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6 Attorneys for Plaintiff, JOSEPH LANDIN
7 as an aggrieved employee, and on behalf of all other
aggrieved employees

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Superior Court of California
County of Stanislaus
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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9
10 **FOR THE COUNTY OF STANISLAUS**

11 JOSEPH LANDIN as an aggrieved employee,
12 and on behalf of all other aggrieved employees
under the Labor Code Private Attorneys'
13 General Act of 2004,

14 Plaintiff,

15 v.

16 CENTRAL JANITORS' SUPPLY CO., INC.,
a California corporation; CENTRAL
17 SANITARY SUPPLY, LLC, a California
limited liability company; and DOES 1
18 through 100, inclusive,

19 Defendants.
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CASE NO.: CV-21-006391

REPRESENTATIVE ACTION

**COMPLAINT UNDER THE LABOR
CODE PRIVATE ATTORNEYS'
GENERAL ACT OF 2004 FOR CIVIL
PENALTIES UNDER LABOR CODE
SECTIONS 210, 226.3, 558, 1174.5, 1197.1
and 2699**

DEMAND FOR JURY TRIAL

[Amount in Controversy Greater Than
\$25,000.00]

This case has been assigned to Judge Sandhu, Sonny S.
Department Dept. 24 for all purposes including Trial.

COMES NOW plaintiff JOSEPH LANDIN ("Plaintiff"), as aggrieved employees, and on behalf of all other aggrieved employees under the Labor Code Private Attorneys' General Act of 2004, and alleges as follows:

JURISDICTION AND VENUE

1. This is a representative action, pursuant to the Labor Code Private Attorneys General Act of 2004, codified at Labor Code section 2698, *et seq.* ("PAGA"), against CENTRAL JANITORS' SUPPLY CO., INC., a California corporation, and any of its respective subsidiaries or affiliated companies within the State of California ("CJS"), and CENTRAL SANITARY SUPPLY, LLC, a California limited liability company, and any of its respective subsidiaries or affiliated companies within the State of California ("CSS," and together with "CJS" and DOES 1 through 100, as further defined below, "Defendants"), as a proxy of the Labor and Workforce Development Agency of the State of California ("LWDA"), on behalf of Plaintiff and all other current and former non-exempt employees of Defendants working within the Civil Penalty Period, as further defined herein, and, as it pertains to the alleged claims for failure to comply with Labor Code section 2810.5, Labor Code section 203, Labor Code section 226, Labor Code section 227.3, Labor Code section 246, *et seq.*, Labor Code section 2802, restraints on competition, whistleblowing and freedom of speech on behalf of all employees of Defendants working within the Civil Penalty Period (collectively, "Aggrieved Employees").

2. Jurisdiction exists in the Superior Court of the State of California pursuant to Code of Civil Procedure section 410.10.

3. Venue is proper in Stanislaus County, California pursuant to Code of Civil Procedure sections 392, *et seq.* because, among other things, Stanislaus County is where the county in which Defendants, or some of them, reside. Moreover, the unlawful acts alleged herein have a direct effect on Plaintiff and Aggrieved Employees in Stanislaus County, and because Defendants employ numerous Aggrieved Employees in Stanislaus County.

4. Plaintiff is an "aggrieved employee" under PAGA, as Plaintiff was employed by Defendants during the applicable statutory period and suffered one or more of the Labor Code violations set forth herein. Accordingly, Plaintiff seeks to recover civil penalties, as the term "civil

penalty” is defined under *ZB N.A. v. Superior Court* (2019) 8 Cal.5th 175, under the Labor Code Private Attorneys General Act of 2004, codified at Labor Code section 2698, *et seq.* (“PAGA”) plus reasonable attorneys’ fees and costs, for Plaintiff and all other aggrieved current and former employees of Defendants during the Civil Penalty Period.

5. Specifically, Plaintiff seeks to recover PAGA civil penalties through a representative action permitted by PAGA and the California Supreme Court in, among other authorities, *Arias v. Superior Court* (2009) 46 Cal.4th 969. According to the same authorities, class certification of the PAGA allegations described herein is not required.

6. During the period beginning one (1) year preceding the provision of notice to the LWDA regarding the herein-described Labor Code violations (the “Civil Penalty Period”), Defendants violated, *inter alia*, Labor Code sections 96, 98.6, 200, 201, 202, 203, 204, 210, 226, 226.3, 226.7, 227.3, 232, 232.5, 246, *et seq.*, 432, 510, 512, 558, 1102.5, 1174, 1174.5, 1194, 1197, 1197.1, 1197.5, 1198.5, 2699, 2802, and 2810.5, among others.

7. Labor Code section 2699, subdivisions (a) and (g), authorizes aggrieved employees such as Plaintiff, on behalf of Plaintiff and all other aggrieved current and former employees within the statutory period, to bring a civil action to recover civil penalties pursuant to the procedures specified in Labor Code section 2699.3.

8. On or around September 20, 2021, Plaintiff provided written notice pursuant to Labor Code section 2699.3 online and by certified mail, with return receipt requested, of Defendants’ violation of various, including the herein-described, provisions of the Labor Code, to the LWDA, as well as by certified mail, with return receipt requested to Defendants, and each of them.

9. Pursuant to Labor Code section 2699.3, subdivision (a)(2)(A), the LWDA did not provide notice of its intention to investigate Defendants’ alleged violations within sixty-five (65) calendar days of the September 20, 2021 postmarked date of the herein-described notice sent by Plaintiff to the LWDA and Defendants.

PAGA REPRESENTATIVE ALLEGATIONS

10. At all relevant times mentioned herein, Defendants had and have a policy or practice of failing to pay overtime wages to Plaintiff and other Aggrieved Employees in the State of

1 California in violation of California state wage and hour laws as a result of, without limitation,
2 Plaintiff and other Aggrieved Employees working over eight (8) hours per day, forty (40) hours per
3 week, and/or seven (7) straight workdays in a workweek without paying them proper overtime
4 wages, as a result of, without limitation, failing to accurately track and/or pay for all minutes actually
5 worked; engaging, suffering, or permitting employees to work off the clock, including, without
6 limitation, by requiring employees: to remain on-call, to suffer under Defendants' control to
7 complete pre-shift tasks before clocking in and post-shift tasks after clocking out (including
8 answering calls from dispatch and others), to clock out for meal periods and continue working, to
9 don and doff uniforms and/or safety equipment off the clock, to attend company meetings off the
10 clock, to make phone calls or drive off the clock; failing to include all forms of remuneration,
11 including non-discretionary bonuses, incentive pay, meal allowances, and other forms of
12 remuneration into the regular rate of pay for the pay periods where overtime was worked and the
13 additional compensation was earned for the purpose of calculating the overtime rate of pay;
14 detrimental rounding of employee time entries, editing and/or manipulation of time entries to show
15 less hours than actually worked, for paying straight pay instead of overtime pay, and/or go through
16 security screenings and/or temperature checks off the clock, to the detriment of Plaintiff and other
17 Aggrieved Employees.

18 11. At all relevant times mentioned herein, Defendants had and have a practice or policy
19 of failing to compensate Plaintiff and other Aggrieved Employees with minimum wages for all hours
20 worked or otherwise under Defendants' control as a result of, without limitation, failing to
21 accurately track and/or pay for all minutes actually worked; by requiring employees: to remain on-
22 call; to suffer under Defendants' control to complete pre-shift tasks before clocking in and post-shift
23 tasks after clocking out (including answering calls from dispatch and others), to clock out for meal
24 periods and continue working, to don and doff uniforms and/or safety equipment off the clock, to
25 attend company meetings off the clock, to make phone calls or drive off the clock; detrimental
26 rounding of employee time entries, editing and/or manipulation of time entries to show less hours
27 than actually worked; failing to pay reporting time pay; paid time off and vacation time owed; failing
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1 to pay split shift premiums, and/or go through security screenings and/or temperature checks off the
2 clock, to the detriment of Plaintiff and other Aggrieved Employees.

3 12. At all relevant times mentioned herein, Defendants had and have a policy or practice
4 of failing to provide Plaintiff and other Aggrieved Employees a thirty (30) minute uninterrupted,
5 timely, and complete meal period for days on which the employee worked in excess of five (5) and
6 ten (10) hours per day without being afforded uninterrupted, timely, and complete 30-minute meal
7 periods or compensation in lieu thereof including, without limitation, by interrupting meal periods;
8 not providing timely meal periods; failing to provide first and second meal periods; providing short
9 meal periods; requiring that employees carry cellular telephones or walkie-talkies during meal
10 periods; not permitting employees to leave the premises; otherwise requiring on-duty/on-call meal
11 periods; and/or auto-deducting meal periods that could not be auto-deducted by law or during which
12 employees worked, as required by California wage and hour laws

13 13. At all relevant times mentioned herein, Defendants had and have a policy or practice
14 of failing to provide Plaintiff and other Aggrieved Employees paid, uninterrupted, timely, and
15 complete rest periods of at least ten (10) minutes per four (4) hours worked or major fractions
16 thereof, or compensation in lieu thereof, including, without limitation, by failing to provide rest
17 periods all together; requiring that they be bundled together and/or with meal periods; interrupting
18 them; requiring that employees carry cellular telephones or walkie-talkies during rest periods not
19 providing them in a timely fashion; and not permitting employees to leave the premises; and/or
20 otherwise requiring on-duty/on-call rest periods, as required by California wage and hour laws.

21 14. At all relevant times mentioned herein, Defendants had and have a policy or practice
22 of failing to comply with Labor Code section 226, subdivision (a) by intentionally failing to furnish
23 Plaintiff and other Aggrieved Employees with itemized wage statements that accurately reflect gross
24 wages earned; total hours worked by the employee; net wages earned; all deductions; all applicable
25 hourly rates in effect during the pay period and the corresponding number of hours worked at each
26 hourly rate by the employee; the legal name of the employer and/or the name and address of the legal
27 entity securing the employer's services if the employer is a farm labor contractor; and other such
28 information as required by Labor Code section 226, subdivision (a).

1 15. At all relevant times mentioned herein, Defendants had and have a policy or practice
2 of failing to comply with Labor Code section 226, subdivision (a) by intentionally failing to furnish
3 Plaintiff and other Aggrieved Employees with documents signed to obtain or hold employment
4 under Labor Code section 432, personnel records under Labor Code section 1198.5, and time records
5 under Labor Code section 1174, making it difficult for Plaintiff and other Aggrieved Employees to
6 calculate their unpaid wages and/or premium payments, to the detriment of Plaintiffs and other
7 Aggrieved Employees.

8 16. At all relevant times mentioned herein, Defendants had and have a policy or practice
9 of failing to timely pay Plaintiff and other Aggrieved Employees, among other wages, all wages
10 owed as a result of Defendants' practice or policy of failing to pay, among other wages, overtime
11 wages, minimum wages, premium wages, paid time off and vacation time owed as required by Labor
12 Code sections 201, 202, and 203.

13 17. At all relevant times herein, Defendants had and have a policy or practice of failing
14 to pay Plaintiff and Aggrieved Employees their paid time off and vacation time owed upon
15 separation of employment as wages at their final rate of pay in violation of Labor Code section 227.3
16 and applicable Wage Orders.

17 18. At all relevant times mentioned herein, Defendants have had a policy or practice of
18 failing and refusing, and continue to fail and refuse, to reimburse employees, including, without
19 limitation, Plaintiff and other Aggrieved Employees, with their costs incurred for driving personal
20 vehicles (*i.e.*, mileage and gas), purchasing uniforms, providing uniform and other deposits,
21 separately laundering mandatory uniforms, for the purchase of tools and safety, for the purchase and
22 maintenance of cellular phones and cellular phone plans, in direct consequence of the discharge of
23 their duties, or of their obedience to the directions of Defendants, as required by Labor Code 2802.

24 19. At all relevant times mentioned herein, Defendants have had a policy or practice of
25 failing to comply with the notice requirements of Labor Code section 2810.5 (*i.e.*, the Wage Theft
26 Protection Act of 2011) by, among other things, failing to provide Plaintiff and other Aggrieved
27 Employees with the rates of pay and overtime rates of pay applicable to their employment;
28 allowances claimed as part of the minimum wage; the regular payday designated by Defendants; the

1 name, address, and telephone number of the workers' compensation insurance carrier; information
2 regarding paid sick leave; and other pertinent information required to be disclosed by Defendants
3 under Labor Code section 2810.5.

4 20. At all relevant times mentioned herein, Defendants failed to provide Plaintiff and
5 other Aggrieved Employees with the amount of paid sick leave required to be provided pursuant to
6 California law (including, without limitation Labor Code section 246, *et seq.*), and also did not
7 permit its use upon request as contemplated under California laws, to the detriment of Plaintiff and
8 all other Aggrieved Employees.

9 21. At all relevant times mentioned herein, Defendants have had a policy or practice of
10 failing to pay Plaintiff and Aggrieved Employees their wages in accordance with Labor Code
11 Section 204, which requires that: "[l]abor performed between the 1st and 15th days, inclusive, of
12 any calendar month shall be paid for between the 16th and 26th day of the month during which the
13 labor was performed, and labor performed between the 16th and the last day, inclusive of any
14 calendar month, shall be paid for between the 1st and 10th day of the following month."

15 22. At all relevant times mentioned herein, Defendants had and have a policy or practice
16 of preventing Plaintiff and/or Aggrieved Employees from using or disclosing the skills, knowledge
17 and experience they obtained at Defendants for purposes of competing with Defendants, including,
18 without limitation, preventing Employees from disclosing their wages in negotiating a new job with
19 a prospective employer, and from disclosing who else works at Defendants and under what
20 circumstances that they might be receptive to an offer from a rival employer. Plaintiff is informed
21 and believes that this policy and/or practice violates Business and Professions Code sections 17200,
22 16600 and 16700, and, by virtue thereof, various provisions of the Labor Code, including Labor
23 Code sections 232, 232.5, and 1197.5, subdivision (k).

24 23. Defendants had and have a policy or practice of preventing Plaintiff and/or other
25 Aggrieved Employees from disclosing violations of state and federal law, either within Defendants
26 to their managers or outside to private attorneys or government officials, among others, in violation
27 of Business and Professions Code section 17200, and, thus, in violation of Labor Code section
28 1102.5. In addition, Plaintiff is informed and believes that Defendants' herein-described policies

1 and/or practices prevent Plaintiff and/or other Aggrieved Employees from disclosing information
2 about unsafe or discriminatory working conditions, or about wage and hour violations in violation
3 of Labor Code section 232 and 232.5.

4 24. Defendants had and have a policy or practice of preventing Plaintiff and/or other
5 Aggrieved Employees from engaging in lawful conduct during non-work hours, thus violating state
6 statutes entitling employees to disclose wages, working conditions, and illegal conduct, including,
7 without limitation, Labor Code sections 96, subdivision (k), 98.6, 232, 232.5, and 1197.5,
8 subdivision (k). Plaintiff is informed and believes that this lawful conduct includes the exercise of
9 Plaintiff's and/or other Aggrieved Employee's constitutional rights of freedom of speech and
10 economic liberty.

11 25. Plaintiff, in Plaintiff's representative capacity, seeks civil penalties under Labor
12 Code sections 210, 226.3, 558, 1174.5, 1197.1, and 2699 for the herein-described acts, which violate
13 the California Labor Code as described above, including on behalf of Plaintiff and other Aggrieved
14 Employees pursuant to PAGA.

15 PARTIES

16 A. Plaintiff

17 26. Plaintiff is a resident of the State of California. At all relevant times herein, Plaintiff
18 is informed and believes, and based thereon alleges that Defendants employed Plaintiff as a non-
19 exempt employee, with duties that included, but were not limited to, maintaining, documenting, and
20 rotating inventory. Plaintiff is informed and believes that Plaintiff worked for Defendants from
21 approximately December of 2007 through at least September of 2020.

22 B. Defendants

23 27. Plaintiff is informed and believes and based thereon alleges that defendant CJS is,
24 and at all times relevant hereto was, a corporation organized and existing under and by virtue of the
25 laws of the State of California and doing business in the County of Stanislaus, State of California.

26 28. Plaintiff is informed and believes and based thereon alleges that defendant CSS is,
27 and at all times relevant hereto was, a limited liability company organized and existing under and

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1 by virtue of the laws of the State of California and doing business in the County of Stanislaus, State
2 of California.

3 29. The true names and capacities, whether individual, corporate, associate, or otherwise,
4 of defendants sued herein as DOES 1 through 100, inclusive, are currently unknown to Plaintiff,
5 who therefore sues defendants by such fictitious names under Code of Civil Procedure section 474.
6 Plaintiff is informed and believes and based thereon alleges that each of the defendants designated
7 herein as DOE is legally responsible in some manner for the unlawful acts referred to herein.
8 Plaintiff will seek leave of court to amend this Complaint to reflect the true names and capacities of
9 the defendants designated hereinafter as DOES when such identities become known. Plaintiff is
10 informed and believes, and based thereon alleges, that each defendant acted in all respects pertinent
11 to this action, as the agent of the other defendant(s), carried out a joint scheme, business plan or
12 policy in all respects pertinent hereto, and the acts of each defendant are legally attributable to the
13 other defendants. Whenever, heretofore or hereinafter, reference is made to "Defendants," it shall
14 include CJS, CSS, and any of their parent, subsidiary, or affiliated companies within the State of
15 California, as well as DOES 1 through 100 identified herein.

16 **JOINT LIABILITY ALLEGATIONS**

17 30. Plaintiff is informed and believes, and based thereon alleges, that at all times
18 mentioned herein, each of the defendants was the agent, principal, employee, employer,
19 representative, joint venture or co-conspirator of each of the other defendants, either actually or
20 ostensibly, and in doing the things alleged herein acted within the course and scope of such agency,
21 employment, joint venture, and conspiracy.

22 31. All of the acts and conduct described herein of each and every corporate defendant
23 was duly authorized, ordered, and directed by the respective and collective defendant corporate
24 employers, and the officers and management-level employees of said corporate employers. In
25 addition thereto, said corporate employers participated in the aforementioned acts and conduct of
26 their said employees, agents, and representatives, and each of them; and upon completion of the
27 aforesaid acts and conduct of said corporate employees, agents, and representatives, the defendant
28 corporation respectively and collectively ratified, accepted the benefits of, condoned, lauded,

1 acquiesced, authorized, and otherwise approved of each and all of the said acts and conduct of the
2 aforementioned corporate employees, agents and representatives.

3 32. As a result of the aforementioned facts, Plaintiff is informed and believes, and based
4 thereon alleges that Defendants, and each of them, are joint employers.

5 **FIRST CAUSE OF ACTION**

6 **(Violation of PAGA – Against All Defendants)**

7 33. Plaintiff re-alleges each and every allegation set forth in the preceding paragraphs
8 and incorporates each by reference as though fully set forth hereat.

9 34. Labor Code section 204, requires and required that: “[l]abor performed between the
10 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and 26th day
11 of the month during which the labor was performed, and labor performed between the 16th and the
12 last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the
13 following month.”

14 35. Labor Code section 210, subdivision (a) states that “[i]n addition to, and entirely
15 independent and apart from, any other penalty provided in this article, every person who fails to pay
16 the wages of each employee as provided in Sections 201.3, 204, 204b, 204.1, 204.2, 205, 205.5, and
17 1197.5, shall be subject to a civil penalty as follows: (1) For any initial violation, one hundred dollars
18 (\$100) for each failure to pay each employee” and “(2) For each subsequent violation, or any willful
19 or intentional violation, two hundred dollars (\$200) for each failure to pay each employee, plus 25
20 percent of the amount unlawfully withheld.”

21 36. At all relevant times herein, Plaintiff is informed and believes, and based thereon
22 alleges, that Defendants had and have a consistent policy or practice of failing to pay Plaintiff and
23 during their employment on a timely basis as per Labor Code section 204.

24 37. As a direct and proximate result of the herein-described Labor Code violations, and
25 pursuant to Labor Code section 210, Plaintiff and other Aggrieved Employees are entitled to recover
26 civil penalties for Defendants’ violations of Labor Code section 204, in the amount of one hundred
27 dollars (\$100) for each Aggrieved Employee for each initial violation per employee, and two

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1 hundred dollars (\$200) for each Aggrieved Employee for each subsequent violation in connection
2 with each payment that was made in violation of Labor Code section 204.

3 38. Labor Code section 226.3 states that “[a]ny employer who violates subdivision (a)
4 of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250)
5 per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for
6 each violation in a subsequent citation, for which the employer fails to provide the employee a wage
7 deduction statement or fails to keep the records required in subdivision (a) of Section 226.”

8 39. Labor Code section 226.3 further provides that “[t]he civil penalties provided for in
9 this section are in addition to any other penalty provided by law.”

10 40. At all relevant times herein, Plaintiff is informed and believes, and based thereon
11 alleges, that Defendants, and each of them, had and have a policy or practice of failing to comply
12 with Labor Code section 226, subdivision (a) by intentionally failing to furnish Plaintiff and
13 Aggrieved Employees with itemized wage statements that accurately reflect gross wages earned;
14 total hours worked; net wages earned; the name and address of each employer with whom they have
15 been placed to work; all applicable hourly rates in effect during the pay period and the corresponding
16 number of hours worked at each hourly rate; the legal name of the employer and/or the name and
17 address of the legal entity securing the employer’s services if the employer is a farm labor contractor;
18 and other such information as required by Labor Code section 226, subdivision (a).

19 41. As a direct and proximate result of the herein-described Labor Code violations, and
20 pursuant to Labor Code section 226.3, Plaintiff and other Aggrieved Employees are entitled to
21 recover civil penalties for Defendants’ violation of Labor Code section 226, subdivision (a) in the
22 amount of two hundred fifty dollars (\$250) for each Aggrieved Employee per pay period for the
23 initial violation, and one thousand dollars (\$1000) for each Aggrieved Employee per pay period for
24 each subsequent violation.

25 42. Labor Code section 558, subdivision (a) states: “Any employer or other person acting
26 on behalf of an employer who violates, or causes to be violated . . . any provision regulating hours
27 and days of work in any of the Industrial Welfare Commission” shall be subject to a civil penalty as
28 follows:

1 (1) For any initial violation, fifty dollars (\$50) for each underpaid employee and for each
2 pay period for which the employee was underpaid in addition to an amount sufficient
3 to recover underpaid wages;

4 (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid
5 employee for each pay period for which the employee was underpaid in addition to
6 an amount sufficient to recover underpaid wages;

7 (3) Wages recovered pursuant to this section shall be paid to the affected employee

8 43. At all relevant times herein, Plaintiff is informed and believes, and based thereon
9 alleges, that Defendants, and each of them, violated, or caused to be violated, the Labor Code
10 sections described herein, including causing Plaintiff and other Aggrieved Employees not to: be
11 paid overtime wages and minimum wages; receive meal and rest periods or compensation in lieu
12 thereof; be paid timely wages during their employment and after their employment separation;
13 receive accurate, itemized wage statements; be indemnified for work expenses incurred.

14 44. As a direct and proximate result of the herein-described Labor Code violations, and
15 pursuant to Labor Code section 558, Plaintiff and other Aggrieved Employees are entitled to recover
16 civil penalties for Defendants' herein-described Labor Code violations in the amount fifty dollars
17 (\$50) for each Aggrieved Employee per pay period for the initial violation, and one hundred dollars
18 (\$100) for each Aggrieved Employee per pay period for each subsequent violation.

19 45. Labor Code section 1174, subdivision (b) states that every person employing labor
20 in California is required to "[a]llow any member of the commission or the employees of the Division
21 of Labor Standards Enforcement free access to the place of business or employment of the person
22 to secure any information or make any investigation that they are authorized by this chapter to
23 ascertain or make. The commission may inspect or make excerpts, relating to the employment of
24 employees, from the books, reports, contracts, payrolls, documents, or papers of the person."

25 46. Labor Code section 1174, subdivision (c) has required every person employing labor
26 in California to "[k]eep a record showing the names and addresses of all employees employed and
27 the ages of all minors."

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1 47. Labor Code section 1174, subdivision (d) has required every person employing labor
2 in California to “[k]eep, at a central location in the state or at the plants or establishments at which
3 employees are employed, payroll records showing the hours worked daily by and the wages paid to,
4 and the number of piece-rate units earned by and applicable piece rate paid to, employees employed
5 at the respective plants or establishments. These records shall be kept in accordance with rules
6 established for this purpose by the commission, but in any case, shall be kept on file for not less
7 than three years. An employer shall not prohibit an employee from maintaining a personal record
8 of hours worked, or, if paid on a piece-rate basis, piece-rate units earned.”

9 48. Labor Code section 1174.5 states that, “[a]ny person employing labor who willfully
10 fails to maintain the records required by subdivision (c) of [Labor Code] Section 1174 or accurate
11 and complete records required by subdivision (d) of [Labor Code] Section 1174, or to allow any
12 member of the commission or employees of the division to inspect records pursuant to subdivision
13 (b) of [Labor Code] Section 1174, shall be subject to a civil penalty of five hundred dollars (\$500).

14 49. At all relevant times herein, Plaintiff is informed and believes, and based thereon
15 alleges, that Defendants, and each of them, have willfully failed to maintain the records required by
16 Labor Code subdivision (c), failed to maintain accurate and complete records required by Labor
17 Code subdivision (d), and/or failed to allow inspection of records as required by Labor Code
18 subdivision (b).

19 50. As a direct and proximate result of the herein-described Labor Code violations, and
20 pursuant to Labor Code section 1174.5, Plaintiff and other Aggrieved Employees are entitled to
21 recover civil penalties for Defendants’ herein-described Labor Code violations in the amount of five
22 hundred dollars (\$500) per violation per Aggrieved Employee.

23 51. Labor Code section 1197.1, subdivision (a) provides: “Any employer or other person
24 acting either individually or as an officer, agent, or employee of another person, who pays or causes
25 to be paid to any employee a wage less than the minimum fixed by an applicable state or local law,
26 or by an order of the commission shall be subject to a civil penalty, restitution of wages, liquidated
27 damages payable to the employee, and any applicable penalties imposed pursuant to Section 203 as
28 follows:

1 (1) For any initial violation that is intentionally committed, one hundred dollars (\$100)
2 for each underpaid employee for each pay period for which the employee is
3 underpaid. This amount shall be in addition to an amount sufficient to recover
4 underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable
5 penalties imposed pursuant to Section 203.

6 (2) For each subsequent violation for the same specific offense, two hundred fifty dollars
7 (\$250) for each underpaid employee for each pay period for which the employee is
8 underpaid regardless of whether the initial violation is intentionally committed. This
9 amount shall be in addition to an amount sufficient to recover underpaid wages,
10 liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed
11 pursuant to Section 203.

12 (3) Wages, liquidated damages, and any applicable penalties imposed pursuant to
13 Section 203, recovered pursuant to this section shall be paid to the affected employee

14 52. At all relevant times herein, Plaintiff is informed and believes, and based thereon
15 alleges, that Defendants, and each of them, caused Plaintiff and Aggrieved Employees not to be paid
16 minimum wages as a result of Defendants, without limitation, for the reasons set forth herein,
17 including, without limitation, for routinely failing to pay Plaintiff or other Aggrieved Employees'
18 wages for all hours worked or otherwise under Defendants' control due to, without limitation, failing
19 to accurately track and/or pay for all minutes actually worked; engaging, suffering, or permitting
20 employees to work off the clock, including, without limitation, by requiring employees: to come
21 early to work and leave late work without being able to clock in for all that time, to suffer under
22 Employer's control due to long lines for clocking in, to complete pre-shift tasks before clocking in
23 and post-shift tasks after clocking out, to clock out for meal periods and continue working, to clock
24 out for rest periods, to don and doff uniforms and/or safety equipment off the clock, to attend
25 company meetings off the clock, to make phone calls or drive off the clock; detrimental rounding
26 of employee time entries; editing and/or manipulation of time entries to show less hours than
27 actually worked; and failing to pay split shift premiums. In addition, Employee and other aggrieved
28 employees were required to report to work, and did report, but were not put to work and/or were

1 furnished less than half their usual or scheduled day's work without being paid for half the usual or
2 scheduled work at their regular rate of pay.

3 53. As a direct and proximate result of the herein-described Labor Code violations, and
4 pursuant to Labor Code section 1197.1, Plaintiff and other Aggrieved Employees are entitled to
5 recover civil penalties for Defendants' herein-described Labor Code violations in the amount one
6 hundred dollars (\$100) for each Aggrieved Employee per pay period for the initial violation, and
7 two hundred and fifty dollars (\$250) for each Aggrieved Employee per pay period for each
8 subsequent violation.

9 **Penalties for Violation of California Labor Code Section 2698, et seq.**

10 54. Labor Code section 2699, subdivision (a), provides that, notwithstanding any other
11 provision of law, any provision of the Labor Code that provides for a civil penalty to be assessed
12 and collected by the LWDA or any of its departments, divisions, commissions, boards, agencies or
13 employees for a violation of the Labor Code may, as an alternative, be recovered through a civil
14 action brought by an aggrieved employee on behalf of himself or herself and other current or former
15 employees pursuant to the procedures specified in Labor Code section 2699.3.

16 55. Labor Code section 2699, subdivision (f), provides that for all provisions of the Labor
17 Code except those for which a civil penalty is specifically provided, the established civil penalty for
18 a violation of those provisions is as follows: if, at the time of the alleged violation, the person
19 employs one or more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved
20 employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved
21 employee per pay period for each subsequent violation.

22 56. At all relevant times herein, Plaintiff is informed and believes, and based thereon
23 alleges, that Defendants, and each of them, violated the Labor Code sections described herein,
24 including, without limitation, for the failure to: pay overtime wages and minimum wages; provide
25 meal and rest periods or compensation in lieu thereof; provide accurate, itemized wage statements;
26 keep and produce complete and accurate payroll and personnel records; pay timely wages during
27 employment and after the cessation of the employment relationship; provide employees the
28 opportunity to inspect employment records; reimburse Aggrieved Employees for costs incurred in

1 furtherance of their work duties as required under Labor Code section 2802; provide notice as
2 required under Labor Code section 2810.5; provide the proper accrual and use of paid sick leave;
3 paying employees all owed paid time off and vacation time owed by separation at the proper rate of
4 pay; placing restraints on competition, whistleblowing and freedom of speech; and failing to comply
5 with Covid-19 safety protocols set forth in Labor Code sections 6401, 6402, 6403 and 6409.6,
6 entitling Plaintiff and other Aggrieved Employees to civil penalties for each of these Labor Code
7 violations in the amounts set forth in Labor Code section 2699, subdivision (f).

8 57. As a direct and proximate result of the herein-described Labor Code violations, and
9 pursuant to Labor Code section 2699, subdivision (g), among other authorities, Plaintiff and
10 similarly Aggrieved Employees are entitled to recover civil penalties for Defendants' violations of
11 the herein and therein described Labor Code violations during the Civil Penalty Period in the amount
12 of one hundred dollars (\$100) for each Aggrieved Employee per pay period for the initial violation,
13 and two hundred dollars (\$200) for each Aggrieved Employee per pay period for each subsequent
14 violation.

15 58. Moreover, Plaintiff and Aggrieved Employees are also entitled to an award of
16 reasonable attorneys' fees and costs in connection with their herein-described claims for civil
17 penalties.

18 **REQUEST FOR JURY TRIAL**

19 59. Plaintiff hereby requests a trial by jury.

20 **PRAYER**

21 **WHEREFORE**, on behalf of Plaintiff and Aggrieved Employees, Plaintiff prays for
22 judgment against Defendants as follows:

- 23 A. An award of civil penalties pursuant to Labor Code sections 210, 226.3, 558,
24 1174.5, 1197.1, and 2699;
- 25 B. An award of reasonable attorneys' fees and costs pursuant to Labor Code sections
26 210, 226.3, 558, 1174.5, 1197.1, and 2699;
- 27 C. Pre-judgment and post-judgment interest;
- 28 D. For costs of suit incurred herein; and

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E. Such other and further relief as the Court deems just and proper.

Dated: November 24, 2021

BIBIYAN LAW GROUP, P.C.

BY: 

MALALAI ANBARI

DAVID D. BIBIYAN

Attorneys for Plaintiff JOSEPH LANDIN, as
an aggrieved employee, and on behalf of all
other aggrieved employees under the Labor
Code Private Attorneys' General Act of 2004,