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14 Attorneys for Plaintiff,
15 CLAIRE RAINEY

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **COUNTY OF LOS ANGELES**

14 CLAIRE RAINEY, on behalf of herself,
15 the State of California, and others similarly
16 aggrieved,

17 Plaintiff,

18 v.

20 A PLACE FOR ROVER, INC., a
21 Delaware corporation; and DOES 1-100,
22 inclusive,

23 Defendants.

CASE NO. 22STCV02670

**REPRESENTATIVE COMPLAINT
FOR VIOLATION OF PRIVATE
ATTORNEYS GENERAL ACT, CAL.
LABOR CODE SECTIONS 2698, et seq.**

1 Plaintiff CLAIRE RAINEY (“PLAINTIFF”), an individual, on behalf of herself, the
2 State of California, and others similarly aggrieved, hereby files this Complaint against
3 Defendant A PLACE FOR ROVER, INC. (“DEFENDANT”) and DOES 1-100, inclusive.
4 PLAINTIFF is informed and believes and thereon alleges as follows:

5 **INTRODUCTION**

6 1. This is a representative action by PLAINTIFF on behalf of herself, other similarly
7 aggrieved employees and the State of California against DEFENDANT, pursuant to
8 California’s Labor Code Private Attorneys General Act (“PAGA”), Labor Code section 2698,
9 *et seq.* to recover civil penalties for DEFENDANT’s violations of the California Labor Code as
10 alleged below.

11 **JURISDICTION AND VENUE**

12 2. This court possesses original subject matter jurisdiction over this matter. Venue is
13 proper in the County of Los Angeles pursuant to California Code of Civil Procedure section
14 395.5 because DEFENDANT employed PLAINTIFF to work in Los Angeles, California, in the
15 County of Los Angeles, and some of the acts, omissions, and conduct alleged by PLAINTIFF
16 herein occurred in this county. See, *Crestwood Behavioral Health, Inc. v. Superior Court* (2021)
17 60 Cal.App.5th 1069 (venue in a PAGA action is proper in any county where the defendant
18 committed Labor Code violations against some of its employees).

19 **THE PARTIES**

20 3. PLAINTIFF resides in Los Angeles County, in the State of California. PLAINTIFF was
21 employed by DEFENDANT in the State of California as a non-exempt, hourly-paid employee,
22 during the relevant time period.

23 4. Defendant A PLACE FOR ROVER, INC. is a Delaware corporation that, at all relevant
24 times, was authorized to do business within the State of California and is doing business in the
25 State of California.

26 5. The true names and capacities of the DOE Defendants sued herein as DOES 1 through
27 100, inclusive, are currently unknown to PLAINTIFF, who therefore sues each such Defendant
28 by said fictitious names. Each of the Defendants designated herein as a DOE is legally

1 responsible for the unlawful acts alleged herein. PLAINTIFF will seek leave of Court to amend
2 this Complaint to reflect the true names and capacities of the Doe Defendants when such
3 identities become known.

4 6. PLAINTIFF is informed and believes that, at all relevant times, each Defendant was
5 the principal, agent, partner, joint venturer, joint employer, officer, director, controlling
6 shareholder, subsidiary, affiliate, parent corporation, successor in interest and/or predecessor in
7 interest of some or all of the other Defendants, and was engaged with some or all of the other
8 defendants in a joint enterprise for profit, and bore such other relationships to some or all of the
9 other Defendants so as to be liable for their conduct with respect to the matters alleged in this
10 complaint. PLAINTIFF is further informed and believes and thereon alleges that each
11 Defendant acted pursuant to and within the scope of the relationships alleged above, and that at
12 all relevant times, each Defendant knew or should have known about, authorized, ratified,
13 adopted, approved, controlled, aided and abetted the conduct of all other Defendants.

14 **FACTUAL AND LEGAL ALLEGATIONS**

15 7. During the one year and sixty-five-day period preceding filing of this Complaint,
16 PLAINTIFF was employed by DEFENDANT in the State of California. At all relevant times,
17 PLAINTIFF and the Aggrieved Employees (defined below) were non-exempt employees of
18 DEFENDANT that DEFENDANT misclassified as independent contractors. At all relevant
19 times referenced herein, DEFENDANT exercised control over PLAINTIFF and the other
20 Aggrieved Employees and suffered and/or permitted them to work.

21 8. PLAINTIFF worked for DEFENDANT beginning in or about July 2021.
22 DEFENDANT is an on-demand company that provides pet care services to pet owners through
23 a mobile app. PLAINTIFF and the Aggrieved Employees worked for DEFENDANT as house
24 sitters, pet boarders, pet sitters, dog walkers and/or pet groomers and/or other similar title
25 providing pet care services for DEFENDANT's customers.

26 9. PLAINTIFF was paid hourly and or piece rate/per job. At all relevant times,
27 PLAINTIFF was a non-exempt employee of DEFENDANT that DEFENDANT willfully
28 misclassified as an independent contractor to evade California wage and hour laws. To qualify

1 as an independent contractor under California law, (1) the worker must be free from the
2 employer's control and direction in the performance of the work, both under the contract for the
3 performance of the work and in fact; (2) the work performed must be outside the usual course
4 of the employer's business; and (3) the worker must not be customarily engaged in an
5 independently established trade, occupation, or business of the same nature as the work he
6 performed for employer. The worker is presumed to be an employee unless the employer/hiring
7 entity can show that all three conditions are met. *Dynamex Operations W. v. Superior Court*, 4
8 Cal. 5th 903 (2018).

9 10. Despite DEFENDANT's efforts to evade California wage and hour laws by setting up
10 an alleged independent contractor scheme, the reality is that PLAINTIFF and the Aggrieved
11 Employees are and were, in fact, at all relevant times, employees according to the law, in that:

- 12 a. PLAINTIFF and the Aggrieved Employees are not free from DEFENDANT's
13 control and direction in the performance of work, both under the contract for the
14 performance of the work and in fact. For example, DEFENDANT required
15 PLAINTIFF and the Aggrieved Employees to undergo an extensive application
16 and background check process in order to be able to provide pet care services to
17 DEFENDANT's customers. PLAINTIFF and the Aggrieved Employees were
18 prohibited from offering any services through DEFENDANT's app unless they
19 had been selected through DEFENDANT's application process and undergone
20 and passed an extensive background check. Also, PLAINTIFF is informed and
21 believes, and based thereon alleges, that during the Covid-19 pandemic,
22 DEFENDANT exercised further control over its workers by requiring that they
23 wear personal protective equipment and or follow detailed instructions set by
24 DEFENDANT on how to conduct themselves before, during and after a job.
25 Furthermore, DEFENDANT reserves the right to terminate Aggrieved
26 Employees' accounts for any reason. DEFENDANT also states that it may
27 terminate Aggrieved Employees' accounts if they repeatedly cancel accepted
28 bookings without justification.

- 1 b. The work PLAINTIFF and the Aggrieved Employees perform is entirely within
2 the usual course of the DEFENDANT's business of providing pet care services;
3 DEFENDANT is in the business of providing pet care services, and PLAINTIFF
4 and the Aggrieved Employees work as DEFENDANT's pet care service
5 providers, including but not limited to, as dog walkers, pet sitters, and/or pet
6 boarders. The work that PLAINTIFF and the Aggrieved Employees perform is
7 therefore not a distinct occupation or an incidental or tangential part of
8 DEFENDANT's operations but rather is central to DEFENDANT's core
9 business.
- 10 c. PLAINTIFF and the Aggrieved Employees are not customarily engaged in an
11 independently established trade, occupation, or business of the same nature as
12 the work they perform for DEFENDANT. PLAINTIFF and the Aggrieved
13 Employees do not incur profits or losses; instead, DEFENDANT manages the
14 business operation, attracts any investors and customers, advertises to potential
15 customers and secures customers. PLAINTIFF and the Aggrieved Employees
16 do not make any capital investment in any of DEFENDANT's facilities or
17 advertising or DEFENDANT's mobile app/other electronic systems.
18 PLAINTIFF and the Aggrieved Employees do not own any business enterprise,
19 do not exercise any business management skills, and do not maintain any
20 separate business structures or facilities. PLAINTIFF and the Aggrieved
21 Employees do not hire or subcontract other individuals to provide additional
22 services to customers as independent contractors in business for themselves
23 would do.

24 11. DEFENDANT willfully misclassified and continues to willfully misclassify
25 PLAINTIFF and the Aggrieved Employees as independent contractors in an attempt to evade
26 California labor laws that protect employees, such as, but not limited to, minimum and overtime
27 wage and sick pay laws, meal and rest period laws, expense reimbursement requirements, wage
28 statement requirements, and requirements as to the timely payment of wages during and upon

1 separation of employment. Because DEFENDANT improperly classified PLAINTIFF and
2 Aggrieved Employees as independent contractors rather than as employees, PLAINTIFF and
3 Aggrieved Employees were not properly and fully compensated for all hours worked.

4 12. For example, PLAINTIFF was not paid for all hours worked such as, but not limited
5 to, travel time, rest breaks, time spent preparing for jobs and or standby time. DEFENDANT's
6 failure to compensate PLAINTIFF for all hours worked resulted in violations of California
7 minimum and overtime wage laws. DEFENDANT also did not provide PLAINTIFF duty-free,
8 uninterrupted, thirty-minute meal periods when PLAINTIFF worked more than five (5) and ten
9 hours in a workday. Despite failing to provide PLAINTIFF with meal breaks, DEFENDANT
10 did not pay the required meal period premiums in violation of California law. Similarly,
11 DEFENDANT did not provide PLAINTIFF with required rest breaks, or with compensation in
12 lieu thereof, as required by California law. Also, PLAINTIFF was required to use PLAINTIFF's
13 own vehicle to travel to locations where PLAINTIFF performed pet-care services on behalf of
14 DEFENDANT, but DEFENDANT failed to reimburse PLAINTIFF for use of PLAINTIFF's
15 personal vehicle and other reasonably necessary business expenses, including but not limited
16 to, use of PLAINTIFF's personal cell phone/mobile device and pet-care supplies. Additionally,
17 DEFENDANT failed to provide accurate, itemized wage statements to PLAINTIFF, and failed
18 to pay PLAINTIFF all wages due during and upon separation of employment within the time
19 limits prescribed by California law.

20 13. As part of its misclassification scheme, among other things, DEFENDANT has failed
21 and continues to fail to pay minimum and overtime wages, failed and continues to fail to provide
22 all owed meal and rest periods or compensation in lieu thereof, failed and continues to fail to
23 reimburse expenses, failed and continues to fail to furnish accurate itemized wage statements,
24 and failed and continues to fail to pay all wages due and owing upon separation of employment,
25 including but not limited to, all owed minimum and overtime wages and all owed sick leave
26 pay.

27 14. DEFENDANT did not authorize or permit PLAINTIFF to take meal periods.
28 DEFENDANT did not advise PLAINTIFF that meal breaks should be free of all duties and

1 employer control. PLAINTIFF consistently worked more than five (5) hours in a workday
2 without being provided a thirty-minute, uninterrupted, off-duty meal period. After working
3 more than five (5) hours, PLAINTIFF would be required to work through PLAINTIFF's owed
4 meal periods. DEFENDANT never paid any meal period premium for any missed or improper
5 meal period.

6 15. DEFENDANT did not authorize or permit PLAINTIFF to take rest breaks.
7 DEFENDANT did not advise PLAINTIFF when rest breaks should be taken, how long rest
8 breaks should be, how many rest breaks PLAINTIFF should receive in a given shift, nor that
9 rest breaks should be free of all duties and employer control. DEFENDANT required
10 PLAINTIFF to continuously work without authorizing or providing paid rest periods. Plaintiff
11 regularly worked more than three-and-one-half (3½) hours without being authorized or
12 permitted to take a paid ten (10) minute rest period. DEFENDANT never paid any rest period
13 premium for any missed or improper rest period.

14 16. DEFENDANT failed to furnish PLAINTIFF with complete and accurate wage
15 statements in compliance with Labor Code section 226. In fact, DEFENDANT did not furnish
16 PLAINTIFF with any wage statements. DEFENDANT did not provide PLAINTIFF any wage
17 statement that accurately reflected the total gross and net wages earned, the total hours worked
18 and or any applicable piece rate compensation paid, all applicable hourly rates in effect during
19 the pay period and the corresponding number of hours worked at each hourly rate, all
20 deductions, the inclusive dates of the pay period, PLAINTIFF's name and identification
21 number/last four digits of PLAINTIFF's social security number, and the legal name and address
22 of DEFENDANT. Accordingly, DEFENDANT violated Labor Code section 226 with respect
23 to PLAINTIFF

24 17. PLAINTIFF was improperly required to pay for business expenses that are supposed
25 to be the responsibility of the employer, such as but not limited to, vehicle-related expenses.
26 DEFENDANT required PLAINTIFF to use her personal vehicle in the performance of her job
27 duties, such as, but not limited to, to drive to and from customers' residences but did not
28 reimburse PLAINTIFF in any way for these personal vehicle-related expenses. DEFENDANT

1 was required to reimburse PLAINTIFF for vehicle-related expenses at the Internal Revenue
2 Service (IRS) mandated per mile compensation for the relevant time period, which
3 DEFENDANT failed to do. PLAINTIFF further incurred reasonable and necessary expenses
4 which were not reimbursed by DEFENDANT, such as, but not limited to, cell phone/mobile
5 device data plan expenses as DEFENDANT required PLAINTIFF to download and use on her
6 personal cell phone/mobile device DEFENDANT's app so that DEFENDANT and
7 DEFENDANT's customers could monitor dog walking/pet-sitting/boarding services and so that
8 PLAINTIFF could communicate information to DEFENDANT and DEFENDANT's customers
9 regarding the status on the services PLAINTIFF was providing on behalf of DEFENDANT.
10 Based on information and belief, DEFENDANT further failed to reimburse for reasonable
11 expenses, such as but not limited to, pet food or water, bags, containers, and cleaning supplies.
12 DEFENDANT's failure to provide PLAINTIFF with full reimbursement for all reasonable
13 expenses associated with carrying out her duties required PLAINTIFF to subsidize and/or
14 carry the burden of business expenses in violation of Labor Code section 2802.

15 18. Based on information and belief, DEFENDANT required PLAINTIFF to submit to
16 an unlawful criminal and/or financial background check as a condition of obtaining and/or
17 holding employment in violation of Labor Code sections 1024.5 and/or 432.7. Based on further
18 information and belief, DEFENDANT also required PLAINTIFF to agree in writing to unlawful
19 background checks not in conformity with the requirements of Investigative Consumer
20 Reporting Agencies Act, Civil Code sections 1786, et seq. ("ICRAA"), and/or the Fair Credit
21 Reporting Act, 15 U.S.C. sections 1681, et seq. ("FCRA"), in violation of, including but not
22 limited to, Labor Code section 432.5. Based on information and belief, DEFENDANT asked
23 about arrests not resulting in convictions on its employment application, in violation of Labor
24 Code section 432.7, and/or otherwise unlawfully asked about criminal history/unlawfully
25 required the disclosure of criminal conviction history prior to extending a conditional offer of
26 employment, and required PLAINTIFF to agree in writing to the provision of the unlawful
27 disclosures as a condition of employment, in violation of Labor Code section 432.5.

1 19. PLAINTIFF is informed and believes and allege thereon that DEFENDANT engaged
2 in these same herein described unlawful practices with regard to all of the Aggrieved Employees
3 (defined below), and that DEFENDANT applied these same herein described unlawful practices
4 to all of its employees that it applied to PLAINTIFF.

5 **PAGA**

6 20. PLAINTIFF brings this complaint under the Private Attorneys General Act of 2004,
7 Labor Code sections 2698, *et seq.*, (“PAGA”), as a representative action on behalf of the State
8 of California, regarding violations of the Labor Code as to all aggrieved individuals who
9 performed services in the State of California through DEFENDANT’s mobile application
10 and/or through DEFENDANT’s website Rover.com. This action is brought solely pursuant to
11 PAGA and seeks no relief beyond that available under PAGA. Plaintiff does not seek any
12 individual damages or relief, but only civil penalties available under PAGA and which will be
13 divided between the aggrieved employees and the State of California.

14 21. Under Labor Code section 2699.3, the LWDA must give written notice by certified
15 mail to the parties that it intends to investigate the alleged violations within 65 days of the date
16 of PLAINTIFF’s written notice. PLAINTIFF has complied with the administrative exhaustion
17 procedures for bringing suit specified in Labor Code sections 2699.3 and 2699.5. PLAINTIFF
18 gave timely written notice by certified mail to DEFENDANT of the violation of various
19 provisions of the California Labor Code as alleged in this complaint and filed notice of the
20 violations online with the Labor and Workforce Development Agency (“LWDA”). PLAINTIFF
21 filed PLAINTIFF’s notice with the LWDA on September 17, 2021 and served DEFENDANT
22 via certified mail. The LWDA assigned PLAINTIFF the following case number: LWDA-CM-
23 845012-21.

24 22. The LWDA did not provide notice of its intention to investigate PLAINTIFF’s claims
25 on behalf of the State of California and the Aggrieved Employees after expiration of the sixty-
26 five-day waiting time period, or at any time. DEFENDANT also failed to cure within the time
27 allotted by PAGA. Consequently, PLAINTIFF has exhausted all administrative remedies and
28 PLAINTIFF’s right to file the instant lawsuit then duly accrued.

23. From one-year prior to PLAINTIFF’s filing of the required PAGA notice with the Labor Workforce and Development Agency, and continuing through the present, as alleged herein, DEFENDANT violated Labor Code sections 201-202, 204, 216, 221-223, 226, 226.7, 226.8, 233-234, 245-248.5, 432.5, 432.7, 510, 512, 1024.5, 1174, 1194, 1197, 1197.1, 1198, 1199, 2802, 2810.5, and all relevant sections of the applicable Wage Orders, as to PLAINTIFF and all Aggrieved Employees. These violations subject DEFENDANT to civil penalties as set forth in the foregoing statutes as well as other provisions of the Labor Code, including without limitation Labor Code sections 203, 210, 225.5, 226, 226.3, 256, 558, 558.1, 1174.5, 1197.1 and 2699.

24. PLAINTIFF is an “aggrieved employee” as that term is defined under the Labor Code section 2699(c), as PLAINTIFF performed services for DEFENDANT and was improperly classified as an independent contractor during the applicable statutory limitations period and suffered one or more of the Labor Code violations set forth herein. Accordingly, PLAINTIFF seeks to recover on behalf of herself, all Aggrieved Employees, and the State of California, the civil penalties provided by PAGA, plus reasonable attorneys’ fees and costs.

25. PLAINTIFF has standing to bring a PAGA action on behalf of the defined Aggrieved Employees, as she was employed by DEFENDANT and affected by one or more of the alleged violations. *See Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal.App.5th 745, 757. A PAGA plaintiff has authority to seek penalties for all known violations committed by the employer – regardless of whether PLAINTIFF experienced all violations personally. *Id.* at 760-761.

The “Aggrieved Employees”

26. PLAINTIFF brings this action on behalf of PLAINTIFF and all similarly aggrieved employees. The Aggrieved Employees shall be defined as follows: “All individuals who performed services in the State of California through DEFENDANT’s mobile application and/or through DEFENDANT’s website Rover.com from one year and sixty-five days prior to the filing of the initial complaint, through the present.”

FIRST CAUSE OF ACTION
VIOLATION OF PRIVATE ATTORNEYS GENERAL ACT,
LABOR CODE SECTIONS 2698, ET SEQ.
(AGAINST ALL DEFENDANTS)

27. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

28. **Willful Misclassification as an Independent Contractor:** California Labor Code section 226.8 makes it illegal to willfully misclassify an employee as an independent contractor, providing: “[i]t is unlawful for any person or employer to engage in any of the following activities: (1) Willful misclassification of an individual as an independent contractor. (2) Charging an individual who has been willfully misclassified as an independent contractor a fee, or making any deductions from compensation, for any purpose, including for goods, materials, space rental, services, government licenses, repairs, equipment maintenance, or fines arising from the individual’s employment where any of the acts described in this paragraph would have violated the law if the individual had not been misclassified.” California Labor Code section 226.8 (a).

29. On various diverse dates throughout the relevant period, DEFENDANT misclassified PLAINTIFF and other Aggrieved Employees as independent contractors as opposed to employees to evade California wage and hour laws. To qualify as an independent contractor under California law, (1) the worker must be free from the employer’s control and direction in the performance of the work, both under the contract for the performance of the work and in fact; (2) the work performed must be outside the usual course of the employer’s business; and (3) the worker must not be customarily engaged in an independently established trade, occupation, or business of the same nature as the work he performed for employer. The worker is presumed to be an employee unless the employer/hiring entity can show that all three conditions are met. *Dynamex Operations W. v. Superior Court*, 4 Cal. 5th 903 (2018).

30. Despite DEFENDANT’s efforts to evade California wage and hour laws by setting up an alleged contractor scheme, the reality is that PLAINTIFF and the Aggrieved Employees are and were, in fact, at all relevant times, employees according to the law, in that:

- 1 a. PLAINTIFF and the Aggrieved Employees are not free from DEFENDANT's
2 control and direction in the performance of work, both under the contract for the
3 performance of the work and in fact. For example, DEFENDANT required
4 PLAINTIFF and the Aggrieved Employees to undergo an extensive application
5 and background check process in order to be able to provide pet care services to
6 DEFENDANT's customers. PLAINTIFF and the Aggrieved Employees were
7 prohibited from offering any services through DEFENDANT's app unless they
8 had been selected through DEFENDANT's application process and undergone
9 and passed an extensive background check. Also, PLAINTIFF is informed and
10 believes, and based thereon alleges, that during the Covid-19 pandemic,
11 DEFENDANT exercised further control over its workers by requiring that they
12 wear personal protective equipment and or follow detailed instructions set by
13 DEFENDANT on how to conduct themselves before, during and after a job.
14 Furthermore, DEFENDANT reserves the right to terminate Aggrieved
15 Employees' accounts for any reason. DEFENDANT also states that it may
16 terminate Aggrieved Employees' accounts if they repeatedly cancel accepted
17 bookings without justification.
- 18 b. The work PLAINTIFF and the Aggrieved Employees perform is entirely within
19 the usual course of the DEFENDANT's business of providing pet care services;
20 DEFENDANT is in the business of providing pet care services, and PLAINTIFF
21 and the Aggrieved Employees work as DEFENDANT's pet care service
22 providers, including but not limited to, as dog walkers, pet sitters, and/or pet
23 boarders. The work that PLAINTIFF and the Aggrieved Employees perform is
24 therefore not a distinct occupation or an incidental or tangential part of
25 DEFENDANT's operations but rather is central to DEFENDANT's core
26 business.
- 27 c. PLAINTIFF and the Aggrieved Employees are not customarily engaged in an
28 independently established trade, occupation, or business of the same nature as

1 the work they perform for DEFENDANT. PLAINTIFF and the Aggrieved
2 Employees do not incur profits or losses; instead, DEFENDANT manages the
3 business operation, attracts any investors and customers, advertises to potential
4 customers and secures customers. PLAINTIFF and the Aggrieved Employees
5 do not make any capital investment in any of DEFENDANT's facilities or
6 advertising or DEFENDANT's mobile app/other electronic systems.
7 PLAINTIFF and the Aggrieved Employees do not own any business enterprise,
8 do not exercise any business management skills, and do not maintain any
9 separate business structures or facilities. PLAINTIFF and the Aggrieved
10 Employees do not hire or subcontract other individuals to provide additional
11 services to customers as independent contractors in business for themselves
12 would do.

13 31. DEFENDANT willfully misclassified and continues to willfully misclassify
14 PLAINTIFF and the Aggrieved Employees as independent contractors in an attempt to evade
15 California labor laws that protect employees, such as, but not limited to, minimum and overtime
16 wage and sick pay laws, meal and rest period laws, expense reimbursement requirements, wage
17 statement requirements, and requirements as to the timely payment of wages upon separation
18 of employment. Because DEFENDANT improperly classified PLAINTIFF and Aggrieved
19 Employees as independent contractors rather than as employees, PLAINTIFF and Aggrieved
20 Employees were not properly and fully compensated for all hours worked.

21 32. **Unpaid Minimum and Overtime Wages.** At all times relevant to this complaint, Cal.
22 Labor Code section 1194 and were in full force and effect and required that DEFENDANTS'
23 employees in California be paid for all hours worked, up to forty per week or eight per day, at
24 a regular time rate no less than the mandated minimum wage.

25 33. Effective January 1, 2016, the California minimum wage was \$10.00 per hour.
26 Pursuant to Cal. Labor Code section 1182.12, effective January 1, 2017, the California
27 minimum wage rate for employers with 26 employees increased to \$10.50 per hour. On January
28 1, 2018, this rate was increased to \$11.00 per hour. On January 1, 2019, this rate was increased

1 to \$12.00 per hour. On January 1, 2020, this rate was increased again to \$13.00 per hour. Finally,
2 on January 1, 2021, this rate was increased again to \$14.00 per hour and is scheduled to increase
3 to \$15.00 per hour on January 1, 2022.

4 34. "Employer" means "any person who directly or indirectly, or through an agent or any
5 other person, employs or exercises control over the wages, hours, or working conditions of any
6 person." Cal. Lab. Code section 1182.12(b)(3).

7 35. At all times relevant to this complaint, DEFENDANT was an employer who employed
8 26 or more employees.

9 36. Pursuant to Cal. Labor Code section 510 and all applicable IWC Wage Orders, section
10 3, employees in California must be paid overtime, equal to one and a half (1.5) times the
11 employee's regular rate of pay, for all hours worked in excess of forty (40) per week or eight
12 (8) per workday and must be paid double the regular hourly rate of pay for each hour worked
13 beyond twelve (12) hours per workday and for all hours worked in excess of eight (8) hours on
14 the seventh consecutive day of work in a work week, unless they are exempt.

15 37. PLAINTIFF and all Aggrieved Employees were non-exempt employees who
16 regularly worked time for which they were not compensated, resulting in unpaid minimum
17 wages as well as unpaid overtime wages for those Aggrieved Employees who worked more
18 than forty (40) hours per week or more than eight (8) hours in a workday.

19 38. PLAINTIFF and other Aggrieved Employees were not paid for all hours worked at
20 the legally mandated minimum wage rate(s), in violation of California's minimum wage laws.
21 DEFENDANT suffered and permitted PLAINTIFF and the Aggrieved Employees to work off
22 the clock without wages. PLAINTIFF and the Aggrieved Employees were not compensated for
23 all time worked, such as, but not limited to, travel time, rest breaks, time spent preparing for
24 jobs and or standby time.

25 39. DEFENDANT had and continues to have a continuous policy of failing to pay
26 PLAINTIFF and the Aggrieved Employees for all hours worked. This regular performance of
27 off-the-clock work resulted in the underpayment of minimum wages owed Aggrieved
28 Employees, the underpayment of overtime wages for those Aggrieved Employees who worked

1 more than eight (8) hours per workday or more than forty per week, as well as record-keeping
2 violations.

3 **40. Meal Breaks.** Under Labor Code sections 226.7, 512, and the applicable IWC Wage
4 Orders, DEFENDANT was required to provide PLAINTIFF and the Aggrieved Employees with
5 one thirty (30) minute meal break free from all duties for all shifts greater than five (5) but less
6 than ten (10) hours in length, and a second thirty (30) minute meal break free from all duties for
7 all shifts of ten (10) hours or more. The first meal period must be provided before the end of the
8 fifth hour of work and the second meal period before the end of the tenth hour of work.
9 Employers covered by the Wage Orders have an obligation to both (a) relieve their employees
10 for at least one meal period for shifts over five hours, and (b) to record having done so. If the
11 employer fails to properly record a compliant meal period, it is presumed no meal period was
12 provided. PLAINTIFF and the Aggrieved Employees were not provided timely, off-duty,
13 uninterrupted thirty-minute meal periods.

14 41. PLAINTIFF and other Aggrieved Employees have regularly worked in excess of five
15 (5) hours a day, without being provided at least a thirty (30) minute meal period in which they
16 were relieved of all duties, as required by Labor Code sections 226.7 and 512 and all applicable
17 Wage Orders, section 11(A).

18 42. DEFENDANT had actual and/or constructive knowledge that PLAINTIFF and the
19 Aggrieved Employees did not receive compliant meal periods. DEFENDANT had actual or
20 constructive knowledge that its policy and practice of misclassifying its workers as independent
21 contractors when they were employees resulted in the denial of meal periods to PLAINTIFF
22 and the Aggrieved Employees, in violation of California's meal period laws.

23 43. DEFENDANT did not pay PLAINTIFF and the Aggrieved Employees an additional
24 hour of wages at their regular rate(s) of pay for each workday a proper meal period was not
25 provided. Based on information and belief, DEFENDANT never paid a single meal period
26 premium to PLAINTIFF and the Aggrieved Employees.

27 44. DEFENDANT failed to provide PLAINTIFF and the Aggrieved Employees with all
28

1 required meal periods, or with proper compensation in lieu thereof. As a result, under Labor
2 Code section 226.7, PLAINTIFF and other Aggrieved Employees are entitled to one additional
3 hour's pay at the proper premium pay rate for each day a meal period was missed, late or
4 interrupted, all in an amount to be proved.

5 **45. Rest Breaks.** PLAINTIFF and other Aggrieved Employees did not receive compliant
6 net ten (10)-minute rest periods for every four (4) hours worked (or major fraction thereof), as
7 required by Labor Code 226.7 and the applicable IWC Wage Orders. PLAINTIFF and other
8 Aggrieved Employees regularly worked more than three-and-one-half (3½) hours without being
9 authorized or permitted to take a paid net ten (10) minute rest period. DEFENDANT required
10 PLAINTIFF and other Aggrieved Employees to continuously work without authorizing or
11 providing paid rest periods. DEFENDANT had no policy in place nor instruction as to the
12 taking, timing, or duty-free nature of rest periods. PLAINTIFF and other Aggrieved Employees
13 were never paid a rest period premium for any missed/improper rest period.

14 **46. Unpaid Sick Leave Wages.** DEFENDANT failed to provide PLAINTIFF and the
15 Aggrieved Employees paid sick days in accordance with Labor Code sections 245 through
16 248.5, further failing to put them on notice of their paid sick leave rights—or thereby putting
17 their entitlement to sick leave in a Labor Code section 2810.5 notice. DEFENDANT failed to
18 maintain accurate records documenting the hours worked and paid sick days accrued and used
19 by employees in violation of Labor Code section 247.5, permitting the presumption that
20 Aggrieved Employees were entitled to the maximum number of hours accruable at the time of
21 their respective separations of employment. By failing to correctly account for the true hours
22 worked by Aggrieved Employees and/or failing to provide paid sick leave at all, DEFENDANT
23 unlawfully retained and continue to retain paid sick leave that should have been paid and was
24 not. Accordingly, DEFENDANT has violated Labor Code sections 233 and 234 as to the
25 Aggrieved Employees. DEFENDANT either failed to pay sick leave at all or improperly
26 calculated the sick leave accrual and the rate of sick leave pay owed to PLAINTIFF and the
27 Aggrieved Employees by failing to base the accrued sick leave hours on the correct number of
28 hours worked due to the auto-deduction and time rounding policies, and failure to pay for all

1 hours worked, as described herein. DEFENDANT further failed to comply with Labor Code
2 section 246 by failing to provide PLAINTIFF and the Aggrieved Employees with wage
3 statements or separate documents showing the amount of paid sick leave available, or paid time
4 off leave in lieu of sick leave. DEFENDANT violated and continues to violate Labor Code
5 section 246 by failing to provide PLAINTIFF and the Aggrieved Employees with a Labor Code
6 226 wage statement or separate writing containing amount of paid sick leave available, or paid
7 time off leave an employer provides in lieu of sick leave, at the time it pays wages.

8 **47. Inaccurate Wage Statements.** California Labor Code section 226 and the applicable
9 IWC Wage Order provides that, at the time of each payment of wages, the employer must
10 provide each employee with an itemized statement showing, *inter alia*, gross wages earned,
11 total hours worked, all deductions taken, net wages earned, the inclusive dates for which the
12 employee is being paid, the employee's name and last four digits of their social security number,
13 the name and address of the legal entity that it is the employer, and all applicable hourly rates
14 in effect during the pay period and all hours worked at each rate.

15 48. DEFENDANT does not/did not provide wage statements showing gross wages, total
16 hours worked by the employee, the number of piece-rate units earned and any applicable piece
17 rate if the employee is paid on a piece-rate basis, all deductions, net wages earned, the inclusive
18 dates of the pay period, the name of the employee and employee identification number/last four
19 digits of employee social security number, the name and address of the legal entity that is the
20 employer, and all applicable hourly rates in effect during the pay period and the corresponding
21 number of hours worked at each hourly rate by the employee. Based on information and belief,
22 DEFENDANT failed to provide PLAINTIFF and other Aggrieved Employees with any wage
23 statements at all. Accordingly, DEFENDANT has violated Cal. Labor Code section 226.

24 **49. Record Keeping.** California Labor Code sections 226 and 1174 require employers to
25 keep "accurate and complete" payroll records showing, among other things, the hours worked
26 daily by all non-exempt employees. Section 7 of all applicable IWC Wage Orders similarly
27 requires employers to keep time records showing, *inter alia*, when the employees begin and end
28 each work period and reflecting the true start and end times during which all owed meal periods

1 are provided each day. At all relevant times, DEFENDANT has failed, and continue to fail, to
2 keep the required time records, as DEFENDANT has failed to record the true start and end
3 times of PLAINTIFF's and the Aggrieved Employees' workdays and failed to record employee
4 meal periods as time worked. DEFENDANT's failure to keep "accurate and complete" payroll
5 records for PLAINTIFF and the Aggrieved Employees violates Labor Code sections 1174,
6 1198-99, and Section 7 of all applicable IWC Wage Orders. These violations subject
7 DEFENDANT to civil penalties under the Labor Code, including without limitation sections
8 1174.5 and 2699. Each violation of each Labor Code section and Wage Order provision, for
9 each aggrieved employee, results in a separate civil penalty.

10 **50. Untimely Wages at Termination.** Labor Code section 201 requires employers to pay
11 all wages earned and unpaid at the time of discharge, immediately upon discharge, and Labor
12 Code section 202 extends those provisions to employees who resign. For all Aggrieved
13 Employees no longer employed by DEFENDANT, DEFENDANT has an ongoing failure to
14 pay such aggrieved employees all wages earned and unpaid at the time of discharge or
15 resignation, due to DEFENDANT's failure to pay, *inter alia*, all owed minimum wages, all
16 owed overtime wages and all owed sick leave wages and at the properly accrued rates. These
17 violations subject DEFENDANT to civil penalties under the Labor Code, including without
18 limitation Labor Code sections 203, 256 and 2699. Each violation results in a separate civil
19 penalty, for each Aggrieved Employee for each pay period during which the statutory provisions
20 were violated.

21 **51. Refusal to Pay Wages Due.** Labor Code section 216 declares unlawful an employer's
22 refusal to pay wages due and payable and/or an employer's denial of the validity of any claim
23 to wages due. DEFENDANT has violated this section by, *inter-alia*, failing to pay PLAINTIFF
24 and the Aggrieved Employees for all hours worked at the proper wage rate and by failing to pay
25 PLAINTIFF and the Aggrieved Employees an additional hour of premium wages for each meal
26 or rest period not provided/that was invalid. These violations subject DEFENDANT to civil
27 penalties under Labor Code section 225.5. Each violation results in a separate civil penalty, for
28 each aggrieved employee, for each pay period during which the statute provisions were violated.

1 **52. Statutory Wages.** California Labor Code section 223 makes it unlawful for an
2 employer to secretly pay wages lower than required by statute while purporting to pay legal
3 wages. As described above, DEFENDANT willfully and systematically denied the Aggrieved
4 Employees minimum and overtime wage compensation for all hours worked which resulted in
5 the payment of less than statutorily required wages to them. DEFENDANT acted with the intent
6 to deprive them of statutory wages, including, but not limited to, overtime wages and minimum
7 wages, to which they were entitled to under California law.

8 **53. Standard Conditions of Labor:** DEFENDANT also violated Labor Code Section
9 1198 and 1199, which together, make it unlawful to employ individuals under conditions or
10 labor that are prohibited by the Wage Orders or any provision within Part 4, Chapter 1 of the
11 Labor Code, including section 1174, 1197, and 1198, or order or ruling of the commission.
12 DEFENDANT's violations with respect to meal periods, rest periods, recordkeeping provisions,
13 minimum wages and overtime wages result in separate violations of sections 1198 and 1199,
14 which subject DEFENDANTS to civil penalties under Labor Code section 1197.1 and 2699.1.

15 **54. Unreimbursed Business Expenses.** Based on information and belief, DEFENDANT
16 regularly failed to reimburse and indemnify Aggrieved Employees for business expenses,
17 including but not limited to, costs associated with being required to use their cell phones/other
18 mobile devices for work, costs associated with being required to use their personal vehicles for
19 work, and costs associated with being required to purchase tools for work. Pursuant to Labor
20 Code section 2802, Aggrieved Employees were entitled to be reimbursed for all reasonable
21 expenses associated with carrying out their job duties. Among other things, under California
22 law, when employees must use their personal cellphones for work-related purposes, the
23 employer must reimburse them for a reasonable percentage of their cell phone bills. See
24 *Cochran v. Schwan's Home Services, Inc.* (2014) 228 Cal.App.4th 1137, 1140. To show
25 liability, an employee will only need to show that he or she was required to use their personal
26 cellphone for work-related purposes and not reimbursed for the use. *Id.* 1144-1145. PLAINTIFF
27 and other Aggrieved Employees were improperly required to pay for business expenses that are
28 legally the responsibility of the employer, including but not limited to, cell phone/mobile device

1 data plan charges incurred as a result of DEFENDANT's requirement that PLAINTIFF and
2 other Aggrieved Employees download and use DEFENDANT's app for communicating with
3 DEFENDANT and or DEFENDANT's customers as well as costs associated with PLAINTIFF
4 and other Aggrieved Employees having to use their personal vehicles on the job – including but
5 not limited to, gas, mileage, and wear and tear on the vehicles. Based on information and belief,
6 DEFENDANT further failed to reimburse for reasonable expenses, such as but not limited to,
7 pet food or water, bags, containers, and cleaning supplies. As a pattern and practice,
8 DEFENDANT regularly failed to reimburse and indemnify Aggrieved Employees for business
9 expenses. Pursuant to California Labor Code section 2802, Aggrieved Employees were entitled
10 to be reimbursed for all reasonable expenses associated with carrying out orders by their
11 employer and/or carrying out the duties assigned by their employer. DEFENDANT's failure to
12 provide Aggrieved Employees with full reimbursement for all reasonable expenses associated
13 with carrying out their duties required that Aggrieved Employees subsidize and/or carry the
14 burden of business expenses in violation of Labor Code section 2802.

15 **55. Failure to Secure Workers' Compensation in Violation of Labor Code section**
16 **3700 et seq.** EMPLOYER did not secure workers' compensation for COMPLAINANT and
17 other AGGRIEVED EMPLOYEES, in violation of California Labor Code section 3700,
18 3700.5, 3712, and 3715. Because of EMPLOYER's violations of those statutes, EMPLOYER
19 is liable for civil penalties in the amounts specified in California Labor Code section 3700.5
20 and/or the PAGA, for each aggrieved employee.

21 **56. Background Checks.** The Labor Code places certain procedural and substantive
22 limits on employers' ability to conduct employee background checks and on how employers
23 can use the information they obtain through those background checks. Labor Code section
24 1024.5 states that employers, except for financial institutions, may order a credit check only if
25 the individual works (or is applying to work) in certain positions, and Labor Code section 432.7
26 prohibits an employer from asking applicants about past arrest(s) unless they resulted in
27 conviction(s) and even then, certain limitations apply. The California Fair Chance Act (part of
28 the California Fair Employment and Housing Act "FEHA") prohibits employers from asking

1 about/requiring the disclosure of criminal conviction history prior to extending a conditional
2 offer of employment. Additionally, the ICRAA, and the FCRA mandate several requirements
3 prior to and following an employee background check, including but not limited to, identifying
4 an appropriate reason for the background check, a separate consent form with required
5 disclosures and certain formatting requirements, additional forms such as a summary of rights,
6 as well as proper notice of adverse actions taken, among other statutory requirements.

7 57. Based on information and belief, DEFENDANT required PLAINTIFF and the
8 Aggrieved Employees to submit to an unlawful criminal and/or financial background check as
9 a condition of obtaining and/or holding employment in violation of Labor Code sections 1024.5,
10 432.7, and or 432.5. Based on information and belief, DEFENDANT also required PLAINTIFF
11 and the Aggrieved Employees to agree in writing to unlawful background checks not in
12 conformance with the requirements of ICRAA and/or FCRA. Based on information and belief,
13 DEFENDANT required PLAINTIFF and the Aggrieved Employees to agree in writing to the
14 provision of ongoing consent throughout the duration of employment for background checks
15 not in conformance with the requirements of CA Civil Code section 1786, *et seq.* and or 15
16 U.S.C. section 1681, *et seq.*, and or other applicable law and thus required PLAINTIFF and the
17 Aggrieved Employees to agree to unlawful background checks as a condition of obtaining and
18 maintaining employment, in violation of Labor Code section 432.5. Based on further
19 information and belief, DEFENDANT asked impermissible criminal history questions on its
20 employment application and or otherwise required Aggrieved Employees to disclose criminal
21 conviction history prior to extending a conditional offer of employment in violation of the
22 FEHA and required Aggrieved Employees to sign off on/agree in writing to the provision of the
23 unlawful disclosures as a condition of employment, in violation of Labor Code section 432.5.
24 These violations subject DEFENDANT to civil penalties under the Labor Code, including
25 without limitation, Labor Code sections 432.5, 432.7 and 2699. Each violation of each Labor
26 Code section and Wage Order provision, for each aggrieved employee, results in a separate civil
27 penalty.
28

1 58. Under the provisions of PAGA and Labor Code sections 201-203, 203, 204, 210, 221-
2 223, 225.5, 226, 226.7, 226.8, 233-234, 245-248.5, 432.5, 432.7, 510, 512, 558, 558.1, 1024.5,
3 1174, 1194, 1197, 1197.1, 1198, 1199, 2802, 2810.5, 3700, 3700.5, 3712, and 3715, and all
4 applicable Wage Orders and all relevant sections of the applicable Wage Orders, as well as all
5 interpretations of these laws by California Courts and administrative bodies, as well as any other
6 law that is enforceable through PAGA, DEFENDANT is liable for all statutorily-specified
7 penalties recoverable under PAGA as enumerated in the relevant California Labor Code
8 provisions listed herein, or for default PAGA penalties under Labor Code section 2699(f) for
9 any violation of a Labor Code section without a specified civil penalty.

10 59. Pursuant to Labor Code section 2699(g), and/or any and all other applicable laws,
11 PLAINTIFF is entitled to recover civil penalties, costs, plus reasonable attorney's fees and
12 costs, all in an amount to be proved.

13 **PRAYER**

14 WHEREFORE, PLAINTIFF prays for relief and judgment as follows on behalf of
15 herself, the State of California, and the Aggrieved Employees:

- 16 1. For civil penalties under Labor Code section 2699 (75% payable to the LWDA
17 and 25% payable to Aggrieved Employees);
- 18 2. For reasonable attorneys' fees and costs of suit; and
- 19 3. For such other and further relief as the Court deems just and proper.

20
21 Dated: January 21, 2022

CROSNER LEGAL, P.C.

22
23 

24 Michael R. Crosner
25 Zachary M. Crosner
26 Blake R. Jones
27 Chad Saunders

28 Attorneys for PLAINTIFF