
26 Defendants' liability arose in this County, and/or Defendants reside, transact business, maintain
27 offices, and/or have an agent or agents in this county. The relief requested is within the jurisdiction
28 of this Court.

PARTIES

11. Plaintiff is a California citizen and resides in Los Angeles County, California. Defendants employed Plaintiff as a non-exempt hourly employee during the PAGA Period and Plaintiff's employment with Defendants ended within one (1) year of the filing of this action. Plaintiff's job duties included, but were not limited to, loading and unloading moving trucks, packing materials, operating a forklift, and transporting shipments. Plaintiff worked at Defendants' worksite located in Santa Fe Springs, California.

12. Plaintiff is informed, believes and thereon alleges that, at all relevant times, Defendant BEKINS MOVING SOLUTIONS, INC. ("BMS") was and is a Nevada corporation doing business in the State of California. BMS owns and operates a business that provides packing, moving, and storage services in the State of California and maintains a worksite/location in Santa Fe Springs, California, among other locations. BMS regularly conducts business within the State of California and derives substantial revenues from services performed in California. BMS is, and at all relevant times was, an employer subject to California state wage and hour laws. Plaintiff is informed, believes, and thereon alleges that the practices and policies of BMS that are complained of by way of this Complaint were implemented during the PAGA Period.

13. Plaintiff is informed and believes, and thereon alleges, that Defendant BEKINS A-1 MOVERS, INC. ("BAM") was and is a Virginia corporation doing business throughout the State of California. Plaintiff is informed and believes, and thereon alleges, that BAM owns and operates a business that provides packing, moving, and storage services in the State of California. BAM regularly conducts business within the State of California and derives substantial revenues from services performed in California. BAM is, and at all relevant times was, an employer subject to California state wage and hour laws. Plaintiff is informed, believes, and thereon alleges that the practices and policies of BAM that are complained of by way of this Complaint were implemented during the PAGA Period.

14. Defendants continue to employ non-exempt employees within California.

15. Plaintiff is unaware of the true names and capacities of those Defendants identified as DOES 1 through 50. Therefore, Plaintiff identifies those Defendants fictitiously. Plaintiff is informed, believes and thereon alleges that at all relevant times each DOE Defendant was a parent, sister, or

1 related corporate entity of Defendants, or an owner, employee or agent of Defendants, and each related
2 entity, and was acting with the knowledge and authorization of each of the other Defendants. Plaintiff
3 will seek to amend this Complaint to allege the true names and capacities of each DOE Defendant
4 when their names have been ascertained and identified. Plaintiff is informed, believes and thereon
5 alleges that each of the Defendants sued as DOES 1 through 50 participated in, received the benefit
6 of, or was in some way responsible for one or more of the wrongful acts and omissions and some
7 portion of the damages alleged herein.

8 16. Plaintiff is informed, believes and thereon alleges that at all times material hereto, each
9 Defendant acted in all respects pertinent to this action as the agent of the other Defendant, carried out
10 a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendant
11 are legally attributable to the other Defendant. Furthermore, Defendants in all respects acted as the
12 employer and/or joint employer of Plaintiff and the Aggrieved Employees.

13 17. Plaintiff is informed, believes and thereon alleges that Defendants, each and all of them,
14 at all times material hereto, were the joint employers, parent companies, successor companies,
15 predecessors in interest, affiliates, agents, employees, servants, joint venturers, directors, fiduciaries,
16 representatives, and/or co-conspirators of each of the remaining Defendants. Defendants, unless
17 otherwise alleged, at all times material hereto, performed all acts and omissions alleged herein within
18 the course and scope of said relationship(s), and are a proximate cause of Plaintiff's damages as herein
19 alleged.

20 18. Plaintiff is informed, believes and thereon alleges, that there exists a unity of interest
21 in ownership between Defendants and DOES 1 through 50, inclusive, such that any individuality and
22 separateness between the individual and the corporation does not exist, as Defendants, and DOES 1
23 through 50, inclusive, are alter egos, in that: (1) Defendants are and at all times mentioned herein were
24 mere shells, instrumentalities and conduits through which DOES 1 through 50, inclusive, carried out
25 their business in the business name, exercising complete control and dominance over such business;
26 (2) that Defendants were conceived, intended and used by DOES 1 through 50, inclusive, as devices
27 to avoid individual liability and in place of Defendants, and DOES 1 through 50, inclusive, and were
28 without the financial solvency and responsibility required by law; and (3) that all of the assets of the

1 Defendants have been transferred to DOES 1 through 50, inclusive, or some other individual or entity
2 which he or she owns or controls, with the intent to hinder, delay or defraud creditors of Defendants,
3 leaving Defendants with no assets. Further, Plaintiff is informed, believes and thereon alleges, that
4 there exists a principal-agency relationship between and among Defendants.

5 19. At all relevant times herein, Defendants were agents of each other and acting within
6 the course and scope of their agency.

7 **GENERAL ALLEGATIONS**

8 20. At all relevant times herein, Defendants employed Plaintiff and other persons as non-
9 exempt employees.

10 21. Plaintiff is informed and believes, and thereon alleges, that at all times mentioned
11 herein, Defendants were advised by skilled lawyers, employees and other professionals who were
12 knowledgeable about California wage and hour law, employment and personnel practices, and the
13 requirements of California.

14 22. Through this action, Plaintiff alleges Defendants have consistently maintained and
15 enforced against Plaintiff and Aggrieved Employees unlawful employment practices and policies
16 which violate the California Labor Code and IWC Wage Orders.

17 23. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should
18 have known they had a duty to compensate Plaintiff and Aggrieved Employees, and Defendants had
19 the financial ability to pay such compensation but willfully, knowingly and intentionally failed to do
20 so all in order to increase Defendants' profits.

21 24. **Misclassification:** During the PAGA Period, Defendants willfully misclassified
22 certain aggrieved employees as independent contractors in violation of Labor Code section 226.8 in
23 order to avoid compliance with the various sections of the Labor Code outlined below. Misclassified
24 aggrieved employees should have been classified as non-exempt employees since (A) they were not
25 free from the control and direction of Defendants in connection with the performance of the work (B)
26 they did not perform work that is outside the usual course of Defendants' business, and (C) they were
27 not customarily engaged in an independently established trade, occupation, or business of the same
28 nature as the work performed. For example:

- Defendants directly and indirectly exercised control over the wages, hours, and working conditions of the misclassified aggrieved employees since they were provided assignments, performed work pursuant to Defendants' instructions and procedures, were subject to discipline, were provided work locations, and were otherwise controlled by Defendants and/or subject to their direct or indirect control;
- Defendants retained the right to terminate misclassified aggrieved employees' working relationship at their discretion;
- Misclassified aggrieved employees were engaged in providing packing, moving, and storage services, an integral and entirely essential aspect of Defendants' regular business;
- Misclassified aggrieved employees commonly worked for Defendants for lengthy periods of time;
- Misclassified aggrieved employees were not customarily engaged in an independently established trade, occupation, or business of the same nature as the work performed by Defendants; and
- The clients are and/or were Defendants' clients, and not those of the misclassified aggrieved employees.

25. **Unpaid Wages:** Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should have known that Plaintiff and Aggrieved Employees were entitled to receive at least minimum wages, wages at their regular rate of pay, overtime wages, and double time wages and that they were not receiving minimum, regular, overtime, and double time wages for all work that was required to be performed. In violation of the Labor Code, Defendants failed to pay the minimum, regular, overtime, and double time rate of pay to Plaintiff and other Aggrieved Employees for all hours worked. During the PAGA Period, Plaintiff and other aggrieved employees regularly worked more than eight (8), 10, and/or 12 hours per workday and/or over 40 hours per workweek. Defendants failed to pay aggrieved employees for all hours worked at the proper rates by requiring Plaintiff and other aggrieved employees to clock out for meal periods and continue working without compensation, and perform work such as communicating with Defendants' supervisors while clocked out for their shifts

1 without compensation. Further, Defendants rounded Plaintiff's and other aggrieved employees' hours
2 worked, thereby depriving them of compensation for time worked during their shifts. Defendants'
3 rounding practice systematically undercompensated Plaintiff and other aggrieved employees and
4 favored Defendants rather than the employees. As such, Defendants failed to pay Plaintiff and other
5 aggrieved employees minimum, regular, overtime, and/or double time wages for all hours worked in
6 violation of Labor Code sections 204, 206, 210, 510, 558, 1194, 1197, 1197.1, and 1198 and the
7 applicable Industrial Welfare Commission ("IWC") Wage Orders.

8 **26. Meal Period Violations:** Plaintiff is informed and believes, and thereon alleges, that
9 Defendants knew or should have known that Plaintiff and Aggrieved Employees were entitled to
10 receive a timely, off-duty, uninterrupted 30-minute meal period for every five (5) hours of work, or
11 payment of one (1) additional hour of pay at their regular rate of pay when they did not receive a
12 compliant meal period. In violation of the Labor Code and IWC Wage Orders, Plaintiff and Aggrieved
13 Employees did not receive compliant meal periods due to Defendants' workload, understaffing, and
14 unlawful policies and practices. Specifically, Plaintiff and other aggrieved employees frequently had
15 their meal periods shortened, interrupted, late, and/or missed altogether due to Defendants' practice of
16 understaffing and prioritizing work demands over taking compliant breaks. For example, despite
17 starting their shifts as early as 5:30 a.m., Plaintiff and aggrieved employees were not allowed to take
18 their meal periods until 12:30 p.m. or 1 p.m. (i.e., after the fifth hour of work). Plaintiff and other
19 aggrieved employees also had their meal periods interrupted with shipments and other related job
20 duties. In addition, Plaintiff and other aggrieved employees were pressured to clock out for meal
21 periods and continue working due to Defendants' practices. Further, Defendants rounded Plaintiff's
22 and aggrieved employees' meal periods. Defendants also failed to provide second meal periods when
23 Plaintiff and other aggrieved employees worked over 10 hours. Despite the aforementioned meal
24 period violations, Defendants failed to compensate Plaintiff and other aggrieved employees with an
25 additional hour of pay at their regular rate for every day in which they suffered a meal period violation.
26 Accordingly, Defendants violated Labor Code sections 226.7 and 512, and the applicable IWC Wage
27 Orders.

28 **27. Rest Period Violations:** Plaintiff is informed and believes, and thereon alleges, that

1 Defendants knew or should have known that Plaintiff and Aggrieved Employees were entitled to
2 receive a 10-minute, off-duty, uninterrupted rest period for every four (4) hours worked, or major
3 fraction thereof, or payment of one additional hour of pay at their regular rate of pay when they were
4 not permitted to take a compliant rest period. In violation of the Labor Code and IWC Wage Orders,
5 Plaintiff and Aggrieved Employees were not permitted to take compliant rest breaks due to
6 Defendants' understaffing, busy workload, and unlawful policies and practices as explained above.
7 Specifically, Plaintiff and other aggrieved employees regularly had their rest breaks shortened,
8 interrupted, and/or missed altogether due to Defendants' practice of understaffing, prioritizing work
9 demands over taking compliant breaks, and failing to implement a rest break policy. Specifically,
10 Defendants disapproved of rest breaks and pressured Plaintiff and aggrieved employees to forego rest
11 breaks. Defendants also failed to adopt and implement a practice of providing third rest breaks when
12 Plaintiff and other aggrieved employees worked over 10 hours. Notwithstanding the above rest break
13 violations, Defendants failed to compensate Plaintiff and other aggrieved employees with an additional
14 hour of pay at their regular rate for every day in which they suffered a rest period violation.
15 Accordingly, Defendants violated Labor Code section 226.7 and the applicable IWC Wage Orders.

16 28. **Unreimbursed Business Expenses:** Plaintiff is informed and believes, and thereon
17 alleges, that Defendants knew or should have known that Plaintiff and Aggrieved Employees were
18 entitled to reimbursements for their necessary work-related business expenses. In violation of the
19 Labor Code and IWC Wage Orders, Defendants failed to reimburse Plaintiff and other aggrieved
20 employees for all necessary business expenses incurred for Defendants' benefit. For example,
21 Defendants required Plaintiff and other aggrieved employees to drive their personal vehicles to make
22 deliveries without adequately reimbursing them for mileage and wear and tear on their vehicles.
23 Additionally, Defendants required Plaintiff and other aggrieved employees to use their personal
24 cellular phones for work purposes, such as communicating with Defendants' supervisors, without
25 reimbursement for a reasonable portion of their cellular phone bills. Further, Defendants required
26 Plaintiff and other aggrieved employees to wear uniforms with Defendants' logo (e.g., a polo shirt and
27 t-shirt that said "Bekins") that became heavily soiled while they worked. Plaintiff and aggrieved
28 employees separately washed, cleaned, and/or otherwise maintained their heavily soiled uniforms

1 without reimbursement. Accordingly, Defendants violated Labor Code sections 2800 and 2802 and
2 the applicable IWC Wage Orders.

3 29. **Waiting Time Penalties:** Plaintiff is informed and believes, and thereon alleges, that
4 Defendants knew or should have known that Plaintiff and Aggrieved Employees who separated from
5 their employment with Defendants during the statutory period were entitled to timely payment of all
6 wages due. In violation of the Labor Code, Plaintiff and Waiting Time Aggrieved Employees did not
7 receive payment of all wages owed upon separation within the permissible time period due to, *inter*
8 *alia*, Defendants' failure to pay all wages, meal and rest period premiums, and reimburse expenses to
9 Plaintiff and Aggrieved Employees. Thus, Defendants violated Labor Code sections 201-203 and the
10 applicable IWC Wage Orders.

11 30. **Wage Statement Violations:** Plaintiff is informed and believes, and thereon alleges
12 that Defendants knew or should have known that Plaintiff and Aggrieved Employees were entitled to
13 receive complete and accurate wage statements. In violation of the Labor Code and IWC Wage Orders,
14 Plaintiff and Aggrieved Employees were not furnished with complete and accurate wage statements
15 that show all of the information required by Labor Code section 226, including, but not limited to, the
16 gross and net wages earned, the total hours worked, all applicable hourly rates in effect during the pay
17 period, and the corresponding number of hours worked at each hourly rate. As a result, Defendants
18 violated Labor Code sections 226 and 226.3 and the applicable IWC Wage Orders.

19 31. **Failure to Keep Accurate Records:** Plaintiff is informed and believes, and thereon
20 alleges, that Defendants knew or should have known that Defendants were required to keep accurate
21 records of the hours worked by Plaintiff and Aggrieved Employees. In violation of the California
22 Labor Code, Defendants failed to maintain accurate records of hours worked by Plaintiff and
23 Aggrieved Employees due to the unlawful practices mentioned above. Consequently, Defendants
24 violated Labor Code sections 1174 and 1174.5 and the applicable IWC Wage Orders.

25 32. Plaintiff is informed, believes, and thereon alleges that Defendants' actions as
26 described throughout this Complaint were willful.

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1 **FIRST CAUSE OF ACTION**

2 **VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT OF 2004**

3 **(CAL. LAB. CODE §§ 2698, *ET SEQ.*)**

4 **(Against All Defendants)**

5 33. Plaintiff incorporates by reference all previous paragraphs of this Complaint as though
6 fully set forth herein.

7 34. Pursuant to Labor Code § 2699(a), any provision of the Labor Code that provides for a
8 civil penalty to be assessed and collected by the LWDA or any of its departments, divisions,
9 commissions, boards, agencies or employees for violation of the code may, as an alternative, can be
10 recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and
11 other current or former employees pursuant to the procedures specified in Labor Code Section 2699.3.

12 35. Under Labor Code Section 2699.3(a), a plaintiff may bring a cause of action under
13 PAGA only after giving the LWDA and the employer notice of the Labor Code Sections alleged to
14 have been violated, and after receiving notice from the LWDA of its intention not to investigate or
15 after 65 days have passed without notice from the LWDA.

16 36. On September 29, 2021, Plaintiff gave written notice of the specified provisions alleged
17 to have been violated, including the facts and theories to support the alleged violations, as required by
18 Labor Code Section 2699.3. This written notice was provided via certified mail to Defendants and to
19 the LWDA by electronically filing the notice via the Department of Industrial Relations' website.
20 More than 65 days have passed since Plaintiff submitted his PAGA notice to the LWDA without notice
21 from the LWDA. Accordingly, Plaintiff has exhausted the procedural requirements under Labor Code
22 Section 2699.3 as to Defendants and is therefore able to pursue a claim for penalties on behalf of
23 himself and all other Aggrieved Employees under PAGA.

24 37. For all provisions of the Labor Code except those for which a civil penalty is
25 specifically provided, Labor Code Section 2699(f) imposes upon Defendants a penalty of one hundred
26 dollars (\$100.00) for each aggrieved employee per pay period for the initial violation and two hundred
27 dollars (\$200.00) for each aggrieved employee per pay period for each subsequent pay period in which
28 Defendants violated these provisions of the Labor Code.

1 38. Pursuant to Labor Code Sections 2699.3 and 2699.5, Plaintiff may seek civil penalties
2 for any alleged violation of the following provisions: subdivision (k) of Section 96, Sections
3 98.6, 201, 201.3, 201.5, 201.7, 202, 203, 203.1, 203.5, 204, 204a, 204b, 204.1, 204.2, 205, 205.5, 20
4 6, 206.5, 208, 209, and 212, subdivision (d) of Section 213, Sections 221, 222, 222.5, 223, and 224,
5 paragraphs (1) to (5), inclusive, (7), and (9) of subdivision (a) of Section 226, Sections
6 226.7, 227, 227.3, 230, 230.1, 230.2, 230.3, 230.4, 230.7, 230.8, and 231, subdivision (c) of Section
7 232, subdivision (c) of Section 232.5, Sections 233, 234, 351, 353, and 403, subdivision (b) of Section
8 404, Sections 432.2, 432.5, 432.7, 435, 450, 510, 511, 512, 513, 551, 552, 601, 602, 603, 604, 750,
9 751.8, 800, 850, 851, 851.5, 852, 921, 922, 923, 970, 973, 976, 1021, 1021.5, 1025, 1026, 1101,
10 1102, 1102.5, and 1153, subdivisions (c) and (d) of Section 1174, Sections 1194, 1197, 1197.1,
11 1197.5, and 1198, subdivision (b) of Section 1198.3, Sections 1199, 1199.5, 1290, 1292, 1293, 1293.1,
12 1294, 1294.1, 1294.5, 1296, 1297, 1298, 1301, 1308, 1308.1, 1308.7, 1309, 1309.5, 1391, 1391.1,
13 1391.2, 1392, 1683, and 1695, subdivision (a) of Section 1695.5, Sections 1695.55, 1695.6, 1695.7,
14 1695.8, 1695.9, 1696, 1696.5, 1696.6, 1697.1, 1700.25, 1700.26, 1700.31, 1700.32, 1700.40, and
15 1700.47, Sections 1735, 1771, 1774, 1776, 1777.5, 1811, 1815, 2651, and 2673, subdivision (a) of
16 Section 2673.1, Sections 2695.2, 2800, 2801, 2802, 2806, and 2810, subdivision (b) of Section 2929,
17 and Sections 3073.6, 6310, 6311, and 6399.7.

18 39. Labor Code Section 558(a) provides “[a]ny employer or other person acting on behalf
19 of an employer who violates, or causes to be violated, a section of this chapter or any provision
20 regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject
21 to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid
22 employee for each pay period for which the employee was underpaid . . . (2) For each subsequent
23 violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the
24 employee was underpaid.”

25 40. Labor Code section 1197.1 provides “[a]ny employer or other person acting either
26 individually or as an officer, agent, or employee of another person, who pays or causes to be paid to
27 any employee a wage less than the minimum fixed by an applicable state or local law, or by an order
28 of the commission shall be subject to a civil penalty . . . as follows: (1) For any initial violation that is

1 intentionally committed, one hundred dollars (\$100) for each underpaid employee for each pay period
2 for which the employee is underpaid . . . (2) For each subsequent violation for the same specific
3 offense, two hundred fifty dollars (\$250) for each underpaid employee for each pay period for which
4 the employee is underpaid regardless of whether the initial violation is intentionally committed.

5 41. Labor Code Section 226.3 provides: “[a]ny employer who violates subdivision (a) of
6 Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per
7 employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each
8 violation in a subsequent citation, for which the employer fails to provide the employee a wage
9 deduction statement or fails to keep the records required in subdivision (a) of Section 226. The civil
10 penalties provided for in this section are in addition to any other penalty provided by law.”

11 42. Labor Code Section 226.8 provides that it is unlawful for any person or employer to
12 engage in the willful misclassification of an individual as an independent contractor and provides for
13 penalties up to \$25,000 for each violation, in addition to any other penalties permitted by law.

14 43. Labor Code Section 1174.5 provides a \$500 penalty for an employer’s failure to
15 maintain accurate and complete payroll records showing the hours worked daily by and the wages paid
16 to employees.

17 44. Defendants’ conduct with respect to Plaintiff and the other Aggrieved Employees
18 violates numerous Labor Code Sections including, but not limited to, the following:

19 (a) Violation of Labor Code Section 226.8 for the willful misclassification of
20 Aggrieved Employees as independent contractors;

21 (b) Violation of Labor Code Sections 201-204, 206, 210, 510, 558, 1194, 1197,
22 1197.1, and 1198 for failure to timely pay all earned wages (including minimum, regular, overtime,
23 and double time wages) owed to Plaintiff and other Aggrieved Employees during employment and
24 upon separation of employment as herein alleged;

25 (c) Violation of Labor Code Sections 226.7 and 512 for failure to provide meal
26 periods to Plaintiff and other Aggrieved Employees and failure to pay premium wages for missed meal
27 periods as herein alleged;

28 (d) Violation of Labor Code Sections 226.7 for failure to permit rest breaks to

1 Plaintiff and other Aggrieved Employees and failure to pay premium wages for missed rest periods as
2 herein alleged;

3 (e) Violation of Labor Code Sections 226 and 226.3 for failure to provide accurate
4 itemized wage statements to Plaintiff and other Aggrieved Employees as herein alleged;

5 (f) Violation of Labor Code Sections 1174 and 1174.5 for failure to maintain
6 accurate records regarding the employment of Plaintiff and other Aggrieved Employees as herein
7 alleged; and

8 (g) Violation of Labor Code Sections 2800 and 2802 for failure to reimburse
9 business expenses to Plaintiff and other Aggrieved Employees as herein alleged.

10 45. As set forth above, Defendants have violated numerous provisions of the Labor Code
11 regulating hours and days of work as well as the IWC Wage Orders.

12 46. Plaintiff is an “aggrieved employee” because he was employed by the alleged violators
13 and had one or more of the alleged violations committed against him, and therefore is properly suited
14 to represent the interests of all other Aggrieved Employees.

15 47. Pursuant to Labor Code Sections 2699(a), 2699.3 and 2699.5, Plaintiff is entitled to
16 recover civil penalties, in addition to other remedies, for violations of the Labor Code Sections cited
17 above.

18 48. For bringing this action, Plaintiff is also entitled to attorney’s fees and costs incurred
19 herein.

20 **PRAYER FOR RELIEF**

21 **WHEREFORE**, Plaintiff, on behalf of himself, the Aggrieved Employees, and the State of
22 California, prays for judgment and the following specific relief against Defendants, jointly and
23 severally, as follows:

24 1. For civil penalties against Defendants on behalf of all Aggrieved Employees pursuant
25 to Labor Code Sections 210, 226.3, 226.8, 558, 1174.5, 1197.1, and 2698, *et seq.*;

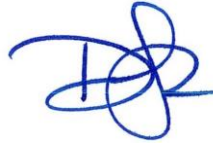
26 2. For reasonable attorneys’ fees and costs of suit to the extent permitted by law, including
27 pursuant to California Labor Code Sections 2699(g), 2802(c) and California Code of Civil Procedure
28 Section 1021.5; and

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3. For such other relief as the Court deems just and proper.

Dated: December 6, 2021

LAW OFFICE OF DANIEL J. HYUN &
ALAMI LAW GROUP



By: _____

Daniel J. Hyun
Shelly D. Song
David Alami
Attorneys for Plaintiff TRINIDAD SHEPPARD